

**From:** [Jacob Patterson](#)  
**To:** [Lemos, June](#)  
**Cc:** [Miller, Tabatha](#)  
**Subject:** Public Comment -- 11/8/21 CC Mtg., Item No. 7A  
**Date:** Monday, November 8, 2021 5:11:56 PM  
**Attachments:** [Government Code 65858.pdf](#)

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City Council,

The staff report references Government Code section 65858 (attached) concerning urgency ordinances, which allows the City Council to adopt urgency ordinances for an initial 45 day period and then extend the urgency ordinance for either 10 months and 15 days (for a initial total of one year) followed by one additional potential extension of one year (for a total of two years). 65858 includes an alternative option of simply extending the urgency ordinance once for a total of two years (i.e., an extension of 22 months and 15 days).

The staff report and draft ordinance before you tonight do something else, which is extend the urgency ordinance by four months from tonight to March 8, 2022. Later in the same staff report, the two extension options under 65858 are mentioned but neither one involves an extension of four months rather than 10 months and 15 days or 22 months and 15 days. Please note that Government Code section 65858 does not state that the initial urgency ordinance can be extended by "up to" 10 months and 15 days or "up to" 22 months and 15 days even though some people may choose to read those additional two words into 65858, the statutory language plainly states that the City's two options are an initial extension **for 10 months and 15 days** or a single extension **for 22 months and 15 days**.

I object to the City adopting a shorter four month extension and respectfully request that the City Council please revise the action you are considering tonight to match the extension options explicitly included in Government Code section 65858 and adopt an extension for 10 months and 15 days as you did for the temporary moratorium on the approval of formula business applications. Just like that urgency ordinance for a temporary moratorium, the City Council can always reverse the cannabis-related moratorium at any time prior to its scheduled expiration, including when the new ordinance you continue to work on goes into effect 30 days after its eventual adoption, which may very well be later than March 8, 2022.

Regards,

--Jacob



## GOVERNMENT CODE - GOV

**TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]** ( *Heading of Title 7 amended by Stats. 1974, Ch. 1536. )*

**DIVISION 1. PLANNING AND ZONING [65000 - 66301]** ( *Heading of Division 1 added by Stats. 1974, Ch. 1536. )*

**CHAPTER 4. Zoning Regulations [65800 - 65912]** ( *Chapter 4 repealed and added by Stats. 1965, Ch. 1880. )*

**ARTICLE 2. Adoption of Regulations [65850 - 65863.13]** ( *Article 2 added by Stats. 1965, Ch. 1880. )*

**65858.** (a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. In addition, any interim ordinance adopted pursuant to this section that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that all of the following conditions exist:

(1) The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body.

(2) The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1).

(3) There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.

(d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim

ordinance or any extension of the ordinance as provided in this section.

(f) Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.

(g) For purposes of this section, “development of multifamily housing projects” does not include the demolition, conversion, redevelopment, or rehabilitation of multifamily housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or that will result in an increase in the price or reduction of the number of affordable units in a multifamily housing project.

(h) For purposes of this section, “projects with a significant component of multifamily housing” means projects in which multifamily housing consists of at least one-third of the total square footage of the project.

*(Amended by Stats. 2001, Ch. 939, Sec. 1. Effective January 1, 2002.)*