



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Grant Yates, City Manager
Prepared by: Justin Kirk, Principal Planner

Date: October 24, 2017

Project: **Planning Application 2017-012:** Work Session on a Proposed Amendment to the City of Lake Elsinore Municipal Code, Title 17 Zoning, Chapter 17.156 Medical Marijuana Dispensaries.

Recommendation

Provide direction to staff on the draft ordinance, preferred Conditions of Approval, and preferred evaluation criteria.

Background

Proposition 215, the Compassionate Use Act (CUA) of 1996, provides certain legal protections for qualified patients and primary caregivers that possess or cultivate marijuana. In addition to Proposition 215, the Legislature enacted the Medical Marijuana Program Act (MMPA) in 2003, which extends certain legal protections to those that collectively or cooperatively cultivate marijuana for medical purposes. By exempting qualified patients and caregivers from prosecution for using or from cultivating medical marijuana, California law basically allows for its cultivation and use. However, the California Supreme Court has held that neither the CUA nor the MMPA created a broad right to access medical marijuana or preempted a local government's ability to regulate or ban medical marijuana distribution or cultivation.

In 2006, the City Council adopted Ordinance 1173 which amended the Lake Elsinore Municipal Code to prohibit medical marijuana dispensaries in all zoning districts. The Council did not address the issue of marijuana cultivation at that time.

Three pieces of legislation, which together are known as "The Medical Marijuana Regulation and Safety Act," became state law in October 2015:

- AB 243 establishes a regulatory and licensing structure for cultivation sites under the Department of Food and Agriculture.
- AB 266 establishes a dual licensing structure requiring a state license and a local license or permit. Department of Consumer Affairs heads overall regulatory structure imposing health and safety and testing standards.

- SB 643 establishes criteria for licensing of medical marijuana businesses, regulates physicians, and recognizes local authority to levy taxes and fees.

AB 243 contains a provision stating that cities that do not have an ordinance by March 1, 2016 regulating or prohibiting cultivation will lose the authority to regulate or ban cultivation within their city limits and the state will become the sole licensing authority.

In 2016, the City Council adopted an ordinance which amended the Lake Elsinore Municipal Code to prohibit medical marijuana dispensaries in all zoning districts. The Council did not address the issue of marijuana cultivation at that time.

In 2016, Proposition 64 was passed. Proposition 64 allowed adults aged 21 years or older to possess and use marijuana for recreational purposes. The measure created two new taxes, one levied on cultivation and the other on retail price.

Discussion and Analysis

Staff was provided general direction to draft an ordinance that permits cultivation and manufacturing of marijuana products in the M2 General Manufacturing district, subject to the approval of a Conditional Use Permit. Further, direction was provided to have the ordinance that permits dispensaries and distribution facilities as accessory uses to permitted cultivation or manufacturing uses. Lastly, direction was provided to establish a yearly license and a corollary development agreement fee to reduce impacts of the recreational and medical use of marijuana on public safety.

The drafted ordinance provides a regulatory framework, which permits cultivation, manufacturing, and testing of marijuana products in the M2 district, subject to the approval of a Conditional Use Permit and Cannabis Business Permit. This framework includes definitions of specific elements of the marijuana industry, banning on the consumption of alcohol or cannabis onsite, the requirement of a security plan, signage, prohibition of juveniles onsite, specific parameters on the equipment and processes used, and other measures to reduce the potential impacts of the subject uses. With respect to the dispensaries and distribution facilities, the draft ordinance specifies that those uses are accessory and limited to no more than 25% of gross floor area and/or 50% of gross proceeds, with the same requirements as stipulated for the cultivation, manufacturing and testing of cannabis products.

Exhibits

- A. Map of M1 and M2 locations
- B. Draft Ordinance - Legislative Copy
- C. Draft Ordinance – Clean Copy