



A G E N D A

Special Meeting of the Scotts Valley City Council

Date: November 8, 2017

Time: 8:00 p.m.

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5602	MEETING LOCATION City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	POSTING: The agenda was posted 11-3-17 at City Hall, SV Senior Center, SV Library and on the Internet at www.scottsvalley.org .
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Elected Officials Randy Johnson, Mayor Jim Reed, Vice Mayor Stephany E. Aguilar, Council Member Jack Dilles, Council Member Donna Lind, Council Member	City Staff Members Jenny Haruyama, City Manager Kirsten Powell, City Attorney Taylor Bateman, Acting Community Development Dir Scott Hamby, Public Works Director Steve Walpole, Chief of Police Tracy Ferrara, City Clerk
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CALL TO ORDER 8:00 p.m.

ROLL CALL

SPECIAL SET MATTER

PUBLIC HEARING

1. Consider first reading and introduction of Ordinance No. 16-128.5, an ordinance of the City Council of the City of Scotts Valley amending Section 17.64.020 of Chapter 17.64 of Title 17 to allow indoor cannabis cultivation of up to six (6) plants for personal use (Police Chief Walpole)
 - Open public hearing
 - Close public hearing
 - First reading and introduction of Ordinance No. 16-128.5

ADJOURNMENT

The City of Scotts Valley does not discriminate against persons with disabilities. The City Council Chambers is an accessible facility. If you wish to attend a City Council meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the City Clerk's office at (831) 440-5602 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a City Council meeting be available in an alternative format consistent with a specific disability, please call the City Clerk's Office. The California State Relay Service (TTY/VCO/HCO to Voice: English 1-800-735-2929, Spanish 1-800-855-3000; or, Voice to TTY/VCO/HCO: English 1-800-735-2922, Spanish 1-800-855-3000), provides Telecommunications Devices for the Deaf and Disabled and will provide a link between the TDD caller and users of telephone equipment.

City of Scotts Valley CITY COUNCIL STAFF REPORT

DATE: November 8, 2017

TO: Honorable Mayor and City Council

FROM: Steve Walpole, Chief of Police

APPROVED: Jenny D. Haruyama, City Manager

SUBJECT: CONSIDER FIRST READING AND INTRODUCTION OF ORDINANCE NO. 16-128.5, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY AMENDING SECTION 17.64.020 OF CHAPTER 17.64 OF TITLE 17 TO ALLOW INDOOR CANNABIS CULTIVATION OF UP TO SIX (6) PLANTS FOR PERSONAL USE

SUMMARY OF ISSUE

In August 2016, the Scotts Valley City Council adopted Ordinance No. 16-128.4, prohibiting the cultivation, distribution and use of medicinal and recreational marijuana. The ordinance prohibits medical marijuana dispensaries in the City, but allows for the discrete delivery of medicinal marijuana to qualified patients from legally existing dispensaries located outside the City.

On November 8, 2016, Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ('AUMA") passed with 57% voter approval in California and became law on November 9, 2016, which permitted recreational marijuana. This proposition legalizes recreational marijuana under state law, for use and personal cultivation by adults 21 or older. It also specifically provides that local jurisdictions may still adopt and enforce ordinances to regulate non-medical cannabis activities/businesses through local zoning, land use, and police powers. However, the City must allow for indoor cultivation of up to six (6) plants.

On June 27, 2017, Governor Jerry Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act ("SB 94" or the 'MAUCRSA"). This law reconciled the Medical Cannabis Regulation and Safety Act ("MCRSA") and the AUMA. SB 94 merges medical and non-medical cannabis regulations into a single regulatory scheme. The City is now required to provide the newly created Bureau of Cannabis Control (the Bureau") with a copy of any ordinance related to commercial cannabis activity and the contact information for the person designated by the City to serve as the contact person regarding commercial cannabis activity within the jurisdiction. Additionally, SB 94 requires the Bureau to first notify the contact person for the City that it has received an

application from a prospective cannabis business to operate in the City. The City must then notify the Bureau if the applicant is compliant with local ordinance(s). If the applicant is not compliant with local ordinances, the Bureau will not issue a license.

Although the City has previously prohibited the cultivation, use, and distribution of marijuana, as well as medical marijuana dispensaries, Chapter 17.64 must be amended to allow the indoor cultivation of up to six (6) plants to be consistent with State law. The proposed ordinance includes standards for the indoor cultivation, including security measures and location restrictions. As proposed, the ordinance still allows for the discrete delivery of medicinal marijuana.

On October 12, 2017, the Planning Commission reviewed the attached draft ordinance and recommended adoption of the Ordinance as proposed to the City Council.

FISCAL IMPACT

There is no fiscal impact to the City.

RECOMMENDATION

It is recommended that the City Council conduct a public hearing on the proposed Zoning Ordinance Amendment AZO17-001 and hold the first reading and introduction of Ordinance No. 16-128.5.

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ORDINANCE NO. 16.128.5

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SCOTTS VALLEY AMENDING SECTION 17.64.020
OF CHAPTER 17.64 OF TITLE 17 OF THE SCOTTS VALLEY
MUNICIPAL CODE TO ALLOW INDOOR CANNABIS
CULTIVATION OF UP TO SIX (6) PLANTS FOR PERSONAL USE**

The City Council of the City of Scotts Valley does hereby ordain as follows:

Section 1. Findings and Purpose. The City Council finds and declares as follows:

- A. Pursuant to its police powers, and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transporting, and testing within its jurisdiction.
- B. The City has previously adopted ordinances governing medical cannabis dispensaries and prohibiting cultivation, distribution and use within the City.
- C. Under the AUMA and MAUCRSA, the City cannot prohibit the indoor cultivation of up to six (6) for personal use.
- D. The City desires to amend Chapter 17.64 to allow the indoor cultivation of up to six (6) for personal use.
- E. The Planning Commission held a duly noticed public hearing on October 12, 2017, at which time it considered all evidence presented, both written and oral and at the end of the hearing voted to recommend that the City Council adopt this Ordinance.
- F. The City Council held a duly noticed public hearing on this Ordinance on November 8, 2017, at which time it considered all evidence presented, both written and oral.

Section 2. Section 17.64.020 of Chapter 17.64 of Title 17 of the Scotts Valley Municipal Code is hereby amended to read as follows:

“17.64.020 Prohibition.

- A. Commercial cannabis activities of all types are expressly prohibited in all zoning districts in the City of Scotts Valley. No person shall establish, operate, conduct or allow a commercial cannabis activity anywhere within the City.

- B. To the extent not already covered by subsection A above, all deliveries of cannabis and/or medical cannabis are expressly prohibited within the City of Scotts Valley with the exception of discreet delivery of medical cannabis to a residence or business of a qualified patient or a primary caregiver from a medical marijuana dispensary located outside the City of Scotts Valley.
- C. To the extent not already covered in subsection A above, all cannabis processing is expressly prohibited within the City of Scotts Valley.
- D. Dispensing cannabis is prohibited. No person shall dispense cannabis in the City. Cannabis dispensaries are prohibited. No person shall own, manage, operate or work in, whether as an employee or independent contractor, a cannabis dispensary in the City.
- E. This section is meant to prohibit all activities for which a State license is required. Accordingly, the City shall not issue any permit, license or other entitlement for any activity for which a State license is required under the California Medical Cannabis Regulation and Safety Act ("MCRSA"), the Adult Use of Marijuana Act ("AUMA"), Senate Bill 94 and/or the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA").
- F. Cultivation of cannabis for commercial or non-commercial purposes, including cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zoning districts in the City of Scotts Valley except as provided below:
 - 1. An individual may cultivate cannabis indoors on the parcel where the individual resides for personal medical or nonmedical purposes. Outdoor cultivation is prohibited.
 - 2. A primary caregiver may cultivate medical cannabis indoors at the primary caregiver's residence for a qualified patient for whom he/she is the primary caregiver. Outdoor cultivation is prohibited.
 - 3. Cannabis cultivation is permitted only on parcels with residential units. Cannabis cultivation is permitted only within a legally permitted residential unit, a garage (provided required parking is maintained), or a self-contained outside accessory building that is secured, locked, and fully enclosed.
 - 4. The cannabis cultivation area shall not exceed a total of six (6) plants per residence or property (for example, a property owner/resident may not grow six (6) plants indoors and grow additional plants in a separate self-contained building on the property).
 - 5. The use of gas products, volatile solvents or dangerous poisons, toxins or carcinogens (including, but not limited to, CO₂, butane, gasoline,

kerosene) or generators for marijuana cultivation or processing is prohibited.

6. Cannabis cultivation for sale is prohibited. Notwithstanding this prohibition, a primary caregiver may recover from his or her qualified patient the actual costs incurred by the primary caregiver in cultivating the medical marijuana he or she delivers to the qualified patient.
7. From the public right-of-way, there shall be no exterior evidence of cannabis cultivation.
8. Any accessory structure used for cultivation shall be located in the rear half of the lot and must maintain minimum yard requirements as specified in the development standards of the subject zoning district. The accessory structure shall not be entitled to any exceptions or modifications that allow for reduced side and rear yard setbacks. The yard in which the accessory structure is located must be fully enclosed by a solid six (6) foot high fence.
9. The residence shall maintain the kitchen, bathrooms, and primary bedrooms for their intended use and these rooms shall not be used for cannabis cultivation.
10. Written consent of the property owner to cultivate cannabis shall be obtained and kept on the premises at all times.
11. Any cannabis cultivation area located within a residence shall not create humidity, mold, or other nuisance condition.
12. The cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, excessive light, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes.”

Section 3. CEQA. This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, this ordinance is not a project in CEQA Guideline Section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City’s permissive zoning provisions already prohibits all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

Section 4. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 5. To the extent the provisions of the Scotts Valley Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 6. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of adoption and shall post a certified copy of this Ordinance, including the vote for and against same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

This Ordinance was introduced on the 8th day of November, 2017, and passed and adopted by the City Council of the City of Scotts Valley on the 15th day of November, 2017, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Randy Johnson, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk

APPROVED AS TO FORM:

Kirsten Powell, City Attorney



Minutes

Special Meeting of the Scotts Valley Planning Commission

Date: October 12, 2017

Time: 6:00 PM

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5630	MEETING LOCATION City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	POSTING: The agenda was posted at City Hall, SV Senior Center, SV Library and on the Internet at www.scottsvalley.org .
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Appointed Officials	City Staff Members
Derek Timm, Chair Carlos Arcangeli, Vice Chair Robin Donovan, Commissioner Rosanna Herrera, Commissioner Deborah Muth, Commissioner	Taylor Bateman, Acting Community Development Dir. Michelle Edwards, Senior Planner Brenda Stevens, Assistant Planner

CALL TO ORDER: Meeting called to order at 6:05 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE: The Planning Commission Chair led the pledge of allegiance.

ROLL CALL: Present: Timm, Arcangeli, Donovan, Herrera and Muth.

PUBLIC COMMENT: None.

ALTERATIONS TO CONSENT AGENDA: None.

CONSENT AGENDA: The Commission approved the minutes in one motion.

Action Meeting Minutes from the August 17, 2017 meeting.

M/S: Arcangeli/Donovan

To approve Consent Agenda.

Carried: 4/0/0 (AYES: Arcangeli, Donovan, Herrera, Muth, Timm; NOES: None;

ABSENT: None

ALTERATIONS TO REGULAR AGENDA: None

PUBLIC HEARING:

1. **Title:** Shell Gasoline Station
Address: One Hacienda Drive
Applicant / Property Owner: Peninsula Petroleum, LLC
Planning Permit Application Nos.: U16-005, DR16-014 & 015
Project Description: Consideration of a Use Permit application to demolish an existing convenience store and build a new store and new drive-thru car wash and a Design Review application for a new convenience store, car wash and signage of the existing gas station.
Planner: Brenda Stevens, Assistant Planner

M/S: Donovan/Herrera

To continue Use Permit and Design Reviews, U16-005, DR16-014 & 015 to: allow for the traffic engineer and acoustical engineer to be present to answer traffic and noise study questions; gather additional data regarding site circulation and auto stacking for the car wash queuing area; provide additional data on car wash time of use; address acoustical issues along Hacienda drive by providing fencing; address acoustical issues for uphill residences with ideas to improve fencing at the rear property line; and require staff to re-notice the project prior to the next meeting date.
Carried: 4/1/0 (AYES: Arcangeli, Donovan, Herrera, Timm; NOES: Muth; ABSENT: None)

2. **Title:** Amendments to City's Marijuana Regulations per State Law
Address: City-wide Residences
Applicant: City of Scotts Valley
Planning Permit Application No: AZO17-001
Project Description: Consideration of recommendation of approval to the City Council of Amendments to the Zoning Ordinance (Section 17.64.020 of Chapter 17.64, Marijuana and Cultivation, of Title 17, Zoning) of the Scotts Valley Municipal Code to allow indoor cannabis cultivation of up to six (6) plants for personal use, per State law, pursuant to the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act ("MCRSA"), the Adult Use of Marijuana Act ("AUMA"), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA").
Staff: Steve Walpole, Police Chief

M/S: Muth/Arcangeli

To approve Amendments to the Zoning Ordinance AZ017-001 via Resolution No. 1721 Carried: 4/1/0 (AYES: Arcangeli, Donovan, Muth, Timm; NOES: Herrera; ABSENT: None)

REGULAR AGENDA: None

DISCUSSION ITEMS AND FUTURE AGENDA ITEMS: None.

WRITTEN COMMUNICATIONS – FOR INFORMATION ONLY: None.

DIRECTOR UPDATES: None.

ADJOURNMENT: 7:12pm.

**City of Scotts Valley
PLANNING COMMISSION
STAFF REPORT**

Date: October 12, 2017

Applicant: City of Scotts Valley

Location: City-wide in Residential Zoning Districts

General Plan: Residential consisting of these densities: Very High, High, Medium High, Medium, Low, Estate, Rural, and Mountain

Zoning: R-VH, R-H, R-M-8, R-M-6, R-1-10, R-1-20, R-1-40, R-R-2.5, and R-MT-5

Environmental Status: Exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060(c)(2), (no foreseeable change in the physical environment), 15060(c)(3) (activity is not a CEQA project), and 15061(b)(3) (no potential for significant effect on the environment).

Request: Consideration of recommendation of approval to the City Council of Amendments to the Zoning Ordinance (Section 17.64.020, Prohibition, of Chapter 17.64, Marijuana and Cultivation, of Title 17, Zoning) of the Scotts Valley Municipal Code to allow indoor cannabis cultivation of up to six (6) plants for personal use, per State law, pursuant to the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act ("MCRSA"), the Adult Use of Marijuana Act ("AUMA"), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA").

Staff Contact: Steve Walpole, Chief of Police

STAFF RECOMMENDATION

It is recommended that the Planning Commission conduct a public hearing, hear public testimony, and recommend to the City Council of the City of Scotts Valley approval of Zoning Ordinance Amendment AZO17-001, per proposed Ordinance No. 16-128.5 in Exhibit A, attached to this staff report.

DISCUSSION

On January 20, 2016, the Scotts Valley City Council adopted Ordinance No. 16-128.4, prohibiting the cultivation, distribution and use of marijuana. This prohibition included medicinal and recreational marijuana. It also prohibited medical marijuana dispensaries in the City. This prohibition did allow for the discrete delivery of medicinal marijuana to qualified patients from a legally existing dispensary located outside the City.

On November 8, 2016, Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ('AUMA") passed with 57% voter approval in California and became law on November 9, 2016 which permitted recreational marijuana. This proposition legalizes marijuana under state law, for use and personal cultivation by adults 21 or older. It also specifically provides that local jurisdictions may still adopt and enforce ordinances to regulate non-medical cannabis activities/businesses through local zoning, land use, and police powers. However, the City must allow for indoor cultivation of up to six (6) plants.

On June 27, 2017, Governor Jerry Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act ("SB 94" or the 'MAUCRSA"). This law reconciled the Medical Cannabis Regulation and Safety Act ("MCRSA") and the AUMA. SB 94 merges medical and non-medical cannabis regulations into a single regulatory scheme. The City is now required to provide the newly created Bureau of Cannabis Control (the Bureau") with a copy of any ordinance related to commercial cannabis activity and the contact information for the person designated by the City to serve as the contact person regarding commercial cannabis activity within the jurisdiction.

Additionally, SB 94 requires the Bureau to first notify the contact person for the City that it has received an application from a prospective cannabis business to operate in the City. The City must then notify the Bureau if the applicant is compliant with local ordinance(s). If the applicant is not compliant with local ordinances, the Bureau will not issue a license. Although the City has previously prohibited the cultivation, use, and distribution of marijuana, as well as medical marijuana dispensaries, Chapter 17.64, Marijuana and Cultivation, must be amended to allow the indoor cultivation of up to six (6) plants to be consistent with State law. The proposed ordinance includes standards for the indoor cultivation, including security measures and location restrictions. As proposed, the ordinance still allows for the discrete delivery of medicinal marijuana.

ENVIRONMENTAL REVIEW

The proposed ordinance is exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

Alternatively, this ordinance is not a project under CEQA Guideline Section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City's permissive zoning provisions already prohibit all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

PUBLIC NOTICE

On September 29, 2017, public hearing notices were posted at City Hall, the Scotts Valley Branch Library, and the Scotts Valley Senior Center, consistent with State law.

ATTACHMENT

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Exhibit A - Ordinance No. 16-128.5	6

RESOLUTION NO. ____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF SCOTTS VALLEY RECOMMENDING APPROVAL TO
THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY OF
ZONING ORDINANCE AMENDMENT NO. AZO17-001 TO
ALLOW INDOOR CANNABIS CULTIVATION OF UP TO
SIX (6) PLANTS FOR PERSONAL USE**

WHEREAS, the City of Scotts Valley initiated amendments to the Scotts Valley Municipal Code by application No. AZO17-001 to amend Section 17.64.020, Prohibition, of Chapter 17.64, Marijuana and Cultivation, of Title 17, Zoning, to allow indoor cannabis cultivation of up to six (6) plants for personal use, pursuant to State law, pursuant to the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act ("MCRSA"), the Adult Use of Marijuana Act ("AUMA"), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA");

WHEREAS, on October 12, 2017, the Planning Commission held a duly noticed public hearing and recommended approval of the proposed Zoning Ordinance Amendment, which amends Section 17.64.020, of Chapter 17.64, Marijuana and Cultivation, of Title 17, Zoning;

WHEREAS, the subject Zoning Ordinance Amendment to the Scotts Valley Municipal Code is a project pursuant to the California Environmental Quality Act (CEQA); and,

WHEREAS, the subject Zoning Ordinance Amendment is exempt from CEQA pursuant to CEQA Guidelines section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly). Alternatively, this ordinance is not a project under CEQA Guideline Section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City's permissive zoning provisions already prohibit all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

NOW THEREFORE, be it resolved by the Planning Commission as follows:

SECTION 1: The Planning Commission of the City of Scotts Valley hereby recommends approval of the Zoning Ordinance Amendment AZO17-001, pursuant to the following findings:

- A. The proposed amendments to the City's Zoning Ordinance will not have a significant negative impact on the environment as it is an exempt project pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines.** The proposed amendments meet the requirement of this finding in that, as an exempt project, it is determined that the proposed changes to the City's Municipal Code will not have a significant impact on the environment.
- B. The proposed amendment is consistent with the City's General Plan.** The proposed amendments meet the requirement of this finding in that the Zoning Ordinance Amendment merely clarifies an existing regulation to comply with State law.

SECTION 2: The Planning Commission of the City of Scotts Valley hereby recommends approval of Ordinance No. 16-128.5 to the City Council as further described in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 3: After careful consideration of the Zoning Ordinance Amendment and related materials, facts, exhibits, staff report, testimony and other evidence submitted in this matter, and incorporated herein by this reference, the Planning Commission of the City of Scotts Valley does hereby recommend to the City Council approval of Zoning Ordinance Amendment No. AZO17-001 to allow indoor cannabis cultivation of up to six (6) plants, as described in Ordinance No. 16-128.5, as provided in Exhibit A which is attached hereto and incorporated herein by this reference.

THE ABOVE AND FOREGOING RESOLUTION was duly adopted and passed by the Planning Commission of the City of Scotts Valley at a regularly scheduled meeting held on the 12th day of October, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Approved: _____

Derek Timm,
Planning Commission Chair

Attest: _____

Taylor Bateman,
Acting Community Development Director

ORDINANCE NO. 16.128.5

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SCOTTS VALLEY AMENDING SECTION 17.64.020
OF CHAPTER 17.64 OF TITLE 17 OF THE SCOTTS VALLEY
MUNICIPAL CODE TO ALLOW INDOOR CANNABIS
CULTIVATION OF UP TO SIX (6) PLANTS FOR PERSONAL USE**

The City Council of the City of Scotts Valley does hereby ordain as follows:

Section 1. Findings and Purpose. The City Council finds and declares as follows:

- A. Pursuant to its police powers, and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transporting, and testing within its jurisdiction.
- B. The City has previously adopted ordinances governing medical cannabis dispensaries and prohibiting cultivation, distribution and use within the City.
- C. Under the AUMA and MAUCRSA, the City cannot prohibit the indoor cultivation of up to six (6) for personal use.
- D. The City desires to amend Chapter 17.64 to allow the indoor cultivation of up to six (6) for personal use.
- E. The Planning Commission held a duly noticed public hearing on October 12, 2017, at which time it considered all evidence presented, both written and oral and at the end of the hearing voted to recommend that the City Council adopt this Ordinance.
- F. The City Council held a duly noticed public hearing on this Ordinance on November 1, 2017, at which time it considered all evidence presented, both written and oral.

Section 2. Section 17.64.020 of Chapter 17.64 of Title 17 of the Scotts Valley Municipal Code is hereby amended to read as follows:

“17.64.020 Prohibition.

- A. Commercial cannabis activities of all types are expressly prohibited in all zoning districts in the City of Scotts Valley. No person shall establish, operate, conduct or allow a commercial cannabis activity anywhere within the City.

- B. To the extent not already covered by subsection A above, all deliveries of cannabis and/or medical cannabis are expressly prohibited within the City of Scotts Valley with the exception of discreet delivery of medical cannabis to a residence or business of a qualified patient or a primary caregiver from a medical marijuana dispensary located outside the City of Scotts Valley.
- C. To the extent not already covered in subsection A above, all cannabis processing is expressly prohibited within the City of Scotts Valley.
- D. Dispensing cannabis is prohibited. No person shall dispense cannabis in the City. Cannabis dispensaries are prohibited. No person shall own, manage, operate or work in, whether as an employee or independent contractor, a cannabis dispensary in the City.
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- F. Cultivation of cannabis for commercial or non-commercial purposes, including cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zoning districts in the City of Scotts Valley except as provided below:
 - 1. An individual may cultivate cannabis indoors on the parcel where the individual resides for personal medical or nonmedical purposes. Outdoor cultivation is prohibited.
 - 2. A primary caregiver may cultivate medical cannabis indoors at the primary caregiver's residence for a qualified patient for whom he/she is the primary caregiver. Outdoor cultivation is prohibited.
 - 3. Cannabis cultivation is permitted only on parcels with residential units. Cannabis cultivation is permitted only within a legally permitted residential unit, a garage (provided required parking is maintained), or a self-contained outside accessory building that is secured, locked, and fully enclosed.
 - 4. The cannabis cultivation area shall not exceed a total of six (6) plants per residence or property (for example, a property owner/resident may not grow six (6) plants indoors and grow additional plants in a separate self-contained building on the property).
 - 5. The use of gas products, volatile solvents or dangerous poisons, toxins or carcinogens (including, but not limited to, CO₂, butane, gasoline,

kerosene) or generators for marijuana cultivation or processing is prohibited.

6. Cannabis cultivation for sale is prohibited. Notwithstanding this prohibition, a primary caregiver may recover from his or her qualified patient the actual costs incurred by the primary caregiver in cultivating the medical marijuana he or she delivers to the qualified patient.
7. From the public right-of-way, there shall be no exterior evidence of cannabis cultivation.
8. Any accessory structure used for cultivation shall be located in the rear half of the lot and must maintain minimum yard requirements as specified in the development standards of the subject zoning district. The accessory structure shall not be entitled to any exceptions or modifications that allow for reduced side and rear yard setbacks. The yard in which the accessory structure is located must be fully enclosed by a solid six (6) foot high fence.
9. The residence shall maintain the kitchen, bathrooms, and primary bedrooms for their intended use and these rooms shall not be used for cannabis cultivation.
10. Written consent of the property owner to cultivate cannabis shall be obtained and kept on the premises at all times.
11. Any cannabis cultivation area located within a residence shall not create humidity, mold, or other nuisance condition.
12. The cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, excessive light, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes."

Section 3. CEQA. This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, this ordinance is not a project in CEQA Guideline Section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City's permissive zoning provisions already prohibits all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

Section 4. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 5. To the extent the provisions of the Scotts Valley Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 6. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of adoption and shall post a certified copy of this Ordinance, including the vote for and against same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

This Ordinance was introduced on the 1st day of November, 2017, and passed and adopted by the City Council of the City of Scotts Valley on the 15th day of November, 2017, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Randy Johnson, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk

APPROVED AS TO FORM:

Kirsten Powell, City Attorney

MINUTES

Meeting of the Scotts Valley City Council

Date: August 17, 2016

POSTING:

The agenda was posted on 8-12-16
at City Hall, the SV Senior Center, and
the SV Library, by the City Clerk.

CALL TO ORDER 6:00 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

Present:

Mayor Lind
Vice Mayor Johnson
Council Member Aguilar
Council Member Bustichi
Council Member Reed

City Manager Haruyama
City Attorney Powell
Police Chief Weiss
Public Wks Director Hamby
Recreation Division Manager Ard
City Clerk Ferrara

Absent:

Acting Community Development Director Bateman

SPECIAL SET MATTER

Introduction of new City employees:

PWD Hamby introduced the City's new Civil Engineer, Jessica Kahn.

RDM Ard introduced her new Administrative Secretary I, Lisa Mansfield.

COMMITTEE REPORTS

CM Bustichi reported that the Town Center Subcommittee has been meeting over the last several months. He stated that the City has approved a Town Center Specific Plan, worked on eliminating obstacles to development, and the Subcommittee is continuing to work on the development of Town Center.

CM Aguilar reported that AMBAG met and the Board of Directors was asked to support the Monterey Senior Housing, Bike and Pedestrian Improvement Project as the AMBAG regional priority project for the Strategic Growth Council's FY16 Affordable Housing and Sustainable Communities funding. She reported that the Board also received an update from AMBAG staff on the 2018 Draft Regional Growth Forecast and subregional allocation process. She stated that the full AMBAG Board of Directors is available on their website at www.ambag.org.

Mayor Lind reported that she attended the first of the Groundwater Sustainability Agency meetings in order to work on a plan to meet State requirements and work on a plan to protect and replenish our groundwater resources.

Mayor Lind reported that the Seniors Council met and discussed the impacts of funding cuts from HICAP (Health Insurance Counseling & Advocacy Program).

Mayor Lind thanked all of the volunteers, participants, and City staff who helped make the 50th anniversary celebration held on August 2, 2016 a success.

CITY MANAGER REPORT

- Good news on the City's Bicycle Corridor and Road Preservation Project - Glen Canyon Road/Green Hills Road/S. Navarra Drive area:
 - ▶ Santa Cruz County Regional Transportation Commission (RTC) staff recently recommended that the RTC Commission approve \$711K as part of its Surface Transportation Block Grant program.
 - ▶ The \$711K represents about 65% of the \$1.1M requested, however, the project can be adjusted to account for partial funding.
 - ▶ I would like to point out that SCCRTC staff did announce at the Commission's Bicycle Safety Committee meeting that the City's grant application received the highest score of all submitted applications. Kudos to Scott Hamby and his team.
- Art and Wine/Cops and Rodders Event:
 - ▶ This Saturday, August 20th at Skypark will be the Chamber of Commerce Art, Wine and Beer event as well as the SV Police Officer's Association "Cops and Rodders" show.
 - ▶ The car show begins with a meet up near the Boardwalk in Santa Cruz, followed by a cruise up to Scotts Valley and then lining up all the cars at Skypark in the morning.
 - ▶ Chief Weiss will be leading the cruise in the City's 1967 classic Ford Interceptor, along with Lt. Walpole.
- DARE Golf Tournament:
 - ▶ Our annual DARE golf tournament, which raises funds for our juvenile programs, is coming up and is scheduled for Friday, September 2, 2016 at Valley Gardens.
 - ▶ Players can sign up via our website at www.scottsvalleypd.com.
- MacDorsa Park:
 - ▶ You may have noticed some maintenance work happening at Mac Dorsa Park this week.
 - ▶ Maintenance staff is in the process of installing a new curb to hold the wood chips in.
 - ▶ Then the week of August 29th, a new structure consisting of rocks and ropes components will be installed for the kids and community to enjoy.

PUBLIC COMMENT

Deanna Surbridge, Scotts Valley resident, expressed concerns about the amount of building that is going on as it relates to water use and impacts to the City.

Mayor Lind responded that she would be happy to talk about these concerns after the meeting if Ms. Surbridge wanted to leave her contact information with the City Clerk.

VM Johnson stated that due to recycled water and the many water saving measures that have been implemented over the years, the water usage has decreased approximately 40% since it peaked in 1999.

PC Weiss announced that he and his Lieutenants attended the Santa Cruz County Sheriff's Office 21st Century Policing Initiative that was put on today.

ALTERATIONS TO CONSENT AGENDA

M/S: Johnson/Bustichi

To approve the Consent Agenda.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

Consent Agenda:

- A. Approve City Council meeting minutes of 7-20-16
- B. Approve check register – 7-21-16, 7-25-16, 7-26-16, 7-29-16, 8-8-16, 8-9-16
- C. Approve revised salary schedule for City Manager
- D. Approve Exclusive License Agreement between the City of Scotts Valley and the Scotts Valley Water District for Use of City Property as a Temporary Parking Lot During the Construction of the Stormwater System at the Transit Center and authorize the City Manager to execute the agreement
- E. Approve the purchase of a new Wastewater Treatment Plant (WWTP) replacement pump in the amount of \$18,010 to be paid from WWTP Equipment Reserves, Fund 14
- F. Approve the agreement between the City of Scotts Valley and Northwest Demolition, Inc., for the construction of the Granite Creek Road Storm Damage Repair Project and authorize the Mayor to execute the agreement
- G. Approve the Agreement for Professional Services between the City of Scotts Valley and Ken D. Anderson for City Engineer services and authorize the City Manager to execute the agreement

ALTERATIONS TO REGULAR AGENDA

M/S: Aguilar/Johnson

To approve the Regular Agenda.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

REGULAR AGENDA

1. Presentation by Monterey Bay Community Power (MBCP)

CM Haruyama introduce Santa Cruz County Supervisor Bruce McPherson and Gine Johnson, Aide to Supervisor McPherson and MBCP Team Member, who showed a video presentation regarding Monterey Bay Community Power and responded to questions from Council.

PUBLIC HEARINGS

2. **Consider approval of Planned Development Permit Amendment No. PD07-006.2 and Land Division Amendment No. LD07-004.1 allowing the expansion of the development envelope for 101 Falcon Ridge Road, APN 024-211-18 (Gandrup)**

CA Powell presented the written staff report and responded to questions from Council.

PUBLIC HEARING OPENED - 7:02 PM

No one came forward.

PUBLIC HEARING CLOSED - 7:03 PM

M/S: Bustichi/Aguilar

To approve Resolution No. 1749.7, approving Planned Development Permit Amendment No. PD07-006.2 and Land Division Amendment No. LD07-004.1 allowing the expansion of the development envelope for 101 Falcon Ridge Road, APN 024-211-18.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

3. **Conduct a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 to receive comments relating to the issuance by the California Enterprise Development Authority (CEDA) of not to exceed \$12,000,000 of the Authority's Revenue Bonds for the benefit of Sammie Rae Abitbol, LLC, a California limited liability company, and Bay Photo, Inc., a California corporation**

CM Haruyama presented the written staff report and responded to questions from Council.

PUBLIC HEARING OPENED - 7:10 PM

No one came forward.

PUBLIC HEARING CLOSED - 7:11 PM

M/S: Aguilar/Reed

To approve Resolution No. 1921 approving Associate Membership by the City of Scotts Valley in the California Enterprise Development Authority and the execution of an Associate Membership Agreement relating to Associate Membership of the City in the Authority.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

M/S: Aguilar/Johnson

To approve Resolution No. 1921.1 approving the issuance by California Enterprise Development Authority of not to exceed \$12,000,000 aggregate principal amount of the Authority's revenue bonds for the benefit of Bay Photo, Inc. for the purpose of financing and refinancing the cost of acquisition, rehabilitation and equipping of a manufacturing facility and other matters relating thereto herein specified.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

REGULAR AGENDA
(Resumed)

4. **Consider approval of Resolution No. 1922 opposing Proposition 64, known as the Adult Use of Marijuana Act (AUMA)**

PC Weiss presented the written staff report and responded to questions from Council.

M/S: Aguilar/Reed

To approve Resolution No. 1922 opposing the Adult Use of Marijuana Initiative – Commercial Sales of Non-Medical Marijuana Ballot Measure.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

5. **Future Council agenda items**

None.

CONVENE TO CLOSED SESSION

The City Council convened to closed session at 7:30 p.m. to discuss the following items:

1. Pursuant to Government Code Section 54956.8, the City Council met in closed session to confer with their legal counsel regarding real property negotiations, APN 022-231-03.

RECONVENE TO OPEN SESSION

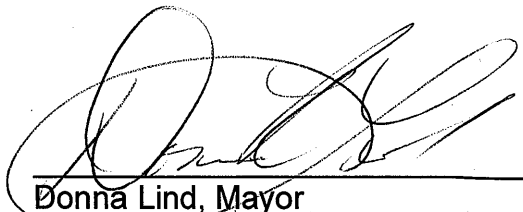
The City Council reconvened to open session at 8:10 p.m.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

Mayor Lind announced that there was nothing to report.

ADJOURNMENT The meeting adjourned at 8:10 p.m.

Approved:


Donna Lind, Mayor

Attest:


Tracy A. Ferrara, City Clerk

City of Scotts Valley CITY COUNCIL STAFF REPORT

DATE: August 17, 2016

TO: Honorable Mayor and City Council

FROM: John P. Weiss, Chief of Police

SUBJECT: **Opposition of Proposition 64 - The Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103, also known as the Adult Use of Marijuana Act (AUMA)**

SUMMARY OF ISSUE

This November 8, 2016 voters will consider Proposition 64 (The Adult Use of Marijuana Act - AUMA), a ballot measure with the purpose and intent to, "establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of non medical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana." If passed by voters, Proposition 64 would allow persons age 21 and older to possess up to an ounce of marijuana and grow as many as six plants. Consumption in public would be prohibited, except for public places licensed for such use. Given the topic, Council Member Stephany Aguilar requested that the ballot measure be discussed by the Council and consideration given to a resolution opposing Proposition 64.

Proposition 64 prohibits the sale of non medical marijuana to those under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. It also mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

Effective 2018, the initiative would allow licenses and regulations for small and medium cultivators and for retail sales. It will also impose state sales taxes of 15% of the sales price and cultivation taxes per ounce of flowers and leaves.

Proposition 64 also establishes a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise. It establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products. It allows local regulation, including the ability to ban non medical marijuana businesses.

The initiative contains many other provisions and can be viewed on-line at: http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf?

Support for Proposition 64

Proposition 64 is supported by Lieutenant Governor Gavin Newsom; Sean Parker, founder of Napster and the former president of Facebook; California State NAACP; The California Medical Association (CMA); California Cannabis Industry Association; The California Democratic Party; the National Organization for the Reform of Marijuana Laws (NORML); Law Enforcement Against Prohibition; Marijuana Policy Project of California; Drug Policy Action; California Council of Land Trusts and several environmental organizations; and various other supporters.

In 2014, California Lt. Governor Gavin Newsom, in collaboration with the American Civil Liberties Union (ACLU), formed a Blue Ribbon Commission on Marijuana Policy. Members consisted of academics, physicians, policy makers, drug policy reformists, tax lawyers, public health experts, economists, one police chief, one retired Judge and one retired Maryland police Major. All participants were appointed to examine the legalization of marijuana and help inform the policy making process. The Blue Ribbon Commission produced a July 2015 report titled "Pathways Report: Policy Options For Regulating Marijuana In California."

The report offers numerous policy suggestions addressing topics such as: protecting small producers from Big Tobacco; helping drug felons; being labor friendly; taxation of cannabis; how to spend tax monies to support marijuana related programs; dealing with medical marijuana; DUI drivers; weed sales regulations and tracking; controlling out of state sales; and dealing with the Feds and Banks.

In short, proponents of Prop 64 argue that legalization of recreational marijuana would make marijuana safer by regulating it; save millions in law enforcement and court costs; support social justice by no longer incarcerating minorities and the disadvantaged; remove profit margins for drug cartels; provide millions in tax monies to support education, prevention and treatment; lower environmental degradation and incapacitate the black market.

Opposition to Proposition 64

Proposition 64 is opposed by the California Police Chiefs Association; California State Sheriffs' Association; California Peace Officers' Association; California College and University Police Chiefs Association; California Narcotics Officers Association; the Los Angeles County Professional Peace Officers Association; the Los Angeles Deputy Sheriffs Association; the Association of Deputy District Attorneys; the Los Angeles Police Protective League; Riverside Sheriffs Association; the California Hospital Association; the California Teamsters; California Correctional Supervisor's Association; Small Growers Association; Californians for Responsible Drug Policies; Association of Orange County Deputy Sheriffs; the City of Whittier (refer to attached letter of opposition); and various other opponents.

The District Attorney for San Diego County, Bonnie M. Dumanis, published the attached brief containing several concerns with the Adult Use of Marijuana Act and legalization of recreational marijuana. Dumanis noted that marijuana is still classified as a Schedule I drug under the Controlled Substances Abuse Act of 1970 and remains illegal at the federal level. District Attorney Dumanis' full memo can be read online at: https://cpca.memberclicks.net/assets/Marijuana/SDDA%20Analysis_AUMAAct_Final.pdf.

Opponents of Proposition 64 are concerned predominantly with the following issues: crime and traffickers, driving under the influence, public health and welfare, and impacts to youth. These concerns are summarized below:

Crime and traffickers

In her brief, District Attorney Dumanis noted that cartels/drug dealers are more likely to infiltrate the multi-billion dollar a year marijuana industry, using their competitive advantage and smuggling expertise. According to Dumanis, “there has been a spike in marijuana shipments out of the legalized region (of Colorado) across state lines to supply users in neighboring states where marijuana remains illegal.” Additionally, shortly before Colorado legalized commercial marijuana in 2013, agents served search warrants at 14 Denver dispensaries operated by individuals with alleged ties to Columbian cartels. During 2009 – 2012, when medical marijuana was commercialized, the yearly average number of interdiction seizures of Colorado marijuana increased 365% from 52 to 242. During 2013 – 2014, when recreational marijuana was legalized, the yearly average interdiction seizures of Colorado increased another 34% from 242 to 324 (HIDTA).

Driving under the influence of drugs (DUIDs)

It has been reported that the legalization of marijuana in Colorado, Washington and Oregon has led to more motorists driving under the influence. In Colorado, for example, the 2015 Rocky Mountain High Intensity Drug Trafficking Area report (RMHIDTA) indicated that when retail marijuana businesses began operating, there was a 32% increase in marijuana-related traffic deaths in just one year from 2013. Colorado marijuana-related traffic deaths increased 92% from 2010 – 2014. During the same time period all traffic deaths only increased 8%. Additionally, newly released data from the Washington Traffic Safety Commission (WTSC) shows that marijuana is increasing as a factor in deadly crashes. The number of drivers involved in fatal crashes who tested positive for marijuana increased 48 percent from 2013 – 2014.

In her brief, District Attorney Dumanis also stated that creating an evidence based standard for testing the level of marijuana influence may be problematic because marijuana converts more quickly than alcohol. Marijuana impaired driving arrests are being successfully challenged due to the amount of time that passes between a car stop, testing, finding a judge, obtaining a search warrant to perform blood draws, and obtaining toxicology reports.

Public health and welfare

According to the University of Mississippi Potency – Monitoring Project, since 1983, when THC concentrations averaged below 5%, today’s marijuana potency averages 14% with peak content exceeding 30%.

The Rocky Mountain High Intensity Drug Trafficking Area (HIDTA) also reports that emergency department visits related to marijuana (for those of any age) increased in Colorado by 29 percent in the first year after legalization of personal possession and use (12,888 in 2013 versus 9,982 in 2012) and that was before stores selling recreational marijuana opened. On Colorado Public Radio, the head of Denver’s largest hospital emergency room said he’s seeing more people being admitted after consuming large quantities of edible marijuana in the form of cookies and other food. Dr. Richard Zane, head of the Department of Emergency Medicine at the University of Colorado Hospital, says the increase coincides with the legalization of recreational marijuana.

Last, the Center for Tobacco Control Research and Education examined the California 2016 ballot issue of Marijuana Legalization. In their February 2016 report, they argued that marijuana regulations in California should be modeled on the California Tobacco Control Program, which has successfully countered the lobbying and marketing tactics of the tobacco industry. They said the California Department of Public Health should be the lead regulatory agency of the retail marijuana market. The AUMA initiative grants broad authority to the Department of Consumer Affairs, rather than the California Department of Public Health. It should be noted that the Department of Consumer Affairs is an agency tasked with serving consumers by creating a competitive market place for businesses, rather than focusing on public health.

Youth Impact

Many Proposition 64 opponents argue that legalization of recreational marijuana will significantly impact the youth population. According to the 2015 HIDTA report, Marijuana medical centers currently outnumber Starbucks coffee shops and recreational marijuana stores outnumber McDonald’s restaurants in Colorado. As a result, HIDTA is concerned that the proliferation of availability, use, and sales creates an environment that encourages social acceptance and the use of marijuana.

In 2015 the American Academy of Pediatrics stated that, “The AAP opposes legalization of marijuana because of the potential harms to children and adolescents.”

In Colorado, there was a 20% increase in the percent of 12-17 year old probationers testing positive for marijuana since marijuana was legalized for recreational purposes (HIDTA). Additionally, drug related suspensions/expulsions in Colorado increased 40 percent from 2008 through 2014. The vast majority were for marijuana violations (HIDTA).

CONCLUSION

There are many arguments on both sides of the marijuana legalization debate. The purpose of this report is to provide a brief summary of the points of view that surround this issue to provide Council with a framework for a policy discussion.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

Consider approval of Resolution No. 1922 opposing Proposition 64, known as the Adult Use of Marijuana Act.

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City of Whittier

13230 Penn Street, Whittier, California 90602-1772
(562) 567-9999 www.cityofwhittier.org

August 1, 2016

Joe Vinatieri
Mayor

Bob Henderson
Mayor Pro Tem

Cathy Warner
Council Member

Josué Alvarado
Council Member

Fernando Dutra
Council Member

Jeffrey W. Collier
City Manager

The Honorable Ian Calderon
Majority Leader, District 57
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0057

Dear Majority Leader Calderon:

RE: Parker Initiative – OPPOSE

On July 12, 2016, the Whittier City Council unanimously voted to oppose the Control, Regulate, and Tax Adult Use of Marijuana Act, commonly known as the Parker Initiative.

The Parker Initiative, a marijuana legalization measure, will be on the November 2016 statewide ballot. The Initiative allows those with serious criminal histories to apply for licensure to sell marijuana. The measure specifically provides that persons convicted of dealing drugs including heroin, cocaine, methamphetamine, or PCP cannot be denied a marijuana business license based on these convictions. This provision is particularly concerning to Whittier due to the anticipated impact on our community.

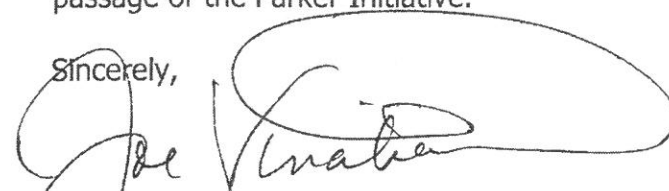
California's existing marijuana policy was set last year when voters approved the Medical Marijuana Regulation and Safety Act, the result of thousands of hours of negotiations among local government, industry stakeholders, and law enforcement. The measure created what was defined as a safe, manageable industry while incentivizing illicit operators to come into compliance. We agree with the California Police Chiefs Association that the Parker Initiative would encourage unrestricted marijuana monopolies while further incentivizing the illicit drug economy.

Additionally, the Parker Initiative weakens local government's ability to influence commercial marijuana activity and marijuana cultivation.

Page Two
Majority Leader Calderon
August 1, 2016

The Whittier City Council respectfully requests that you join the Council in opposing passage of the Parker Initiative.

Sincerely,



Joe Vinatieri
Mayor

cc: Senator Tony Mendoza
Whittier City Council
League of California Cities
California Police Chiefs Association

RESOLUTION NO. 1922

A RESOLUTION OF THE CITY OF COUNCIL OF THE CITY OF SCOTTS VALLEY OPPOSING THE ADULT USE OF MARIJUANA INITIATIVE — COMMERCIAL SALES OF NON MEDICAL MARIJUANA BALLOT MEASURE

WHEREAS, we are committed to the success and positive future of our community youth, and to the health and safety of our citizens; and

WHEREAS, we support efforts to decrease and prevent youth use of and exposure to non-medical marijuana and other drugs; and

WHEREAS, marijuana use can be harmful to the adolescent brain, affecting the parts of the brain that influence pleasure, memory, thinking, concentration, sensory and time perception, and coordinated movement; and

WHEREAS, a ballot measure titled the "Adult Use of Marijuana" to permit commercial sales of non-medical marijuana in California will be on the November 2016 General Election ballot, and

WHEREAS, analysis of the "Adult Use of Marijuana" initiative by the San Diego District Attorney's office points out, "The initiative allows persons convicted of dealing large amounts of controlled substances such as heroin (up to 20,000 individual doses), methamphetamine (up to 10,000 individual doses) to become 'legal marijuana dealers; and

WHEREAS, the analysis further notes that the initiative permits convicted felony drug dealers who have used children to courier drugs to an adult buyer to be eligible to apply for a California marijuana license; and

WHEREAS, there are no provisions in the initiative to prevent advertising and marketing to children and teens near parks, community centers, child-focused businesses, and community colleges; and

WHEREAS, the HIDTA statistics for marijuana use in Colorado teens ages 12-17 are 74% above the national average; and

WHEREAS, the initiative allows for the indoor growing of up to six marijuana plants per residence and each plant requires 6 gallons of water per day in a state that is currently battling a drought; and

WHEREAS, in Colorado, where non-medical marijuana is legal and commercialized, marijuana-related traffic deaths increased 92% from 2010 to 2014 while all traffic deaths increased only 8 percent during the same time period; and

WHEREAS, a study released in May 2016 by AAA Foundation for Traffic Research found that Fatal crashes involving drivers who recently used marijuana doubled in Washington after the state legalized the drug.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Scotts Valley opposes the "Adult Use of Marijuana" California ballot measure to permit commercialization of non-medical marijuana.

This resolution was duly and regularly adopted and passed by the City Council of the City of Scotts Valley, California, at a regular meeting thereof held on the 17th day of August, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Donna Lind, Mayor

ATTEST: _____
Tracy Ferrara, City Clerk

REFERENCES AND SOURCES

"Research Report Series: Marijuana," National Institute of Health, National Institute on Drug Abuse; July 2012.

For quick reference, see "Drug Facts: Marijuana": National Institute of Health, National Institute on Drug Abuse; January 2014, available at:

<https://www.drugabuse.gov/publications/drugfacts/marijuana>.

California Healthy Kids Survey (need exact citation)

"Research Report Series: Marijuana," National Institute of Health, National Institute on Drug Abuse; July 2012.

For quick reference, see "Drug Facts: Marijuana": National Institute of Health, National Institute on Drug Abuse; January 2014, available at:

<https://www.drugabuse.gov/publications/drugfacts/marijuana>.

<http://www.acpeds.org/marijuana-use-detrimental-to-youth>

<http://www.rmhidta.org/htm1/2015%20FINAL%20LEGALIZATION%20F%20MARIJUANA%201N%2000LORADO%20THE%20IMPACT.pdf>

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"Arizona Youth Survey: State Report," Arizona Criminal Justice Commission, 2012; p. 32.

For quick reference, see "Arizona Youth Survey 2012: Marijuana Data Brief."

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For quick reference, see "Drug Facts: Marijuana": National Institute of Health, National Institute on Drug Abuse; January 2014, available at:

<https://www.drugabuse.gov/publications/drugfacts/marijuana>

** Meier, Madeline H.; Caspi, Avshalom, et. al., "Persistent Cannabis Users Show Neuropsychological Decline From Childhood to Midlife," *Proceeding of the National Academy of Sciences of the United States of America*, vol. 109 no. 40; October 2, 2012.

Calkins, Kathryn, "Early Onset, Regular Cannabis Use Is Linked to IQ Decline," National Institute on Drug Abuse; August 13, 2013.

Accompanying video presentation by Dr. Madeline Meier, located at:

<https://www.youtube.com/watch?v=gJXnxHYapbE>. "Marijuana's Lasting Effects on the Brain," National Institute on Drug Abuse; March 2013.

"Heavy marijuana users have abnormal brain structure and poor memory," Science Codex; December 6, 2013.

"Arizona Youth Survey: State Report," Arizona Criminal Justice Commission, 2012; p. 58. "Two New

Studies Conclude Marijuana Use Connected to College Failure," Community Anti-Drug Coalitions of America; March 28, 2013.

"Two New Studies Conclude Marijuana Use Connected to College Failure," Community Anti-Drug Coalitions of America; March 28, 2013.

"Is there a link between marijuana use and mental illness?" National Institute on Drug Abuse; July 2012.

MacDonald, Ann, "Teens who smoke pot at risk for later schizophrenia, psychosis," *Harvard Health*; March 7, 2011.

Bergland, Christopher, "Heavy Marijuana Use Alters Teenage Brain Structure," *Psychology Today*; December 16, 2013.

"Research Report Series: Marijuana." National Institute of Health, National Institute on Drug Abuse; July 2012.

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<https://www.drugabuse.gov/publications/drugfacts/marijuana>.

"Arizona Youth Survey: State Report," Arizona Criminal Justice Commission, 2012. For quick reference, see "Arizona Youth Survey 2012: Marijuana Data Brief."

"This prediction by the Arizona Criminal Justice Commission is an extrapolation based on the date included in the "Arizona Youth Survey: State Report," Arizona Criminal Justice Commission, 2012.

"Research Report Series: Marijuana," National Institute of Health, National Institute on Drug Abuse; July 2012.

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<https://www.drugabuse.gov/publications/drugfacts/marijuana>.

"How cannabis suppresses immune functions: cannabis compounds found to trigger unique immune cells which promote cancer growth," Wiley-Blackwell, *Science Daily*; November 26, 2010.

"Drug Facts: Drugged Driving," National Institute of Health, National Institute on Drug Abuse; October 2013.

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"The Public Health Consequences of Marijuana Legalization," White House Fact Sheet.

Kilmer, Beau, *et al.*, "Altered States? Assessing How Marijuana Legalization in California Could Influence Marijuana Consumption and Public Budgets," RAND Corp.; 2010.

"Marijuana in the Workplace," University of Washington, Alcohol & Drug Abuse Institute; August 2013.

"The Public Health Consequences of Marijuana Legalization," White House Fact Sheet.

To the Planning Commission, City Council and Chief Walpole:

The Scotts Valley ADA committee strongly supports persons with disabilities having access to marijuana, through local purchase and private, secured growing. Recently, state laws were changed to allow for marijuana for the general public.

Current city ordinance forbids any shops or sales in Scotts Valley other than delivery service.

The committee feels strongly that the lack of access puts an unfair burden on Scotts Valley Residents who are on limited income and may live in housing which has no space for growing or may be unable to grow their own due to their disability. In many instances, caregivers cannot be relied upon to carry out this task. The added cost of delivery as well as time, inconvenience, and arranging transportation to shops in other towns hurts those who are most vulnerable in our society.

SV ADA committee members have witnessed how use of marijuana can significantly reduce seizure activity in children. One local child went from *hundreds* of seizures a day to an average of 2 per day on medical marijuana. This child had tried multiple FDA approved seizure medications with no significant reduction in seizure activity. We have witnessed a significant reduction in nausea and an increase appetite in children with leukemia undergoing chemotherapy, pain reduction and calmed nerves. Adults report similar results. Unfortunately the car ride or public transit to Santa Cruz can be difficult on these patients and often there is no other option for parents who have little or no support.

Evidence shows that there is no more crime associated with marijuana shops than there is with establishments that sell alcohol – please see attached article by University of Ohio.

We feel that the residents of the city of Scotts Valley would benefit greatly by allowing personal grows of 6 plants or less, and access to marijuana and the associated tax revenues (for nonmedicinal clients). Zoning considerations should be similar to liquor licenses and number of shops could be limited but still allow for easy access and competition. The Scotts Valley ADA committee feels very strongly that the most vulnerable in our community should have easy access to their medicine without the additional burden of delivery costs and transportation issues.

Scotts Valley ADA committee

For the Scotts Valley ADA committee **Legal marijuana stores lead to increases in property crime: study**

April 27, 2017 by Jeff Grabmeier



Credit: The Ohio State University

Legal marijuana shops are linked to higher levels of property crime in nearby areas, according to a nearly three-year study in Denver.

Researchers found that crime isn't higher in the area immediately surrounding marijuana outlets. But adjacent areas saw about 84 more property crimes per year than neighborhoods without a nearby marijuana store.

In Denver, no significant increase in violent crime was seen as a result of marijuana sales.

The results show that legal marijuana sales come with a cost, said Bridget Freisthler, lead author of the study and professor of social work at The Ohio State University.

"If you're looking strictly from a public health standpoint, there is reason to be somewhat concerned about having a marijuana outlet near your home," Freisthler said.

Putting this risk in context, marijuana outlets led to similar levels of property crime as bars, liquor stores and restaurants that serve alcohol, data from the study suggests.

And businesses that sold alcohol led to much more violent crime than marijuana outlets.

The study was published online today in the *Journal of Primary Prevention*.

The researchers examined crime statistics for 481 Census block groups in Denver over 34 months (January 2013 to October 2015). When the study began, marijuana could only be sold for medical purposes. But beginning in January 2014, marijuana outlets

were able to sell to the general public, giving the researchers the opportunity to see if recreational sales were tied to increases in crime.

They examined three types of crime, based on data from the Denver Police Department: Violent crime, [property crime](#) and marijuana outlet specific crime.

The change in the law allowing recreational sales did not result in an increase in crime, results showed.

"It is the number and density of outlets that is important, not whether they are medical or recreational," Freisthler said.

But there is a caveat to that finding. After the law was first changed to allow recreational sales, only those dispensaries that already were selling for medical purposes were allowed to apply for a license to sell recreational marijuana in Colorado.

As a result, the number of outlets didn't change much.

This is the second study Freisthler and colleagues have published on crime and marijuana outlets. The earlier study, published last year, was done in Long Beach, Calif. In both studies, property crimes didn't increase right next to the outlet, but in the adjacent neighborhood.

That's probably because the dispensaries often have security guards and cameras keeping an eye out on the immediate area, Freisthler said.

"The areas we examined in our study were relatively small (about a third of a square mile), so a guard could conceivably be keeping criminals away from the neighborhood directly surrounding the outlets," she said.

One way to understand the effect of marijuana stores on crime is to compare them to places that sell alcohol.

Data from the study showed that marijuana outlets contributed to 1,579 property crimes in Denver over 34 months, compared to the combined alcohol outlet contribution of 1,521.

"The levels of property crimes were similar, although marijuana outlets were responsible for slightly more," Freisthler said.

Alcohol outlets, however, were responsible for about four times more violent crimes during the 34 months of the study than those that sold marijuana (372 vs. 93).

But Freisthler cautioned that a direct comparison is difficult because the effects related to marijuana outlets take into account crimes in local and adjacent areas while the data for alcohol outlets only look at adjacent areas.

Still, she said it is concerning that there is this level of crime associated with marijuana sales, despite the fact that the density of marijuana outlets is much lower compared to that of [alcohol outlets](#). "Over time, as marijuana grows in popularity, densities of marijuana outlets may increase, resulting in higher crime," Freisthler said.

While this study did not find a significant increase in violent crime related to marijuana shops, the study in Long Beach did. That suggests it is too early to say that legal marijuana sales don't result in significantly more [violent crime](#), she said.

This new study did find, not surprisingly, that legal sales were linked to an increase in burglaries and other crimes at marijuana outlets themselves.

From the data in the study, the researchers can't tell who is committing the crimes and who the victims are in the nearby neighborhoods. Customers of the marijuana outlets could be the victims or the perpetrators, according to Freisthler.

"That's important to know, because residents may want to mobilize if they are the victims of increased crime. But if it is not the residents being victimized, they may not care as much," she said.

Freisthler said the findings of this, as well as her previous study, suggest there are reasons for citizens to be cautious about legal **marijuana** sales.

"There are definitely negative public health consequences, including increased **crime**," she said. "There may be economic benefits in terms of more tax revenue and money spent in neighborhoods. Citizens have to decide how they want to measure the benefits and costs."

Explore further: **Medical marijuana outlets not linked to crime**

More information: Bridget Freisthler et al. From Medical to Recreational Marijuana Sales: Marijuana Outlets and Crime in an Era of Changing Marijuana Legislation, *The Journal of Primary Prevention* (2017). DOI: **10.1007/s10935-017-0472-9**

Provided by: The Ohio State University

Read more at: <https://phys.org/news/2017-04-legal-marijuana-property-crime.html#jCp>