ORDINANCE NO. 1176

AN INTERIM URGENCY ORDINANCE OF THE CITY OF SAUSALITO ESTABLISHING A 45-DAY MORATORIUM ON APPROVAL OF MEDICINAL MARIJUANA DISPENSARIES WITHIN THE CITY OF SAUSALITO TO ALLOW THE CITY COUNCIL TIME TO STUDY AND CONSIDER ENACTMENT OF DEVELOPMENT STANDARDS AND DEFINITIONS

WHEREAS, the City of Sausalito adopted the General Plan Land Use Element in 1993 which describes objectives, policies and programs dealing with the types of development desired during the life of said General Plan; and

WHEREAS, General Plan Land Use Objective LU-1.0 requires the City to protect and maintain the character of residential neighborhoods which is uncertain given the City does not have standards relative to marijuana dispensaries and their potential effect in residential neighborhoods; and

WHEREAS, General Plan Land Use Objective LU-2.0 requires the City to promote and enhance commercial economic diversity which is uncertain given the City does not have standards relative to marijuana dispensaries that may have the potential to detract from promoting commercial efforts; and

WHEREAS, the City of Sausalito Zoning Ordinance is an implementation measure of the General Plan which provides zoning criteria for specific uses intended to carry out the policies and programs of the General Plan; and

WHEREAS, the Sausalito Zoning Ordinance 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; and

WHEREAS, the City 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; and

WHEREAS, the City has received several inquiries and one application regarding applications for medicinal marijuana dispensaries; and

WHEREAS, the establishment of medical marijuana dispensaries without appropriate rules and regulations could result in the creation of negative secondary effects such as an increase in crime in the areas immediately surrounding such dispensaries; and

Item #: 5 · B E+ A

Meeting Date: 5 · 17 · 05

Page #: 1 of 5

Exhibit A

WHEREAS, for the benefit of applicants and residents of the City alike, it is critical that appropriate regulations to implement the General Plan Land Use Element objectives and policies are established within the City's Zoning Ordinance; and

WHEREAS, in order to allow time for the City to consider and study possible enactment of the implementing regulations, it is necessary to suspend the approval of medicinal marijuana dispensaries that may be in conflict with the development standards and implementing regulations the City intends to consider or study within a reasonable time; and

WHEREAS, Government Code section 65858 allows the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that the City Council, the Planning Commission, or the Community Development Department intends to study within a reasonable time; and

WHEREAS, the adoption of this interim ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061 (b)(3), 15262 and 15306 of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that such adoption may have a significant effect on the environment; and because such adoption involves only feasibility and planning studies for possible future adoption of an ordinance that has not yet been prepared or adopted.

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Part 1. The City Council finds and determines as follows:

- (a) The above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this urgency ordinance; and
- (b) The adoption of this Ordinance is exempt from the application of the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, pursuant to Sections 15061(b), 15262 and 15306 of the State CEQA Guidelines, 14 California Code of Regulations Section 15000, *et seq.*; and
- (c) The City must protect the character of residential neighborhoods and promote and encourage commercial economic diversity under its General Plan Land Use Element; and
- (d) The City cannot ensure that the City's objectives and policies will be implemented properly without specific development standards in place; and

Item #: 5·B Ex·A

Meeting Date: 5·17-05

Page #: 2 of 5

- (e) There exists a current and immediate threat to the public health, safety and welfare, and California Government Code § 65858 authorizes the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with the contemplated general plan implementing regulations and development standard proposals that the City is considering or intends to study within a reasonable time; and
- (f) There is no feasible alternative to enactment of this interim moratorium that will satisfactorily mitigate or avoid the previously identified impacts to the public health, safety and welfare with a less burdensome or restrictive effect; and
- (g) In order to ensure the effective implementation of the City's land use objectives and policies, a temporary moratorium on approval of medicinal marijuana dispensaries is necessary.

Part 2. Imposition of Moratorium.

- (a) From and after the date of this ordinance, no use permit, occupational permit, variance, building permit, or any other entitlement for use, including but not limited to the issuance of a business license, shall be approved or issued for the establishment or operation of a medical marijuana dispensary for a period of 45 days.
- (b) For purposes of this ordinance, "medical marijuana dispensary" means any facility or location where a primary caregiver intends to make available, sell, transmit, give, or otherwise provide medical marijuana to two or more of the following: a qualified patient or a person with an identification card, or a primary caregiver in strict accordance to Health and Safety Code Section 11362.7(d)(2) and (3). The terms "primary caregiver," "qualified patient", and "person with an identification card" shall be as defined in Health and Safety Code Sections 11362.5 and 11362.7 et seq.
- (c) For purposes of this ordinance, a "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by 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 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 11362.7, et seq.

Item #: 5.8 Er A

Meeting Date: 5.17-05

Page #: 3 of S

Part 3. Effective Date and Term. This Ordinance shall take effect immediately upon its execution by the Mayor and certification by the City Manager/City Clerk, and shall be in effect for a period of forty-five (45) days (July 1, 2005), unless repealed, amended or extended by further action of the City Council as provided in Government Code section 65858.

Part 4. Expiration. Ten days prior to the expiration of this interim ordinance (July 1, 2005) or any extension thereof, the City Council shall issue a written report describing the measures taken to alleviate the threat to public health, safety and welfare that led to the adoption of the ordinance.

Part 5. Publication. Within 15 days after adoption of this ordinance, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City.

PASSED, APPROVED AND ADOPTED this 17th day of May, 2005, by the following called vote:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

City of Sausalito

ABSENT: COUNCILMEMBER:

Dennis Scremin, Mayor, City of Sausalito
ATTEST:

Dana Whitson, City Manager/City Clerk

Item #: 5 · B Ex A Meeting Date: 5 · 17 · 05 Page #: 4 of S

I hereby certify that the foregoing [Ordinance] was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Sausalito held the 17th day of May, 2005.
Dana Whitson, City Manager/City Clerk, City of Sausalito
APPROVED AS TO FORM:
Mary Wagner, City Attorney

Hem #: 5.8 6.A Meeting Date: 5.17-05 Page #: 5.04 5