

COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.2.	SITE LOCATION: Citywide
HEARING DATE: December 3, 2015	GENERAL PLAN: N/A
CASE NO.: Amendment No. A-015-2015	ZONE: N/A
APPLICANT: City of Garden Grove	
OWNER: N/A	CEQA DETERMINATION: Exempt

REQUEST:

That the Planning Commission hold a public hearing and make a recommendation to the City Council concerning adoption of an amendment to Title 9 of the Garden Grove Municipal Code to update the City’s land use regulations pertaining to cannabis dispensaries, delivery, and cultivation pursuant to new State laws.

BACKGROUND:

In 2008, the Garden Grove City Council adopted Ordinance No. 2734 prohibiting medical marijuana dispensaries throughout the city. This city-wide marijuana dispensary ban is currently codified in Section 9.16.020.100 of the Garden Grove Municipal Code. The City considers marijuana delivery services to be “dispensaries” that are prohibited by Section 9.16.020.100; however, delivery of marijuana is not expressly called out separately as a prohibited activity.

Ordinance No. 2734 does not directly address cultivation of medical marijuana. Marijuana cultivation is not an expressly permitted use authorized under the City’s Land Use Code, however, and the City has historically interpreted its Land Use Code to prohibit any use that is not permitted expressly or through an interpretation of use.

On October 9, 2015, Governor Brown signed new legislation (AB 266, AB 243, and SB 643) collectively referred to as the Medical Marijuana Regulatory and Safety Act (“MMRSA”), which establishes a state-wide regulatory and licensing framework for the cultivation and distribution of medical marijuana. The MMRSA takes effect on January 1, 2016; however, many new state regulations must be developed, and the law will not be fully implemented until at least 2018.

The MMRSA generally does not preempt the authority of cities to regulate or prohibit medical marijuana dispensaries or the delivery or cultivation of medical marijuana. However, pursuant to the MMRSA, if a city wishes to preserve its right to prohibit the delivery and/or cultivation of medical marijuana, it must have an ordinance expressly doing so. With respect to the *cultivation* of medical marijuana, a city must have a land use ordinance in place that clearly regulates or prohibits such cultivation by March 1, 2016, or the State will automatically become the sole

licensing authority for individuals or entities seeking to cultivate marijuana in the city, and the city may lose its ability to regulate or prohibit this activity. Amendment No. A-015-2015 would preserve the status quo and prevent State preemption regarding the cultivation and delivery of medical marijuana in Garden Grove.

Because the City's laws pertaining to marijuana dispensaries and related activities are set forth in the Land Use Code, the Planning Commission must first conduct a public hearing and make a recommendation to the City Council regarding the proposed Amendment.

DISCUSSION:

Marijuana dispensaries, delivery and cultivation are each currently prohibited land use activities throughout the City. However, in light of new requirements in the MMRSA, the provisions of the City's Land Use Code pertaining to these activities need to be updated immediately, or the City may lose its ability to prohibit the cultivation or delivery of marijuana in the City.

The proposed Code Amendment would update existing provisions in Title 9 of the Garden Grove Municipal Code that pertain to medical marijuana to make them consistent with the recently enacted MMRSA and to preserve the City's ability to prohibit or regulate the delivery and cultivation of marijuana in the City. In addition, the proposed Code Amendment would add language to Title 9 expressly stating that any use not specifically identified as a permitted use, conditionally permitted use, or incidental use in any zoning district, planned unit development, or specific plan area is a prohibited use in that zone or planned unit development area.

The proposed Code Amendment is intended to preserve the status quo in Garden Grove pending the adoption of regulations for implementation of the MMRSA by the State, potential future State ballot initiatives and/or legislation concerning recreational use of marijuana, and further analysis and public discussion of the implicated policy issues.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt the proposed Resolution recommending approval of Amendment No. A-015-2015 to the City Council.

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