

**A FINAL EXTENSION OF AN INTERIM URGENCY ORDINANCE
PROHIBITING THE FOLLOWING LAND USES WITHIN THE
UNINCORPORATED TERRITORY OF THE COUNTY OF SOLANO: ALL
COMMERCIAL CANNABIS ACTIVITY, INCLUDING COMMERCIAL
CULTIVATION, DISTRIBUTION, MANUFACTURING, RETAIL
OPERATIONS AND TESTING OF CANNABIS; ADOPTED AS AN
URGENCY MEASURE**

The Board of Supervisors of the County of Solano ordains as follows:

SECTION 1. Findings

- A. In November 1996, California voters approved The Compassionate Use Act of 1996 (“Proposition 215”), an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession or cultivation of marijuana for medical purposes.
- B. On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (Health & Safety Code §§11362.7-11362.83) (“MMPA”), became effective to clarify the scope of Proposition 215 and to facilitate the prompt identification of qualified patients and their primary caregivers.
- C. On January 1, 2016, Assembly Bill 266, Assembly Bill 243, and Senate Bill 643, which together constitute the Medical Cannabis Regulation and Safety Act (“MCRSA”), became effective and set forth a comprehensive, state-wide regulatory structure for the commercial cultivation, distribution, transportation, dispensary sales, testing, and home delivery of marijuana, also known as cannabis, for medical purposes. These three bills are codified as Business and Professions Code section 19300 *et seq.*
- D. Business and Professions Code section 19315(a) provides that nothing in MCRSA shall be interpreted to supersede or limit existing local authority for the enforcement of local zoning requirements or other local ordinances, or enforcement of local permit or licensing requirements, for any of the commercial medical cannabis activities made subject to state regulation under the Act.
- E. On November 8, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (“AUMA”), which immediately allowed adults 21 or older to grow, possess and use cannabis for nonmedical purposes, subject to certain restrictions. It also allows for the licensing and regulation, by the state and local jurisdictions, of businesses and facilities engaged in the cultivation, manufacturing, distribution, retail operations and delivery, distribution, and testing of cannabis for nonmedical purposes.
- F. Business and Professions Code section 26200(a) of AUMA allows each city and county to prohibit or regulate commercial cannabis activities within its jurisdictional area, as the local governing body determines appropriate based on local circumstances.

- G. SB 94, which was intended to combine to the extent possible the medicinal and recreational cannabis laws of MCRSA and AUMA, was approved by the Governor on June 27, 2017.
- H. The State of California is currently in the process of developing emergency licensing standards and regulations for cannabis business activities. Draft regulations for commercial cannabis activities were released for public comment and then withdrawn after that comment period due to the changes brought about in the law as a result of SB 94.
- I. The Solano County Planning Commission held public hearings to consider an ordinance regulating non-commercial cannabis cultivation on November 17, 2016, January 19, 2017, March 16, 2017 and September 21, 2017. On July 6, 2017, the Planning Commission held a study session on the law and license types for commercial cannabis activities.
- J. The Solano County Board of Supervisors created an ad hoc committee on December 6, 2016 to study commercial cannabis activities, including attending tours of manufacturers, cultivators, testing laboratories, and other cannabis businesses. The Board considered an ordinance to regulate non-commercial cannabis cultivation on August 29, 2017 and adopted such an ordinance on October 24, 2017.
- K. Other than the prohibition of medical marijuana dispensaries contained in Section 28.70.20(c)(1), and the recently adopted ordinance regulating non-commercial cultivation of cannabis, there are no provisions in Chapter 28 of the Solano County Code ("Zoning Regulations") specifically allowing for or regulating the location, zoning standards, or other aspects of where commercial cannabis activities may occur. The Zoning Regulations do not provide specific development standards or definitions relative to these activities. In addition, the Zoning Regulations do not provide specific development regulations relative to the commercial cultivation of cannabis as an agricultural product.
- L. Pursuant to Article XI, section 7 of the California Constitution, the County of Solano ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.
- M. Pursuant to Government Code section 65858, to protect the public safety, health, and welfare, the County may adopt and then extend with a four-fifths vote of the board of supervisors an urgency measure adopting an interim ordinance prohibiting potential land uses that the County is studying, considering, or intends to study within a reasonable time that may be in conflict with existing land use regulations.
- N. Without sufficient enforceable regulations and standards in place, there is a current and immediate threat to the public health, safety, and welfare from commercial cannabis activities:
 - 1. Many California cities and counties have reported negative impacts from commercial cannabis activities. For example, negative impacts at unregulated outdoor and indoor cultivation operations have included an increase in criminal activity because of the high monetary value of the cannabis plants, adverse environmental impacts, trespass issues, noise pollution from generators, interference with farming practices, fire danger from grow light systems and cannabis oil extraction operations, and strong odors, offensive to many individuals.

2. Many cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, which can be detectable far beyond property boundaries if grown outdoors and create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of trespass and theft.
 3. The California Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the concentration of cannabis in any location or premises such as a commercial manufacturer, distributor, retailer or other business without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as odor, loitering, or crime.
 4. Absent appropriate regulations and standards, cannabis business activities in the unincorporated area of Solano County pose a potential threat to the public peace, health, and safety by placing additional demands on local law enforcement and impacting the quality of life and character of neighborhoods.
- O. At a public hearing noticed in accordance with Government Code section 65090 on December 6, 2016, the Board of Supervisors by a 5-0 vote adopted as an urgency measure an interim ordinance prohibiting all commercial cannabis activities, as well as outdoor cultivation of non-commercial cannabis for 45 days. This was extended for 10 months, 15 days on January 10, 2017.
- P. Due to the new conditions brought about by the passage of Proposition 64, SB 94, AB 133, the release and withdrawal of draft regulations and the anticipated release of emergency regulations from the state for commercial cannabis activities, an extension of the moratorium on all commercial cannabis activity is necessary to protect the public peace, health, and safety while the County develops a permanent ordinance.
- Q. In order to allow a reasonable time for the County to consider and study these new commercial activities, as well as what zones, standards and regulations the County deems appropriate for these business activities and how best to implement them, it is necessary to extend the suspension of the approval of any commercial cannabis activities within the jurisdiction of the County for an additional 12-month period.
- R. An extension of the moratorium on all forms of commercial cannabis activity will provide the County time to draft and adopt ordinances consistent with state law that will regulate such activity while being consistent with the General Plan and Zoning Regulations, and be compatible with surrounding land neighborhoods.
- S. By extending this interim ordinance, it is the intent of the board of supervisors to enact a moratorium that is only temporary in order to provide time for the County to study and develop appropriate regulations and standards for commercial cannabis activity consistent with the evolving state law and regulations on cannabis.

SECTION 2. Definitions

For purposes of this interim ordinance, the following definitions shall apply:

The terms "cannabis" and "marijuana" are interchangeable and refer to any plant or any plant part defined as "cannabis" in section 11018 of the Health and Safety Code.

The term “commercial cannabis activity” refers to the commercial cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, or sale of cannabis and cannabis products, as such activities are more fully described in section 26001 of the Business and Professions Code and Division 10 of the Business and Professions Code.

SECTION 3. Interim Prohibition of Commercial Cannabis Activity

From and after the date of this ordinance, no use permit, variance, building permit, business license, or any other entitlement or license for use shall be approved or issued for any commercial cannabis activity including the commercial cultivation, distribution, manufacturing, retail operations and testing of cannabis.

The exemption provided in Section 14-17(a) of the Solano County Code, allowing a business to operate after having filed an application for a business license and pending final action on that application, shall not apply to any business engaged in, or proposing to engage in, commercial cannabis activity.

SECTION 4. Urgent Need and Effective Period

This extension of the interim ordinance is urgently needed for the continued preservation of the public health, safety, and general welfare. It shall take effect immediately upon expiration of the 10 month and 15-day extension of the 45-day urgency ordinance enacted on December 6, 2016 and shall be of no further force and effect one (1) year following the date it takes effect (December 6, 2018), in accordance with the provisions set forth in California Government Code section 65858.

SECTION 5. Authority

California Government Code section 65858 provides that an urgency measure in the form of an interim zoning ordinance may be adopted, which shall be initially effective for only 45 days following its date of adoption. Such an interim ordinance may be extended by a four-fifths vote of the board of supervisors for an additional period of time, either 10 months and 15 days with the possibility for an additional 12-month extension or for 22 months and 15 days in compliance with Government Code section 65858.

SECTION 6. Penalties

The definitions and penalties for land use violations that are prescribed in Section 28.113 of the Solano County Code shall apply to violations of the provisions of this interim ordinance.

SECTION 7. Severability

If any provision of this interim ordinance or the application of it to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the interim ordinance are declared to be severable.

SECTION 8. Exemption from the California Environmental Quality Act

This interim ordinance is exempt from California Environmental Quality Act (Public Resources Code §21000 *et seq.*; "CEQA") because it will preserve the status quo while the County develops a permanent ordinance. Therefore, it can be seen with certainty that there is no possibility that the interim ordinance may have a significant effect on the environment. (CEQA Guidelines, § 15061(b)(3).)

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on _____ by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

EXCUSED: Supervisors _____

JOHN M. VASQUEZ, Chair
Solano County Board of Supervisors

ATTEST:
BIRGITTA E. CORSELLO, Clerk
Board of Supervisors

By: _____
Jeanette Neiger, Chief Deputy Clerk