

COUNTY PLANNING COMMISSION

SEPTEMBER 13, 2017



**Medical Marijuana Nonconforming Status Determination
and Termination of Exemption Ordinance Amendment**

Case No. 17ORD-00000-00007

BACKGROUND

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- 01/19/2016: Article X added to Chapter 35, Zoning, of the County Code
- Purpose: Prohibit the cultivation and delivery of marijuana except for:
 - ▣ Small, personal use cultivation sites
 - ▣ Medical marijuana cultivation locations that were legally operating as of January 19, 2016
- Adopted in response to recent State legislation
 - ▣ 01/2016 Medical Marijuana Regulation and Safety Act
 - ▣ 11/2016 Adult Use of Marijuana Act (Proposition 64)

BACKGROUND

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- 04/2017 Board adopts Ord. 4992 as an interim (urgency) ordinance
 - ▣ Imposes temporary moratorium on activities associated with the Adult Use of Marijuana Act
- 05/2017 Board extends expiration of Ord. 4992 to March 17, 2019
- 06/27/2017 Medicinal and Adult-Use Cannabis Regulation and Safety Act signed into law (SB 94)

BACKGROUND

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- Cannabis Land Use Ordinances and Licensing Program
 - ▣ County is drafting amendments to the County Zoning Ordinances (CLUDC, MLUDC & CZO)
 - ▣ Will provide local permit requirements and development standards for the different cannabis license types allowed under State law
 - ▣ Will enable the County to more effectively control and regulate medicinal marijuana activities as compared to State law in effect when Article X was adopted.
 - ▣ Anticipated that amendments would be effective:
 - Inland - March 2018
 - Coastal - June 2019

BACKGROUND

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- July 11, 2017, the Board directed County staff to prepare amendments to Article X, Medical Marijuana Regulations, that would:
 - Establish a process to determine legal non-conforming status of existing medicinal cannabis cultivators; and
 - Provide for the termination of such legal non-conforming status so that sites must either obtain County permits or cease operations

BACKGROUND

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- This amendment will implement Board direction and:
 - Provide clarity in on-going zoning enforcement cases regarding existing cannabis cultivators
 - Potentially assist existing cultivators that are applying for State licenses
 - Require all existing cannabis cultivation sites to comply with the County's new regulations or cease operations

PURPOSE OF AMENDMENT

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- Create a Nonconforming Status Determination Process
 - ▣ This amendment will establish a process to determine the nonconforming status of existing medical marijuana cultivation locations
 - ▣ Includes applicants for State licenses who request a determination prior to the new zoning ordinance amendments becoming effective

PURPOSE OF AMENDMENT

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- Provide for the termination of nonconforming status
 - ▣ Following the termination of nonconforming status the operator would be required to either:
 - Cease all operations, or
 - Apply for and obtain State and local licenses and permit(s) pursuant to the proposed amendments to the County's zoning ordinances

PROJECT ANALYSIS

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- The amendments to Article X would:
 - ▣ Add definitions of terms that are used in the proposed added language
 - ▣ Provide that the existing exemption for legal, nonconforming cultivation locations will terminate six months after the operative date of the County's new regulations
 - Commission may consider other options
 - ▣ Add application filing requirements and criteria that would be used to determine the status of a cultivation location.

PROJECT ANALYSIS

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- ▣ Add processing requirements including:
 - The Commission is the review authority
 - A public hearing is required
 - Findings the Commission must make in order to determine that a cultivation location is nonconforming
 - Noticing requirements
 - Appeals requirements

STAFF RECOMMENDATION

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- Recommend that the Board make the findings for approval, including CEQA findings, of the proposed ordinance
- Recommend that the Board determine that the adoption of the proposed ordinance is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines
- Adopt a Resolution recommending that the Board adopt an ordinance, Case No. 17ORD-00000-00007, amending Article X of Chapter 35, Zoning, of the County Code.