

## REPORT TO THE CITY COUNCIL

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**DATE:** September 5, 2017

**TITLE:** **URGENCY Ordinance Amending Chapter 17.180 (Medical Marijuana Facilities Operation and Location) to Eliminate the Requirement for Developers to Enter into Development Agreements in Certain Circumstances**

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### RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from the City Council;
- 3) Open the Public Hearing;
- 4) Take Public Testimony;
- 5) Close the Public Hearing;
- 6) City Council discussion and questions to Staff; and
- 7) Adopt an Urgency Ordinance of the City Council, amending Chapter 17.180 (Medical Marijuana Facilities Operation and Location) to eliminate the requirement for developers to enter into Development Agreements in certain circumstances (requires a 4/5 vote of the entire City Council to pass).

### PROCEDURE

This agenda has two similar ordinances: 1) an Urgency Ordinance to Eliminate the Requirement for Development Agreements for marijuana cultivators on raw land, **and** 2) a NON-Urgency Ordinance to Eliminate the Requirement for Development Agreements for cultivators on raw land. This Urgency Ordinance needs a 4/5 vote of the Council, needs to be supported by findings (which are included in the Urgency Ordinance) and it takes effect immediately. That said, the Non-Urgency Ordinance (which is a separate agenda item) is an identical ordinance without the “urgency findings.” The Non-Urgency Ordinance is like any other ordinance - it requires a majority vote and takes effect 30 days after its second reading. This two-pronged approach is common practice as a belts and suspenders approach.

### BACKGROUND:

Currently all Medical Marijuana Facilities must obtain a Development Agreement for development on raw land. A development agreement is generally a contract between the city and a property owner. The agreement sets the standards and conditions that govern the development of the property. It provides certainty to the developer that his or her project will be isolated from changes in the City’s zoning laws over the course of development (i.e.- the developer’s rights “vest”), but it also contracts the developer to provide benefits to the City. Normally, these kinds of benefits include infrastructure improvements, public open space, or monetary payment into funds, such as “in lieu” fees, in exchange for that certainty.

However, for Marijuana Facilities, the City merely derives the following public benefits from the developer: 1) developer shall have 20% of its workforce be City residents and 2) developer shall pay a “good wage”, which is about \$2 above minimum wage. Although these may be beneficial to the City, it has come to the City’s knowledge that the marijuana industry, on average, pays far better than minimum wage. Further, the marijuana industry will in fact need local employees, so it is likely that they will hire locally. Therefore, in actuality, the City may already be realizing a benefit without the need of requiring the developer enter into a Development Agreement, which

add time and expense to the entitlement process. Elimination of the development agreement for medical marijuana facilities would streamline the development of such facilities.

Further, and of important note, this Ordinance does not preclude developers and the City Council from entering into development agreements pursuant to Chapter 17.84 titled Development Agreements of the DHSMC. Therefore, should a developer or the City desire that a Development Agreement be in place, the option could be exercised.

#### **URGENCY**

SB 94 was recently adopted via trailer bill, which, among several other things, implements the voters' intent to issue state cannabis licenses beginning January 1, 2018. The City anticipates that the State will be flooded with cannabis license applications. As the City understands, the State has several requirements that must be met prior to issuing State licenses, which may include the applicant being qualified and possibly operational by January 1, 2018. Applicants are running against a strict timeline to get their projects qualified and operational by the January 1, 2018 deadline. The City acknowledges that the cannabis industry can have positive effects on the City, including increased City revenue, increased employment, and increased ancillary effects, such as tourism and services. In order for the public to reap the immediate benefits of the cannabis industry, and to aid the developers through the process, this Ordinance must take effect immediately, since January 1, 2018 is quickly approaching and several applicants will not be able to meet that deadline without this Ordinance becoming effective immediately.

#### **ORDINANCE:**

Staff has prepared a Draft URGENCY Ordinance to 1) amend 17.180 (Medical Marijuana Facilities Operation and Location) to Eliminate the Requirement for Developers to Enter into Development Agreements in Certain Circumstances.

#### **FISCAL IMPACT:**

None.

#### **EXHIBITS:**

- 1) Draft Urgency Ordinance