



# MARIPOSA COUNTY

Planning · 209-966-5151



## **ORDINANCE 2017-1122**

MEETING: March 21, 2017

TO: The Board of Supervisors

**MINUTE ORDER ATTACHED**

FROM: Sarah Williams, Planning Director

RE: Adopt an Interim Urgency Ordinance "Control, Regulate and Tax Adult Use of Marijuana Act"

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### **RECOMMENDATION AND JUSTIFICATION:**

Adopt an Interim Urgency Ordinance prohibiting operation, within the County of Mariposa, of any activity for which a license is required pursuant to Division 10. Marijuana, of The Business and Professions Code.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

3/25/14: The Board of Supervisors adopted Ordinance 2014-1104 establishing Regulations For The Cultivation of Medical Marijuana within Chapter 8.56 of Title 8 of the Mariposa County Code.

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Non-action, in this case, is equivalent to negative action, resulting in local operation, by default, of the State of Californian Bureau of Marijuana Control procedures and standards for non-medical commercial, or not for profit, cultivation, processing, sale and public consumption of marijuana and related products.

### **ATTACHMENTS:**

**BOS.170321.SR.Adult Use of Marijuana Act (DOC)**

**Sheriff Letter to BOS.2.16.17 (PDF)**

**DA.ltr.2.13.17 (PDF)**

**chart legal.illegal (PDF)**

**Prop 64 as submitted (PDF)**

**Urgency Interim Ordinance. Prohibit Licensed Marijuana Uses (DOCX)**

### **CAO RECOMMENDATION**

Requested Action Recommended

*Dallin Kimble*  
Dallin Kimble, Interim CAO 3/16/2017

**RESULT: ADOPTED [4 TO 1]**

**MOVER:** Merlin Jones, District II Supervisor

**SECONDER:** Kevin Cann, District IV Supervisor

**AYES:** Miles Menetrey, Merlin Jones, Marshall Long, Kevin Cann

**NAYS:** Rosemarie Smallcombe

**MARIPOSA COUNTY ORDINANCE NO. 1122**

**AN INTERIM URGENCY ORDINANCE PROHIBITING OPERATION, WITHIN THE COUNTY OF MARIPOSA, OF ANY ACTIVITY FOR WHICH A LICENSE IS REQUIRED PURSUANT TO DIVISION 10 OF THE BUSINESS AND PROFESSIONS CODE**

**WHEREAS**, Section 65858 of the California Government Code empowers the Board to adopt an Interim Urgency Ordinance to protect the public safety, health and welfare of the citizens of Mariposa County; and

**WHEREAS**, on November 9, 2016, the voters of the State of California approved Proposition 64 entitled “Control, Regulate, and Tax Adult Use of Marijuana Act”, relevant portions of which are codified within Division 10 of the Business and Professions Code at Sections 2600 et. seq.; and

**WHEREAS**, Division 10 requires that any category of activity listed therein shall obtain a license issued by State of California Bureau of Marijuana Control designated Licensing Authority; and

**WHEREAS**, Division 10 establishes a process and protocol for establishment, by the State of California Bureau of Marijuana Control, of a regulatory scheme for issuance of licenses and subsequent oversight and enforcement of conditions under which such uses will operate; and

**WHEREAS**, Section 26200 of Division 10 enables the County of Mariposa to “...adopt and enforce local ordinances to regulate businesses licensed under the Division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment and operation of one or more types businesses licensed under this Division”; and

**WHEREAS**, the Bureau of Marijuana Control and Licensing Authorities are required to consult with various State agencies charged with protection of sensitive habitats and environments, scenic, cultural, historical and agricultural resources in the development, implementation and enforcement of regulations and issuance of licenses; and

**WHEREAS**, Sections 26014 and 26190 of Division 10 require annual reports to the Legislature by an Advisory Committee and each Licensing Authority regarding best regulatory practices and any requests for regulatory relief or rule-making changes. In addition, Section 26191 requires that the Bureau of State Audits conduct a Performance Audit of the Bureau of Marijuana Control. Annual reports and audits are to be commenced on January 1, 2019, a full year after the commencement of licensing; and

**WHEREAS**, licensing protocols and standards have not been established pursuant to Division 10 that would enable the County of Mariposa to determine that such licenses are sufficient to protect the health, safety and general welfare of residents and businesses in the County of Mariposa. The absence of licensing protocols and standards for the review, issuance and enforcement of licenses, or the conclusion of legislative reports and performance audits, makes it impossible for the County to

determine the relationship of any particular licensed category to Guiding Principles, policies and standards contained in the Mariposa County General Plan; and

**WHEREAS**, as with any industry, there is potential that commercial or industrial cultivation, processing, manufacture, storage and use of marijuana and derivative products may adversely affect the health, safety and general welfare of the County and its residents, requiring the adoption of local standards in addition to or other than the standards established by Licensing Authorities; and

**WHEREAS**, marijuana is a prohibited, controlled substance under Federal law, and Mariposa County contains substantial areas (over 52% of county) of Federal land within the jurisdiction of the Bureau of Land Management, Forest Service and National Park Service. Local, permissive regulations pursuant to Division 10 may potentially endanger the safety and general welfare of residents and visitors by establishing a false sense of governmental acquiescence and tacit approval of activities that are otherwise illegal under Federal Law; and

**WHEREAS**, as a result of the lack of sufficient definitions, regulations, and standards required in Division 10, an Interim Urgency Ordinance is necessary to protect the public safety, health and welfare of the citizens of Mariposa County as delineated in the findings below; and

**WHEREAS**, during this interim urgency period, County Staff is directed to prepare necessary documents, including a resolution, ordinance and CEQA determination, to amend the Mariposa County Zoning Ordinance to prohibit operation, within Mariposa County, of any activity for which a license is required pursuant to CA Business and Professions Code, Division 10. Marijuana. Staff is directed to process this project pursuant to County Code, which includes scheduling and noticing public hearings for the Planning Commission and Board of Supervisors.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY**, a political subdivision of the State of California, does ordain as follows:

**Section I:** During the dates this Interim Urgency Ordinance and any extension thereof is effective, approvals or establishment of any category of marijuana activity for which a license is required by the State of California pursuant to Division 10 of the Business and Professions Code are prohibited within the jurisdiction of Mariposa County.

**Section II:** The purpose of this Interim Urgency Ordinance is to protect the public safety, health and welfare of the citizens of Mariposa County and is based upon the following findings:

- A. The Board of Supervisors hereby finds and declares that potential establishment of any category of licensed activity pursuant to Division 10 of the Business and Professions Code poses a current and immediate threat to public health, safety and welfare.
- B. The County has received multiple inquiries regarding the establishment of activities requiring a license from the State of California. Such uses, without County review of location and operational standards, have the potential to adversely affect neighborhoods, commercial areas, and sensitive natural resource areas, resulting in a clear and immediate danger to public health, safety, and welfare.

C. The Board of Supervisors hereby further finds and declares that establishment of any category of licensed activity pursuant to Division 10 of the Business and Professions Code while the County is evaluating the adequacy of State of California standards and protocols to protect Mariposa County resources will conflict with the County General Plan Guiding Principles (General Plan Chapter 3):

1. Clear approval standards have not been developed;
2. A nexus between the impacts of any project and project conditions and mitigation measures cannot be determined;
3. Potential impacts on agricultural uses and activities have not been evaluated;
4. The effect on the desirability of neighborhoods located in Rural Residential and Mountain Home Districts has not been determined;
5. A stable and diverse economy may be impacted by the potential dominance of licensed categories; and
6. The need for infrastructure to accommodate licensed uses and activities has not been determined.

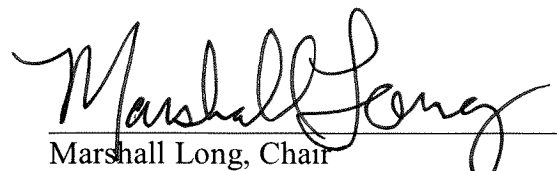
**Section III:** Failure to adopt this ordinance may result in significant irreversible changes to rural neighborhood and the historical and rural community character of Mariposa County.

**Section IV:** Based on the foregoing, the Board of Supervisors does hereby declare this urgency ordinance is necessary to protect the public health, safety, and welfare while considering any local regulations and standards that may apply to activities licensed pursuant to Division 10 of the Business and Professions Code.

**Section V:** This Interim Urgency Ordinance is adopted under the authority of California Government Code Section 65858 and shall become effective immediately upon adoption and shall be in effect for forty-five (45) days unless extended by the Board of Supervisors pursuant to California Government Code § 65858.

**PASSED AND ADOPTED** on this 21<sup>st</sup> day of March, 2017 by the following vote:

AYES: JONES, LONG, CANN, MENETREY  
NOES: SMALLCOMBE  
ABSTAINED: NONE  
EXCUSED: NONE

  
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Marshall Long, Chair  
Mariposa County Board of Supervisors

**ATTEST:**

  
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RENE LA ROCHE  
Clerk of the Board

**APPROVED AS TO FORM:**

  
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STEVEN W. DAHLEM  
County Counsel