

ORDINANCE NO. ORD-2018-002

AN URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING THE COMPREHENSIVE CANNABIS ORDINANCE TO ALLOW FOR PRE-APPLICATION PROCEDURES FOR COMMERCIAL CANNABIS RETAIL BUSINESSES TO AVOID OVERCONCENTRATION WITHIN THE CITY OF SANTA ROSA; REZ18-001

WHEREAS, pursuant to Article XI, Section 7, of the Constitution of the State of California, the City is authorized to adopt and enforce regulations for the protection of the public health, safety and welfare that are not in conflict with the general laws of the State; and

WHEREAS, pursuant to Sections 36934 and 36937 of the California Government Code, the City may adopt an urgency ordinance if it is for the immediate preservation of the public peace, health or safety; and

WHEREAS, Section 8 of the Santa Rosa City Charter allows the City Council to adopt an urgency measure to take effect immediately upon its adoption for preserving the public peace, health or safety if such ordinance contains the reasons for its urgency and if passed by a five-sevenths vote of the City Council; and

WHEREAS, on December 19, 2017, the City Council adopted the Comprehensive Cannabis Ordinance (ORD-2017-025) which provides for regulations that address the locational and operational requirements of commercial cannabis retail businesses; and

WHEREAS, the Comprehensive Cannabis Ordinance (Cannabis Ordinance) went into effect on January 19, 2018; and

WHEREAS, the Cannabis Ordinance requires cannabis retail applicants to obtain a Conditional Use Permit and to comply with a setback of 600 feet between cannabis retail businesses in order to avoid overconcentration. In anticipation of high demand by applicants for cannabis retail businesses, an urgency ordinance is needed to establish a pre-application process that allows the City to determine which prospective applicant is best qualified to proceed to the Conditional Use Permit process should competing applications for cannabis retail businesses be submitted within a 600-foot radius of each other; and

WHEREAS, while the Cannabis Ordinance restricts against cannabis retail overconcentration, it does not provide a pre-application process to address and prioritize competing cannabis retail proposals located within the same area. Given that the effective date of the Cannabis Ordinance was January 19, 2018, the issue is need of imminent resolution; and

WHEREAS, the public health, safety and welfare is not adequately protected at this time by allowing the potential overconcentration of cannabis retail businesses and it is in the interest of the City, its residents and business owners, and of the community as a whole that the City establish evaluation criteria and selection procedures as necessary to avoid overconcentration of cannabis retail businesses where competing applications are submitted within a 600-foot radius of each other; and

WHEREAS, adoption of this urgency ordinance is not a project under the California Environmental Quality Act, title 14, section 15378 (b) of the California Code of Regulations (CEQA Guidelines) because it is general policy making and/or an administrative activity of the government that will not result in direct or indirect physical changes to the environment; and

WHEREAS, by the agenda report, testimony and documentary evidence presented at the February 6, 2018 City Council meeting, the City Council has been provided with additional information upon which the findings and actions set forth in this Ordinance are based; and

WHEREAS, for the reasons set forth above, this Ordinance is declared by the City Council to be necessary for the preserving the public peace, welfare, health or safety and to avoid a current, immediate and direct threat to the peace, health, safety or welfare of the community and the recitals above taken together constitute the City Council's statements of the reasons for adopting this Ordinance on an urgency basis.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby incorporates them into this Ordinance.

Section 2. This Ordinance amends the City of Santa Rosa Zoning Code in a manner that is internally consistent with other applicable provisions of the Zoning Code, in that it will provide clarity regarding the authority to establish a procedure to review and process applications for cannabis retail businesses in a manner that avoids overconcentration.

Section 3. This Ordinance will amend City Code Section 20-46.080(D)(1) as follows (added text underlined): "Overconcentration. To avoid overconcentration, a Cannabis Retail use shall not be established within 600 feet of any other Cannabis Retail use established within and permitted by the City of Santa Rosa. The Department shall establish evaluation criteria and selection procedures as necessary to avoid overconcentration of Cannabis Retail uses where competing applications are submitted within a 600-foot radius of each other."

Section 4. This Ordinance is enacted pursuant to the City of Santa Rosa's general police powers, Section 8 of the Charter of the City of Santa Rosa, Article XI of the California Constitution and Government Code sections 36934 and 36937.

Section 5. The Council finds the adoption and implementation of this Ordinance is exempt from the California Environmental Quality Act under section 15378 (b) of the CEQA Guidelines in that the Council finds it is a policy making activity and/or a governmental activity of the City that will result in no direct or indirect physical changes to the environment and hence is not a project.

Section 6. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 7. This Ordinance shall take effect immediately upon its adoption.

IN COUNCIL DULY PASSED this 6th day of February, 2018.

AYES: (7) Mayor Coursey, Vice Mayor Rogers, Council Members Combs, Olivares, Sawyer, Schwedhelm, Tibbetts

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney