



Los Angeles County  
Department of Regional Planning

*Planning for the Challenges Ahead*



Richard J. Bruckner  
Director

June 28, 2016

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**HEARING ON ORDINANCE EXTENDING INTERIM  
ORDINANCE NO. 2016-0022U  
ON THE INTERIM BAN ON THE CULTIVATION, MANUFACTURING,  
LABORATORY TESTING, AND DISTRIBUTION OF MEDICAL MARIJUANA  
IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES  
(ALL SUPERVISORIAL DISTRICTS) (4-VOTES)**

**SUBJECT**

On April 12, 2016, the Board of Supervisors (Board) enacted Interim Ordinance No. 2016-0022U to temporarily prohibit the cultivation, manufacturing, laboratory testing and distribution of medical marijuana, and prohibit their establishment on all properties located in the unincorporated territory of the County of Los Angeles. On May 24, 2016, the Board extended Interim Ordinance No. 2016-0022U to June 28, 2016. During this extended period, the Department of Regional Planning (Department) met with Treasurer and Tax Collector, Public Health, Agricultural Commissioner, Sherriff, District Attorney, and County Counsel to discuss key issues and develop a framework for the study and report to the Board.

**IT IS RECOMMENDED THAT THE BOARD, AFTER THE PUBLIC HEARING,**

Adopt the ordinance extending Interim Ordinance No. 2016-0022U for a period of one year.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The Board enacted Interim Ordinance No. 2016-0022U on April 12, 2016, to temporarily prohibit the cultivation, manufacturing, laboratory testing and distribution of medical marijuana, and prohibit their establishment on all properties located in the unincorporated territory of the County of Los Angeles. During the temporary prohibition enacted by the Interim Ordinance No. 2016-0022U, a study will be prepared focusing on possible impacts that medical marijuana activities, conducted

pursuant to the Medical Marijuana Regulation and Safety Act (MMRSA), could have on residents and the properties located in all zones in the County unincorporated territory. The study shall also consider a possible permanent zoning ordinance amendment to address any impacts identified by the study, and estimate potential revenues to the County that might result from the licensure and taxation of medical marijuana cultivation, manufacturing, laboratory testing, and distribution activities.

### **Zoning Analysis**

A comprehensive zoning study will be prepared that will analyze regulations currently applied to medical marijuana uses in other state, county, and city jurisdictions. The study will also include a comparative analysis of these regulations with the existing requirements of the unincorporated territory of the County of Los Angeles.

Appropriate regulations and safeguards will be necessary if the Board votes to allow certain or all medical marijuana activities. Any proposed amendments to Title 22 (Zoning) must be consistent with the Countywide General Plan, identify the allowable zones marijuana uses are allowed, specify the type of review process that will be required, and provide development and/or operational standards. If the Board ultimately decides to amend the County Code to allow medical marijuana uses, an Environmental Impact Report (EIR) may be required to adequately study potential impacts that include, but are not limited to, fiscal/financing, environmental, social, health, and criminal/public nuisance. Preparing an EIR will require both time and financial resources through the County's Request for Proposal procedure. The scope and complexity of the EIR will affect the overall project schedule.

### **FISCAL IMPACT/FINANCING**

Extension of Interim Ordinance No. 2016-0022U will not result in a loss of revenue generated from permit fees. Medical marijuana dispensaries have been banned in the unincorporated areas since 2011. The cultivation, manufacturing, laboratory testing, or distribution of medical marijuana are not listed as allowed land uses in Title 22 (Zoning Code), and thus are not permitted. There are no pending applications for medical marijuana related uses, and in the absence of the Interim Ordinance, no new applications would be accepted under the Department's current regulations.

If the Board directs staff to develop regulations to allow medical marijuana uses in the unincorporated County, it is not known at this time what zones would allow medical marijuana uses, which departments would regulate, or what type of application(s) would be required. Additional research is necessary to provide an estimate of anticipated application fees and costs to the various County

departments to implement new regulations, as well as associated costs to provide effective enforcement.

The Department is working collaboratively with the Treasurer and Tax Collector, Public Health, Agricultural Commissioner, Sheriff, District Attorney, and County Counsel to obtain the information necessary to complete the comprehensive zoning study.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Interim Ordinance No. 2016-0022U, first adopted by the Board on April 12, 2016, will expire on June 28, 2016, unless extended by Board action. Pursuant to Government Code, Section 65858, Interim Ordinance No. 2016-0022U temporarily prohibits the cultivation, manufacturing, laboratory testing, and distribution of medical marijuana, until these activities can be fully analyzed and recommendations can be made to the Board for possible adoption.

In 1996, the Compassionate Use Act (CUA) was enacted for the purpose of "ensur[ing] that seriously ill Californians have the right to obtain and use marijuana for medical purposes" upon a physician's recommendation (Health & Safety Code, § 11362.5(b)(1)(A)). The CUA decriminalizes the cultivation and possession of marijuana, but only for a patient or the patient's primary caregiver where the marijuana is possessed or cultivated for the medical purposes of the patient upon the written or oral recommendation of a physician (Health & Safety Code, § 11362.5(d)).

In 2003, the Medical Marijuana Program Act (MMPA) was enacted to clarify the scope and applicability of the CUA, and to "facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution..." and "[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects." (Stats. 2003, Ch. 875, section 1(b)(1) & (3)). The MMPA also exempts cooperative and collective cultivation of medical marijuana by qualified patients and their primary caregivers from certain State criminal sanctions (Health & Safety Code, § 11362.775).

In October 2015, the California State Legislature enacted a comprehensive package of bills to establish a statewide regulatory structure for commercial medical marijuana activities. Together, Assembly Bills 266 and 243, and Senate Bill 643 comprise MMRSA and regulate licensing and enforcement of commercial medical marijuana. MMRSA, which became effective January 1, 2016, and which will be administered and overseen by the newly created State Bureau of Medical Marijuana

Regulations, provides statewide uniform standards, but allows local jurisdictions to implement additional standards. MMRSA provides a dual licensing structure for commercial medical marijuana activities including cultivation, manufacturing, laboratory testing, distribution, dispensing, and transportation. It also preserves police power for local jurisdictions to permit, regulate, or ban medical marijuana activities.

Marijuana dispensaries have been banned in the unincorporated County since 2011. The cultivation, manufacturing, laboratory testing, or distribution of medical marijuana are not listed as allowed land uses in Title 22 (Zoning Code), and thus are not permitted. Although the prohibition of marijuana in the unincorporated County of Los Angeles is consistent with federal law, state laws allow marijuana for medical use and thus are in conflict with federal law.

## **ENVIRONMENTAL DOCUMENTATION**

### **Environmental Impacts**

During the Department's discussions with other County agencies, key topics of environmental concern included water usage, pesticide control, hazardous materials, and pollution. Cannabis has been identified in preliminary research as a water intensive crop. If an EIR is prepared, an analysis on the amount of water needed for the cultivation of cannabis should be studied to determine its impact on existing water supplies.

Pesticide control, which is regulated by several different bureaus, should be studied to identify the types of pesticides commonly used in cannabis cultivation. Identifying the types of pesticides used in cultivation and their harmful effects is important for determining what zones and areas are appropriate for cannabis cultivation. The Environmental Protection Bureau enforces pesticide laws and detects exotic insect pests which threaten California agriculture. The Agricultural Pesticide Regulation Division enforces laws that protect the public, pesticide applicators, farm workers, crops, and the environment from improper or unsafe uses of pesticides. The Structural Pesticide Regulation Division enforces laws on pesticide use by hundreds of pest control companies operating within the County. The Pest Detection Division places and services over 24,000 insect traps annually to detect exotic insect pests which pose threats to California's agricultural and horticultural crops.

To ensure that marijuana products are safe for consumption, regulations will need to be created to protect the public from hazardous materials used in the manufacture of marijuana products. Identifying and regulating the types of chemicals used in the

cultivation and manufacturing of marijuana products is essential to ensuring its safe use, and protecting the public from potential hazards.

Pollution is another potential impact that should be studied within an EIR. Runoff of chemicals/pesticides used in the cultivation and manufacturing of marijuana could impact surrounding land uses. If marijuana uses are allowed, potential code amendments should regulate how chemicals are stored, used, and safely disposed of to minimize impacts.

### **Social Impacts**

Social impacts may result from the proximity of marijuana uses to specific sensitive uses such as schools, churches, and public areas. An EIR should examine safe distances to locate marijuana uses away from specific types of sensitive land uses. Marijuana also has the potential to impact communities by creating undesirable secondary effects. Evaluating social impacts will help staff determine which zones and areas are appropriate for marijuana uses, should they be allowed.

### **Public Health Impacts**

There are both positive and negative health impacts associated with the use of marijuana. Pursuant to State law under certain conditions, marijuana may be recommended for the treatment of a variety of medical problems. The study will include research on the potential health benefits and risks of marijuana.

### **Criminal/Public Nuisance Impacts**

Marijuana has been legalized for both medical and adult recreational use in several states, counties, and city jurisdictions outside of California. An analysis of these regulatory frameworks will help address the issues of crime and public nuisance related to marijuana use. The zoning study will also examine whether there is a link between an increase in crime and public nuisance following legalization of marijuana.

If marijuana uses are legalized, the County Code must be amended to properly regulate and enforce their safe use. A summary and analysis of regulations currently enforced by other states, counties, and cities will be prepared in the zoning study.

### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The proposed ordinance would not impact current services or projects as marijuana land uses are currently not permitted in the unincorporated territory of the County of

Los Angeles. The comprehensive zoning study will need to evaluate training and education that will be necessary for both the County workforce and the public.

Potential impacts requiring the enforcement of new code amendments will also need to be studied. Proper regulation will require coordination with state agencies as well as with the various County departments including, but not limited to, the departments of Regional Planning, Treasurer and Tax Collector, Public Health, Agricultural Commissioner, Sherriff, District Attorney, and County Counsel.

### **CONCLUSION**

Extending Interim Ordinance No. 2016-0022U is necessary for the Department to have sufficient time to provide a comprehensive zoning analysis on current laws, potential impacts, and options for potential code amendments. Allowing marijuana land uses without appropriate analysis and regulation may cause irreparable harm to the physical appearance, condition, and character of areas where marijuana uses may be established. It may also impact water supplies and/or water quality, and may negatively impact the health, safety, and welfare of the general public. Additionally, unless Interim Ordinance No. 2016-0022U is extended, an irreversible incompatibility of land uses and the possible loss of vegetative habitat and groundwater supply may reasonably occur, to the detriment of the public health, safety, and welfare. Such conditions pose a current and immediate threat to human health, safety or welfare absent the extension of the restrictions of Interim Ordinance No. 2016-0022U.

On May 24, 2016, the Board extended Interim Ordinance 2016-0022U to June 28, 2016. Per the provisions of Section 65858, the Interim Ordinance may be extended a second time for a period not to exceed one year. An extension of Interim Ordinance 2016-0022U is recommended to allow sufficient time for the Department to complete a comprehensive zoning study with possible ordinance amendment options for the Board's consideration.

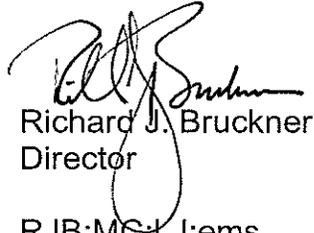
Extension of this ordinance requires that the Board conduct a public hearing at which time the ordinance extending Interim Ordinance No. 2016-0022U may be adopted by no less than a four-fifths vote. The date of the public hearing has been set for June 28, 2016. Notice of this public hearing has been published as required by law.

The proposed ordinance, extending Interim Ordinance No. 2016-0022U, has been prepared by County Counsel and transmitted to you.

The Honorable Board of Supervisors  
June 28, 2016  
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If you have any questions, please contact Bruce Durbin, Section Head, Ordinances Studies Section, Advance Planning Division at (213) 974-6432 or BDurbin@planning.lacounty.gov.

Respectfully submitted,



Richard J. Bruckner  
Director

RJB:MG:LJ:ems

Attachment

c: Executive Office, Board of Supervisors  
County Counsel  
Agricultural Commissioner  
Assessor  
Chief Executive Office  
District Attorney  
Public Health  
Public Works  
Sherriff  
Treasurer and Tax Collector

S\_AP\_062816\_BL\_HEARING\_ORD\_MEDICAL\_MARIJUANA



**RUSH** YES  NO

Reason: Needs to be on June 28, 2016

Board Agenda

6/21

## ORDINANCE

Second Extension Urgency Ordinance to Ban Medical Marijuana Activities

SUBJECT

[EXT2URGORDBANMARISSCC]

BOS Template File Name

APPROVED:	INITIAL	DATE
COUNTY COUNSEL ATTORNEY	<u>SJS</u>	<u>6/14/16</u>
ASSISTANT COUNTY COUNSEL	<u>AM</u>	<u>6/14/16</u> <u>withd 6/15/16</u>
SENIOR ASSISTANT COUNTY COUNSEL	<u>[Signature]</u>	<u>6/15/16</u>
LESTER J. TOLNAI CHIEF DEPUTY COUNTY COUNSEL	<u>[Signature]</u>	<u>6/16/16</u>

Please initial and date above before submitting for signatures.  
This Routing Sheet is to be attached to the file copy as a permanent record.  
Please PDF entire document including attachments and the routing slip and rename accordingly. Email PDF document to Distribution-Non-Litigation.

Proofreaders' Initials/date:  
BJ 6/14/16 VN 6/14/16 MR 6/14/16 6/15/16



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

MARY C. WICKHAM  
County Counsel

June 16, 2016

TELEPHONE  
(213) 974-1853  
FACSIMILE  
(213) 613-4751  
TDD  
(213) 633-0901

Richard J. Bruckner, Director  
Department of Regional Planning  
1390 Hall of Records  
320 West Temple Street  
Los Angeles, California 90012-3225

**Re: Second Extension Urgency Ordinance to Ban Medical  
Marijuana Activities**

Dear Mr. Bruckner:

As requested, enclosed are the analysis and ordinance to extend Interim Urgency Ordinance No. 2016-0022U which temporarily imposes a ban on the cultivation, manufacturing, laboratory testing, and distribution of medical marijuana, and prohibits their establishment on all properties located in the unincorporated territory of the County of Los Angeles. This interim ordinance will require a public hearing and a four-fifths vote by the Board of Supervisors ("Board"). If approved, this ordinance will extend Interim Ordinance No. 2016-0022U for an additional 12 months.

The enclosed analysis and ordinance may be presented to the Board for its consideration. We understand the ordinance is set for public hearing before the Board on June 28, 2016.

Very truly yours,

MARY C. WICKHAM  
County Counsel

By *Sari J. Steel*  
SARI J. STEEL  
Principal Deputy County Counsel  
Property Division

APPROVED AND RELEASED:

*L. Hafetz*  
LAWRENCE L. HAFETZ  
Chief Deputy

SJS:vn  
Enclosures

HOA.100752521.1

## ANALYSIS

This ordinance extends Interim Ordinance No. 2016-0022U, as previously extended by Interim Ordinance No. 2016-0027U, for a period of one year to June 28, 2017. This extension ordinance temporarily imposes a ban on the cultivation, manufacturing, laboratory testing, and distribution of medical marijuana, and prohibits their establishment on all properties located in the unincorporated territory of the County of Los Angeles. Interim Ordinance No. 2016-0022U, adopted on April 12, 2016, and extended by Interim Ordinance No. 2016-0027U, is scheduled to expire June 28, 2016, unless extended pursuant to Government Code section 65858.

This extension ordinance is an urgency measure that requires a public hearing and a four-fifths vote by the Board of Supervisors for adoption. It is the last extension of the urgency ordinance allowed under Government Code section 65858.

MARY C. WICKHAM  
County Counsel

By *Sari J. Steel*  
SARI J. STEEL  
Principal Deputy County Counsel  
Property Division

SJS:ss

Requested: 5-16-16

Revised: 6-14-16

**ORDINANCE NO. \_\_\_\_\_**

An ordinance extending Interim Ordinance No. 2016-0022U, as previously extended by Interim Ordinance No. 2016-0027U, temporarily imposing a ban on the cultivation, manufacturing, laboratory testing, and distribution of medical marijuana, and prohibiting their establishment on all properties located in the unincorporated territory of the County of Los Angeles, declaring the urgency thereof and that this ordinance will take effect on June 28, 2016.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1. Interim Prohibition.**

Pursuant to section 65858 of the Government Code, the Board of Supervisors having held a public hearing, hereby extends Interim Ordinance No. 2016-0022U as previously extended by Interim Ordinance No. 2016-0027U, to June 28, 2017. Interim Ordinance No. 2016-0022U, Interim Ordinance No. 2016-0027U, and now this extension ordinance provide that no facilities, premises, or property shall be established, developed, leased, rented, or used for "cultivation," "manufacturing," "laboratory testing," or "distribution" of medical marijuana.

**SECTION 2. Adoption and Expiration of Initial Interim Ordinance; Authority.**

Interim Ordinance No. 2016-0022U was adopted on April 12, 2016. Interim Ordinance No. 2016-0022U was extended by Interim Ordinance No. 2016-0027U on May 24, 2016, effective May 27, 2016. Unless this second extension takes effect on or before June 28, 2016, Interim Ordinance No. 2016-0027U will expire. California

Government Code section 65858 provides that any urgency measure in the form of an initial interim ordinance may be adopted without following the procedures otherwise required prior to adoption of a zoning ordinance, by a four-fifths vote of the Board of Supervisors, which shall be effective for only forty-five (45) days following its adoption. Government Code section 65858 further provides that such an urgency measure may be extended, following compliance with that section, for up to an additional ten (10) months and fifteen (15) days beyond the original forty-five (45) day period, and it can be extended a second time for an additional year.

**SECTION 3. Definitions and Penalties.**

For purposes of this ordinance, the following definitions shall apply:

- A. "Cultivation" shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical marijuana.
- B. "Distribution" shall mean the procurement, sale, and transport of medical marijuana and medical marijuana products between entities.
- C. "Laboratory" means any facility or site that offers or performs tests of medical marijuana or medical marijuana products.
- D. "Laboratory testing" shall mean the process by which medical marijuana is evaluated for quality control.
- E. "Manufacture" or "manufacturing" shall mean the process by which medical marijuana is produced, prepared, propagated, or compounded, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

F. "Medical marijuana" shall mean a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical marijuana patients in California pursuant to the Compassionate Use Act of 1996 ("Proposition 215"). Medical marijuana does not include "industrial hemp" as defined by section 81000 of the Food and Agricultural Code or section 11018.5 of the Health and Safety Code.

G. The definitions and penalties for land use violations that are prescribed in Title 22 of the Los Angeles County Code shall apply to the interpretation and to violations of the provisions of this interim ordinance.

**SECTION 4. Zoning Study Initiated, Determination of Immediate**

**Threat.**

The Los Angeles County Department of Regional Planning ("Regional Planning") in cooperation with the Departments of Public and Environmental Health, Agricultural Commissioner/Weights and Measures, Treasurer and Tax Collector, Sheriff's Department, District Attorney's Office, and the Office of the County Counsel has been conducting a comprehensive zoning study to review the possible impacts that medical marijuana activities, conducted pursuant to the Medical Marijuana Regulation and Safety Act ("MMRSA"), could have on residents and the properties located in all zones in the County unincorporated territory. The study shall consider a possible permanent zoning ordinance amendment to address any impacts identified by the study and estimate potential revenues to the County that might result from the licensure and

taxation of medical marijuana cultivation, manufacturing, laboratory testing, and distribution activities.

In October 2015, the Legislature enacted a comprehensive package of bills to establish a Statewide regulatory structure for commercial medical marijuana activities. Together, AB 266, AB 243, and SB 643 comprise MMRSA and regulate licensing and enforcement of commercial medical marijuana. MMRSA, which became effective January 1, 2016, and which will be administered and overseen by the newly created State Bureau of Medical Marijuana Regulations, provides Statewide uniform standards, but allows local jurisdictions to implement additional standards. MMRSA provides a dual licensing structure between the State and local jurisdiction for commercial medical marijuana activities including cultivation, manufacturing, laboratory testing, distribution, dispensing, and transportation. It also preserves police power for local jurisdictions to permit, regulate, or ban medical marijuana activities.

As a result of this new legislation, the County has been receiving inquiries concerning County permitting and licensing for these activities.

Since 2011, the County has banned the dispensing of medical marijuana from storefront locations throughout all of the unincorporated territory in Title 22 – Planning and Zoning of the Los Angeles County Code. The use of land for cultivation, manufacturing, laboratory testing, or distribution of medical marijuana is not specifically allowed under the County's permissive zoning code, but the County does not have a ban specifically prohibiting these medical marijuana activities.

The dispensing, cultivation, manufacturing, laboratory testing, and distribution of medical marijuana remain illegal under federal law, but MMRSA allows qualified individuals and entities, who possess both State and local permits and licenses, to engage in these activities. Notwithstanding, these activities have been associated with certain risks and crime.

Outdoor cultivation where it is readily observable by neighbors and the general public increases the risk of trespass and burglary. It also increases the rise of violence in connection with either the commission of such crimes or the occupants' attempts to prevent such crimes. Additionally, outdoor cultivation is often associated with violations of local, State, and federal environmental laws and pesticide regulations, threatening harm to local waterways and groundwater quality, and endangering the public health and safety.

Indoor cultivation and the processing, manufacturing, distribution, and testing of medical marijuana within a residence or other structure used or intended for human occupancy, presents potential health and safety risks to those living in the residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of fire from grow light systems, increased risk of adverse chemical reactions, exposure to fertilizers, pesticides, and anti-fungus/mold agents, and exposure to potential property crimes.

Based on the findings above, the Board finds that the potential establishment of medical marijuana cultivation, manufacturing, laboratory testing, and/or distribution and the use of property for these purposes in the unincorporated territory of the County

poses a current and immediate threat to the public health, safety, and welfare in the County due to the negative impacts of such activities as described above. The Board further finds that the issuance or approval of business licenses, subdivisions, use permits, variances, building permits, site plans, or any other applicable entitlement for medical marijuana cultivation, manufacturing, laboratory testing, and/or distribution absent necessary and appropriate regulations will result in the aforementioned threat to public health, safety, and welfare.

**SECTION 5. Severability.**

If any provision of this interim ordinance extension or the application thereof to any person, property, or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or application, and, to this end, the provisions of the interim ordinance are hereby declared to be severable.

**SECTION 6. Area of Applicability.**

This interim ordinance extension applies to all properties in the unincorporated territory of the County of Los Angeles.

**SECTION 7. Urgent Need.**

This interim ordinance extension is urgently needed for the immediate preservation of the public health, safety, and welfare, and it shall take effect on June 28, 2016, and it shall be of no further force and effect one year following the date of its taking effect.

[EXT2URGORDBANMARISSCC]

