

ORDINANCE NO. \_\_\_\_\_

AN URGENCY AND INTERIM ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA IMPOSING A FORTY-FIVE (45) DAY MORATORIUM ON THE OUTDOOR CULTIVATION OF CANNABIS FOR PERSONAL USE OR COMMERCIAL PURPOSES WITHIN THE CITY OF SANTA ROSA

WHEREAS, Government Code, section 65858 allows a city, including a charter city, for purposes of protecting the public safety, health and welfare, to adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that the legislative body is considering or studying or intends to study within a reasonable period of time; 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

WHEREAS, such an urgency measure requires a five-sevenths vote of the City Council for adoption; and

WHEREAS, as provided further herein, the Ordinance shall be in effect immediately upon its adoption and shall continue for a period of forty-five (45) days therefrom unless further extended by the City Council; and

WHEREAS, in October 2015, the State enacted the Medical Cannabis Regulation and Safety Act (MCRSA), establishing a state licensing framework and authorizing local regulation of medical cannabis. In relevant part, MCRSA allows a local jurisdiction to prohibit entirely or permit, but regulate, the outdoor cultivation of medical cannabis for personal use or commercial purposes; and

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, legalizing under State law the nonmedical use of cannabis for adults 21 and older and establishing a commercial and regulatory structure for nonmedical cannabis businesses; and

WHEREAS, in relevant part, Proposition 64 authorizes a local jurisdiction to prohibit entirely or permit, but regulate, the outdoor cultivation of cannabis for personal use or commercial purposes; and

WHEREAS, the Santa Rosa City Code currently allows, pursuant to state law, the outdoor cultivation of up to six cannabis plants per single private residence for personal use, and allows consideration of the commercial outdoor cultivation of cannabis for medical purposes in certain zoning districts with a use permit; and

WHEREAS, the outdoor cultivation of cannabis, whether for medical or non-medical purposes, may have adverse effects on neighboring uses, such as noxious odors and security risks; and

WHEREAS, if this urgency ordinance were not adopted to prohibit on an interim basis the outdoor cultivation of cannabis, the use of property for such purposes would not be prohibited and such uses may be in conflict with a contemplated zoning proposal that the City Council has directed the Planning and Economic Development Department to study; and

WHEREAS, the public health, safety and welfare is not adequately protected at this time against the adverse impacts of the outdoor cultivation of cannabis for personal use or commercial purposes and it is in the interest of the City, of residents and business owners, and of the community as a whole that City staff undertake study to determine if the outdoor cultivation of cannabis should be permitted at all and, if so permitted, to consider regulations to protect residents and businesses; and

WHEREAS, the City Council determines it is in the interest of immediately preserving the public peace, health, safety and welfare to adopt an urgency ordinance in order to allow the City to study whether to prohibit outdoor cultivation of cannabis or, if outdoor cultivation of cannabis is to be permitted, what regulations should be adopted to protect residents and businesses from any adverse impacts resulting therefrom, and to bring forward within a reasonable period of time to the Planning Commission and the City Council such recommendations; and

WHEREAS, the City Council finds and determines that, without a moratorium on the outdoor cultivation of cannabis, the public peace, health, safety and welfare will be immediately threatened because (a) residents may proceed to cultivate cannabis outdoors for their personal use which cultivation could have adverse effects on neighboring uses, (b) persons or businesses may seek a use permit from the City to cultivate cannabis outdoors for commercial medicinal purposes which could have adverse effects on neighboring uses, (c) the use of property for outdoor cultivation of cannabis conflicts with a draft zoning proposal that is currently being studied which, if ultimately adopted, may prohibit entirely the outdoor cultivation of cannabis, and (d) the growing season for outdoor cannabis begins shortly; and

WHEREAS, adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) in that it is a general policy making activity and/or an administrative activity of the City that will not result in direct or indirect physical changes to the environment and hence it is not a “project” under CEQA Guidelines, Section 15378 (b); and

WHEREAS, by the agenda report, testimony and documentary evidence presented at the May 2, 2017 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 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. From the effective date of this urgency Ordinance and continuing for a period of forty-five (45) days, unless extended, the outdoor cultivation of cannabis, whether for personal use or commercial purposes, is prohibited within the City of Santa Rosa.

Section 3. 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 section 65858.

Section 4. The Council finds the adoption and implementation of this Ordinance are 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 5. 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 6. This Ordinance shall take effect immediately upon its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on May 2, 2017.

IN COUNCIL DULY PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Interim City Attorney