



5.1

Report & Recommendation
Reviewed and Approved

City Manager

AGENDA ITEM

City Council Meeting

TO: John N. Duckett, Jr. City Manager
City Council

FROM: Jessaca Lugo, Assistant City Manager

DATE: September 3, 2019

SUBJECT: Amendment to City of Shasta Lake Municipal Code Title 5 Chapter 5.05
“Regulation of Commercial Cannabis Activities”

FILE NO: C-015-080-060

RECOMMENDATION:

Staff recommends that the City Council approve the first reading of the amendments to the municipal code Title 5, Chapter 5.05 – Regulations of Commercial Cannabis Activities.

BACKGROUND:

On November 8, 2016, California voters passed Proposition 64 (sometimes, “Prop 64”), the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”). Proposition 64 legalizes the nonmedical use of marijuana by persons 21 years of age and older, and the personal cultivation of up to six marijuana plants.

On May 2, 2017 the City Council (Ordinance CC-17-259) adopted an ordinance to regulate the establishment, operation, cultivation, manufacturing, sale, testing, and distribution of commercial cannabis. Since the adoption of the ordinance, staff has processed the following commercial cannabis permits/applications:

	Summary to date FY2019
Cannabis Business Permits Issued	16
Retail	3
Cultivation/Nursery	3
Distribution	8
Manufacturing	2
Testing	0
Cannabis Applications Approved (No permit)	33
Retail	0
Cultivation/Nursery	23
Distribution	4
Manufacturing	4
Testing	0
Nursery	2
Cannabis Applications Inactive	7
Retail	0
Cultivation/Nursery	3
Distribution	2
Manufacturing	2
Testing	0

As to be expected, since the formal adopted of the City's ordinance, the State has been in the process of adopting their final regulations for cannabis businesses. These new regulations immediately took effect in January 2019, meaning the previous emergency regulations are no longer in effect.

The proposed Municipal Code amendments respond to the passage of Proposition 64 and the officially approved State regulations for cannabis businesses. The proposed amendments in summary include the following:

1. Remove references to the following and replace with appropriate State and Local references:
 - a. Medical Cannabis Regulations and Safety Act to AUMA, SB 94
 - b. Development Services Director/Designee, replace with City Manager or his/her designee
 - c. Dispensary, replace with Retail business
2. Add definitions to this chapter
3. Incorporate changes from the final adopted state regulations (various sections revised)
4. Remove sections of the 2017 adopted ordinance that are not pertinent to the application process.
5. Add a section on Environmental clearance for commercial cannabis permit applications. CDFA (California Department of Food and Agriculture) requires further environmental review on Cannabis Cultivation business operations. Chapter 5.05.100 will provide a process for review of CEQA.
6. Add a section on Permit Suspension, Modification or Revocation, including Appeal process.

ENVIRONMENTAL ASSESSMENT:

The proposed Ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form to determine if there would be any possibility that the proposed ordinance would create any significant environmental impacts. Staff has determined that the text amendment proposal, as described, does not meet any of the thresholds contained in the Checklist that would trigger a significant environmental impact, thus and according to the “general rule exemption” (Section 15061(b)(3) of the California Environmental Quality Act Guidelines (CEQA) - projects which have no potential for causing a significant effect on the environment are not subject to CEQA. Therefore, no further environmental analysis is required.

FISCAL IMPACTS:

No fiscal impacts

ATTACHMENTS:

Ordinance
Chapter 5.05 amendments

ORDINANCE NO. CC-19-XX

AN ORDINANCE OF THE CITY COUNCIL OF CITY OF SHASTA LAKE APPROVING THE REVISION TO MUNICIPAL CODE TITLE 5 – BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.05, RELATING TO COMMERCIAL CANNABIS IN THE CITY OF SHASTA LAKE

WHEREAS, the voters of California passed Proposition 64 entitled The Control, Regulate and Tax Adult Use of Marijuana Act (commonly known as Adult Use of Marijuana Act or AUMA) in November 2016; and

WHEREAS, AUMA legalized recreational marijuana use and personal cultivation; and

WHEREAS, the City adopted its commercial cannabis regulations in May 2017; and

WHEREAS, since the formal adopted of the City’s ordinance, the State of California adopted their final regulations for cannabis businesses. These new regulations immediately took effect in January 2019, meaning the previous emergency regulations are no longer in effect;

WHEREAS, the City of Shasta Lake proposes to amend Municipal Code §5.05 to regulate commercial cannabis activities;

WHEREAS, the City Council conducted a public hearing on September 3, 2019 and considered public testimony provided regarding the proposed amendments; and

WHEREAS, the revision of these regulations is consistent with the General Exception called out in §15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SHASTA LAKE DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council of the City of Shasta Lake makes the following findings:

1. Finds and determines the above recitals are true and correct and have served as the basis, in part, for the actions set forth herein.

2. California Environmental Quality Act (CEQA)

Finding: The proposed amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the California Code of Regulations, Title 14, Chapter 3 (State CEQA Guidelines).

Evidence: The approval of these amendments does not approve any development

project. Section 15061 (b)(3) Title 14 of the California Code of Regulations (the CEQA Guidelines) describes the General Rule that CEQA only applies to projects which “have the potential for causing a significant effect on the environment; where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

The approval of these amendments does not approve any specific development project. Rather, they clarify the requirements for new projects consistent with the direction of the General Plan, and more specifically the Housing Element. Each of these ordinance changes, individually and cumulatively, will not in and of themselves result in the possibility of creating significant or cumulative effects on the environment. Future development proposals which are affected by the proposed changes would be subject to CEQA where applicable, as those actions would be classified as “projects” under CEQA. Therefore, these changes are not subject to CEQA under the General Rule and no further environmental review is necessary.

3. General Plan Consistency – Municipal Code Amendments

Finding: The proposed amendments to Titles 5 of the Municipal Code are consistent with the General Plan goals, policies, and implementation programs.

Evidence: The proposed text amendments to Titles 5 of the Municipal Code are consistent with the General Plan as they do not alter the allowed intensity or density of development beyond that contemplated in the General Plan. The changes clarify the permit requirements, allowed use regulations, and development standards for various uses and activities.

SECTION 3: City Council hereby approves the following amendment to Shasta Lake MUNICIPAL CODE TITLE 5 CHAPTER 5.05 “REGULATION OF COMMERCIAL CANNABIS ACTIVITIES”

Recommends approval of the revisions as outlined in **Attachment A** as prepared for the project that will implement an Ordinance Amendment.

SECTION 4: Severability: If any provision of this ordinance or the applications thereof to any person or circumstances is held invalid, the remainder of the ordinance and the applications of such provision will remain in effect to the extent permitted by law.

SECTION 5: This ordinance shall be effective thirty (30) days following its second reading and posting as provided for by City Code.

I HEREBY CERTIFY that the foregoing Ordinance was introduced and read at a regular meeting of the City Council of the City of Shasta Lake held on the 3rd day of September 2019.

PASSED, APPROVED, AND ADOPTED this day of September, 2019 by the following vote:

**AYES:
NOES:
ABSENT:**

GREG WATKINS, Mayor

ATTEST:

TONI M. COATES, CMC, City Clerk

Exhibit A

PROPOSED AMENDMENTS

Note to Reader: Proposed changes are in ~~strikeout~~/underline with proposed deletions shown in ~~strikeout~~ and additions shown in an underline.