

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER 20-46, TITLED MEDICAL CANNABIS CULTIVATION, TO THE SANTA ROSA CITY CODE WHICH PERMITS COMMERCIAL CULTIVATION OF MEDICAL CANNABIS IN THE LIGHT INDUSTRIAL (IL), GENERAL INDUSTRIAL (IG), AND LIMITED LIGHT INDUSTRIAL (LIL) DISTRICTS WITH A CONDITIONAL USE PERMIT UNTIL SUCH TIME AS THE CITY COMPLETES ITS COMPREHENSIVE POLICY EFFORT TO REGULATE MEDICAL CANNABIS – FILE NUMBER REZ15-007

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

Section 1. The Council finds, based on evidence and records presented, that:

1. This Ordinance is necessary for the protection of the public health, welfare and general safety of the City for the following reasons:
 - a. The proposed Zoning Code Text Amendment to add Chapter 20-46 (Medical Cannabis Cultivation) to Title 20 (Zoning) is consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan in that adding Chapter 20-46 to the Santa Rosa City Code, as follows, exercises the land use powers of the City to protect the health, safety and welfare of the public which would be put at risk if commercial cultivation of cannabis for medical purposes is allowed to move forward in the City without local regulation; and;
 - b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that it will regulate medical cannabis cultivation as a land use, by allowing the use with a Conditional Use Permit in selected Zoning Districts until such time as a more comprehensive analysis and policy can be prepared; and;
 - c. The proposed amendment has been reviewed in compliance with the California Environmental Quality Act (CEQA) in that the activity is covered by the general rule that CEQA applies only the projects which have the potential for causing a significant effect on the environment. It has been determined with certainty that there is no possibility that the Zoning Code text amendment will have a significant effect on the environment and, therefore, is not subject to CEQA; and
 - d. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code, in that commercial cultivation of cannabis would be subject to specified zoning districts and to findings necessary to grant a conditional use permit; and

Section 2. Chapter 20-46, entitled, “Medical Cannabis Cultivation” is added to the City of Santa Rosa City Code to read as follows:

“CHAPTER 20-46

MEDICAL CANNABIS CULTIVATION

Sections:

- 20-46.010 Purpose.**
- 20-46.020 Applicability.**
- 20-46.030 Definitions.**
- 20-46.040 Commercial Cultivation of Medical Cannabis.**
- 20-46.050 Public Nuisance.**
- 20-46.060 Civil Penalties.**
- 20-46.070 Expiration of Chapter.**

20-46.010 Purpose.

The purpose of this Chapter is to retain local control over the commercial cultivation of cannabis, pending further legislative action by the state and a pending a comprehensive effort by the City to prepare local regulations.

20-46.020 Definitions.

For the purpose of this Chapter, the following words and phrases shall mean:

- A. “Cannabis” shall have the same meaning as set forth in subpart (f) of Business and Professional Code Section 19300.5, and as may be amended.
- B. “Marijuana” shall mean Cannabis.
- C. “Qualified Patient” shall have the same meaning as set forth in Health & Safety Code Section 11362.7, and as may be amended.
- D. “Primary Caregiver” shall have the same meaning as set forth in Health & Safety Code Section 11362.7, and as may be amended.
- E. “Commercial Cannabis Activity” shall have the same meaning as that set forth in subpart (k) of Business & Professional Code Section 19300.5, and as may be amended.
- F. “Commercial Cultivation of Medical Cannabis” shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Marijuana Regulation and Safety Act (MMRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

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20-46.030 Commercial Cultivation of Medical Cannabis.

- A. Commercial Cultivation of Medical Cannabis shall be allowed to occur with a Conditional Use Permit or Minor Use Permit, as set forth below, in the following Zoning Districts: Light Industrial (IL), General Industrial (IG), and Limited Light Industrial (LIL) Zoning Districts.
 - 1. Commercial cultivation operations up to 10,000 square feet in size shall be allowed with a Minor Use Permit. For the duration of this interim ordinance, all applications for a Minor Use Permit under this Section shall be referred to the Planning Commission for hearing and decision pursuant to Sections 20-50-020 A.1.
 - 2. Commercial cultivation operations over 10,000 square feet in size shall be allowed only with a Conditional Use Permit.
- B. No Conditional Use Permit or Minor Use Permit for commercial cultivation of medical cannabis shall be granted unless the review authority first makes all of the required findings set forth in Section 20-52.050 (Conditional Use Permits and Minor Conditional Use Permits).
- C. Cultivation of Medical Cannabis for non-commercial, personal purposes by a Qualified Patient or Primary Caregiver, subject to the limitation, and requirements of subsection (g) of Health & Safety Code, Section 11362.777, is not a prohibited use in any City land use district.
- D. Commercial Cultivation operators issued a Conditional Use Permit or Minor Use Permit pursuant to this interim ordinance shall be required to comply with such additional operational conditions or performance measures adopted by subsequent ordinance(s) of the City to comprehensively regulate medical cannabis.
- E. Commercial Cultivation operators shall also be required to obtain a state license and shall comply with any applicable state licensing requirements, such as operational standards and locational criteria.

20-46.040 Public Nuisance.

Any use or condition caused or permitted to exist in violation of any provision of this Chapter shall be and hereby is declared a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure, Section 731 or any other remedy available to the City.

20-46.050 Civil Penalties.

In addition to any other enforcement permitted by this Chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to the provisions of this Code against any person or entity that violates this Chapter.

20-46.060 Expiration of Chapter.

This Chapter shall expire of its own accord upon the completion and effective date of the City's comprehensive policy effort to regulate medical cannabis."

Section 3. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b) 3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 4. Severability. 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 5. Effective Date. This ordinance shall take effect on the 1st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on February 23, 2016.

IN COUNCIL DULY PASSED AND ADOPTED this ____ of _____, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney