



CITY COUNCIL AGENDA REPORT

MEETING DATE FEBRUARY 7, 2017

ITEM NUMBER: **PH-1**

SUBJECT: EXTENSION OF AN URGENCY ORDINANCE NO. 17-01 TO ADOPT CODE AMENDMENT CO-16-06: AN AMENDMENT TO TITLE 13 OF THE COSTA MESA MUNICIPAL CODE RELATED TO CULTIVATION OF MARIJUANA AND/OR MEDICAL MARIJUANA

DATE: JANUARY 26, 2017

FROM: CITY ATTORNEYS OFFICE AND DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: JAY TREVINO, DEVELOPMENT SERVICES DEPARTMENT
TARQUIN PREZIOSI, ASSISTANT CITY ATTORNEY

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SUMMARY

On January 3, 2017, the City Council adopted a 45-day urgency ordinance prohibiting all marijuana uses that are or will be authorized by Proposition 64, except as preempted by state law, or as authorized by Measure X. The initial time frame for the urgency ordinance is 45 days, which will end on February 17, 2017. Urgency ordinances may be extended subject to a public hearing by the City Council. Staff is recommending that the urgency ordinance be extended for a period of 10 months and 15 days, as allowed by Government Code section 65858, while the administrative regulations to address medical marijuana are completed.

RECOMMENDATION

Introduce and adopt an extension of Urgency Ordinance No. 17-01 to adopt Code Amendment CO-16-06 amending Costa Mesa Municipal Code Title 13, Article 20 of Chapter IX, Special Land Use Regulations.

BACKGROUND

On November 8, 2016, voters approved two initiatives related to marijuana that effect the City of Costa Mesa: Costa Mesa Measure X and State Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" ("Prop 64" or "AUMA"). This report focuses on Proposition 64. AUMA allows adults 21 years and over to use, possess, and cultivate limited amounts of marijuana; it will also allow sales and other activities by January 1, 2018. AUMA has two primary components: (1) a right to non-medical/recreational marijuana use, possession, and cultivation, and (2) a state

licensing and taxing scheme for non-medical/recreational marijuana businesses similar to those licensed by the state under the Medical Marijuana Regulation and Safety Act (“MMRSA”). AUMA also reduces criminal penalties for specified marijuana crimes, including possession and use of marijuana by minors. The staff report from the January meeting is attached is Attachment 2.

ANALYSIS

The proposed amendment to the Zoning Code is intended to preserve the status quo and prohibit all marijuana related uses within the City to the extent allowable under state law. The proposed amendment also resolves any potential conflict between the new provisions of the Health and Safety Code and the CMMC regarding cultivation. The proposed amendment does not conflict with the provisions of Measure X. Government Code §65858 provides that urgency ordinances be adopted for a period of 45 days. An urgency ordinance can later be extended should the City Council determine an extension is warranted. At this time, staff recommends an extension of the ordinance to allow the internal review process for medical marijuana business to be completed.

PUBLIC NOTICE

Publication of the public hearing notice once in the Orange Coast Daily Pilot at least ten (10) days prior to the date of hearing as required by law. At the time of publication of this report, no public comments have been received. Any correspondence will be forwarded to the City Council under separate cover.

ENVIRONMENTAL DETERMINATION

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City’s environmental procedures, and has been found to be exempt pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility that the proposed amendment to the Zoning Code will have a significant effect on the environment.

ALTERNATIVES CONSIDERED:

The City Council could forego adoption of the urgency ordinance. This alternative would allow marijuana cultivation and marijuana businesses to proceed pending the future adoption of any regulations as determined by the City Council.

FISCAL REVIEW:

The extension of the urgency ordinance will not have any fiscal impact on the City’s budget.

LEGAL REVIEW

The draft ordinance has been reviewed by the City Attorney's Office and approved as to form.

CONCLUSION:

If the City Council extends this urgency ordinance only limited marijuana cultivation, as allowed under state law, and marijuana related businesses allowed under Measure X, will be permitted. These temporary restrictions will provide time for the City to study these issues and for the City Council to enact long-term policies and regulations.

JAY M. TREVINO, AICP
DEVELOPMENT SERVICES DEPARTMENT / CONSULTANT

Attachments: [1. Urgency Ordinance No. 17-01](#)
[2. City Council report dated January 3, 2017](#)