

RESOLUTION NO. 15-07

RESOLUTION OF THE MANHATTAN BEACH PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND MUNICIPAL CODE SECTION 10.60.160 (MEDICAL MARIJUANA DISPENSARIES) AND LOCAL COASTAL PROGRAM SECTION A.60.160 TO EXPRESSLY PROHIBIT CULTIVATION OF MEDICAL MARIJUANA, SUBJECT TO CERTAIN EXEMPTIONS AND PROHIBITING COMMERCIAL MEDICAL MARIJUANA ACTIVITY IN ALL ZONES IN THE CITY

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Planning Commission hereby makes the following findings:

A. On December 9, 2015 the Planning Commission conducted a public hearing, and reviewed proposed text amendments to Chapter 10.60 of the Municipal Code, part of the City's Zoning Ordinance, and Chapter A.60 of the Local Coastal Program.

B. The Planning Commission public hearing for December 9, 2015 included a ¼ page display ad public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

C. The proposed text amendments have been prepared in accordance with the provisions of Title 7, Division 4, Section 65853, *et seq.*, of the State of California Government Code.

D. The proposed text amendments are exempt from the requirements of the California Environmental Quality Act, pursuant to the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations.

E. The proposed text amendments are consistent with the following General Plan Goals and Policies:

Land Use Element Goal LU-5: Protect residential neighborhoods from the intrusion of inappropriate and incompatible uses.

Community Safety Element Goal CS-1: Minimize the risks to public health, safety, and welfare resulting from natural and human-caused hazards.

F. The proposed text amendments are consistent with the following Local Coastal Program Policy:

II. Coastal Locating and Planning New Development Policy- Policy II.1: Control Development within the Manhattan Beach coastal zone.

Section 2. The Planning Commission recommends that the City Council amend Section 10.60.160 (Medical Marijuana Dispensaries) of Chapter 10.60 (Site Regulations-All Districts) of Part IV (Site Regulations) of Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code and Section A.60.160 160 (Medical Marijuana Dispensaries) of Chapter A.60 (Site Regulations-All Districts) of Part IV (Site Regulations) of the Local Coastal Program (Phase III Implementation Program) to substantially read as follows:

“A. Definitions.

1. “Commercial medical marijuana activity” shall have the same meaning as “commercial cannabis activity” that is set forth in Business and Professions Code Section 19300.5(k), as the same may be amended from time to time, and shall include the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical marijuana or a medical marijuana product.

2. “Cultivation” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(l), as the same may be amended from time to time, and shall include any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

3. “Dispensary” shall mean any business, facility, location, office, store or establishment where medical marijuana, medical marijuana products, or devices for the use of medical marijuana or medical marijuana 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 marijuana and medical marijuana products as part of a retail sale. “Dispensary shall also mean any facility, residence, location, or site where medical marijuana is cultivated or made available to and/or distributed by any of the following: a qualified patient, a person with an identification card, or a primary caregiver. Each of these terms is defined herein and shall be interpreted in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 *et seq.*, as such sections may be amended from time to time.

4. “Identification card” is a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

5. “Marijuana” shall have the same meaning as “cannabis” as set forth in Business and Professions Code section 19300.5(f), as the same may be amended from time to time, and shall include 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. “Marijuana” also means the separated resin, whether crude or purified, obtained from marijuana. “Marijuana” also means marijuana as defined by Section 11018 of the Health and Safety Code. For the purpose of this section, “marijuana” 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 section, “marijuana” 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.

6. “Medical Marijuana Regulation and Safety Act” or “MMRSA” shall mean the Medical Marijuana Regulation and Safety Act as contained, codified, and enacted as Chapter 3.5 of the Business and Professions Code.

7. “Medical marijuana product” shall have the same meaning as “cannabis product” or “medical cannabis product” as set forth in Business and Professions Code section 19300.5(ag), as the same may be amended from time to time, and shall include marijuana, including, concentrates and extractions, intended to be sold for use by medical marijuana patients pursuant to the Compassionate Use Act of 1996 (Proposition 215).

8. “Primary caregiver” is 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.

9. “Qualified patient” is a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued by the State Department of Health Services.

B. Prohibition.

1. Medical marijuana dispensaries shall be prohibited uses in all zones in the City.

2. Commercial medical marijuana activity of any type or nature is expressly prohibited in all zones and all specific plan areas in the City Manhattan Beach. No person shall establish, operate, maintain, conduct or allow commercial medical marijuana activity anywhere within the City. This section is meant to prohibit all activities for which a State license is required pursuant to the MMRSA. 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.

3. To the extent that it is not already prohibited by subsections 1 and 2 above, cultivation of marijuana is expressly prohibited in all zones and all specific plan areas in the City. Notwithstanding the above prohibition, a qualified patient or person with an identification card may cultivate medical marijuana at his or her home for personal use.

C. Civil Penalties.

In addition to any other enforcement permitted by Chapter 1.04 of the Municipal Code, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Section. In any civil action brought pursuant to this section, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party.”

Section 3. The Secretary to the Planning Commission shall certify to the adoption of this Resolution.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of December 9, 2015 and that said Resolution was adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

/s/Marisa Lundstedt
Marisa Lundstedt
Secretary to the Planning Commission

/s/Rosemary Lackow
Rosemary Lackow
Recording Secretary