



**CITY OF CITRUS HEIGHTS
PLANNING DEPARTMENT STAFF REPORT
PLANNING COMMISSION MEETING**

August 24, 2016

Prepared by: Colleen McDuffee, Planning Manager

REQUEST

The City of Citrus Heights is requesting approval of amendments to the Municipal Code regarding medical marijuana and non-medical marijuana.

File Name & Number: Medical Marijuana and Non-Medical Marijuana Ordinances
(File # OTA-16-04)

Applicant: City of Citrus Heights
6360 Fountain Square Drive
Citrus Heights, CA 95621

SUMMARY RECOMMENDATION

Staff recommends approval of the following motion:

MOTION 1: MOVE TO RECOMMEND THAT THE CITY COUNCIL APPROVE THE ATTACHED ORDINANCES SHOWN IN EXHIBIT A AND EXHIBIT B MODIFYING AND ADDING PROVISIONS TO THE MUNICIPAL CODE REGARDING MEDICAL MARIJUANA AND NON-MEDICAL MARIJUANA. THE PROPOSED AMENDMENTS ARE CONSISTENT WITH THE GENERAL PLAN AND WOULD NOT BE DETRIMENTAL TO THE PUBLIC INTEREST, HEALTH, SAFETY, CONVENIENCE OR WELFARE OF THE CITY.

Background

In 1996, California voters approved Proposition 215, also known as "The Compassionate Use Act of 1996". The purpose of this Proposition was to enable persons who are in need of marijuana for specified medical purposes to obtain and use it under certain situations. In 2004, SB 420 was enacted to clarify implementation of Proposition 215.

In 2004, Citrus Heights adopted comprehensive regulations regarding medical marijuana. These regulations allowed for one medical marijuana dispensary to locate in Citrus Heights, subject to numerous standards and criteria. Following adoption of these regulations, a Use Permit was approved for one medical marijuana dispensary – however, it never opened.

In 2012, the Municipal Code was amended to prohibit medical marijuana dispensaries.

In 2013, the Municipal Code was amended to allow, subject to certain standards, the cultivation of medical marijuana in residential zones.

In 2014, the State legislature approved the Medical Marijuana Regulation and Safety Act (MMRSA); this Act was comprised of three bills - SB 643, AB 266, and AB 243. As a result of MMRSA, the City Council earlier this year approved an amendment to the Zoning Code. AB 243 prohibits cultivation of

medical marijuana without first obtaining both a local license, permit or other authorization and a state license. However, if the City did not have land use regulations regulating or permitting the cultivation of marijuana in place by March 1, 2016, then the state would be the sole licensing authority for medical marijuana cultivation. In February, the City Council approved an amendment to the Zoning Code regarding medical marijuana cultivation in order to demonstrate that we had “land use regulations” in place. MMRSA also created a licensing scheme for commercial medical marijuana businesses and deliveries. In order to operate a commercial medical marijuana business within the City, the entity will need a state license and any license, permit, or authorization required by the City. MMRSA does not prevent a City from completely prohibiting medical marijuana businesses and deliveries. The relevant state agencies anticipate beginning to issue state licenses sometime during 2017.

This coming November, Proposition 64, or the “Control, Regulate and Tax Adult Use of Marijuana Act”, will be on the ballot. On July 28th, the City Council held a study session on Proposition 64 and MMRSA, and instructed staff to prepare the two Ordinances under consideration tonight. The City Council also discussed Proposition 64 at their meeting on August 11th. At the conclusion of their discussion, the City Council unanimously voted to oppose Proposition 64 – please see attached Resolution outlying the reasons for their opposition (Attachment 2).

In order to prepare for Proposition 64 in the event it passes, and to prepare for the licensing of medical marijuana businesses under MMRSA, the City is bringing forth the amendments under consideration tonight.

Proposed Changes to City Regulations

There are two Ordinances under consideration tonight. The first, Exhibit A, deals solely with medical marijuana. The second Ordinance, Exhibit B, addresses non-medical marijuana.

Medical Marijuana – Exhibit A

The City currently allows for the cultivation of medical marijuana within a residence or an accessory structure on a residentially zoned property, subject to specific criteria outlined in Chapter 50, Article 5 of the Municipal Code. Medical marijuana dispensaries are prohibited. The following changes are proposed to the City’s regulations concerning medical marijuana:

1. Definitions are added to the Code for “commercial medical marijuana business”, “medical marijuana delivery”, and “medical marijuana products”.
2. Medical marijuana deliveries are prohibited within the City. The transportation of medical marijuana through the City on public roads is allowed, but delivery cannot occur within the City.
3. Commercial medical marijuana businesses are prohibited. This would prohibit any commercial business such as commercial cultivation, distribution, manufacturing, transporting and testing.
4. The area dedicated to medical marijuana cultivation is currently limited to 50 square feet within a residence, or 100 square feet with an enclosed accessory structure. Under the proposed regulations, a volume regulation is also proposed. The area dedicated to medical marijuana cultivation within a residence would be limited to 50 square feet and 300 cubic feet, and within an accessory structure would be limited to 100 square feet and 600 cubic feet.

The proposed amendments regarding medical marijuana are attached in Exhibit A. These amendments are proposed independent of Proposition 64 and will take effect regardless of whether Proposition 64 is approved by the voters in November.

Non-Medical Marijuana – Exhibit B

Non-medical marijuana is currently completely prohibited in Citrus Heights and the State of California. Should Proposition 64 pass, the City would be required to allow non-medical marijuana (with certain restrictions). The City is proposing the following amendments to our Municipal Code which will only take effect should Proposition 64 pass:

1. Numerous definitions are added to the Code, including “commercial non-medical marijuana business”, “non-medical marijuana”, “non-medical marijuana delivery”, and “non-medical marijuana products”.
2. Non-medical marijuana deliveries are prohibited within the City. The transportation of non-medical marijuana through the City on public roads is allowed, but delivery cannot occur within the City.
3. Commercial non-medical marijuana businesses are prohibited. This would prohibit any commercial business such as commercial cultivation, distribution, manufacturing, transporting and testing.
4. Provisions are added to the Code for the cultivation of non-medical marijuana. The provisions are intended to be consistent with the right of an individual 21 years or over to cultivate marijuana as allowed by Proposition 64. Where appropriate, the provisions of cultivating non-medical marijuana are similar to the existing provisions within the City for cultivating medical marijuana. The provisions include the following:
 - a. Cultivation can only occur indoors on a parcel with an approved private residence. The cultivation can occur within the residence or within an enclosed structure in the rear of the yard. Structures in the rear of the yard must maintain a 10’ setback from any property line, be secured and enclosed, and the yard must be enclosed by a solid fence. The area used for cultivation cannot be accessible to persons under 21 years of age.
 - b. Indoor grow lights shall not exceed 1,200 watts per light, and comply with all Building, Fire and Electrical Codes. The use of gas products (butane, propane, etc.) is prohibited.
 - c. The maximum number of plants that can be cultivated is six per residence.
 - d. As viewed from the public right of way, there shall be no exterior evidence of the cultivation occurring on the property.

The proposed amendments regarding non-medical marijuana are attached in Exhibit B.

Environmental Determination

This project is categorically exempt from CEQA (CEQA Guidelines Section 15061(b) (3)) under the general rule that the proposed amendments to the Municipal Code do not have the potential to have a significant effect on the environment.

RECOMMENDATION

The Planning Division recommends that the Planning Commission take the following action:

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Attachments:

1. Proposition 64 - Control, Regulate and Tax Adult Use of Marijuana Act
2. City Council Resolution Opposing Proposition 64

Exhibit

- A Ordinance regulating Medical Marijuana
- B Ordinance regulating Non-Medical Marijuana