

ORDINANCE NO. ORD-2017-013

AN URGENCY AND INTERIM ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA IMPOSING A TEMPORARY 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, on June 13, 2017, the City Council approved a temporary ordinance establishing a 45-day moratorium on the eligibility of the Limited Light Industrial (-LIL) Combining District for medical cannabis commercial cultivation; and

WHEREAS, the City Council now desires to extend that moratorium for an additional period of ten (10) months and fifteen (15) 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 personal use or 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, the City is nearing the completion of the comprehensive ordinance process and without a continuation of the moratorium on medical cannabis cultivation in the Limited Light Industrial (-LIL) Combining District, 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 at all and, if so permitted, to consider regulations to protect residents and businesses; 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 within a reasonable period of time to the Planning Commission and the City Council such recommendations; 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 immediately threatened because (a) 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, (b) 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 housing, (c) 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, (d) a

comprehensive medical cannabis policy is currently underway, (e) the use of property in the LIL District for cannabis cultivation conflicts with a draft zoning proposal that is currently being studied which, if ultimately adopted, may prohibit the use entirely in the District, and (d) the increase in demand for industrial properties has reached a current vacancy rate for industrial property at 5%; 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, 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; and

WHEREAS, by the agenda report, testimony and documentary evidence presented at the June 13, 2017 and July 11, 2017 City Council meetings, 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 ten (10) months and fifteen (15) days, unless extended, the Limited Light Industrial (-LIL) Combining District is no longer an eligible district for the commercial cultivation of medical cannabis within the City of Santa Rosa. The City shall not accept applications for use permits for commercial cultivation of medical cannabis within the Limited Light Industrial (-LIL) Combining District during that time.

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.

This ordinance was introduced by the Council of the City of Santa Rosa on July 11, 2017.

IN COUNCIL DULY PASSED this 11th day of July, 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