



City of Huntington Beach Planning and Building Department

STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Tess Nguyen, Associate Planner TN
DATE: April 14, 2015

SUBJECT: ZONING TEXT AMENDMENT NO. 15-004 (MEDICAL MARIJUANA DISPENSARIES)

APPLICANT: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

LOCATION: Citywide

STATEMENT OF ISSUE:

- ◆ Zoning Text Amendment (ZTA) No. 15-004 request:
 - To amend Chapter 204 Use Classifications of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to add a Prohibited Uses section and to expressly prohibit medical marijuana dispensaries within the City.

- ◆ Staff Recommendation:
 - Approve Zoning Text Amendment No. 15-004 based upon the following:
 - Allows the HBZSO to be consistent with state law which allows cities to entirely exclude facilities that distribute medical marijuana.
 - Does not alter zoning or change the uses allowed on any property.

RECOMMENDATION:

Motion to:

“Approve Zoning Text Amendment No. 15-004 with findings (Attachment No. 1) and forward Draft Ordinance (Attachment No. 2) to the City Council for adoption.”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Deny Zoning Text Amendment No. 15-004 with findings for denial.”
- B. “Continue Zoning Text Amendment No. 15-004 and direct staff accordingly.”

PROJECT PROPOSAL:

Zoning Text Amendment No. 15-004 represents a request to amend Chapter 204 Use Classifications of the Huntington Beach Zoning and Subdivision Ordinance to add a Prohibited Uses section and to expressly prohibit medical marijuana dispensaries within the City. The proposed Zoning Text Amendment was initiated pursuant to City Council's direction to amend the HBZSO to clearly and expressly articulate the current prohibition on medical marijuana dispensaries in the City.

Background:

In February 2005, the City enacted a moratorium on medical marijuana dispensaries. In March 2005, the City Council adopted Ordinance No. 3703 which specifically allowed medical marijuana dispensaries in the IG (General Industrial) and IL (Limited Industrial) zoning districts of the City subject to additional requirements. In November 2007, due to the City's concerns of public health, safety, and welfare of the residents and businesses, the City Council amended the Zoning and Subdivision Ordinance to eliminate medical marijuana dispensaries as a permitted (non-profit, for-profit, retail, commercial or otherwise) use within the City. Accordingly, medical marijuana dispensaries have not been listed as a permitted use in the City and are thereby prohibited in any zoning district in the City.

In March 2015, the City Council directed staff to prepare an Ordinance amendment that adds expressly articulated language to the HBZSO that medical marijuana dispensaries are a prohibited non-profit, for-profit, retail, commercial, or otherwise, establishment in the City. The Ordinance amendment will specify that mobile medical marijuana dispensaries fall under the same prohibition. This amendment is not a change to the City's longstanding prohibition against medical marijuana dispensaries; the amendment is only to enhance the Code to make the prohibition clearer to the public.

ISSUES:

General Plan Conformance:

The proposed Zoning Text Amendment is consistent with the goals of the City's General Plan as follows:

A. Land Use Element:

Goal LU 7: Achieve a diversity of land uses that sustain the City's economic viability, while maintaining the City's environmental resources and scale and character.

B. Public Facilities and Services Element:

Goal PF 1: Protect the community from criminal activity, reduce the incidence of crime and provide other necessary services within the City.

The proposed text amendment will protect the City from adverse impacts such as increases in criminal activities, vehicular and pedestrian traffic, and nuisances for adjacent properties in the areas surrounding medical marijuana dispensaries.

Zoning Compliance: Not applicable.

Urban Design Guidelines Conformance: Not applicable.

Environmental Status:

The proposed project is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act.

Coastal Status:

This project would be considered a minor amendment to the City's Local Coastal Program and will be forwarded to the California Coastal Commission with other minor amendments for certification.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements: Not applicable.

Public Notification:

Legal notice was published in the Orange County Register on April 3, 2015. As of April 7, 2015, no communication supporting or opposing the request has been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:

Not Applicable

MANDATORY PROCESSING DATE(S):

Legislative Action - Not Applicable

ANALYSIS:

The proposed Zoning Text Amendment was initiated pursuant to City Council's direction to amend the Huntington Beach Zoning and Subdivision Ordinance to expressly articulate the current prohibition on medical marijuana dispensaries in the City. The draft ordinance (Attachment No. 2) provides the new language to be added to the HBZSO. Staff recommends that the Planning Commission approve Zoning Text Amendment No. 15-004 and forward to the City Council for adoption.

ATTACHMENTS:

1. Findings for Approval – Zoning Text Amendment No. 15-004
2. Draft Ordinance No. _____ HBZSO Chapter 204, Section 204.18 (Prohibited Uses)

SH:JJ:TN:kd

ATTACHMENT NO. 1

SUGGESTED FINDINGS FOR APPROVAL

ZONING TEXT AMENDMENT NO. 15-004

SUGGESTED FINDINGS FOR APPROVAL - ZONING TEXT AMENDMENT NO. 15-004:

1. Zoning Text Amendment No. 15-004 amends Chapter 204 Use Classifications of the Huntington Beach Zoning and Subdivision Ordinance to define medical marijuana dispensaries and add a Prohibited Uses section. ZTA No. 15-004 is consistent with the goals, policies and objectives specified in the General Plan by expressly prohibiting medical marijuana dispensaries while continuing to allow permitted uses.
2. In the case of the general land use provisions, the amendments proposed are compatible with the uses authorized in, and the standards prescribed for the Zoning districts for which they are proposed. The changes do not affect zoning of any property by altering allowed land use or the development standards thereof.
3. A community need is demonstrated for the proposed amendment to ensure that the HBZSO expressly prohibits medical marijuana dispensaries in the City as allowed by state law.
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice. Approval of Zoning Text Amendment No. 15-004 will ensure that medical marijuana dispensaries are not allowed in the City.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
ADDING SECTION 204.18 TO CHAPTER 204 OF THE
ZONING AND SUBDIVISION ORDINANCE TITLED
USE CLASSIFICATIONS
(ZONING TEXT AMENDMENT NO. 15-004)

WHEREAS, pursuant to the California State Planning and Zoning Law, the Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings to consider Zoning Text Amendment No. 15-004, which amends Chapter 204 of the Huntington Beach Zoning and Subdivision Ordinance relating to use classifications; and

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Section 204.18 of the Zoning and Subdivision Ordinance is hereby added to read as follows:

204.18 Prohibited Uses.

- A. Purpose. In order to expressly inform the public that Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries are prohibited in the City of Huntington Beach, the City is adding this express prohibition to the Zoning Code.
- B. Definitions. For purposes of this section, the following term is defined:
 - 1. **Medical Marijuana Business, Collective, Cooperative or Dispensary** means any location, structure, facility, vehicle, business, store, co-op, residence, or similar facility used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, displayed, placed or cultivated, including any of the foregoing if used in connection with the delivery of marijuana.
- C. Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries. A Medical Marijuana Business, Collective, Cooperative or Dispensary is not a permitted use in any zoning district or specific plan in the City. It shall be unlawful for any person or entity to own, manage, establish, conduct or operate a

Medical Marijuana Business, Collective, Cooperative or Dispensary. Also, it shall be unlawful for any person to permit to be established, conducted, operated, owned or managed as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana business, collective, cooperative or dispensary, in the City.

SECTION 2. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2015.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney *MV -4-7-15*

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

City Manager

Director of Planning and Building