

ORDINANCE NO. 1620

STAYING THE EFFECTIVENESS OF CHAPTER 19.84 OF THE AMADOR COUNTY  
CODE AND PROHIBITING THE OPERATION OF MEDICAL CANNABIS DISPENSARIES  
WITHIN THE UNINCORPORATED AREA OF AMADOR COUNTY TO BE  
IMMEDIATELY EFFECTIVE AS AN URGENCY ORDINANCE

The Board of Supervisors of the County of Amador ordains as follows:

SECTION 1. FINDINGS RELATED TO URGENCY.

The Board of Supervisors finds as follows:

Currently, the County allows, in Chapter 19.84 of the Amador County Code, dispensaries of medical cannabis in certain zoning districts if a conditional use permit is obtained. Recently the United States Supreme Court decided Gonzales v. Raich 125 S. Ct. 2195; 2005 U.S. LEXIS 4656 (2005), holding that federal law (Controlled Substances Act, 21 U.S.C. Section 841) prohibited marijuana possession including possession of marijuana for medical uses. There is insufficient time for the County to adopt a regular, non-urgency ordinance prohibiting such medical cannabis dispensaries allowed by Chapter 19.84. Unless adopted on an urgency basis, such a dispensary may open which would be illegal under both state and federal law. Federal law prohibits such dispensaries and use of cannabis, regardless of the reason for such use; while state law allows the use of medical cannabis on limited terms and conditions but not medical cannabis dispensaries where marijuana is provided, furnished, or sold. This Ordinance both complies with applicable state law and federal law.

SECTION 2. ADDITIONAL FINDINGS RELATING TO NEED FOR REGULATION,  
INTENT.

The Board of Supervisors finds as follows:

A. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq. and entitled “The Compassionate Use Act of 1996”). The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances. Further, effective January 1, 2004 the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act of 1996 and to allow counties and other governing bodies to adopt and enforce rules and regulations laws consistent with SB 420 (collectively “The Act”).

B. However, federal law and The Act do not allow for medical cannabis dispensaries where medical marijuana is furnished, provided, or sold. To protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to modify the Amador County Code to be consistent with federal law and The Act so that the location and operation of medical cannabis dispensaries in the unincorporated area of Amador County are prohibited.

SECTION 3. STAY OF CHAPTER 19.84.

Chapter 19.84 of the Amador County Code is stayed during the term of this Ordinance and has no force and effect.

SECTION 4. PROHIBITION OF MEDICAL CANNABIS DISPENSARIES IN THE UNINCORPORATED AREA OF AMADOR COUNTY.

It shall be unlawful for any person or entity to locate or operate a medical cannabis dispensary in any zoning district in the unincorporated area of Amador County.

SECTION 5. SEVERABILITY .

If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 6. ORDINANCE IMMEDIATELY EFFECTIVE.

This Ordinance shall become effective immediately as an urgency ordinance upon its adoption by the Board of Supervisors.

SECTION 7. PUBLICATION. The Clerk of the Board is hereby directed to publish this Ordinance within fifteen (15) days after its passage at least once in a newspaper of general circulation published in the County of Amador.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 21st day of June 2005, by the following vote:

AYES: Richard M. Forster, Rich F. Escamilla, Louis D. Boitano, and Richard P. Vinson

NOES: None

ABSENT: Mario Biagi

  
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Chairman, Board of Supervisors