




REPORT TO CITY COUNCIL

DATE: APRIL 27, 2016

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER 
DOUG HOOPER, PLANNING DIRECTOR 

SUBJECT: ADOPTION OF ORDINANCE NO. 16-423; AMENDING SECTION 9660 OF DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED), OF PART 2 (SPECIAL REGULATIONS), OF CHAPTER 6 (REGULATORY PROVISIONS), OF ARTICLE IX (ZONING), OF THE AGOURA HILLS MUNICIPAL CODE, TO DEFINE AND PROHIBIT THE DELIVERY OF MARIJUANA OR MEDICAL MARIJUANA PRODUCTS INTO OR OUT OF THE CITY, AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. ZOA-01212-2016) (CITY OF AGOURA HILLS, APPLICANT)

At the April 13, 2016, City Council meeting, on a 4-0 vote (Mayor Schwarz was absent), the Council introduced, read by title only, and waived further reading of Ordinance No. 16-423.

The Ordinance amends the Municipal Code to define and prohibit the delivery of marijuana or medical marijuana products into or out of the City. Attached for your reference is a copy of Ordinance No. 16-423.

RECOMMENDATION

Staff recommends the City Council adopt Ordinance No. 16-423, amending Section 9660 of Division 10 (Medical Marijuana Dispensaries Prohibited), of Part 2 (Special Regulations), of Chapter 6 (Regulatory Provisions) of Article IX (Zoning), of the Agoura Hills Municipal Code, to define and prohibit the delivery of marijuana or medical marijuana products into or out of the City, and making a finding of exemption under the California Environmental Quality Act.

Attachment: Ordinance No. 16-423

ORDINANCE NO. 16-423

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING SECTION 9660 OF DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED), OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS), OF ARTICLE IX (ZONING), OF THE AGOURA HILLS MUNICIPAL CODE, TO DEFINE AND PROHIBIT THE DELIVERY OF MARIJUANA OR MEDICAL MARIJUANA PRODUCTS IN AND OUT OF THE CITY, AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. ZOA-01212-2016)

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Pursuant to the California Environmental Quality Act ("CEQA"), as amended, the CEQA Guidelines promulgated thereunder, and the City's local CEQA Guidelines, City staff for the City of Agoura Hills determined that the proposed Ordinance to amend Section 9660 of Article IX, Chapter 6, Part 2, Division 10 (Medical Marijuana Dispensaries Prohibited), of the Agoura Hills Municipal Code, has no possibility of causing a significant impact on the environment, nor would its effects from adoption. Staff concludes that the proposed Ordinance is exempt from the application of CEQA pursuant to CEQA Guidelines Section 15061(b)(3), in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This finding is premised on the fact that the project consists of a proposed minor Ordinance amendment to define and clarify the prohibition of delivery of an existing prohibited use, and does not include proposed construction or proposed alteration to the physical environment. The adoption of this Ordinance also imposes greater limitations on uses allowed in the City and therefore will eliminate adverse environmental impacts. The City Council concurs with City staff's determination and therefore directs staff to prepare and file a Notice of Exemption with the County Clerk, pursuant to CEQA Guidelines Section 15061, within five days of the date of this action.

Section 2. Section 9660 of Division 10 (Medical Marijuana Dispensaries Prohibited) of Part 2 (Special Regulations) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code is hereby amended to read as follows:

A. *Purpose and findings.* The city council finds that federal ~~and state~~ law ~~prohibiting prohibits~~ the possession, sale ~~and distribution of marijuana would preclude~~ the lawful opening and operation of medical marijuana dispensaries sanctioned by the city, cultivation, use and dispensing of marijuana and, in order to serve the public

health, safety, and welfare of the residents and businesses within the city, the declared purpose of this chapter is to prohibit the operation or establishment of medical marijuana dispensaries, the cultivation of medical marijuana, and the delivery of medical marijuana within the city, as provided in this section.

B. Definitions. For purposes of this section, the following terms is are defined:

(1) *Marijuana* shall have the same meaning as “cannabis” as defined by Business and Professions Code section 19330.5(f) and shall mean 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 as enacted by Chapter 1407 of the Statutes of 1972. “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.

(2) *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, as well as concentrates and extractions, intended to be sold for use by medical marijuana patients pursuant to the Compassionate Use Act of 1996 (Proposition 215).

(3) *Medical marijuana dispensary* means any location, structure, facility, vehicle, store, co-op, residence, or similar facility used, in full or part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located stored, placed or cultivated, including any of the foregoing if used in connection with the delivery of marijuana.

(4) *Delivery or Deliver* shall have the same meaning as “delivery” as set forth in Business and Professions Code section 19300.5(m), as the same may be amended from time to time, and shall include the commercial transfer of medical marijuana or medical marijuana products from a dispensary, up to an amount determined by the State Bureau of Medical Marijuana Regulation to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. “Delivery” or “Deliver” includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under the State Medical Marijuana Regulation and

Safety Act that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical marijuana or medical marijuana products.

C. *Medical marijuana dispensaries prohibited.* A medical marijuana dispensary is not a permitted use anywhere in the city. It shall be unlawful for any person or entity to own, manage, establish, conduct, or operate, or permit to be established, conducted, operated, owned or managed as a landlord or property owner, any medical marijuana dispensary, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary, in the city. The issuance of a business license or other city permit to any business prohibited by federal law is prohibited and void.

D. *Delivery prohibited.* It shall be unlawful for any person or entity to deliver any marijuana or medical marijuana products into or out of the City.

~~D.~~ E. *Use or activity prohibited by state or federal law.* Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

F. *Penalties.* Violations of this Section are subject to the general penalty provisions set forth in Section 1200. No provision of Section 1200 shall authorize a criminal prosecution or arrest prohibited by Health and Safety Code section 11362.71, et seq."

Section 3. If any provision of this ordinance, or the application thereof, to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provisions or applications, and to this end, the provisions of this ordinance are declared to be severable. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof even if one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof is declared invalid or unconstitutional.

Section 4. Certification and Posting. The City Clerk of the City of Agoura Hills shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law. This Ordinance shall go into effect on the 31st day after its adoption.

PASSED, APPROVED, and ADOPTED this 27th day of April, 2016, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Denis Weber, Mayor Pro Tem

ATTEST:

Nathan Hamburger, Assistant City Manager

APPROVED AS TO FORM

Candice K. Lee, City Attorney