

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

FROM: CLARE HARTMAN, DEPUTY DIRECTOR - PLANNING
PLANNING AND ECONOMIC DEVELOPMENT

SUBJECT: URGENCY ORDINANCE AMENDING THE COMPREHENSIVE
CANNABIS ORDINANCE TO ALLOW FOR PRE-APPLICATION
PROCEDURES FOR COMMERCIAL CANNABIS RETAIL
BUSINESSES TO AVOID OVERCONCENTRATION; REZ18-001

AGENDA ACTION: URGENCY ORDINANCE

RECOMMENDATION

The Department of Planning & Economic Development and the City Attorney's Office recommend the Council adopt an ordinance amending City Code Section 20-46.080(D)(1) to read 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."

EXECUTIVE SUMMARY

On December 19, 2017, the City Council unanimously adopted the Comprehensive Cannabis Ordinance (ORD-2017-025). The regulations address the locational and operational requirements for personal cannabis cultivation and commercial cannabis businesses, covering allowances for both medical and adult use. The ordinance went into effect on January 19, 2018 and the ordinance and application support tools are available at <https://srcity.org/Cannabis>.

The adopted ordinance requires a commercial cannabis retail business to obtain a Conditional Use Permit approved by the Planning Commission. In addition, the ordinance requires a setback of 600 feet between cannabis retail businesses in order to avoid overconcentration.

In anticipation of high demand by applicants for a cannabis retail use, an urgency ordinance is needed to authorize evaluation criteria and a pre-application process

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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 each other. While the adopted ordinance restricts against overconcentration, it does not provide a pre-application process to address and prioritize competing cannabis retail proposals within the same area. Given that the effective date of the ordinance was January 19, 2018, the issue is need of imminent resolution.

The urgency ordinance would amend City Code Section 20-46.080(D)(1) to read 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.”

The proposed amendment is an urgency ordinance under Government Code sections 36934 and 36937(b) and Section 8 of the City Charter and would go into effect immediately upon enactment. Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

BACKGROUND

On December 19, 2017, the City Council unanimously adopted the Comprehensive Cannabis Ordinance (ORD-2017-025). The regulations address the locational and operational requirements for personal cannabis cultivation and commercial cannabis businesses, covering allowances for both medical and adult use. The effective date of the ordinance was January 19, 2018.

In order to operate a commercial cannabis retail business, all applicants will be required to obtain a Conditional Use Permit approved by the Planning Commission that would establish the location, size and operation allowed and would assure that all regulatory requirements are met before the applicant could begin operating the business. In addition, cannabis retail businesses will be required to obtain a State license within one year of such licenses being available. The adopted ordinance also requires a setback of 600 feet between cannabis retail businesses in order to avoid overconcentration.

On January 11, 2018, the Council’s Medical Cannabis Policy Subcommittee considered the issue and supported an approach that addresses cannabis retail applications in three phases – Pre-Application, Ranking & Selection, and Conditional Use Permit process. The next Subcommittee meeting is February 22, 2018. It is anticipated that at

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this meeting the Subcommittee will review the Department's proposed pre-application evaluation criteria and selection procedures in more detail.

ANALYSIS

Section 8 of the City Charter authorizes adoption of an urgency ordinance, to take effect immediately upon passage, when deemed necessary by the Council to preserve the public peace, health or safety. In addition, Government Code sections 36934 and 36937(b) allow the Council to adopt an ordinance to take effect immediately, if it is an ordinance for the immediate preservation of public peace, health or safety, and it contains a declaration of the facts constituting the urgency.

The adopted Comprehensive Cannabis Ordinance requires a commercial cannabis retail business to locate in one of seven eligible zoning districts, comply with a 600 foot setback to K-12 school, and to obtain a Conditional Use Permit approved by the Planning Commission. To avoid overconcentration, the ordinance requires a setback of 600 feet between cannabis retail businesses. Even with an overconcentration standard, a study of potential dispensary locations based on the above factors indicates that there are over 30 possible locations in the City (see attached map).

In anticipation of high demand by applicants for a cannabis retail use, an urgency ordinance is needed to authorize evaluation criteria and a pre-application process that allows the City to determine which application proceeds to the Conditional Use Permit process should an issue of overconcentration arise between multiple proposed cannabis retail businesses. While the adopted ordinance restricts against overconcentration, it does not provide a pre-application process to address and prioritize competing proposals within the same area. Preparing a conditional use permit application and holding property is expensive for applicants and time intensive for staff. Early analysis and selection would help reduce this impact, as those applicants not selected can redirect their interests and investments. Given that the effective date of the ordinance was January 19, 2018, the issue is need of imminent resolution.

The urgency ordinance as proposed would amend City Code Section 20-46.080(D)(1) to read 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."

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three phases – Pre-Application, Ranking & Selection, and the Conditional Use Permit process.

The purpose of the cannabis retail pre-application process would be to review the overall strengths of the prospective applicants in a fair and transparent manner and to increase the probability of having responsible and successful operators. Evaluation criteria would address, for example, compliance with state and local laws and regulations, neighborhood compatibility, neighborhood enhancement, and experience of operator.

The Pre-Application phase would consist of publishing completeness checklists and merit point based evaluation criteria for prospective cannabis retail applicants. The Ranking & Selection phase would kick off with a defined two-week pre-application proposal intake period. This phase would be followed by the Department's review of applications for completeness. Once applications are deemed complete, they would be forwarded to the Council's Cannabis Policy Subcommittee to evaluate and rank the competing proposals. Should the ranked application be within an area of potential overconcentration, then the Subcommittee would make a recommendation for selection to the City Council. The City Council would then act as the final review authority and would select which of the applicants move forward with the Conditional Use Permit process. Proposals reviewed by the Subcommittee that are not in areas of potential overconcentration would be allowed to proceed to the Conditional Use Permit phase.

While the need for a fair but expedited pre-application process is in short order, it is expected that after the initial rush of cannabis retail applicants subsides, that prospective retailers will be better able to self-select a site that avoids potential overconcentration. What is unique to the initial period of the ordinance's effective date is that multiple competing applications are expected to be submitted in relatively the same compressed time period.

FISCAL IMPACT

None.

ENVIRONMENTAL IMPACT

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.

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ATTACHMENTS

- Attachment 1 – City Council Ordinance No. ORD2017-025
- Attachment 2 – Potential Cannabis Dispensary Locations
- Ordinance 1 – Draft Ordinance

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