

1 BEFORE THE BOARD OF SUPERVISORS

2 OF THE COUNTY OF FRESNO

3 STATE OF CALIFORNIA

4 ORDINANCE NO. 17-001

5 INTERIM URGENCY ORDINANCE NO. 16-017, ADOPTED ON DECEMBER 6,
6 2016, AS AN URGENCY MEASURE PURSUANT TO GOVERNMENT CODE
7 SECTION 65858 IS HEREBY EXTENDED.

8 The Board of Supervisors of the County of Fresno ordains as follows:

9 **SECTION 1.** This interim urgency ordinance is extended as herein provided
10 pursuant to California Constitution, article XI, section 7 and Government Code section
11 65858.

12 **SECTION 2.** The Board of Supervisors determines that it can be seen with
13 certainty that the extension of this Interim Urgency Ordinance will not have a significant
14 effect on the environment, and is therefore exempt from further review under the
15 California Environmental Quality Act ("CEQA"), pursuant to CEQA Guideline section
16 15061, subdivision (b)(3). The extension of this Interim Urgency Ordinance is exempt
17 from CEQA pursuant to Section 15308 as a regulatory action under the County's police
18 power to assure maintenance and protection of the environment pending evaluation and
19 adoption of potential local legislation and regulation.

20 **SECTION 3.** The Board of Supervisors of the County of Fresno hereby makes
21 the following legislative findings:

22 A. The Ordinance Code of Fresno County currently prohibits (1) the cultivation of
23 medical marijuana and (2) the operation of medical marijuana collective and
24 dispensaries, in all Zoning Districts of Fresno County.

1 B. On November 8, 2016, the voters of the State of California were presented with
2 Proposition 64, titled the "Adult Use of Marijuana Act" (AUMA). The purpose of
3 AUMA is to establish a comprehensive system to legalize, control and regulate
4 the cultivation, processing, manufacture, distribution, testing, and sale of
5 nonmedical marijuana, including marijuana products.

6 C. The AUMA, among other things,

- 7 i. permits cities and counties to completely prohibit the possession, planting,
8 cultivation, harvesting, drying, or processing of nonmedical marijuana
9 outdoors upon the grounds of a private residence. (Health & Safety Code
10 § 11362.2, subd. (b)(3), as amended by AUMA.)
11 ii. permits cities and counties to completely prohibit the establishment or
12 operation of businesses engaged in commercial nonmedical marijuana
13 activity. (Business and Professions Code § 26200., as amended by
14 AUMA.)

15 D. The Fresno County Sheriff's Department has presented evidence to the Board of
16 Supervisors of some of the negative effects on public safety which are caused by
17 the possession, planting, cultivation, harvesting, drying, or processing of
18 marijuana outdoors and the establishment or operation of businesses engaged in
19 commercial marijuana activity. Such effects include a variety of threats to public
20 safety, such as armed robberies with shots fired, incidents with juveniles and
21 young adults, and closure and arrests of operators for violation of both state and
22 federal laws, including seizure of illegal firearms, loitering, increased traffic,
23 noise, and a loss of trade for other businesses located nearby.

24 E. Based on this evidence, the Board of Supervisors finds that the possession,
25 planting, cultivation, harvesting, drying, or processing of nonmedical marijuana

1 outdoors on the grounds of a private residence, and the establishment or
2 operation of businesses engaged in commercial marijuana activity, present a
3 current and immediate threat to the public health, safety, or welfare of the
4 residents of and visitors to Fresno County.

5 F. Approval of any land use entitlement which would permit the possession,
6 planting, cultivation, harvesting, drying, or processing of nonmedical marijuana
7 outdoors on the grounds of a private residence, or the establishment or operation
8 of businesses engaged in commercial marijuana activity would threaten public
9 health, safety, or welfare.

10 G. There is insufficient time for the County to adopt a regular, non-urgency
11 ordinance applicable to such uses. Unless extended, such uses could potentially
12 occur without any specific regulation applicable to them and therefore create a
13 threat to the public health, safety, and welfare.

14 H. This Ordinance complies with applicable State law, and imposes reasonable
15 rules and regulations protecting the public health, safety, and welfare of the
16 residents and businesses within the unincorporated area of Fresno County.

17 **SECTION 4.** For purposes of this Interim Urgency Ordinance, these words and
18 phrases shall be defined as follows:

19 A. "Business engaged in commercial nonmedical marijuana activity" includes, but is
20 not limited to, all business organizations of whatever form, which are licensed by
21 the State of California to cultivate, manufacture, test, sell at retail, or distribute,
22 nonmedical marijuana.

23 B. "County" means the County of Fresno or the unincorporated area of Fresno
24 County as required by the context.

1 C. "Cultivate" or "cultivation" is the planting, growing, harvesting, drying, processing,
2 or storage of one or more marijuana plants or any part thereof in any location.

3 D. "Marijuana" shall have the same definition as in California Health and Safety
4 Code Section 11018 as it now reads or as amended.

5 E. "Medical Marijuana" means marijuana used for medical purposes in accordance
6 with California Health and Safety Code sections 11362.7 et seq.

7 F. "Nonmedical Marijuana" means marijuana not used for medical purposes in
8 accordance with California Health and Safety Code sections 11362.7 et seq.

9 **SECTION 5.** Pursuant to California Constitution, article XI, section 7 and
10 Government Code section 65858, and notwithstanding any other provision of the
11 Ordinance Code of Fresno County, to ameliorate the current and immediate threat to
12 public health, safety and welfare, presented by the possession, planting, cultivation
13 harvesting, drying, or processing of nonmedical marijuana outdoors, or the
14 establishment or operation of a business engaged in commercial marijuana activity, the
15 Interim Urgency Ordinance 16-017 prohibits:

16 1. The possession, planting, cultivation, harvesting, drying, or processing of
17 nonmedical marijuana outdoors on the grounds of a private residence in all Zone
18 Districts of Fresno County, to the fullest extent permitted by State law.

19 2. The establishment or operation of a business engaged in commercial marijuana
20 activity in all Zone Districts of Fresno County.

21 **SECTION 6.** Interim Urgency Ordinance No. 16-017, was adopted to ensure the
22 immediate preservation of the public health, safety, and welfare, and was adopted
23 pursuant to Section 65858 of the Government Code of the State of California, and
24 pursuant to Government Code section 25123, subdivision (d). Having found that there
25 remains a current threat to public health, safety, and welfare posed by the possession,

1 planting, cultivation, harvesting, drying, or processing of nonmedical marijuana
2 outdoors, or the establishment or operation of a business engaged in commercial
3 marijuana activity, and that approval of any land use entitlement which would permit
4 such activity would result in that threat, Interim Urgency Ordinance No. 16-017 is hereby
5 extended for an additional period of twenty-two (22) months and fifteen (15) days, and
6 shall remain in effect until December 5, 2018, unless earlier terminated.


7 **SECTION 7.** Pursuant to Government Code section 25124, subdivision (a), prior
8 to the expiration of fifteen (15) days from the adoption of this Ordinance, it shall be
9 published at least one time in the Business Journal, a newspaper of general circulation
10 in Fresno County.

11 THE FOREGOING WAS PASSED AND ADOPTED BY THE FOLLOWING
12 VOTE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO THIS
13 10th DAY OF JANUARY 2017, TO-WIT:

14
15 AYES: Supervisors Borgeas, Magsig, Mendes, Pacheco, Quintero

16 NOES: None

17 ABSENT: None

18
19 
BRIAN PACHECO, CHAIRMAN
BOARD OF SUPERVISORS

20
21 ATTEST:
BERNICE E. SEIDEL, CLERK
BOARD OF SUPERVISORS

22
23 
DEPUTY