

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

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RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council adopt an urgency ordinance to extend a temporary moratorium on the eligibility of the Limited Light Industrial (-LIL) Combining District for medical cannabis commercial cultivation to allow additional time for development of appropriate regulations.

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EXECUTIVE SUMMARY

On June 13, 2017, the City Council approved a temporary ordinance establishing a moratorium on the eligibility of the Limited Light Industrial (-LIL) Combining District for medical cannabis commercial cultivation. The temporary moratorium was an urgency ordinance under Government Code section 65858 that went into effect immediately and is effective for a period of 45 days. The 45-day period is set to end on July 28, 2017.

Absent the moratorium, the City's existing interim cannabis regulations would allow issuance of permits for medical cannabis commercial cultivation in the LIL Combining District. Staff has finalized a new draft comprehensive cannabis ordinance, which was published for public comment on June 30, 2017. The draft ordinance proposes to prohibit medical cannabis commercial cultivation in the LIL Combining District. The draft ordinance and feedback received by the public will be presented to the Medical Cannabis Policy Subcommittee in July. Following a review with the Subcommittee, the draft will then go through public hearings before the Planning Commission and the City Council in late 2017.

To best protect the public peace, health and safety while the City completes the evaluation and public processing of the draft comprehensive ordinance, Department of

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Planning and Economic Development recommends that the Council extend the temporary moratorium on the eligibility of the Limited Light Industrial (-LIL) Combining District for medical cannabis commercial cultivation. Due to expiration of the moratorium on July 28, 2017, additional time is needed to complete the public process of reviewing the comprehensive policy and finalizing the regulations.

Under Government Code section 65858, Council may adopt a subsequent ordinance to extend the temporary moratorium for up to an additional 10 months and 15 days allowing time to complete the process. Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

### BACKGROUND

Current state law and city ordinances permit the commercial 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 through the City's website ([www.srcity.org/cannabis](http://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).

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

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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.

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.

### 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.

On June 13, 2017, the City Council approved a temporary ordinance establishing a moratorium on the eligibility of the Limited Light Industrial (-LIL) Combining District for medical cannabis commercial cultivation. The temporary moratorium was an urgency ordinance under Government Code section 65858 that went into effect immediately and is effective for a period of 45 days. The 45-day period is set to end on July 28, 2017.

Government Code section 65858 requires that the Council issue a written report, at least ten days prior to the expiration of the moratorium, describing the measures taken to alleviate the condition which led to the adoption of the urgency ordinance.

During the last 45 days, staff has been finalizing the draft comprehensive cannabis ordinance, which is expected to be presented to the Medical Cannabis Policy Subcommittee later this month. Following a review with the Subcommittee, the draft will go through public hearings before the Planning Commission and ultimately the City Council in late 2017.

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 extend the temporary moratorium to allow additional time for study, public review and finalization of appropriate regulations.

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It is important to note that the proposed moratorium will only affect the eligibility of commercial cultivation of medical cannabis in the LIL Combining District. The proposed moratorium will not affect current state and local allowances for commercial cultivation of medical cannabis in the IL and IG Districts.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATION

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 was published for public review and comment on June 30. The ordinance is expected to be in effect by the end of 2016, following public hearings with the Planning Commission and the City Council. 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](mailto:chartman@srcity.org) (707) 543-3185