Roll Call: Council

Pledge of Allegiance led by Council Member Eddie Hernandez

Invocation

ORAL COMMUNICATIONS

SCHEDULED MATTER
1. Interim Urgency Ordinance of the City of Porterville Prohibiting the Use of Land for the Purpose of Operating a Dispensary of Marijuana for Medical Purposes
   Re: Consideration of an Interim Urgency Ordinance restricting the location of medical marijuana dispensaries pending the adoption of permanent regulations addressing that particular land use consideration of an ordinance being filed with the City Clerk’s Office.

ORAL COMMUNICATIONS

ADJOURNMENT to the Council Meeting of February 16, 2007.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Deputy City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
TITLE: INTERIM URGENCY ORDINANCE OF THE CITY OF PORTERVILLE PROHIBITING THE USE OF LAND FOR THE PURPOSE OF OPERATING A DISPENSARY OF MARIJUANA FOR MEDICAL PURPOSES

SOURCE: CITY ATTORNEY

COMMENT: California voters approved Proposition 215, which codified into the California Health and Safety Code the “Compassionate Use Act of 1996.” The stated intent of the Proposition 215 was to enable people in need of marijuana for medical purposes the ability to obtain and use it without fear of criminal prosecution under limited, specific circumstances.

Consequently, there have been commercial endeavors to distribute medical marijuana to those who qualify under the Act. The proposition is unclear, however, about the details of doctor recommendations and how the substance is distributed. Adding further confusion is the fact that pursuant to Federal law, the use, possession, transpiration and distribution of marijuana is specifically illegal.

The City needs adequate time to determine whether it is appropriate to permit the location of medical marijuana dispensaries within the City, and if so, to determine whether to restrict their establishment from areas around schools and/or parks and in residential areas or near other businesses. California cities are handling this issue in a variety of ways, ranging from little or no regulation/restriction to complete prohibitions.

As the proposed ordinance is an interim urgency ordinance (moratorium), if approved by a 4/5’s vote, it will take effect immediately. This office intends to bring draft regulations back to the Council within the next thirty days.

RECOMMENDATION: That the City Council consider and adopt the proposed interim urgency ordinance, read by title only, and waive further reading.

ATTACHMENTS: Ordinance No 1713, An Ordinance of the City Council of the City of Porterville Prohibiting the Use of Land for the Purpose of Operating a Dispensary of Marijuana for Medical Purposes
ORDINANCE NO. _____

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE PROHIBITING THE USE OF LAND FOR THE PURPOSE OF OPERATING A DISPENSARY OF MARIJUANA FOR MEDICAL PURPOSES

The City Council of the City of Porterville do ordain as follows:

SECTION 1: The City Council of the City of Porterville herewith finds that there is a current and immediate threat to the public health, safety, or welfare, arising from the lack of procedures for determining the appropriateness of locations for medical marijuana dispensaries, from a lack of sufficient authority and controls to allow the City to impose appropriate and necessary conditions and regulations upon medical marijuana dispensaries within the City, as well as apparent conflicts between State and Federal law concerning this particular land use.

SECTION 2: The City Planning staff and City Attorney are presently studying the issues concerning location and regulation of medical marijuana dispensaries.

SECTION 3: This City of Porterville does further herewith find and determine that allowing the use of land for the purpose of operating a medical marijuana dispensary prior to the adoption of any regulations concerning the location of medical marijuana dispensaries would result in that threat to public health, safety or welfare being exacerbated.

SECTION 4: That the City of Porterville does further herewith find and determine that there are significant public health, safety or welfare concerns relating to issues concerning:

(a) Appropriate locations for medical marijuana dispensaries, if any;

(b) Appropriate procedures to provide for staff and public input and comment on the siting of medical marijuana dispensaries; and

(c) Appropriate mechanisms being in place to impose appropriate and necessary conditions upon medical marijuana dispensaries.

All of which gives rise to a need to complete the study, within a reasonable time, of the potential and appropriate City zoning procedures and policies with regard to this particular land use, and in order to protect the public safety, health or welfare it is necessary to prohibit the use of land for the purpose of operating a medical marijuana dispensary until such time as said study is completed and the City Council has determined, what new and additional, if any, procedures and policies are necessary and appropriate to put in place.
SECTION 5: The City Council of the City of Porterville herewith finds that the adoption of the subject interim ordinance is Categorically Exempt pursuant to the California Environmental Quality Act.

SECTION 6: This Ordinance shall remain in full force and effect for a period of forty-five (45) days from and after its passage and adoption.

SECTION 7: The City Council does herewith direct the City staff to prepare and submit to the City Council, for consideration of approval and issuance by the City Council, a written report describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report shall be submitted to the City Council at least 10 days prior to the expiration of this Ordinance.

SECTION 8: For the reasons set forth hereinabove, the City Council of the City of Porterville does herewith declare and determine that it is necessary to protect the public safety, health or welfare by adopting this Ordinance (by the required 4/5's majority vote) as an urgency measure to take effect immediately upon passage and adoption.

PASSED, ADOPTED AND APPROVED this ___ day of ______________, 2007.

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Cameron Hamilton, Mayor

ATTEST:

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Georgia Hawley, Chief Deputy City Clerk and Clerk of the Council of the City of Porterville