

ORDINANCE NO. ORD-2017-009

AN URGENCY AND INTERIM ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA IMPOSING A FORTY-FIVE (45) DAY MORATORIUM ON THE ELIGIBILITY OF THE LIMITED LIGHT INDUSTRIAL (-LIL) COMBINING DISTRICT FOR MEDICAL CANNABIS COMMERCIAL CULTIVATION 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 cultivation of medical cannabis for commercial purposes; and

WHEREAS, on January 19, 2016, the Council initiated a comprehensive policy effort to regulate medical cannabis operations including cultivation, and reconvened the Medical Cannabis Policy Subcommittee; and

WHEREAS, on February 23, 2016, the Council adopted an interim ordinance, which added Chapter 20-46, Medical Cannabis Cultivation, to the Zoning 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); and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, the City is nearing the completion of the comprehensive ordinance process and without such an urgency ordinance and moratorium in place, medical cannabis cultivation or applications and investments thereof could occur in the LIL District which could soon be in conflict with adopted land use regulations, as anticipated to be considered by the Council within the next several months; and

WHEREAS, the public health, safety and welfare is not adequately protected at this time against the adverse impacts of medical cannabis cultivation in the LIL Combining District 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 use should be permitted within the LIL Combining District and, if so permitted, to consider appropriate regulations to protect residents and businesses as that District evolves toward high density transit-oriented housing development; 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 allow medical cannabis commercial cultivation in the LIL District; and if permitted, what regulations should be adopted to protect residents and businesses from any adverse impacts resulting therefrom in this District, and to bring forward such recommendations within a reasonable period of time to the Planning Commission and the City Council; and

WHEREAS, the City Council finds and determines that, without a moratorium on the allowance of medical cannabis commercial cultivation in the LIL District, the public peace, health, safety and welfare will be threatened because (a) the LIL Combining District was adopted only as an interim combining district that was intended to support existing industrial uses until the area is ready to convert to high density transit-oriented housing, (b) the City Code Chapter 20-46, Medical Cannabis Cultivation was adopted as an interim ordinance until such time as a comprehensive review could be conducted, (c) the community has identified significant concerns about the potential adverse compatibility of a cultivation use in this area specifically identified

and zoned for high density transit oriented housing development, (d) a comprehensive medical cannabis policy is currently underway, (e) the current allowance of cannabis cultivation in the LIL District conflicts with a draft zoning proposal that is currently being studied which, if ultimately adopted, may prohibit the use entirely in the District, and (f) in light of the increase in demand for industrial properties eligible for commercial cannabis cultivation and the current vacancy rate for industrial property of 5%, individuals and businesses may undertake unwarranted financial investments in properties and projects, placing them at financial risk; and (g) staff time and resources may be taken in review of ultimately ineligible applications, and to the extent that permits might be issued, medical cannabis cultivation could occur in the LIL District in a manner that might soon conflict with adopted land use regulations; 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 June 13, 2017 City Council meeting, the City Council has been provided with 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 cultivation of cannabis, whether for personal use or commercial purposes, is prohibited within the Limited Light Industrial (LIL) Combining District 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.

IN COUNCIL DULY PASSED this 13th day of June, 2017.

AYES: (7) Mayor Coursey, Vice Mayor Tibbetts, Council Members Combs, Olivares,
Rogers, Sawyer, Schwedhelm

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney