

ORDINANCE NO. 2010-02

AN INTERIM URGENCY ORDINANCE EXTENDING ORDINANCE NO. 2010-01
OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA MAKING
FINDINGS AND ESTABLISHING FOR AN EXTENDED PERIOD OF 10 MONTHS
AND 15 DAYS, A MORATORIUM ON THE ISSUANCE OF PERMITS,
ENTITLEMENTS, LICENSES, AND APPROVALS REGARDING
MEDICAL MARIJUANA DISPENSARIES

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THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES ORDAIN
AS FOLLOWS:

1. Findings and Declaration of Intent.

a) At a duly noticed regular meeting held on March 16, 2010, this Council adopted by a 5-0 vote Ordinance No. 2010-01, entitled “An Urgency Interim Ordinance of the City Council of the City of San Juan Bautista Making Findings and Establishing for a Period of 45 Days a Moratorium on the Issuance of Permits, Entitlements, Licenses, and Approvals Regarding Medical Marijuana Dispensaries.”

b) On March 16, 2010, at the above referenced meeting, this Council also appointed an ad hoc committee (“Committee”) to study measures that are available to address issues -- identified per subsection c), immediately below -- associated with the presence of medical marijuana provider association dispensaries within the jurisdictional limits of cities. The Committee has not had adequate time or opportunity to meet with the Planning Director, City Manager, and City Attorney, to fully discuss and address such issues.

c) This Council hereby re-adopts, as if fully set out herein, the Findings and Declaration of Intent adopted at Section 1 of Ordinance No. 2010-01.

d) Pursuant to Government Code Section 65858, subsection (a), a hearing on this ordinance was duly noticed per Government Code Section 65090, and this Council duly held a public hearing regarding this ordinance prior to its deliberation and adoption hereof.

2. Purpose of Ordinance. It is the purpose and intent of this ordinance to extend a moratorium, in accordance with the authority granted the City of San Juan Bautista under Government Code 65858. From and after the date of this ordinance, no use permit, variance, building permit, license, certificate, or any other applicable entitlement for use, shall be approved or issued for the establishment or operation of a medical marijuana provider association dispensary for a period of 10 months and 15 days following April 29, 2010. This extended moratorium will allow studies to be conducted to determine the needs assessment and issues (e.g. security protocols, traffic impacts, etc.) for the orderly preparation of attendant Municipal Code amendments that would pertain to medical marijuana provider association dispensaries.

3. Medical Marijuana Dispensary Defined. For the purpose of this ordinance, a “Medical Marijuana Provider Association Dispensary” shall mean any facility or location providing education, referral, network services, facilitation or assistance in the lawful possession, acquisition, and distribution of medical cannabis to two (2) or more “Qualified Patients” and/or “Primary Caregivers”, in strict accordance with Health and Safety Code Section 11362.5 et seq., including but not limited to Health & Safety Code Section 11362.7 (d) and (f). The terms “primary caregiver” and “qualified patient” shall be as defined in Health and Safety Code Section 11362.5 et seq.

4. Limitation of Uses. Notwithstanding any other provision of the Municipal Code or any other ordinances or regulations of the City to the contrary, no permit or other entitlement for use or environmental document which either directly or indirectly has as its result the approval or allowance of a medical marijuana dispensary, shall be approved, or granted while this ordinance remains in effect.

5. Environmental Assessment.

a) Pursuant to the California Environmental Quality Act ("CEQA"), California Public Resources Code Section 21000 et seq., and the "CEQA Guidelines" promulgated thereunder,

Title 14 of the California Administrative Code, Section 15000 et seq., the City Council finds and declares that this ordinance is exempt from the dictates of CEQA for the following reasons:

1) This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the CEQA Guidelines.

2) This ordinance is not a "project" within the meaning of Section 15378 of the CEQA Guidelines because it has no potential for resulting in a physical change in the environment, directly or ultimately. The ordinance prevents changes in the environment pending the completion of the above described zoning review.

3) This ordinance is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect to the environment. For the reasons set forth in subparagraphs 1) and 2) above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment and, therefore, this ordinance is not subject to CEQA.

b) The Planning Director is hereby authorized and directed to file, within five (5) working days of the adoption date of this ordinance, a "Notice of Exemption" with the County Clerk, according to the procedures and requirements set forth in Section 15062 of the CEQA Guidelines.

5. Urgency Measure; Effective Date. Pursuant to Government Code Section 65858 and based on the facts stated in Section 1 above, this Interim Ordinance is hereby declared to be an urgency measure necessary for the protection of the public health and welfare, shall become effective immediately upon its adoption, and shall remain, as an extension of Ordinance No. 2010-01, in full force and effect through March 14, 2011.

6. Severability. The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause and phrase of this ordinance is severable and independent of

every other section, subsection, paragraph, subparagraph, sentence, clause and phrase of this ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this ordinance is held invalid, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

7. Posting of Ordinance. Within fifteen days after the passage of this ordinance, the City Clerk shall cause it to be posted in the three places in the City designated by the Council.

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista at a regular meeting duly held on April 20, 2010, by the following vote:

AYES: Laverone, Hill, Bilich, Moore, Edge

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:

Ed Laverone, Mayor

Trish Paetz, Deputy City Clerk

APPROVED AS TO FORM:

George Thacher, City Attorney