

Meeting Date: 2/2/2016

Report Type: Public Hearing

Report ID: 2016-00187

Title: Ordinance Amending Title 17 of the Sacramento City Code Relating to Cannabis Cultivation (Noticed 01/15/2016; Passed for Publication 01/19/2016; Published 01/22/2016) [Four-Fifths Vote Required] {Continued from 01/26/2016}

Location: Citywide

Recommendation: Conduct a public hearing and upon conclusion, 1) pass an Ordinance amending various sections in title 17 of the Sacramento City Code relating to cannabis cultivation; and 2) pass an Ordinance imposing a 45-day moratorium on cannabis cultivation.

Contact: Ryan DeVore, (916) 808-8860, Director of Community Development; Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance

Presenter: Ryan DeVore, (916) 808-8860, Director of Community Development; Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance

Department: Community Development Dept / Department of Finance

Division: Zoning

Dept ID: 21001224

Attachments:

- 1-Description/Analysis
- 2-League of California Cities Webinar
- 3-Cannabis Cultivation Zoning Ordinance - Emergency (Redline)
- 4-Cannabis Cultivation Zoning Ordinance - Emergency (Clean)
- 5-Interim Ordinance - Urgency
- 6-Cannabis Cultivation Land Use Options

City Attorney Review

Approved as to Form
Steve Itagaki
1/28/2016 10:50:27 AM

Approvals/Acknowledgements

Department Director or Designee: Ryan Devore - 1/28/2016 8:26:53 AM

Description/Analysis

Issue Detail: On January 26, 2016 City Council continued Council Agenda Item 14 addressing the dispensary operating issues and location/land use regulation of medical marijuana businesses for one week. For clarification, the issues to be addressed have been split into two reports. This report addresses marijuana cultivation land use issues. In light of the continuance of this matter and the impending State legislative deadlines, the ordinances recommended in this report have also been modified to be urgency measures.

Cultivation and New State Regulations: On October 11, 2015, Governor Brown signed three bills into law that affect medical marijuana regulations: AB 243, AB 266, and SB 643. These bills put state regulations into place relative to various aspects of the medical marijuana industry while, at the same time, protecting local government's regulatory authority. Due to the State's new legal requirements, the City needs to determine whether or not it will choose to regulate more aspects of the industry, ban aspects of the industry within the City limits, or allow the State to regulate.

As a result of the new legislation the City will have to determine if it will choose to regulate the following activities in addition to our current regulations for dispensaries:

- Cultivation – the growing of marijuana
- Manufacturing – creating products from marijuana
- Testing – labs to test for concentration levels and contaminants
- Delivery – delivery from dispensary to patients
- Transporter – transportation between businesses
- Distribution – wholesale distribution of marijuana and products

The League of California Cities analyzed these new state laws and developed an informational webinar titled Medical Marijuana Regulation and Safety Act. The webinar document provides an excellent summary of the bills and is included as Attachment 2. Staff is gathering information to make recommendations on licensing these different types of medical marijuana business. Further research and analysis as well as stakeholder outreach is necessary to help determine what is best for Sacramento.

The issue of immediate concern involves the cultivation of marijuana. The new State legislation (AB 243) requires the City to have land use regulations for the cultivation of marijuana (or its prohibition) by March 1, 2016, or else the State becomes the sole licensing authority for cultivation in the City. Currently, the Sacramento City Code only expressly regulates marijuana cultivation in residential zones. At this time, cultivation is only permitted in residential zones if it is indoors and for personal use.

The March 1, 2016, deadline for local governments to retain local control on cultivation licensing is inconsistent with the rest of the new laws that embrace local control and dual licensing. The bill's author is taking action to correct this issue with AB 21. The bill has passed through both houses of the legislature and now sits on the Governor's desk. At the time of the writing of this report, he has not yet signed it into law.

The League of California Cities has changed its initial recommendation that cities adopt specific land use regulations by the deadline, and now recommends adopting a cultivation ban by the deadline and then modifying it later to allow more time to vet the issue while retaining local control.

Policy Considerations:

Marijuana Cultivation: In order to satisfy State law requirements and to preserve the City's authority to regulate the cultivation of marijuana, staff believes that land use regulations must be adopted by February 28, 2016.

Currently cultivation is only expressly permitted in residential zones in the City if it is indoors and for personal use (Title 8.132). The attached ordinance proposes regulations for the cultivation of cannabis in agricultural and certain commercial and industrial zones. Currently plant nurseries are permitted by right in agricultural, commercial and industrial zones and staff looked at these zones as potentially appropriate locations for the cultivation of cannabis with additional restrictions due to the sensitive nature of the crop.

The ordinance defines cannabis cultivation as any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Under the proposed ordinance the growing of cannabis will be a permitted use in the agricultural (A), heavy commercial (C-4), and light and heavy industrial (M-1, M-1S, M-2, M-2S) zones with the following provisions:

- The cultivation site must not be located within a 600 foot radius of a school or a park;
- Cultivation must be within a fully enclosed building and must not be visible from the public right-of-way;
- The total canopy size of cannabis growing on a single parcel must not exceed 22,000 square feet (the maximum size of a canopy/cultivation area outlined in AB 243);
- Cannabis cultivation must comply with all applicable state and local laws.

In addition, cannabis cultivation is recommended to be permitted in the general commercial (C-2) zone with a Zoning Administrator conditional use permit (CUP) approval and adherence to the above requirements. Staff believes that a conditional use permit is appropriate in general commercial areas as cannabis cultivation might not always result in an appropriate mix of uses in certain commercial corridors.

The City realizes that despite these land use regulations, cannabis cultivation uses may still potentially impact the health, safety, and welfare of the public in the surrounding areas with an increase in crime and other nuisance activity. The City Council is currently considering and studying a proposal that would impose significant additional regulations to reduce that impact. The proposals include the establishment of a cannabis cultivation business permit, as well as the adoption of registration, security, building, signage, and other operational requirements. However, if the above-referenced ordinance is adopted, the City anticipates that people will want to immediately engage in that use.

As a result, staff also recommends that the City Council adopt a second ordinance that temporarily prohibits the cannabis cultivation use (except in accordance with existing residential zone regulations), until the City Council's consideration of the proposal for additional regulations in other areas and stakeholder outreach can be completed. The adoption of this interim ordinance requires a four-fifths vote of the City Council.

Section 65858 of the California Government Code limits the effectiveness of the interim ordinance to 45 days. However, the City Council may subsequently extend the ordinance for 22 months and 15 days if necessary.

Economic Impacts: None.

Environmental Considerations: This action is not a project subject to CEQA because it involves only general policy and procedure making and does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines, §15061(b)(3).)

Sustainability: Not applicable.

Commission/Committee Action: The Law and Legislation Committee has conducted two meetings on marijuana cultivation and the Planning and Design Commission conducted one:

- November 10, 2015 – Committee directed staff to return to the Committee in December with recommendations for cultivation regulations.
- December 8, 2015 – Committee forwarded cultivation regulations to the Commission and City Council.

On January 14, 2016, the Commission reviewed the proposed ordinance. The Commission, by a vote of nine ayes, one no, and three absent, voted to recommend approval of the proposed ordinance subject to the following items:

- The Commission recommends that 17.228.127A be deleted, which allows cannabis cultivation in the C-2 zone with a zoning administrator's conditional use permit. Citing public safety, the Commission indicated that a CUP requires public notice which would bring a cultivation site to the attention of others, and that it is a safety concern to have a

cultivation site in a zone which allows so many sensitive uses such as religious facilities, residences, and youth oriented facilities.

- To assist the City Council in determining the appropriate distance that a cultivation site should be from a park or a school, the Commission recommended that the Council have a map that shows a 600 foot radius from parks and schools and a 1,000 foot radius from parks and schools. Maps have been prepared and are attached to this report.

Rationale for Recommendation: Marijuana cultivation, if approved by the Council, should operate in locations as established in City Code. It is also important to maintain consistency with California law while retaining our local regulation of medical marijuana businesses. The City must also determine whether or not it will choose to regulate or ban additional activities now legal under state law or allow the state legislature to regulate those aspects of the industry.

Financial Considerations: The City collects four percent Business Operations Tax on marijuana related businesses. Should the City decide to regulate more aspects of the medical marijuana businesses, then appropriate fees will be established to cover the City's costs. The additional Business Operations Tax on cultivation operations is estimated at \$1 million.

Local Business Enterprise (LBE): Not applicable.

Informational Webinar:

Medical Marijuana Regulation and Safety Act

- This is the first of at least two webinars designed to educate our members on the three bills comprising the Medical Marijuana Regulation and Safety Act (MMRSA). Its goals are to:
 - Explain how this legislation protects local control;
 - Review the details of what each bill does;
 - Highlight specific regulatory issues that require immediate attention from local governments;
 - Discuss timelines for implementation
 - Field your questions

Note: Some of the provisions of the new laws discussed in this webinar are not included in the Medical Marijuana Regulation and Safety Act.

Medical Marijuana Regulation and Safety Act

- Presenters:
 - Tim Cromartie, Legislative Representative, League of California Cities
 - Lauren Michaels, Legislative Affairs Manager, California Police Chiefs Association
 - Steve McEwen, Attorney at Law; Partner with Burke, Williams & Sorensen, LLP

Medical Marijuana Regulation and Safety Act

● Medical Marijuana: Schedule of Events

● Webinar Dates:

- Tuesday, October 20
- Thursday, November 12

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● Informational Briefings

- San Leandro - Monday, November 9
- Eureka – Monday, November 16
- Sacramento – Wednesday, January 13
- Pasadena – Thursday, January 14
- Riverside - Friday, January 15
- Fresno - Monday, January 25
- San Luis Obispo - Thursday, January 28
- San Diego - Tuesday, February 9

Medical Marijuana Regulation and Safety Act

- The Medical Marijuana Regulation and Safety Act consists of three discrete pieces of legislation:
- **AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood)** – Establishes dual licensing structure requiring state license *and* a local license or permit. Department of Consumer Affairs heads overall regulatory structure imposing health and safety and testing standards.
- **AB 243 (Wood)**– Establishes a regulatory and licensing structure for cultivation sites under the Department of Food and Agriculture.
- **SB 643 (McGuire)** - Establishes criteria for licensing of medical marijuana businesses, regulates physicians, and recognizes local authority to levy taxes and fees.

Medical Marijuana Regulation and Safety Act

- This legislation protects local control in the following ways:
- **Dual licensing**: A requirement in statute that all marijuana businesses must have **both** a state license, and a local license or permit, to operate legally in California. Jurisdictions that regulate or ban medical marijuana will be able to retain their regulations or ban.
- **Effect of Local Revocation of a Permit or License**: Revocation of a local license or permit terminates the ability of a marijuana business to operate in that jurisdiction under its state license.
- **Enforcement**: Local governments may enforce state law in addition to local ordinances, if they request that authority and if it is granted by the relevant state agency.
- **State law penalties for unauthorized activity**: Provides for civil penalties for unlicensed activity, and applicable criminal penalties under existing law will continue to apply.
- Expressly protects local licensing practices, zoning ordinances, and local actions taken under the constitutional police power.

Key State Medical Marijuana Laws Following AB 243, AB 266, and SB 643

- Medical Marijuana Regulation and Safety Act (Business and Profession Code section 19300 through 19360). Governs the licensing and control of all medical marijuana businesses in the state and provides criminal immunity for licensees.
- Compassionate Use Act of 1996 (Health and Safety Code section 11362.5). Provides criminal immunity for patients and primary caregivers for possession and cultivation of marijuana if a doctor has recommended the marijuana for medical use.
- Medical Marijuana Program (Health and Safety Code section 11362.7 through 11362.9). Establishes voluntary program for identification cards for qualified patients and primary caregivers and provides criminal immunity to qualified patients and primary caregivers for certain activities involving medical marijuana.

Medical Marijuana Regulation and Safety Act

Two areas will require immediate attention from local governments:

- **Deliveries and mobile dispensaries:** Jurisdictions that currently ban, or that may wish to ban, deliveries or mobile dispensaries should be aware that under AB 266, they will need to have an ordinance in place that affirmatively identifies and prohibits this activity.
- **Cultivation ordinances:** AB 243 contains a provision stating that cities that do not have an ordinance regulating or prohibiting cultivation by March 1, 2016 will lose the authority to regulate or ban cultivation within their city limits. The state will become the sole licensing authority. The author has agreed to fix this via clean-up legislation, but to be safe, cities are advised to enact emergency ordinances by the end of February to protect themselves.

Medical Marijuana Regulation and Safety Act

- **AB 266 Medical Marijuana – what the bill does:**
 - Establishes a statewide regulatory scheme with the Bureau of Medical Marijuana Regulation (BMMR) within the Department of Consumer Affairs (DCA) at its head.
 - Provides for dual licensing: both a state license, and a local permit or license, *issued according to local ordinances*, are required.
 - Caps total cultivation for a single licensee at 4 acres statewide, subject to local ordinances.
 - Creates four licensing categories: Dispensary, Distributor, Transport, and Special Dispensary Status for licensees who have a maximum of three dispensaries. Specifies various sub-categories of licensees (indoor cultivation, outdoor cultivation, etc.)
 - Limits cross-licensing: Operators may hold one state license in up to two separate license categories. Prohibits medical marijuana licensees from also holding licenses to sell alcohol.

Medical Marijuana Regulation and Safety Act

- **AB 266 Medical Marijuana – what the bill does:**
- Grandfathers in vertically integrated businesses (i.e. businesses that operate and control their own cultivation, manufacturing, and dispensing operations) if a local ordinance allowed or required such a business model and it was enacted on or before July 1, 2015. Requires businesses to operate in compliance with local ordinances, and to have been engaged in all the specified activities on July 1, 2015.
- Requires establishment of uniform state minimum health and safety standards, testing standards, and security requirements at dispensaries and during transport of the product. Product testing is mandatory.
- Specifies a standard for certification of testing labs, and specified minimum testing requirements. Prohibits testing lab operators from being licensees in any other category, and from holding a financial or ownership interest in any other category of licensed business.

Medical Marijuana Regulation and Safety Act

- **AB 266 Medical Marijuana – what the bill does:**
 - Labor Peace: Includes a labor peace agreement under which unions agree not to engage in strikes, work stoppages, etc. and employers agree to provide unions reasonable access to employees for the purpose of organizing them. Specifies that such an agreement does not mandate a particular method of election.
 - Specifies that patients and primary caregivers are exempt from the state licensing requirement, and provides that their information is not to be disclosed and is confidential under the California Public Records Act.
 - Phases out the existing model of marijuana cooperatives and collectives one year after DCA announces that state licensing has begun.

Medical Marijuana Regulation and Safety Act

- **AB 243 Medical Marijuana – what the bill does:**
- Places the Dept. of Food and Agriculture (DFA) in charge of licensing and regulation of indoor and outdoor cultivation sites.
- Mandates the Dept. of Pesticide Regulation (DPR) to develop standards for pesticides in marijuana cultivation, and maximum tolerances for pesticides and other foreign object residue.
- Mandates the Dept. of Public Health to develop standards for production and labelling of all edible medical cannabis products.
- Assign joint responsibility to DFA, Dept. of Fish and Wildlife, and the State Water Resources Control Board (SWRCB) to prevent illegal water diversion associated with marijuana cultivation from adversely affecting California fish population.

Medical Marijuana Regulation and Safety Act

- **AB 243 Medical Marijuana – what the bill does:**
- Specifies that DPR, in consultation with SWRCB, is to develop regulations for application of pesticides in all cultivation.
- Specifies various types of cultivation licenses.
- Directs the multi-agency task force headed by the Dept. of Fish and Wildlife and the SWRCB to expand its existing enforcement efforts to a statewide level to reduce adverse impacts of marijuana cultivation, including environmental impacts such as illegal discharge into waterways and poisoning of marine life and habitats.

Medical Marijuana Regulation and Safety Act

- **SB 643 Medical Marijuana – what the bill does:**
- Directs California Medical Board to prioritize investigation of excessive recommendations by physicians;
- Imposes fines (\$5000.00) vs. physicians for violating prohibition against having a financial interest in a marijuana business;
- Recommendation for cannabis without a prior examination constitutes unprofessional conduct;
- Imposes restrictions on advertising for physician recommendations;

Medical Marijuana Regulation and Safety Act

- **SB 643 Medical Marijuana – what the bill does:**
- Places Dept. of Food and Agriculture in charge of cultivation regulations and licensing, and requires a track and trace program;
- Codifies dual licensing (state license and local license or permit), and itemizes disqualifying felonies for state licensure;
- Places DPR in charge of pesticide regulation; DPH in charge of production and labelling of edibles;
- Upholds local power to levy fees and taxes.

Medical Marijuana Regulation and Safety Act

- **Delivery of Medical Marijuana (AB 266)**
- “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health & Safety Code, or a testing laboratory.
- “Delivery” also includes the use by a dispensary or any technology platform owned and controlled by the dispensary or independently licensed under this chapter that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products. (Business & Professions Code 19300.5(m))

Medical Marijuana Regulation and Safety Act

- **Delivery of Medical Marijuana (AB 266)**
- *“Deliveries” can only be made by a dispensary and in a city, county, or city and county that does not **explicitly prohibit** it by local ordinance. Business & Professions Code 19340(a). See also Section 19340(b)(1).*
- Therefore, if your city wishes to prohibit delivery of medical marijuana within your city, an ordinance must be adopted to explicitly prohibit deliveries.
- Timing: State licenses are expected to be issued starting January 1, 2018. A facility or entity that is operating in compliance with local zoning ordinances and other state and local requirements may continue its operations until its application for licensure is approved or denied effective January 1, 2018 (Business & Professions 19321(c)).
- Ordinance explicitly prohibiting deliveries should include (1) an amendment to the zoning code prohibiting “delivery” (as defined in AB 266) in any zoning district; or (2) an amendment to the Municipal Code relating to business operations prohibiting “delivery” of ‘medical marijuana’ and “medical cannabis products” (as defined in AB 266) as a business within the city.

Medical Marijuana Regulation and Safety Act

● Cultivation (AB 243)

- AB 243 (Wood) prohibits cultivation of medical marijuana without first obtaining both a local license/permit/other entitlement for use and a state license. A person may not apply for a state license without first receiving a local license/permit/other entitlement for use.
- A person may not submit an application for a state license if proposed cultivation will violate provisions of local ordinance or regulation or if medical marijuana is prohibited by city, county, or city and county either expressly or otherwise under principles of permissive zoning (Health & Safety 11372.777(b)).

Medical Marijuana Regulation and Safety Act

- **Cultivation (AB 243)**

- **However...**If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, *either expressly or otherwise under the principles or permissive zoning*, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the state is the sole licensing authority for medical marijuana cultivation applicants (Health & Safety 11372.777(c)(4)).
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- Under a “permissive” zoning code, “any use not enumerated in the code is presumptively prohibited.” *City of Corona v. Naulis* (2008) 166 Cal.App.4th 418, 425 cited in *County of Sonoma v. Superior Court* (2010) 190 Cal.App.4th 1312, FN. 3

Medical Marijuana Regulation and Safety Act

- **Cultivation (AB 243) – Examples:**
- City #1: Municipal Code that expressly prohibits cultivation of marijuana or expressly prohibits medical marijuana: No need to take any action.
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- City #2: Municipal Code that expressly regulates (requires a permit or license or other entitlement) to cultivate medical marijuana: No need to take any action.
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- City #3: Municipal Code that does not expressly prohibit nor expressly regulates (requires a permit or license or other entitlement) to cultivate medical marijuana and is not a “permissive zoning” code. ***Need to take action (see next slide)***
- City #4: Municipal Code that is a “permissive zoning” code and does not enumerate cultivation of medical marijuana as a permitted or conditional use: **Need to take action (see next slide).**

Medical Marijuana Regulation and Safety Act

- **Cultivation (AB 243) – Examples:**
- **City #3 : What needs to be done before March 1, 2016?**
- **City #3:** The Department of Food and Agriculture will be the sole licensing authority for the cultivation of medical marijuana within City #3 *if City #3 does not have an ordinance either expressly prohibiting or expressly regulating the cultivation of medical marijuana before March 1, 2016.* (Health & Safety Code 11362.777(c)(4). Second reading of an ordinance must occur by January 29, 2016 or a city may consider adopting an urgency ordinance pursuant to Government Code 36937).

Medical Marijuana Regulation and Safety Act

- **Cultivation (AB 243) – Examples:**
- **City #4 : What needs to be done before March 1, 2016?**
- **City #4:** If City #4 prohibits the cultivation of medical marijuana “under principles of permissive zoning,” then the Department of Food and Agriculture may not issue a state license to cultivate medical marijuana within City #4. (Health & Safety Code 11362.777(b)(3)).

Medical Marijuana Regulation and Safety Act

- **Cultivation - General Guidelines for Cities**
- Check and confirm that your city's zoning code is adopted and implemented under the principles of permissive zoning. If not, take action recommended for City #3.
- If confirmed that your city's zoning code is adopted and implemented under the principles of permissive zoning: Adopt a resolution that includes the following provisions:
 - (1) States that H & S 11362.777(b)(3) states that Department of Food and Agriculture may not issue a state license to cultivate medical marijuana within a city that prohibits cultivation under principles of permissive zoning;
 - (2) Re-affirms and confirms that the Zoning Code is adopted and operates under the principles of permissive zoning;
 - (3) States this means that cultivation of marijuana is not allowed within City #4 because it is not expressly permitted and,
 - (4) Therefore, the State is not allowed to issue a license for the cultivation of medical marijuana within City #4.

Medical Marijuana Regulation and Safety Act

- Timeline for Implementation
 - None of the bills specify a timeline for implementation
 - This is partly due to various departments being at different stages in terms of their readiness
 - The rough timeline we have been given for state licensing to begin is January 2018
 - The more immediate timeline for locals to bear in mind is March 2016 regarding your cultivation ordinances

Medical Marijuana Regulation and Safety Act

- Questions?

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 17 OF THE SACRAMENTO CITY CODE RELATING TO CANNABIS CULTIVATION AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

A. On January 1, 2016, three state bills that established the state Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643) went into effect. The Act provides that if by March 1, 2016 a city does not regulate or prohibit the cultivation of marijuana, the State will be the sole licensing authority for medical marijuana cultivation applicants in the city.

B. Currently, the City of Sacramento regulates the cultivation of medical marijuana in residential zones and on premises used for residential purposes in chapter 8.132 of the Sacramento City Code.

C. It is the purpose and intent of the city council to further satisfy the Medical Marijuana Regulation and Safety Act requirement by enacting land use regulations for the cultivation of cannabis, which includes marijuana, in agricultural, industrial, and general commercial zones in the city.

D. In addition to the provisions of this ordinance, the cultivation of cannabis must comply with all other applicable regulations, including state law and other provisions of the Sacramento City Code. It is neither the purpose nor intent of this ordinance to condone or legitimize the illegal use or consumption of cannabis under federal, state, or local law.

E. Because of the unusually short timeframe afforded by the State under the Act, and the Act's drastic consequences upon the City's ability to fully exercise its normal police powers, the City Council was not afforded the reasonable and necessary time to adequately investigate and discuss whether this policy was appropriate for the City of Sacramento and to approve it as a non-emergency ordinance that takes effect before the March 1, 2016 deadline. Cannabis cultivation uses of land have the potential to have a significant impact on the public health, safety, and welfare in the surrounding areas and

the regulation of those uses should be thoughtfully reviewed and considered.

F. Consequently, this ordinance is enacted as an emergency measure, pursuant to subsection (g) of section 32 of the City of Sacramento Charter, to protect the public health, safety and welfare, and to meet the March 1, 2016 deadline imposed by the State Medical Marijuana Regulation and Safety Act. This ordinance takes effect immediately upon adoption.

SECTION 2.

A. The definition of “cannabis cultivation” is added to section 17.108.140 of the Sacramento City Code to read as follows:

“Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. As used in this definition, “cannabis” has the same meaning as in section 19300.5 of the California Business and Professions Code, which includes marijuana as defined in section 11018 of the California Health and Safety Code.

B. Except as specifically amended in section A above, all other provisions of section 17.108.140 remain unchanged and in full effect.

SECTION 3.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.200.110 (A zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

<u>Cannabis cultivation</u>	<u>Subject to special use regulations in section 17.228.127</u>
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.200.110 remain unchanged and in full effect.

SECTION 4.

A. The table set forth in subsection B.2 (Commercial and Institutional Uses) of section 17.216.710 (C-2 zone—Permitted Uses) of the Sacramento City Code is amended to add a row as follows:

<u>Cannabis cultivation</u>	<u>Subject to special use regulations in section 17.228.127</u>	<u>ZA</u>
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B. Except as specifically amended in subsection A above, the tables set forth

in section 17.216.710 remain unchanged and in full effect.

SECTION 5.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.216.910 (C-4 zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

<u>Cannabis cultivation</u>	<u>Subject to special use regulations in section 17.228.127</u>
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.216.910 remain unchanged and in full effect.

SECTION 6.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.220.110 (M-1 zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

<u>Cannabis cultivation</u>	<u>Subject to special use regulations in section 17.228.127</u>
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.110 remain unchanged and in full effect.

SECTION 7.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.220.210 (M-1(S) zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

<u>Cannabis cultivation</u>	<u>Subject to special use regulations in section 17.228.127</u>
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.210 remain unchanged and in full effect.

SECTION 8.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.220.310 (M-2 zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

<u>Cannabis cultivation</u>	<u>Subject to special use regulations in section 17.228.127</u>
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.310 remain unchanged and in full effect.

SECTION 9.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.220.410 (M-2(S) zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

<u>Cannabis cultivation</u>	<u>Subject to special use regulations in section 17.228.127</u>
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.410 remain unchanged and in full effect.

SECTION 10.

Section 17.228.127 is added to the Sacramento City Code to read as follows:

17.228.127 Cannabis cultivation.

A. Cannabis cultivation in C-2 zones. A zoning administrator’s conditional use permit is required to establish cannabis cultivation in the C-2 zone.

B. Cannabis cultivation generally. In any zone, cannabis cultivation must comply with the following provisions:

1. The cultivation site may not be located within a 600-foot radius of a school, as required by section 11362.768 of the California Health and Safety Code.

2. The cultivation site may not be located within a 600-foot radius of a park.

3. Cannabis cultivation must be within a fully enclosed building and must not be visible from the public right-of-way.

4. The total canopy size of cannabis growing on a single parcel must not exceed 22,000 square feet.

5. Cannabis cultivation must comply with all applicable state and local laws.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 17 OF THE SACRAMENTO CITY CODE RELATING TO CANNABIS CULTIVATION AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

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SECTION 1.

A. On January 1, 2016, three state bills that established the state Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643) went into effect. The Act provides that if by March 1, 2016 a city does not regulate or prohibit the cultivation of marijuana, the State will be the sole licensing authority for medical marijuana cultivation applicants in the city.

B. Currently, the City of Sacramento regulates the cultivation of medical marijuana in residential zones and on premises used for residential purposes in chapter 8.132 of the Sacramento City Code.

C. It is the purpose and intent of the city council to further satisfy the Medical Marijuana Regulation and Safety Act requirement by enacting land use regulations for the cultivation of cannabis, which includes marijuana, in agricultural, industrial, and general commercial zones in the city.

D. In addition to the provisions of this ordinance, the cultivation of cannabis must comply with all other applicable regulations, including state law and other provisions of the Sacramento City Code. It is neither the purpose nor intent of this ordinance to condone or legitimize the illegal use or consumption of cannabis under federal, state, or local law.

E. Because of the unusually short timeframe afforded by the State under the Act, and the Act's drastic consequences upon the City's ability to fully exercise its normal police powers, the City Council was not afforded the reasonable and necessary time to adequately investigate and discuss whether this policy was appropriate for the City of Sacramento and to approve it as a non-emergency ordinance that takes effect before the March 1, 2016 deadline. Cannabis cultivation uses of land have the potential to have a significant impact on the public health, safety, and welfare in the surrounding areas and

the regulation of those uses should be thoughtfully reviewed and considered.

F. Consequently, this ordinance is enacted as an emergency measure, pursuant to subsection (g) of section 32 of the City of Sacramento Charter, to protect the public health, safety and welfare, and to meet the March 1, 2016 deadline imposed by the State Medical Marijuana Regulation and Safety Act. This ordinance takes effect immediately upon adoption.

SECTION 2.

A. The definition of “cannabis cultivation” is added to section 17.108.140 of the Sacramento City Code to read as follows:

“Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. As used in this definition, “cannabis” has the same meaning as in section 19300.5 of the California Business and Professions Code, which includes marijuana as defined in section 11018 of the California Health and Safety Code.

B. Except as specifically amended in section A above, all other provisions of section 17.108.140 remain unchanged and in full effect.

SECTION 3.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.200.110 (A zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

Cannabis cultivation	Subject to special use regulations in section 17.228.127
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.200.110 remain unchanged and in full effect.

SECTION 4.

A. The table set forth in subsection B.2 (Commercial and Institutional Uses) of section 17.216.710 (C-2 zone—Permitted Uses) of the Sacramento City Code is amended to add a row as follows:

Cannabis cultivation	Subject to special use regulations in section 17.228.127	ZA
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B. Except as specifically amended in subsection A above, the tables set forth

in section 17.216.710 remain unchanged and in full effect.

SECTION 5.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.216.910 (C-4 zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

Cannabis cultivation	Subject to special use regulations in section 17.228.127
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.216.910 remain unchanged and in full effect.

SECTION 6.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.220.110 (M-1 zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

Cannabis cultivation	Subject to special use regulations in section 17.228.127
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.110 remain unchanged and in full effect.

SECTION 7.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.220.210 (M-1(S) zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

Cannabis cultivation	Subject to special use regulations in section 17.228.127
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.210 remain unchanged and in full effect.

SECTION 8.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.220.310 (M-2 zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

Cannabis cultivation	Subject to special use regulations in section 17.228.127
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.310 remain unchanged and in full effect.

SECTION 9.

A. The table set forth in subsection A.2 (Commercial and Institutional Uses) of section 17.220.410 (M-2(S) zone—Permitted uses) of the Sacramento City Code is amended to add a row as follows:

Cannabis cultivation	Subject to special use regulations in section 17.228.127
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B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.410 remain unchanged and in full effect.

SECTION 10.

Section 17.228.127 is added to the Sacramento City Code to read as follows:

17.228.127 Cannabis cultivation.

A. Cannabis cultivation in C-2 zones. A zoning administrator’s conditional use permit is required to establish cannabis cultivation in the C-2 zone.

B. Cannabis cultivation generally. In any zone, cannabis cultivation must comply with the following provisions:

1. The cultivation site may not be located within a 600-foot radius of a school, as required by section 11362.768 of the California Health and Safety Code.
2. The cultivation site may not be located within a 600-foot radius of a park.
3. Cannabis cultivation must be within a fully enclosed building and must not be visible from the public right-of-way.
4. The total canopy size of cannabis growing on a single parcel must not exceed 22,000 square feet.
5. Cannabis cultivation must comply with all applicable state and local laws.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN INTERIM ORDINANCE IMPOSING A 45-DAY MORATORIUM
ON CANNABIS CULTIVATION AND DECLARING THE ORDINANCE
TO BE AN URGENCY MEASURE TO TAKE EFFECT IMMEDIATELY
UPON ADOPTION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Findings and Purpose

The City Council of the City of Sacramento finds and declares as follows:

- A. On this date, the city council adopted an emergency ordinance amending various sections of title 17 of the Sacramento City Code relating to cannabis cultivation (the "cannabis cultivation ordinance"). The cannabis cultivation ordinance takes effect immediately upon adoption and allows the use of property for cannabis cultivation in certain specified zones.
- B. The purpose and intent of the city council in adopting the cannabis cultivation ordinance is to further satisfy the California Medical Marijuana Regulation and Safety Act requirement for the establishment of land use regulations for the cultivation of marijuana by March 1, 2016.
- C. Although the cannabis cultivation ordinance includes some regulations on cannabis cultivation, the city council currently is considering and studying a proposal that would impose significant additional regulations to reduce the impact that cannabis cultivation may have on the surrounding areas, such as a potential increase in crime and other nuisance activity. The contemplated proposal includes the establishment of a cannabis cultivation business permit, as well as the adoption of registration, security, building, signage, and other operational requirements.
- D. The establishment of insufficiently regulated cannabis cultivation uses of land poses a current and immediate threat to the public health, safety and welfare. The approval of entitlements that are required for those uses would result in a potential increase in crime, blight, and other nuisance activity.
- E. A moratorium is therefore necessary to protect the public health, safety, and welfare by prohibiting the cannabis cultivation use as described in the cannabis cultivation ordinance, until the city council's consideration of the proposal for additional regulations can be completed. City staff anticipates bringing a report to the Law and Legislation Committee regarding proposed additional regulations within six months.

F. This interim ordinance prohibiting the cultivation use allowed by the cannabis cultivation ordinance is enacted as an urgency measure, pursuant to subsection (a) of section 65858 of the California Government Code. This interim ordinance shall be of no further force and effect 45 days from its date of adoption, unless extended pursuant to the California Government Code. The City Council anticipates that an extension will be necessary to complete the study.

SECTION 2. Moratorium

During the term of this ordinance, cannabis cultivation is not a permitted, conditional, or accessory use in any zone, except in accordance with chapter 8.132 of the Sacramento City Code.

SECTION 3. Term

The term of this ordinance is 45 days from its date of adoption, and thereafter this ordinance has no further force or effect unless extended pursuant to the California Government Code.

January 26, 2016, Item 14 – Cannabis Cultivation Land Use Options

On January 26, 2016, the City Council had a lengthy discussion related to cannabis cultivation land use options and expressed its desire to retain local control in this area. Staff has summarized the following options for the City Council to retain local control (with voting requirements):

Options:

1. (STAFF'S RECOMMENDATION) [8 votes required] Conduct a public hearing and upon conclusion, 1) pass an emergency ordinance amending various sections of title 17 of the Sacramento City Code relating to cannabis cultivation, and 2) pass an urgency ordinance imposing a 45-day moratorium on cannabis cultivation.
2. (CULTIVATION BAN) [6 votes required]: Conduct a public hearing and upon conclusion, pass an emergency ordinance banning cannabis cultivation.
3. (LAND USE ONLY) [6 votes required]: Conduct a public hearing and upon conclusion, pass an emergency ordinance amending various sections of title 17 of the Sacramento City Code relating to cannabis cultivation.

With each option, staff can be directed to work with stakeholders to discuss where, how close, and how many cultivation sites would be appropriate in various parts of the city. Staff would return to the Law and Legislation Committee with recommendations to update the land use regulations.

Additional policy issues discussed by the City Council:

- Change 22,000 square foot limit from "on a single parcel" to "on one premises."
- Require a Conditional Use Permit for every cultivation site.
- Require current cannabis cultivators to register with the City.