

**INTERIM ZONING ORDINANCE NO. 637
AN INTERIM ORDINANCE OF THE CITY OF CORNING
PROHIBITING MEDICAL MARIJUANA DISPENSARIES, COLLECTIVES OR
COOPERATIVES**

WHEREAS, To protect the public safety, health, and welfare of the citizens of Corning, and prevent the possibility of the cultivation or distribution of medical marijuana in violation of Health and Safety Code Section 11362.5, the City of Corning has prepared a Draft Ordinance to regulate the cultivation and possession of medical marijuana. An application for a business license has been submitted to the City for the establishment of a Mutual Benefit Corporation for a Medical Cannabis Collective. In order to prevent the establishment of this business before the City Planning Commission and City Council can study these regulations, at duly noticed public hearings, the City Council determines that it is necessary to adopt an urgency measure in the form of Interim Ordinance No 637

WHEREAS, THE City has recently received additional inquiries whether any of the Zoning Districts within the City Limits of Corning would allow a Medical Marijuana Dispensary, Collective, or Cooperative to be established; and

WHEREAS, the Municipal Code does not specifically permit the location and operation of a Medical Marijuana Dispensary, Collective or Cooperative within any of the City Zoning Districts as either a Permitted or a Conditional Use; and

WHEREAS, in California Cities that have allowed the establishment of Medical Marijuana Dispensaries, Collectives and Cooperatives, issues and concerns have arisen related to their location in proximity to residential properties, Schools and Daycare Facilities and some communities have reported adverse impacts that threaten public health, safety and welfare, including an increase in crimes such as loitering, illegal drug activity, burglaries, robberies and other criminal activity within and around Dispensaries, as well as increased pedestrian and vehicle traffic, noise and parking violations, thereby generating a need for increased police response; and

WHEREAS, The establishment of a medical marijuana collective in the downtown area of the City of Corning, as proposed by Tehama Herbal Collective, will increase loitering and promote illegal drug activity by established gang members in and around the City that will cause an immediate threat to the public safety; and

WHEREAS, Interim Ordinance No. 637 complies with applicable State Law, as well as impose reasonable rules and regulations protecting the public health, safety and welfare of Corning residents and businesses.

WHEREAS, the State of California approved Proposition 215 "The Compassionate Use Act of 1996" (Health and Safety Code Section 11362.5), which was to enable persons who are in need of marijuana for medical purposes; and

WHEREAS, the State also enacted SB 420 in 2004 (Health and Safety Code Section 11362.7 et seq.) to clarify the scope of The Compassionate Use Act to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420; and

WHEREAS, State law has created a limited affirmative defense to criminal prosecution for qualifying persons who collectively gather to cultivate medical marijuana but there is no provision in State law which specifically authorizes or protects the establishment of a medical marijuana dispensary or other storefront distribution operation;

NOW, THEREFORE, BE IT ORDAINED BY THE CORNING CITY COUNCIL to adopt Interim Ordinance No. 637.

Prohibiting Medical Marijuana Dispensaries, Collectives or Cooperatives.

Definition of a Medical Marijuana Dispensary

Definition of a Medical Marijuana Collective

Definition of a Medical Marijuana Cooperative

Prohibition

Public Nuisance

Definition of a Medical Marijuana Dispensary.

“Medical Marijuana Dispensary” or “Dispensary” means any facility or location where medical marijuana is made available to and/or distributed by or to three or more of the following: a primary care giver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A “medical marijuana dispensary” shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or 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 illnesses 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; or a residential hospice or 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 11362.5 et. seq.

Definition of a Medical Marijuana Collective

“Medical Marijuana Collective” or “Collective” as referenced in Health and Safety Code Section 11362.775 shall be defined in accordance with State statutory and case law.

Definition of a Medical Marijuana Cooperative

“Medical Marijuana Cooperative” or “Cooperative” as referenced in Health and Safety Code Section 11362.775 shall be defined in accordance with State statutory and case law.

Medical Marijuana Dispensaries, Collectives and Cooperatives Prohibited.

It is unlawful to establish or operate a profit or nonprofit medical marijuana dispensaries, collectives or cooperatives within any zoning district in the city limits of the City of Corning.

Public Nuisance

A violation of any of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as provided by all applicable provisions of law including but not limited to California Code of Civil Procedure Section 731, et. seq.

The foregoing Ordinance was introduced and adopted at a regular meeting of the City Council of the City of Corning, held on **August 11, 2009** by the following vote:


AYES: Strack, Hill, Turner, Parkins and Leach

NOES: None

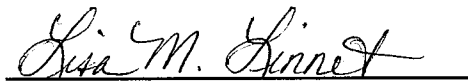
ABSENT: None

Abstain: None

It shall take effect immediately upon adoption of a four-fifths vote of the City Council pursuant to Cal. Gov't Code Section 65858, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of Council persons voting for and against the same, in a newspaper of general circulation in the County of Tehama.


Gary R. Strack, Mayor

ATTEST:


Lisa M. Bennett
City Clerk

PUBLISH: Saturday, August 15, 2009

STATE OF CALIFORNIA)

COUNTY OF TEHAMA) SS

CITY OF CORNING)

I, Lisa M. Linnet, City Clerk of the City of Corning, do hereby certify that the foregoing is a true and correct copy of Interim Zoning Ordinance No. 637 introduced and adopted at the August 11, 2009 City Council meeting of the City of Corning, by the votes listed on the attached copy of the Ordinance.

ATTEST:


Lisa M. Linnet
Lisa M. Linnet, City Clerk