

Moratorium On Cannabis Dispensaries in Inland Zoning Area

CITY COUNCIL MEETING

SEPTEMBER 27, 2021

Interim Urgency Zoning Ordinances or Moratoriums

- California Government Code Section 65858 authorizes cities and counties to adopt urgency ordinances to prevent uses of property that would violate a pending or contemplated land use measure that a city or county is studying or reviewing.
- Provides time for city or county to consider potential zoning ordinances and if appropriate adopt.
- Pending applications would not be approved during the moratorium but could continue to be processed until after the ordinance is adopted and effective.
- Requires 4/5 vote for adoption and for any extension.

Urgency Ordinance Timeline

- Initial Moratorium is only effective for 45-days.
- Prior to expiration or any extension, staff on behalf of City Council must issue a report to describe measures taken to alleviate the condition that led to adoption.
- City Council may extend the ordinance by up to ten months and 15 days, with an additional extension of 1 year, or once for 22 months and 15 days. A total of up to two years.
- City Council may rescind the ordinance at any time, prior to expiration.

Moratoriums are not Takings

- ❑ *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency* 535 U.S. 302 (2002)
- ❑ Holding: Development that is paused during the process of creating comprehensive land-use plan is not a taking that requires fair compensation.
- ❑ The Tahoe Regional Planning Agency imposed two moratoriums for a total of 32 months that prevented any development in the Lake Tahoe area.

Cannabis Dispensary Considerations

- Unresolved issue of “Youth Center” and whether a buffer should be established?
- Consider a cap on the number of Cannabis Dispensaries and/or establish a limit on distance required between?
- Compatibility with residential uses or “family oriented” businesses?
- Should dispensaries be limited to Main Street?
- Does the City Council want to present the Voters with the option to tax Cannabis Businesses?
- Limitations or parameters for accessory uses and microbusinesses?
- Further limit hours of operation?

Consistency

- General Plan and Inland Land Use Code
- Council vision, policy and goals
- Original Ordinance recommended for adoption by Planning Commission and adopted by City Council unanimously
- Interpretation of ordinance was limited to 3 of 5 Planning Commissioners with no action by City Council

“Business Friendly”

- Established as a City Council Goal in 2019
- Not necessarily the need to approve all businesses within City limits
- Strategic planning is a part of land use process
- Transparency of the Land Use Codes and interpretations to potential businesses and developers about what development is allowed and where is business friendly.
- Predictability and reasonable risk assessment

Options

- Adopt a 45-day moratorium on Cannabis Dispensaries
 - In all Commercial Districts where Cannabis is allowed, or
 - Limit it to the Central Business District
- Not adopt the moratorium
- Bring back a resolution that makes a determination on whether the City Hall Gymnasium is a “youth center”
- Whether the moratorium is adopted or not, the Council can make desired changes to the existing Cannabis Dispensary Ordinance and continue forward with prior direction on the Cannabis Cultivation Ordinance

Questions?
