



Agenda Item

DATE: July 12, 2011

TO: Board of Supervisors

FROM: Alan Weaver, Director
Department of Public Works and Planning

Margaret Mims, Sheriff

SUBJECT: Medical Marijuana Ordinance

RECOMMENDED ACTION:

Conduct first hearing on proposal to add Chapter 6.6 to Title 6, Business License and Regulations, and Chapter 11 to Title 10, Public Peace, Morals and Welfare to the Fresno County Ordinance Code thereby adopting regulations relating to possession, consumption, distribution, and cultivation of medical marijuana. Set second hearing for August 9, 2011, and waive reading in its entirety.

Staff recommends approval of the proposed Medical Marijuana Ordinance that is intended to address possession, consumption, distribution, and cultivation of medical marijuana in the unincorporated areas of Fresno County. The proposed Ordinance also reflects the direction provided to staff at your Board's December 7, 2010 Board hearing regarding prohibiting medical marijuana dispensaries in the unincorporated areas of Fresno County.

ALTERNATIVE ACTION:

Your Board may determine to modify or deny the proposed Ordinance Code Amendments.

FISCAL IMPACT:

Preparation of the proposed Medical Marijuana Ordinance is a net County cost, which is being absorbed within the Department's existing budget in Org. No. 43600200. This cost will, however, defer and/or displace other current overall workload activities budgeted in this account.

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BOARD ACTION: DATE _____ APPROVED AS RECOMMENDED _____ OTHER _____

UNANIMOUS _____ ANDERSON _____ CASE _____ LARSON _____ PEREA _____ POOCHIGIAN _____

IMPACTS ON JOB CREATION:

Approval of the recommended action would not affect the efforts to create jobs in Fresno County.

BACKGROUND/DISCUSSION:

On July 13, 2010, your Board considered and adopted an Interim Urgency Ordinance prohibiting the establishment of new Medical Marijuana Collective Dispensaries in the unincorporated areas of Fresno County pending completion of a Zoning Ordinance Text Amendment initiated on the same day. On September 14, 2010, your Board extended said Interim Urgency Ordinance and it remains in effect until July 13, 2012, unless earlier terminated.

On September 14, 2010, your Board considered and adopted an Interim Urgency Ordinance prohibiting the outdoor cultivation of medical marijuana collectives in all zone districts in the unincorporated areas of Fresno County pending completion of the development of standards intended to regulate such activity. On October 26, 2010, your Board extended said Interim Urgency Ordinance and it remains in effect until September 14, 2011, unless earlier terminated.

On December 7, 2011, your Board considered and provided direction to staff regarding regulating Medical Marijuana Dispensaries in the unincorporated areas of Fresno County. Your Board considered testimony from Department's and Sheriff's Office staff, and from the public both in support and opposition to dispensaries. At the conclusion of the hearing, your Board directed staff to proceed with the preparation of the Medical Marijuana Ordinance prohibiting Medical Marijuana Dispensaries.

On February 2, 2011, your Board received a presentation from the Sheriff's Office on issues related to marijuana criminal investigations on Federal land and on large marijuana groves in Fresno County. Your Board received the presentation but took no formal action.

Based on your Board's action and direction, the County Administrative Officer's (CAO) Office convened taskforce meetings with staff representatives from the Sheriff's Office, Agriculture Department, Department of Public Health, Auditor-Controller/Treasurer-Tax Collector and Department of Public Works and Planning to initiate and prepare a comprehensive draft Medical Marijuana Ordinance that addresses consumption, cultivation, and distribution of medical marijuana in Fresno County. Today's Agenda Item represents the efforts of the taskforce committee.

In addition, staff has scheduled July 21, 2011, for the Planning Commission to consider Amendment to Text Application No. 364 (initiated by your Board on July 13, 2010), relating to the location of Medical Marijuana Cultivation Facilities in the County's Industrial (M-1, M-2 and M-3) Zoning Districts. The amendment to the Zoning Ordinance will be considered by your Board on August 9, 2011, along with the second reading of the proposed County Ordinance Code amendments addressed in this Agenda Item.

As part of preparation of the proposed Medical Marijuana Ordinance, staff surveyed each of the 15 cities in Fresno County and reports the following relating to actions that each city has taken relative to medical marijuana as follows:

- Fresno – Adopted Ordinance banning dispensaries
- Clovis – Adopted Ordinance banning dispensaries
- Sanger – Adopted Ordinance banning dispensaries
- Reedley - Adopted Ordinance banning dispensaries
- Orange Cove - Adopted Ordinance banning dispensaries
- Parlier - Adopted Ordinance banning dispensaries
- Kingsburg – Adopted Ordinance prohibiting dispensaries
- Fowler – Adopted Ordinance banning dispensaries
- Selma - Adopted Interim Urgency Ordinance prohibiting dispensaries
- Kerman - Adopted Ordinance banning dispensaries
- San Joaquin – Adopted Interim Urgency Ordinance banning dispensaries
- Firebaugh - Adopted Ordinance banning dispensaries
- Mendota – No action taken
- Huron – Information unavailable (staff was unable to confirm at the time this Agenda Item was drafted whether the city has taken any action)
- Coalinga - Adopted Ordinance banning dispensaries

Proposed Medical Marijuana Ordinance Summary:

Below is a summary of the proposed Medical Marijuana Ordinance.

Possession and Consumption:

No on-site consumption of medical marijuana shall occur except by qualified patients who live on the property as their principal place of residence.

Distribution:

Medical Marijuana Dispensaries are prohibited in Fresno County.

Cultivation:

- Cultivation of medical marijuana may only occur pursuant to the issuance of a valid Medical Marijuana Cultivation Business License from Fresno County; and
- Cultivation shall only occur within a secure, locked, and fully enclosed structure, including a ceiling, roof or top; and
- Cultivation shall be limited to the County's Industrial Zoning Districts (M-1, M-2, and M-3); and
- Proposed cultivation sites shall meet location criteria (minimum of 1,000 feet from any school, public park or playground, recreation area, amusement park, sports facility, adult business, day care facility, church, chapel, youth-orientated establishment, places of worship or other Medical Marijuana Cultivation Facility); and
- The maximum number of medical marijuana plants shall not exceed 99; and
- Cultivation facilities shall provide specific security improvements (all windows, roofs, roof hatches, sky lights, ceilings, entrances, exits and doors shall be secured, require that alarms and closed circuit televisions be present on-site, require uniformed security guard present at all times during hours of operation); and
- Hours of operation shall be limited from 8:00 a.m. to 8:00 p.m. daily; and
- Prohibit Medical Marijuana Collective Dispensary operations from possessing a license from the State Department of Alcohol Beverage Control or an Adult Business License.

Enforcement:

The Sheriff's Office, with administrative assistance from Public Works and Planning, will have primary responsibility for enforcement of the proposed Medical Marijuana Ordinance.

Adoption of the proposed Medical Marijuana Ordinance is found to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3). The County finds that the adoption of this Ordinance does not have the potential for causing a significant adverse effect on the environment.

OTHER REVIEWING AGENCIES:

Copies of this Agenda Item were provided to the Sheriff's Office, Agriculture Department, Department of Public Health, and the Auditor-Controller/Treasurer-Tax Collector's Office.

REFERENCE MATERIAL

BAI #13, July 13, 2010

BAI #9, August 24, 2010

BAI #6, September 14, 2010

BAI #12, October 26, 2010

BAI #9, December 7, 2010

BAI #4, February 1, 2011