

DEPARTMENT: Planning

BY: Alvaro Arias, Associate Planner

PHONE: 742-1218

RECOMMENDED ACTION & JUSTIFICATION:

Adopt a resolution of intention to initiate amendments to the Mariposa County Zoning Ordinance, Rural Residential Zone Section 17.16.010.A.1.c; Mountain Home Zone Section 17.20.010.A.1.c; Mountain Transition Zone Section 17.24.010.A.1.c; Mountain General Zone Section 17.28.010.A.1.c; General Forest Zone Section 17.32.010.A.1.c; Mountain Preserve Zone Section 17.36.010.A.1.c; Agriculture Exclusive Zone Section 17.40.010.A.1.d; Timber Exclusive Zone Section 17.44.010.A.1.c; Industrial Mining Zone Section 17.48.010.A.1.c; Residential Exclusive Overlay One Section 17.68.010.A.1.c.; Residential Exclusive Overlay Two Section 17.72.010.A.1.c.; Neighborhood Commercial Zone One Section 17.76.020.A.4; Neighborhood Commercial Zone Two Section 17.80.020.A.4; General Commercial Zone-1 Section 17.88.020.B.4; General Commercial Zone-2 Section 17.92.020.B.4; Resort Commercial Zone Section 17.96.020.B.4; Light Manufacturing and Industrial Zone-1 Section 17.100.020.B.4; Heavy Manufacturing and Industrial Zone-2 Section 17.104.020.B.4; Single Family Residential (9000s.f.) Zone Section 17.312.020.A.3; Single Family Residential (1/2 acre) Zone Section 17.314.020.A.3; Multi-Family Residential Zone Section 17.316.020.A.3; Professional Office Zone Section 17.318.020.A.3; General Commercial Zone Section 17.320.020.A.3; Light Industrial Zone Section 17.322.020.A.3; Public-Quasi Public Zone Section 17.324.020.A.3; Scenic Resource 5-Acre Zone Section 17.325.020.A.3; Scenic Resource 20-Acre Zone Section 17.326.020.A.3; Section 17.148.010 Definitions of terms and phrases; Chapters 17.108 Supplementary Standards and 17.334 Supplementary Use Standards of Mariposa County Code. The proposed amendments will modify the list of prohibited uses in all zones, define and regulate medical marijuana dispensaries, medical marijuana and the collective and cooperative cultivation of medical marijuana.

A new section will be created in Chapters 17.108 and 17.334 to list uses that are prohibited in all zones.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors adopted an extension to an urgency ordinance defining and prohibiting the establishment of medical marijuana dispensaries on January 25, 2011.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not initiate amendment. The zoning ordinance would remain unchanged. Medical marijuana dispensaries would have to prove similar to an already allowed use to be established.

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		Attachments:
Additional Funding Needed: \$		1. Memo to the Board of Supervisors
Source:		2. Draft Resolution
Internal Transfer		3. Examples of amendments to Chapter 17.16, 17.20, 17.48, and 17.108
Unanticipated Revenue	4/5's vote	4. Executive Summary of White Paper on Marijuana Dispensaries
Transfer Between Funds	4/5's vote	5. City of Coalinga, Madera County, Merced County, and Fresno County Medical Marijuana Ordinances and Regulations
Contingency	4/5's vote	
() General () Other		

CLERK'S USE ONLY:

COUNTY ADMINISTRATIVE OFFICER:

Res. No.: 11-501
Vote - Ayes: 3
Absent: *Junpin*
Ord. No. _____
Noes: *Stetson*

Requested Action Recommended
 No Opinion
Comments:

Approved

Minute Order Attached No Action Necessary

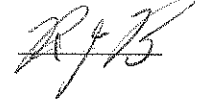
The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

CAO: _____



STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution
No 2011-501

A Resolution of Intention to initiate amendments to Title 17, Zoning, to define and regulate medical marijuana dispensaries and the collective and cooperative cultivation of medical marijuana

WHEREAS, the Mariposa County Code is adopted by ordinance; and

WHEREAS, Title 17, Zoning, does not define or provide for any regulations for medical marijuana dispensaries or the collective and cooperative cultivation of medical marijuana; and

WHEREAS, on January 26, 2010 the Board of Supervisors adopted an urgency ordinance defining and prohibiting the establishment of medical marijuana dispensaries; and

WHEREAS, on March 9, 2010 the Board of Supervisors adopted an extension to the urgency ordinance; and

WHEREAS, on January 25, 2011 the Board of Supervisors held a public hearing regarding an extension to the urgency ordinance to allow staff the opportunity to research and process a zoning ordinance amendment; and

WHEREAS, on January 25, 2011 the Board of Supervisors adopted a second and final extension to the urgency ordinance and directed staff to prepare an ordinance to prohibit the establishment of medical marijuana dispensaries in Mariposa County; and

WHEREAS, there is an interest in establishing permanent regulations for medical marijuana dispensaries and collective and cooperative cultivation of medical marijuana.

NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby initiate an amendment to Rural Residential Zone Section 17.16.010.A.1.c; Mountain Home Zone Section 17.20.010.A.1.c; Mountain Transition Zone Section 17.24.010.A.1.c; Mountain General Zone Section 17.28.010.A.1.c; General Forest Zone Section 17.32.010.A.1.c; Mountain Preserve Zone Section 17.36.010.A.1.c; Agriculture Exclusive Zone Section 17.40.010.A.1.d; Timber Exclusive Zone Section 17.44.010.A.1.c; Industrial Mining Zone Section 17.48.010.A.1.c; Residential Exclusive Overlay One

Section 17.68.010.A.1.c.; Residential Exclusive Overlay Two Section 17.72.010.A.1.c.; Neighborhood Commercial Zone One Section 17.76.020.A.4; Neighborhood Commercial Zone Two Section 17.80.020.A.4; General Commercial Zone-1 Section 17.88.020.B.4; General Commercial Zone-2 Section 17.92.020.B.4; Resort Commercial Zone Section 17.96.020.B.4; Light Manufacturing and Industrial Zone-1 Section 17.100.020.B.4; Heavy Manufacturing and Industrial Zone-2 Section 17.104.020.B.4; Single Family Residential (9000s.f.) Zone Section 17.312.020.A.3; Single Family Residential (1/2 acre) Zone Section 17.314.020.A.3; Multi-Family Residential Zone Section 17.316.020.A.3; Professional Office Zone Section 17.318.020.A.3; General Commercial Zone Section 17.320.020.A.3; Light Industrial Zone Section 17.322.020.A.3; Public-Quasi Public Zone Section 17.324.020.A.3; Scenic Resource 5-Acre Zone Section 17.325.020.A.3; Scenic Resource 20-Acre Zone Section 17.326.020.A.3; Section 17.148.010 Definitions of terms and phrases; and Chapters 17.108 Supplementary Standards and 17.334 Supplementary Use Standards of Mariposa County Code, pursuant to authority established by Section 17.128.020.B, County Code.

BE IT THEREFORE FURTHER RESOLVED THAT the amendments are not limited to the above list if other changes or amendments are found to be needed through the processing of the amendment or the public hearing process in order to appropriately define and regulate medical marijuana dispensaries and collective and cooperative cultivation of medical marijuana.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to Rural Residential Zone Section 17.16.010.A.1.c; Mountain Home Zone Section 17.20.010.A.1.c; Mountain Transition Zone Section 17.24.010.A.1.c; Mountain General Zone Section 17.28.010.A.1.c; General Forest Zone Section 17.32.010.A.1.c; Mountain Preserve Zone Section 17.36.010.A.1.c; Agriculture Exclusive Zone Section 17.40.010.A.1.d; Timber Exclusive Zone Section 17.44.010.A.1.c; Industrial Mining Zone Section 17.48.010.A.1.c; Residential Exclusive Overlay One Section 17.68.010.A.1.c.; Residential Exclusive Overlay Two Section 17.72.010.A.1.c.; Neighborhood Commercial Zone One Section 17.76.020.A.4; Neighborhood Commercial Zone Two Section 17.80.020.A.4; General Commercial Zone-1 Section 17.88.020.B.4; General Commercial Zone-2 Section 17.92.020.B.4; Resort Commercial Zone Section 17.96.020.B.4; Light Manufacturing and Industrial Zone-1 Section 17.100.020.B.4; Heavy Manufacturing and Industrial Zone-2 Section 17.104.020.B.4; of the Mariposa County Code to be initiated for processing will read as follows (deleted text shown in ~~strike thru type~~):

Prohibited uses:

All uses listed in Section 17.108.200 of the Mariposa County Code and other uses not listed above are prohibited, except similar uses in compliance with Section 17.08.120 and 17.108.030 of this Title.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to Single Family Residential (9000s.f.) Zone Section 17.312.020.A.3; Single Family Residential (1/2 acre) Zone Section 17.314.020.A.3; Multi-Family Residential Zone Section 17.316.020.A.3; Professional Office Zone Section 17.318.020.A.3; General Commercial Zone Section 17.320.020.A.3; Light Industrial Zone Section 17.322.020.A.3; Public-Quasi Public Zone Section 17.324.020.A.3; Scenic Resource 5-Acre Zone Section 17.325.020.A.3; Scenic Resource 20-Acre Zone Section 17.326.020.A.3; of the Mariposa County Code to be initiated for processing will read as follows (deleted text shown in ~~strike-thru type~~):

Prohibited uses:

All uses listed in Section 17.334.055 of the Mariposa County Code and other uses not listed above are prohibited, except similar uses in compliance with Section 17.334.060 of this Title.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to Chapter 17.108 of the Mariposa County Code will add sections 17.108.200 and will read as follows:

17.108.200 Uses prohibited in all zones.

The following land uses are prohibited in all zoning districts:

- A. Medical marijuana dispensaries;
- B. The collective or cooperative cultivation of marijuana.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to Chapter 17.334 of the Mariposa County Code will add sections 17.334.055 and will read as follows:

17.334.055 Uses prohibited in all zones.

The following land uses are prohibited in all zoning districts:

- A. Medical marijuana dispensaries;
- B. The collective or cooperative cultivation of marijuana.

BE IT THEREFORE FURTHER RESOLVED THAT the amendment to Section 17.148.010 will add the following definitions to read as follows:

Medical Marijuana:

Defined in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.

Medical Marijuana Dispensary:

Any facility or location, whether fixed or mobile, where medical marijuana or items containing medical marijuana (e.g. food or drink products) is made available to, and or/exchanged with, and/or distributed or sold to two (2) or more of the following: a qualified patient, a person with an identification card, or a primary caregiver as those terms are defined in California Health and Safety Code Section 11362.5 and 11362.7 et seq. Unless otherwise regulated by this Code or applicable law, a "medical marijuana dispensary" shall not include the following uses: 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 sections 11362.5 and 11362.7 et seq.

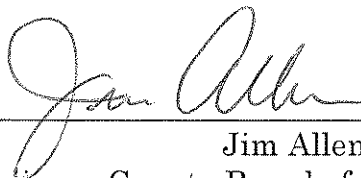
Collective or cooperative cultivation of marijuana:

The association within California of qualified patients, persons with valid identification cards, and/or designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq.

BE IT THEREFORE FINALLY RESOLVED THAT the Board of Supervisors of the County of Mariposa action to initiate an amendment to Title 17, is pursuant to authority established by Section 17.128.020.B, County Code.

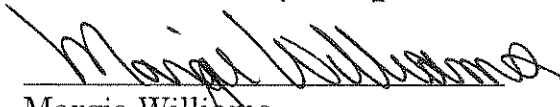
ON MOTION BY Supervisor Cann, seconded by Supervisor Bibby, this resolution to initiate the amendment for processing is duly passed and adopted this 11th day of October, 2011, by the following vote:

AYES: BIBBY, CANN, ALLEN
NOES: STETSON
ABSENT: TURPIN
ABSTAIN: NONE



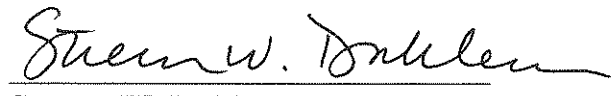
Jim Allen, Chairman
Mariposa County Board of Supervisors

Attest:



Margie Williams
Clerk of the Board of Supervisors

Approved as to Legal Form:



Steven W. Dahlem
County Counsel



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

JIM ALLEN, CHAIR
JANET BIBBY, VICE-CHAIR
LEE STETSON
LYLE TURPIN
KEVIN CANN

DISTRICT V
DISTRICT III
DISTRICT I
DISTRICT II
DISTRICT IV



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRIS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: Adopt a Resolution of Intention Initiating Amendment to the Mariposa County Zoning Ordinance Title 17 to Define and Regulate Medical Marijuana Dispensaries and Collective and Cooperative Medical Marijuana Cultivation

RES. 11-501

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on October 11, 2011

ACTION AND VOTE:

5 **Planning**
Adopt a Resolution of Intention Initiating Amendment to the Mariposa County Zoning Ordinance Title 17 to Define and Regulate Medical Marijuana Dispensaries and Collective and Cooperative Medical Marijuana Cultivation
BOARD ACTION: Kris Schenk, Planning Director, was present. Alvaro Arias, Associate Planner, presented the staff report. Supervisor Bibby stated she would like more information to be presented on limiting the number of marijuana plants for individual use; and she asked whether the Sheriff's Office has reviewed this item. Steve Dahlem, County Counsel, advised that this matter is for a resolution of intent dealing with dispensaries and cooperatives versus individual use. Staff responded to questions from the Board relative to the definition of "medical marijuana dispensary"; and relative to enforcement.

Input from the public was provided by the following:

Jenny Binning questioned whether any marijuana needs to be legal in this County. She is concerned about the residents in the Hornitos area and for the law enforcement with the marijuana garden and the resulting traffic and law enforcement impacts.

Danette Toso stated she is concerned about legalizing marijuana in the County and with the increased traffic. She referred to the pot farm on Bear Valley Road and feels it negatively impacts their property values; and she is concerned for the safety of her children.

Steve Cratch stated he lives next door to the pot farm and there are three people with medical marijuana cards growing marijuana there; and now people are

coming in trying to steal the marijuana - he is concerned with this and with the odor problems.

Dick Wilkey stated the pot farm is close to their residence and he is concerned for the safety of his family and grandchildren.

Donna Wilkey agreed with the safety concerns, and stated she feels this is a countywide issue.

Doug Binnewies, Sheriff, stated he has reviewed this item and appreciates the work by the Planning staff, and he has spoken with County Counsel and feels that the recommended action is appropriate at this time.

Ruth Catalan stated she hopes that the County will hire a compliance officer if this is to be enforced. She feels that if we have control of the farms, that the illegal grows would stop. She asked if the next step would be to eliminate liquor stores, and she expressed concern with "control" and more illegal grows occurring.

Heath Brower stated he lives over the hill from the marijuana garden and is concerned with the increased traffic and trespassing problems. He is concerned with the safety of the children. He referred to the costs and overtime incurred by law enforcement, and he feels that those who are legally growing marijuana should be fiscally responsible for covering all costs.

Debbie Lester expressed concern with the increase in traffic, and stated she is against allowing medical marijuana dispensaries and cooperative grows in the County – she feels it leads to increased crime.

Chair Allen provided input relative to marijuana being a federal violation and he commented on the action taken last week by the Federal government in California. He commented on the crime that comes with dispensaries and cooperatives; and he noted that law enforcement handles enforcement. Discussion was held. Sheriff Binnewies responded to questions relative to problems with the dispensaries – he is opposed to having dispensaries in the County; and he noted the increased use of marijuana by the youth and resulting problems. County Counsel responded to a question from the Board and recommended that the definition of "medical marijuana dispensary" be amended to read "...to two or more of the following:..." Supervisor Bibby expressed concern with the physicians' ability to dispense prescriptions for marijuana without the monitoring that is required for other prescriptions. Supervisor Stetson stated he does not have a problem with prohibiting the growing of marijuana in the County; but he is concerned about the ability to obtain medical marijuana for those who are entitled to it. Further discussion was held, including concerns with the lack of control of the product like there is for other prescriptions. Supervisor Bibby asked whether there is anything else needed to address land use issues.

(M)Cann, (S)Bibby, Res. 11-501 was adopted of intent to initiate amendments to the Zoning Ordinance to define and regulate medical marijuana dispensaries and collective and cooperative medical marijuana cultivation, with the language change in the definition of "medical marijuana dispensary" as recommended/Ayes: Bibby, Cann, Allen; Noes: Stetson; Excused: Turpin.

Cc: Doug Binnewies, Sheriff
Steven W. Dahlem, County Counsel
File