

AGENDA
REGULAR MEETING OF THE CITY OF SUISUN CITY
PLANNING COMMISSION
7:00 P.M., DECEMBER 8, 2015

COUNCIL CHAMBERS
701 CIVIC CENTER BOULEVARD
SUISUN CITY, CALIFORNIA 94585

Next Resolution No. PC15-21

1. ROLL CALL:

Chairperson Clemente
Vice-Chair Pal
Commissioner Adeva
Commissioner Holzwarth
Commissioner Osborne
Commissioner Ramos
Commissioner Smith

Pledge of Allegiance
Invocation

2. ANNOUNCEMENTS:

None

3. AUDIENCE COMMUNICATIONS:

This is a time for public comments for items that are not listed on this agenda. Comments should be brief. If you have an item that will require extended discussion, please request the item be scheduled on a future agenda.

CONFLICT OF INTEREST NOTIFICATION

(Any items on this agenda that might be a conflict of interest to any Commissioner should be identified at thistime.)

4. GENERAL BUSINESS:

- A Request to Consider a Resolution of Intention to Initiate an Ordinance Repealing and Replacing Chapter 18.47 of the Suisun City Code.**

Resolution PC15 : A Resolution of the City of Suisun City Planning Commission Approving a Resolution of Intention to Initiate an Ordinance Repealing and Replacing Chapter 18.47 of the Suisun City Code.

5. COMMUNICATION:

- Staff
- Commissioners
- Agenda Forecast

6. ADJOURN.

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AGENDA TRANSMITTAL

MEETING DATE: December 8, 2015

PLANNING COMMISSION AGENDA ITEM: Request to Consider a Resolution of Intention to Initiate an Ordinance Repealing and Replacing Chapter 18.47 of the Suisun City Code.

Resolution PC15 ___: A Resolution of the City of Suisun City Planning Commission Approving a Resolution of Intention to Initiate an Ordinance Repealing and Replacing Chapter 18.47 of the Suisun City Code.

ENVIRONMENTAL IMPACT: The consideration of resolution of intention is not subject to the California Environmental Quality Act (CEQA). Staff will provide environmental analysis for any future ordinance that is developed regarding this topic.

BACKGROUND: In 1996, California voters adopted the **Compassionate Use Act** (“CUA”) as a ballot initiative, codified at Health and Safety Code section 11362.5. The CUA provides a limited defense from prosecution for cultivation and possession of marijuana. (City of Claremont v. Kruse, 177 Cal.App.4th 1153 (2009)). In 2003, the Legislature adopted the Medical Marijuana Program Act (“MMP”), codified at Health and Safety Code sections 11362.5 to 11362.83. The MMP provides qualified persons, primary caregivers, and holders of valid identification cards a defense to certain enumerated marijuana-related state crimes (City of Claremont v. Kruse, 177 Cal.App.4th 1153 (2009)).

In 2013, the California Supreme Court confirmed a city’s ability to prohibit medical marijuana dispensaries within its boundaries. (City of Riverside, 56 Cal.4th 729 (2013)). The court found that the CUA and MMP do not preempt a city’s local regulatory authority. It further upheld the denial of a business license and a moratorium noting that “there is nothing in the text or history of the [CUA] that suggests that the voters intended to mandate that municipalities allow [such facilities] to operate within their city limits.”

On October 9, 2015, Governor Brown signed into law assembly bills **AB 266** (Bonta, Cooley, Jones-Sawyer, Lackey, Wood), **AB 243** (Wood), **AB 643** (McGuire). Known collectively as the **Medicinal Marijuana Regulation and Safety Act** (MMRSA), these bills are designed to impose additional regulatory mechanisms related to medical marijuana. For example, there will be a dual licensing structure which requires a state and local license or permit in order to cultivate, dispense or transport medical marijuana. The legislation appears to allow cities that wish to ban these land use activities to continue to do so; however, there are critical time constraints.

Assembly Bill 266 established a dual licensing structure requiring state and local licenses or permits to establish marijuana businesses.

Assembly Bill 243 includes a provision stating that cities that do not have an ordinance regulating or prohibiting cultivation by **March 1, 2016**, will lose the authority to regulate or ban cultivation within their city limits.

Senate Bill 643 established criteria for the licensing of medical marijuana businesses, regulating physicians, and recognizing local authority to levy taxes and fees.

STAFF REPORT: In order for staff to prepare an amendment to Title 18 “Zoning” of the Suisun City Code, the action may be initiated in one of three ways:

- A. Verified petition of one or more owners of property affected by the proposed amendment, which petition shall be filed with the planning commission and shall be accompanied by a fee set by resolution of the city council, of which no part shall be returnable to the petitioner; or
- B. Resolution of intention by the city council; or
- C. Resolution of intention by the planning commission.**

The action before the Commission is a request for the Commission to adopt a resolution of intention to initiate an amendment to Chapter 18.47 of the Suisun City Code.

Cultivation

Cities may prohibit or regulate medical marijuana businesses within their jurisdictions, as local authority remains intact under the new law. In order to maintain local authority concerning medicinal marijuana commercial activities, the City must adopt a land use ordinance regulating or prohibiting the cultivation of medical marijuana. The ordinance may be adopted as an “urgency ordinance,” or a second reading must occur on, or before **January 29, 2016**.

If the local entities decide not to proceed before the deadline, they will lose the authority and ability to regulate all commercial cannabis activities within their city limits to the State. Though legislators suggest a “clean-up” of AB 243 will occur in the next legislative session, perhaps striking this time sensitive provision, action is not guaranteed.

Deliveries and Mobile Dispensaries

Delivery is permitted with a State license unless a city adopts an express prohibition on delivery. Although the State will not be issuing licenses for this particular commercial cannabis activity until **January 1, 2018**, this date is still subject to change.

Current Code

Although Chapter 18.47 of Suisun City’s Zoning Code prohibits marijuana dispensaries, it does not expressly prohibit deliveries or cultivation in relation to all commercial cannabis activities.

RECOMMENDATION: It is recommended that the Planning Commission adopt Resolution PC15-___: A Resolution of the City of Suisun City Planning Commission Approving a Resolution of Intention to Initiate an Ordinance Repealing and Replacing Chapter 18.47 of the Suisun City Code.

ATTACHMENTS:

1. Resolution PC15- ____: A Resolution of The City of Suisun City Planning Commission Approving a Resolution of Intention to Initiate an Ordinance Repealing and Replacing Chapter 18.47 of the Suisun City Code.

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RESOLUTION NO. PC 15-____

A RESOLUTION OF THE CITY OF SUISUN CITY PLANNING COMMISSION APPROVING A RESOLUTION OF INTENTION TO INITIATE AN ORDINANCE REPEALING AND REPLACING CHAPTER 18.47 OF THE SUISUN CITY CODE

WHEREAS, the City of Suisun City Planning Commission has determined that it is prudent to clarify the City’s position on the cultivation and delivery of medicinal marijuana, relative to commercial cannabis activities, due to recently enacted State legislation; and

WHEREAS, per Chapter 18.74 a Resolution of Intention for an amendment to Title 18 “Zoning” can be initiated by the Planning Commission; and

WHEREAS, after due consideration and deliberation of the information provided in the presentation and the Agenda Item, the City of Suisun City Planning Commission did, on December 8, 2015, direct staff to initiate amendments to Chapter 18.47 of the Suisun City Code to address commercial cannabis activities within the City of Suisun City.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Suisun City hereby directs the Development Services Department, Planning Division to make the necessary investigations, and craft an ordinance to repealing and replacing Chapter 18.47 of the Suisun City Code to address cultivation and delivery of medicinal marijuana, relative to commercial cannabis activities within the City of Suisun City, and further to set a date for the prescribed public hearings, giving proper notice thereof.

The forgoing motion was made by Commissioner ____ and seconded by Commissioner ____ and carried by the following vote:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

WITNESS my hand and the seal of said City this 8th day of December, 2015.

Anita Skinner,
Planning Commission Secretary

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