



ORDINANCE NO. ORD17- 02

**AN INTERIM ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS  
EXTENDING THE TEMPORARY MORATORIUM PROHIBITING COMMERCIAL  
MEDICAL AND RECREATIONAL MARIJUANA ACTIVITIES, INCLUDING  
COMMERCIAL CULTIVATION, DISTRIBUTION, TRANSPORTATION,  
DELIVERY, STORAGE, MANUFACTURING, PROCESSING, PROVISION  
OR SALE OF CANNABIS PRODUCTS IN THE UNINCORPORATED  
AREA OF MONO COUNTY ESTABLISHED BY  
MONO COUNTY ORDINANCE 16-11**

**WHEREAS**, Government Code section 65858 authorizes the adoption of an interim ordinance as an urgency measure to prohibit any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the Board of Supervisors, planning commission or planning department is considering or studying or intends to study within a reasonable time, when necessary to protect the public safety, health, and welfare; and

**WHEREAS**, The Compassionate Use Act of 1996 (CUA) was approved by California voters as Proposition 215. The CUA amended the Health & Safety Code to exempt patients and their primary caregivers from criminal prosecution for possession and cultivation of marijuana, provided that the marijuana was cultivated and used for personal medical purposes, on the recommendation of a physician; and

**WHEREAS**, The Medical Marijuana Program Act (SB 420) took effect January 1, 2004, and added Article 2.5 (commencing with Section 11362.7) to the Health and Safety Code. SB 420 served to clarify the scope and application of the CUA by establishing California's medical marijuana program, which sets forth guidelines regarding how much medical marijuana patients may grow and possess without being subject to arrest and implements a voluntary patient identification card program and other provisions to protect patients and their caregivers; and

**WHEREAS**, The Medical Marijuana Regulation and Safety Act (MMRSA), consisting of three bills: AB 266, AB 243 and SB 643, went into effect on January 1, 2016. This law created a State of California Bureau of Medical Marijuana Regulation (BMMR) and provides for a dual licensing scheme for "commercial cannabis activity," related to medical marijuana, including commercial cultivation, distribution, manufacture, testing, processing, storing, transporting, delivery and sale of marijuana, also known as cannabis. The MMRSA preserved the authority of cities and counties to prohibit, regulate and/or license commercial cannabis activity within their local jurisdictions; and

1           **WHEREAS**, California Proposition 64, the California Marijuana Legalization Initiative  
2 (Adult Use of Marijuana Act or AUMA), legalizes recreational use of marijuana in California, for  
3 those over the age of 21 and was voted into law on November 8, 2016. AUMA provides for  
4 regulatory enactment of a state licensing, regulation and enforcement scheme for recreational  
5 marijuana use and allows local jurisdictions to ban or regulate recreational marijuana-related  
6 business and outdoor cultivation as well as impose certain sales and use taxes, subject to local voter  
7 approval. AUMA also allows local jurisdictions to regulate, but not to ban, the indoor cultivation  
8 of cannabis for recreational use; and

9           **WHEREAS**, following these changes to State law, the County has received an increased  
10 number of inquiries regarding commercial marijuana cultivation and related activities in the  
11 unincorporated area of Mono County, which inquiries reflect a lack of understanding of the  
12 continued illegality of these activities; and

13           **WHEREAS**, both MMRSA and AUMA provide that the activities authorized therein may  
14 not occur until the State has enacted regulations governing their implementation; and

15           **WHEREAS**, under both MMRSA and AUMA, local governments have been given explicit  
16 authority to regulate commercial medical and recreational marijuana activities (as defined below)  
17 within their jurisdictions, including enacting licensing requirements, land use restrictions and/or  
18 certain local sales and use taxes subject to local voter approval; and

19           **WHEREAS**, the Mono County Board of Supervisors has not had the opportunity to hear  
20 adequate public comment or receive comprehensive input from local communities with regard to  
21 the imposition of local land use or other regulations and/or taxes, nor to consider the effect of  
22 eventual State regulations; and

23           **WHEREAS**, in order to preserve the ability to establish local regulations in the future, as  
24 well as preserve the status quo within the unincorporated areas of the County and discourage illegal  
25 cannabis activities, while staff and decision makers analyze and consider potential modifications to  
26 the General Plan and other local regulations to address these new laws, the Board of Supervisors  
27 adopted interim ordinance 16-11 on December 13, 2016, temporarily prohibiting commercial  
28 medical and recreational marijuana activities within the unincorporated areas of the County in  
accordance with Government Code section 65858;

**WHEREAS**, the Board now wishes to extend the restrictions imposed by ordinance 16-11,  
for the maximum amount allowed by law (10 months and 15 days, or until December 2, 2017),  
unless sooner terminated by this Board or further extended as allowed by law;

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF  
MONO FINDS AND ORDAINS THAT:**

**SECTION ONE:** There is a continuing current and immediate threat to the public health,  
safety and welfare as a result of newly enacted State laws within the unincorporated areas of the  
County for the reasons set forth above, and additionally as follows:

- 1 A. Mandatory State regulations governing commercial cannabis activities under  
2 MMRSA and AUMA have not yet been developed or implemented; and
- 3 B. Commercial cannabis activities remain illegal until such regulations are in place,  
4 notwithstanding their apparent statutory authorization; and
- 5 C. There is a lack of understanding among members of the public regarding the current  
6 legality of commercial cannabis activities; and
- 7 D. This lack of understanding is likely to result in an increase in illegal commercial  
8 cannabis activities within the unincorporated areas of the County; and
- 9 E. Such illegal activity will require law enforcement action which has the potential to  
10 endanger the health and safety not only of law enforcement officers themselves, but of  
11 the public.

12 **SECTION TWO:** The prohibition of commercial medical marijuana activities described in  
13 MMRSA, including commercial cultivation, distribution, transportation, delivery, storage,  
14 laboratory testing, manufacturing, processing, provision or sales of cannabis products within the  
15 unincorporated areas of Mono County established by Mono County interim ordinance 16-11 is  
16 hereby extended for 10 months and fifteen days (until December 2, 2017), unless earlier terminated  
17 by ordinance of this Board, to allow for the proper study and assessment of public sentiment, State  
18 regulation and County land use and regulatory needs as they relate to commercial medical  
19 marijuana activities.

20 **SECTION THREE:** During the extended prohibition created by this ordinance, staff shall  
21 identify and analyze the relevant issues associated with various commercial medical marijuana  
22 activities and the impact these activities would have on law enforcement and the community at  
23 large, should commercial activities not be regulated at the local level, and shall develop  
24 recommendations for the Board regarding possible local land use or other regulations governing  
25 their implementation.

26 **SECTION FOUR:** This extended prohibition also applies to marijuana produced for  
27 recreational use, pursuant to the newly enacted AUMA.

28 **SECTION FIVE:** This extended prohibition does not affect nor apply to those individuals  
who are currently engaging in medical marijuana cultivation or other non-commercial marijuana-  
related activities permissible under the Compassionate Use Act adopted in 1996 or the Medical  
Marijuana Program Act of 2004. In other words, this prohibition does not apply to marijuana  
activities that are currently legal under State law. This moratorium will also not affect an  
individual's right to engage in indoor cultivation of 6 or fewer plants, though outdoor cultivation  
will be prohibited.

**SECTION SIX:** This ordinance shall become effective upon adoption as an urgency  
measure pursuant to Government Code sections 65858 and 25123 and shall remain in effect, unless  
extended as allowed by law, or earlier terminated, for ten months and fifteen days (until December  
2, 2017). The Clerk of the Board of Supervisors shall post this ordinance and also publish it or a  
summary thereof in the manner prescribed by Government Code section 25124 no later than 15  
days after the date of its adoption.

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**PASSED, APPROVED and ADOPTED** this 17th day of January, 2017,  
by the following vote, to wit:

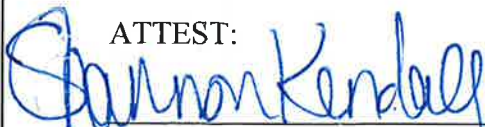
**AYES: Supervisors Corless, Gardner, Johnston, Peters, and Stump.**

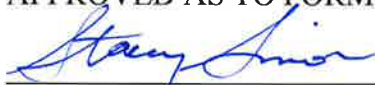
**NOES: None.**

**ABSENT: None.**

**ABSTAIN: None.**

  
\_\_\_\_\_  
Stacy Corless, Chair  
Mono County Board of Supervisors

**ATTEST:**  
  
\_\_\_\_\_  
Clerk of the Board

**APPROVED AS TO FORM:**  
  
\_\_\_\_\_  
County Counsel