



# Monterey County

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## Board Report

Legistar File Number: ORD 16-007

February 26, 2016

**Introduced:** 2/19/2016

**Version:** 1

**Current Status:** Agenda Ready

**Matter Type:** Ordinance

Public Hearing to:

Consider the adoption of an interim ordinance to amend Interim Ordinance No. 5254 to expand the ordinance exemptions and to extend Interim Ordinance No. 5254 as amended for one year, until and through February 26, 2017, as an urgency measure pursuant to Government Code Section 65858 to prohibit, on a temporary basis, the establishment of new medical marijuana dispensaries and the collective or cooperative cultivation of medical marijuana in the unincorporated area of Monterey County, pending the County's further study and consideration of regulations (**4/5th vote required**).

(Medical Marijuana Interim Ordinance - REF150047)

### RECOMMENDATION:

It is recommended that the Board of Supervisors either:

- 1) Adopt an interim ordinance (Attachment A) to amend Interim Ordinance No. 5254 to expand the ordinance exemptions and to extend Interim Ordinance No. 5254 for one year, until and through February 26, 2017, as an urgency measure pursuant to Government Code Section 65858 to prohibit, on a temporary basis, the establishment of new medical marijuana dispensaries and the collective or cooperative cultivation of medical marijuana in the unincorporated area of Monterey County, pending the County's further study and consideration of regulations; or
- 2) Continue the public hearing to June 28, 2016 to consider a one-year extension of Interim Ordinance No. 5254 as extended by Interim Ordinance No. 5256 and to consider expanding the exemptions at that time.

### SUMMARY:

Under Government Code Section 65858, the County may adopt as an urgency measure an interim ordinance that prohibits any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the County is considering, studying, or intends to study within a reasonable timeframe, in order to protect the public safety, health, and welfare of its citizens. On July 7, 2015, the County adopted Interim Ordinance No. 5254 established a temporary prohibition on new medical marijuana collective and cooperative uses. In accordance with Government Code Section 65858(a), not more than two extensions to an interim ordinance may be adopted. Subsequently, on July 28, 2015 the Board adopted Interim Ordinance No. 5256 extending Interim Ordinance No. 5254 for 10 months and 15 days until July 5, 2016.

County staff is currently in the process of developing medical marijuana regulations, but additional time is needed to complete the process. Since the County adopted Interim Ordinance Nos. 5254 and 5456, the state has adopted the Medical Marijuana Regulation and Safety Act

(Business and Professions Code sections 19300, *et seq.*). More time is needed to develop County regulations consistent with the new state law and to perform public outreach, conduct environmental review, and hold public hearings to consider draft regulations. A second extension of Interim Ordinance No. 5254, is warranted to provide extra time to prepare and enact the regulations.

While the permanent regulations are in development, the Board of Supervisors recommended to staff that they consider the second extension in advance of the July 5, 2016 expiration date in order to amend the interim ordinance to remove a barrier to compliance for potential applicants who were cultivating medical marijuana in greenhouses or indoor cultivation sites in compliance with state law, or had made substantial progress toward such cultivation prior to July 7, 2015 and who desire to obtain all required County permits but are prevented by the interim ordinance from doing so. A draft interim ordinance amending and extending Interim Ordinance No. 5254 is attached as Attachment A.

DISCUSSION:

Staff is presenting two options for the Board's consideration. One is to continue the public hearing to consider the extension of Interim Ordinance No. 5254 on or before June 28, 2016 (the last available Board meeting date prior to the July 5, 2016 expiration date). That would allow Interim Ordinance No. 5254 to be extended to its full extent, thereby maximizing the potential to avoid a gap in regulations.

Staff estimates having draft permanent ordinances for Board consideration in June 2016. However, in the Coastal Zone, Coastal Commission review and certification of zoning amendments will be required. This review can take anywhere from six months to one year to complete. By extending the interim ordinance now, the effective dates of the interim ordinance are shortened by approximately four months. This could create a gap before new regulations have taken effect. Additionally, a benefit of not expanding the ordinance exemptions is that it allows the County to put the new permanent ordinances in place before allowing additional medical marijuana cultivation to take place.

The other option, developed with a Board ad hoc committee on medical marijuana, is to adopt an interim ordinance amendment and extension. If the Board elects to proceed with the amendment and extension on February 26, 2016, it is recommended that the attached interim ordinance be adopted (Attachment A). Staff, with input from the ad hoc committee, developed the draft exemption language to remove a barrier to compliance for potential applicants who were cultivating medical marijuana in greenhouses or indoor cultivation sites in compliance with state law, or had made substantial progress toward such cultivation. The draft language makes clear those that come within this new ordinance exemption would still be required to comply with any County ordinance that the County may subsequently adopt relating to medical marijuana.

A redline version of the draft interim ordinance showing the amendments to Interim Ord. No. 5254 is attached as Attachment B. The draft interim ordinance includes some minor revisions to the draft language that was distributed in the staff report to the Board of Supervisors for its February 16, 2016 special meeting. The primary changes from the February 16th draft to the

present draft are shown in Attachment C.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel has prepared the draft interim ordinance with input from the Resource Management Agency and the ad hoc committee of the Board and has approved the ordinance as to form.

FINANCING:

Funding for staff time associated with preparation of this report and the ordinance is included in RMA - Planning and the Office of County Counsel's FY15-16 Adopted Budget. Funding for staff time to implement an amended interim ordinance would also be included in the RMA-Planning FY15-16 Adopted Budget. A total needs assessment is dependent on final regulations that are adopted.

Prepared by: Craig Spencer, Associate Planner ext. 5233  
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This report was reviewed by Jacqueline R. Onciano, RMA Services Manager

All attachments are on file with the Clerk of the Board:

- Attachment A Interim Ordinance
- Attachment B Interim Ordinance showing amendment to Interim Ord. No. 5254
- Attachment C Revisions to proposed changes since February 16, 2016 report
- Attachment D Correspondence

cc: Front Counter Copy; California Coastal Commission (if applicable); Jacqueline Onciano, RMA Services Manager; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Janet Brennan; Jeff Atkinson; Aaron Johnson; Michael Groves; Todd Bessire; Michael Bitar; Sal Palma; Mike Linder; Jason Kallen; Aaron Newsom; Darin Woodfill; Jennifer Carrera; Ryan Booker; Jeff Scott; Isabelle Franz; Nick Curton; Paula Getzelman; Danica Flores; Lizette Valdez; Jessica McElfresh; Wil Wicke; Frank Chimienti; Joey Espinosa; Ryan Munevar; Jen Linney; Valentia Piccinini; Ken Ecklund; Project File REF150048