



CITY COUNCIL STAFF REPORT

DATE: December 7, 2016 LEGISLATIVE

SUBJECT: PROPOSED ORDINANCES RELATING TO MEDICAL CANNABIS:
1. AMENDS PALM SPRINGS ZONING CODE (PZSC) REGARDING THE DEVELOPMENT STANDARDS FOR MEDICAL CANNABIS FACILITIES IN VARIOUS ZONING DISTRICTS;
2. INTRODUCTION OF AN ORDINANCE ADDING CHAPTER 5.45 TO THE PALM SPRINGS MUNICIPAL CODE RELATING TO MEDICAL CANNABIS BUSINESSES IN THE CITY; AND
3. INITIATION OF AN AMENDMENT TO THE CITY'S ZONING CODE REGARDING LOCATIONAL REQUIREMENTS FOR MEDICAL CANNABIS DISPENSARIES IN THE CITY.

FROM: David H. Ready, City Manager

BY: Douglas Holland, City Attorney

SUMMARY

This agenda item involves three matters involving medical cannabis and the implementation of the Medical Cannabis Regulation and Safety Act ("MCRSA") in the City. The first item is the introduction of Zoning Code Text Amendment the City Council initiated on October 19, 2016, and referred to the Planning Commission for recommendation. The second item is the introduction of a comprehensive regulatory ordinance that will implement MCRSA in the City and provide rules and regulations for medical cannabis cultivation, dispensaries, manufacturing, delivery, and testing in the City. The third matter is the initiation and referral to the Planning Commission a proposal to provide locational requirements for medical cannabis collectives and cooperatives under the City's current regulatory program and medical cannabis dispensaries under MCRSA

RECOMMENDATIONS:

1. Waive the reading of the text and introduce for first reading Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 93.23.15, 92.17.2.00, AND SUBSECTION F OF SECTION 92.17.2.03 OF THE PALM SPRINGS MUNICIPAL CODE (PSMC) RELATING TO MEDICAL CANNABIS FACILITIES; AMENDING SECTIONS 92.15.01.C, 92.16.01.C, 92.17.01.C, 92.17.1.02, 92.17.2.00, AND 92.17.2.01.C RELATING TO MEDICAL CANNABIS MANUFACTURING AND MEDICAL CANNABIS TESTING FACILITIES IN THE C-M, M-1-P, M-1, M-2, AND E-1 ZONES OF THE CITY; AND AMENDING SECTIONS

92.14.01.A, 92.14.1.01.A, 92.15.01.A, 92.16.01.A, 92.17.01.A, 92.17.1.01.A, AND 92.18.01.A RELATING TO MEDICAL CANNABIS DISPENSARY FACILITIES IN THE C-2, H-C, C-M, M-1-P, M-1, M-2, AND A ZONES OF THE CITY.”

2. Waive the reading of the text and introduce for first reading Ordinance No. _____, “AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 5.45 TO, AND AMENDING SECTION 5.35.100 OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO MEDICAL CANNABIS BUSINESSES IN THE CITY OF PALM SPRINGS.”

3. Initiate and refer to the Planning Commission for hearing, review, and recommendation a zone text amendment entitled ” AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTION C OF SECTION 93.23.15 OF THE PALM SPRINGS MUNICIPAL CODE (PSMC) RELATING TO LOCATIONAL REQUIREMENTS FOR MEDICAL CANNABIS DISPENSARIES IN THE CITY. “

STAFF ANALYSIS:

The City currently regulates medical cannabis cooperatives or collectives through zoning and locational requirements of the City’s zoning code and the operational requirements provided in Chapter 5.35 of the Palm Springs Municipal Code. Medical cannabis cultivation under the City’s current code provisions is only allowed to be performed by City-permitted medical cannabis collectives or cooperatives. The Medical Cannabis Regulation and Safety Act (MCRSA), adopted by the State last year, will allow the City to approve various medical cannabis facilities that will not be restricted to non-profit collective or cooperative operators. The City Council subcommittee has reviewed the MCRSA and is recommending the Council consider a comprehensive regulatory ordinance that implements MCRSA in the City. These regulations include an expansion of cultivation opportunities and the provision of manufacturing, delivery, dispensing, and testing activities in the City. The subcommittee has recommended amendments to the City’s zoning code necessary to accommodate these opportunities.

A. _____ Text Amendment – Including MCRSA Identified Uses in Zoning Districts

In anticipation of presentation of the comprehensive regulatory ordinance implementing MCRSA, the City Council initiated a proposed zoning text amendment and referred it to the Planning Commission for its review.

The Planning Commission reviewed the proposed changes at its meeting of November 9, 2016. The commissioners verified the proposed changes to the development standards in the E-I (Energy Industrial) zone and reviewed the zoning districts where the new medical cannabis uses would be permitted, and recommended approval of the proposed changes. In addition, the Planning Commission recommended to the City Council that the separation distance requirements from churches be eliminated, due to

the increasing prevalence of church uses in commercial districts and complexes. The draft ordinance reflects the changes proposed by the Planning Commission.

This proposed text amendment would add Medical Cannabis Dispensary, Medical Cannabis Manufacturing Facility, and Medical Cannabis Testing Facility to the list of permissible uses. The table below identifies the districts where the new uses would be permitted, in addition to the zoning districts where the existing cannabis use categories (Medical Cannabis Cooperative or Collectives and Medical Cannabis Cultivation Facility) are currently allowed:

Facility Type	C-2	HC	C-M	M-1-P	M-1	M-2	E-I	A
Medical Cannabis Cooperative or Collectives (<i>Existing</i>)	P	P	P	P	P	P		P
Medical Cannabis Cultivation Facility (<i>Existing</i>)			P	P	P	P	P	P
Medical Cannabis Dispensary (<i>New</i>)	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
Medical Cannabis Manufacturing Facility (<i>New</i>)			<u>LUP</u>	<u>LUP</u>	<u>LUP</u>	<u>LUP</u>	<u>LUP</u>	
Medical Cannabis Testing Facility (<i>New</i>)			<u>LUP</u>	<u>LUP</u>	<u>LUP</u>	<u>LUP</u>	<u>LUP</u>	

P = Permitted; LUP = Land Use Permit; underlined text identifies a proposed addition to the zoning district.

A map has been prepared showing the location of these districts, and has been included as an attachment to this staff report.

In establishing three new cannabis-related uses, the specific zoning standards in Chapter 93.23.15 (Medical Cannabis Cooperative or Collective and Medical Cannabis Cultivation Facility Special Standards) need to be amended to include the new uses. No other changes are proposed to this chapter of the zoning code; approval requirements, separation standards, and parking requirements will remain as currently adopted.

Another proposed change involves a modification to the development standards of the E-I (Energy Industrial) zone to accommodate cannabis-related uses. The lot coverage requirement in the E-I zone is limited to 15% for permitted uses, with the exception of energy uses. In order to allow adequate developable area for buildings to house cultivation and manufacturing facilities, it is proposed that the lot coverage be increased to 60% for permitted uses, similar to the M-1 (Service/Manufacturing) Zone and the M-2 (Manufacturing) Zone standards. All other development standards, such as height limits and setback requirements, shall remain as currently adopted.

B. Comprehensive Regulatory Ordinance

Last year the State adopted a series of legislation which comprise the Medical Cannabis Regulation and Safety Act (MCRSA) which essentially establishes a dual licensing structure that requires a state license as well as a local license or a land use permit. MCRSA will govern the licensing and control of all medical cannabis businesses in the state and provides a level of immunity from criminal prosecution for licensees. The state legislation also protects local control of medical cannabis businesses by recognizing and providing for a dual licensing process, civil and criminal penalties are available for unlicensed activity, and local licensing practices, zoning ordinances, and other local regulations are recognized consistent with the city's constitutional police powers at the local level.

Currently the City allows "medical cannabis collectives and cooperative" to operate in the City. The City currently allows 6 such co-ops or collectives to operate in the City. These are recognized under the law as "vertical" entities; namely, the City's approved co-ops and collectives are responsible for the cultivation, manufacture of medicinal product, dispensing, and delivery of the medicine to qualified patients or their caregivers. These co-ops and collectives are closed activities; that is, only members can be part of the production chain and only members can receive the medicine. The new legislation essentially creates a horizontal, business model that allows a more open and robust business oriented set of activities open to the general public and other businesses.

The Council's subcommittee has reviewed the legislation and received public input at various meetings. The subcommittee is recommending the Council consider the proposed comprehensive ordinance to address the opening and operation of medical cannabis businesses in the City, including dispensaries, cultivation facilities, manufacturing facilities, testing facilities, and transportation and distribution (delivery) operations.

This Ordinance establishes various application and operational requirements for all cannabis businesses, specialized criteria for each type of business, and enforcement protocols. Existing medical cannabis collectives and co-operatives will be able to retain the ability to continue to operate as collectives or cooperatives; however, under MCRSA this "grandfather" provision will expire in 2026. The proposed ordinance also grants the existing collectives and cooperatives the ability to operate under the dispensary, cultivation, and/or delivery options provided under MCRSA. In addition, the Ordinance also anticipates that new operators can apply for permits under the new program once the Ordinance goes into effect. The subcommittee anticipates that approvals would be conditional, subject to applying for and receiving licenses from the State. It is not anticipated that the state will have its regulatory program in place and be ready to review and approve license applications until early 2018. Nevertheless, the subcommittee recommends the Council adopt the ordinance and enable businesses, especially cultivators, manufacturers, and testing labs the opportunity to secure permits

from the City and commence appropriate planning, investments, and development necessary to be ready to open as soon as the State has its program in place.

C. Initiation of Ordinance Creating additional Locational Requirements.

The third ordinance before the Council is a proposal to initiate a locational requirement for existing co-ops and collectives as well as any new dispensaries. The proposal would be to prohibit any new dispensaries from locating within 500 feet of any co-op, collective, or dispensary. This requirement would minimize over-concentration of dispensaries in the City or in any area of the City and encourage dispersal to ensure that access to medicine is reasonably available for all patients. The subcommittee recommends the Council initiate this Ordinance and refer it to the Planning Commission for recommendation.

CEQA

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the proposed Zone Text Amendments have been deemed “projects.” Staff has determined that the proposed Zone Text Amendments may be deemed Categorical Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines. The proposed Zone Text Amendment only proposes insignificant changes to land use regulations.

The Comprehensive Medical Cannabis Regulatory Ordinance is a “project” under CEQA. The Ordinance is exempt under CEQA Guidelines Section 15183 (projects consistent with a community plan, general plan, or zoning) since the types of businesses permitted by the Ordinance are consistent with those contemplated by the adopted General Plan and the City’s Zoning Ordinance. In addition, the Ordinance is exempt under CEQA Guidelines Section 15301 (existing facilities) since permitted medical cannabis businesses under the Ordinance are either already existing and currently in operation in the City as approved medical cannabis collectives or cooperatives and new businesses are likely to locate in existing facilities and additions to structures would be exempt under Section 15301.

NOTIFICATION:

A public hearing notice was published in accordance with the requirements of State law and local ordinance.

Douglas Holland
City Attorney

David Ready, PhD., Esq.
City Manager

Attachments:

1. Zone Ordinance Amendment for Introduction
2. Map – Zoning Districts
3. MCRSA Implementing Ordinance for Introduction
4. Draft Ordinance for Initiation and Referral