

Urgency Ordinance

Temporary Prohibition of Outdoor Cultivation for Personal and Commercial Purposes

City Council

May 2, 2017

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Planning and Economic Development

Cannabis Regulation Development

Compassionate
Use Act (CUA)

- 1996

Medical
Cannabis
Regulation
and Safety
Act
(MCRSA)

- 2015

Santa Rosa
Local
Cannabis
Regulations

- 2016/2017

Medical
Marijuana
Program
Act
(MMPA)

- 2003

Adult Use
of
Marijuana
Act
(AUMA)

- 2016

Compassionate Use Act (CUA) - **Proposition 215**

- Approved by voters in November 1996.
- Allows patients with a physician's recommendation and their primary caregivers to possess and cultivate cannabis for patient's personal medical use.

Medical Marijuana Program Act (MMPA) - **SB 420**

- Passed by legislature in 2003.
- Clarified scope and application of CUA and established immunity from state criminal laws for cultivation up to 12 immature or 6 mature cannabis plants (or more if specifically authorized by physician) for a qualified patient.

Personal Cultivation Laws

Continued

Medical Cannabis Regulation and Safety Act (**MCRSA**) Sept. 2015

- Established state licensing framework for commercial medical cannabis activity. The following persons may cultivate cannabis without a state or local license:
 - A. Qualified patients – may cultivate up to 100 sq. ft. of aggregate vegetative area on single premises for personal medical use only.
 - B. Primary caregivers – may cultivate up to 500 sq. ft. of aggregate vegetative area on single premises for up to five qualified patients.

Personal Cultivation Laws Continued

Adult Use of Marijuana Act (AUMA) – **Proposition 64**

Nov. 2016

- Allows persons 21 years and older to cultivate up to six cannabis plants and possess the cannabis produced by the plants.
- No more than six plants per private residence regardless of number of adults.

Local Jurisdiction Allowances

The CA Ct. of Appeals has held that **CUA and MMPA do not limit a locality's ability to prohibit all forms of cannabis cultivation**, including cultivation by a qualified patient at a private residence and caregiver grows.

- **MCRSA:** Localities have broad authority to regulate or ban all medical cannabis cultivation, including by qualified patients and caregivers.
- **AUMA:** Localities may regulate or prohibit outdoor non-medical cannabis cultivation by adults and commercial entities, however:
 - Local jurisdictions may not preclude cultivation inside a private residence or inside a secure and enclosed accessory structure (greenhouse) on grounds of a private residence.
 - Localities that ban cultivation, including outdoor personal cultivation, are ineligible for funding from a portion of retail cannabis excise tax revenue administered by the State.

Outdoor Commercial Cultivation

These and other cities prohibit outdoor commercial cultivation:

- City of Richmond (also prohibits personal-use outdoor cultivation)
- City of Gonzales (also prohibits personal-use outdoor cultivation)
- City of Coachella
- California City (also prohibits personal-use outdoor cultivation)
- City of Adelanto
- City of Sacramento (also prohibits personal-use outdoor cultivation)
- City of San Jose
- City of Riverbank
- City of Watsonville

Current Local Commercial Cultivation Regulations

- City Code currently regulates the commercial cultivation of medical cannabis, limiting such cultivation to the City's industrial zones and requiring a use permit for all operations
- City Code does not preclude a commercial cultivator from applying for a use permit for outdoor cultivation for medical purposes.
- City Code precludes commercial cultivation (whether indoor or outdoor) for non-medicinal use.

Temporary Moratorium

- Response to significant concerns from the community about the potential adverse effects of outdoor cultivation of cannabis (including odor, safety and potential environmental degradation)
- City currently allows personal cultivation of cannabis pursuant to state law and allows the commercial cultivation of medical cannabis with a use permit, but in both instances is silent as to any allowance for outdoor cultivation
- City is in the process of developing land use regulations, anticipated to be considered by the Planning Commission and Council within the next several months.

Temporary Moratorium

- Staff is recommending the City enact a temporary moratorium to immediately prohibit all outdoor personal and commercial cannabis cultivation, medical or otherwise, allowing staff and decision-makers time to study more closely the pros and cons of allowing outdoor cannabis cultivation and the scope of appropriate regulation.
- Proposed moratorium will only affect the outdoor cultivation of cannabis, and will have no impact on existing state and local allowances for personal use, personal or commercial indoor cannabis cultivation, or manufacturing, distribution and dispensing of medical cannabis.

It is recommended by the Planning and Economic Development Department that the Council

- (1) adopt an urgency ordinance to impose a temporary prohibition on the outdoor cultivation of cannabis, whether for personal or commercial purposes, to allow time for development of appropriate regulations
- (2) direct staff to return to the Council on May 23, 2017 to present a written report describing the measures taken to alleviate the condition leading to the adoption of the urgency ordinance and to provide Council an opportunity to determine whether to extend the temporary prohibition on the outdoor cultivation of cannabis for an additional 10 months and 15 days to allow additional time for study and finalization of appropriate regulations