



County of Fresno

OFFICE OF THE COUNTY COUNSEL
DANIEL C. CEDERBORG
COUNTY COUNSEL

Staff Report November 6, 2018

SUBJECT: Report prepared pursuant to Government Code Section 65858, subdivision (d) describing the measures taken to alleviate the condition which led to the adoption of Interim Urgency Ordinance No. 17-001, prohibiting the possession, planting, cultivation harvesting, drying, or processing of nonmedical marijuana outdoors on the grounds of a private residence to the fullest extent permitted by State law, and the establishment or operation of a business engaged in commercial marijuana activity.

LOCATION: Countywide

STAFF CONTACT: Kyle R. Roberson, Deputy County Counsel
(559) 600-3479

DISCUSSION:

On December 6, 2016, the Board considered and adopted an Interim Urgency Ordinance prohibiting, in all Zone Districts of Fresno County, the possession, planting, cultivation, harvesting, drying, or processing of nonmedical marijuana outdoors on the grounds of a private residence to the fullest extent permitted by State law, and the establishment or operation of businesses engaged in commercial marijuana activity. On January 10, 2017, the Board extended the Interim Urgency Ordinance for an additional twenty-two (22) months and fifteen (15) days. The Interim Urgency Ordinance is set to expire on December 5, 2018.

Since the Board extended the Interim Urgency Ordinance on January 10, 2017, County Counsel has begun the process of identifying changes to the Ordinance Code, which may be appropriate to address the threats posed by nonmedical marijuana. However, significant changes in State law and regulations implementing Proposition 64 and changes in neighboring jurisdictions' ordinance codes regarding marijuana cultivation and sale require further analysis to address the conditions which led to the adoption of the Interim Urgency Ordinance.

These changes include passage of Senate Bill 94, the Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), on June 15, 2017. MAUCRSA repealed the Medical Cannabis and Regulation and Safety Act and incorporated provisions of the repealed act into the Adult Use of Marijuana Act. MAUCRSA provides a consolidated licensing system for both commercial medicinal and commercial adult-use activity. MAUCRSA also allows for vertical integration by license holders, which was prohibited under the repealed law, allowing a person to hold licenses in more than two separate licensing categories. The Bureau of Cannabis Control ("Bureau") is the licensing authority for commercial medicinal and adult-use cannabis. On June 4, 2018, the Bureau readopted emergency cannabis regulations, to be effective for one year, to



County of Fresno

OFFICE OF THE COUNTY COUNSEL
DANIEL C. CEDERBORG
COUNTY COUNSEL

allow time for the Bureau to engage in the regular rulemaking process to adopt its final non-emergency regulations. These proposed rules changes seek to address issues that have arisen since adoption of the emergency regulation in December 2017. However, these proposed rules are not final and may be subject change over the one year period of the readopted emergency regulations.

Since the extension of the Interim Urgency Ordinance, County Counsel has confirmed that the Bureau lacks enforcement authority over violations of MARCUSA. Over this same time period, neighboring local jurisdictions have adopted or have considered for adoption ordinances to allow large scale cannabis cultivation and/or commercial sale of recreational marijuana and marijuana products. The first recreational marijuana dispensary within Fresno County began operation on October 13, 2018 in the City of Coalinga. In May 2018, a recreational dispensary opened in the City of Woodlake in Tulare County. The City of Fresno continues to consider an ordinance to allow a limited number of recreational dispensaries within its boundary limits.

On December 4, 2018, the Board will consider a second Interim Urgency Ordinance to allow staff adequate time to continue researching and developing proposed revisions to the Ordinance Code of Fresno County to address the threat to public health, safety, and welfare posed by nonmedical marijuana based on the changes in circumstances identified above. County Counsel expects to circulate a draft of the proposed revisions to the Ordinance Code ("the "Proposed Ordinance") in the next six (6) months for review and comment by County Departments. County Counsel will address any comments to the Proposed Ordinance received from Departments before finalizing the Proposed Ordinance. The Proposed Ordinance will then be submitted to the Department of Public Works and Planning for environmental review. The Department will conduct the appropriate level of environmental review and work with County Counsel to schedule the Proposed Ordinance for appropriate public hearings.