



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



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Director

April 12, 2017

TO: Doug Smith, Chair
David W. Louie, Vice Chair
Laura Shell, Commissioner
Elvin W. Moon, Commissioner
Pat Modugno, Commissioner

FROM: Bruce Durbin, Supervising Regional Planner
Ordinance Studies Section

**SUBJECT: PROJECT NO. 2017-003450-(1-5)
PLAN NO. RPPL2017005905
AMENDMENT TO TITLE 22 (ZONING ORDINANCE) REGARDING
CANNABIS BAN ORDINANCE
APRIL 12, 2017 – AGENDA ITEM: 8**

Introduction

The purpose of this Cannabis Ban Ordinance is to (1) prohibit all cannabis businesses and activities, and (2) impose reasonable regulations on personal cultivation that is otherwise allowed by State law, while cannabis businesses and related activities are further studied for potential impacts and regulation.

This prohibition of all cannabis businesses and activities includes, but is not limited to, the commercial cultivation, manufacturing, laboratory testing, distribution, and retail sale of cannabis in all zones of the unincorporated areas of the County of Los Angeles until a comprehensive regulatory framework can be established. This ordinance also establishes new definitions, repeals existing language in Title 22 with regards to medical marijuana dispensaries, and creates new regulations for personal cultivation.

Background

In 1970, the Controlled Substance Act (CSA) established a federal regulatory system to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. The CSA placed marijuana in the most restricted category of controlled substances called "Schedule 1." Substances listed in Schedule 1 have been deemed by the US Department of Health to have high potential for abuse and no "accepted medical use in treatment in the United States."

In 1996, California voters passed Proposition 215, also known as the Compassionate Use Act (CUA). Codified as Section 11362.5 of the State Health and Safety Code, this law allows qualified patients to obtain and use cannabis for the treatment of certain illnesses. Although State law is in conflict with federal law, a subsequent opinion by the California State Attorney General held that the Supreme Court upheld Federal law, but did not invalidate the State's medical marijuana laws.

In 2006, the Board of Supervisors (Board) adopted Ordinance 2006-0032 to regulate Medical Marijuana Dispensaries (MMD). The ordinance allowed dispensaries in most commercial and manufacturing zones subject to a Conditional Use Permit, but prohibited them in residential zones. Conditions of use included a minimum distance from sensitive uses and other dispensaries, limits on the size of business signs, lighting standards, specified hours of operation, and required graffiti and litter removal. These provisions were intended to implement State medical marijuana laws and reflect the Board's intent to ensure the compatibility of dispensary operations with surrounding land uses.

In 2015, the Legislature approved and the Governor signed into law three bills (Assembly Bill 243, Assembly Bill 266, and Senate Bill 643) thereby creating the Medical Marijuana Regulation and Safety Act (MMRSA), the licensing and regulatory framework for medical cannabis in the State of California. Under the MMRSA, local governments may implement additional standards to permit, regulate, or ban medical cannabis businesses in their jurisdictions. The MMRSA was changed to the Medical Cannabis Regulation and Safety Act (MCRSA) by Senate Bill 837, which was approved by the Governor on June 27, 2016.

The Adult Use of Marijuana Act (AUMA), also known as Proposition 64, was approved by the voters of the State of California on November 8, 2016. It legalizes the possession, use, and cultivation of cannabis in California by adults 21 years and older, for recreational purposes. Per the AUMA, counties and cities may regulate cannabis enterprises by requiring them to obtain local licenses, restricting their location, or completely banning cannabis enterprises within their jurisdiction.

In a motion initiated by the Board on February 7, 2017, the Board issued three directives to the Department of Regional Planning. The first directive was to conduct any necessary environmental review pursuant to the California Environmental Quality Act (CEQA). The second directive was to develop, in collaboration with the CEO and County Counsel, an ordinance which bans the cultivation, manufacturing, processing, testing, and retail sale of medical and nonmedical cannabis in the unincorporated territory of the County until a comprehensive regulatory framework for cannabis is adopted. The third directive was to establish reasonable regulations on personal cannabis cultivation.

COUNTY REGULATIONS

Cannabis businesses and activities are currently prohibited in the unincorporated areas of the County of Los Angeles by two ordinances. Ordinance No. 2010-0062 amended Title 22 on December 7, 2010, prohibiting medical marijuana dispensaries in all unincorporated areas of the County of Los Angeles. Interim Urgency Ordinance 2016-0022U, which was adopted on April 12, 2016, imposes a temporary ban on the cultivation, manufacturing, laboratory

testing, and distribution of medical marijuana in the County. The interim ban was extended twice and will expire on June 28, 2017.

PROPOSED ORDINANCE AMENDMENT

On February 7, 2017 the Board directed the Director of Regional Planning, in collaboration with other county departments, to prepare an ordinance which bans the cultivation, manufacturing, processing, testing, transportation, and retail sale of medical and nonmedical cannabis in the unincorporated territory of the County until the County adopts a regulatory framework for cannabis. The directive also required Regional Planning to develop reasonable regulations for personal cultivation of medical and nonmedical cannabis, including, but not limited to, creating provisions to ensure that personal cultivation shall not be visible from the public-right-of-way, establishing an appropriate limit on the total number of plants which may be cultivated for personal use, and limiting the maximum allowed height for individual plants.

In order to clarify the functions performed by various types of cannabis businesses and activities, new definitions were created. The definitions proposed in the Cannabis Ban Ordinance are based on the language adopted in the California Business and Professions Code. These definitions are consistent with the framework used by the State for the licensing of cannabis businesses and activities.

The Cannabis Ban Ordinance repeals existing language in Title 22 that prohibits medical marijuana dispensaries. This language was added to Title 22 by Ordinance 2010-0062 on December 7, 2010. A repeal of existing language on medical marijuana dispensaries in Title 22 is necessary to ensure that the comprehensive ban regulations established by the Cannabis Ban Ordinance do not overlap with the regulations of the Medical Marijuana Dispensary Ban Ordinance. The ban prohibits the establishment, maintenance, or operation of any cannabis business or activity, including but not limited to, cannabis cultivation, manufacturing, distribution, laboratory testing, and retail sales.

New regulations on personal cannabis cultivation are proposed in the Cannabis Ban Ordinance. Regulations for single family dwellings will allow indoor or outdoor cannabis cultivation for personal use. In multifamily dwellings, personal cannabis cultivation will be limited to within a resident's dwelling unit. These regulations will help to minimize potential impacts personal cultivation may have on adjacent properties, while a comprehensive study of potential impacts and regulations is conducted. Although AUMA allows local jurisdictions to allow or ban outdoor cannabis cultivation for personal use, indoor cultivation cannot be prohibited.

ENVIRONMENTAL DOCUMENTATION

The proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3) as it can be seen with certainty that there is no possibility that the proposed ordinance in question would have the potential to cause a significant effect on the environment. The proposed ordinance also qualifies for an exemption under CEQA Guidelines § 15308 as a regulatory action that will protect the environment.

LEGAL NOTIFICATION

A legal advertisement was published in the Los Angeles Times on March 13, 2017 and in La Opinion on March 12, 2017. Case related materials were sent on March 30, 2017 to at least one County Library in each Supervisorial District, as follows: 1st District: East Los Angeles Library; 2nd District: A.C. Bilbrew Library; 3rd District: Topanga Library; 4th District: Hacienda Heights Library; 5th District: La Crescenta Library and Lancaster Regional Library. Staff posted case information on the Department of Regional Planning's web site (<http://planning.lacounty.gov/rpc/>) on March 30, 2017.

STAFF RECOMMENDATION

Staff recommends that the Regional Planning Commission adopt the attached resolution and forward Project No. R2017-003450-(1-5) to the Board of Supervisors for consideration in a public hearing.

SUGGESTED MOTION

"I MOVE THAT THE REGIONAL PLANNING COMMISSION CLOSE THE PUBLIC HEARING AND ADOPT THE CATEGORICAL EXEMPTION PURSUANT TO STATE AND LOCAL CEQA GUIDELINES.

I ALSO MOVE THAT THE REGIONAL PLANNING COMMISSION ADOPT THE ATTACHED RESOLUTION AND FORWARD PROJECT NO. 2017-003450-(1-5) TO THE BOARD OF SUPERVISORS FOR CONSIDERATION IN A PUBLIC HEARING."

Attachments:

Cannabis Ban Ordinance
Resolution
Hearing Notice
Board Motion