

**IN THE CITY COUNCIL OF THE CITY OF LIVERMORE
STATE OF CALIFORNIA**

**AN URGENCY ORDINANCE ADOPTING A MORATORIUM
ON MEDICAL MARIJUANA DISPENSARIES**

RECITALS

1. In 1996 the voters of the State of California approved Proposition 215 (codified at Health and Safety Code Sections 11362.5 et. seq. and, entitled "The Compassionate Use Act of 1996"). Proposition 215 allows under explicit requirements, qualified patients to obtain marijuana for medical use;
2. Current City zoning provisions do not contain any explicit provisions contemplating the approval of medical marijuana dispensary facilities within the City of Livermore;
3. The City Council finds that it would be detrimental to the public health, safety and welfare of the City to allow or approve any medical marijuana dispensaries until such time as the City Council has had an opportunity to determine the appropriateness of such facilities within the City, including, but not limited to evaluation of the legal authority to establish such facilities and the extent of regulatory controls needed, in the event that such facilities are determined to be desirable in the City; and,
4. Government Code Section 65858 provides for the adoption of an urgency measure of an interim ordinance, without following procedures otherwise required for adoption of a zoning ordinance to protect public safety, healthy and welfare, by a four-fifths (4/5) majority vote of the City Council members. Adopting an interim ordinance as an urgency measure to prohibit the approval of any application for a medical marijuana dispensary facility within the City is consistent with the stated requirements.

THE LIVERMORE CITY COUNCIL FINDS AND ORDAINS AS FOLLOWS:

Section 1. Purpose and Findings.

Medical marijuana dispensaries have been established in several locations in California, and as a consequence, some local agencies have reported increases in secondary effects such as illegal drug activity, illegal drug sales, robbery of persons leaving dispensaries, loitering in the vicinity of the dispensaries, falsely obtaining "identification cards" to illegally qualify for medical marijuana, and other increases in criminal activity. At the present time, the State of California has not yet implemented a State-wide identification card program for qualified patients and their primary caregivers related to medical marijuana use as required under State law. Additionally, there are still unresolved legal issues related to Federal preemption of State law. The secondary effects specifically associated with a medical marijuana dispensary pose a current and immediate threat to public health, safety and welfare.

Recent inquiries to the City about opening medical marijuana dispensaries have increased and, at the present time, there are no regulatory requirements in effect that specifically address or allow this type of use. It is in the best interest for the health, safety and welfare of the citizens of the City of Livermore to prevent potentially harmful secondary effects of medical marijuana dispensaries to adopt this urgency ordinance to allow City staff time to study the impacts of permitting medical marijuana dispensaries, potential licensing and regulatory procedures, as well as determine which zoning districts may be appropriate for such a use, and pursuant to what level of discretionary review.

Section 2. Interim Suspension of Permits, Approval, or Other Entitlements.

There shall be an interim moratorium on land use approvals and building permits in all zoning districts for medical marijuana dispensaries, which include any site, facility, location, use, cooperative business which distributes, sells, exchanges, processes, delivers, gives away, or cultivates marijuana for medical purposes to qualified patients, health care providers, patients' primary caregivers, or physicians, pursuant to (1) Proposition 215, the "Compassionate Use Act of 1996" (Health & Safety Code §11362.5) and SB 420 or (2) any State regulations adopted in furtherance thereof. Marijuana shall also mean cannabis and all parts of that plant. Based on the findings set forth herein, no permits, licenses, or other applicable entitlements for use, which has as its result the final approval or allowance of medical marijuana dispensaries within the City of Livermore, shall be granted or approved by any employee, department or commission of the City for a period of forty-five (45) days immediately following the effective date of this ordinance, unless appealed or extended by a later enacted ordinance.

Section 3. Immediate Threat to Health, Safety and Welfare.

Based on the findings set forth herein, this ordinance is adopted pursuant to California Government Code Section 65858 and is required to address a current and immediate threat to public health, safety and welfare. The City Council has determined that granting land use approvals or building permits for medical marijuana dispensaries would result in a threat to public health, safety, and welfare.

Section 4. Urgency Period.

This ordinance is declared to be an urgency ordinance for preserving the public health, safety and welfare and to take effect and be enforced immediately upon adoption.

Section 5. Amendments to Ordinance.

The City Council by ordinance after notice of public hearing, by the affirmative vote of at least four-fifths (4/5) of the City Council Members, may modify, amend, delete or add to this ordinance upon a finding that such action will implement and enforce the goals, policies, and purpose of this ordinance.

Section 6. Savings Clause.

The changes provided for this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance.

Section 7. Constitutionality and Severability.

If any section, subsection, sentence, clause, phrase, or word in this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

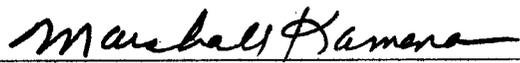
Section 8. Effective Date and Publication.

In accordance with California Government Code Section 65858, this ordinance shall be in full force and effect for a period of forty-five (45) days from the date of adoption. This period may be extended by the City Council in accordance with the provisions of California Government Code Section 65858.

A summary of this ordinance shall be published once within fifteen (15) days after its adoption in a newspaper of general circulation published in the City of Livermore, and the complete ordinance shall be posted for fifteen (15) days in the City Clerks office within fifteen (15) days after its adoption.

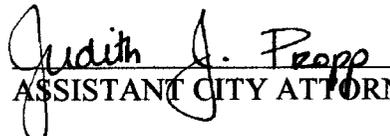
The foregoing ordinance was introduced, read and adopted at the regular meeting of the City Council of the City of Livermore held on September 12, 2005, by the following vote:

AYES: Councilmember Leider, Vice Mayor Reitter and Mayor Kamena
NOES: None
ABSENT: Councilmembers Beeman and Dietrich:


MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY