

1 [Zoning - Interim Moratorium on Medical Cannabis Dispensaries.]

2

3 **Urgency ordinance approving an interim zoning moratorium throughout the City for 45**  
4 **days on clubs or dispensaries where marijuana is grown, purchased or distributed with**  
5 **a medical recommendation and making required findings, including findings of**  
6 **consistency with the priority policies of Planning Code Section 101.1 and**  
7 **environmental findings.**

8 Note: Additions are *single-underline italics Times New Roman*;  
9 deletions are ~~*strikethrough italics Times New Roman*~~.  
10 Board amendment additions are double underlined.  
11 Board amendment deletions are ~~strikethrough normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Findings.

14 (a) General Findings.

15 (1) In 1996, the voters of the State of California approved Proposition 215 (codified as  
16 Health and Safety Code Section 11362.5 et seq. and entitled “The Compassionate Use Act of  
17 1996”) to enable persons who are in need of marijuana for specified medical purposes to  
18 obtain and use marijuana under limited, specified circumstances. The State legislature also  
19 enacted SB 420 to clarify the scope of the Compassionate Use Act of 1996, allowing cities  
20 and other governing bodies to adopt and enforce rules and regulations laws consistent with  
21 SB 420.

22 (2) In December of 2001, the Board of Supervisors passed Resolution No. 012006,  
23 declaring San Francisco to be a “Sanctuary for Medical Cannabis.”

24 (3) In November of 2002, the City's voters passed Proposition S, a declaration of  
25 policy directing the City to "explore the possibility of establishing a program whereby the City  
would grow medical cannabis and distribute it to patients attempting to exercise their rights

1 under Proposition 215." Since the passage of Proposition S, the City has witnessed a  
2 dramatic increase of unregulated medical cannabis dispensaries.

3 (4) In 2002 there were approximately 2,200 individuals registered with the Department  
4 of Public Health's Medical Cannabis Voluntary Identification Card Program and there are now  
5 over 7,000 individuals enrolled.

6 (5) As of March 2005, there are approximately 35 medical cannabis dispensaries in  
7 operation in the City, with approximately another 10 clubs scheduled to open later this year.

8 (6) The proliferation of medical cannabis dispensaries has had attendant health, safety  
9 and welfare consequences that were not anticipated at the time that zoning determinations  
10 were made permitting medical cannabis dispensaries to operate subject to a conditional use  
11 permit in some areas of the City, and as of right in others.

12 (7) There are currently no comprehensive City laws regulating or monitoring medical  
13 cannabis dispensaries.

14 (9) The healthy coexistence of medical cannabis dispensaries and surrounding  
15 neighborhoods is in the best interest of residents of the City.

16 (10) A moratorium will provide the City the time to draft and adopt laws, consistent with  
17 the Compassionate Use Act of 1996 and SB 420, that will regulate the location and operation  
18 of medical cannabis dispensaries, while still allowing for the operation of legally existing  
19 medical cannabis dispensaries to guarantee that patients, their caregivers and physicians  
20 have access medical cannabis.

21 (b) Findings related to imposition of an interim moratorium.

22 (1) Planning Code Section 306.7 provides for the imposition of interim zoning controls  
23 to accomplish several objectives, including preserving existing neighborhood-serving retail  
24 uses; preserving residential neighborhoods and areas of mixed residential and commercial  
25 uses in order to preserve the existing character of such neighborhoods and areas; developing

1 and conserving the City's commerce and industry to maintain the City's economic vitality, and  
2 maintaining adequate services for its residents, visitors, businesses and institutions.

3 (2) These controls are intended and designed to address and ameliorate the problems  
4 and conditions associated with the proliferation in the City of clubs and dispensaries where  
5 marijuana is grown, purchased, or distributed with a medical recommendation by imposing a  
6 temporary moratorium on new dispensaries and clubs.

7 (3) This Board has considered the impact on the public health, safety, peace, and  
8 general welfare if the interim controls proposed in this ordinance were not imposed.

9 (4) This Board has determined that the public interest will be best served by imposing  
10 these interim controls at this time to ensure that the legislative scheme that may be ultimately  
11 adopted is not undermined during the planning and legislative process for permanent controls,  
12 which process shall be conducted within a reasonable time.

13 (c) Planning Code Section 101.1 Findings.

14 This interim zoning moratorium advances and is consistent with Priority Policies 1, 2  
15 and 5 of the Planning Code section 101.1 in that they attempt to conserve a diverse economic  
16 base and existing neighborhood-serving retail and neighborhood character and that is a  
17 primary purpose of this legislation. With respect to Priority Policies 3, 4, 6, 7 and 8, the Board  
18 finds that the interim zoning moratorium does not, at this time, have an effect upon these  
19 policies, and thus, will not conflict with such policies.

20 (d) Environmental Findings.

21 The Planning Department has determined that the actions contemplated in this  
22 Ordinance are in compliance with the California Environmental Quality Act (California Public  
23 Resources Code sections 21000 et seq.). Such determination is on file with the Clerk of the  
24 Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.

25

1 Section 2. The following interim zoning moratorium shall be adopted as an Urgency  
2 Ordinance:

3 (a) No permit shall be issued to allow for the opening or operation of a Medical  
4 Cannabis Dispensary, as defined below.

5 (b) For purposes of this Ordinance, in an RH (Residential, House), RM (Residential,  
6 Mixed) or RC (Residential, Commercial) district of the City, a Medical Cannabis Dispensary  
7 shall be a club or dispensary where marijuana is grown, purchased, or distributed with a  
8 medical recommendation and classified as a social service or philanthropic facility as set forth  
9 in Planning Code Section 209.3(d), or a club or dispensary where marijuana is grown,  
10 purchased, or distributed with a medical recommendation and classified as a private  
11 clubhouse as set forth in Planning Code Section 209.4(b).

12 (c) For purposes of this Ordinance, in a Neighborhood Commercial or Mixed-Use  
13 district of the City, a Medical Cannabis Dispensary shall be a club or dispensary where  
14 marijuana is grown, purchased, or distributed with a medical recommendation and classified  
15 as an assembly or social service use as set forth in Planning Code Sections 790.50(a) and  
16 890.50(a).

17 (d) For the purpose of this Ordinance, in a C (Commercial) or M (Industrial) district of  
18 the City, a Medical Cannabis Dispensary shall be a club or dispensary where marijuana is  
19 grown, purchased, or distributed with a medical recommendation and classified as an  
20 assembly or social service use as set forth in Planning Code Section 217(d).

21 (e) This interim moratorium shall remain in effect for (i) 45 days from passage, which is  
22 the maximum initial period allowed unless extended in accordance with California  
23 Government Code section 65858 or (ii) until permanent controls are adopted to address the  
24 proliferation of Medical Cannabis Dispensaries, whichever first occurs.

1           Section 3. Within 25 days of the Board’s approval of this Ordinance, the Planning  
2 Department shall submit to the Clerk of the Board a written report describing the measures  
3 taken to alleviate the conditions that led to the adoption of the Ordinance. Upon receipt of the  
4 report, the Clerk shall calendar a motion for the full Board to consider and approve said report.  
5 Such hearing and the action taken thereon shall be no later than 35 days after this Ordinance  
6 is finally adopted.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By: \_\_\_\_\_  
11 Sarah Ellen Owsowitz  
12 Deputy City Attorney