

City of Los Alamitos

Agenda Report Public Hearing

December 14, 2015
Item No: 10B

To: Mayor Richard D. Murphy and Members of the City Council

Via: Bret M. Plumlee, City Manager

From: Steven A. Mendoza, Development Services Director

Subject: Introduce Ordinance 2015-11 – A Zoning Ordinance Amendment (ZOA-07) Regarding Cannabis Regulations

Summary: Consideration of an ordinance to prohibit commercial cannabis activities, including the sales, cultivation, distribution, delivery, storage and manufacturing of cannabis, medical marijuana, and marijuana in response to three State of California bills signed into law on October 9, 2015 (AB 266, AB 243, and SB 643) which are known collectively as the Medical Marijuana Regulation and Safety Act. The ordinance will also prohibit cultivation for personal use by Qualified Patients and Caregivers. The draft ordinance is brought to the City Council by recommendation of the Planning Commission (Citywide) (City initiated).

Recommendations:

1. Open the Public Hearing; and, if appropriate,
2. Determine that the proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) under the general rule that CEQA does not apply to activities which can be seen with certainty to have no effect on the environment. Changing the regulations relating to cannabis activities will not have any environmental impacts.
3. Introduce, waive reading in full and authorize reading by title only of Ordinance No. 2015-11, and set for second reading; and,
4. City Attorney Reisman read the title of Ordinance No. 2015-11, entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, ADDING CHAPTER 17.39 TO THE LOS ALAMITOS MUNICIPAL CODE PROHIBITING ALL COMMERCIAL MEDICAL CANNABIS ACTIVITIES IN THE CITY AND PROHIBITING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT OR PRIMARY CAREGIVER AND AMENDING TABLES 2-02, 2-04, AND 2-06 TO REFLECT THE SAME, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (CITYWIDE) (CITY INITIATED)."

Background

Recent legislation signed by the Governor (AB 266, AB 243 & SB 643) warrants the adoption of an Ordinance that will need to be effective March, 2016 in order to be effective. The League of California Cities recommended beginning this process immediately to meet the March, 2016 implementation requirement. The Medical Marijuana Regulation and Safety Act consist of three separate pieces of legislation:

- AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood) – Establishes dual licensing structure requiring state license *and* a local license or permit. Department of Consumer Affairs heads overall regulatory structure imposing health and safety and testing standards.
- AB 243 (Wood) – Establishes a regulatory and licensing structure for cultivation sites under the Department of Food and Agriculture.
- SB 643 (McGuire) - Establishes criteria for licensing of medical marijuana businesses, regulates physicians, and recognizes local authority to levy taxes and fees.

This legislation protects local control in the following ways:

- Dual licensing: A requirement in statute that all marijuana businesses must have both a state license, and a local license or permit, to operate legally in California. Jurisdictions that regulate or ban medical marijuana will be able to retain their regulations or ban.
- Effect of Local Revocation of a Permit or License: Revocation of a local license or permit terminates the ability of a marijuana business to operate in that jurisdiction under its state license.
- Enforcement: Local governments may enforce state law in addition to local ordinances if they request that authority, and if it is granted by the relevant state agency.
- State law penalties for unauthorized activity: Provides for civil penalties for unlicensed activity, and applicable criminal penalties under existing law will continue to apply.
- Expressly protects local licensing practices, zoning ordinances, and local actions taken under the constitutional police power.

Recommendation

Last month, the Planning Commissioners approved a Resolution recommending a draft Ordinance by the City Council that would prohibit cannabis sales and cultivation

activities. That drafted Ordinance is attached to this report. Although the Commission participated in a discussion regarding the merits of delivery to patients that may need medical cannabis, the Commission concluded that the Ordinance should be adopted "as is". Also attached are definitions from State law; the highlighted ones are referenced in the draft Ordinance. Additionally, a summary memo from the City Attorney's office is attached.

Fiscal Impact

None.

Submitted By:



Steven A. Mendoza
Development Services Director

Approved By:



Bret M. Plumlee
City Manager

- Attachments:*
- 1. Unsigned but Approved Planning Commission Resolution 15-19*
 - 2. Ordinance No. 2015-11*
 - 3. Definitions Handout*
 - 4. Memo from Assistant City Attorney*
 - 5. Unapproved excerpt of Minutes from November 18, 2015 Planning Commission*

RESOLUTION NO. 15-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 15-07 TO ADD CHAPTER 17.39 TO THE LOS ALAMITOS MUNICIPAL CODE PROHIBITING ALL COMMERCIAL MEDICAL CANNABIS ACTIVITIES IN THE CITY AND PROHIBITING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT OR PRIMARY CAREGIVER AND AMENDING TABLES 2-02, 2-04, AND 2-06 TO REFLECT THE SAME, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (CITYWIDE) (CITY INITIATED).

WHEREAS, on October 9, 2015, Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (hereafter "MMRSA"). The MMRSA set up a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial medical marijuana activities; and,

WHEREAS, on October 28, 2015, the Planning Commission approved a Resolution of Intention to make zoning code changes concerning the sales, cultivation, distribution, delivery, storage and manufacturing of "Cannabis, Marijuana and Medical Marijuana; and,

WHEREAS, the Planning Commission believes that cultivation and all commercial medical cannabis activities are prohibited under the City's permissive zoning regulations, it desires to enact this ordinance to expressly make clear that all such uses are prohibited in all zones throughout the City; and,

WHEREAS, the Planning Commission held a duly noticed public hearing on this Ordinance on November 18, 2015 at which time it considered all evidence presented, both written and oral, and after the close of the public hearing, adopted Resolution No. 15-19, recommending that the City Council adopt this Ordinance; and,

WHEREAS, after consideration of all applicable Staff reports and all public testimony and evidence presented at the Public Hearings, the Planning Commission does hereby make the following findings for a Zoning Ordinance Amendment as required by Los Alamitos Municipal Code Section 17.70.050:

1. The proposed amendments ensure and maintain consistency with the General Plan and the Zoning Code. The proposed code amendment to prohibit cultivation and all commercial medical marijuana land uses in all zones throughout the City is consistent with General Plan.

2. The proposed amendments will not adversely affect the public convenience, health, interest, safety, or welfare of the City as land uses and cultivation of commercial medical marijuana will be prohibited by this ordinance since there are questions as to the health and safety of Marijuana (Cannabis) which have not been adequately addressed to the satisfaction of the City.

3. The proposed amendments are internally consistent with other applicable provisions of this Zoning Code, including the provision that prohibits federally prohibited land uses and do not provide any conflicts with any other provision of the Los Alamitos Municipal Code.

4. The proposed amendments have been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's environmental review procedures in that the proposed amendments are exempt from California Environmental Quality Act review per Section 15061(b) (3) of the California State Government Code because the Code Amendments will have no significant effect on the environment and pursuant to Section 15305 as a minor alteration in land use limitations.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Los Alamitos, California, finds that the above recitals are true and correct, which findings are incorporated by reference herein.

SECTION 2. Based upon such findings and determinations, the Planning Commission hereby recommends to the City Council of the City of Los Alamitos to approve Zoning Ordinance Amendment 15-07 as shown in Attachment A hereto, which ordinance is attached hereto and incorporated by reference herein.

PASSED, APPROVED, AND ADOPTED this 18th day of November, 2015.

John Riley, Chair

ATTEST:

Steven Mendoza, Secretary

APPROVED AS TO FORM:

Lisa Kranitz
Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LOS ALAMITOS)

I, Steven Mendoza, Planning Commission Secretary of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission held on the 18th day of November, 2015, by the following vote, to wit:

AYES: Riley, Cuiilty, Andrade, DeBolt, Grose, Loe, Sofelkanik
NOES: None
ABSENT: None
ABSTAIN: None

Steven Mendoza, Secretary

ORDINANCE NO. 2015-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, ADDING CHAPTER 17.39 TO THE LOS ALAMITOS MUNICIPAL CODE PROHIBITING ALL COMMERCIAL MEDICAL CANNABIS ACTIVITIES IN THE CITY AND PROHIBITING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT OR PRIMARY CAREGIVER AND AMENDING TABLES 2-02, 2-04, AND 2-06 TO REFLECT THE SAME, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (CITYWIDE) (CITY INITIATED).

The City Council of the City of Los Alamitos does hereby ordain as follows:

Section 1. Findings and Purpose. The City Council finds and declares as follows:

A. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code § 11362.5 and entitled “The Compassionate Use Act of 1996” or “CUA”).

B. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.” The ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere.”

C. In 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP”) to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances.

D. In City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729, the California Supreme Court held that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land. . . .” Additionally, in Maral v. City of Live Oak (2013) 221 Cal.App.4th 975, the Court of Appeal held that

“there is no right – and certainly no constitutional right – to cultivate medical marijuana. . . .” The Court in Maral affirmed the ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.

E. The Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for medical purposes, although there is recent case law that raises a question as to whether the Federal Government may enforce the Act where medical marijuana is allowed.

F. On October 9, 2015 Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (hereafter “MMRSA”). The MMRSA set up a State licensing scheme for commercial medical cannabis activities while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial medical marijuana activities.

G. The City Council finds that commercial medical marijuana activities, as well as cultivation for personal medical use as allowed by the CUA and MMP can adversely affect the health, safety, and well-being of City residents. Citywide prohibition is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities. Further, as recognized by the Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.

H. The limited immunity from specified State marijuana laws provided by the Compassionate Use Act and Medical Marijuana Program does not confer a land use right or the right to create or maintain a public nuisance.

I. The MMRSA contains language that requires the City to prohibit cultivation uses by March 1, 2016 either expressly or otherwise under the principles of permissive zoning, or the State will become the sole licensing authority. The MMRSA also contains language that requires delivery services to be expressly prohibited by local ordinance, if the City wishes to do so. The MMRSA is silent as to how the City must prohibit other type of commercial medical marijuana activities.

J. The Planning Commission held a duly noticed public hearing on this Ordinance on November 18, 2015 at which time it considered all evidence presented, both written and oral. A representative of the City's Police Department spoke about crime issues in the City relating to medical marijuana and stated that in 2013 there were six robberies related to medical marijuana deliveries.

K. After the close of the public hearing, the Planning Commission adopted Resolution No. 15-19, recommending that the City Council adopt this Ordinance.

L. While the City Council believes that cultivation and all commercial medical cannabis activities are prohibited under the City's permissive zoning regulations, it desires to enact this Ordinance to expressly make clear that all such uses are prohibited in all zones throughout the City. This Ordinance is, therefore, consistent with the City's zoning code.

M. This Ordinance is consistent with the City's General Plan.

N. This Ordinance is not detrimental to, and in fact, protects the public convenience, health, interest, safety, and welfare of the City for the reasons set forth above.

O. The City Council held a duly noticed public hearing on this Ordinance on December 14, 2015 at which time it considered all evidence presented, both written and oral.

Section 2. Authority. This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to Article XI, Section 7 of the California Constitution, the Compassionate Use Act, the Medical Marijuana Program, and the Medical Marijuana Regulation and Safety Act.

Section 3. Chapter 17.39 is hereby added to the Los Alamitos Municipal Code to read as follows:

Chapter 17.39

MEDICAL MARIJUANA AND CULTIVATION

17.39.010 Definitions

"Cannabis" shall have the same meaning as set forth in Business & Professions Code § 19300.5(f) as the same may be amended from time to time.

"Caregiver" or "primary caregiver" shall have the same meaning as set forth in Health & Safety Code § 11362.7 as the same may be amended from time to time.

“Commercial cannabis activity” shall have the same meaning as that set forth in Business & Professions Code § 19300.5(k) as the same may be amended from time to time.

“Cooperative” shall mean two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering or making available medical marijuana, with or without compensation.

“Cultivation” shall have the same meaning as set forth in Business & Professions Code § 19300.5(l) as the same may be amended from time to time.

“Cultivation site” shall have the same meaning as set forth in Business & Professions Code § 19300.5 (x) as the same may be amended from time to time.

“Delivery” shall have the same meaning as set forth in Business & Professions Code § 19300.5(m) as the same may be amended from time to time.

“Dispensary” shall have the same meaning as set forth in Business & Professions Code § 19300.5(n) as the same may be amended from time to time. For purposes of this Chapter, “Dispensary” shall also include a cooperative. “Dispensary” shall not include the following uses: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code, (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code, (3) a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code, (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code, (5) a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

“Dispensing” shall have the same meaning as set forth in Business & Professions Code § 19300.5(o) as the same may be amended from time to time.

“Distribution” shall have the same meaning as set forth in Business & Professions Code § 19300.5(p) as the same may be amended from time to time.

“Distributor” shall have the same meaning as set forth in Business & Professions Code § 19300.5(q) as the same may be amended from time to time.

“Manufacturer” shall have the same meaning as set forth in Business & Professions Code § 19300.5(y) as the same may be amended from time to time.

“Manufacturing site” shall have the same meaning as set forth in Business & Professions Code § 19300.5(af) as the same may be amended from time to time.

“Medical cannabis,” “medical cannabis product,” or “cannabis product” shall have the same meanings as set forth in Business & Professions Code § 19300.5(ag) as the same may be amended from time to time.

“Medical Marijuana Regulation and Safety Act” or “MMRSA” shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

“Nursery” shall have the same meaning as set forth in Business & Professions Code § 19300.5(ah) as the same may be amended from time to time.

“Qualifying patient” or “Qualified patient” shall have the same meaning as set forth in Health & Safety Code § 11362.7 as the same may be amended from time to time.

“Testing laboratory” shall have the same meaning as set forth in Business & Professions Code § 19300.5(z) as the same may be amended from time to time.

“Transport” shall have the same meaning as set forth in Business & Professions Code § 19300.5(am) as the same may be amended from time to time.

“Transporter” shall have the same meaning as set forth in Business & Professions Code § 19300.5(aa) as the same may be amended from time to time.

17.39.020 Prohibition.

- A. Commercial cannabis activities of all types are expressly prohibited in all zones in the City of Los Alamitos. No person shall establish, operate, conduct or allow a commercial cannabis activity anywhere within the City.
- B. To the extent not already covered by subsection A above, all deliveries of medical cannabis are expressly prohibited within the City of Los Alamitos. No person shall conduct any deliveries that either originate or terminate within the City.
- C. This section is meant to prohibit all activities for which a State license is required. Accordingly, the City shall not issue any permit, license or other entitlement for any activity for which a State license is required under the MMRSA.
- D. Cultivation of cannabis for non-commercial purposes, including cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zones in the City of Los Alamitos. No person, including a qualified patient or primary caregiver, shall cultivate any amount of cannabis in the City, even for medical purposes.

17.39.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 17.39 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

17.39.040 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 17.39, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.24 of this code against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party.

Section 4. Table 2-02 is hereby amended by adding the following:

LAND USE	PERMIT REQUIRED BY ZONING DISTRICT				Specific Use Regulations
	R-1	R-2	R-3	M-H	
CANNABIS USES					
Cannabis delivery	—	—	—	—	Chapter 17.39
Commercial cannabis activities	—	—	—	—	Chapter 17.39
Cultivation, even by Qualified Patients and Caregivers	—	—	—	—	Chapter 17.39

Section 5. Table 2-04 is hereby amended by adding the following:

LAND USE	PERMIT REQUIRED BY ZONING DISTRICT				Specific Use Regulations
	C-O	C-G	P-M		
CANNABIS USES					
Cannabis delivery	—	—	—		Chapter 17.39
Commercial cannabis activities	—	—	—		Chapter 17.39
Cultivation, even by Qualified Patients and Caregivers	—	—	—		Chapter 17.39

Section 6. Table 2-06 is hereby amended by adding the following:

LAND USE	PERMIT REQUIRED BY ZONING DISTRICT				Specific Use Regulations
	O-A	C-F			
CANNABIS USES					
Cannabis delivery	—	—			Chapter 17.39
Commercial cannabis activities	—	—			Chapter 17.39
Cultivation, even by Qualified Patients and Caregivers	—	—			Chapter 17.39

Section 7. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 8. Nothing in this Ordinance shall be interpreted to mean that the City's permissive zoning scheme allows any other use not specifically listed therein.

Section 9. CEQA. This Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15305, minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density and Section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City's permissive zoning provisions already prohibit all uses that are being expressly prohibited by this Ordinance. Therefore, this Ordinance has no impact on the physical environment as it will not result in any changes.

Section 10. To the extent the provisions of the Los Alamitos Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 11. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of adoption and shall post a certified copy of this Ordinance, including the vote for and against same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this ____ day of _____,
2016.

Richard D. Murphy, Mayor

ATTEST:

Windmera Quintanar, CMC, City Clerk

APPROVED AS TO FORM:

Cary S. Reisman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LOS ALAMITOS)

I, Windmera Quintanar, City Clerk of the City of Los Alamitos, do hereby certify that the foregoing Ordinance No. 15-11 was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 14th day of December, 2015 and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 20__, by the following vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Windmera Quintanar, CMC, City Clerk

Business & Professions Code § 19300.5.

19300.5.

For purposes of this chapter, the following definitions shall apply:

(a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

(b) "Applicant," for purposes of Article 4 (commencing with Section 19319), means the following:

(1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.

(2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.

(3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(c) "Batch" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

(d) "Bureau" means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

(f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber

produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(g) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(h) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

(i) "Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

(j) "Chief" means Chief of the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(k) "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.

(l) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(m) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) "Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an

establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.

(o) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

(q) "Distributor" means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

(r) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(s) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

(t) "Fund" means the Medical Marijuana Regulation and Safety Act Fund established pursuant to Section 19351.

(u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.

(v) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(w) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the license.

(x) "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(y) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(z) "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.

(2) Registered with the State Department of Public Health.

(aa) "Transporter" means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.

(ab) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.

(ac) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ad) "Lot" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "lot" means a specifically identified amount produced in a unit of time or a quantity in a

manner that ensures its having uniform character and quality within specified limits.

(ae) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(af) "Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(ag) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(ah) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(ai) "Permit," "local license," or "local permit" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(aj) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ak) "State license," "license," or "registration" means a state license issued pursuant to this chapter.

(al) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

(am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted

business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

Health & Safety Code § 11362.5

(a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b)(1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

Health & Safety Code § 11362.7

(d) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

Wallin, Kress, Reisman & Kranitz, LLP

MEMO

from the desk of:
Lisa E. Kranitz

Law Offices
2800 28th Street, Suite 315
Santa Monica, California 90405-6205
(310) 450-9582, ext. 215
Fax: (310) 450-0506
e-mail: lkranitz@wkrklaw.com

To: City Clients
CC: Cary Reisman, Peter Wallin, Bob Kress
From: Lisa Kranitz
Re: Medical Marijuana Regulation and Safety Act
Date: December 3, 2015

This memo is to provide a brief overview of the Medical Marijuana Regulation and Safety Act ("Act") as it pertains to local governments. Like the Massage Therapy Act, there is a lot in the Act which relates more to State Regulation than local matters.

The Act consists of 3 separate bills that were all dependent upon each other passing. Two previous laws also relate to this subject matter.

Compassion Use Act of 1996 (Health & Safety Code § 11362.5)

This was the 1996 voter initiative that provides immunity from criminal action for patients and primary caregivers for possession and cultivation of marijuana if there has been a doctor recommendation for medical use.

Medical Marijuana Program (Health & Safety Code §§ 11362.7 – 11362.9)

Established a voluntary program for identification cards for qualified patients and primary caregivers and provides immunity for certain activities involving medical marijuana.

Medical Marijuana Regulation and Safety Act (SB 643, AB 266, AB 243)

In general, the Act sets up a State regulatory scheme and establishes various licensing categories relating to commercial cannabis activity. Although not always specifically stated, the Act relates only to medical marijuana as recreational marijuana still remains illegal. Local control is maintained in that the State will not issue licenses if the activity is banned in the local jurisdiction or a local permit is required and has not been obtained.

Definitions

Some of the more important definitions are as follows:

- Commercial cannabis activity - includes “cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers. Commercial activity does not include a qualified patient who cultivates, possesses, stores, manufactures, or transports for personal medical use or a primary caregiver who does the same for no more than five specified patients for which s/he is the primary caregiver; therefore, these people do not need state licenses.
- Qualified Patient – means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article, i.e., someone who has a doctor recommendation for medical marijuana.
- Primary caregiver - means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.
- Cultivation – means any activity including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- Dispensary – a facility where medical cannabis, medical cannabis products, or devices for use of such products are offered for retail sale, including an establishment that delivers medical cannabis and medical cannabis products as part of a retail sale.
- Delivery – means the commercial transfer of medical cannabis or medical cannabis products from a dispensary to a primary caregiver or qualified patient or testing laboratory. Delivery also include the use by a dispensary of any technology platform which it owns and controls or is independently license, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary (think Uber type of platform).
- Distributor – means a person licensed to engage in purchasing medical cannabis or medical cannabis project from a licensed cultivator/manufacturer for sale to a licensed dispensary.
- Transport – means the transfer of medical cannabis or medical cannabis products between the permitted business locations of licensees for conducting commercial cannabis activities. With limited exceptions, only licensed transporters may transport medical cannabis or medical cannabis products between licensees.

Licenses

There are 17 different state license categories which break down into the following categories; licensees may only hold state licenses in up to 2 separate categories as specified:

- Cultivation (10 types) – no state license needed for cultivation for personal medical use as described above. However, case law holds a local government may ban this type of cultivation as well, although not all cities do.
- Manufacturer (2 types)
- Testing
- Dispensary (2 types)
- Distribution
- Transporter

Local Control

These licenses do not supersede or limit existing local authority, including local zoning requirements. Furthermore, cities can adopt additional standards and requirements for commercial cannabis activities provided that they are no less stringent than the state standards. If a local permitting requirement exists, then no state license may be applied for or issued until the local permit is obtained. Revocation of a local permit essentially prevents the state licensee from operating in that jurisdiction.

In order to understand what regulations cities may need to take, it is necessary to understand the difference between permissive zoning and explicit prohibitions. Permissive zoning is the type of zoning that most cities have in their zoning ordinance, i.e., everything that is not listed is prohibited. However, some cities do not have this explicit statement, but have a list of permitted uses and then a “similar use” type of determination. At least one appellate court, after considering all of the evidence, determined that the “similar use” language was meant to be permissive zoning and the disputed use was banned. However, during the League’s webinar, the recommendation was made to do explicit bans rather than rely on permissive zoning in order to avoid such arguments and eliminate all doubt. Additionally, as one attorney pointed out, backyard gardens are not specifically listed, but does that really mean they are prohibited? And if one can grow tomatoes, then why not cannabis, especially since the Act provides that medical cannabis is an agricultural product.

Persons may not cultivate medical marijuana without a local permit and a state license (unless for personal medical use). If the local government wishes to allow local cultivation, it may inspect the site for suitability. If a local jurisdiction does not prohibit the cultivation of marijuana, either expressly or through permissive zoning, or chooses not to enact a conditional use permit program, then on March 1, 2016, only a state license will be required for medical marijuana cultivation. As set forth immediately above, it is best not to rely on a permissive zoning scheme. While there is supposed to

be clean-up language to eliminate the March 1, 2016 deadline, there is no assurance this fix will actually happen in time.

The section relating to the need for both a state license and local permit specifically does not apply to a qualified patient who cultivates no more than 100 square feet for personal medical use or a primary caregiver cultivating no more than 500 square feet for up to five specified qualified patients and such cultivation is specifically excluded from the definition of commercial cannabis activity. However, case law is clear that a local jurisdiction may independently ban such cultivation if it so desires.

Deliveries where the starting and/or ending point is within the city limits can only be made in a city that does not explicitly prohibit it by local ordinance. This means that for deliveries, including deliveries to qualified patients and primary caregivers, the local government must have language in its code that explicitly prohibits this use. While there is no specific deadline for adopting such an ordinance stated in the Act, it was recommended that it be in place by at least 2018 when the state expects to start issuing licenses. Local government cannot prohibit deliveries by licensees from going through its jurisdiction on public roads as long as they do not begin or end in the jurisdiction.

Although the Act specifically calls out cultivation and delivery, it provides that no person shall engage in commercial cannabis activity without a local permit.

What Next

In order to insure that commercial cannabis cultivation is prohibited in the local jurisdiction, an ordinance should be in place by March 1, 2016 to specifically prohibit such activity. In order for the ordinance to be effective by this date, the 2nd reading before the City Council must take place by January 29, 2016. As these prohibitions will most likely be in the zoning ordinance, this means that items need to get to the Planning Commission in November so there is adequate time to notice and get to the City Council for 1st and 2nd readings in December and January.

A draft ordinance has been drafted which will explicitly ban all commercial cannabis activities, as well as ban cultivation of marijuana by qualified patients and primary caregivers.

8. PUBLIC HEARINGS

A. Zoning Ordinance Amendment No. 15-07 Marijuana Regulation

Consideration of an ordinance to prohibit commercial cannabis activities, including the sales, cultivation, distribution, delivery, storage and manufacturing of cannabis medical marijuana, and marijuana in response to three State of California bills signed into law on October 9, 2015 (AB 266, AB 243, and "SB 643) which are known collectively as the Medical Marijuana Regulation and Safety Act. The ordinance will also prohibit cultivation for personal use by Qualified Patients and Caregivers.

Development Services Director Mendoza summarized the Staff report, referring to the information contained therein, and indicated he's prepared to answer questions from the Planning Commission.

Chair Riley opened the Public Hearing.

Wayne (no last name given) - Indicated his concerns are why Staff would put prohibitions on this whole thing. Money and revenue aside, the safety and security of the people of the City having to travel out of this community to get marijuana, having to depend on somebody if they can't travel out of the City to get it, making it illegal to deliver to a person's house who can't travel, or somebody like him who has to take somebody out of the City to get marijuana and he has a full time job and a family to take care and taking care of a person on the side that needs marijuana. He is unsure why the City would put the citizens of the community in such distress. The City is making it difficult for people to support people with cancer who need marijuana to deal with the illness. He said he's seen firsthand how marijuana gives people with cancer a will to live; it gives them an appetite; it gives them a reason to want to go on every day. Cancer's a hard thing to fight and if the City is depriving these people of their legal right under the Compassionate Care Act to obtain marijuana legally, he doesn't quite understand it.

There being no further speakers, Chair Riley closed the item for public comment and brought it back to the Commission for their comments and action.

Responding to a question from Commissioner Grose, Captain Rick Moore answered that in 2013, the City's robbery rate doubled due to a business delivering marijuana to the City. There were six different robberies that occurred from a variety of marijuana delivery services being called to the City at which point they were robbed at gun point. Marijuana sales is typically a cash industry which provides another target if we were to have store front locations which typically keep a lot of cash on hand. In 2013 there were eleven robberies, six of which were marijuana related. That's his concern; the drivers carry cash and marijuana and there's no way for them to vet the potential clients that they're coming to meet.

Commissioner Andrade asked if the suspects were ever apprehended and Captain Moore indicated they were and explained that they were a part of a larger criminal network in Los Angeles.

Commissioner DeBolt inquired if it was illegal to use marijuana within the City if a person doesn't have a card.

Captain Moore explained that it's currently an infraction to do that.

Commissioner DeBolt then asked if a person has a card, does that person have to be inside his residence or can he be out in the public right of way when using marijuana.

Assistant City Attorney Kranitz indicated she doesn't believe there's anything in the current regulations that specify that you have to be in your own home if you're somebody authorized to use marijuana under the Compassionate Care Act.

Commissioner Grose asked for the definition of "infraction".

Captain Moore described it as the lowest level of crime in California; there are felonies, misdemeanors and infractions and infractions are typically citable offenses such as traffic citations.

Commissioner Andrade asked if that also has to do with the amount of marijuana on the person such as being over an ounce or something like that.

Ms. Kranitz explained that an ounce or under makes the offense an infraction if you're not somebody authorized with a card.

Captain Moore said it's important to note that to actually get a medical marijuana card is very easy.

Commissioner Andrade said another issue is that several states have already gone ahead of Federal regulations and made legal the recreational use which is different than just having a medical card. If at some point the Federal government decides to go ahead and make recreational marijuana legal for everyone, how does this affect this?

Ms. Kranitz explained that it would depend how the Federal law was to be written that if it retained the land use authority like the State law does, which very clearly says, "To engage in any of these commercial activities, you need a local permit in addition to a State permit". So what types of activities would depend on how the Federal law was written. If they said smoking it is legal and California said it still wasn't legal, again it would depend how it was written because right now recreational marijuana isn't allowed in California.

Commissioner Loe said he stopped by the hospital earlier in the week and while there he asked a few of the nurses what their thoughts were on the subject. They indicated that they were kind of in favor of having some sort of facility in the City and he was just wondering from the Medical Center's standpoint, have they commented at all on this subject?

Associate Planner Oliver indicated Staff put an ad in the newspaper and no one commented based on it.

Commissioner Grose interjected that from a provider's standpoint, there is no true benefit for the majority of these people from marijuana. She indicated they see some negative long term problems coming from neurologic disorders and onset of early Alzheimer's especially in the younger group using this for what they consider general anxiety disorder, insomnia, etc. She indicated that if a person who is in a terminal stage, some of the oncologists will write a prescription for the terminal patient for a euphoric feeling that's briefly lived for them along with some other pain medications. But there are a lot of these physicians as well as a lot of their providers that will not and want nothing to do with it. She said does she see a reason for a dispensary? Her answer is no.

Commissioner Loe asked Commissioner Grose that isn't it a fact that the most abused drugs are prescription drugs by far?

Commissioner Grose responded absolutely; therefore, we really need to look at what is going on right now with the DEA as there's a major push and the clamping down on the use of prescription scheduled drugs.

Commissioner Loe continued by saying the abuse of prescription drugs would be just as bad or far outweigh the abuse of medical marijuana.

Commissioner Andrade said an issue he has is the delivery portion because there are people that truly do need this and there are many that don't and it become's in many instances not only a major inconvenience but to some degree not possible for them to actually travel outside of their area to get it.

Commissioner Andrade said the people that don't have cards are going to continue to get it by any means they can.

Commissioner Grose argued that we're not worried about cards; what we're worried about is what we can set as a standard in this community that we're saying that we don't want to have shops, we're not growing it, and we're not doing deliveries. We're not looking at who has cards, who does what with it or how they obtain it. Most of the oncologists that she knows actually have a preferred dispensary that they have their clients go to that are end stage.

Commissioner DeBolt indicated that “delivery” is the one that he has a concern about in trying to reconcile a prohibition against delivery with the Compassionate Care Act enacted in the State. He felt that the City needs to get the framework in place so that we have the ability to do that. If we can wade through everything and he is under the opinion that this is pretty much something that we need to do to get us in the position to really get into a lengthy discussion if we want to change it.

Ms. Kranitz explained that the law doesn't say that if we allow it now, that on March 1, 2016 then we get to ban it but it is clear the other way, that if you ban it now, you can later come back and make it looser and provide an explanation such as delivery should be allowed at this point.”

The Commission discussed the benefits of home delivery and a few of the Commissioners thought there were benefits of home delivery still being legal. Although the discussion centered about the positives and negatives of this topic, the Commission thought it best to be more restrictive out the gate and, if necessary, consider loosening it up at a later time.

Following a long discussion, the Commission decided to change the title of the Resolution as follows:

“A Resolution...all commercial medical CANNABIS ACTIVITIES in...”.

The Commission also changed #1 in the Resolution to read:

1. *The proposed...City is consistent with the General Plan.*

Motion/Second: Grose/DeBolt

Unanimously Carried: The Planning Commission approved (with the above changes) the adoption of Resolution No. 15-19 entitled, “A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 15-07 TO ADD CHAPTER 17.39 TO THE LOS ALAMITOS MUNICIPAL CODE PROHIBITING ALL COMMERCIAL MEDICAL MARIJUANA USES IN THE CITY AND PROHIBITING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT OR PRIMARY CAREGIVER AND AMENDING TABLES 2-02, 2-04, AND 2-06 TO REFLECT THE SAME, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (CITYWIDE) (CITY INITIATED).”

B. Zoning Ordinance Amendment No. 15-04

Administrative Permitting of Restaurants with Outside Seating Areas

A continued hearing to consider zoning code changes that will allow restaurant outside seating on private sidewalks as an administratively permitted use. The draft ordinance is brought back to the Planning