

1 BEFORE THE BOARD OF SUPERVISORS

2 OF THE COUNTY OF FRESNO

3 STATE OF CALIFORNIA

4 ORDINANCE NUMBER 18-021

5 AN INTERIM URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
6 COUNTY OF FRESNO ADOPTED ON December 4, 2018 PROHIBITING THE
7 POSSESSION, PLANTING, CULTIVATION, HARVESTING, DRYING, OR PROCESSING OF
8 NONMEDICAL CANNABIS OUTDOORS ON THE GROUNDS OF A PRIVATE RESIDENCE
9 AND THE ESTABLISHMENT OR OPERATION OF BUSINESSES ENGAGED IN
10 COMMERCIAL CANNABIS ACTIVITY IN ALL ZONING DISTRICTS OF FRESNO COUNTY.

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

12 **Section 1.** This interim urgency ordinance is adopted pursuant to California
13 Constitution, article XI, section 7 and Government Code section 65858.

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

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

- 23 A. The Ordinance Code of Fresno County currently prohibits (1) the cultivation of medical
24 cannabis and (2) the operation of medical cannabis collectives and dispensaries, in all
25 Zoning Districts of Fresno County.

1 B. In 2015, California enacted three bills that collectively established a comprehensive state
2 regulatory framework for the licensing and enforcement of cultivation, manufacturing,
3 retail sale, transportation, storage, delivery, and testing of medicinal cannabis in
4 California. This regulatory scheme was known as the Medical Cannabis Regulation and
5 Safety Act (MCRSA).

6 C. On November 8, 2016, the voters of the State of California were presented with
7 Proposition 64, titled the "Adult Use of Marijuana Act" (AUMA). The purpose of AUMA is
8 to establish a comprehensive system to legalize, control and regulate the cultivation,
9 processing, manufacture, distribution, testing, and sale of nonmedical cannabis,
10 including cannabis products.

11 D. On December 6, 2016, the Board of Supervisors adopted an Interim Urgency Ordinance
12 No. 16-017 prohibiting, in all Zoning Districts of Fresno County, the possession, planting,
13 cultivation, harvesting, drying, or processing of nonmedical marijuana outdoors on the
14 grounds of a private residence and the establishment or operation of businesses
15 engaged in commercial marijuana activity, consistent with AUMA.

16 E. On January 10, 2017, the Board of Supervisors adopted Interim Urgency Ordinance No.
17 17-001 to extend the Intermit Urgency Ordinance for an additional twenty-two (22)
18 months and fifteen (15) days. This ordinance will expire on December 5, 2018.

19 F. On June 27, 2017, the State adopted Senate Bill No. 94, the Medical and Adult-Use
20 Cannabis Regulation and Safety Act ("MAUCRSA"). MAUCRSA repealed MCRSA and
21 incorporated provisions of the repealed act into the licensing provisions of AUMA.
22 MAURCSA provides a consolidated licensing system for both commercial medical and
23 commercial adult-use cannabis activity. MAUCRSA also allows for vertical integration by
24 license holders, which was prohibited under MCRSA, allowing a person to hold licenses
25 in more than two separate licensing categories. MAUCRSA also renamed all statutory

1 references to marijuana in AUMA and the incorporated provisions of MCRSA to
2 cannabis.

3 G. MAUCRSA provides certain opportunities for cities and counties to regulate
4 nonmedicinal cannabis within their jurisdictions. MAUCRSA would, among other things,

5 i. permit cities and counties to completely prohibit the possession, planting,
6 cultivation, harvesting, drying, or processing of nonmedical cannabis outdoors
7 upon the ground of a private residence. (Health & Safety Code § 11362.2, subd.
8 (b)(3), as amended by MAUCRSA.)

9 ii. permit cities and counties to completely prohibit the establishment or operation of
10 businesses engaged in commercial nonmedical cannabis activity. (Business and
11 Professions Code § 26200, as amended by MAUCRSA.)

12 H. Under MAUCRSA, the Bureau of Cannabis Control (Bureau) is the state licensing
13 authority for commercial medicinal and adult-use cannabis. In June 2018, the Bureau
14 readopted emergency cannabis regulations, to be effective for one year, to allow time for
15 the Bureau to engage in the regular rulemaking process to adopt its final non-emergency
16 regulations. These proposed regulatory changes seek to address issues that have
17 arisen since adoption of the emergency regulations in December 2017. However, the
18 proposed rules are not final and may be subject to change over the one year period of
19 the readopted emergency regulations.

20 I. Since the adoption of Interim Urgency Ordinance No. 17-001, neighboring local
21 jurisdictions have adopted or have considered for adoption ordinances to allow large
22 scale cannabis cultivation, manufacturing, distribution and/or the commercial sale of
23 recreational cannabis and cannabis products. In May 2018, a recreational cannabis
24 dispensary opened in the City of Woodlake in Tulare County. On October 13, 2018, the
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1 first recreational cannabis dispensary within Fresno County began operation in the City
2 of Coalinga.

3 J. The Fresno County Sheriff's Department has presented evidence to the Board of
4 Supervisors of some of the negative effects on public safety which are caused by the
5 possession, planting, cultivation, harvesting, drying, or processing of cannabis outdoors
6 and the establishment or operation of businesses engaged in commercial cannabis
7 activity. Such effects include a variety of threats to public safety, such as armed
8 robberies with shots fired, incidents with juveniles and young adults, and closure and
9 arrest of operators for violation of both state and federal laws, including seizure of illegal
10 firearms, loitering, increased traffic, noise, and a loss of trade for other businesses
11 located nearby.

12 K. Based on this evidence, the Board of Supervisors finds that the possession, planting,
13 cultivation, harvesting, drying, or processing of nonmedical cannabis outdoors on the
14 grounds of a private residence, and the establishment or operation of businesses
15 engaged in commercial cannabis activity, present a current and immediate threat to the
16 public health, safety, or welfare of the residents of and visitors to Fresno County.

17 L. Approval of any land use entitlement which permit the possession, planting, cultivation,
18 harvesting, drying, or processing of nonmedical cannabis outdoors on the grounds of a
19 private residence, or the establishment or operation of businesses engaged in
20 commercial cannabis activity would result in a threat to public health, safety, or welfare.

21 M. There is insufficient time for the County to adopt a regular, non-urgency ordinance
22 applicable to such uses. Unless adopted on an urgency basis, such uses could
23 potentially occur without a specific regulation applicable to it and therefore create a
24 threat to the public health, safety, and welfare.

1 N. Pursuant to Government Code section 65868, subdivision (f), the adoption of this
2 Ordinance is necessary for the continued study to develop proposed revisions to the
3 Ordinance Code of Fresno County to address the threat to public health, safety, and
4 welfare posed by nonmedicinal cannabis based on the changes in circumstances
5 identified in the findings and declarations contained herein, and the uncertainty in the
6 regulatory scheme of cannabis due to regulatory changes anticipated at state level and
7 by other local jurisdictions.

8 O. This Ordinance both complies with applicable State law, as well as imposing reasonable
9 rules and regulations protecting the public health, safety, and welfare of the residents
10 and businesses within the unincorporated area of Fresno County.

11 **SECTION 4.** For the purposes of this Ordinance, these words and phrases shall be
12 defined as follows:

13 A. "Business engaged in commercial nonmedical cannabis activity" includes, but is not
14 limited to, all business organization of whatever form, which are licensed by the State of
15 California to cultivate, manufacture, test, sell at retail, or distribute nonmedical cannabis.

16 B. "County" means the County of Fresno or the unincorporated area of the Fresno County
17 as required by the context.

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

20 D. "Cannabis" shall have the same definition as in California Health and Safety Code
21 Section 11018 as it now reads or as amended.

22 E. "Medical Cannabis" means cannabis used for medical purposes in accordance with
23 California Health and Safety Code section 11362.7 et seq.

24 F. "Nonmedical Cannabis" means cannabis not used for medical purposes in accordance
25 with California Health and Safety Code section 11362.7 et seq.

SECTION 5. Pursuant to California Constitution, article XI, section 7 and Government Code section 65858, and notwithstanding any other provision of the Ordinance Code of Fresno County, to ameliorate the current and immediate threat to public health, safety and welfare, presented by the possession, planting, cultivation, harvesting, drying, or processing of nonmedical cannabis outdoors, or the establishment or operation of a business engaged in commercial cannabis activity, the Board of Supervisors hereby prohibits:

1. The possession, planting, cultivation, harvesting, drying, or processing of nonmedical cannabis outdoors on the grounds of a private residence in all Zone Districts of Fresno County, to the fullest extent permitted by State law.
2. The establishment or operation of a business engaged in commercial cannabis activity in all Zone Districts of Fresno County.

SECTION 6. This Ordinance is an urgency ordinance necessary for the immediate preservation of the public health, safety, and welfare, adopted pursuant to Section 65858 of the Government Code of the State of California, and pursuant to Government Code section 25123, subdivision (d), is effective on December 6, 2018, and shall remain in effect for 45 days unless extended pursuant to Government Code section 65858.

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

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1 THE FOREGOING WAS PASSED AND ADOPTED BY THE FOLLOWING VOTE OF
2 THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO THIS 4TH DAY OF
3 DECEMBER 2018, TO WIT:

4 AYES: Supervisors Magsig, Mendes, Pacheco, Quintero

5 NOES: None

6 ABSENT: None


7 ABSTAINED: None

8 VACANT: District 2

9 
10 SAL QUINTERO, CHAIRPERSON of the
Board of Supervisors of the County of Fresno

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13 ATTEST:
14 BERNICE E. SEIDEL
Clerk of the Board of Supervisors
County of Fresno, State of California

15 Deputy

16 By 
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