

ORDINANCE NO.: 10419 (N.S.)

AN ORDINANCE ENACTING A MORATORIUM ON THE  
ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE FACILITIES,  
AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT  
IMMEDIATELY

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Findings. The Board finds and declares as follows:

a. The County of San Diego currently regulates medical marijuana collective facilities through San Diego County Code section 21.2501 and Zoning Ordinance Section 6935. In 2013, the California Supreme Court ruled that local governments have the power to ban medical marijuana dispensaries (*City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.* (2013) 56 Cal.4th 729). Additionally, the State legislature recently passed the Medical Marijuana Regulation and Safety Act (MMRSA), consisting of three bills: AB 266, AB 243, and SB 643. The MMRSA will create a new system of State licensing for medical marijuana dispensaries, cultivation sites, and other facilities. However, the MMRSA expressly allows cities and counties to continue to regulate or prohibit medical marijuana activities.

b. Following changes to State law, the County has received an increased number of inquiries and increased activity regarding the opening of new medical marijuana collective facilities in the unincorporated area. Facilities which dispense marijuana have proven to have serious harmful effects on the communities in which they are located. A 2009 "White Paper on Marijuana Dispensaries" published by the California Police Chiefs Association's Task Force on Marijuana Dispensaries (attached) concluded that the establishment of marijuana dispensaries can lead to an increase in crime, including burglaries, robberies, use of marijuana by unauthorized persons, sale and distribution of illegal drugs and loitering. These effects are due to factors such as the nature of the activity, which includes the presence of large quantities of marijuana at the facilities, the presence of large amounts of cash, the presence of weapons, and other factors. Additionally, a publication from the Colorado Department of Public Health and Environment (attached) indicates that marijuana may have harmful effects on the cardiovascular and respiratory systems of users, contributes to lung cancer, and adversely impact the mental health of individuals. A 2015 report entitled *The Legalization of Marijuana in Colorado: The Impact (Volume 3)* (attached) tracking the impact of marijuana legalization in the state of Colorado, has shown an increase in the harmful effects associated with marijuana use including, increased marijuana related driver impairment and increased marijuana related traffic fatalities. Studies also show a rise in youth exposure to marijuana in the state

resulting in increased juvenile marijuana use, drug related school incidents and accidental overdoses.

c. For the above reasons, the Board of Supervisors has directed the Chief Administrative Officer to develop options for consideration by the Board, regarding additional regulation and/or prohibition of medical marijuana collective facilities so as to prevent the above harmful effects on County of San Diego unincorporated areas.

d. Among the cities located within San Diego County, and among other counties adjacent to San Diego County, many agencies have enacted ordinances either prohibiting, regulating, or establishing a moratorium on marijuana dispensaries. These regulations have had the effect of redirecting persons desirous of establishing such dispensaries to consider doing so in the unincorporated area of San Diego County.

e. In the unincorporated area of San Diego County, one medical marijuana collective facility is currently in operation, and another has recently been approved for operation. The County has received 12 applications for building approval for additional medical marijuana collective facilities; and the County has received at least 93 inquiries regarding the establishment of others.

f. The establishment of additional medical marijuana collective facilities, and the continued approval of "development applications" (as defined in Section 2) for their establishment, would result in the current and immediate threat to the public health, safety and welfare identified in paragraph (b) above within the unincorporated area of the County of San Diego, and may frustrate the accomplishment of the goals of the regulations which the Board of Supervisors will consider adopting. It is therefore necessary to adopt this ordinance to prohibit their establishment.

Section 2. Definitions. For purposes of this ordinance, the following terms shall have the following meanings:

a. "Development application" shall mean any permit or approval issued by any County of San Diego officer, department or other agency, including subdivisions, use permits, variances, building permits, or any other entitlement for use.

b. "Medical marijuana collective facility" shall mean: Any location at which members of a medical marijuana collective collectively or cooperatively cultivate, store or exchange marijuana among themselves or reimburse each other or the medical marijuana collective for cultivation, overhead costs and operating expenses, other than the following facilities licensed pursuant to the following provisions of Division 2 of the Health and Safety Code:

(1) A clinic licensed pursuant to Chapter 1;

- (2) A health facility licensed pursuant to Chapter 2;
- (3) A residential care facility for persons with chronic, life-threatening illnesses licensed pursuant to Chapter 3.01;
- (4) A residential care facility for the elderly licensed pursuant to Chapter 3.2; or
- (5) A residential hospice or a home health agency licensed pursuant to Chapter 8.

c. "Person" shall include: Any natural person, association, corporation, cooperative, partnership, collective, limited liability company, or any other social or business entity.

Section 3. Prohibitions. No person shall cause or permit the establishment, commencement of operation, or enlargement of a medical marijuana collective facility within the unincorporated area of the County of San Diego, nor shall any development application be approved for such a medical marijuana collective facility during the term of this moratorium ordinance, unless otherwise required by law.

Section 4. Report. The Chief Administrative Officer is directed to issue a written report describing the measures taken by the County to alleviate the conditions which have led to the adoption of this ordinance, at least 10 days prior to the expiration of this ordinance.

Section 5. Urgency, Duration and Publication. This ordinance is adopted by the Board of Supervisors pursuant to Government Code Section 65858 by a four-fifths or greater vote, as an urgency measure to protect the public health, safety and welfare, and shall take effect immediately. The reasons for such urgency are set forth in Section 1 above. This ordinance shall expire and be of no further force or effect 45 days after its adoption, unless it is extended pursuant to Section 65858. Before the expiration of 15 days after the adoption of this ordinance, a summary hereof shall be published once, with the names of the members of this Board voting for and against the same in the Daily Transcript, a newspaper of general circulation published in the County of San Diego.

Approved as to form and legality  
County Counsel

By: Justin Crumley, Senior Deputy

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 16<sup>th</sup> day of March, 2016.



RON ROBERTS  
Chairman, Board of Supervisors  
County of San Diego, State of California


The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, D. Roberts, Horn

ABSENT: R. Roberts

ATTEST my hand and the seal of the Board of Supervisors this 16<sup>th</sup> day of March, 2016.

DAVID HALL  
Clerk of the Board of Supervisors

By   
Elizabeth Miller, Deputy



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