

RESOLUTION NO. 11-

**RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS
DIRECTING COUNTY COUNSEL TO DRAFT A TEMPORARY URGENCY
ORDINANCE PROHIBITING THE ESTABLISHMENT AND OPERATION OF NEW
MEDICAL MARIJUANA DISPENSARIES IN THE UNINCORPORATED AREA OF
MENDOCINO COUNTY**

WHEREAS, there are now approximately eleven (11) medical marijuana dispensaries operating in the unincorporated areas of the County; and

WHEREAS, the County has received an increasing number of both inquiries and complaints regarding the possibility of establishing and operating medical marijuana dispensaries within the unincorporated areas of the County; and

WHEREAS, the County's Planning and Zoning Ordinances do not address or regulate in any manner whatsoever the existence, the operation or the appropriate location of medical marijuana dispensaries within the County; and

WHEREAS, in 1996 California voters adopted the Compassionate Use Act ("CUA"), codified as Health & Safety Code §§ 11362.5, the intent of which is to enable persons in need of medical marijuana for medical purposes to be able to obtain and use it under limited specific circumstances; and

WHEREAS, in 2004 the California Legislature enacted SB 420 also known as the Medical Marijuana Program ("MMP") to clarify the scope of the application of the CUA and to facilitate prompt identification of qualified patients and their designated caregivers in order to avoid unnecessary arrest and prosecution. The MMP is codified at Health & Safety Code §§11362.5 et. sq.; and

WHEREAS, in *City of Claremont v Kruse* (2009) 177 Cal. App.4th 1153 the Court of Appeal upheld the City's enforcement of its licensing and zoning laws and a temporary moratorium on medical marijuana dispensaries as not in conflict with either the MMP or the CUA; and

WHEREAS, the Board of Supervisors believes that the distribution of medical marijuana impacts the public's health, safety and welfare in local communities and requires careful consideration of appropriate zoning and related operational standards; and

Whereas, the development of guidelines and zoning regulations for the establishment and operation of medical marijuana dispensaries in the County has just commenced and is not yet complete; and

WHEREAS, based on the foregoing, the Board of Supervisors finds and determines that the current and immediate preservation of public health, safety and welfare requires that a temporary ordinance prohibiting marijuana dispensaries in the unincorporated areas of the County be enacted as an urgency measure pursuant to Government Code Section §65858 and take effect immediately upon adoption.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors directs County Counsel to draft an ordinance pursuant to Government Code §65858 which will prevent the establishment and operation of new medical marijuana dispensaries in the unincorporated area of Mendocino County.

The foregoing Resolution introduced by Supervisor _____, seconded by Supervisor _____, and carried this 20th day of September, 2011, by the following vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
JEANINE B. NADEL, County Counsel

KENDALL SMITH, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy