



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Extension of an Urgency Ordinance Imposing a Moratorium on all Commercial Marijuana Land Uses and all Marijuana Cultivation in the City of Elk Grove (CEQA Exempt)

MEETING DATE: January 25, 2017

PREPARED BY/ Jonathan P. Hobbs, City Attorney
DEPARTMENT HEADS: Bryan Noblett, Chief of Police

RECOMMENDED ACTION:

Staff recommends that the City Council adopt an ordinance extending the moratorium on all commercial marijuana land uses and all marijuana cultivation in the City of Elk Grove for a period of 10 months and 15 days, consistent with state law.

BACKGROUND INFORMATION:

On December 14, 2016, the City Council adopted an urgency ordinance imposing a moratorium on all commercial marijuana land uses and all marijuana cultivation in the City of Elk Grove. Copies of the supporting staff report and ordinance imposing the moratorium are attached for reference. (See Attachments 1 and 2)

ANALYSIS

The above referenced moratorium on commercial marijuana land uses and all marijuana cultivation remains in effect for 45 days from the adoption of the implementing ordinance. Following a noticed public hearing, state law allows the City Council to extend this moratorium up to an additional 10 months and 15 days to study potential regulations. The City Council may thereafter extend the moratorium again for an additional one year for further study. (Gov. Code § 65858)

Staff recommends that the City Council adopt the proposed ordinance extending the moratorium for 10 months and 15 days, as allowed by state law, thus extending the moratorium to December 13, 2017. During the moratorium period, staff will study this matter to develop appropriate marijuana regulations, consistent with state law, which will be brought back to the City Council for consideration. Should staff recommend a further extension, staff will return to the Council prior to the expiration of the moratorium and so seek a further extension from the City Council.

The passage of this extension, and any other extension of the moratorium, requires a four-fifths vote of the City Council.

ENVIRONMENTAL REVIEW

This proposed ordinance is intended to preserve the status quo while the City considers further regulations of marijuana related activity following the passage of the Adult Use of Marijuana Act (AUMA). The ordinance will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. This action, therefore, does not constitute the approval of a project under the California Environmental Quality Act ("CEQA"), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

FISCAL IMPACT

The ordinance would be enforced pursuant to routine police and code enforcement efforts, which is included within the City's budget. The ordinance, therefore, is not expected to have a significant negative fiscal impact on the City.

ATTACHMENTS:

1. December 14, 2016 Staff Report
2. Urgency Ordinance Imposing Moratorium
3. Proposed Ordinance Extending Moratorium



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Adopt an Urgency Interim Ordinance Imposing a Moratorium on all Commercial Marijuana Land Uses and all Marijuana Cultivation (CEQA Exempt)

MEETING DATE: December 14, 2016

PREPARED BY/ Jonathan P. Hobbs, City Attorney
DEPARTMENT HEADS: Bryan Noblett, Chief of Police

RECOMMENDED ACTION:

Staff recommends that the City Council adopt an urgency interim ordinance adopting a moratorium on all commercial marijuana land uses and all marijuana cultivation in the City of Elk Grove.

BACKGROUND INFORMATION:

Consistent with state law, the City of Elk Grove prohibits all medical marijuana cultivation, as well as medical marijuana dispensaries in the City. (EGMC § 23.27.020 [Use Table 23.27-1, prohibiting medical marijuana dispensaries and cultivation in all zones]; EGMC, Chapter 9.31 [defining and prohibiting medical marijuana dispensaries]; see *City of Riverside v. Inland Empire Patients Health and Wellness Center* (2013) 56 Cal.4th 729 [cities may prohibit medical marijuana dispensaries]; *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975 [cities may prohibit medical marijuana cultivation].) The City also prohibits the commercial delivery of medical marijuana, as authorized by state law. (EGMC § 9.31.035; see Bus. & Prof. Code § 19340(a) [cities may prohibit commercial medical marijuana deliveries].)

On November 8, 2016, California voters approved Proposition 64, which is the initiative known as the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). Subject to local and state restrictions and

regulations, AUMA generally legalizes the nonmedical, recreational use of marijuana by persons 21 years of age and over. (Health & Saf. Code § 11362.1.)

AUMA prohibits smoking or ingesting marijuana: (1) in any public place (except in locally authorized marijuana distribution shops, none of which are authorized in the City of Elk Grove); (2) where smoking tobacco is prohibited; (3) within 1,000 feet of a school, day care center, or youth center while children are present; and (4) while driving, or riding in the passenger seat of any vehicle used for transportation. (Health & Saf. Code § 11362.3, 11362.4.) Consistent with the law prior to the passage of AUMA, public and private employers may continue to adopt regulations to maintain a drug and alcohol free workplace. (Health & Saf. Code § 11362.45(f).)

AUMA creates a comprehensive dual state and local regulatory and licensing scheme governing commercial nonmedical marijuana activities, including the commercial cultivation, testing, manufacturing, and distribution of nonmedical marijuana. The state must develop regulations and begin issuing state licenses under AUMA by January 1, 2018. (Bus. & Prof. Code § 26012.) Under this dual licensing structure, cities may adopt local ordinances regulating or completely prohibiting nonmedical marijuana businesses and commercial activities, including marijuana deliveries. (Bus. & Prof. Code § 26200(b).) Without both a state and local permit, commercial marijuana businesses cannot operate within a city.

Similar to a city's authority over medical marijuana, cities may continue to prohibit all outdoor personal cultivation of nonmedical marijuana. (Health & Saf. Code, section 11362.2(b)(3).) Indoor personal cultivation is allowed under AUMA. For each single private residence, AUMA allows indoor personal cultivation of up to six marijuana plants, and the possession of the marijuana produced by the plants, all subject to reasonable regulations adopted by the applicable city or county. (Health & Saf. Code §§ 11362.1(a)(3), 11362.2(b)(2).)

ANALYSIS

As noted above, the City expressly prohibits all medical marijuana cultivation, distribution, and commercial delivery. Further, under the City's zoning code, any use not identified in the code is not permitted. (EGMC § 23.27.020) Nonmedical marijuana activities are not identified in the zoning

code (having previously been illegal under state law), and therefore are not allowed in the City. The combination of these provisions of the City's code has the effect of prohibiting all commercial marijuana land uses and all marijuana cultivation in the City.

The new state laws enacted by AUMA allow a person to cultivate up to six plants indoors for personal. While the City cannot completely prohibit this use, AUMA allows cities to impose reasonable regulations on such indoor personal cultivation. Government Code Section 65858 allows cities to impose a temporary moratorium as an urgency measure for any land use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council and/or Planning Commission is considering or studying. In order to provide the City time to consider the regulations on indoor personal cultivation, staff recommends that the City Council impose a temporary moratorium prohibiting all marijuana cultivation within the City, whether the cultivation is for personal or medicinal use. The following topic areas would be explored for regulation of indoor marijuana cultivation:

- Cultivation may only occur in residential zones; no commercial or industrial cultivation would be allowed.
- Personal cultivation shall require a permit issued by the Chief of Police to ensure compliance with the adopted regulations.
- Persons who cultivate marijuana for personal use must reside full-time at the premises.
- If a residence has more than the six marijuana plants allowed by state law, the excess plants may be seized and destroyed by the City, subject to an administrative hearing process.
- Marijuana plants must be kept in a secure and locked location, not visible from public view, and not accessible to persons under 21 years of age.
- Cultivation will be prohibited on carpeted surfaces and in kitchens, bathrooms, or bedrooms. Cultivation may take place in other non-carpeted areas, such as a garage area, den or bonus room, or accessory structure, provided these locations are properly secured.
- Wattage restrictions will be imposed on grow lights to avoid fire hazards and excessive energy consumption.
- Use of butane, propane, and other gas products in the cultivation of marijuana will be prohibited to reduce potential hazards.
- Cultivation locations shall have adequate and City approved ventilation and security systems.

- The City will have the ability to conduct periodic inspections to ensure compliance with the adopted regulations.
- A process will be established for imposition of penalties for violations of the regulations, which may include monetary penalties and permit suspension or revocation.

Staff invites City Council comments as to these proposed areas of regulation, as well as other areas the City Council might like to see further explored.

While commercial non-medical marijuana uses are presumptively prohibited under the City's code as unlisted uses, in order to be more clear on this prohibition, staff also recommends that the moratorium extend to these commercial uses to expressly prohibit them. Subject to the City Council's direction, staff intends to bring back a permanent ordinance expressly banning these commercial uses within the City.

Under state law, the proposed moratorium would be in effect for 45 days. (Gov. Code § 65858.) Following a noticed public hearing, the City Council may extend the moratorium for an additional 10 months and 15 days, and could subsequently extend it for another year. Unless otherwise directed by the City Council, and assuming the City Council adopts the proposed moratorium, staff intends to return to the City Council within the 45 day period to seek an extension of the moratorium. The passage of the moratorium and any extensions requires a four-fifths vote of the City Council.

ENVIRONMENTAL REVIEW

This proposed ordinance is intended to preserve the status quo while the City considers further regulations of marijuana related activity following the passage of AUMA. The ordinance will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. This action, therefore, does not constitute the approval of a project under the California Environmental Quality Act ("CEQA"), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

FISCAL IMPACT

The ordinance would be enforced pursuant to routine police and code enforcement efforts, which is included within the City's budget. The ordinance, therefore, is not expected to have a significant negative fiscal impact on the City.

ATTACHMENT:

1. Urgency Interim Ordinance

AN URGENCY INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADOPTING A MORATORIUM ON ALL COMMERCIAL MARIJUANA LAND USES AND ALL MARIJUANA CULTIVATION IN THE CITY OF ELK GROVE

The City Council of the City of Elk Grove hereby does ordain as follows:

Section 1: Purpose and Authority.

In the interest of protecting the health, safety, and welfare of the residents in the City of Elk Grove, it is the purpose and intent of this ordinance to place a temporary moratorium on all commercial marijuana land uses in the City and prohibit all marijuana cultivation for personal use in the City while the City evaluates and adopts appropriate land uses and reasonable regulations following the passage of the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64). The City Council has authority to adopt this ordinance pursuant to California Constitution Article XI, Section 7 and Government Code Section 65858 as an urgency measure prohibiting a use that may be conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering or studying.

This urgency ordinance is not intended to interfere with a patient's access and use of medical marijuana, as provided for in California Health and Safety Code Section 11362.5. This ordinance is intended to supplement existing law. Nothing herein is intended to impair any existing City ordinance concerning medical or non-medical marijuana within the City. Any restrictions provided herein, and remedies flowing herefrom, are cumulative to any other restriction or remedy provided under existing local, state, or federal law.

Section 2: Findings.

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64) ("AUMA") was passed by California voters during the state-wide general election. The AUMA legalized non-medical use and cultivation of marijuana by persons 21 years of age and over, and created a state and local regulatory and licensing system governing commercial cultivation, testing, manufacturing and distribution of non-medical marijuana and marijuana products.

AUMA allows local governments to reasonably regulate the cultivation of marijuana for personal use through zoning and other local laws, and it allows local governments to ban outdoor cultivation. Local governments also maintain the ability to adopt business and land use regulations and/or prohibitions for commercial marijuana activities.

This urgency ordinance is necessary to promote the immediate preservation of the peace, health, and safety of the public against the potential detrimental impacts of marijuana cultivation, processing, manufacturing, distribution and sale uses, which impacts may include, without limitation, criminal activity, odors and

mold, degradation of the natural environment, excess energy consumption, and indoor electrical fire hazards.

The City has a significant interest in preserving the health, safety, and welfare of its residents by enacting reasonable regulations on personal marijuana cultivation, and to protect the public against businesses and commercial enterprises that traditionally have been an attraction for criminal and other activities that threaten public safety and the business.

Section 3: Environmental Review/California Environmental Quality Act (CEQA).

This ordinance is intended to preserve the status quo, and it will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. The enactment of this ordinance, therefore, does not constitute the approval of a project under the California Environmental Quality Act (“CEQA”), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

Section 4: Definitions.

As used herein the following definitions shall apply:

- A. “Commercial marijuana land uses” means the cultivation, possession of non-medical marijuana and marijuana products, manufacture, processing, distribution, storing, laboratory testing, grading, marketing, packaging, labeling, delivery, transportation, use, or sale of marijuana and marijuana products, whether or not through a for-profit or non-profit enterprise, and whether or not conducted with a license issued in accordance with Division 10 of the Business and Professions Code (Business and Professions Code section 26000, et seq.).
- B. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana, whether occurring indoors or outdoors.
- C. “Marijuana” shall have the meaning as provided in California Health and Safety Code Section 11018.
- D. “Marijuana products” shall have the meaning as provided in California Health and Safety Code Section 11018.1.
- E. “Medical marijuana” means marijuana for medical purposes upon the recommendation of a physician under the Compassionate Use Act of 1996.

Section 5: Use Regulation.

During the term of this ordinance, all marijuana cultivation and all commercial marijuana land uses shall be prohibited in all zoning districts and lands within the City of Elk Grove.

Section 6: Term of Ordinance.

This ordinance shall be in effect from the date of adoption for a period of forty-five (45) days, unless it is extended pursuant to Government Code Section 65858(a) or other applicable law, as approved by the City Council.

Section 7: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 8: Severability.

If any provision of this ordinance or the application thereof to any person 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 this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 9: Effective Date and Publication.

This ordinance, passed by at least a four-fifths vote of the City Council, is declared to be an urgency ordinance for preserving the public health, safety and welfare and shall take effect and be enforced immediately upon adoption.

ORDINANCE:

ADOPTED:

EFFECTIVE:

STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN,
CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: _____

ORDINANCE NO. 30-2016

AN URGENCY INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADOPTING A MORATORIUM ON ALL COMMERCIAL MARIJUANA LAND USES AND ALL MARIJUANA CULTIVATION IN THE CITY OF ELK GROVE

The City Council of the City of Elk Grove hereby does ordain as follows:

Section 1: Purpose and Authority.

In the interest of protecting the health, safety, and welfare of the residents in the City of Elk Grove, it is the purpose and intent of this ordinance to place a temporary moratorium on all commercial marijuana land uses in the City and prohibit all marijuana cultivation for personal use in the City while the City evaluates and adopts appropriate land uses and reasonable regulations following the passage of the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64). The City Council has authority to adopt this ordinance pursuant to California Constitution Article XI, Section 7 and Government Code Section 65858 as an urgency measure prohibiting a use that may be conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering or studying.

This urgency ordinance is not intended to interfere with a patient's access and use of medical marijuana, as provided for in California Health and Safety Code Section 11362.5. This ordinance is intended to supplement existing law. Nothing herein is intended to impair any existing City ordinance concerning medical or non-medical marijuana within the City. Any restrictions provided herein, and remedies flowing herefrom, are cumulative to any other restriction or remedy provided under existing local, state, or federal law.

Section 2: Findings.

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64) ("AUMA") was passed by California voters during the state-wide general election. The AUMA legalized non-medical use and cultivation of marijuana by persons 21 years of age and over, and created a state and local regulatory and licensing system governing commercial cultivation, testing, manufacturing and distribution of non-medical marijuana and marijuana products.

AUMA allows local governments to reasonably regulate the cultivation of marijuana for personal use through zoning and other local laws, and it allows local governments to ban outdoor cultivation. Local governments also maintain the ability to adopt business and land use regulations and/or prohibitions for commercial marijuana activities.

This urgency ordinance is necessary to promote the immediate preservation of the peace, health, and safety of the public against the potential detrimental impacts of marijuana cultivation, processing, manufacturing, distribution and sale uses, which impacts may include, without limitation, criminal activity, odors and mold, degradation of the natural environment, excess energy consumption, and indoor electrical fire hazards.

The City has a significant interest in preserving the health, safety, and welfare of its residents by enacting reasonable regulations on personal marijuana cultivation, and to protect the public against businesses and commercial enterprises that traditionally have been an attraction for criminal and other activities that threaten public safety and the business.

Section 3: Environmental Review/California Environmental Quality Act (CEQA).

This ordinance is intended to preserve the status quo, and it will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. The enactment of this ordinance, therefore, does not constitute the approval of a project under the California Environmental Quality Act ("CEQA"), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

Section 4: Definitions.

As used herein the following definitions shall apply:

- A. "Commercial marijuana land uses" means the cultivation, possession of non-medical marijuana and marijuana products, manufacture, processing, distribution, storing, laboratory testing, grading, marketing, packaging, labeling, delivery, transportation, use, or sale of marijuana and marijuana products, whether or not through a for-profit or non-profit enterprise, and whether or not conducted with a license issued in accordance with Division 10 of the Business and Professions Code (Business and Professions Code section 26000, et seq.).
- B. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana, whether occurring indoors or outdoors.
- C. "Marijuana" shall have the meaning as provided in California Health and Safety Code Section 11018.
- D. "Marijuana products" shall have the meaning as provided in California Health and Safety Code Section 11018.1.
- E. "Medical marijuana" means marijuana for medical purposes upon the recommendation of a physician under the Compassionate Use Act of 1996.

Section 5: Use Regulation.

During the term of this ordinance, all marijuana cultivation and all commercial marijuana land uses shall be prohibited in all zoning districts and lands within the City of Elk Grove.

Section 6: Term of Ordinance.

This ordinance shall be in effect from the date of adoption for a period of forty-five (45) days, unless it is extended pursuant to Government Code Section 65858(a) or other applicable law, as approved by the City Council.

Section 7: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 8: Severability.

If any provision of this ordinance or the application thereof to any person 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 this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

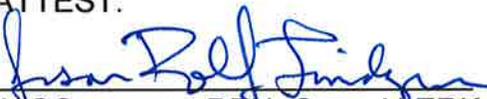
Section 9: Effective Date and Publication.

This ordinance, passed by at least a four-fifths vote of the City Council, is declared to be an urgency ordinance for preserving the public health, safety and welfare and shall take effect and be enforced immediately upon adoption.

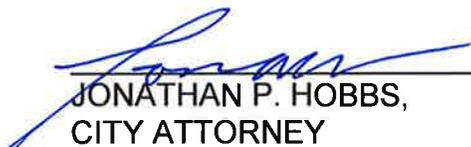
ORDINANCE: **30-2016**
ADOPTED: December 14, 2016
EFFECTIVE: December 14, 2016



STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: December 22, 2016

CERTIFICATION
ELK GROVE CITY COUNCIL URGENCY INTERIM ORDINANCE NO. 30-2016

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing urgency interim ordinance, published and posted in compliance with State law, was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on December 14, 2016 by the following vote:

AYES : COUNCILMEMBERS: Ly, Detrick, Hume, Suen

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


Jason Lindgren, City Clerk
City of Elk Grove, California

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
EXTENDING A MORATORIUM ON COMMERCIAL MARIJUANA LAND USES AND
MARIJUANA CULTIVATION**

The City Council of the City of Elk Grove hereby does ordain as follows:

Section 1: Purpose and Authority.

In the interest of protecting the health, safety, and welfare of the residents in the City of Elk Grove, it is the purpose and intent of this ordinance to extend a temporary moratorium on all commercial marijuana land uses in the City and prohibit all marijuana cultivation for personal use in the City while the City evaluates and adopts appropriate land uses and reasonable regulations following the passage of the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64). The City Council has authority to adopt this ordinance pursuant to California Constitution Article XI, Section 7 and Government Code section 65858 as an interim measure prohibiting a use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering or studying.

This ordinance is not intended to interfere with a patient's access and use of medical marijuana, as provided for in California Health and Safety Code section 11362.5. This ordinance is intended to supplement existing law. Nothing herein is intended to impair any existing City ordinance concerning medical or non-medical marijuana within the City. Any restrictions provided herein, and remedies flowing herefrom, are cumulative to any other restriction or remedy provided under existing local, state, or federal law.

Section 2: Findings.

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64) ("AUMA") was passed by California voters during the state-wide general election. AUMA legalized non-medical use and cultivation of marijuana by persons 21 years of age and over, and created a state and local regulatory and licensing system governing commercial cultivation, testing, manufacturing and distribution of nonmedical marijuana and marijuana products.

AUMA allows local governments to reasonably regulate the cultivation of marijuana for personal use through zoning and other local laws, and it allows local governments to ban outdoor cultivation. Local governments also maintain the ability to adopt business and land use regulations and/or prohibitions for commercial marijuana activities.

This ordinance is necessary to promote the continued preservation of the peace, health, and safety of the public against the potential detrimental impacts of marijuana cultivation, processing, manufacturing, distribution and sale uses, which impacts may include, without limitation, criminal activity, odors and mold, degradation of the natural environment, excess energy consumption, and indoor electrical fire hazards.

The City has a significant interest in preserving the health, safety, and welfare of its residents by enacting reasonable regulations on personal marijuana cultivation, and to protect the public against businesses and commercial enterprises that traditionally have been an attraction for criminal and other activities that threaten public safety and the business.

Section 3: Environmental Review/California Environmental Quality Act (CEQA).

This ordinance is intended to preserve the status quo, and it will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. The enactment of this ordinance, therefore, does not constitute the approval of a project under the California Environmental Quality Act (“CEQA”), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

Section 4: Extension of Moratorium Ordinance.

Ordinance No. 30-2016, prohibiting all marijuana cultivation and all commercial marijuana land uses in all zoning districts and lands within the City of Elk Grove, and all of the terms and provisions of said ordinance, are hereby extended from its original expiration date for a period of ten (10) months and fifteen (15) days to December 13, 2017, unless it is further extended pursuant to Government Code section 65858 or other applicable law, or repealed before its expiration, all as approved by the City Council.

Section 5: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6: Severability.

If any provision of this ordinance or the application thereof to any person 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 this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 7: Effective Date and Publication.

This ordinance, passed by at least a four-fifths vote of the City Council, is declared to be an ordinance necessary for preserving the public health, safety and welfare and shall take effect and be enforced immediately upon adoption.

ORDINANCE:
ADOPTED:
EFFECTIVE:

STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: _____



Incorporated July 1, 2000

8401 Laguna Palms Way
Elk Grove, California 95758

CITY OF ELK GROVE

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Fax: (916) 627-4400
www.elkgrovecity.org

City of Elk Grove – City Council NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, January 25, 2017 at the hour of 6:00 p.m.**, or as soon thereafter as the matter may be heard, the Elk Grove City Council will conduct a public hearing at City Hall in the Council Chambers, 8400 Laguna Palms Way, Elk Grove, California, to consider the following matter:

EXTENSION OF AN URGENCY ORDINANCE IMPOSING A MORATORIUM ON ALL COMMERCIAL MARIJUANA LAND USES AND ALL MARIJUANA CULTIVATION IN THE CITY OF ELK GROVE (CEQA EXEMPT)

Information regarding this item may be obtained in the office of the City Attorney, 8401 Laguna Palms Way, Elk Grove, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the close of the hearing scheduled herein, and oral statements may be made at said hearing.

Location: Citywide/All Zones.

Environmental: The action does not constitute the approval of a project under the California Environmental Quality Act (“CEQA”), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 8401 Laguna Palms Way, 1st Floor, Elk Grove, CA, 95758, at or prior to the close of the public hearing.

Dated/Published: January 13, 2017

JASON LINDGREN
CITY CLERK, CITY OF ELK GROVE

NOTICE REGARDING CHALLENGES TO DECISIONS

Pursuant to all applicable laws and regulations, if you wish to challenge in court any of the above decisions (regarding planning, zoning and/or environmental decisions), you may be limited to raising only those issues you or someone else raised at the public hearing(s) described in this notice/agenda, or in written correspondence delivered to the city at, or prior to, this public hearing.

ADA COMPLIANCE STATEMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (916) 478-3635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.