



MARIPOSA COUNTY

Planning · 209-966-5151



ORDINANCE 2017-1123

MEETING: April 25, 2017
TO: The Board of Supervisors
FROM: Sarah Williams, Planning Director
RE: Ordinance Extending Ordinance 1122 - Interim Urgency Ordinance

RECOMMENDATION AND JUSTIFICATION:

Adopt an Ordinance Extending for 10 Months and 15 Days, Ordinance 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.

This extension is needed to give staff time to complete the processing of a County Code text amendment to prohibit activities for which a license is required pursuant to Division 10 of the Business and Professions Code; the activities requiring licensing relate to commercial cultivation, processing, manufacture, sale or public consumption of marijuana plants and any resulting or derivative product.

This action does not impact those aspects of Proposition 64 which allow limited personal possession, private cultivation and private use of marijuana.

This action does not impact existing County Code regulations for medical marijuana.

This public hearing to consider an extension has been noticed, pursuant to the requirements established by California Government code Section 65858(a) and Mariposa County Code, Zoning, Section 17.132.020.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On March 21, 2017 the Board of Supervisors adopted Ordinance 1122, a 45-day interim urgency ordinance prohibiting operation of any activity for which a license is required pursuant to Division 10 of the Business and Professions Code.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Without an extension, staff will be unable to complete Board Direction and the Interim Urgency Ordinance will expire. Adoption of a new Interim Urgency Ordinance will be necessary.

FINANCIAL IMPACT:

No Financial Impact will result from the recommended action.

ATTACHMENTS:

BOS.170425.SR.Interim Urgency Ord 1122 Ext. (DOC)

BOS.170418.Ord EXT.1122 (DOCX)

Ord.1122.adopted (PDF)

170331 proof of posting notice for April 25 mtg (PDF)

CAO RECOMMENDATION


Tracy Gauthier, Deputy Clerk to the Board of Supervisors 4/20/2017

RESULT: ADOPTED [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor

SECONDER: Kevin Cann, District IV Supervisor

AYES: Smallcombe, Jones, Long, Cann, Menetrey

MARIPOSA COUNTY ORDINANCE NO. 1123

AN ORDINANCE EXTENDING 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 26000) 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 the 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, on March 21, 2017, as a result of the lack of sufficient definitions, regulations, and standards required in Division 10, the Board of Supervisors determined that adoption of an Interim Urgency Ordinance, Ordinance No. 1122, was necessary to protect the public safety, health and welfare of the citizens of Mariposa County as delineated in the findings below; and

WHEREAS, during the interim urgency period, the Board of Supervisors directed County Staff 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 was directed to process this project pursuant to County Code, which includes scheduling and noticing public hearings for the Planning Commission and Board of Supervisors; and

WHEREAS, an extension of Ordinance No. 1122 is necessary for the effective completion by staff of the Board of Supervisor's direction.

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 processing the County Code amendment, 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.

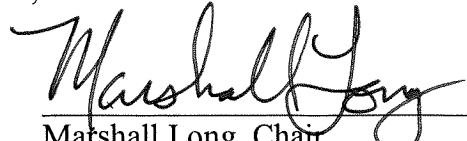
Section III: Failure to adopt this ordinance may result in significant irreversible changes to rural neighborhood and the historical and rural community character of Mariposa County.

Section IV: Based on the foregoing, the Board of Supervisors does hereby declare that extension of Ordinance No. 1122 is necessary to protect the public health, safety, and welfare while processing the County Code amendment.


Section V: This Extension of Ordinance No. 1122 is adopted under the authority of California Government Code §65858 and shall become effective on the date of expiration of Ordinance No. 1122 and shall be in effect for 10 months and 15 days thereafter unless extended by the Board of Supervisors pursuant to California Government Code §65858.

PASSED AND ADOPTED on this 25th day of April, 2017 by the following vote:

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


 Marshall Long, Chair
 Mariposa County Board of Supervisors
APPROVED AS TO FORM:

ATTEST:


 RENE LA ROCHE
 Clerk of the Board


 STEVEN W. DAHLEM
 County Counsel