

DEPARTMENT: Planning

BY: Alvaro Arias

PHONE: 742-1218

**RECOMMENDED ACTION AND JUSTIFICATION:**

Waiving the second reading and adopting the ordinance is the final action that needs to be taken by the Board following the Board's action on December 6, 2011 to waive the first reading and introduce the ordinance and adopt a resolution finding the amendment is exempt from environmental review and approving Zoning Amendment No. 2011-170.

**BACKGROUND AND HISTORY OF BOARD ACTIONS**

On December 6, 2011 the Board of Supervisors approved Zoning Amendment No. 2011-170. The Board waived the first reading and introduced the ordinance on December 6, 2011 and adopted a resolution finding the amendment is exempt from environmental review and approving the amendment on that same date.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Board of Supervisors has adopted a resolution approving Zoning Amendment No. 2011-170.

Financial Impact? ☐ Yes ☐ No Current FY Cost: \$Budgeted In Current FY? ☐ Yes ☐ No ☐ Partially Funded

Amount in Budget: \$

Additional Funding Needed: \$

Source:

Internal Transfer

Unanticipated Revenue 4/5's vote

Transfer Between Funds 4/5's vote

Contingency 4/5's vote

☐ General ☐ Other

Annual Recurring Cost: \$

List Attachments, number pages consecutively  
Draft Ordinance**CLERK'S USE ONLY:**

Res. No.: 4

Ord. No. 1086

Vote - Ayes: 4

Noes: 0

Absent: 0

Abstained: 0

Approved

☐ Minute Order Attached ☐ No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_

Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California

By: \_\_\_\_\_

Deputy

**COUNTY ADMINISTRATIVE OFFICER:**☒ Requested Action Recommended☐ No Opinion

Comments:

CAO: \_\_\_\_\_

MARIPOSA COUNTY ORDINANCE NO. 1086

AN ORDINANCE AMENDING THE MARIPOSA COUNTY ZONING ORDINANCE

WHEREAS, a proposal to amend the Mariposa County Zoning Ordinance was initiated by the County on October 11, 2011, and

WHEREAS the application is known as Zoning Amendment Application No. 2011-170. The application proposes to amend Title 17 Zoning to amend the list of prohibited uses in all zones, create a new section of "Uses prohibited in all zones" and to add definitions; and

WHEREAS, the Planning Commission held a duly noticed public hearing on Zoning Amendment No. 2011-170 on the 4<sup>th</sup> day of November 2011, in accordance with State Law and County Code, and recommended approval of the project to the Board of Supervisors; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning Amendment No. 2011-170 on the 6<sup>th</sup> day of December 2011, in accordance with State Law and County Code; and

WHEREAS, environmental review has been conducted on Zoning Amendment No. 2011-170 in accordance with the California Environmental Quality Act and findings of exemption have been made for the project.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors does hereby amend Chapter 17 of Mariposa County Code as follows:

Section I: Amend Sections 17.16.010.A.1.c; 17.20.010.A.1.c; 17.24.010.A.1.c; 17.28.010.A.1.c; 17.32.010.A.1.c; 17.36.010.A.1.c; 17.40.010.A.1.d; 17.44.010.A.1.c; 17.76.020.A.4; and 17.80.020.A.4; as follows:

Prohibited uses: All uses listed in Section 17.108.200 of this Title and other uses not listed above are prohibited, except similar uses in compliance with Section 17.08.120 and 17.108.030 of this Title.

Section II: Amend Sections 17.48.010.A.1.c; 17.88.020.B.4; 17.92.020.B.4; 17.96.020.B.4; 17.100.020.B.4; 17.104.020.B.4 as follows:

Prohibited Uses: All uses listed in Section 17.108.200 of this Title and other uses not listed above are prohibited.

Section III: Amend Sections 17.68.010.A.1.c. and 17.72.010.A.1.c. as follows:

Prohibited uses: All uses listed in Section 17.108.200 of this Title and other uses not listed above, including agriculture, are

prohibited, except similar uses in compliance with Section 17.08.120 and 17.108.030 of this Title.

Section IV: Amend Sections 17.312.020.A.3; 17.314.020.A.3; 17.316.020.A.3; 17.318.020.A.3; 17.320.020.A.3; 17.322.020.A.3; and 17.325.020.A.3 as follows:

**Prohibited uses:**

All uses listed in Section 17.334.055 of the Mariposa County Code and uses not listed as permitted or conditional shall be prohibited, except similar uses in compliance with Section 17.334.060.

Section V: Amend Sections 17.324.020.A.3 and 17.326.020.A.3 as follows:

**Prohibited uses:**

All uses listed in Section 17.334.055 of the Mariposa County Code and uses not listed as permitted or conditional shall be prohibited.

Section VI: Amend Chapter 17.108 Supplementary Standards by adding Section 17.108.200 Uses prohibited in all zones as follows:

17.108.200 Uses prohibited in all zones.

The following land uses are prohibited in all zoning districts:

- A. Medical marijuana dispensaries;
- B. The collective or cooperative cultivation of marijuana;
- C. The cultivation of marijuana for medical purposes by person(s) not residing on the property on a permanent basis.

Section VII: Amend Chapter 17.334 Supplementary Use Standards by adding Section 17.334.055 Uses prohibited in all zones as follows:

17.334.055 Uses prohibited in all zones.

The following land uses are prohibited in all zoning districts:

- A. Medical marijuana dispensaries;
- B. The collective or cooperative cultivation of marijuana.
- C. The cultivation of marijuana for medical purposes by person(s) not residing on the property on a permanent basis.

Section VIII: Amend Chapter 17.148 Definitions by adding additional definitions to Section 17.148.010 as follows:

Medical Marijuana:

Defined in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.

Medical Marijuana Dispensary:

Any facility or location, whether fixed or mobile, where medical marijuana or items containing medical marijuana (e.g. food or drink products) is made available to, and or/exchanged with, and/or distributed or sold to one (1) or more of the following: a qualified patient, a person with an identification card, or a primary caregiver as those terms are defined in California Health and Safety Code Section 11362.5 and 11362.7 et seq. Unless otherwise regulated by this Code or applicable law, a "medical marijuana dispensary" shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et seq.

Collective or cooperative cultivation of marijuana:

The association within California of qualified patients, persons with valid identification cards, and/or designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq.

Section IX: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

BE IT FINALLY ORDAINED, this action is based on the findings mandated by Section 17.128.050 of the Mariposa County Zoning Ordinance as follows:

*Finding No. 1: The amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare. (Section 17.128.050, Zoning Ordinance.)*

The amendment is in the general public interest because it establishes specific regulations that address medical marijuana dispensaries and the cultivation of medical marijuana. Regulations are needed to protect the public health, safety, and welfare of residents, children, and businesses from harmful secondary effect of medical marijuana dispensaries and the unregulated cultivation of medical marijuana. The amendment will not have any adverse effect on the general public health, safety, peace and welfare, but will protect them.

*Finding No. 2: The amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long term guide for county development and a short term basis for day-to-day decision making. (Section 17.128.050, Zoning Ordinance.)*

One of the stated goals of the Mariposa County General Plan is to insure that the rural character of Mariposa County is maintained (Goal 5-1). This amendment provides land use regulations that are complementary to the concept of rural character, by establishing regulations for medical marijuana dispensaries and medical marijuana cultivation that will regulate increased traffic, noise, lights, and degradation of the natural environment associated with medical marijuana dispensaries and medical marijuana cultivation. The amendment will improve the Mariposa County general plan, as the amendment addresses potential impacts associated with the unregulated establishment of medical marijuana dispensaries and the unregulated cultivation of medical marijuana. This amendment will enable Mariposa County to properly protect its residents from the risk of criminal activity, degradation of the natural environment, marijuana related odors, and the potential for increased marijuana distribution. The amendment will enable better day-to-day decision making, as it will provide clear regulations for medical marijuana dispensaries and cultivation of medical marijuana. The amendment will minimize negative impacts on residential properties.

**Finding No. 3:** *The amendment conforms to the requirements of state law and county policy. (Section 17.128.050, Zoning Ordinance)*

The application has been processed in accordance with all applicable requirements of state law and county policy.

**Finding No. 4:** *The amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan. (Section 17.128.050, Zoning Ordinance.)*

The amendment will insure that the rural character of Mariposa County is maintained (Goal 5-1, Mariposa County General Plan). The amendment carries out Implementation Measure 5-1a(3) as the project establishes land use regulations (thresholds) to ensure future uses are complementary to the concept of rural character. The regulation of medical marijuana dispensaries and medical marijuana cultivation also has the effect of regulating the increased traffic, noise, lights and degradation of the natural environment that is associated with large unsupervised marijuana cultivation and medical marijuana dispensaries. The amendment implements Policy 10-1c and Implementation Measure 10-1c(1) as it ensures that future uses in the Agriculture/Working Landscape are compatible with agriculture. The amendment establishes clearly defined uses and limits to uses associated with medical marijuana.

**Finding No. 5:** *The subject parcels are physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designated and the anticipated land use development. (Section 17.128.050, Zoning Ordinance.)*

This finding is not applicable to General Plan/Zoning Amendment No. 2011-170.


**Finding No. 6:** *The proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. (Section 17.128.050, Zoning Ordinance.)*

This finding is not applicable to General Plan/Zoning Amendment No. 2011-170.

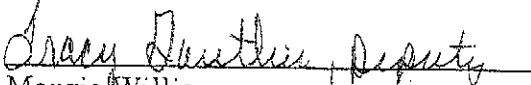
Finding No. 7: Any existing operations, as of the effective date of this resolution, involving cooperative or collective cultivation of medical marijuana are not recognized by Mariposa County as legally established uses, as these uses are not listed or identified as permitted uses in Title 17 (Zoning Ordinance) of Mariposa County Code.

PASSED AND ADOPTED on this 20<sup>th</sup> day of December, 2011 by the following vote. This ordinance will become effective 30 days after adoption:

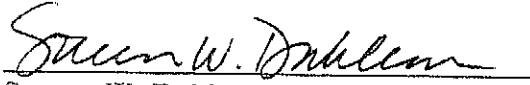
AYES: TURPIN, BIBBY, CANN, ALLEN  
NOES: STETSON  
EXCUSED: NONE  
ABSTAIN: NONE

  
\_\_\_\_\_  
Jim Allen, Chair  
Mariposa County Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
Margie Williams  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Steven W. Dahlem  
County Counsel

## Chapter 17.144

### ENFORCEMENT

#### Sections:

17.144.010	Purpose.
17.144.020	Zoning enforcement administration.
17.144.030	Extent of zoning enforcement.
17.144.040	Lawfulness of permits and licenses.
17.144.050	Declaration of public nuisance.
17.144.060	Violation constitutes infraction.
17.144.070	Role of the planning director.
17.144.080	Right to appeal.
17.144.090	Role of the planning commission.
17.144.100	Role of the board of supervisors.

#### 17.144.010 Purpose.

The purpose of this chapter is to provide for the resolution of violations of this title. The objective of the board of supervisors is to obtain compliance with the code and to provide reasonable opportunities for the county and property owners to work together for this purpose.

#### 17.144.020 Zoning enforcement administration.

A. For purposes of this title, the planning director shall act as the zoning enforcement officer of the county and take such actions as necessary to assure fair and equal enforcement of this title.

B. The zoning enforcement officer shall be governed by the provisions of this title and shall be responsible for administering its provisions as directed by the board of supervisors.

C. The planning director shall be responsible for the preparation of written administrative guidelines for the implementation of this chapter to be approved by the board of supervisors.

#### 17.144.030 Extent of zoning enforcement.

It shall be the duty of the zoning enforcement officer to enforce the provisions of title 17 pertaining to the use of land or buildings, and the: erection, construction, reconstruction, moving, alteration, or addition to any building or structures.

**17.144.040 Lawfulness of permits and licenses.**

Any permit or license of any type issued by any department or officer of the county, issued in conflict with the provisions of this title, shall be null and void.

**17.144.050 Declaration of public nuisance.**

Upon adoption of this title, any land, buildings or structures: erected, constructed, altered, enlarged, converted, moved or used contrary to the provisions of this title, or any failure to comply with the conditions attached to the granting of any development permit, special use permit or variance is hereby declared to be unlawful and a public nuisance. The planning commission may, after conducting a noticed hearing, declare a use located on any parcel within the county a public nuisance. The subject use must be found to be a nuisance which affects at the same time an entire community or neighborhood, or any considerable number of persons. The county counsel shall commence the necessary action or proceedings for the abatement, removal and enjoining thereof in the manner prescribed by law in the courts which may have jurisdiction to grant such relief as will accomplish such abatement and restraint. The remedies provided for in this section shall be in addition to any other remedy or remedies or penalties provided in this title or any other law or ordinance.

**17.144.060 Violation constitutes an infraction.**

A. Any person, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this title is guilty of an infraction, and if found guilty by a court of competent jurisdiction shall be punished by a fine as specified in section 1.20.030 of the county code. As specified in §1.20.040A, separate offense shall have been committed for each and every day during which a violation of any portion of this title persists.

B. The number of violations for which a violator may be fined shall commence from the date of the notice of violation, but shall not include any days during the period in which the matter is being appealed. The daily count of violations resumes again upon the conclusion of the appeal period, which shall be defined as the date of the final administrative action.

C. The decision to issue a citation shall be subject to the review and approval of county counsel.

**17.144.070 Role of the planning director.**

A. When a request for investigation of an alleged violation of this title is received, the planning director shall cause an investigation to be commenced to determine the validity of the complaint and the nature of the violation.

B. After an investigation alleges there may be a violation, the director shall cause a "notice of intent to find a zoning violation" to be mailed to the property owner of record. The notice shall explain to the property owner that an investigation



has been completed and the director is prepared to find a zoning violation exists. The notice shall inform the property owner that the director will make this finding in fourteen calendar days from the date of the notice. The notice of intent will explain the process for resolving violations and offer an opportunity for the property owner to contact the planning department prior to the filing of the notice of violation. The notice shall be written in plain language recognizing that the department is making an early notification and has not made a final determination whether or not there is a violation. The form of the notice of intent to find a zoning violation shall be included in the procedures required by this chapter.

C. If the director finds that a violation allegedly exists, the written correspondence with the property owner shall always include a description of the procedures or the right to appeal the decision to the planning commission or board of supervisors.

**17.144.080 Right to appeal.**

A. Any person notified of an alleged violation of this title shall have the right to appeal the determination to the planning commission or the board of supervisors.

B. The person may appeal:

1. the determination that a violation allegedly exists;
2. the proposed remedy to resolve the alleged violation;

or

3. the proposed timeline for accomplishing the remedy.

C. The appeal shall be filed with the county within twenty calendar days of the date of the notification of the alleged violation pursuant to the requirements of chapter 17.136. The appellant may select to appeal to the planning commission or directly to the board of supervisors. Appealing this matter to the planning commission does not preclude a later appeal to the board of supervisors pursuant to this chapter.

**17.144.090 Role of the planning commission.**

A. The planning commission shall conduct a hearing with notice pursuant to this title. The commission shall conduct the appeal hearing to accomplish the purpose of this chapter.

1. Based upon the reason for the appeal, the commission may find that there is a violation or it may find that there is insufficient evidence in the record to support the finding that a violation exists. If the commission finds that there is no violation, the matter is closed.

2. If the commission finds that there is a violation of this title, it may concur with the director's proposed remedies, it may modify the proposed remedies, or it may establish a timeline by which the violation is to be resolved.

B. Any action of the planning commission concerning a violation may be appealed to the board of supervisors pursuant to the requirements of chapter 17.136. The appeal may be filed by the alleged violator or by any interested party, and shall be filed within 20 calendar days of the date of the commission's action.

C. If an appeal is not filed in a timely manner, the planning director shall turn the planning commission's decision to county counsel for a decision to pursue the violation as a public nuisance or as an infraction of the county code.

**17.144.100 Role of the board of supervisors.**

A. The board of supervisors shall conduct a hearing with notice pursuant to this title. The board shall conduct the appeal hearing to accomplish the purpose of this title. The board shall review the results of the planning director's investigation. If the matter was previously appealed to the planning commission, the board shall consider the commission's findings. The board shall also receive comment from the person alleged to have violated this title and from any aggrieved party.

1. Based upon the record before it, the board shall render its decision. The decision of the board is the final administrative action before the county. The board may find that the matter is a violation of this title. The board may find that no violation exists. The board's decision is final.

2. If the board finds that a violation exists, it shall order a remedy and time frame for completion to be implemented to accomplish the purposes of this title.

B. The board shall refer this matter to county counsel, who shall be responsible for taking further action if the remedy is not successfully implemented within the assigned time frame.

DEPARTMENT: Planning

BY: Alvaro Arias

PHONE: 742-1218

**RECOMMENDED ACTION AND JUSTIFICATION:**

Waiving the second reading and adopting the ordinance is the final action that needs to be taken by the Board following the Board's action on December 6, 2011 to waive the first reading and introduce the ordinance and adopt a resolution finding the amendment is exempt from environmental review and approving Zoning Amendment No. 2011-170.

**BACKGROUND AND HISTORY OF BOARD ACTIONS**

On December 6, 2011 the Board of Supervisors approved Zoning Amendment No. 2011-170. The Board waived the first reading and introduced the ordinance on December 6, 2011 and adopted a resolution finding the amendment is exempt from environmental review and approving the amendment on that same date.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Board of Supervisors has adopted a resolution approving Zoning Amendment No. 2011-170.

Financial Impact? ( ) Yes ( ) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Draft Ordinance
Source:		
Internal Transfer		
Unanticipated Revenue	4/5's vote	
Transfer Between Funds	4/5's vote	
Contingency	4/5's vote	
( ) General ( ) Other		

**CLERK'S USE ONLY:**

Res. No.: 1086 Ord. No. 1086  
Vote - Ayes: 4 Noes: Stokson  
Absent: \_\_\_\_\_ Abstained: \_\_\_\_\_  
hwy Approved  
( ) Minute Order Attached ( ) No Action Necessary

**COUNTY ADMINISTRATIVE OFFICER:**

1 Requested Action Recommended  
\_\_\_\_ No Opinion  
Comments: \_\_\_\_\_

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_  
Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California

By: \_\_\_\_\_  
Deputy

CAO [Signature]

MARIPOSA COUNTY ORDINANCE NO. 1086

AN ORDINANCE AMENDING THE MARIPOSA COUNTY ZONING ORDINANCE

WHEREAS, a proposal to amend the Mariposa County Zoning Ordinance was initiated by the County on October 11, 2011, and

WHEREAS the application is known as Zoning Amendment Application No. 2011-170. The application proposes to amend Title 17 Zoning to amend the list of prohibited uses in all zones, create a new section of "Uses prohibited in all zones" and to add definitions; and

WHEREAS, the Planning Commission held a duly noticed public hearing on Zoning Amendment No. 2011-170 on the 4<sup>th</sup> day of November 2011, in accordance with State Law and County Code, and recommended approval of the project to the Board of Supervisors; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on Zoning Amendment No. 2011-170 on the 6<sup>th</sup> day of December 2011, in accordance with State Law and County Code; and

WHEREAS, environmental review has been conducted on Zoning Amendment No. 2011-170 in accordance with the California Environmental Quality Act and findings of exemption have been made for the project.

NOW THEREFORE BE IT ORDAINED, the Board of Supervisors does hereby amend Chapter 17 of Mariposa County Code as follows:

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Section III: Amend Sections 17.68.010.A.1.c. and 17.72.010.A.1.c. as follows:

Prohibited uses: All uses listed in Section 17.108.200 of this Title and other uses not listed above, including agriculture, are

prohibited, except similar uses in compliance with Section 17.08.120 and 17.108.030 of this Title.

Section IV: Amend Sections 17.312.020.A.3; 17.314.020.A.3; 17.316.020.A.3; 17.318.020.A.3; 17.320.020.A.3; 17.322.020.A.3; and 17.325.020.A.3 as follows:

Prohibited uses:

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Section V: Amend Sections 17.324.020.A.3 and 17.326.020.A.3 as follows:

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Section VIII: Amend Chapter 17.148 Definitions by adding additional definitions to Section 17.148.010 as follows:

Medical Marijuana:

Defined in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.

### Medical Marijuana Dispensary:

Any facility or location, whether fixed or mobile, where medical marijuana or items containing medical marijuana (e.g. food or drink products) is made available to, and or/exchanged with, and/or distributed or sold to one (1) or more of the following: a qualified patient, a person with an identification card, or a primary caregiver as those terms are defined in California Health and Safety Code Section 11362.5 and 11362.7 et seq. Unless otherwise regulated by this Code or applicable law, a "medical marijuana dispensary" shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et seq.

### Collective or cooperative cultivation of marijuana:

The association within California of qualified patients, persons with valid identification cards, and/or designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq.

Section IX: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

BE IT FINALLY ORDAINED, this action is based on the findings mandated by Section 17.128.050 of the Mariposa County Zoning Ordinance as follows:

Finding No. 1: *The amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare. (Section 17.128.050, Zoning Ordinance.)*

The amendment is in the general public interest because it establishes specific regulations that address medical marijuana dispensaries and the cultivation of medical marijuana. Regulations are needed to protect the public health, safety, and welfare of residents, children, and businesses from harmful secondary effect of medical marijuana dispensaries and the unregulated cultivation of medical marijuana. The amendment will not have any adverse effect on the general public health, safety, peace and welfare, but will protect them.

Finding No. 2: *The amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long term guide for county development and a short term basis for day-to-day decision making. (Section 17.128.050, Zoning Ordinance.)*

One of the stated goals of the Mariposa County General Plan is to insure that the rural character of Mariposa County is maintained (Goal 5-1). This amendment provides land use regulations that are complementary to the concept of rural character, by establishing regulations for medical marijuana dispensaries and medical marijuana cultivation that will regulate increased traffic, noise, lights, and degradation of the natural environment associated with medical marijuana dispensaries and medical marijuana cultivation. The amendment will improve the Mariposa County general plan, as the amendment addresses potential impacts associated with the unregulated establishment of medical marijuana dispensaries and the unregulated cultivation of medical marijuana. This amendment will enable Mariposa County to properly protect its residents from the risk of criminal activity, degradation of the natural environment, marijuana related odors, and the potential for increased marijuana distribution. The amendment will enable better day-to-day decision making, as it will provide clear regulations for medical marijuana dispensaries and cultivation of medical marijuana. The amendment will minimize negative impacts on residential properties.

**Finding No. 3:** *The amendment conforms to the requirements of state law and county policy. (Section 17.128.050, Zoning Ordinance)*

The application has been processed in accordance with all applicable requirements of state law and county policy.

**Finding No. 4:** *The amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County general plan. (Section 17.128.050, Zoning Ordinance.)*

The amendment will insure that the rural character of Mariposa County is maintained (Goal 5-1, Mariposa County General Plan). The amendment carries out Implementation Measure 5-1a(3) as the project establishes land use regulations (thresholds) to ensure future uses are complementary to the concept of rural character. The regulation of medical marijuana dispensaries and medical marijuana cultivation also has the effect of regulating the increased traffic, noise, lights and degradation of the natural environment that is associated with large unsupervised marijuana cultivation and medical marijuana dispensaries. The amendment implements Policy 10-1c and Implementation Measure 10-1c(1) as it ensures that future uses in the Agriculture/Working Landscape are compatible with agriculture. The amendment establishes clearly defined uses and limits to uses associated with medical marijuana.

**Finding No. 5:** *The subject parcels are physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designated and the anticipated land use development. (Section 17.128.050, Zoning Ordinance.)*

This finding is not applicable to General Plan/Zoning Amendment No. 2011-170.

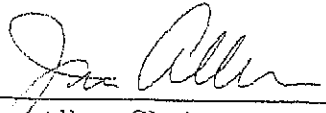
**Finding No. 6:** *The proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public. (Section 17.128.050, Zoning Ordinance.)*

This finding is not applicable to General Plan/Zoning Amendment No. 2011-170.

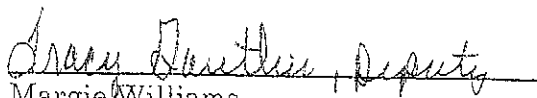
Finding No. 7: Any existing operations, as of the effective date of this resolution, involving cooperative or collective cultivation of medical marijuana are not recognized by Mariposa County as legally established uses, as these uses are not listed or identified as permitted uses in Title 17 (Zoning Ordinance) of Mariposa County Code.

PASSED AND ADOPTED on this 20<sup>th</sup> day of December, 2011 by the following vote. This ordinance will become effective 30 days after adoption:

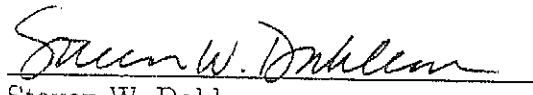
AYES: TURPIN, BIBBY, CANN, ALLEN  
NOES: STETSON  
EXCUSED: NONE  
ABSTAIN: NONE

  
\_\_\_\_\_  
Jim Allen, Chair  
Mariposa County Board of Supervisors

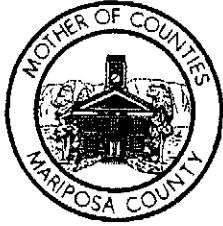
ATTEST:

  
\_\_\_\_\_  
Margie Williams  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Steven W. Dahlem  
County Counsel





# COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

JIM ALLEN, CHAIR  
JANET BIBBY, VICE-CHAIR  
LEE STETSON  
LYLE TURPIN  
KEVIN CANN

DISTRICT V  
DISTRICT III  
DISTRICT I  
DISTRICT II  
DISTRICT IV



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Consider Zoning Amendment No. 2011-170, Action Includes Adoption of a Resolution Approving the Zoning Amendment, Finding the Amendment is Exempt from Environmental Review, and Waiving the First Reading and Introducing an Ordinance Amending Title 17 Zoning. The Project Proposes to Define and Regulate Medical Marijuana Dispensaries and Medical Marijuana Cultivation. Project Affects all of Mariposa County. County of Mariposa, Project Proponent

RES. 11-594

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on December 6, 2011

#### ACTION AND VOTE:

15

#### **Planning**

PUBLIC HEARING to Consider Zoning Amendment No. 2011-170, Action Includes Adoption of a Resolution Approving the Zoning Amendment, Finding the Amendment is Exempt from Environmental Review, and Waiving the First Reading and Introducing an Ordinance Amending Title 17 Zoning. The Project Proposes to Define and Regulate Medical Marijuana Dispensaries and Medical Marijuana Cultivation. Project Affects all of Mariposa County. County of Mariposa, Project Proponent

**BOARD ACTION:** Chair Allen asked County Counsel to respond to the letter that was received from Anita Starchman Bryant, Starchman & Bryant Attorneys at Law, this date. County Counsel advised that he discussed the letter with Planning and out of caution Planning will recommend an amendment to the Ordinance and documents to address the issues that were raised. Kris Schenk/Planning Director, was present. Alvaro Arias/Associate Planner, presented the staff report; and he advised of their recommendation to delete reference to Section 17.04.030.E from the Ordinance and the Resolution and he noted that it will be up to the Board to direct that this Section be brought back at a later date. He reviewed the history of the urgency Ordinance for the moratorium, and he review the recommended amendments since adoption of the Resolution of Intent. He read the title of the Ordinance into the record. Supervisor Stetson asked County Counsel whether the Board could consider requiring a 4/5ths vote to make sure that potential future consideration of prohibition of an activity is not lightly considered. Supervisor Stetson reviewed his concerns with the

recommended action; stating he does not feel that this law is doing any particular good and he is opposed to it; and that he supports the use of medical marijuana for the seriously ill patients and does not feel that they should have to go out of the County to obtain the medicinal marijuana. County Counsel responded to the question relative to requiring a 4/5ths vote and noted that the State law calls for a majority vote on these matters; and for the Board to require 4/5ths vote would require a change in the State law. Staff responded to a question from the Board relative to the noticing requirements and Section 17.04.030.E not being included in the noticing that was done for this hearing.

The public portion of the hearing was opened and there was no input. The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to a question from the Board clarifying the changes that are necessary to delete Section 17.04.030.E in the resolution, Ordinance and Summary of Ordinance. (M)Cann, (S)Bibby, Res. 11-594 was adopted finding that the project is exempt from environmental review and approving Zoning Amendment No. 2011-170 with findings; waiving the first reading and introducing an Ordinance approving amendments to the Zoning Ordinance pursuant to Zoning Amendment No. 2011-170; with the amendment to the Resolution and the Ordinance to delete Section 17.04.030.E. Staff responded to questions from the Board as to what would be necessary for Section 17.04.030.E to come back to the Board. Supervisor Stetson questioned what would happen if a designated primary caregiver goes on vacation. Supervisor Allen expressed concern with this being the only drug that doctors prescribed that is not regulated like the other drugs; and he noted that there is an alternate drug there is dispensed through pharmacies. Supervisor Bibby asked that information be provided by the Sheriff at a future date relative to screening of plants, and that there be continued follow-up as the marijuana issues evolve. Supervisor Turpin asked about addressing the land use issues. Ayes: Turpin, Bibby, Cann, Allen; Noes: Stetson. The hearing was closed.

Cc: Steven W. Dahlem, County Counsel  
Doug Binnewies, Sheriff  
File