

RESOLUTION NO. 6071-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THAT THE CITY COUNCIL APPROVE AMENDMENT NO. A-038-2023(A), A ZONING TEXT AMENDMENT TO CHAPTER 9.52 (CANNABIS ACTIVITIES) OF TITLE 9 (LAND USE) OF THE GARDEN GROVE MUNICIPAL CODE TO PERMIT THE RETAIL SALE BY DELIVERY OF MEDICINAL CANNABIS IN THE CITY SUBJECT TO SPECIFIED REGULATIONS IN COMPLIANCE WITH STATE LAW.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on October 19, 2023, does hereby recommend that the City Council approve Amendment No. A-038-2023(A) and adopt the draft Ordinance attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED in the matter of Amendment No. A-038-2023(A), the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The case was initiated by the City of Garden Grove.
2. The City of Garden Grove is proposing a zoning text amendment to Chapter 9.52.020 (Cannabis Dispensaries and Delivery Prohibited) of Chapter 9.52 (Cannabis Activities) of Title 9 of the Garden Grove Municipal Code to permit the retail sale by delivery of medicinal cannabis in the City subject to specified regulations in compliance with State law.
3. The Planning Commission recommends the City Council find that the proposed amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) (It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).
4. Pursuant to legal notice, a public hearing was held on October 19, 2023, and all interested persons were given an opportunity to be heard.
5. Report submitted by City staff was reviewed.
6. The Planning Commission gave due and careful consideration to the matter during its meeting of October 19, 2023; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission are as follows:

FACTS:

On January 26, 2016, the City Council adopted Ordinance No. 2863, adding Chapter 9.52 "Cannabis Activities" to Title 9 of the Garden Grove Municipal Code. Chapter 9.52 prohibited the establishment, maintenance, or operation of marijuana dispensaries and related commercial cannabis activities, including the distribution,

manufacture, cultivation and delivery of cannabis and/or cannabis products in all zoning districts, planned unit development districts, and specific plan areas in the City.

On November 8, 2016, California voters approved Proposition 64 – the Control, Regulate, and Tax Adult Use of Marijuana Act – legalizing recreational marijuana use for adults 21 or older. Although the measure legalized recreational use of marijuana, it allowed the City to continue to prohibit marijuana business activities, except that the City could not prohibit adults 21 years or older from cultivating up to six (6) living marijuana plants inside a private residence, or inside an accessory structure that is fully enclosed and secured located at that private residence. In 2017, the City adopted Ordinance No. 2882 approving Amendment No. A-017-2017 amending portions of Chapter 9.52 to conform the City's Land Use Code by incorporating the changes to State law regarding private cannabis cultivation. The ordinance affirmed continuation of the ban against marijuana business activities, but carved out the private cultivation exception so that the City's ban could conform to the new measure.

Senate Bill (SB) 1186 (Chapter 395, Statutes of 2022), known as the Medicinal Cannabis Patients' Right of Access Act, prohibits local jurisdictions, beginning January 1, 2024, from adopting or enforcing any regulation that prohibits, or has the effect of prohibiting, the retail sale by delivery within the jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses in a timely and readily accessible manner, and in types and quantities that are sufficient to meet demand from medicinal cannabis patients within the local jurisdiction. SB 1186 permits local jurisdictions to adopt and enforce reasonable regulations on retail sale by delivery of medicinal cannabis, and does not limit or otherwise affect the ability of a local jurisdiction to adopt and enforce any regulations on commercial cannabis operations other than retail sale by delivery of medicinal cannabis in the local jurisdiction.

To respond to SB 1186, the City is proposing to amend Chapter 9.52.020 (Cannabis Dispensaries and Delivery Prohibited) of Chapter 9.52 (Cannabis Activities) of Title 9 of the Garden Grove Municipal Code to permit the retail sale by delivery of medicinal cannabis in the City subject to specified regulations in compliance with recent State law changes.

The proposed amendment will allow the City of Garden Grove to be in compliance with the provisions of SB 1186, which require cities to permit the retail sale by delivery of medicinal cannabis within their jurisdictions. The proposed amendment will also include additional reasonable regulations intended to continue to protect the public health, safety and welfare of the community.

The California Department of Cannabis Control regulates the sale and delivery of both adult use and medicinal cannabis and has adopted detailed regulations governing many aspects of cannabis delivery operations. The City is proposing restrictions and requirements in addition to the provisions enforced by the Department of Cannabis Control.

The proposed amendment does not authorize the establishment of physical premises within the City from which retail sale by delivery of medicinal cannabis is conducted. There are presently more than thirty (30) licensed medicinal cannabis retailers located within a 15 mile radius of the City of Garden Grove from which retail sale by delivery of medicinal cannabis in the City is or may be available. Therefore, prohibiting the establishment of physical premises within the City from which retail sale by delivery of medicinal cannabis is conducted will not have the effect of prohibiting the retail sale by delivery of medicinal cannabis to medicinal cannabis patients or their primary caregivers in a timely and readily accessible manner in types and quantities that are sufficient to meet demand from medicinal cannabis patients who reside in the City.

FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, objectives and elements of the City's General Plan.

The proposed code amendment to Chapter 9.52.020 (Cannabis Dispensaries and Delivery Prohibited) of Chapter 9.52 (Cannabis Activities) of Title 9 of the Garden Grove Municipal Code will affirm continuation of the City's ban against cannabis activities, but permit and regulate the retail sale by delivery of medicinal cannabis in the City to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses located outside of the City in a timely and readily accessible manner and in types and quantities that are sufficient to meet demand from medicinal cannabis patients within the City. The proposed amendment will not allow for the establishment or development of new land uses in the City. The General Plan does not contain specific goals or policies pertaining to cannabis-related activities. However, continuing to prohibit cannabis dispensaries in the City, with the limited exception for retail sale by delivery of medicinal cannabis, as required by Senate Bill 1186, is consistent with the City's General Plan Land Use Element, which encourages compatibility between uses and seeks to protect residential areas from the effects of potentially incompatible uses. The proposed amendment is also consistent with the crime reduction goals set forth in the General Plan Safety Element by establishing regulations and registration requirements for medicinal cannabis businesses that engage in the retail sale of medicinal cannabis in the City.

2. The Amendment will promote the public interest, health, safety and welfare.

The proposed Code Amendment will conform to SB 1186 by continuing to prohibit commercial cannabis activities in the City, but permit and regulate the retail sale by delivery of medicinal cannabis in the City to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses located outside of the City in a timely and readily accessible manner and in types and quantities that are sufficient to meet demand from medicinal cannabis patients within the City. The California Department of Cannabis Control regulates the sale and delivery of cannabis and has adopted detailed regulations governing many aspects of cannabis delivery operations. The proposed code amendment will include restrictions and requirements in addition to the provisions enforced by the Department of Cannabis Control, which will promote the public interest, health, safety, and welfare, such as the requirement for a City business license, the prohibition of adult-use cannabis and cannabis accessories/merchandise deliveries, the restriction of deliveries to physical addresses only not located on public or school properties, the limit of the value of cannabis goods on the delivery vehicles not to exceed \$5,000, and the requirement for vehicle delivery logs, registration, and insurance information.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT:

In addition to the foregoing the Planning Commission incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Amendment No. A-038-2023(A) possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (Code Amendment).
2. The Planning Commission recommends that the City Council approve Amendment No. A-038-2023(A) and adopt the amendments to Title 9 reflected in the draft Ordinance attached hereto as Exhibit "A".

Adopted this 19th day of October 2023

ATTEST:

/s/ JOSH LINDSAY
CHAIR

/s/ JUDITH MOORE
RECORDING SECRETARY

STATE OF CALIFORNIA)

COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, JUDITH MOORE, Secretary of the City of Garden Grove Planning Commission, do hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Garden Grove, California, at a meeting held on October 19, 2023, by the following vote:

AYES:	COMMISSIONERS:	(7)	ARBGAST, CUEVA, CUNNINGHAM, LARICCHIA, LINDSAY, PAREDES, RAMIREZ
NOES:	COMMISSIONERS:	(0)	NONE
ABSENT:	COMMISSIONERS:	(0)	NONE

/s/ JUDITH MOORE
RECORDING SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is November 9, 2023.