

ORDINANCE NO. 1052

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMARILLO, CALIFORNIA, ADDING CHAPTER 19.55 TO THE MUNICIPAL CODE, TO PROHIBIT MEDICAL MARIJUANA FACILITIES

The City Council of the City of Camarillo ordains as follows:

SECTION 1: The City Council of the City of Camarillo finds as follows:

A. In 1996 the voters of the State of California passed the "Compassionate Use of Marijuana Law" which allows for the use of marijuana for medical purposes; and

B. In 2003, the Legislature approved SB 420, which provided additional statutory guidance for those involved with medical marijuana use, and also authorized cities to enact rules and regulations with regard to medical marijuana consistent with California law; and

C. The United States Supreme Court in *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 532 U.S. 483, held that the Federal Controlled Substances Act continues to prohibit marijuana use, distribution, and possession, and that no medical necessity exceptions exist to those prohibitions; and

D. The United States Supreme Court held that federal laws which ban the use of marijuana for medical purposes are constitutional in the case of *Gonzales v. Raich* (2005) 545 U.S. 1; and

E. The City Council has reviewed and considered the Agenda Report prepared by the City Attorney's Office for the City Council meeting of March 24, 2010, and supporting documents, regarding the secondary effects of medical marijuana dispensaries, including reports of criminal activity, such as robberies, assaults, burglaries, and the sale of illegal drugs, murder and attempted murder, which is contrary to policies that are intended to promote and maintain the public's health, safety, and welfare; and

F. In some counties, medical marijuana delivery services are currently provided, which is not permitted by either state or federal law; and

G. A "qualified patient," as defined in subsection (f) of section 11362.7 of the California Health & Safety Code, and a "primary caregiver," as defined in subsection (d) of section 11362.7, is permitted to possess an amount of marijuana consistent with the patient's needs, and state law does not expressly prohibit qualified patients from growing marijuana in an amount consistent with the patient's needs; and

H. At its meeting on May 13, 2009, the City Council adopted Ordinance No.1036, which imposed a moratorium on the establishment and operation of medical marijuana facilities within the City until June 12, 2010; and

I. At its meeting of March 2, 2010, the Planning Commission found the proposed ordinance prohibiting medical marijuana facilities consistent with the General Plan and the Planning Commission voted unanimously to recommend that the City Council adopt this proposed ordinance; and

J. This ordinance is categorically exempt from environmental review pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3).

K. This ordinance is consistent with the City's General Plan.

L. On March 24, 2010, the City Council conducted a public hearing on this ordinance, considered the recommendation from the Planning Commission, and introduced this ordinance.

SECTION 2: The City Council of the City of Camarillo does hereby ordain as follows:

A. The foregoing recitals are true and correct.

B. At its meeting on March 2, 2010, the Planning Commission reviewed this proposed ordinance and recommended to the City Council that this proposed ordinance be adopted by the City.

C. The prohibition of medical marijuana facilities and delivery of medical marijuana in the City is consistent with federal law. The sale, possession, cultivation and distribution of cannabis is prohibited by federal law, specifically 21 U.S.C. sections 812 and 841, part of the Controlled Substances Act, and marijuana continues to be a prohibited Schedule I drug for which there is no legally accepted medical use.

D. The impacts associated with medical marijuana facilities are detrimental to the health, safety and welfare of the citizens such that no area of the City is an acceptable area in which to introduce those types of impacts.

E. This draft ordinance is categorically exempt from environmental review pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3).

F. On March 24, 2010, the City Council conducted a public hearing on this proposed ordinance, considered the recommendation from the Planning Commission, and introduced this proposed ordinance.

SECTION 3. Addition of Chapter 19.55. Chapter 19.55 is hereby added to Title 19 of the Camarillo Municipal Code and shall read as follows:

“Chapter 19.55

MEDICAL MARIJUANA FACILITIES

19.55.010 Definition.

19.55.020 Purpose and intent.

19.55.030 Prohibited on Medical Marijuana Facilities.

19.55.040 Violation - Separate Offense.

19.55.050 Penalties.

19.55.060 Civil Injunction.

19.55.010 Definition.

- A. A medical marijuana dispensary, cooperative or collective (hereafter “Medical Marijuana Facility”) means any facility or location, whether fixed or mobile, where medical marijuana is made available to and/or distributed by or to one or more of the following: a “primary caregiver,” “a qualified patient,” or a person with an “identification card,” as these terms are defined in California Health and Safety Code section 11362.5 and following.

- B. A Medical Marijuana Facility does not include the following facilities (“facilities”), or delivery of marijuana to such facilities, as long as such facilities are otherwise regulated by this code or applicable law: 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 section 11362.5 and following.

19.55.020 Purpose and intent.

The purpose and intent of this Chapter is to prohibit any Medical Marijuana Facility, as defined above, within the City limits. It is recognized that it is a Federal violation under the Controlled Substances Act to possess or distribute marijuana even if for medical purposes. Additionally, there is evidence of an increased incidence of crime-related secondary impacts in locations associated with a Medical Marijuana Facility, which is contrary to policies that are intended to promote and maintain the public's health, safety, and welfare.

19.55.030 Prohibition on Medical Marijuana Facilities.

- A. The establishment or operation of a Medical Marijuana Facility as defined in this chapter is prohibited within the city limits.

- B. The delivery of medical marijuana to any person is prohibited within the city limits, except as provided in Section 19.55.010(B) and except for deliveries by a primary care giver to a qualified patient.

19.55.040 Violation - Separate Offense.

Any person who violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

19.55.050 Penalties.

Violation of any provision of this Chapter is a misdemeanor unless the city attorney authorizes issuance of an infraction citation or files a complaint charging the offense as an infraction or the court upon the prosecutorial recommendation of the city attorney determines that the offense is an infraction.

19.55.060 Civil Injunction.

The violation of section 19.55.030 shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief."


SECTION 4. This Ordinance is consistent with protection of the public interest, health, safety, convenience, and welfare of the City. This ordinance is hereby found to be categorically exempt from environmental review pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3).

SECTION 5. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 65090 of the Government Code.


SECTION 6. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

PASSED, APPROVED, AND ADOPTED on April 14, 2010.

ATTEST:

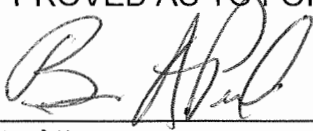


Mayor



City Clerk

APPROVED AS TO FORM



City Attorney

I, Jeffrie Madland, City Clerk of the City of Camarillo, certify Ordinance No. 1052 was introduced by the City Council at a meeting held March 24, 2010, and subsequently passed and adopted by the City Council at a regular meeting held April 14, 2010, by the following vote:

AYES: Councilmembers: Craven, McDonald, Morgan, Waunch, Mayor Kildee
NOES: Councilmembers: None
ABSENT: Councilmembers: None



City Clerk