

Attachment B

This page intentionally left blank.

AN INTERIM ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, EXTENDING INTERIM ORDINANCE NO. 5254 PURSUANT TO GOVERNMENT CODE SECTION 65858, TEMPORARILY PROHIBITING MEDICAL MARIJUANA DISPENSARIES AND COLLECTIVE OR COOPERATIVE CULTIVATION OF MARIJUANA, PENDING THE COUNTY'S STUDY AND CONSIDERATION OF REGULATIONS.

County Counsel Summary

This interim ordinance extends Interim Ordinance No. 5254 for 10 months and 15 days, until and through July 5, 2016, as an urgency measure pursuant to Government Code section 65858 to prohibit, on a temporary basis, the establishment of new medical marijuana dispensaries and collective or cooperative cultivation of medical marijuana in the unincorporated area of Monterey County. Interim Ordinance No. 5254 was adopted by the Monterey County Board of Supervisors on July 7, 2015 for a 45-day period which ends August 21, 2015. This ordinance extends Interim Ordinance No. 5254 through July 5, 2016, thereby continuing the prohibition on new medical marijuana dispensaries and collective or cooperative cultivation of medical marijuana during the term of the ordinance. Interim Ordinance No. 5254, as extended, finds that there is a current and immediate threat to the public health, safety and welfare associated with the collective cultivation, processing, and dispensing of medical marijuana in the absence of specific County land use regulation and that the temporary ban on new medical marijuana dispensaries and collective and cooperative cultivation is necessary to enable the County to study and develop appropriate land use regulations for medical marijuana consistent with state law. As an urgency measure, this interim ordinance requires a four-fifths vote of the Board of Supervisors for adoption and takes effect immediately.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. FINDINGS AND DECLARATIONS

A. On July 7, 2015, the Board of Supervisors adopted Interim Ordinance No. 5254 as an urgency measure pursuant to California Government Code section 65858 to prohibit the collective or cooperative cultivation of medical marijuana and medical marijuana dispensaries within the unincorporated area of Monterey County, with limited exemptions, pending the County's study and consideration of regulations. Interim Ordinance No. 5254 is attached hereto as Exhibit 1 and incorporated herein by reference.

B. Interim Ordinance No. 5254 is in effect for 45 days and expires on August 21, 2015, unless extended by law.

C. Government Code section 65858 permits the Board of Supervisors, following notice and public hearing and upon a four-fifths vote, to extend the Interim Ordinance for up to

10 months and 15 days, provided that the Board finds that there is a current and immediate threat to the public health, safety, or welfare, and that the uses that may be allowed or permitted without the Interim Ordinance would result in that threat to public health, safety, or welfare.

D. The Board finds that the collective or cultivation of marijuana and medical marijuana dispensaries continue to pose a threat to public health, safety and welfare and that allowing those uses in the absence of County land use regulations specifically addressing medical marijuana will result in that threat to the public health, safety and welfare. County needs to develop robust regulations that, while remaining consistent with state law, affirm federal law enforcement priorities including preventing such harmful effects as distribution of marijuana to minors, involvement of criminal enterprises, illegal trafficking of drugs, and violence and use of firearms in the cultivation and distribution of marijuana. Regulations are also needed to address the potentially adverse environmental impacts associated with large scale marijuana cultivation.

E. In enacting Interim Ordinance No. 5254, the Board of Supervisors made several findings and declarations as to the current and immediate threat to the public health, safety, and welfare from the establishment of medical marijuana dispensaries and collective or cooperative cultivation facilities in the absence of specific regulations governing the use of real property for these land uses within the unincorporated County. All of the findings and declarations of Interim Ordinance No. 5254 continue to be true and applicable and are incorporated by reference in this ordinance.

F. The Board of Supervisors' meeting of July 28, 2015 is its last regularly scheduled meeting until August 25, 2015, so the July 28 meeting is the last regular meeting to consider extension of Interim Ordinance No. 5254 before it expires. While staff has begun to discuss development of regulations in the three weeks since adoption of the Interim Ordinance, more time is needed to study and draft regulations, conduct environmental review, and hold public hearings to consider regulations. An extension of the Interim Ordinance for up to 10 months and 15 days is warranted to provide time to study whether, where, to what extent, and under what conditions collective or cooperative cultivation of marijuana and dispensaries of medical marijuana may or may not be permitted as a land use within the County.

G. The Board intends for Interim Ordinance No. 5254 to remain in effect for its full 45-day term, through August 21, 2015, and for this extension to commence on August 22, 2015 and be in effect through July 5, 2016, unless extended pursuant to law.

H. On July 28, 2015, the Board of Supervisors conducted a public hearing on this extension of Interim Ordinance No. 5254. Notice of the public hearing was published at least ten days in advance of the hearing pursuant to Government Code section 65090. Notice of the hearing was published in the *Salinas Californian* and the *Monterey County Weekly* on July 16, 2015.

I. This extension of Interim Ordinance No. 5254 is statutorily exempt from the California Environmental Quality Act because it is an urgency measure necessary to protect the County from a current and immediate threat to the public health, safety, and welfare.

SECTION 2. EXTENSION

Based on all of the foregoing findings and declarations, the Board of Supervisors hereby extends Interim Ordinance No. 5254 for 10 months and 15 days, until and through July 5, 2016. All provisions of Interim Ordinance No. 5254, which is attached hereto as Exhibit 1 and incorporated herein by reference, shall remain in full force and effect. In no circumstance shall Interim Ordinance No. 5254, as adopted and hereby extended, be interpreted to sanction any violation of state law or County regulation.

SECTION 3. EFFECTIVE DATE

Pursuant to the findings and declarations set forth in this interim ordinance and Interim Ordinance No. 5254, the Board declares that this interim ordinance is necessary as an urgency measure for preserving the public health, safety and welfare and that this interim ordinance shall take effect immediately upon adoption for the reasons set forth herein.

PASSED AND ADOPTED this ____ day of _____, 2015, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

 Simon Salinas
 Chair, Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM

Wendy S. Strimling

WENDY S. STRIMLING
Senior Deputy County Counsel