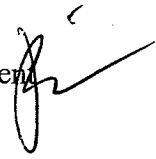
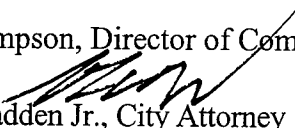



**CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT**

**TO:** Planning Commission

**THROUGH:** Richard Thompson, Director of Community Development 

**FROM:** Robert V. Wadden Jr., City Attorney   
Eric Haaland, Associate Planner 

**DATE:** April 23, 2008

**SUBJECT:** Consideration of a Zoning Code (Title 10) Amendment and Local Coastal Program Amendment Regarding the Prohibition of Medical Marijuana Dispensaries in All Zones.

**RECOMMENDATION**

Staff recommends that the Planning Commission **CONDUCT** the public hearing, and approve the proposed resolution recommending amendment to Manhattan Beach Municipal Code Section 10.60.160 and Local Coastal Program Implementation Program Section A.60.160 regarding medical marijuana dispensaries.

**BACKGROUND**

At its regular meeting of July 18, 2006 the City Council established a moratorium temporarily prohibiting the establishment of medical marijuana dispensaries in the City of Manhattan Beach. State law recently permits such facilities; however federal law still prohibits marijuana as a controlled substance, and the subject dispensaries are known to have negative effects on their surroundings. The City Council directed that the moratorium be established and that the zoning code be amended to permanently prohibit such uses in the city. The Planning Commission must review the proposed Municipal Code and Local Coastal Program amendments, and forward its recommendation to the City Council.

**DISCUSSION**

The zoning code does not currently provide a specific use classification for a medical marijuana dispensary. In order to prohibit these specific facilities they must be defined, and regulations must be included within the zoning code.

Many cities in the state have initiated or completed procedures to prohibit medical marijuana dispensaries due to the concerns for federal law compliance and potential neighborhood impacts. Staff research indicates that none of the surrounding south bay cities permit these facilities. The

nearest jurisdictions known to permit medical marijuana dispensaries include West Hollywood, Whittier, and unincorporated portions of Los Angeles County.

The City Attorney has drafted the attached ordinance to prohibit medical marijuana dispensaries throughout the city with findings explaining some of the legal details of this issue. The proposed amendment would define medical marijuana dispensaries in substantial detail and prohibit that use entirely. Staff has drafted the attached Planning Commission resolution recommending this amendment of the zoning codes of the Municipal Code and Local Coastal Program to the City Council. Staff recommends that the Commission adopt this resolution

The City Council is scheduled to take final action on May 6, 2008, to amend the city's Municipal Code, and the California Coastal Commission will subsequently be responsible for final approval of the proposed amendment to the city's Local Coastal Program.

Attachments:

Resolution No. PC 08-

Draft Ordinance No. 2114

Moratorium Staff Report, dated 7/18/06

Moratorium Minutes excerpt, dated 7/18/06

RESOLUTION NO. PC 08-

A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF MANHATTAN BEACH, CALIFORNIA  
RECOMMENDING AMENDMENTS TO THE MANHATTAN  
MUNICIPAL CODE TITLE 10 (ZONING ORDINANCE) AND  
THE IMPLEMENTATION PROGRAM OF THE LOCAL  
COASTAL PROGRAM PERTAINING TO MEDICAL  
MARIJUANA DISPENSARIES

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES  
HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. The Planning Commission conducted a public hearing pursuant to applicable law to consider amendments to Section 10.60.160 of Title 10 of the Manhattan Beach Municipal Code and Section A.60.160 of the Implementation Program of the Local Coastal Program.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received on April 23, 2008.
- C. The proposed project will not have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- D. The proposal is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment.
- E. The proposed amendments are consistent with the goals and policies of the City's General Plan and Local Coastal Program and with the purposes of Title 10 (Zoning Ordinance) of the Manhattan Beach Municipal Code.
- F. In 1996 the voters of California adopted the "compassionate Use Act" which permits the possession and sale of marijuana for medical purposes. Subsequently the use of collective dispensaries for the sale of prescription marijuana has been permitted as a commercial enterprise;
- G. Despite being permitted under California law marijuana, whether for medical, recreational, religious or any other purpose is illegal under the Federal Controlled substances Act. Federal agencies have been aggressively enforcing Federal laws against those using or dispensing marijuana in accordance with California law;
- H. The United States Supreme Court issued its decision in *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 532 U.S. 483, in which the Court held that there is no medical necessity defense or exemption for the possession of medical marijuana under the Controlled Substances Act and in 2005, the United States Supreme Court also held in *Gonzalez v. Raich* (2005) 545 U.S. 1, that the United States Congress has authority under the Commerce Clause of the United States Constitution to prohibit the manufacture, cultivation, distribution and possession of marijuana pursuant to the Controlled Substances Act, even as such prohibitions apply to marijuana manufactured, cultivated, distributed or possessed within the State of California under the auspices of the Compassionate Use Act;
- I. In addition to being illegal under Federal law and subject to enforcement by Federal agents medical marijuana dispensaries have been known to create secondary effects beyond the possibility of being raided by Federal agents. These include increased crime, loitering, drug abuse, theft, burglary, decreased property values. In general medical marijuana dispensaries have a strong potential to create a public nuisance situation and

- should be sited away from residential, school and daycare, church and community service centers;
- J. The California Police Chiefs Association has compiled an extensive report detailing a number of the negative secondary effects associated with medical marijuana dispensaries. The Planning Commission hereby finds that such report contains further persuasive documented evidence that medical marijuana dispensaries pose a threat to public health, safety and welfare;
  - K. Due to the small geographical size and primarily residential character of Manhattan Beach there are no areas within the City which are suitable for the location of a medical marijuana dispensary;
  - L. In addition to the fact that medical marijuana dispensaries are a use which is unsuitable for a small residential community the fact that it is currently illegal under Federal law despite its legality under State law (See: *Gonzales v. Raich* 545 U.S. 1 (2005)) raises serious questions about the City's legal capacity to allow such a use. (See, for example: *Qualified Patients' Association v. County of Orange* (2008) Orange County Superior Court Case No. 07CC09524.);
  - M. In light of the serious problems presented by location and operation of medical marijuana dispensaries it is in the best interests of the citizens of Manhattan Beach and in furtherance of their health, safety and welfare to prohibit medical marijuana dispensaries within the City of Manhattan Beach.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby recommends approval of the subject amendments to the Manhattan Beach Municipal Code and the Local Coastal Program as follows:

Add Section 10.60.160 to Title 10 and A.60.160 to the Implementation Program of the Local Coastal Program as follows:

**"10.60.160/A.60.160 Medical Marijuana Dispensaries**

- (a). Except where the context otherwise requires, the definitions given in this subsection govern the construction of this section:
  - A. 'Identification card' is a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.
  - B. 'Marijuana' means all parts of the *Cannabis Sativa* plant, whether growing or not, including but not limited to: the leaves; the flowers; the stems; the seeds thereof; the resin extracted from any part of the plant; every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The term shall include marijuana infused in foodstuffs. The term shall not include fiber produced from the stalks, oil or cake made from the seeds of the plant or any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks (except resin extracted therefrom).
  - C. 'Medical marijuana dispensary' is any facility or location where medical marijuana is cultivated or made available to and/or distributed by any of the following: a qualified patient, a person with an identification card, or a primary caregiver. Each of these terms is defined herein and shall be interpreted in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq. as such sections may be amended from time to time.
  - D. 'Primary caregiver' is the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.
  - E. 'Qualified patient' is a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued by the State Department of Health Services.

(b). Medical marijuana dispensaries shall be a prohibited use in all zones of the City.

SECTION 3. The Secretary to the Planning Commission shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.

PASSED, APPROVED, and ADOPTED this 23rd day of April, 2008.

Ayes:  
Noes:  
Absent:  
Abstain:

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Richard Thompson  
Secretary to the Planning Commission

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Sarah Boeschen  
Recording Secretary

ORDINANCE NO. 2114

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ADDING A NEW SECTION 10.60.160 OF CHAPTER 10.60 OF THE MANHATTAN BEACH MUNICIPAL CODE TO PROHIBIT MEDICAL MARIJUANA DISPENSARIES

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. In 1996 the voters of California adopted the "compassionate Use Act" which permits the possession and sale of marijuana for medical purposes. Subsequently the use of collective dispensaries for the sale of prescription marijuana has been permitted as a commercial enterprise;
- B. Despite being permitted under California law marijuana, whether for medical, recreational, religious or any other purpose is illegal under the Federal Controlled substances Act. Federal agencies have been aggressively enforcing Federal laws against those using or dispensing marijuana in accordance with California law;
- C. The United States Supreme Court issued its decision in *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 532 U.S. 483, in which the Court held that there is no medical necessity defense or exemption for the possession of medical marijuana under the Controlled Substances Act and in 2005, the United States Supreme Court also held in *Gonzalez v. Raich* (2005) 545 U.S. 1, that the United States Congress has authority under the Commerce Clause of the United States Constitution to prohibit the manufacture, cultivation, distribution and possession of marijuana pursuant to the Controlled Substances Act, even as such prohibitions apply to marijuana manufactured, cultivated, distributed or possessed within the State of California under the auspices of the Compassionate Use Act;
- D. In addition to being illegal under Federal law and subject to enforcement by Federal agents medical marijuana dispensaries have been known to create secondary effects beyond the possibility of being raided by Federal agents. These include increased crime, loitering, drug abuse, theft, burglary, decreased property values. In general medical marijuana dispensaries have a strong potential to create a public nuisance situation and should be sited away from residential, school and daycare, church and community service centers;
- E. The California Police Chiefs Association has compiled an extensive report detailing a number of the negative secondary effects associated with medical marijuana dispensaries. The Planning Commission hereby finds that such report contains further persuasive documented evidence that medical marijuana dispensaries pose a threat to public health, safety and welfare;
- F. Due to the small geographical size and primarily residential character of Manhattan Beach there are no areas within the City which are suitable for the location of a medical marijuana dispensary;
- G. In addition to the fact that medical marijuana dispensaries are a use which is unsuitable for a small residential community the fact that it is currently illegal under Federal law despite its legality under State law (See: *Gonzales v. Raich* 545 U.S. 1 (2005)) raises serious questions about the City's legal capacity to allow such a use. (See, for example: *Qualified Patients' Association v. County of Orange* (2008) Orange County Superior Court Case No. 07CC09524.);
- H. In light of the serious problems presented by location and operation of medical marijuana dispensaries it is in the best interests of the citizens of Manhattan Beach and in furtherance of their health, safety and welfare to prohibit medical marijuana dispensaries within the City of Manhattan Beach;
- I. The proposed ordinance is consistent with the General Plan of the City of Manhattan Beach;

- J. This ordinance is not subject to the California Environmental Quality Act pursuant to Section 15061(b)(3) in that the activity will not result in direct or indirect or reasonably foreseeable direct or indirect physical change to the environment.
- K. The proposed amendments will have no impact on Fish and Game resources pursuant to Section 21089(b) of the Public Resources Code.

SECTION 2. A new Section 10.60.160 is hereby added to Chapter 10.60 of Title 10 of the Manhattan Beach Municipal Code to read as follows:

**“10.60.160 Medical Marijuana Dispensaries**

(a). Except where the context otherwise requires, the definitions given in this subsection govern the construction of this section:

A. 'Identification card' is a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

B. 'Marijuana' means all parts of the *Cannabis Sativa* plant, whether growing or not, including but not limited to: the leaves; the flowers; the stems; the seeds thereof; the resin extracted from any part of the plant; every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The term shall include marijuana infused in foodstuffs. The term shall not include fiber produced from the stalks, oil or cake made from the seeds of the plant or any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks (except resin extracted therefrom).

C. 'Medical marijuana dispensary' is any facility or location where medical marijuana is cultivated or made available to and/or distributed by any of the following: a qualified patient, a person with an identification card, or a primary caregiver. Each of these terms is defined herein and shall be interpreted in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq. as such sections may be amended from time to time.

C. 'Primary caregiver' is the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

D. 'Qualified patient' is a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued by the State Department of Health Services.

(b). Medical marijuana dispensaries shall be a prohibited use in all zones of the City.

SECTION 3. This ordinance shall apply to any application for such a use which has not yet obtained substantial vested rights as defined by the California Supreme Court in *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785.

SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

- Ayes:
- Noes:
- Absent:
- Abstain:

\_\_\_\_\_  
Mayor, City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk





Agenda Item #: 06/C718.14

## Staff Report City of Manhattan Beach

**TO:** Honorable Mayor Ward and Members of the City Council

**FROM:** Robert V. Wadden Jr., City Attorney

**DATE:** July 18, 2006

**SUBJECT:** Adoption of An Urgency Ordinance Establishing A Moratorium on Medical Marijuana Dispensaries

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**RECOMMENDATION:**

Staff recommends that the City Council adopt urgency ordinance No. 2086 establishing a moratorium on medical marijuana dispensaries.

**FISCAL IMPLICATION:**

There is no fiscal impact from adoption of this ordinance.

**BACKGROUND:**

At its 2006 Workplan meeting the City Council directed Staff to review and make recommendations concerning regulation of medical marijuana dispensaries in the City. Although there are no applications pending for such facilities at the present time a dispensary has been recently opened in Torrance and the City has received inquiries about how the City regulates them. In fact, the Municipal Code does not presently make provision for such facilities. The necessity to study the impacts of and options to regulate medical marijuana dispensaries makes it prudent to impose a moratorium on such facilities until a scheme of regulation appropriate to their impacts can be developed and adopted.

**DISCUSSION:**

The City of Manhattan Beach has no land use or other ordinances which deal directly with medical marijuana distribution points. They are neither prohibited nor permitted explicitly under the City Code.

State law permits prescribing and distributing marijuana for medical purposes. (Health and Safety Code section 11362.5.) While a recent Supreme Court decision has ruled that such laws are preempted by Federal drug laws it appears that within the State law enforcement agencies will continue to acknowledge State law permitting use and distribution of marijuana for "medical" purposes.

One concern is that State law contains no definition of "medical" and prescriptions for marijuana use are often easily obtained for a wide variety of reasons. Many cities in Northern California have

experienced the opening of marijuana dispensaries with a very high volume of sales activity. Secondary effects from such high volume dispensaries such as loitering, crime, traffic and secondary drug dealing can impact surrounding neighborhoods.

Cities have taken three approaches to dealing with regulating medical marijuana dispensaries. One approach is to amend zoning ordinances to ban outright medical marijuana dispensaries. Nineteen California cities and two California counties have tried this approach. Among these are the cities of Concord, Fresno, Pasadena and Susanville each of which has been sued by marijuana advocacy groups.

The second approach is to amend zoning codes to limit the locations, signage, hours of operation and other aspects of operation of medical marijuana dispensaries. Twenty-three California cities and three California Counties have tried this approach. So far none has been sued. However developing such an ordinance takes staff time and study to determine the parameters of regulation.

The third course of action is to adopt a moratorium on medical marijuana dispensaries. At least 58 California cities and 6 California counties have already done so. These include the cities of Hermosa Beach and Lawndale. Redondo Beach and El Segundo are considering doing so in the near future.

The proposed ordinance adopts this third approach. Government Code section 65858 specifically provides that a city may enact a moratorium of a particular land use while its staff studies the appropriate way to regulate it. Because medical marijuana dispensaries appear to have significant negative secondary impacts, because it is unclear whether a city may permanently ban the use (the pending litigation may ultimately clarify this issue) and because there appears to be a conflict between Federal and State law it would appear that adopting a moratorium while staff studies the best way to permanently regulate the use is the most prudent course.

Government code 65858 permits a moratorium for up to two years. However, the statute requires that the initial moratorium be for no more than 45 days. Subsequently it may be extended for up to an additional 22 months and 15 days. Passage of a moratorium must be by a four fifths majority of the legislative body. The ordinance is authorized as an urgency ordinance and goes into effect immediately. Presently there are no applications pending to establish a medical marijuana dispensary in the City.

Attachments: Ordinance No. 2086

cc: Geoff Dolan, City Manager  
Rod Uyeda, Chief of Police

ORDINANCE NO. 2086

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA IMPOSING A MORATORIUM ON MEDICAL MARIJUANA DISPENSARIES IN THE CITY

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. In order to protect the public health, safety and welfare, pursuant to Government Code Section 36937 the City may adopt urgency ordinances and pursuant to Government Code section 65858 of the City may adopt as an urgency measure an interim ordinance prohibiting land uses that may be in conflict with a contemplated General Plan, Specific Plan, or Zoning proposal that the City Council, Planning Commission, or Planning Divisions is considering studying or intends to study within a reasonable period of time;
- B. In 1996 the voters of California adopted the "Compassionate Use Act" which legalized possession cultivation and sale of marijuana for medical purposes;
- C. Based on the U.S. Supreme Court's decisions in *U.S. v. Oakland Cannabis Buyers' Cooperative* 532 U.S. 483 (9<sup>th</sup> Cir., CA 2001) and *Gonzales v. Raich* 545 U.S. 1 (9<sup>th</sup> Cir., CA 2005) the "Compassionate Use Act" may be preempted by Federal Law;
- D. As a consequence of the passage of the "Compassionate Use Act" (although such facilities are not specifically authorized by the Act) medical marijuana dispensaries, which sell marijuana to those with prescriptions have begun to appear in cities throughout California;
- E. There is some indication from other California cities which have operating medical marijuana dispensaries that those facilities may have secondary impacts on surrounding neighborhoods. These include the cities of Atascadero, San Marcos, Concord and Willets. Such secondary effects included a higher incidence of crime including burglary and loitering;
- F. The City of Manhattan Beach currently has no regulations or provisions of any kind with regard to medical marijuana dispensaries and City staff has not studied the impacts or secondary effects of such establishments;
- G. Prior to permitting any medical marijuana dispensaries in the City of Manhattan Beach staff would like to have the opportunity to study the effects of such establishments and to develop appropriate regulations to mitigate any such effects;
- H. There is a current and immediate threat to the public health, safety or welfare by allowing medical marijuana dispensaries to locate in the City of Manhattan Beach in that: (1) such establishments appear to have negative impacts on surrounding neighborhoods which could affect the public health safety and welfare unless properly mitigated by appropriate regulations; (2) no such regulations presently exist; (3) staff requires time in order to adequately study the impacts of medical marijuana dispensaries and develop such regulations; (4) allowing medical marijuana dispensaries prior to these actions occurring could result in serious negative impacts;
- I. This interim urgency ordinance is necessary to mitigate or avoid the specific, adverse impact identified in "H" above;
- J. There is no feasible alternative to satisfactorily mitigate or avoid the specific adverse impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency ordinance;
- K. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from operation of medical marijuana dispensaries and the development of regulations to mitigate any such impacts, therefore it appropriate to adopt a moratorium on medical marijuana dispensaries consistent with the authority granted by Government Code section 65858.

SECTION 2. The City Council of the City of Manhattan Beach hereby adopts a moratorium against the establishment of medical marijuana dispensaries or any similar or related use any where within the City pending further study by City staff and development of appropriate regulations. This moratorium shall apply to any application for such a use which has not yet obtained substantial vested rights as defined by the California Supreme Court in *Avco Community Developers, Inc. v. South Coast*

Regional Com. (1976) 17 Cal.3d 785.

**SECTION 3.** If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

**SECTION 4.** Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other Ordinance of the City, to the extent that they are inconsistent with this Ordinance, and no further, are hereby repealed.

**SECTION 5.** This Ordinance shall go into effect and be in full force and operation immediately.

**SECTION 6.** This Ordinance shall be effective for 45 days from the date of adoption after which it may be extended for up to an additional 22 months and 15 days.

**SECTION 6.** The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate, posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 18th day of July, 2006.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor, City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By   
City Attorney

1 RESOLUTION NO. 6045

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
3 OF MANHATTAN BEACH, CALIFORNIA, AMENDING  
4 RESOLUTION NO. 5995, ESTABLISHING A FEE TO BE  
5 CHARGED FOR STAGGERED PARKING RESIDENT  
6 OVERRIDE PARKING HANGTAGS, SUPERSEDING ALL  
7 PRIOR APPLICABLE INCONSISTENT RESOLUTIONS OR  
8 ORDERS IN CONCERT THEREWITH

9 06/0718.14 Adoption of an Urgency Ordinance of the City Council of the City of Manhattan  
10 Beach, California Imposing a Moratorium on Medical Marijuana Dispensaries in  
11 the City

12 Referring to an article in the June issue of *California Lawyer*, City Attorney Robert Wadden  
13 reported on the reasons why staff believes imposing a moratorium on medical marijuana  
14 dispensaries is an appropriate action for Council to take at this time. He briefly detailed the  
15 article reporting that a dispensary in the San Francisco area had up to 300 customers per day  
16 (mostly young males under the age of 35 with no discernable handicaps or disabilities), did  
17 approximately \$45,000 per day in sales and, after many complaints from residents, was closed  
18 but ultimately reopened in another part of the city. He relayed staff's concern regarding possible  
19 negative impacts of such a dispensary in Manhattan Beach; noted that the state law authorizing  
20 the legal use of marijuana for medical purposes doesn't define 'which' medical purposes;  
21 reviewed the reasons a moratorium is the best strategy at this time; noted that an alternative  
22 strategy would be to adopt a Zoning Ordinance restricting their location, and voiced his concern  
23 about the immediate impact because there have already been three inquiries from interested  
24 parties. He added that the federal government considers this type of dispensary illegal; however,  
25 there isn't much enforcement. He concluded that a moratorium would help the City determine  
26 whether there is a federal pre-emption and allow time to prepare an adequate Zoning Ordinance;  
27 explained that the recommended moratorium would require a 4/5 vote and would go into effect  
28 immediately; and noted that, initially, it would be for a period of 45 days, with an extension  
29 allowed up to 24 months.

30 In response to Councilmember Montgomery's inquiry as to whether there is a proven cause and  
31 effect between these dispensaries and increased crime, City Attorney Wadden stated that there are  
32 cities that believe they can demonstrate a correlation; that the general feeling among cities is that  
33 there is a significant negative impact; and that these types of businesses ultimately cause  
34 legitimate businesses to move out.

35 Mayor Ward opened the Public Hearing at 7:24 p.m.

36 Viet Ngo, No Address Provided, spoke of a raid on the Los Angeles Cannabis Resource Center  
37 in West Hollywood and the "crack down" on drug manufacturing labs. He urged the Council to  
38 modify the current request and totally prohibit medical marijuana dispensaries in the City.

39 Patrick McBride, 5<sup>th</sup> Street & Peck Avenue, stated that while he found City Attorney Wadden's  
40 presentation interesting, there was no mention of any studies proving that these dispensaries  
41 increase crime. He voiced his opinion that medical marijuana is beneficial to many people; that  
42 bars and cigarettes are more dangerous than marijuana; and that these dispensaries are part of a  
43 State law passed by the people.

Mayor Ward closed the Public Hearing at 7:30 p.m.

Councilmember Fahey shared that one of the most troubling trends in the courts is the number of juveniles being picked up for marijuana and possessing bogus prescriptions; that the relationship between marijuana and juvenile probationers who re-offend is 85%; that there is a legitimate reason for this type of Ordinance; and cited her strong belief that this type of establishment would be a nuisance to the community and urged adoption of the Ordinance.

Urging adoption of this Ordinance, Councilmember Aldinger stated that the 45 days will allow staff time to draft the proper Ordinance.

Mayor Ward conveyed his belief that a moratorium is appropriate, noting that no one wants to see children have access to drugs; agreed that the moratorium will give staff time to study how it can be further regulated or banned; and suggested contacting West Hollywood for statistical information on their plan.

**MOTION:** Councilmember Aldinger moved to adopt Urgency Ordinance No. 2086 establishing a moratorium on medical marijuana dispensaries. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

Ayes: Aldinger, Montgomery, Fahey, Tell and Mayor Ward.  
Noes: None.  
Absent: None.  
Abstain: None.

#### ORDINANCE NO. 2086

### AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA IMPOSING A MORATORIUM ON MEDICAL MARIJUANA DISPENSARIES IN THE CITY

#### GENERAL BUSINESS

#### 06/0718.15 Consideration of Initial Recommendations for the Grandview Elementary School Traffic and Parking Study

Traffic Engineer Erik Zandvliet addressed Council with a PowerPoint presentation explaining the initial recommendations for the Grand View Elementary School Traffic Parking Study, which is the third management program area in the neighborhood Traffic Management Plan. He reviewed the proposed plan including general area-wide recommendations and specific recommendations as well as additional recommendations which were the result of meetings with some Councilmembers and the school Principal.

In response to Mayor Pro Tem Tell's comment that the lack of drop-off and pick-up space causes the traffic congestion problem, Traffic Engineer Zandvliet agreed that getting the loading zone to work efficiently is the most important factor and will require a cooperative agreement between the School District and City.

In response to Councilmember Fahey's concern regarding potential traffic flow issues if left-turns are prohibited into the school from eastbound traffic on 24<sup>th</sup> Street, Traffic Engineer Zandvliet explained that staff believes that the greater safety issue was to relieve congestion at 24<sup>th</sup> Street and Manor Drive.