

**TOWN OF PARADISE
ORDINANCE NO. 514**

**AN ORDINANCE EXTENDING INTERIM URGENCY ORDINANCE NO. 509
OF THE TOWN COUNCIL OF THE TOWN OF PARADISE
ENACTING A MORATORIUM ON THE ESTABLISHMENT
OR OPERATION OF MEDICAL MARIJUANA
DISTRIBUTION FACILITIES AND COLLECTIVES FOR
THE CULTIVATION OF MEDICAL MARIJUANA**

The Town Council of the Town of Paradise, State of California does hereby **ORDAIN AS FOLLOWS:**

SECTION 1. Findings. The Town Council finds and declares as follows:

- a) In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled “The Compassionate Use Act of 1996”). The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specific circumstances.
- b) In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 et seq.) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes.
- c) For the above reasons, the Town Council has directed the Town Manager to develop proposed regulations which the Council will consider adopting to regulate the distribution or collective cultivation of medical marijuana so as to prevent the harmful effects on the Town from the unregulated distribution or collective cultivation of medical marijuana.
- d) The U.S. Attorney General has stated that federal law enforcement officials would ease enforcement at California medical marijuana facilities. This statement, along with other factors, has resulted in an increase in the establishment of collectives that cultivate marijuana in the State of California and the Town. In response, numerous cities and counties around the state are proposing new regulations. Among the jurisdictions near the Town, some are proposing new regulations regarding the distribution or collective cultivation of medical marijuana. These regulations can be expected to have the effect of redirecting persons desirous of establishing such collectives to consider doing so in the Town. In fact, the Town has received inquiries regarding the establishment of medical marijuana collectives and cooperatives in the Town.
- e) Proposition 215 and Senate Bill 420 do not preempt local zoning or nuisance regulations affecting marijuana-related land uses; rather, Senate Bill 420 (Health and Safety Code section

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11362.83) expressly allows cities and counties to adopt and enforce ordinances that are consistent with state law.

- f) Under the current provisions of the Town Zoning Code, medical marijuana dispensaries are not identified as a permitted use in any zoning district in the Town. Further, marijuana dispensaries are not found to be substantially similar to other permitted, conditions, or accessory uses. The Town interprets these provisions to mean that such uses are prohibited.
- g) The Town Council and its staff are currently considering and studying possible means of regulating the distribution and collective cultivation of marijuana, including zoning regulations and other regulations, and by this ordinance shall continue such consideration and study.
- h) If medical marijuana distribution facilities or collectives for cultivation of medical marijuana are allowed to be established, developed, constructed, maintained, or operated in the Town without appropriate regulations, such uses may be established in areas, or operated in a manner, that would conflict with the proposed regulations to be considered and studied by the Town Council and its staff, and would therefore defeat the purpose of the proposal to study and adopt new regulations regarding the distribution or collective cultivation of medical marijuana in the Town.
- i) The establishment, development, maintenance, or operation of medical marijuana distribution facilities or medical marijuana collectives would result in a current and immediate threat to the public health, safety and welfare, because such uses threaten to cause the harmful “secondary effects” identified above within the Town, and because such uses may frustrate the accomplishment of the goals of regulations relating to marijuana distribution facilities and marijuana collectives that the Town and its staff will consider and study. It is therefore necessary to adopt this ordinance to prohibit the establishment, development, construction, maintenance, or operation of medical marijuana distribution facilities and collectives for the cultivation of medical marijuana during the period of such consideration and study.
- j) On January 11, 2011, the Town Council adopted Ordinance No. 509 temporarily enacting a moratorium on the establishment or operation of medical marijuana distribution facilities and collectives for the cultivation of medical marijuana, which will expire on February 25, 2011 unless it is extended.
- k) On January 27, 2011, pursuant to Government Code section 65090, the Town Clerk provided a 10 day public notice that the Town Council would hold a hearing to consider adopting this ordinance.

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SECTION 2. Definitions. For the purpose of this ordinance, the following terms shall have the following meanings:

- a) “Development Application” shall mean an application for any permit or approval to be issued by any Town of Paradise officer, department or other agency, including subdivisions, use permits, variances, building permits, or any other entitlement for use.
- b) “Medical Marijuana Distribution Facility” shall mean: Any facility serving two or more persons, who do not cohabit at the location, that grows, processes or distributes medical marijuana in a manner other than as a marijuana collective.
- c) “Marijuana Collective” shall mean: Any group, association or organization that cooperatively, collectively or independently cultivates either indoors or outdoors marijuana for medical purposes of its members, or others in accordance with Health and Safety Code section 11362.5 or any state regulation adopted in furtherance thereof.
- d) “Marijuana” shall have the same meaning as that set forth in Health and Safety Code section 11018.
- e) “Person” shall include: Any natural person, association, corporation, cooperative, partnership, collective, limited liability company, or any other social or business entity.

SECTION 3. Prohibitions. No Person shall cause or permit the establishment, development, construction, maintenance, operation, or enlargement of a medical marijuana distribution facility or a marijuana collective within the Town of Paradise, nor shall any Development Application be accepted, filed, processed, issued or approved for such a marijuana distribution facility or a marijuana collective during the term of this moratorium ordinance. This interim ordinance shall in no way limit the right of an individual to possess, use or cultivate marijuana for medicinal purposes as is presently authorized by the laws of the State of California as set forth in Health and Safety Code Section 11362.5 and Sections 11362.7 through 11362.83.

SECTION 4. Reports. The Town Council hereby accepts the Town Manager’s Report dated January 31, 2011 and directs the Town’s Vice Mayor, Town Manager, Town Attorney, Assistant Town Manager, Community Development Director, and Police Chief to continue considering and studying all the means set forth in the Town Manager’s Report concerning the measures taken by the Town to alleviate the conditions that lead to the adoption of Ordinance No. 509. The Town Manager is directed to report the progress of such study to the Council within 90 days after the date of this ordinance extending Ordinance No. 509.

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SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is for any reason held to be invalid by a court or competent jurisdiction, such provision shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions or other applications of the ordinance, which can be given effect without the invalid provision or application thereof.

SECTION 6. Urgency, Duration and Publication. This ordinance is adopted by the Town Council pursuant to the California Constitution, article XI, section 7 and Government Code section 65858 by a four-fifths or greater vote, as an urgency measure to protect the public health, safety and welfare, and shall take effect immediately. The reasons for such urgency are set forth in Section 1 above. This ordinance shall expire and be of no further force or effect 10 months and 15 days after its adoption, unless it is extended by the Town Council pursuant to California Government Code section 65858. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once, with the names of the members of this Council voting for or against the same in a newspaper of general circulation published in the Town of Paradise.

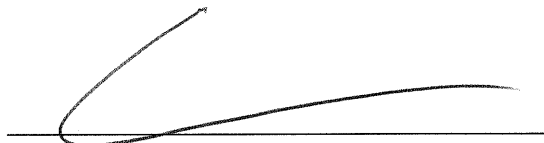
PASSED AND ADOPTED by the Town Council of the Town of Paradise, County of Butte, State of California, on this 8th day of February, 2011 by the following vote:

AYES: Steve "Woody" Culleton, Joe DiDuca, Scott Lotter, Tim Titus and Alan White, Mayor

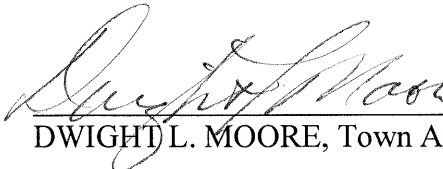
NOES: None

ABSENT: None

ABSTAIN: None


Alan White, Mayor

APPROVED AS TO FORM:


DWIGHT L. MOORE, Town Attorney

ATTEST:


JOANNA GUTIERREZ, Town Clerk