

## STAFF REPORT

**DATE:** December 6, 2016

**TO:** City Council

**FROM:** Mike Webb, Assistant City Manager  
Ashley Feeny, Assistant Director Community Development & Sustainability  
Darren Pytel, Police Chief  
Harriet Steiner, City Attorney

**SUBJECT:** Extension of Urgency Interim Ordinance No. 2488 continuing a Moratorium on Commercial Marijuana Uses and Outdoor Marijuana Cultivation

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### Recommendation

- 1) Hold a public hearing.
- 2) Approve the attached ordinance extending Ordinance #2488 for an additional ten months and fifteen days, which continues the city-wide moratorium on the establishment, creation or expansion of any and all commercial marijuana uses and outdoor cultivation. The Ordinance would be effective immediately upon expiration of the current interim moratorium, which expires at 11:59 PM December 15th and would continue through and including October 31, 2017, unless extended by further City Council action. Passage of an urgency ordinance requires at least four affirmative votes of the City Council.

*The purpose of extending the Interim Ordinance continuing the temporary moratorium is to allow the City time to conduct research, engage in community outreach, consult with neighboring jurisdictions, and develop a comprehensive set of regulations that address both medical and adult use marijuana business and uses that would be brought back to City Council for consideration at a future meeting. The City has been advised by the League of California Cities that jurisdictions should not rely on permissive zoning but rather develop specific regulations associated with marijuana businesses that are acceptable to the community. Continuing the moratorium is necessary at this time to ensure a marijuana business does not establish operations in a location that could present conflicts with surrounding uses. State law requires that the initial moratorium provided by Ordinance #2488 can only be in effect for 45-days but City Council has the option to extend the moratorium prior to expiration for up to an additional ten months and fifteen days. Staff recommends the Council extend the moratorium as the development of comprehensive marijuana business regulations requires more time than the 45-days allowed under the initial Interim Ordinance. Staff anticipates returning to City Council with a status update and potential regulatory options for consideration in March 2017.*

Staff believes extending the moratorium is critical to ensure the retention of local land use and regulatory authority over the establishment of marijuana related business and uses. The extension of the moratorium should not be seen as an indicator that staff is taking a position in opposition to any particular business establishment or use at this time. Ultimately, the City

Council will determine what regulations it may wish to establish, after the opportunity for appropriate research, community engagement, and policy analysis and development has occurred. The development of regulations associated with medical marijuana and adult use marijuana deals with a multitude of policy considerations and touch virtually every aspect of City responsibility (health, safety, business licensing, land use, enforcement, monitoring, etc...), which require careful consideration, deliberation, and community outreach. The purpose of continuing the moratorium is to ensure that the appropriate opportunity is afforded to undertake this research and engagement and to make sound policy recommendations and decisions.

### **Fiscal Impact**

Costs of processing this moratorium and the urgency ordinance related to smoking have been absorbed by the existing budgets for Community Development, Police, and the City Manager's Office. Anticipated costs of additional research and enforcement options will be presented to the City Council prior to expiration of the moratorium period.

### **Council Goal (s)**

Goal 7 – Safe and Healthy Community

- Create and maintain a physical and social environment that promotes safety and well-being.

### **Background and Analysis**

On November 1, 2016, the City Council approved Ordinance #2488 establishing a City-wide 45-day moratorium on the establishment, creation or expansion of any and all commercial marijuana uses and outdoor cultivation. The ordinance provides that exemptions may be granted for hardship. The ordinance is effective from November 1, 2016, through and including December 15, 2015, unless extended prior to the expiration date.

The California legislature adopted legislation, identified as the Medical Marijuana Regulation and Safety Act (“MMRSA”), to comprehensively regulate medical marijuana. The MMRSA became effective January 1, 2016 and, among other things, required the City to have land use regulations in effect by March 1, 2016 that regulate or prohibit medical marijuana cultivation and medical marijuana businesses. If cities failed to adopt their own ordinance by March 1, 2016, the State rules became effective by default with the State becoming the sole licensing authority for medical marijuana business applicants in those cities. The MMRSA allowed for cities that put local regulations in place to modify said regulations thereafter to meet the needs and desires of a particular City. Cities that did not adopt local regulations prior to the March 1, 2016 deadline would have been pre-empted from adopting local regulations in the future. As a result of these requirements, the City Council adopted Ordinance No. 2467 on January 19, 2016 prohibiting commercial cultivation and personal outdoor cultivation of medical marijuana in all City zoning districts, while allowing certain limited personal indoor medical marijuana cultivation. The Legislature, thereafter, amended MMRSA to permit local regulation adopted after March 1, 2016. The City currently prohibits medical marijuana dispensaries as defined in the Davis Municipal Code Section 40.26.275. Extending the moratorium also prohibits adult use marijuana dispensaries.

Staff has been researching the various medical marijuana businesses that are allowed under the

State licensing scheme established in the MMRSA in an effort to bring forward potential modifications to the existing regulations should the City wish to expressly permit certain commercial marijuana businesses after conducting community outreach and dialogue on the topic and coordinating with nearby jurisdictions before implementing regulations on what commercial marijuana uses may be permissible or desired and which may not be. In addition to cultivation and dispensaries, the City may wish to review manufacturing, research and development of products, bakeries and other similar businesses (see below) and mobile delivery services. The development of regulations associated with medical marijuana (and potentially adult use marijuana) deals with a multitude of policy considerations (health, safety, land use, enforcement, monitoring, etc...), which require careful consideration, deliberation, and community outreach. In addition to staff research of the MMRSA, Californians approved Proposition 64, the Adult Use of Marijuana Act (“AUMA”) on November 8, 2016. Under the AUMA, adult marijuana use is legal for persons over the age of 21 years with allowances for personal cultivation and the establishment of commercial marijuana businesses. The regulatory scheme for the commercial marijuana businesses in the AUMA follows the model established within MMRSA.

Based upon staff research on businesses allowed under the MMRSA and with the passage of the AUMA, staff believes extending the Interim Urgency Ordinance placing a temporary moratorium on the establishment or expansion of commercial marijuana businesses and outdoor cultivation is the right course of action. Extending the moratorium would allow time for staff to conduct community outreach, engage with neighboring jurisdictions on the matter and prepare a comprehensive regulatory approach for Council consideration. The League of California Cities (“League”) anticipates that the State will not issue licenses before January 1, 2018, allowing time for staff to address these important local regulatory efforts. Over the course of 2017 the State is expected to develop statewide regulatory criteria, which may also serve to inform local policy development efforts.

The City has been receiving inquiries for the establishment of marijuana businesses and while the City does have regulation associated with medical marijuana uses in place, staff recommends extending the moratorium which further clarifies allowed uses given the AUMA went into effect on November 9, 2016. The League has advised against relying on the use of permissive zoning related to marijuana businesses envisioned under the AUMA. It is important to reiterate that the adoption of an ordinance at this time does not detract in any way from the City Council’s authority to make future amendments.

#### MMRSA Business License Categories

Staff will be making recommendations for local regulations associated with the various businesses envisioned under the MMRSA at a future meeting. The regulatory scheme established in the MMRSA envisions the following business categories for state licensing:

*Cultivation Licenses – Commercial cultivation licenses vary depending on size of grow, and the types of light that are used.*

*Manufacturing Licenses – There are two types of manufacturing license types. One*

*manufacturing license uses volatile solvents, while the other license does not. The state will limit the number of licenses that use volatile solvents in the manufacturing process.*

*Testing License – Laboratories that test medical marijuana and medical marijuana products.*

*Dispensary Licenses – Businesses that engage in the retail sale of medical marijuana and medical marijuana products. The dispensary licenses also allows for deliveries in addition to a brick and mortar storefront.*

*Distributor License – Dedicated solely to the storage and distribution of products from the cultivators and/or manufacturers to dispensaries.*

*Transporter License - Transporters of medical marijuana and medical marijuana products between licenses.*

### AUMA Considerations

The business license types under the AUMA mirror those established in the MMRSA and will be encompassed in the future staff recommendations on local regulations. There are some items to note relative to personal consumption and cultivation allowances that are allowed under Proposition 64. They are as follows:

#### Personal Consumption and Cultivation

- Legalizes the nonmedical use of marijuana by persons over 21 years of age.
- Persons over 21 years of age are allowed to possess, transport, purchase, obtain or give away up to 28.5grams of non-concentrated or 8 grams of concentrated marijuana.
- No smoking of marijuana is allowed in public places (except where authorized locally). The proposed urgency ordinance related to smoking clarifies this.
- No smoking of marijuana is allowed where smoking tobacco is prohibited.
- Persons over 21 years of age are allowed to cultivate up to six (6) marijuana plants within a private residence, inclusive of within a greenhouse or other structure on the same parcel of the property that is not visible from a public space. A residence includes single-family homes, multi-family apartment units and mobile homes.
- Local governments may reasonably regulate but not prohibit personal indoor cultivation.
- Local governments may regulate or prohibit personal outdoor cultivation.

AUMA Effective Date – *November 9, 2016.*

### Recommended Ordinance Extending Moratorium

The recommended ordinance continues the city-wide moratorium on the establishment, creation or expansion of any and all commercial marijuana uses and outdoor cultivation as established in Ordinance #2488. The extension would continue for an additional ten months and fifteen days, or through October 31, 2017, unless subsequently extended by the City Council. As an urgency ordinance, passage requires at least 4 affirmative votes of the City Council.

Staff recommends that the moratorium be extended for the entire first extension period allowed by statute. This is because the statute authorized a 45-day moratorium with two extensions – the first not to exceed 10 months and 15 days and the second not to exceed one year (for a total of two years). No more than two extensions are permitted by statute. The statute does not allow shorter extensions even if the total time is still two years. Therefore, while staff anticipates returning to council well within the established first extension period, staff also recommends approving the entire allowable time frame with this first extension. Should the City Council adopt local regulations prior to the end of the moratorium, the moratorium would be superseded by said local regulations. It is also possible for the City Council to adopt some local regulations earlier than others, if a clear policy determination can be reached on certain items more readily than others.

The recommended moratorium, if approved, would expire on October 31, 2017. The City Council may extend the moratorium at a public hearing prior to expiration, for up to one additional year, for an overall total of two years. Staff anticipates returning to the Council well in advance of the October 2017 moratorium expiration with recommendations for direction on potential ordinance adoption.

### **Current and Next Steps**

The statute requires a report on steps taken to alleviate the condition which led to the adoption of a moratorium no less than ten days prior to the expiration date of the moratorium.

City efforts since November 1, 2016, have included the following:

- ◆ A multidisciplinary staff outreach meeting with neighboring Yolo County jurisdictions, Davis Joint Unified School District (DJUSD), and UC Davis (UCD) occurred on November 28, 2016 to discuss local efforts related to marijuana business regulation efforts and general marijuana use considerations.
- ◆ Discussions and meetings with marijuana business proponents have occurred to better understand business desires and regulatory framework possibilities.
- ◆ Preliminary research on key policy considerations and staff attendance at a variety of workshops to gain a greater understanding of potential best management practices.

### **Next Steps**

The Urgency Interim Zoning Ordinance is written to address both medical and nonmedical marijuana businesses and personal outdoor cultivation. Staff needs time for to research and consider potential regulations or prohibitions associated with the various types of marijuana businesses contemplated under the MMRSA and the AUMA and time for community engagement.

Upcoming efforts include the following:

- ◆ Meetings with stakeholders (medical marijuana patients and advocates, local cannabis business proponents, the Downtown Davis Business Association, Davis Chamber of Commerce, and other constituent groups)
- ◆ Continued discussions with local jurisdictions, DJUSD and UCD.

- ♦ Research and outreach to jurisdictions that have an established marijuana business regulatory framework to learn about ‘best practices’ in an effort to inform potential regulations specific to Davis.
- ♦ Visiting marijuana businesses of various types to better understand their facilities and operational plans.
- ♦ Developing regulatory recommendations and options to bring back to City Council at a future meeting.

Staff anticipates bringing regulatory options and recommendations to the Planning Commission and City Council in the first quarter of 2017. At that meeting, taxation allowances under the MMRSA and the AUMA will be elaborated on and specific recommendations associated with regulations on the various business types will be provided. As noted above, the recommendations and options are envisioned to allow for a tiered approach, where regulatory action could be taken on certain activities sooner than others while other regulatory actions could be deferred if City Council is desirous of more information for informed decision making.

#### **Environmental Determination**

The City has determined that the proposed project is categorically exempt from further environmental review pursuant to the following sections of the CEQA Guidelines: The proposed Ordinance will have no significant effect on the environment and qualifies as being Categorically Exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activities will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activities are not “projects” as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because they have no potential for resulting in physical change to the environment, directly or indirectly and 15061(b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it can be seen with certainty that it will not have a significant effect or physical change to the environment.

#### **Public Noticing**

A Public Hearing Notice for the City Council hearing was published in The Davis Enterprise.

#### **Attachments**

1. Ordinance

**ORDINANCE NO. \_\_\_\_**

**EXTENSION OF URGENCY INTERIM ZONING ORDINANCE NO. 2488  
CONTINUING A MORATORIUM IN ALL ZONING DISTRICTS ON THE  
ESTABLISHMENT, CREATION OR EXPANSION OF ANY AND ALL COMMERCIAL  
MARIJUANA USES AND ALL OUTDOOR MARIJUANA CULTIVATION, FROM AND  
INCLUDING DECEMBER 16, 2016 THROUGH AND INCLUDING OCTOBER 31, 2017,  
UNLESS EXTENDED BY FURTHER ACTION OF THE CITY COUNCIL, TO TAKE  
EFFECT IMMEDIATELY**

WHEREAS, medical marijuana dispensaries, defined by the Davis Municipal Code to mean any facility or location where medical marijuana is made available and/or distributed by a primary caregiver, qualified patient, or person with an identification card authorized by State law, are currently prohibited in all zoning districts in the City; and

WHEREAS, the City Council adopted Ordinance No. 2467 on January 19, 2016 in order to, among other things, expressly prohibit in all zoning districts in the City commercial cultivation and personal outdoor cultivation of medical marijuana, while allowing certain limited personal indoor cultivation; and

WHEREAS, pursuant to Ordinance No. 2467, Council determined to review the City's medical marijuana regulations no later than December 2016 in order to engage community dialogue and ensure the City's Municipal Code protects the health and safety of its residents while appropriately regulating medical marijuana; and

WHEREAS, the City Council intended for the prohibition of outdoor and commercial cultivation of medical marijuana in the City, combined with the current prohibition of medical marijuana dispensaries, to encompass all potential commercial-scale marijuana uses until such time as the City adequately considered zoning proposals for commercial marijuana uses and adopted appropriate ordinances and regulations, as necessary; and

WHEREAS, Proposition 64, also known as the "Adult Use Marijuana Act" ("AUMA"), is currently pending on the Statewide ballot to be considered by California voters at the November 8, 2016 election, which if passed would take effect on November 9 and, among other things, authorize personal non-medical use of marijuana and create a Statewide licensing scheme for commercial, non-medical marijuana businesses; and

WHEREAS, pursuant to the Medical Cannabis Regulation and Safety Act, as amended, the Bureau of Medical Cannabis Regulation, California Department of Food and Agriculture, and California Department of Public Health are currently developing regulations ("State Regulations") for State licensing of medical marijuana businesses, including commercial cultivation, manufacturing, testing, dispensary, and distribution businesses; and

WHEREAS, the State Regulations are required by State law to consider and mitigate a variety of identified environmental impacts and secondary effects related to commercial marijuana activity,

including water diversion, electricity usage, agricultural discharges, land conversion, use of nonvolatile and volatile solvents in production, and adequate security measures to protect against diversion, theft, loss or other criminal activity related to commercial storage and distribution of medical marijuana; and

WHEREAS, such State Regulations are not estimated to be fully developed and adopted until late 2017, with State licenses estimated to begin issuing on or around January 1, 2018, notwithstanding potential impacts or delays caused by passage of AUMA; and

WHEREAS, there may be marijuana related uses that the City may wish to expressly permit, and the City does not that want to undermine efforts that may have a positive impact on the community; and

WHEREAS, City Staff is therefore currently considering, studying and analyzing various medical and non-medical marijuana uses in light of the new and proposed State law and State Regulations referenced above, including proposed amendments to the City's existing zoning regulations to prohibit, permit, or conditionally permit certain commercial marijuana businesses; and

WHEREAS, City Staff desires further community dialogue and coordination with nearby jurisdictions before implementing regulations on what marijuana uses may be permissible versus those that may not; and

WHEREAS, the City has received inquiries from the public related to the establishment of commercial cultivation, manufacturing, and dispensary-related marijuana businesses in the City, including an inquiry of whether commercial marijuana manufacturing is currently a permitted use in the industrial districts; and

WHEREAS, the unintended and unregulated establishment of new commercial marijuana uses at this time, not already expressly permitted by the City's Zoning Code, poses a variety of potential known and unknown adverse impacts, such as offensive odors, gases, and other discharges related to commercial scale processing of marijuana products, unsafe or disapproved use of volatile and nonvolatile solvents intended to be regulated by the State Regulations, excess or dangerous waste, water, and electricity usage, and theft or other crime related to the storage and commercial distribution of commercial-scale quantities of marijuana; and

WHEREAS, the potential immediate enactment of AUMA by California voters further complicates potential development and application of zoning regulations related to personal cultivation and commercial non-medical marijuana businesses, including cultivation, manufacturing, retail, distribution, and microbusiness businesses; and

WHEREAS, in light of the potential known and unknown adverse impacts of commercial marijuana uses, currently unregulated by State or local law, potentially rapid change of State law and ongoing development of State Regulations, and City Staff's ongoing study of zoning proposals related to marijuana uses, the City Council finds that the current establishment, creation, or expansion of commercial marijuana uses, excepting those uses already established



and permitted by the City's Zoning Code, would create a current and immediate threat to the health, safety, and welfare of the City, its residents and businesses; and

WHEREAS, the City Council further finds that the establishment or creation of such commercial marijuana uses without appropriate regulation, or the allowance of outdoor personal cultivation of non-medical marijuana, might conflict with or be inconsistent with surrounding uses and intended zoning requirements, and if allowed to proceed under current zoning, new marijuana uses not already permitted in the City could conflict with, and defeat the purpose of, the proposal to study and adopt new regulations, consistent with State law, regarding marijuana uses; and

WHEREAS, City Council therefore desires to temporarily prohibit all marijuana uses which are not already permitted by the City's Zoning Code to provide adequate time to continue studying zoning proposals related to medical and non-medical marijuana uses and adopt regulations as necessary; and

WHEREAS, on November 1, 2016, the City Council adopted Urgency Interim Zoning Ordinance 2488 which Ordinance is effective November 1, 2016, through and including December 15, 2016, and

WHEREAS, by law, Urgency Interim Ordinance #2488 may be extended, prior to its expiration, by the City Council for up to an additional 10 months and 15 days; and

WHEREAS, this urgency ordinance is adopted pursuant to the requirements of Government Code section 65858.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. Findings, Declaration of Urgency.**

The City Council of the City of Davis hereby finds and declares that there is a need to enact an urgency interim ordinance establishing a moratorium on the establishment or creation of all marijuana uses in all zoning districts in the City, subject to the findings and conditions contained in this Ordinance. The City Council hereby incorporates the findings set forth in the recitals stated above. The City makes this declaration of urgency based, in part, on recent inquiries regarding the allowance of medical marijuana manufacturing businesses in the City, as well as general inquiries regarding the passage of AUMA and the establishment of similar commercial marijuana businesses. Specifically, the City Council makes the following findings:

- (a) If commercial marijuana uses are allowed to proceed without appropriate review of location and operational criteria and standards, including the safe and appropriate use of volatile and nonvolatile solvents for processing and refining marijuana products and security measures adequate to protect against theft and crime of commercial-scale quantities of marijuana, such businesses could have deleterious effects on surrounding neighborhoods and businesses that present a clear and immediate danger to the public health, safety and welfare.

- (b) If AUMA is approved by the voters on November 8, 2016 and personal outdoor marijuana cultivation of non-medical marijuana is allowed to proceed, it would conflict with, and defeat the purpose and intent of, current zoning requirements that prohibit personal outdoor cultivation of medical marijuana in all zoning districts due to nuisance, crime, and aesthetic factors. Allowance of any non-medical, commercial marijuana uses would likewise directly conflict with, and defeat the purpose and intent of, the current prohibition on commercial cultivation and marijuana dispensaries in the City until such time as the City has considered such uses and adopted appropriate ordinances and regulations.
- (c) The City Council finds that if establishment or development of medical or non-medical marijuana uses, beyond those already established and permitted by the City's Code, were allowed to proceed while the City is studying zoning ordinances and regulations for such uses, it would defeat the purpose of studying and considering zoning proposals to regulate and/or prohibit certain medical and non-medical marijuana uses.
- (d) Failure to enact this moratorium may result in significant irreversible changes to neighborhood and community character, and may ultimately conflict with new and pending State law and State Regulations and City ordinances and regulations.
- (e) Based on the foregoing, the City Council does hereby declare this urgency ordinance is necessary to protect the public health, safety, and welfare while the City is considering revisions to existing zoning regulations related to marijuana uses.

**SECTION 2. Moratorium.**

Except as provided in Section 3 and Section 4 of this Ordinance, the City Council hereby declares a moratorium on any and all commercial marijuana uses and outdoor marijuana cultivation within all zoning districts in the City. The City shall not approve or issue land use approvals or permits, including but not limited to zoning amendments, conditional use permits, variances, tentative subdivision or parcel maps, site plan approvals, design review approvals, and building permits or other applicable entitlements for the establishment or creation of commercial marijuana businesses, or modification of existing business for commercial marijuana uses, during this moratorium.

**SECTION 3. Exemptions.**

This moratorium shall not apply to those marijuana uses already expressly permitted or conditionally permitted in the City. Specifically, this moratorium does not apply to indoor personal cultivation of medical marijuana permitted and regulated by Davis Municipal Code section 40.26.276. In the event AUMA is approved and adopted by the voters on November 8, 2016, this moratorium shall not apply to indoor personal cultivation of non-medical marijuana as authorized by State law, provided that such indoor personal cultivation shall still be subject to the physical and operational requirements set forth in Davis Municipal Code section 40.26.276(d) to the extent such requirements do not conflict with State law. This moratorium also does not apply to existing deliveries and delivery services of medical marijuana to qualified patients in the City, to the extent such services are validly operating in the City as of the date of adoption of this moratorium and do not constitute medical marijuana dispensaries currently prohibited by the

Davis Municipal Code. This moratorium also does not apply to existing and established laboratories for testing, which are permitted or conditionally permitted in districts zoned for research and light industrial uses, including Commercial-Service (C-S), Industrial Research (I-R), Industrial (I), and similar planned development districts, provided that such testing facilities otherwise comply with the Davis Municipal Code and do not establish, create, or expand to commercial marijuana uses covered by this moratorium.

Furthermore, this ordinance does not apply to nor seek to restrict in any way the rights granted to medical patients within this community under Proposition 215 and Senate Bill 420, which recognizes the rights of patients and caregivers to associate under the form of collectives or cooperatives, for their medical marijuana needs. These forms of association are not included in the definition of “commercial marijuana uses” found in Section 5 of this ordinance. This exemption does not modify the prohibition against medical marijuana dispensaries currently in effect under the Davis Municipal Code.

**SECTION 4. Hardship Exception.**

Any person may apply for an exception from the provisions of this Ordinance on the grounds of economic hardship. Such application shall state the nature of the hardship and the reasons why an exception to this Ordinance is warranted. The application shall explain the relationship of the proposed marijuana business or use to the character of its surroundings, the impact the proposed business or use may have on surrounding properties, and how any such impacts will be mitigated. The application shall state why applying for and obtaining a conditional use permit or other land use approval or permit as set forth above, and/or why the delay in pursuing the use until the City completes its evaluation of current zoning regulations and proposals and makes amendments, revisions or modifications to the Zoning Ordinance as the Council deems appropriate, would constitute a taking in contravention of the law. The application shall also explain whether there are alternatives to the proposed use which have been investigated and the applicant's opinion of such alternatives. Such explanation shall, if appropriate, be accompanied by technical information to support the explanation. The application for a hardship exemption shall be heard by the City Council pursuant to the procedures established in Chapter 40 for the hearing of appeals under the terms set forth in Section 40.35, including but not limited to the public notice and hearing requirements set forth in Section 40.35.

**SECTION 5. Definitions.**

As used herein, “marijuana” means all or any parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Marijuana” also means the separated resin, whether crude or purified, obtained from marijuana, and marijuana as defined by Section 11018 of the Health and Safety Code. For purposes of this Ordinance, “marijuana” includes both medical and non-medical marijuana and medical and non-medical marijuana products.

As used herein, “commercial marijuana uses” means and includes any and all commercial marijuana activity, including but not limited to cultivation, manufacturing, production, preparation, refining, compounding, processing, blending, extracting, infusing, storing, labeling,

packaging or repackaging, transporting, distributing, delivering, or selling wholesale or retail sales of marijuana or marijuana products, and any business, person or entity that conducts or engages in these commercial marijuana uses.

“Outdoor marijuana cultivation” shall mean outdoor cultivation, planting, growing, harvesting, drying, curing, grading, or trimming of non-medical marijuana, if such cultivation becomes legal by the passage of AUMA.

**SECTION 6. Existing Prohibitions Not Affected.**

All marijuana uses already prohibited by the City’s Code shall remain prohibited and shall not be affected or modified by this Ordinance, including the current prohibition of medical marijuana dispensaries set forth in Davis Municipal Code section 40.26.275 and outdoor and commercial cultivation prohibited by Davis Municipal Code section 40.26.276.

**SECTION 7. CEQA Finding.**

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance, and establishment of a moratorium on the establishment or creation of commercial marijuana uses or outdoor cultivation of marijuana, will have a significant effect on the environment because the Ordinance will maintain current levels of development. It is therefore exempt from any California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

**SECTION 7. Effective Date.**

This Interim Ordinance shall become effective immediately and shall remain in force and effect from and including December 16, 2016 through and including October 31, 2017, , unless extended prior to its expiration by further action of Council.

PASSED AND ADOPTED by the City Council of the City of Davis this 6<sup>th</sup> day of December 2016, by the following vote:

AYES:

NOES:

Robb Davis  
Mayor

ATTEST:

Zoe S. Mirabile, CMC  
City Clerk