

TO: Honorable Mayor and City Council
Attention: Jeremy Craig, City Manager

FROM: Barton Brierley, AICP, Community Development Director
Melinda C. H. Stewart, City Attorney
(Staff Contacts: Fred Buder, (707) 449-5307; David Nam, (707) 449-5309)

SUBJECT: URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VACAVILLE EXTENDING THE URGENCY INTERIM ORDINANCE (ORDINANCE NO. 1916) IMPOSING A MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT, OR OPERATION OF ALL COMMERCIAL, INDUSTRIAL, AND RETAIL CANNABIS LAND USES, DELIVERIES, AND ALL OUTDOOR CANNABIS CULTIVATION; AND

WRITTEN REPORT ON THE MEASURES TAKEN TO DATE TO ALLEVIATE THE CONDITIONS THAT LED TO THE ADOPTION OF AN URGENCY INTERIM ORDINANCE IMPOSING A MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT, OR OPERATION OF ALL COMMERCIAL, INDUSTRIAL, AND RETAIL CANNABIS LAND USES, DELIVERIES, AND ALL OUTDOOR CANNABIS CULTIVATION

BACKGROUND:

On September 26, 2017, the City Council adopted an interim ordinance imposing as an urgency measure a moratorium on the approval, commencement, establishment or operation of all commercial, industrial and retail cannabis land uses, deliveries and all outdoor cannabis cultivation within the City. The ordinance was adopted pursuant to Government Code Section 65858, which provides that the ordinance shall remain in effect for 45 days, unless extended by the Council. Such extension requires a four-fifths (4/5) affirmative vote of the City Council. The initial 45-day period will expire on November 10, 2017, and any adopted extension may not exceed an additional 22 months and 15 days, for a total effective term of 2 years.

Section 65858 also requires that, not less than 10 days prior to the expiration of the interim ordinance or any extension, the City Council shall issue a written report describing the measures taken to alleviate the conditions that led to adoption of the ordinance ("Report"). The Report is attached to this staff report as Attachment 1.

DISCUSSION:

The purpose of the interim ordinance is to promote the public health, safety or welfare during the time that City staff analyzes and prepares a study on all commercial, industrial and retail cannabis land uses, deliveries and all outdoor cannabis cultivation, including providing the City Council with options and recommendations on whether to adopt certain regulatory ordinances permitting the operation of such establishments, or to prohibit any particular type of establishment. If any commercial, industrial or retail cannabis land use, including a retail cannabis premise (dispensary), deliveries or any outdoor cannabis cultivations are allowed to operate in the City of Vacaville without appropriate staff review, the resulting use could conflict with the requirements of the City's General Plan, the City's zoning ordinance and forthcoming City and state regulations, and state and/or federal law, and result in irreversible incompatibility of land uses and adverse impacts on residents, businesses, and neighborhoods that present a current and immediate threat to the public health, safety or welfare.

If extended, the interim ordinance will remain in effect for an additional 22 months and 15 days, or until the City has completed its study and adopted any necessary revisions or additions to its ordinances to alleviate the conditions leading to the adoption of the interim ordinance. If the latter occurs, the moratorium could be rescinded prior to its expiration. The studies staff proposes to present to the City Council over the course of the extended moratorium are largely separated into 4 categories: Personal use and cultivation regulation; Commercial land use regulations (e.g., retail dispensaries); Industrial land use regulations (e.g., testing, manufacturing, warehousing, etc.); and Agricultural regulations (e.g. commercial cultivation). Some of the subcategories that require further study and possible action include amending the City's smoking ordinance to expressly include regulations on cannabis; evaluating regulations for fire and building safety to create a permitting process for personal cultivation with minimum health and safety standards imposed; and addressing issues regarding taxation and banking.

FISCAL IMPACT:

The adoption of this extension to the interim ordinance will have no impact on the General Fund. However, should the ordinance extension not be adopted, the location of commercial, industrial or retail cannabis land uses, deliveries or outdoor cannabis cultivations within the City could impact the General Fund due to increased demands for police response, as well as maintenance of public streets and sidewalks.

RECOMMENDATION:

- 1) By a roll call vote, approve the Report, and; 2) By title only, and by a roll call vote, extend the subject Interim Ordinance as an urgency measure.

(Note: The subject ordinance must be adopted by a 4/5 vote of the City Council. Therefore, a roll call vote of the Council on this item is needed.)

ATTACHMENTS:

Ordinance – Action Item
Attachment 1: Written Report

ORDINANCE NO.

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VACAVILLE EXTENDING THE URGENCY INTERIM ORDINANCE (ORDINANCE NO. 1916) IMPOSING A MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT OR OPERATION OF ALL COMMERCIAL, INDUSTRIAL, AND RETAIL CANNABIS LAND USES, DELIVERIES, AND ALL OUTDOOR CANNABIS CULTIVATION

WHEREAS, the possession, cultivation, possession for sale, transportation, distribution, and furnishing, of cannabis is generally unlawful under California state statutory law. (See, e.g., California Health and Safety Code Sections 11357-11360); and

WHEREAS, in November of 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq., and entitled the “Compassionate Use Act of 1996”), which allows a person to use cannabis for medical purposes with a doctor’s recommendation, without violating state criminal law regarding the use, possession, or cultivation of cannabis; and

WHEREAS, in 2003, the State Legislature adopted Senate Bill 420 (codified as Health and Safety Code Section 11362.7 et seq., and entitled the “Medical Marijuana Program Act”), which clarified the scope of the Compassionate Use Act and allowed cities and other governing bodies to adopt and enforce rules and regulations related to medical cannabis; and

WHEREAS, in 2011, the State Legislature adopted Assembly Bill 1300 (codified as Health and Safety Code Section 11362.83, and entitled “Medical Marijuana”), which provides that a local government entity may enact an ordinance regulating the location, operation or establishment of a medical cannabis cooperative or collective; authorizes a local government entity to enforce such ordinances through civil or criminal remedies and actions; and authorizes a local government entity to enact any ordinance that is consistent with the Medical Marijuana Program; and

WHEREAS, in October of 2015, Governor Brown signed three separate legislative bills, Assembly Bill 266, Assembly Bill 243 and Senate Bill 643 (effective on January 1, 2016), collectively referred to as the “Medical Marijuana Regulation and Safety Act” (MMRSA), which regulated and licensed cultivation, dispensing, distribution, manufacturing, testing and transportation of medical cannabis; and

WHEREAS, in June of 2016, Governor Brown signed Senate Bill 837 (effective on June 27, 2016), referred to as the “Medical Cannabis Regulation and Safety Act” (MCRSA), which added additional disciplinary grounds; required local license before applying for state license; implemented “seed to sale” tracking; required specific testing of cannabis plants; and

WHEREAS, in November of 2016, the voters of the State of California approved Proposition 64 (entitled the “Control, Regulate and Tax Adult Use of Marijuana Act”), which allows a person over the age of twenty-one (21) to possess, cultivate, and use cannabis for recreational purposes, without violating state criminal law regarding the use, possession, or cultivation of cannabis; and

WHEREAS, in June of 2017, Governor Brown approved Senate Bill 94 (entitled “Cannabis - Medicinal and Adult Use” (MAUCRSA)), which consolidated the regulatory scheme for medical and recreational cannabis; and

WHEREAS, in September of 2017, Governor Brown approved Assembly Bill 133 (entitled “Committee on Budget, Cannabis Regulation”), which revises the laws on regulations for applicants to submit evidence of local agency approval to State licensing entities and for said entities to notify local agency upon submission of such evidence; deletes prohibition against testing labs delivering and transporting cannabis and/or products; allows Bureau of Cannabis Control to set standards for cannabis purchases by primary caregivers; and increases lawful possession of concentrated cannabis from 4 grams to 8 grams, among other changes; and

WHEREAS, federal law (codified as 21 USC Section 801 et seq., and entitled the “Controlled Substances Act”) makes it unlawful to manufacture, distribute, or possess any controlled substances, including cannabis. This creates a significant law enforcement dilemma, in that federal law now conflicts with California law; and

WHEREAS, the City’s staff has recently received several zoning inquiries from prospective retail cannabis premise (dispensary) operators, and other related business ventures; and

WHEREAS, the City of Vacaville’s Municipal Code does not specifically address the regulation or location of permitted commercial, industrial, or retail cannabis land use, including retail cannabis premise (dispensary) operations, delivery, or outdoor cannabis cultivation or list commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation as a permitted or conditionally permitted use in any zoning district; and

WHEREAS, state law has created a limited affirmative defense to criminal prosecution for qualifying individuals that collectively gather to cultivate medical cannabis, as well as for persons that qualify as a “patient,” or a “primary caregiver,” as those terms are defined within the statutory scheme. (Health and Safety Code Sections 11362.765 and 11362.775.) There are also licensing provisions that authorize and regulate the establishment of a retail cannabis premise (dispensary) cannabis operation or other storefront distribution operation. (Business and Professions Code Sections 26050, 26054, 26200); and

WHEREAS, some individuals have utilized the above-referenced state law provisions of Health and Safety Code Sections 11362.765 and 11362.775 as a basis for operating medical retail cannabis premises (dispensaries) that sell or otherwise provide medical cannabis. Presently, no such establishments are operating in the City; however, without restrictions in place, a retail cannabis premise (dispensary) operator could attempt to open and operate without restrictions; and

WHEREAS, in California cities that have permitted the establishment of medical retail cannabis premises (dispensaries), issues and concerns have arisen related to the establishment of medical retail cannabis premises (dispensaries) in close proximity to residential properties, schools, and day care facilities. Furthermore, those cities have reported adverse impacts on public health, safety, or welfare, including an increase in crimes such as loitering, illegal drug activity, burglaries, robberies, and other criminal activity within and around retail cannabis premises, as well as increased pedestrian and vehicular traffic, noise, and parking violations. Medical retail cannabis premises (dispensaries) have also resulted in increased demands for police response, as well as maintenance of public streets and sidewalks; and

WHEREAS, there are several open state law questions regarding the regulation of a retail cannabis premise (dispensary), and commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation in general; and

WHEREAS, if commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, and specifically retail cannabis premise (dispensary) operations, are allowed to be established in the City of Vacaville without appropriate regulation, such uses might: (1) Be established under conditions that would conflict with the requirements of the General Plan, the City's zoning ordinance, forthcoming City and state regulations, and state and/or federal law; (2) Be inconsistent with surrounding uses; and (3) Present a current and immediate threat to the public health, safety, or welfare; and

WHEREAS, the City Council desires on an urgency basis to temporarily prohibit all commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations, in the City while City staff studies the issues surrounding such establishments. During the moratorium period, staff will examine various ways to address these establishments and provide the City Council with options and recommendations on whether to adopt a regulatory ordinance permitting the operation of such establishments, or whether to adopt an outright ban on certain proposed operations; and

WHEREAS, on September 26, 2017, the City Council adopted, by a four-fifths affirmative vote, an interim ordinance imposing as an urgency measure a moratorium on the approval, commencement, establishment or operation of all commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations; and

WHEREAS, pursuant to Government Code Section 65858, the interim ordinance shall expire on November 10, 2017, unless extended by the City Council for an additional period of up to 22 months and 15 days; and

WHEREAS, more time is needed for City staff to study the issues surrounding all commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operation, and to consult with the City Attorney; and

WHEREAS, if the City of Vacaville does not extend the interim ordinance for an additional period of up to 22 months and 15 days, then the potential exists for the approval, commencement, establishment, or operation of any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations within the City, with the accompanying adverse impacts identified herein, without adequate regulations in place. Therefore, there is a current and immediate threat to the public health, safety, or welfare, and the approval of a use permit, variance, building permit, business license, or any other permit or entitlement for use of property within the City as any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations would result in that threat to the public health, safety, or welfare; and

WHEREAS, in order to protect the public health, safety, or welfare, it is necessary for the City Council to extend the interim ordinance on an urgency basis to temporarily prohibit any uses and/or activities as hereinafter provided which may be in conflict with the possible regulations to be studied; and

WHEREAS, this extension to the interim ordinance is adopted in accordance with the requirements of Government Code Section 65858.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VACAVILLE DOES
ORDAIN AS FOLLOWS:**

SECTION 1. PURPOSE AND FINDINGS:

- A. The above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this extension to the interim ordinance.
- B. The City of Vacaville General Plan does not presently contain a goal or policy or textual discussion of the issue of a prospective use of any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations.
- C. The Vacaville Municipal Code does not address or regulate the existence or location of any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations, operator licensing, or cultivation of cannabis plants.
- D. The City's staff have recently received inquiries from prospective retail cannabis premise (dispensary) operators as to whether a medical retail cannabis premise (dispensary) operation, or related business ventures, are currently permitted or conditionally permitted in any of the City's zoning districts.
- E. In cities that have permitted the establishment of medical retail cannabis premises (dispensaries), issues and concerns have arisen related to the establishment of medical retail cannabis premises (dispensaries) in close proximity to residential properties, schools and day care facilities. Furthermore, those cities have reported increases in loitering, illegal drug activity, burglaries, robberies, and other criminal activity within and around the dispensaries, as well as increased pedestrian and vehicular traffic, noise and parking violations. Medical retail cannabis premises (dispensaries) have also resulted in increased demands for police response, as well as maintenance of public streets and sidewalks.
- F. The use, possession, cultivation or distribution of cannabis for any purpose remains illegal under federal law.
- G. There are several open questions of state regulations and laws regarding the regulation of any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations, including how to interpret the State Attorney General's August 2008 "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" [marijuana dispensaries generally considered to be unprotected, illegal drug-trafficking enterprises unless they fall within the narrow legal definition of a "cooperative" under state law], the California Supreme Court case *People v. Mentch* (2008) 45 Cal.4th 274 [who may qualify as a "primary caregiver" for the purpose of cultivating or dispensing medical marijuana to qualified patients], a court of appeal case *Qualified Patients Assn. v. City of Anaheim* (2010) 187 Cal.App.4th 734 [ordinance imposing criminal penalties for operation of a medical marijuana dispensary]; *City of Vallejo v. NCORP4, Inc.*, (2017) 1st Dist., Div. 3, Case No. A149907, LEXIS 848 [whether a local agency may adopt laws limiting number of medical marijuana dispensaries to those already in operation and compliant with prior law], and the withdrawn draft

medicinal cannabis cultivation, manufacturing, and testing regulations by the Bureau of Cannabis Control (http://bcc.ca.gov/law_regs/mcrsa_comments.pdf, http://bcc.ca.gov/law_regs/mcrsa_lab_comments.pdf), Department of Food and Agriculture (<http://cannabis.ca.gov/wp-content/uploads/sites/13/2017/09/Medical-Cannabis-Cultivation-Regulations-Draft-Comment-Summary.pdf>), and Department of Public Health ([https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20\(Final%20on%20CDPH%20Letterhead\).pdf](https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/Cannabis%20Comments%20(Final%20on%20CDPH%20Letterhead).pdf)).

- H. To protect residents and businesses from potential harmful community impacts resulting from any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations, City staff needs time to study the legality, potential adverse community impacts, and mechanisms for regulating any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations, and to provide the City Council with options and recommendations on whether to adopt a regulatory ordinance permitting the operation of such establishments, or whether to adopt an outright ban on certain types of establishments.
- I. If any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations are allowed to proceed without appropriate City staff review, such dispensaries could conflict with the requirements of the City's General Plan, the City's zoning ordinance, and forthcoming city and state regulations, and state and/or federal law, and result in irreversible incompatibility of land uses and adverse impacts on residents, businesses, and neighborhoods that present a current and immediate threat to the public health, safety, or welfare.
- J. On September 26, 2017, the City Council adopted, by a four-fifths affirmative vote, an interim ordinance imposing as an urgency measure a moratorium on the approval, commencement, establishment or operation of all commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation.
- K. Pursuant to Government Code Section 65858, the interim ordinance shall expire on November 10, 2017, unless extended by the Council for an additional period of up to 22 months and 15 days.
- L. More time is needed for City staff to study the issues surrounding commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations and to consult with the City Attorney.
- M. If the City of Vacaville does not extend the interim ordinance, then the potential exists for the approval, commencement, establishment or operation of commercial, industrial, or retail cannabis land uses, deliveries, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations within the City, with the accompanying adverse impacts identified herein, without adequate regulations in place. Therefore, there is a current and immediate threat to the public health, safety, or welfare, and the approval of a use permit, variance, building permit, business license, or any other permit or entitlement for use of property within the City as any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations

would result in that threat to the public health, safety, or welfare.

- N. In order to protect the public health, safety, or welfare, it is necessary for the City Council to extend the interim ordinance for up to an additional 22 months and 15 days to temporarily prohibit any uses and/or activities as hereinafter provided, which may be in conflict with the possible regulations to be studied.
- O. This extension of the interim ordinance is adopted in accordance with the requirements of Government Code Section 65858.

SECTION 2. EXTENSION OF INTERIM MORATORIUM IMPOSED:

- A. Ordinance No. 1916, providing that no zoning ordinance interpretation or amendment, amendment to the City's General Plan or Municipal Code, use permit, variance, building permit, business license, or any other permit or entitlement for use shall be approved or issued for the approval, commencement, establishment or operation of, and no person or entity shall own, manage, conduct, or operate any "commercial cannabis activity" as that phrase is defined therein, or participate as an employee, contractor, agent, volunteer, or in any other manner or capacity, in any commercial cannabis activity, upon any property in any zoning district within the City of Vacaville during the period the ordinance is in effect, and all terms and provisions of Ordinance No. 1916, are hereby extended from its original expiration date of November 10, 2017, for an additional period of 22 months and 15 days to and including September 26, 2019, unless it is repealed before its expiration.

SECTION 3. ENVIRONMENTAL ANALYSIS:

With respect to compliance with the California Environmental Quality Act ("CEQA"), the City Council finds as follows:

- A. This ordinance is not a "project" within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. This ordinance does not, in itself, allow the operation of any commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including, but not limited to, retail cannabis premise (dispensary) operations; therefore, there is no potential for resulting in physical change in the environment, directly or ultimately.
- B. This ordinance is categorically exempt from CEQA under Section 15308 of the State CEQA Guidelines. This ordinance is a regulatory action taken by the City in accordance with Government Code Section 65858, to assure maintenance and protection of the environment pending the completion of contemplated zoning ordinance revisions.
- C. This ordinance is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. For the reasons set forth in subparagraphs (A) and (B) of this paragraph, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment, and therefore, the ordinance is not subject to CEQA.

SECTION 4. SEVERABILITY:

If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional.

SECTION 5. EFFECTIVE DATE:

This ordinance is declared to be an ordinance necessary for preserving the public health, safety and welfare and shall take effect immediately upon adoption.

SECTION 6. PUBLICATION:

This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

I HEREBY CERTIFY that the foregoing ordinance was introduced and passed as an urgency measure by a four-fifths vote of the City Council of the City of Vacaville, at a regular meeting of the City Council held on the 24th day of October, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

APPROVED:

Michelle A. Thornbrugh, City Clerk

Leonard J. Augustine, Mayor

Date

Attachment 1

WRITTEN REPORT ON THE MEASURES TAKEN TO DATE TO ALLEVIATE THE CONDITIONS THAT LED TO THE ADOPTION OF AN URGENCY INTERIM ORDINANCE IMPOSING A MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT, OR OPERATION OF ALL COMMERCIAL, INDUSTRIAL, AND RETAIL CANNABIS LAND USES, DELIVERIES, AND ALL OUTDOOR CANNABIS CULTIVATION

On September 26, 2017, the City Council adopted an interim ordinance imposing as an urgency measure a moratorium on the approval, commencement, establishment, or operation of all commercial, industrial, and retail cannabis land uses, deliveries, and all outdoor cannabis cultivation within the City. The interim ordinance was necessary to promote the public health, safety, or welfare during the time that City staff analyzes and prepares a study on all commercial, industrial, and retail cannabis land uses, deliveries, and all outdoor cannabis cultivation, including providing the City Council with options and recommendations on whether to adopt certain regulatory ordinances permitting the operation of such establishments.

Within that relatively short period of time, City staff has either commenced or identified the following measures necessary to address the conditions that led to the adoption of the interim ordinance, which measures are ongoing:

- Conduct legal research into the relevant state and federal case law on all commercial, industrial, and retail cannabis land uses, deliveries, and all outdoor cannabis cultivation, including rescinded proposed draft state regulations (http://www.bcc.ca.gov/about_us/documents/media_20170929.pdf);
- Determine whether the City may legally prohibit or limit all commercial, industrial, and retail cannabis land uses, deliveries, and all outdoor cannabis cultivation, including collectives and cooperatives formed pursuant to Health and Safety Code Section 11362.775 (*People v. Mentch* (2008) 45 Cal.4th 274; *Qualified Patients Assn. v. City of Anaheim*, (2010) 187 Cal.App.4th 734; *City of Vallejo v. NCORP4, Inc.*, (2017) 1st Dist., Div. 3, Case No. A149907, LEXIS 848);
- Review secondary sources on commercial, industrial, or retail cannabis land uses, deliveries, and all outdoor cannabis cultivation (e.g., State Attorney General's August 2008 "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use"; California Police Chiefs Association's April 2009 "White Paper on Marijuana Dispensaries"; Colorado Fire Marshals' Special Task Group March 11, 2016 "Marijuana Facility Guidance"; California State Water Resources Control Board July 7, 2017 "Draft Cannabis Cultivation Policy: Principles and Guidelines for Cannabis Cultivation");
- Review cannabis ordinances from other California cities and counties;
- Research laws and enactments in other states regarding commercial, industrial, or retail cannabis land uses, deliveries, and outdoor cannabis cultivation;

- Research operation of existing commercial, industrial, or retail cannabis land uses, deliveries, and outdoor cannabis cultivation in other cities and counties;
- Research reported adverse impacts caused by commercial, industrial, or retail cannabis land uses, deliveries, and outdoor cannabis cultivation (See e.g., news articles attached hereto as Exhibit A);
- Research option of adopting a regulatory ordinance permitting the operation of commercial, industrial, or retail cannabis land uses, deliveries, or outdoor cannabis cultivation, including:
 - Determine potential criminal liability of City Council members and staff for aiding and abetting violations of federal law in permitting commercial, industrial, or retail cannabis land uses, deliveries, or outdoor cannabis cultivation to operate within the City (particularly “storefront” cannabis businesses that cultivate or distribute cannabis and/or cannabis products for profit, which is illegal under federal law);
 - Review processes used by other cities and counties when considering applications for commercial, industrial, or retail cannabis land uses, deliveries, and outdoor cannabis cultivation;
 - Determine whether to establish a licensing and criminal background check process for proposed commercial, industrial, or retail cannabis land uses, deliveries, and outdoor cannabis cultivation owners, operators, and/or employees;
 - Decide if licensing needs to be regularly renewed;
 - Decide if liability insurance and/or a security bond should be required for proposed commercial, industrial, or retail cannabis land uses, deliveries, and outdoor cannabis cultivation owners, operators, and/or employees;
 - Determine which zoning districts a commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation might be allowed in;
 - Determine whether a commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation should be a conditionally permitted use, or a permitted use;
 - Decide whether to prohibit a commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation from locating near public or private schools, places of religious assembly, residential zones, or other sensitive zones or uses;
 - Decide whether a commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation should be located a minimum distance from another commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation;

- Decide potential regulations regarding the operation of a commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation, including advertisement and signage, on-site activities (e.g., consumption), hours, age of people allowed on site, security features, and other conditions for the operation of a commercial, industrial, or retail cannabis land use, delivery, or outdoor cannabis cultivation; and
- Other related issues.

It is anticipated that the above measures may take the full amount of the 22 month and 15 day ordinance extension, depending, in part, on when the state Bureau of Cannabis Control, Department of Food and Agriculture, Department of Public Health, and other state licensing agencies promulgate regulations, and the possible adoption of additional state legislation.

EXHIBIT A

LOCAL NEWS

How Riverside closed all its medical marijuana dispensaries — 118 in 10 years



Boards cover up what was once G6, a marijuana dispensary, at a building on Indiana Avenue in Riverside on Tuesday, May 23. Photo by Stan Lim, The Press-Enterprise/SCNG



By **ALICIA ROBINSON** | arobinson@scng.com | The Orange County Register

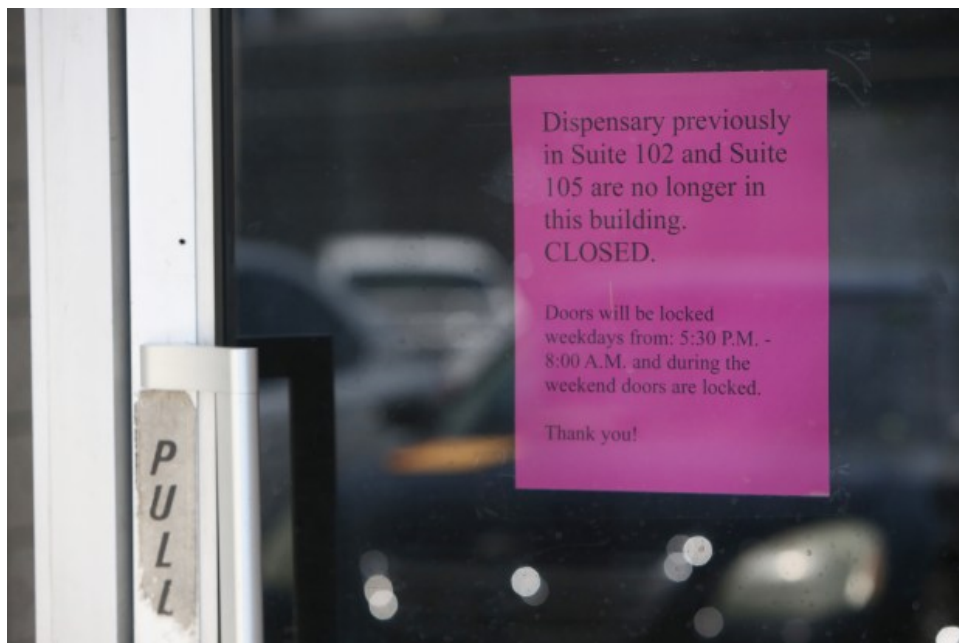
PUBLISHED: May 24, 2017 at 4:47 pm | UPDATED: May 25, 2017 at 7:14 am

For some California cities, officials say trying to shut down illegal pot dispensaries can seem like an endless game of Whack-a-Mole — close one down, and another pops up.

But in Riverside, officials appear to have whacked every last mole.

Deputy City Attorney Neil Okazaki told council members Tuesday, May 9, that city efforts have rid Riverside of all but one pot dispensary.

The last facility shut May 12, days before another opened Tuesday, May 16. Then the new one agreed to close after city officials visited the next day. Okazaki said Wednesday, May 24, that officials believe there remain none in the city.



A note is informing customers that G6, a marijuana dispensary, is now closed hangs on an Indiana Avenue building in Riverside on Tuesday, May 23. Photo by Stan Lim, The Press-Enterprise/SCNG

Riverside has been working to eradicate medical marijuana dispensaries since banning them in its zoning code in 2007. In 2015, city voters [rejected a ballot measure](#) that would have allowed and regulated a small number of medical pot facilities.

A 1996 state law allows patients to use pot as medicine, and an initiative California voters approved last year says adults 21 and older can use the drug and grow small amounts. But those rules don't strip cities of the right to control or ban pot-related businesses.

This isn't the first time the city has reached zero, Okazaki said.

An earlier wave of dispensaries was [closed around 2013](#), when Riverside [won a California Supreme Court case](#) asserting cities' right to bar them.

But officials say more pot shops began opening again in the run-up to last November's election, when California voters [legalized adult use](#) of marijuana.

So the city renewed its vigilance, closing 16 dispensaries since Jan. 1, and a total of 118 since 2007.

Not everyone is cheering Riverside's accomplishment.

James De Aguilera, a Redlands attorney who represents dispensary operators including some that have tangled with Riverside, considers the city's approach misguided.

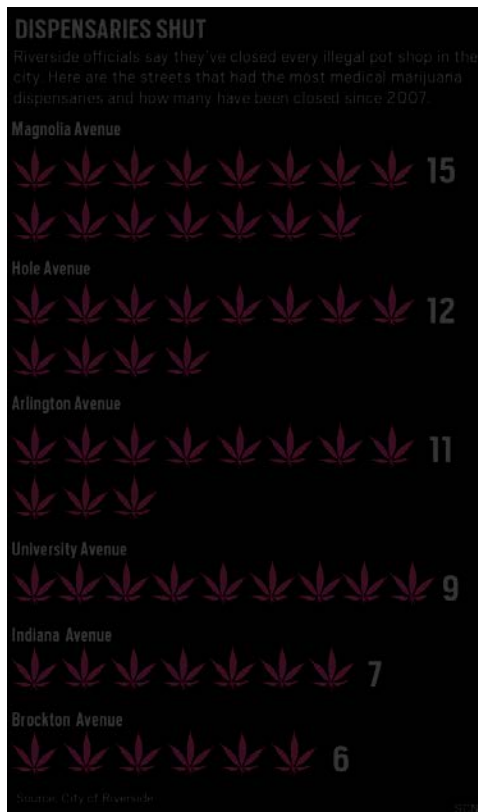
"To completely prohibit that which the state law says is allowed ... it's mind-boggling," he said.

"I'm not a personal advocate of marijuana, but when the voters vote, I think it's the responsibility in a democracy to listen to the intent of the voters."

How the city did it

Riverside's success contrasts with other Southern California cities that are looking for more tools to shutter pot shops.

Across the Santa Ana River from Riverside, Jurupa Valley has managed to get 40 dispensaries down to about a dozen that remain open in the past few years, but officials want more help from the Riverside County Sheriff's Department and District Attorney's Office, Jurupa Valley City Councilman Verne Lauritzen said.



“It is a serious, expensive problem,” he said. “We get an injunction and we close one down, and the same owners go around the corner and ... they start up again.”

This month Pasadena officials approved a plan to shut off utilities to dispensaries that refuse to close. The Orange County city of Stanton sent police to raid a pot shop in April, according to news reports.

In the fight to close illegal pot shops, Riverside’s not-so-secret weapon is weedmaps.com, a website on which dispensaries and delivery services can advertise their location and products.

City attorneys check the site daily and also get complaints from residents, neighboring businesses and code enforcement officers.

When they learn about a pot shop, they approach the operators and ask them to comply with the city’s ban, Okazaki said. If operators refuse, the city goes to court to seek a temporary restraining order and then a permanent order to close the business.

The shops are usually in leased space, so the city reaches out to the landlord or property owner, some of whom say they weren’t aware dispensaries are illegal in Riverside, Okazaki said. Sometimes the owner will begin eviction proceedings, but the city can usually move faster to get the pot shop out.

Riverside police can help by observing the facility and making an undercover buy to determine it is indeed selling pot, Riverside Police Sgt. Andrew Misenheimer said.

“Most of the time we’re fairly sure that’s what’s occurring,” but going inside the shop lets police know if there’s armed security, how operators control customer access, and whether the set-up — barred windows, locked doors — creates other safety issues, he said.

The city attorney's office and police work with the fire department, code officers and building and safety staff to gather information and make the case in court that the dispensary is an illegal operation.

With stubborn operators who won't close, the court may appoint a receiver to take over the property. In February, Riverside took its harshest approach yet, raiding and boarding up [a Magnolia Center pot shop](#) that had reopened with a generator after the city turned off the utilities.

Under the prior city attorney, Greg Priamos, Riverside [spent more than \\$800,000](#) using outside lawyers on dispensary cases. Current City Attorney Gary Geuss has brought the work back in house, but officials don't have a cost estimate for the time employees have spent on pot issues.

Mixed response

Some welcome the city's efforts.

Robert Earle, who owns Magnolia Alignment on Merrill Avenue, said two dispensaries have opened by his auto shop, with one operating as recently as a few months ago. Sometimes he could smell the weed, and a line of customers would form as soon as the place opened.

A few years ago the city [raided a pot shop](#) behind him.

"They had the SWAT team come out with the whole gear," Earle said.

While he didn't see the dispensaries as a safety threat, he said, he's glad the city closed them.

"It's never good for the neighborhood."

City Councilman Mike Soubirous, whose ward had five dispensaries closed this year, said he gets complaints about pot shops opening in homes that are zoned for businesses such as a law office but border residential neighborhoods. City officials also cite robberies, shootings, and even one [kidnapping and torture](#) case connected with a dispensary.

Others seem ambivalent, like Sam Salib, who has owned Indiana Liquor & Market on the edge of the Casa Blanca neighborhood for 17 years. In 2013, a dispensary in the same shopping center as Salib's store was the scene of an altercation that led to [a security guard shooting](#) a driver, who struck the guard with his SUV.

Salib said he didn't see the shooting and the dispensary didn't affect his business. The people he saw going there looked old or sick, he said, and now that it's closed they may have to buy marijuana on the street.

Salib is fine with people using pot for medical reasons, and said it's hard to argue that the drug should be banned while alcohol is widely sold.

Riverside resident Patrick Maloney, 37, who uses medical marijuana for pain from a back injury, made a similar argument.

City leaders are "totally cool with us having bars," he said, but unlike alcohol, nobody dies from marijuana.

The Riverside dispensaries Maloney used to visit seemed clean and safe, he said, but now he has to go out of town for the drug.

"I just don't see why we should put any resources or time into fighting medical marijuana in this town when we should be putting time into fighting crime or homeless issues," he said.

De Aguilera, the attorney, predicted a wave of litigation as would-be pot entrepreneurs test whether the new law provides more protections for marijuana, as he believes it does.

"Prop. 64 is a whole new ballgame for cities. They just haven't seen it yet," he said. "Each city individually acting in its own personal interest and ignoring the impact to the region, that's not going to be acceptable under the law."

The Riverside City Council hasn't made a decision on whether to allow recreational pot to be grown or sold in the city.

Until and unless the ban on medical marijuana shops changes, Soubirous said, people need to understand the dispensaries are violating city rules and could be putting the public at risk.

"It'd be like if I wanted to open up my own restaurant and I said I don't care about any of the health and safety rules and I don't care about the (health department grade), I'm not going to pay a permit or anything," he said. "That's the problem that we have here."

BY THE NUMBERS

Riverside officials say their efforts to enforce a ban on medical marijuana dispensaries have paid off.

118

Dispensaries closed since 2007

0

Dispensaries open now in the city

Tags: [marijuana](#), [Top Stories PE](#)

Alicia Robinson

Alicia Robinson

Alicia Robinson covers Anaheim for The Orange County Register. She previously spent 10 years at The Press-Enterprise writing about Riverside and local government as well as Norco, Corona, homeless issues, Alzheimer's disease, streetcars, butterflies, horses and chickens. She grew up in the Midwest but earned Southern California native status during many hours spent in traffic. Two big questions Alicia tries to answer in stories about government are: how is it supposed to work, and how is it working?

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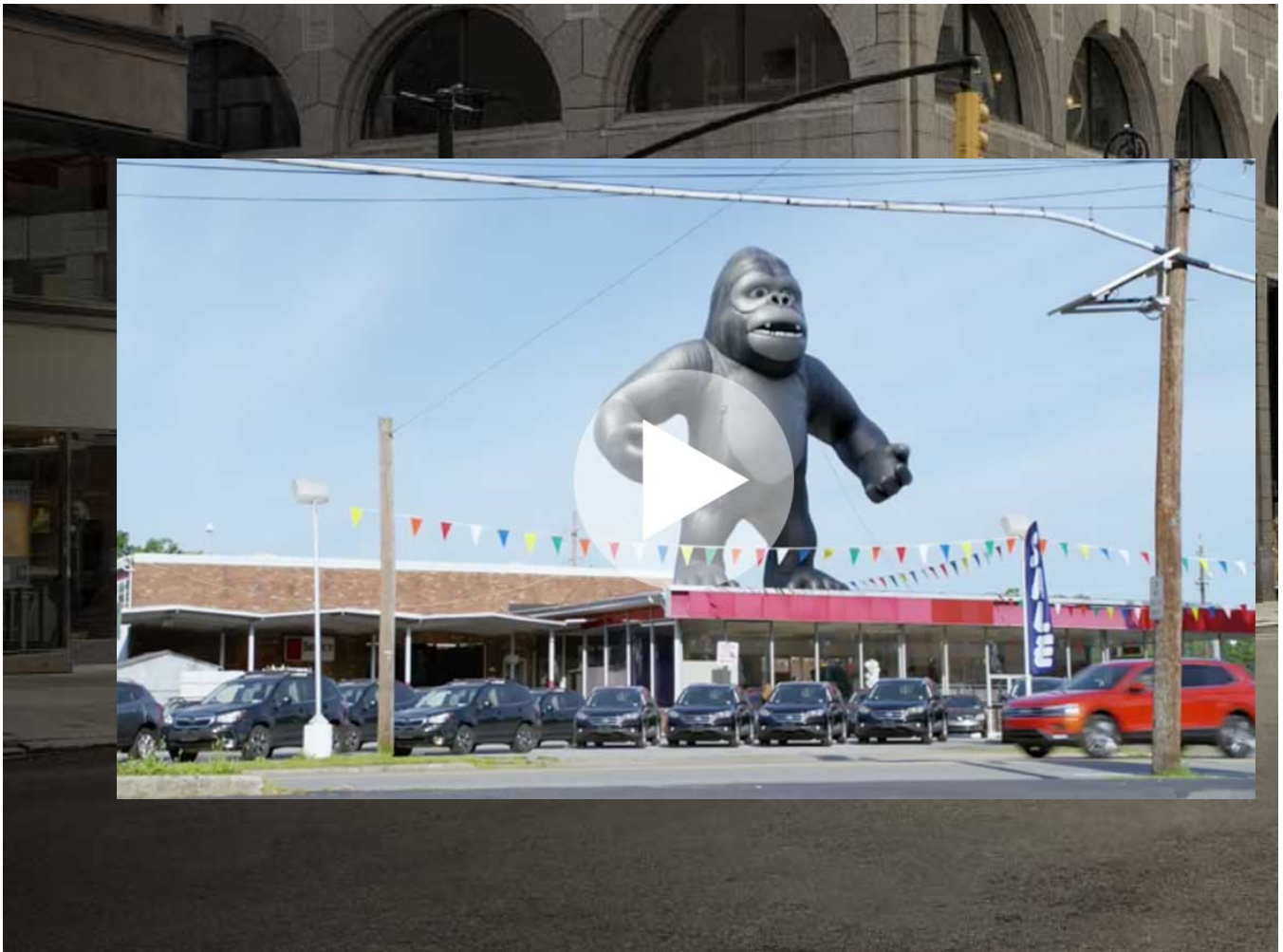
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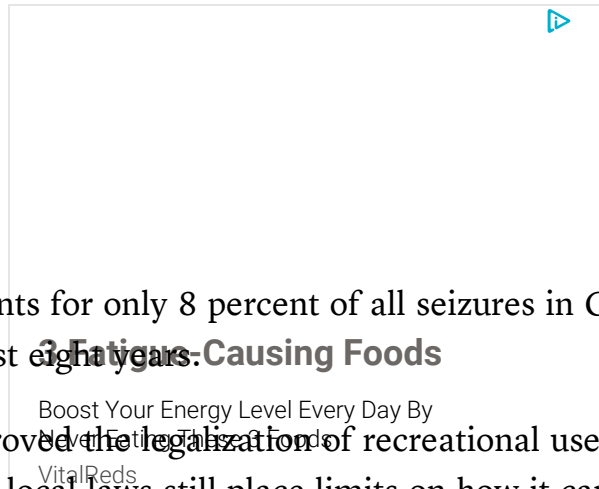
California marijuana grow houses account for 75 percent of U.S. indoor plants seized

BY BRAD BRANAN
bbranan@sacbee.com

OCTOBER 04, 2017 3:55 AM

California's illegally grown marijuana, once largely produced in national forests and other outdoor locations, is increasingly found indoors, federal statistics show.

In 2016, authorities seized 313,000 plants from indoor operations in California, which made up 75 percent of all indoor plants taken nationwide, according to the U.S. Drug Enforcement Administration.



While the total accounts for only 8 percent of all seizures in California, that is the highest total in at least eight years.

3 Fatigues-Causing Foods

California voters approved the legalization of recreational use of marijuana in November 2016. But local laws still place limits on how it can be grown, and federal law prohibits it.

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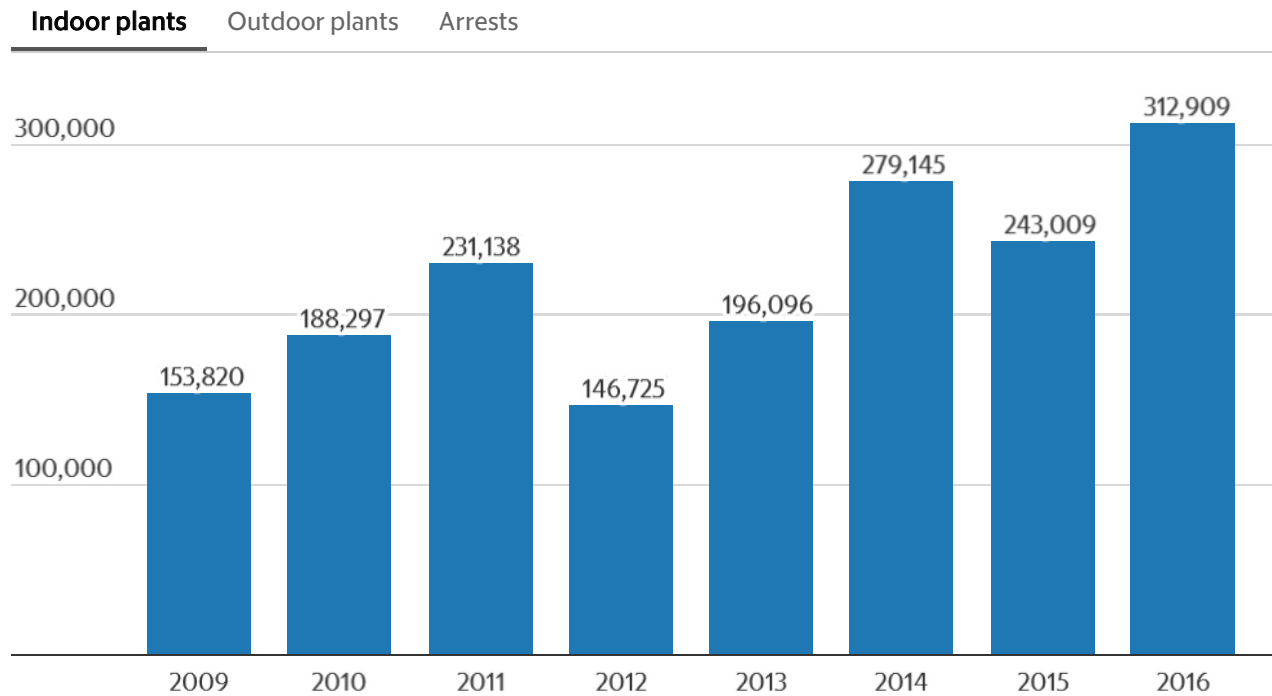
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A DEA spokeswoman in San Francisco said she was “unable to speculate” why authorities are seizing more indoor-grown marijuana. She noted that the figures come from local as well as federal law-enforcement agencies.

MARIJUANA SEIZURES IN CALIFORNIA

Law-enforcement agencies are seizing more marijuana from indoor grow operations across California.



Source: U.S. Drug Enforcement Administration • [Get the data](#)

A November 2016 report by the DEA said marijuana is increasingly grown inside because “indoor production is more difficult for law enforcement to discover and has the advantage of not having to rely on climate conditions or growing seasons.”

Last month, law-enforcement agencies reported four separate busts of indoor growing operations in the Sacramento area – in Elk Grove, Roseville and unincorporated Yolo County. Authorities seized a total of more than 7,000 plants and arrested several suspects, including some with ties to the East Coast.

Brad Branan: 916-321-1065, @BradB_at_SacBee

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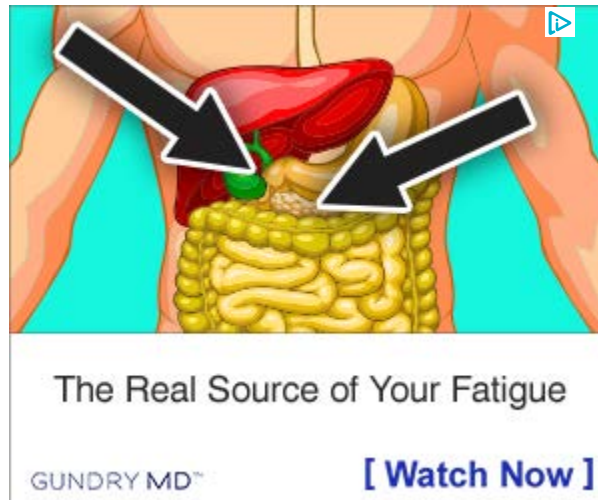
Rastafarian church leader arrested in crackdown on alleged illegal marijuana growing

BY CATHY LOCKE
clocke@sacbee.com

OCTOBER 03, 2017 10:07 PM

The leader of a Rastafarian church that operated a marijuana garden that figured in the Aug. 1 shooting of two Yuba County sheriff's deputies was among 18 people arrested Tuesday when the Sheriff's Office served search warrants at 12 alleged illegal marijuana growing sites in Yuba and Sacramento counties.

Heidi Grossman-Lepp, 46, was booked into Sacramento County Jail on suspicion of conspiracy, producing or cultivating marijuana and possession of marijuana for sale, according to a Yuba County Sheriff's Office news release.



Sheriff's officials reported that they were still compiling arrest information late Tuesday afternoon and the names of the other 17 people taken into custody likely will be released Wednesday.

Approximately \$21,000 in cash, 1,500 marijuana plants, more than five pounds of processed marijuana and eight guns were seized during the searches, the sheriff's office reported.

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Grossman-Lepp contacted the Yuba County Sheriff's Office on Aug. 1 to report that 33-year-old Mark Anthony Sanchez, who worked as a caretaker at the church's marijuana garden in rural Yuba County, had become violent with another church member.

When deputies arrived at the 9000 block of Marysville Road, they chased Sanchez to a nearby home. The deputies were fired upon when they entered the home and they shot back at Sanchez, Sheriff Steve Durfor told reporters the day of the shooting.

Sanchez died of his injuries. The officers survived. One was shot at least twice in the pelvic area and the other was struck in the arm.

The Yuba County Sheriff's Office was assisted Tuesday by various law enforcement teams including the Yuba City Police Department, Yuba Sutter Net 5 Task Force, the Sacramento High Intensity Drug Trafficking Area program, California Department of Fish and Wildlife, the California State Water Board, and Butte, Nevada and Colusa counties, according to the news release.

The 12 targeted sites are believed to have common ties that remain under investigation, according to the news release. They locations were identified as:

- 9000 block of Marysville Road in Oregon House
- 10400 block of Township Road in Browns Valley
- 15000 block of Winther Way in Dobbins
- 15000 block of Burch Lane in Brownsville
- 6000 block of Potts Trail in Browns Valley
- 6000 block of Dantoni Road in Marysville
- 12000 block of Regent Way in Oregon House
- 9000 block of Mason Way in Dobbins
- 13000 block of Rice's Crossing Way in Oregon House
- 3000 block of Jewett Road in Marysville
- 2000 block of H Street in Sacramento
- 30th Street in Sacramento

Cathy Locke: 916-321-5287, @lockecathy

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Yuba County deputies wounded in Rastafarian church shootout in fair condition



'Trimmigrant' working at Rastafarian church dies in shootout with Yuba County deputies



Officers search for a suspect after a shooting in Dobbins, Calif., Tuesday, Aug. 1, 2017. Two California sheriff's deputies were shot and wounded after they responded to reports of an armed and agitated man pulling up plants in the garden of a rural Rastafarian church, authorities said.

The shooter remained at large, and the Yuba County deputies were in serious condition and undergoing surgery at Sutter Roseville Medical Center after the shooting in the rural community of Oregon House about 55 miles north of Sacramento. (AP Photo/Sophia Bollag) **Sophia Bollag** - AP

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Yolo County seizes \$5 million worth of marijuana

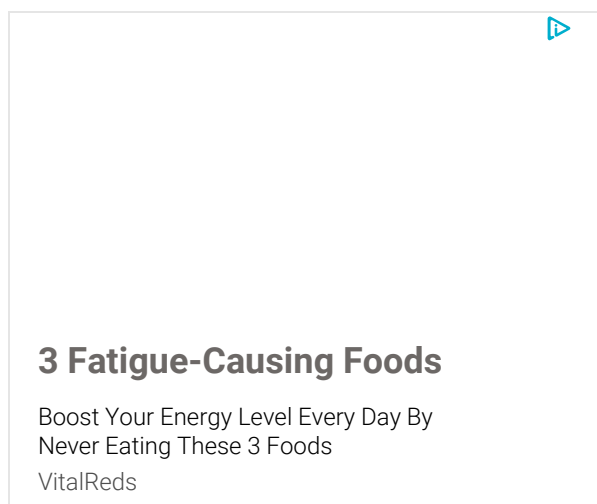
BY BRAD BRANAN

bbranan@sacbee.com

SEPTEMBER 26, 2017 7:12 AM

Yolo County officials say they have confiscated more than \$5 million worth of illegally grown marijuana in a case that has similarities to other recent suburban pot busts.

Sheriff's deputies removed 2,227 plants and 41 harvested pounds of marijuana during a raid Sept. 19 on a property in the 7000 block of Highway 16, the Sheriff's Office said in a news release.



While California voters legalized recreational marijuana use in 2016, local restrictions are in place on how many plants can be owned.

Deputies arrested Guangyang Bao, 60, of Sacramento, Jian Fang, 54, of Sacramento, Sinh Lieu, 52, of Sacramento, Bobby Lieu, 55, of Sacramento, and Paofu Chen, 34, of Queens, New York. They were booked into the Yolo County Jail.

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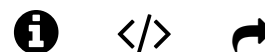
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As in the Yolo County case, recent marijuana grow busts in Elk Grove and Roseville also involved suspects with New York connections.

Earlier this month, Elk Grove police announced they had seized 2,800 plants and more than 50 pounds of marijuana. Two of the men arrested were from Elk Grove, while the other three were from the East Coast, including two from New York City. A department spokesman said it was unusual to have suspects from so far out of town involved in a marijuana growing case.

Also this month, Roseville police and a Placer County law-enforcement task force announced they had seized more than \$1 million in marijuana in two homes. Three Roseville residents were arrested. Police said they intended to ship the marijuana to New York.

Sgt. Matt Davis, a spokesman for the Yolo County Sheriff's Office, said he could not comment on whether there are connections between the three cases, pending further investigation.



Recreational weed is now legal in California. So what does that mean?

In January 2018, state and local authorities will begin issuing licenses for the sale of legal recreational marijuana. But what do you need to know before you rush to the dispensary? Information courtesy of Ballotpedia.com.

Video produced by Emily Zentner/The Sacramento Bee

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