Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

James E. Hartl, AICP
Director of Planning

April 21, 2006

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

Dear Supervisors:

SUBJECT: HEARING ON EXTENSION OF INTERIM ORDINANCE NO. 2005-0042U, PREVIOUSLY EXTENDED BY ORDINANCE 2005-0059U, WHICH TEMPORARILY PROHIBITS ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES WITHIN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES (4-VOTES)

IT IS RECOMMENDED THAT YOUR BOARD AFTER THE PUBLIC HEARING:

Adopt the attached Ordinance extending Interim Ordinance No. 2005-0042U, previously extended by Ordinance No. 2005-0059U, for a period of one year.

PURPOSE OF RECOMMENDED ACTION:

The Board adopted Interim Ordinance No. 2005-0042U on May 31, 2005, which prohibited the establishment of medical marijuana dispensaries in unincorporated areas of the County of Los Angeles pending the development and adoption of appropriate zoning regulations for such dispensaries. The Board found that establishment of medical marijuana dispensaries in the unincorporated territory of the County of Los Angeles without satisfactory regulatory controls in place may adversely impact the public health, safety, and general welfare of County residents. On July 12, 2005, the Board adopted Interim Ordinance No. 2005-0059U, extending the initial Interim Ordinance for 10 months and 15 days to further accommodate the development of appropriate permanent regulatory controls.

Thereafter, on March 28, 2006, the Board held a public hearing on the Regional Planning Commission's recommendations for the proposed Medical Marijuana Dispensary Ordinance that included case processing procedures and conditions of use for such dispensaries. At that time, the Board closed the public hearing, made a preliminary recommendation for approval of the Ordinance with certain changes, and directed County Counsel to return to the Board with an ordinance for adoption

that incorporates the changes requested by the Board. Subsequently, the revised Ordinance was scheduled for Board adoption on April 11, 2006; however, for lack of a majority for adoption or for certain further revisions to the Ordinance, the Board continued the Ordinance adoption proceedings to May 9, 2006.

In the event that the Board does adopt the revised Ordinance on May 9, 2006 or any time thereafter, it would not become effective until after the May 30, 2006 expiration date of Interim Ordinance No. 2005-0059. For this reason, it is necessary for the Board to extend the Interim Ordinance to allow the Board additional time for the adoption of the Medical Marijuana Dispensaries Ordinance, and to ensure that the Ordinance will become effective prior to expiration of the temporary moratorium.

JUSTIFICATION OF RECOMMENDED ACTION:

Interim Ordinance No. 2005-0059U will expire on May 30, 2006, unless extended by Board action. If this Interim Ordinance extension is not extended again, some medical marijuana dispensaries may be established in unincorporated County territory in the period between the expiration date of the first Interim Ordinance and the date the Medical Marijuana Dispensary Ordinance actually becomes effective. In the absence of effective regulatory controls, such unregulated dispensaries may have potentially adverse impacts upon surrounding neighborhoods.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

Pursuant to Section 65858 of the Planning and Zoning Law (Title 7 of the California Government Code), Interim Ordinance No. 2005-0042U was adopted by the Board of Supervisors on May 31, 2005, and Interim Ordinance No. 2005-0059U was adopted on July 12, 2005, extending the expiration date to May 30, 2006.

The provisions of Section 65858 of the Government Code limit the effective period of a second and last allowable Interim Ordinance extension to a period of one additional year. In view of the approaching expiration date of Interim Ordinance 2005-0059U, it is recommended that the Interim Ordinance be extended once again for a final 12 month period as provided in Section 65858. The additional extension would continue to prevent inappropriate development of medical marijuana dispensaries throughout the County prior to the adoption and effective date of a permanent ordinance that expressively allows such use to be established and applies appropriate zoning regulations. If Interim Urgency Extension Ordinance No. 2005-0059U is not extended, irreversible incompatible new development of such dispensaries may occur to the detriment of the public health, safety, and general welfare.

Extension of Interim Urgency Ordinance 2005-0059U requires that the Board conduct a public hearing, at which time the Ordinance may be extended by not

less than a four-fifths vote. Publication of a notice of the public hearing is required not less than ten (10) days prior to the hearing date.

The proposed Interim Extension Ordinance has been reviewed by County Counsel. A suggested notice of public hearing and a list of persons to be notified are attached.

Respectfully submitted,

DEPARTMENT OF REGIONAL PLANNING

James E. Hartl, AICP
Acting Director of Planning

JEH:RDH:LE

Attachments: Interim Ordinance Extension
Public Hearing Notice
List of Persons to be Notified

c: Elaine Lemke, County Counsel

BOS Cover Letter 4/12/06

ANALYSIS

This ordinance extends Interim Ordinance No. 2005-0042U ("Interim Ordinance") for a period of 12 months. It is the second and final available extension of the Interim Ordinance, which was originally adopted on May 31, 2005, and previously extended on July 12, 2005, by Ordinance No. 2005-0059U. The Interim Ordinance, as previously extended, currently expires on May 30, 2006.

The Interim Ordinance temporarily prohibits establishment of medical marijuana dispensaries within the unincorporated territory of the County of Los Angeles ("County") while the Board of Supervisors ("Board") considers a proposed zoning ordinance regarding such establishments.

This ordinance is an urgency measure and requires a four-fifths vote by the Board of Supervisors following a public hearing. It will expire on the earlier of May 30, 2007, or upon the effective date of any zoning ordinance regulating medical marijuana dispensaries approved by the Board.

RAYMOND G. FORTNER, JR.
County Counsel

By
ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

EML:di

4/13/06 (requested)
4/19/06 (revised)

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ORDINANCE NO. _____

An ordinance extending Interim Ordinance No. 2005-0042U, temporarily prohibiting establishment of medical marijuana dispensaries within the unincorporated territory of the County of Los Angeles, declaring the urgency thereof, and that this ordinance shall take effect on May 31, 2006.

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

SECTION 1. Findings.

A. In 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code section 11362.5 et seq., and entitled "The Compassionate Use Act of 1996") ("Act") to enable persons who are in need of marijuana for specified medical purposes to obtain and use marijuana under limited, specified circumstances. The State legislature also enacted Senate Bill 420 in 2003 to clarify the scope of the Act, allowing local governments to adopt and enforce rules and regulations consistent with Senate Bill 420.

B. There are currently no ordinances in Title 22 of the Los Angeles County Code ("Zoning Code") specifically regulating or monitoring the location, zoning standards, or other aspects of the facilities where medical marijuana will be dispensed to eligible persons under the Act.

C. The Zoning Code does not provide specific development regulations or definitions relative to the use or placement of dispensaries intended for the distribution of marijuana for medicinal purposes.

D. Los Angeles County ("County") has made a conscientious effort to plan for specific uses within all zone districts and to anticipate conflicts between competing land uses in order to protect the public's health, safety, and welfare.

E. The County has received inquiries regarding applications for medical marijuana dispensaries.

F. The establishment of medical marijuana dispensaries without appropriate rules and regulations would result in the creation of negative secondary effects such as an increase in crime in the areas immediately surrounding such dispensaries and an irreversible incompatibility of land uses. Reports show that jurisdictions such as the City of West Hollywood, Alameda County, and the City of Anaheim have received and investigated a number of complaints of violent criminal activity, including armed robberies and burglaries, at or near medical marijuana dispensaries. Such criminal activity is the type of negative secondary effect associated with the presence of medical marijuana facilities that a zoning ordinance will seek to limit.

G. Interim Urgency Ordinance No. 2005-0042U, originally adopted on May 31, 2005, was extended for 10 months and 15 days by Ordinance No. 2005-0059U. Interim Ordinance No. 2005-0042U, as initially extended, currently will expire on May 30, 2006.

H. Subsequent to the prior extension of Interim Ordinance No. 2005-0042U, the County considered and studied possible enactment of the implementing regulations. After public hearings on December 21, 2005 and January 18, 2006, on January 18, 2006, the Los Angeles County Regional Planning Commission passed a

resolution recommending approval of an ordinance which would regulate medical marijuana dispensaries.

I. On March 28, 2006, the Board of Supervisors commenced its consideration of the recommended ordinance regulating medical marijuana dispensaries, but has not concluded such consideration. Consequently, no permanent ordinance regulating medical marijuana dispensaries has yet been adopted, nor at this point could such an ordinance become effective prior to the current May 30, 2006, expiration date of the Interim Ordinance.

J. To avoid the current and immediate threat to public health, safety, and welfare that would otherwise occur, it is necessary to continue to suspend the issuance of additional approvals for and the establishment of medical marijuana dispensaries that may be in conflict with the development standards and implementing regulations the County may adopt if the proposed ordinance is ultimately approved.

K. Continuation of a moratorium will provide the Board of Supervisors the time to complete its consideration of proposed zoning regulations for medical marijuana dispensaries.

SECTION 2. Interim Prohibition.

From and after the date of this ordinance, no use permit, variance, building permit, or any other entitlement for use shall be approved or issued for the establishment or operation of, and no person shall otherwise establish, a "medical marijuana dispensary" for a period of 12 months or until a permanent ordinance regarding such facilities takes effect, whichever occurs first.

For purposes of this ordinance, "medical marijuana dispensary" shall mean any facility or location where marijuana is made available, sold, transmitted, given, or otherwise provided to qualified individuals in accordance with the Act.

SECTION 3. Urgent Need.

This extension of the Interim Ordinance is urgently needed for the immediate preservation of the public health, safety, and general welfare, and it shall take effect immediately upon the expiration of extended Interim Ordinance No. 2005-0042U, which will expire on May 30, 2006. The extended Interim Ordinance shall be of no further force and effect 12 months following the date it becomes effective, unless a permanent ordinance regarding medical marijuana facilities is approved and takes effect prior to that date, in which case extended Interim Ordinance No. 2005-0042U will be of no further force and effect upon the effective date of the permanent ordinance.

SECTION 4. Authority.

California Government Code section 65858 provides that an urgency measure in the form of an Interim Ordinance may be adopted without prior public notice by a four-fifths vote of the board of supervisors, which shall be effective for only 45 days following its date of adoption. Government Code section 65858 further provides that such an urgency measure may be extended following compliance with that section for an additional 10 months and 15 days beyond the original 45-day period, and it can be extended a second and final time for an additional one year.

SECTION 5. Penalties.

The definitions and penalties for land use violations that are prescribed in the Zoning Code shall apply to violations of the provisions of this Interim Ordinance.

SECTION 6. Severability.

If any provision of this Interim Ordinance or the application thereof to any persons 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 provision or application, and to this end the provisions of the Interim Ordinance are hereby declared to be severable.

[2005-0042UEXT2]

NOTICE OF PUBLIC HEARING
ON PROPOSED EXTENSION OF
INTERIM ORDINANCE NO. 2005-0059U

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Board of Supervisors, in Room 381, Hall of Administration, 500 West Temple Street, Los Angeles, California at **9:30 a.m., on May 9, 2006,** pursuant to Government Code Section 65858, to hear testimony relative to the extension and possible modification of Interim Urgency Ordinance No. 2005-0059U and Interim Urgency Ordinance No. 2005-0042U for a period not to exceed one year.

Said ordinance temporarily prohibits the establishment of medical marijuana dispensaries Countywide to allow for study of appropriate future regulation of these uses.

By order of the Board of Supervisors, County of Los Angeles this ordinance is urgently needed for the immediate preservation of the public health, safety, and general welfare of the community.

Written comments may be sent to the Executive Office of the Board of Supervisors at the above address. If you do not understand this notice or need more information, please call Mr. Leonard Erlanger at (213) 974-6432 between the hours of 7:00 a.m. and 5:30 p.m., Monday through Thursday.

"ADA ACCOMMODATIONS: If you require reasonable accommodations or auxiliary aids and services such as material in alternate format or a sign language interpreter, please contact the ADA (Americans with Disabilities Act) Coordinator at (213) 974-6488 (Voice) or (213) 6172292 (TDD), with at least three business days notice".

Si no entiende este aviso o necesita mas información, por favor llame este numero (213) 974-6432.

VIOLET VARONA-LUKENS
EXECUTIVE OFFICER-CLERK OF
THE BOARD OF SUPERVISORS