

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

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

SUBJECT: URGENCY ORDINANCE TO IMPOSE A TEMPORARY
MORATORIUM ON THE ELIGIBILITY OF THE LIMITED LIGHT
INDUSTRIAL (-LIL) COMBINING DISTRICT FOR MEDICAL
CANNABIS COMMERCIAL CULTIVATION

AGENDA ACTION: ORDINANCE

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council (1) adopt an urgency ordinance to impose a temporary moratorium on the eligibility of the Limited Light Industrial (-LIL) Combining District for medical cannabis commercial cultivation, and (2) direct staff to return to the Council on July 11, 2017 to present, for Council's consideration, 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 moratorium on the eligibility of the LIL Combining District for medical cannabis commercial cultivation for an additional 10 months and 15 days to allow additional time for study and finalization of appropriate regulations.

EXECUTIVE SUMMARY

Over the past year, the Council's Cannabis Policy Subcommittee has been working with staff and with cannabis industry stakeholders to develop comprehensive policies to regulate medical cannabis businesses within the city limits. On May 25, 2017, the City Council Cannabis Policy Subcommittee directed staff to bring forward to the City Council an Urgency Ordinance to temporarily remove the Limited Light Industrial (-LIL) Combining District from the list of eligible districts for medical cannabis commercial cultivation, pending further study of the appropriateness of cannabis cultivation within that District.

Since the City's interim medical cannabis cultivation ordinance (City Code Chapter 20-46 Medical Cannabis Cultivation) went into effect in April 2016, the City has been accepting Conditional Use Permit applications for commercial

ADOPTION OF URGENCY ORDINANCE TO REMOVE LIL DISTRICT FOR MEDICAL CANNABIS COMMERCIAL CULTIVATION
PAGE 2 OF 5

medical cannabis cultivation in the Light Industrial (IL), General Industrial (IG) and LIL zoning districts. This has resulted in increased demand for properties in these zones. The current vacancy rate for industrial property is 5%, adding to the pressure on potential business operators to move quickly to purchase or lease facilities that comply with the City's Interim Cannabis Regulations.

In contrast to the two other eligible zoning districts, the LIL Combining District is an interim combining district that overlays an area identified and zoned for future high density transit oriented housing development. Concerns have been raised regarding the appropriateness of permitting cannabis cultivation in that Combining District. While the matter is further considered, the temporary suspension of the LIL zone from list of eligible districts for medical cannabis commercial cultivation will avoid unwarranted business expenditures and will provide timely, clear and direct guidance to those looking to purchase or lease property in this zone.

The proposed moratorium is an urgency ordinance under Government Code section 65858 that would go into effect immediately upon enactment and last for an initial period of 45 days. If, after the initial period of 45 days, additional time is necessary for the issue to be studied and regulations finalized, Council may adopt a subsequent urgency ordinance to maintain the moratorium in effect for up to an additional 10 months and 15 days. Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

BACKGROUND

Current state law and city ordinances permit cultivation of cannabis within certain regulatory limits:

On November 5, 1996, the California State voters passed Proposition 215, known as the "Compassionate Use Act," legalizing medical use of cannabis. Proposition 215 and subsequent implementing regulations allow patients, primary caregivers and non-profit collectives to possess and cultivate cannabis for personal medical use.

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. MCRSA requires both state and local licensing for commercial cultivation of cannabis for medical use.

On January 19, 2016, the Council initiated a comprehensive policy effort to regulate medical cannabis operations, and reconvened the Medical Cannabis Policy Subcommittee. This subcommittee meets monthly and continues to work towards creation of a new, comprehensive regulatory framework to address medical cannabis land use within the City, with a targeted completion date by the end of 2016. The Subcommittee's progress and meeting content can be tracked

ADOPTION OF URGENCY ORDINANCE TO REMOVE LIL DISTRICT FOR MEDICAL CANNABIS COMMERCIAL CULTIVATION
PAGE 3 OF 5

through the City's website (www.srcity.org/cannabis).

On February 23, 2016, the Council adopted an interim ordinance, which added Chapter 20-46, Medical Cannabis Cultivation, to the Zoning Code ("Code"), allowing commercial cultivation of medical cannabis with a Minor Use Permit or Conditional Use Permit, depending on the size of the proposed facility, in the Light Industrial (IL), General Industrial (IG) zoning districts, and the Limited Light Industrial (-LIL) combining zoning district (Code Section 20-46.030.A).

ANALYSIS

Section 8 of the City Charter authorizes adoption of an interim 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 section 65858 authorizes the Council to adopt, as an urgency measure, an interim ordinance to prohibit any uses that may be in conflict with a contemplated zoning proposal that is under consideration or study (such as the pending comprehensive cannabis policy), if the Council finds that there is a current and immediate threat to the public health, safety or welfare.

Since the City's interim medical cannabis cultivation ordinance (City Code Chapter 20-46 Medical Cannabis Cultivation) went into effect in April 2016, the City has been accepting Conditional Use Permit applications for commercial medical cannabis cultivation in the Light Industrial (IL), General Industrial (IG) and LIL zoning districts. This has resulted in increased demand for properties in these zones. The current vacancy rate for industrial property is 5%, adding to the pressure on potential business operators to move quickly to purchase or lease facilities that comply with the City's Interim Cannabis Regulations. These expenditures can be substantial and individuals and businesses could be placed at significant financial risk should there be a future change in the zoning districts eligible for cannabis cultivation.

In light of the community's significant concerns about the potential adverse land use compatibility of a cultivation use in this area identified and zoned for future high density transit oriented housing development, in light of the fact that the LIL Combining District was adopted as an interim combining district that was intended to support existing industrial uses until the area is ready to convert, in light of the fact that the City Code Chapter 20-46, Medical Cannabis Cultivation is an interim ordinance that allows medical cannabis commercial cultivation with a conditional use permit, and in light of the fact that a comprehensive medical cannabis policy is currently underway, the Medical Cannabis Policy Subcommittee is recommending the Council enact a temporary moratorium to remove the Limited Light Industrial (-LIL) Combining District from the list of eligible districts for medical cannabis commercial cultivation, pending further study of the appropriateness of cannabis

ADOPTION OF URGENCY ORDINANCE TO REMOVE LIL DISTRICT FOR MEDICAL
CANNABIS COMMERCIAL CULTIVATION
PAGE 4 OF 5

cultivation within that District, to allow staff and decision-makers time to complete the study and finalization of appropriate regulation of commercial cannabis cultivation.

We are nearing the completion of the comprehensive ordinance process and without such a moratorium in place, unwarranted financial investments could be made by individuals and businesses, staff time and resources could be taken in review of ineligible applications, and to the extent that permits might be issued, medical cannabis cultivation could occur in the LIL District that might soon conflict with adopted land use regulations, anticipated to be considered by the Council within the next several months. If the City Council is to adopt a moratorium, it is advisable to have such in place as soon as possible to avoid further cannabis investments or filing of cultivation use permit applications in the LIL Combining District.

In addition, if the Council adopts the proposed temporary moratorium, Government Code section 65858 requires that the Council issue a written report, at least ten days prior to the expiration of that moratorium, describing the measures taken to alleviate the condition which led to the adoption of the urgency ordinance. Section 65858 allows the Council, after public notice, to extend the temporary moratorium for an additional 10 months and 15 days, if needed.

The Department of Planning and Economic Development thus recommends that Council direct staff to return to the Council on July 11, 2017 to present, for Council's consideration, 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 consider whether to extend the temporary removal of the LIL Combining District as an eligible district for medical cannabis commercial cultivation for an additional 10 months and 15 days to allow additional time for study and finalization of appropriate regulations.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

The Council's Cannabis Policy Subcommittee has held sixteen public meetings over the last year to provide input regarding shifting regulations, statewide legalization, drafting ordinances, interim policies and taxation approaches and rates. The Subcommittee has reviewed and provided direction to staff regarding the preparation of key components of the draft comprehensive ordinance, and direction was provided to remove the LIL Combining District from the eligible district list for medical cannabis commercial cultivation. The draft ordinance is still in development but is expected to be published for public review and comment by July. The ordinance is expected to be in effect by the end of 2016, following public hearings with the Planning Commission and the City Council.

ADOPTION OF URGENCY ORDINANCE TO REMOVE LIL DISTRICT FOR MEDICAL
CANNABIS COMMERCIAL CULTIVATION
PAGE 5 OF 5

In the meantime, on May 25, 2017, the Subcommittee directed staff to bring forward to the City Council an Urgency Ordinance to temporarily remove the Limited Light Industrial (-LIL) Combining District from the list of eligible districts for medical cannabis commercial cultivation, pending further study of the appropriateness of cannabis cultivation within that District.

FISCAL IMPACT

All costs that the City will incur in connection with adopting, implementing and enforcing regulations for the cannabis industry in Santa Rosa, will be funded by the General Fund. On March 7, 2017, the City Council approved a ballot measure for June 6, 2017 to generate revenue to support these ongoing costs which are anticipated to be at least \$1,000,000 annually. The ballot measure was approved by voters, and therefore will provide resources to the General Fund to cover these additional costs.

ENVIRONMENTAL IMPACT

Adoption of this urgency ordinance is not a project under the California Environmental Quality Act, title 14, section 15078 (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.

ATTACHMENTS

- Ordinance

CONTACT

Clare Hartman, Deputy Director – Planning
Planning & Economic Development Department
chartman@srcity.org (707) 543-3185