
Urgency Ordinance

Temporary Prohibition of Outdoor Cultivation for Personal and Commercial Purposes

City Council

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- On November 5, 1996, the California State voters passed Proposition 215, known as the “Compassionate Use Act,” legalizing medical use of cannabis, allowing individuals, primary caregivers and non-profit collectives to possess and cultivate cannabis for personal medical use.
- In October 2015, the State enacted the Medical Cannabis Regulation and Safety Act (MCRSA), specifying that individual patients may to cultivate up to 100 square feet of cannabis for their own personal use without a state license, and primary caregivers serving five or fewer patients may cultivate up to 500 square feet of cannabis without a state license.

Proposition 64

- On November 8, 2016, California voters passed Proposition 64, known as the “Adult Use of Marijuana Act” legalizing recreational use of cannabis for adults 21 and older, and making it legal for persons 21 and older to cultivate up to six cannabis plants per single private residence.

Local Jurisdiction Allowances

- Local jurisdictions may enact reasonable regulations on cultivation for personal use, whether indoor or outdoor.
- Local jurisdictions may, at their discretion, prohibit outdoor cultivation, but they may not preclude indoor or mixed-light cultivation of up to six plants.
- Proposition 64 provides that if a city completely prohibits outdoor cultivation, it will not be eligible for certain public safety grants from state taxes collected under Act.

- City Code currently regulates the commercial cultivation of medical cannabis, limiting such cultivation to the City's industrial zones and requiring a use permit for all operations
- City Code does not preclude a commercial cultivator from applying for a use permit for outdoor cultivation for medical purposes.
- City Code, precludes cultivation (whether indoor or outdoor) for non-medicinal use.

Temporary Moratorium

- Response to significant concerns from the community about the potential adverse effects of outdoor cultivation of cannabis (including odor, safety and potential environmental degradation)
- City currently allows personal cultivation of cannabis pursuant to state law and allows the commercial cultivation of medical cannabis with a use permit, but in both instances is silent as to any allowance for outdoor cultivation
- City is in the process of developing land use regulations, anticipated to be considered by the Planning Commission and Council within the next several months.

Temporary Moratorium

- Staff is recommending the City enact a temporary moratorium to immediately prohibit all outdoor personal and commercial cannabis cultivation, medical or otherwise, allowing staff and decision-makers time to study more closely the pros and cons of allowing outdoor cannabis cultivation and the scope of appropriate regulation.
- Proposed moratorium will *only* affect the outdoor cultivation of cannabis, and will have no impact on existing state and local allowances for personal use, personal or commercial cannabis cultivation, or manufacturing, distribution and dispensing of medical cannabis.

Recommendation

Part 1

It is recommended by the Planning and Economic Development Department that the Council

- (1) adopt an urgency ordinance to impose a temporary prohibition on the outdoor cultivation of cannabis, whether for personal or commercial purposes, to allow time for development of appropriate regulations, and

Recommendation

Part 2

(2) direct staff to return to the Council on May 2, 2017 to present a written report describing the measures taken to alleviate the condition leading to the adoption of the urgency ordinance and to provide Council an opportunity to determine whether to extend the temporary prohibition on the outdoor cultivation of cannabis for an additional 10 months and 15 days to allow additional time for study and finalization of appropriate regulations.