

ORDINANCE NO. 2009-21

AN UNCODIFIED INTERIM ORDINANCE OF THE CITY OF SANTA CRUZ
IMPOSING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF MEDICAL
MARIJUNANA DISPENSARIES AND PRODUCTION HOUSES IN THE CITY OF SANTA
CRUZ AND DECLARING THE URGENCY THEREOF.

WHEREAS, in 1996 the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, et seq. and entitled the Compassionate Use Act of 1996 (“the Act”); and

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances; and

WHEREAS, the City Council, on April 11, 2000 adopted Ordinance No. 2000-06 pertaining to personal medical marijuana use in the City of Santa Cruz; and

WHEREAS, the City Council, on June 27, 2000 adopted Emergency Ordinance No. 2000-12 pertaining to the establishment of land use regulations for Medical Marijuana dispensaries and production within the City of Santa Cruz; and

WHEREAS, on January 1, 2004, Senate Bill 420 became effective to clarify the scope of the Act and to allow cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the Act; and

WHEREAS, two Medical Marijuana dispensaries have been approved within the City of Santa Cruz in 2005 and 2006 respectively; and

WHEREAS, in February 2009 the U.S. Attorney General stated that federal law enforcement officials would ease enforcement at California medical marijuana facilities; and

WHEREAS, City staff has received inquires nearly daily from members of the public as to the possibility of establishing medical marijuana dispensaries and production houses throughout the City of Santa Cruz and is currently processing two applications for medical marijuana dispensaries; and

WHEREAS, the City of Santa Cruz is the only jurisdiction in the County of Santa Cruz that allows medical marijuana dispensaries and production houses; and

WHEREAS, concerns have been raised in the community regarding the inadequacy of the current regulations to address the increasing number of permit applications and the impact that a proliferation/overconcentration of medical marijuana dispensaries and production houses within the City may have on the community as a whole; and

WHEREAS, citizens of the City of Santa Cruz have a desire to receive adequate medical marijuana opportunities provided that the facilities are designed and located to minimize the concerns described above; and

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WHEREAS, the City of Santa Cruz must study and analyze the concerns of such potential proliferation of said uses on public health, safety and welfare of the community and if such proliferation/overconcentration might be in conflict with current or proposed General Plan policies; and

WHEREAS, there is no feasible alternative to satisfactorily study the potential impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this interim urgency moratorium ordinance; and

WHEREAS, based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from overconcentration of medical marijuana dispensaries and production houses and the consideration of the development of further regulations to mitigate any such impacts; therefore it is appropriate to adopt a moratorium on medical marijuana dispensaries and production houses consistent with the authority granted by Government Code Section 65858; and

WHEREAS, for the protection of the public's health, safety and welfare, the City Council on June 23, 2009, adopted Ordinance No. 2009-17 making findings and establishing a 45-day moratorium on the establishment of medical marijuana dispensaries and production houses within the City which 45-day moratorium period will expire on August 7, 2009 unless extended in accordance with Government Code Section 65858; and

WHEREAS, the City Council desires to extend Ordinance No. 2009-17 for a period of six (6) months from August 7, 2009, as permitted by Government Code Section 65858, to maintain the current status quo and to provide time for the adequate research and study of the current regulations and allow the proposal of amendments with the properly noticed public hearings before the Planning Commission and City Council.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

Section 1. In accordance with Government Code Section 65858, from and after the date of this Ordinance, a moratorium against the establishment of medical marijuana dispensaries or production houses anywhere within the City of Santa Cruz is hereby extended for a period of six (6) months from August 7, 2009 pending further study by City staff and development of appropriate regulations. This moratorium shall apply to any application for such a use which has not yet obtained substantial vested rights as defined by the California Supreme Court in *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785. Said extended moratorium period will expire on February 8, 2010 unless repealed or further extended in accordance with Government Code Section 65858.

Section 2. This interim ordinance is necessary in that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional use permits, building permits, or any other applicable entitlement for medical marijuana dispensaries and production houses which are required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare as discussed above.

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Section 3. This interim ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c) (2) – the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and Section 15060(c) (3) – the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 4. This ordinance shall take effect on August 7, 2009 and be in effect for a period of six (6) months to February 8, 2010 unless repealed or extended by further action of the City Council as provided by Government Code Section 65858.

PASSED FOR FINAL ADOPTION as an urgency ordinance this 28th day of July, 2009, by the following vote:

AYES: Councilmembers Coonerty, Robinson, Lane, Madrigal, Vice Mayor Rotkin; Mayor Mathews.

NOES: None.

ABSENT: Councilmember Beiers.

DISQUALIFIED: None.

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

This is to certify that the above and foregoing document is the original of Ordinance No. 2009-21 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

City Clerk