



CITY OF LAKEPORT PLANNING COMMISSION

MEMORANDUM

RE: Discussion on Amending Chapter 17.38 of the Zoning Ordinance to address Non-Commercial Marijuana Cultivation

MEETING DATE: 2/8/2017

SUBMITTED BY: Daniel Chance, Associate Planner

PURPOSE OF REPORT: Information only Discussion Commission Action

WHAT IS BEING ASKED OF THE PLANNING COMMISSION:

Discuss and review possible amendments to the Lakeport Zoning Ordinance Chapter 17.38 concerning the regulation of Medical Marijuana Cultivation. Amendments under consideration reflect state regulations associated with the recent passage of Proposition 64, the Adult Use of Marijuana Act (AMUA) in 2016 and regulations associated with the 2015 passage of legislation collectively known as the Medical Marijuana Regulation and Safety Act (MMRSA). (Discussion should be limited to the development of procedures for the cultivation of marijuana for non-commercial use. Retail sales and processing of cannabis will be addressed at a later date.)

BACKGROUND/DISCUSSION:

In response to the adoption of AUMA by the California voters and recent amendments made by the State Legislature, commonly referred to as MMRSA, the City of Lakeport is beginning to look at potential revisions to the Lakeport Municipal Code as it pertains to cannabis: retail sales, processing/manufacturing and licensing/taxation. The legalization of marijuana for recreational use, and particularly the allowance for the possession of six or less marijuana plants under AMUA, changes the use from a criminal activity (Police) to a land use activity (Community Development Department), and requires a review of the City's existing ordinance which currently only permits the cultivation of marijuana for prescribed medical use.

A Working Group consisting of two City Council Members, the City Manager, the City Attorney, the Police Chief, and the Community Development Director reviewed possible revisions to the Medical Marijuana Regulations in the City's Municipal Code. Based on this preliminary review the City of Lakeport is splitting the consideration of ordinance revisions related the legalization of cannabis into two categories: commercial and non-commercial. At this time, the Working Group has requested that the Planning Commission review possible amendments related to the cultivation of cannabis for non-commercial personal use on a residential parcels. The commercial uses associated with marijuana which includes dispensaries, retail sales, processing and large commercial cultivation will be addressed at a future date. In the next several months, as the State develops a regulatory structure and standards for commercial marijuana, the City of Lakeport will develop commercial regulations consistent with the State standards.

Planning Staff looked at a number of other Cities in Northern California concerning marijuana cultivation, and although no cities appear to have adopted regulations concerning legalized personal use of marijuana (AMUA), many cities have updated their medical marijuana regulations reflecting revised state regulations (MMRSA). The non-commercial cultivation of marijuana for personal use on a residential parcel would be similar to our existing Medical Marijuana Cultivation regulations as defined in Section 17.38 of the zoning ordinance. The Working Group recommended combining the medical marijuana cultivation with the new legalized non-commercial

personal marijuana cultivation, but would require amending that regulation to reflect criteria that was approved with AMUA. The Working Group proposes the following for consideration by the Planning Commission:

- Number of Plants:
 - AMUA allows six marijuana plants to be grown onsite (residential property).
 - The City's Medical Marijuana Cultivation allows 80-square feet, the Working Group supported continuing that criteria. Example: This would allow the potential for six mature plants, six seedlings...

- Outdoor Cultivation
 - AMUA does not differentiate between indoor or outdoor grows.
 - The City's current Medical Marijuana Cultivation ordinance does not allow for outdoor cultivation; the Working Group recommends not allowing outdoor grows.
 - The City of Healdsburg allows outdoor grows up to three marijuana plants in the side and rear yard, with a five-foot setback and a six-foot height limit for the plants.

- Indoor Cultivation:
 - AMUA allows cultivation inside the primary residence as a use by right.
 - The City's current Medical Marijuana Cultivation ordinance requires medical marijuana cultivation within a detached enclosed structure and not in the primary residence. Current City standards require:
 - All marijuana plants shall be located within a detached enclosed structure.
 - No cultivation shall take place within three hundred-feet of any school, child care facility, park or playground.
 - Any cultivation shall not reduce the required parking for the property.
 - The enclosed structure shall be located in side and rear yard, with a ten-foot setback from side and rear property lines.
 - All structures, electrical and plumbing associated with cultivation shall require all clearance and permits from Building Department and Fire Department.
 - Flammable gas products or generators shall not be used.
 - All structures used for marijuana cultivation shall have a ventilation and filtration systems that prevent odors.
 - The Working Group supported allowing cultivation within the primary residence or a detached structure with regulations similar to the existing medical marijuana cultivation regulations but recommends the incorporation of reasonable restrictions to ensure public safety and prohibit the conversion of a residence to a grow structure.
 - Other Cities have developed standards that limit indoor grows to the following:
 - Requirement to obtain an electrical permit which includes an inspection by the Building Division.
 - Limit the wattage for lighting to 1200 watts.
 - Wall covering requirements that controls moisture and mold, (treated wallboard).
 - Specific criteria for the use of greenhouses.
 - Developed procedures for processing personal marijuana.

- Permitting Process:
 - The Working Group supports amending the existing ordinance to include an application procedure for non-commercial personal marijuana cultivation with an annual review by staff.
 - The proposed permit process would require a Zoning Permit for non-commercial personal marijuana cultivation.
 - The Zoning Permit requires notification of the immediate neighbors.
 - The Zoning Permit would be approved administratively, with a potential appeal to the Planning Commission.
 - Performance standards would include a provision for annual inspection by staff.

- The City of Eureka ordinance regulating medical marijuana offers a possible model for the City of Lakeport to consider regarding permit procedures:
 - It allows fifty-square feet of growing area, with an Exception Request process if the residence wants to expand to one hundred-square feet (maximum size).
 - The permit would require written permission from the property owner, pay fees, plans that identify location of the grow, and standards for granting the exception.

Following a public hearing and discussion by the Planning Commission. Staff will provide an overview of these proceedings to the established Working Group and begin drafting formal amendments to Section 17.38 of the Zoning Ordinance to include development standards and permitting procedures for the cultivation of cannabis for non-commercial use on residential properties consistent with the provisions of AMUA and MMRSA.

SUGGESTED MOTION:

Move to initiate through a minute order of the Planning Commission the preparation of amendments to Section 17.38 of the Zoning Ordinance to include development standards and permitting procedures for the cultivation of cannabis for non-commercial use on residential properties consistent with provisions of AMUA and MMRSA.

Attachments:

1. Chapter 17.38 Medical Marijuana Cultivation
2. Prop 64, Personal Noncommercial Cultivation of Marijuana
3. City of Eureka Medical Marijuana Regulations