



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

PLANNING COMMISSION AGENDA
September 21, 2016
CITY COUNCIL CHAMBERS
6:30 p.m.
50 Natoma Street
Folsom, California 95630

CALL TO ORDER PLANNING COMMISSION: Chair Ross Jackson, Vice Chair John Arnaz; Commissioners:, Marci Embree, Jennifer Lane, Brian Martell, Thomas Scott, and Justin Raithel

Any documents produced by the City and distributed to the Planning Commission regarding any item on this agenda will be made available at the Community Development Counter at City Hall located at 50 Natoma Street, Folsom, California and at the table to the left as you enter the Council Chambers. The meeting is available to view via webcast on the City's website the day after the meeting.

PLEDGE OF ALLEGIANCE

CITIZEN COMMUNICATION: The Planning Commission welcomes and encourages participation in City Planning Commission meetings, and will allow up to five minutes for expression on a non-agenda item. Matters under the jurisdiction of the Commission, and not on the posted agenda, may be addressed by the general public; however, California law prohibits the Commission from taking action on any matter which is not on the posted agenda unless it is determined to be an emergency by the Commission.

MINUTES

The minutes of August 17, 2016 & September 7, 2016 will be presented for approval.

CONTINUED ITEMS

1. **PN 16-025, Enclave at Folsom Ranch, Easton Valley Parkway – Tentative Parcel Map, Vesting Tentative Subdivision Map, Planned Development Permit, and Determination that the Project is Exempt from CEQA – Continued from the September 7, 2016 Planning Commission Meeting**

A Public Hearing to consider a request from Enclave at Folsom, LLC for approval of a Tentative Parcel Map, Vesting Tentative Subdivision Map, and Planned Development Permit for development of a 111-unit single-family residential subdivision on a 14.7-acre site located on Easton Valley Parkway (APN 072-3190-036). The Specific Plan designation is SP-GC and SP MLD and the General Plan is GC-MLD. An Exemption has been prepared for the project pursuant to California Environmental Quality Act Guidelines Sections 15063 and 15084. **(Project Planner: Principal Planner, Steve Banks / Applicant: Enclave at Folsom, LLC)**

NEW BUSINESS

2. **An Ordinance of the City of Folsom Amending Chapter 17.114 of the Folsom Municipal Code Pertaining to Marijuana Cultivation and Determination that the Ordinance is Exempt from CEQA**

A Public Hearing to consider an Ordinance of the City of Folsom to amend Chapter 17.114 of the Folsom Municipal Code to provide reasonable regulations to indoor personal marijuana cultivation in the event Proposition 64 passes at the November general election. The project is categorically exempt under Section 15061(B)(3) (Review for Exemption) of the CEQA Guidelines. **(Folsom Police Department and Community Development Department)**

3. **An Ordinance of the City of Folsom Adding Chapter 17.113 to the Folsom Municipal Code Pertaining to Commercial Non-Medical Marijuana Use and Determination that the Ordinance is Exempt from CEQA**

A Public Hearing to consider an Ordinance of the City of Folsom to add Chapter 17.113 to the Folsom Municipal Code to prohibit commercial non-medical marijuana use in all zones and districts of the City. The project is categorically exempt under Section 15061(B)(3) (Review for Exemption) of the CEQA Guidelines. **(Folsom Police Department and Community Development Department)**

PLANNING COMMISSION / PLANNING MANAGER REPORT

The next Planning Commission meeting is scheduled for **October 5, 2016**. Additional non-public hearing items may be added to the agenda; any such additions will be posted on the bulletin board in the foyer at City Hall at least 72 hours prior to the meeting. Persons having questions on any of these items can visit the Community Development Department during normal business hours (8:00 a.m. to 5:00 p.m.) at City Hall, 2nd Floor, 50 Natoma Street, Folsom, California, prior to the meeting. The phone number is 355-7222 and FAX number is 355-7274.

NOTICE REGARDING CHALLENGES TO DECISIONS

The appeal period for Planning Commission Action: Any appeal of a Planning Commission action must be filed, in writing with the City Clerk's Office no later than ten (10) days from the date of the action pursuant to Resolution No. 8081. Pursuant to all applicable laws and regulations, including without limitation, California Government Code Section 65009 and or California Public Resources Code Section 21177, if you wish to challenge in court any of the above decisions (regarding planning, zoning and/or environmental decisions), you may be limited to raising only those issues you or someone else raised at the public hearing(s) described in this notice/agenda, or in written correspondence delivered to the City at, or prior to, the public hearing



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

PLANNING COMMISSION MINUTES
August 17, 2016
CITY COUNCIL CHAMBERS
6:30 P.M.
50 Natoma Street
Folsom, CA 95630

CALL TO ORDER PLANNING COMMISSION: Chair Ross Jackson; Vice Chair John Arnaz; Commissioners: Marci Embree, Jennifer Lane, Brian Martell, Thomas Scott, Justin Raithel

ABSENT: Justin Raithel

CITIZEN COMMUNICATION: None

MINUTES: The minutes of August 3, 2016 were approved as submitted.

NEW BUSINESS

1. PN 16-166, 676 Loomis Circle – Planned Development Permit Modification and Determination that the Project is Exempt from CEQA

A Public Hearing to consider a request from Oleg Wigdorichik for a Planned Development Permit Modification to reduce the rear yard setback for a single family residence located at 676 Loomis Circle (Levy Acres Subdivision) from 14 feet to 7 feet 6 inches. The zoning classification for the site is R-4 PD, while the General Plan land-use designation is MHD. The project is exempt under CEQA Section 15301 (existing facilities). **(Project Planner: Principal Planner, Steve Banks / Applicant: Oleg Wigdorichik, 676 Loomis Circle)**

COMMISSIONER SCOTT MOVED TO APPROVE THE PLANNED DEVELOPMENT PERMIT MODIFICATION TO REDUCE THE REAR YARD SETBACK REQUIREMENT FOR LOT 15 WITHIN THE LEVY ROAD ESTATES SUBDIVISION AS ILLUSTRATED ON ATTACHMENT 3 FOR THE LEVY ROAD ESTATES SUBDIVISION PROJECT WITH THE FOLLOWING FINDINGS AND CONDITIONS: GENERAL FINDINGS A & B; CEQA FINDING C; PLANNED DEVELOPMENT PERMIT FINDINGS D – K; CONDITIONS OF APPROVAL 1 – 11.

COMMISSIONER EMBREE SECONDED THE MOTION WHICH CARRIED THE FOLLOWING VOTE:

AYES: SCOTT, ARNAZ, MARTELL, LANE, EMBREE, JACKSON
NOES: NONE
ABSTAIN: NONE
ABSENT: RAITHEL

2. PN 16-204, Maverick Wine Company, 6611 Folsom-Auburn Road, Suite C-1 – Conditional Use Permit and Determination that the Project is Exempt from CEQA

A Public Hearing to consider a request from Mark Caletges for a Conditional Use Permit to operate a wine store at 6611 Folsom-Auburn Road, Suite C-1. The zoning classification for the site is C-1 PD, while the General Plan land-use designation is CC. The project is exempt under CEQA Section 15301 (existing facilities). **(Project Planner: Principal Planner, Steve Banks / Applicant: Mark Caletges, 6611 Folsom-Auburn Rd., Ste. C-1)**

COMMISSIONER MARTELL MOVED TO APPROVE A CONDITIONAL USE PERMIT TO ALLOW THE MAVERICK WINE STORE TO OPERATE WITHIN A 1,000-SQUARE-FOOT RETAIL TENANT SPACE LOCATED AT 6611 FOLSOM-AUBURN ROAD, SUITE C-1, WITH THE FOLLOWING FINDINGS AND CONDITIONS: GENERAL FINDINGS A & B; CEQA FINDINGS C; CONDITIONAL USE PERMIT FINDINGS D; CONDITIONS OF APPROVAL 1 – 16.

COMMISSIONER SCOTT SECONDED THE MOTION WHICH CARRIED THE FOLLOWING VOTE:

AYES: EMBREE, LANE, JACKSON, SCOTT, MARTELL, ARNAZ
NOES: NONE
ABSTAIN: NONE
ABSENT: RAITHEL

REPORTS:

Planning Commission/Planning Manager Report:

None

RESPECTFULLY SUBMITTED,

Amanda Palmer, SECRETARY

APPROVED:

Ross Jackson, CHAIRMAN



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

PLANNING COMMISSION MINUTES
September 7, 2016
CITY COUNCIL CHAMBERS
6:30 P.M.
50 Natoma Street
Folsom, CA 95630

CALL TO ORDER PLANNING COMMISSION: Chair Ross Jackson; Vice Chair John Arnaz; Commissioners: Marci Embree, Jennifer Lane, Brian Martell, Thomas Scott, Justin Raithel

ABSENT: None

CITIZEN COMMUNICATION: None

MINUTES: None

NEW BUSINESS

1. **PN 16-025, Enclave at Folsom Ranch, Easton Valley Parkway – Tentative Parcel Map, Vesting Tentative Subdivision Map, Planned Development Permit, and Determination that the Project is Exempt from CEQA**

A Public Hearing to consider a request from Enclave at Folsom, LLC for approval of a Tentative Parcel Map, Vesting Tentative Subdivision Map, and Planned Development Permit for development of a 111-unit single-family residential subdivision on a 14.7-acre site located on Easton Valley Parkway (APN 072-3190-036). The Specific Plan designation is SP-GC and SP MLD and the General Plan is GC-MLD. An Exemption has been prepared for the project pursuant to California Environmental Quality Act Guidelines Sections 15063 and 15084. **(Project Planner: Principal Planner, Steve Banks / Applicant: Enclave at Folsom, LLC)**

Meeting adjourned to September 21, 2016, to be held at the Folsom City Council Chambers.

REPORTS:

Planning Commission/Planning Manager Report:

None

RESPECTFULLY SUBMITTED,

Amanda Palmer, SECRETARY

APPROVED:

Ross Jackson, CHAIRMAN



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

Transmittal Sheet

Date: September 16, 2016
To: Planning Commission
From: Scott A. Johnson, AICP
Subject: PN 16-025, Enclave at Folsom Ranch Subdivision

The item, **Enclave at Folsom Ranch Subdivision**, will be presented to the Planning Commission with the recommendation from City staff for continuation to the October 5, 2016 Planning Commission meeting.

Respectfully submitted:



Scott A. Johnson, AICP
Planning Manager

DATE: September 15, 2016

TO: Planning Commission

FROM: Folsom Police Department and the Community Development Department

SUBJECT: **ORDINANCE NO. _____ – AN ORDINANCE OF THE CITY OF FOLSOM AMENDING CHAPTER 17.114 OF THE FOLSOM MUNICIPAL CODE PERTAINING TO MARIJUANA CULTIVATION**

BACKGROUND/ISSUE

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA” or “Act”) will come before California voters as Proposition 64. If passed, the AUMA will legalize the nonmedical use of marijuana by persons 21 years of age and over, and the personal cultivation of up to six marijuana plants.

The purpose of this Ordinance is to amend Chapter 17.114 of the Folsom Municipal Code in order to continue prohibiting all marijuana cultivation in the City of Folsom in the event AUMA does not pass, and in the event AUMA does pass, to have already in place a set of reasonable regulations for indoor personal cultivation as authorized under AUMA.

To be clear, the portions of this Ordinance permitting and regulating indoor personal cultivation of marijuana will only go into effect if Proposition 64 passes; if it fails to pass, those portions of the Ordinance will automatically sunset and be of no force or effect.

POLICY/RULE

Under Section 17.68.040 of the FMC, amendments to Title 17 of the FMC require review by the Planning Commission and a recommendation to the City Council. Under Section 2.12 of the City Charter, amendments to the FMC require review and approval by the City Council.

ANALYSIS

The AUMA makes it legal for persons 21 years of age or older to, among other things, possess, plant, cultivate, harvest, dry, or process up to six living marijuana plants for personal use.

The AUMA provides that local governments can reasonably regulate, but cannot ban, personal indoor cultivation of up to six living marijuana plants within a person’s private residence. The AUMA protects the ability of local governments to ban outdoor cultivation operations. However, the AUMA purports to repeal any ordinance banning outdoor cultivation if the California Attorney General determines that non-medical use of marijuana is legal under federal law.

Under the current version of Chapter 17.114 of the Folsom Municipal Code, marijuana cultivation is prohibited in all zones and districts of the City, whether or not inside a residential dwelling. If the AUMA passes, it will preclude the City from banning personal indoor cultivation of up to six living marijuana plants.

Marijuana cultivation, whether indoor or outdoor, will remain prohibited in all zones and districts of the City of Folsom until and unless the AUMA passes at the November 8, 2016 statewide general election. If the AUMA passes, the cultivation of marijuana in the City of Folsom will be controlled and regulated by the proposed amendment to Chapter 17.114 of the Folsom Municipal Code. If the AUMA fails to pass, the provisions of the Ordinance allowing and regulating indoor cultivation will automatically sunset and will have no force or effect, and all marijuana cultivation will continue to be prohibited in all zones and districts in the City of Folsom.

If the AUMA passes, the proposed Ordinance would (as required by the AUMA) permit an authorized grower to cultivate no more than 6 marijuana plants, mature or immature, at any one time but only in a private residence, only indoors, and only for personal use. An “authorized grower” is “a person 21 years and older who is authorized by, and in compliance with, federal or state law to cultivate marijuana indoors for personal or medical use.” The authorized grower must reside full-time in the residence where the marijuana cultivation occurs and cannot participate in marijuana cultivation in any other location within the City.

The residence in which the marijuana cultivation occurs must include a fully functional and usable kitchen, bathroom, and bedroom areas to be used for their intended purpose by the resident authorized grower. The premises shall not be used primarily or exclusively for marijuana cultivation.

The current Chapter 17.114 prohibiting cultivation of marijuana in all zones and districts of the City was enacted by the City Council in January 2016 (Ordinance 1251) under the authority of AB 243 (Section 11362.777 of the Health and Safety Code). It replaced a previous version of Chapter 17.114, which was enacted by the City Council on January 10, 2012 to provide reasonable regulations for indoor marijuana cultivation under SB 420 (the Medical Marijuana Program Act) and Proposition 215 (the Compassionate Use Act). Using the same regulations from the 2012 version of Chapter 17.114, the proposed amendment to Chapter 17.114 would limit marijuana cultivation area to no more than fifty square feet or ten feet in height, and may not come within 12 inches of the ceiling or any lighting. Marijuana cultivation lighting must not exceed 1,200 watts in total. The use of gas products (such as CO₂, butane, methane, or any other gas) for marijuana cultivation or processing is prohibited. The marijuana cultivation area must be in compliance with the current California Building Code sections on natural or mechanical ventilation. Additionally, the Building Official may require additional specific standards to meet the California Building and Fire Code, including but not limited to the installation of fire suppression sprinklers.

Pursuant to the AUMA, cultivation in a greenhouse on the property of the residence but not physically part of the home is permitted, as long as the greenhouse is fully enclosed, secure, not visible from a public right-of-way, and meets all requirements of Chapter 17.114 of the FMC. Whether the cultivation occurs inside the residence or in a greenhouse, there shall be no exterior visibility or evidence of marijuana cultivation from the public right-of-way. Anyone wanting to cultivate marijuana indoors for personal use must first obtain a permit from the Building Department and pay the accompanying fee, and marijuana in excess of 28.5 grams produced by plants kept for indoor personal cultivation must be kept in a locked space on the grounds of the private residence not visible from the public right of way.

Outdoor cultivation and cultivation of marijuana for non-personal use remains prohibited under the proposed Ordinance, which is not intended to give any person unfettered legal authority to grow

marijuana. It is intended simply to impose zoning restrictions on the personal indoor cultivation of marijuana allowed by the AUMA.

According to the Folsom Police Department, the cultivation of marijuana brings with it a host of problems. The high demand and profitability of marijuana makes marijuana “grows” a target for theft. Home invasion robberies for the purpose of stealing marijuana are commonplace in the Sacramento region. Increased vehicular and foot traffic generate complaints and calls for service for law enforcement. Complaints of odor, water theft, electricity theft and hazardous waste further increase the work load of Code Enforcement Officers and utility companies. These problems hinder residents’ efforts to create and maintain a positive community for their neighborhoods.

For the foregoing reasons, both the Folsom Police Department and the Community Development Department recommend that the proposed Ordinance be recommended to the City Council for adoption.

ENVIRONMENTAL REVIEW

The Ordinance is categorically exempt under Section 15061(b)(3) (Review for Exemption) of the California Environmental Quality Act (CEQA) Guidelines.

ATTACHMENT

1. Ordinance No. _____ – AN ORDINANCE OF THE CITY OF FOLSOM AMENDING CHAPTER 17.114 OF THE FOLSOM MUNICIPAL CODE PERTAINING TO MARIJUANA CULTIVATION

RECOMMENDATION/PLANNING COMMISSION ACTION

MOVE TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF ORDINANCE NO. _____ -AN ORDINANCE OF THE CITY OF FOLSOM AMENDING CHAPTER 17.114 OF THE FOLSOM MUNICIPAL CODE PERTAINING TO MARIJUANA CULTIVATION, PER ATTACHMENT 1, WITH THE FOLLOWING FINDINGS:

GENERAL FINDINGS


- A. NOTICE OF HEARING HAS BEEN GIVEN IN THE MANNER REQUIRED BY STATE LAW AND CITY CODE.
- B. THE ORDINANCE IS CONSISTENT WITH THE GENERAL PLAN AND ZONING CODE OF THE CITY.

CEQA FINDING

- C. THE ORDINANCE IS CATEGORICALLY EXEMPT UNDER SECTION 15061(B)(3) (REVIEW FOR EXEMPTION) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.

Respectfully Submitted,


CYNTHIA RENAUD, Chief
Folsom Police Department


DAVID MILLER, Director
Community Development Department

ATTACHMENT NO. 1

An Ordinance of the City of Folsom Amending Chapter 17.114
of the Folsom Municipal Code Pertaining to Marijuana
Cultivation

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF FOLSOM
AMENDING CHAPTER 17.114 OF THE FOLSOM MUNICIPAL CODE
PERTAINING TO MARIJUANA CULTIVATION**

The City Council of the City of Folsom hereby does ordain as follows:

SECTION 1 PURPOSE

In light of Proposition 64 (also known as the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”)) on the November 8, 2016 statewide general election, the purpose of this Ordinance is to amend Chapter 17.114 of the Folsom Municipal Code in order to regulate personal indoor cultivation of marijuana in the City of Folsom, but only in the event said Proposition passes at said general election.

SECTION 2 AMENDMENT TO CODE

Chapter 17.114, “Marijuana Cultivation,” of the Folsom Municipal Code is hereby amended in its entirety to read as follows:

Chapter 17.114

MARIJUANA CULTIVATION

- 17.114.010 Purpose and intent.**
 - 17.114.020 Definitions.**
 - 17.114.030 Outdoor Cultivation.**
 - 17.114.040 Cultivation of marijuana; regulations for residential zones.**
 - 17.114.050 Indoor cultivation restricted to authorized growers.**
 - 17.114.060 Public nuisance prohibited.**
 - 17.114.070 Penalties not exclusive; violation a crime.**
 - 17.114.080 Sunset clause.**
-
- 17.114.010 Purpose and intent.**

The City Council finds as follows:

A. Purpose. The purpose and intent of this Chapter is to regulate the cultivation of marijuana in a manner that protects the health, safety and welfare of the community consistent with Proposition 64, also known as the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”). This Chapter is not intended to interfere with a patient’s right to medical marijuana, as provided for in California Health & Safety Code Section 11362.5, nor does it criminalize medical marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law. This Chapter is not

intended to give any person unfettered legal authority to grow marijuana; it is intended simply to impose zoning restrictions on the personal indoor cultivation of marijuana permitted under AUMA when it is authorized by California state law for medical or other lawful purposes under the state law.

B. **Applicability.** As authorized by AB 243 (Section 11362.777 of the Health and Safety Code), marijuana cultivation as defined in Section 17.114.020, whether indoor or outdoor, remains prohibited in all zones and districts of the City of Folsom until and unless AUMA is passed at the November 8, 2016 statewide general election. Upon the passage of AUMA at said election, the cultivation of marijuana in the City shall be controlled and regulated by the provisions of this Chapter of the Zoning Code.

C. **Non-conflicting enactment.** No part of this Chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation.

17.114.020 Definitions.

As used herein the following definitions shall apply:

A. “Authorized Grower” means a person 21 years and older who is authorized by, and in compliance with, federal or state law to cultivate marijuana indoors for personal or medical use.

B. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of marijuana plants or any part thereof.

C. “Fully enclosed and secure structure” means a fully-enclosed space within a building that complies with the California Building Code (“CBSC”), as adopted in the City of Folsom, or if exempt from the permit requirements of the CBSC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the City of Folsom.

D. “Immature marijuana plant” means a marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

E. "Indoors" means within a fully enclosed and secure structure as that structure is defined above in subsection C.

F. "Mature marijuana plant" means a marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

G. "Outdoor" means any location within the City of Folsom that is not within a fully enclosed and secure structure.

H. "Parcel" means property assigned a separate parcel number by the Sacramento County assessor.

I. "Private residence" means a house, apartment unit, mobile home, or other similar dwelling unit.

17.114.030 Outdoor cultivation.

It is hereby declared to be unlawful, a public nuisance, and a violation of this Chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the City to cause or allow such premises to be used for the outdoor cultivation of marijuana plants.

17.114.040 Cultivation of marijuana for personal use; regulations for residential zones.

A. When authorized by state law, an authorized grower shall be allowed to cultivate marijuana only in a private residence in a residential zone, only indoors, and only for personal use, subject to the following regulations:

1. The marijuana cultivation area shall be located indoors within a residential structure and shall not exceed fifty square feet and not exceed ten feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting. Cultivation in a greenhouse on the property of the residence but not physically part of the home is permitted, as long as it is fully enclosed, secure, not visible from a public right-of-way and meeting all requirements in this Chapter.

2. Marijuana cultivation lighting shall not exceed one thousand two hundred watts in total for the total cultivation area within the residence.

3. The use of gas products such as but not limited to CO₂, butane, methane, or any other flammable or non-flammable gas for marijuana cultivation or processing is prohibited.

4. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence from the public right-of-way, including but not limited to

any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.

5. The authorized grower shall reside full-time in the residence where the marijuana cultivation occurs.

6. The authorized grower shall not participate in marijuana cultivation in any other location within the City.

7. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for marijuana cultivation.

8. The marijuana cultivation area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.

9. The building official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

10. The marijuana cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

11. No more than 6 marijuana plants, mature or immature, are permitted for indoor personal cultivation under this Chapter.

12. Marijuana in excess of 28.5 grams produced by plants kept for indoor personal cultivation under this Chapter must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.

B. Outdoor cultivation of marijuana and cultivation of marijuana for non-personal uses are expressly prohibited in all zones and districts of the City of Folsom.

17.114.050 Indoor cultivation of marijuana restricted to authorized growers.

A. It is hereby declared to be unlawful, a public nuisance and a violation of this Chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the City to cause or allow such parcel to be used for the cultivation of marijuana, unless the person is authorized by state law to grow marijuana for a specifically authorized purpose within a private residence in a residential zone, and such authorized grower is complying with all requirements of this Chapter.

B. No person shall grow marijuana upon any parcel until and unless they first secure a permit from the building department and pay such fee as may be required and set forth by resolution of the City Council.

17.114.060 Public nuisance prohibited.

It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the City to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces:

A. Odors which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public.

B. Repeated responses to the parcel by law enforcement personnel.

C. A repeated disruption to the free passage of persons or vehicles in the neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public.

D. Any other impacts on the neighborhood which are disruptive of normal activity in the area including, but not limited to, grow lighting visible outside the dwelling, excessive vehicular traffic or parking occurring at or near the dwelling, and excessive noise emanating from the dwelling.

E. Outdoor growing and cultivation of marijuana.

17.114.070 Penalties not exclusive; violation constitutes a crime.

The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any other criminal, civil, or administrative remedy or penalty authorized by, or set forth in, the Folsom Municipal Code. None of the penalties or remedies authorized by, or set forth in, the Folsom Municipal Code shall prevent the City from using any other penalty or remedy under state statute which may be available to enforce this section or to abate a public nuisance. Violation of this Chapter shall constitute a crime punishable as a misdemeanor or infraction in the discretion of the City Attorney.

17.114.080 Sunset clause.

A. Sections 17.114.030, 17.114.040, 17.114.050, and 17.114.060 of this Chapter shall automatically sunset and have no force of effect in the event AUMA fails to pass at the November 8, 2016 statewide general election.

B. In the event AUMA fails to pass at the November 8, 2016 statewide general election, marijuana cultivation as defined in Section 17.114.020, whether indoors or outdoor, shall be prohibited in all zones and districts of the City of Folsom, as authorized by AB 243 (Section 11362.777 of the Health and Safety Code).

SECTION 3 SCOPE

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

SECTION 4 SEVERABILITY

If any section, subsection, 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, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5 EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This Ordinance was introduced and the title thereof read at the regular meeting of the City Council on _____, 2016, and the second reading occurred at the regular meeting of the City Council on _____, 2016.

On a motion by Council Member _____, seconded by Council Member _____, the foregoing Ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this ____ day of _____, 2016 by the following vote, to wit:

AYES: Council Member(s)

NOES: Council Member(s)

ABSENT: Council Member(s)

ABSTAIN: Council Member(s)

Stephen E. Miklos, MAYOR

ATTEST:

Christa Saunders, CITY CLERK

DATE: September 15, 2016
TO: Planning Commission
FROM: Folsom Police Department and Folsom Community Development Department
SUBJECT: **ORDINANCE NO. ____ - AN ORDINANCE OF THE CITY OF FOLSOM
ADDING CHAPTER 17.113 TO THE FOLSOM MUNICIPAL CODE
PERTAINING TO COMMERCIAL NON-MEDICAL MARIJUANA USE**

BACKGROUND / ISSUE

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA” or “Act”) will come before California voters as Proposition 64. If passed, the AUMA will legalize the nonmedical use of marijuana by persons 21 years of age and over, and the personal cultivation of up to six marijuana plants. In addition, the AUMA will create a state regulatory and licensing system governing the commercial cultivation, testing, and distribution of nonmedical marijuana, and the manufacturing of nonmedical marijuana products. The AUMA preserves the authority of a city to adopt business and land use regulations for nonmedical marijuana activities.

The purpose of this Ordinance is to add Chapter 17.113 to the Folsom Municipal Code in order to prohibit commercial non-medical marijuana uses in all zones and districts of the City of Folsom. This Ordinance will go into effect whether Proposition 64 passes or not.

POLICY / RULE

Under Section 17.68.040 of the Folsom Municipal Code, amendments to Title 17 (Zoning), require review by the Planning Commission and a recommendation to City Council. Pursuant to Section 2.12 of the City Charter, amendments to the Folsom Municipal Code require City Council review and approval.

ANALYSIS

If Proposition 64 passes, California will have a comprehensive state regulatory system for nonmedical marijuana that governs the industry from “seed to sale.” Under this regulatory system, all nonmedical marijuana businesses must have a state license. A state license cannot be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation. The AUMA allows a nonmedical marijuana business licensed by the state to operate within city limits unless the city’s municipal code prohibits the use.

The AUMA does not limit the authority of a local jurisdiction to adopt and enforce local ordinances completely prohibiting state-licensed marijuana businesses.

The proposed Ordinance prohibits all commercial non-medical marijuana land uses in all zones and districts of the City of Folsom and is intended simply to impose zoning restrictions on the use of real property in the City for commercial non-medical marijuana purposes.

Under the Ordinance, “commercial non-medical marijuana uses” means “any commercial or business enterprise, whether for-profit or non-profit, engaged in, for example, the sale, use, storage, transport, distribution, delivery, testing, grading, marketing, processing, manufacturing or packaging of non-medical marijuana and related products containing marijuana.”

“Marijuana” shall have the meaning as provided in California Health and Safety Code Section 11018, which provides that “‘Marijuana’ means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.” (Cal. Health & Safety Code § 11018.)

“Medical marijuana” means marijuana for medical purposes upon the recommendation of a physician under the Compassionate Use Act of 1996.

According to the Folsom Police Department, business and commercial enterprises associated with marijuana have traditionally been an attraction for criminal activities. The high demand, cash flow and profitability of marijuana often makes commercial marijuana stores, shops and dispensaries a target for robbery and burglary, in addition to other crimes against persons and property. In an effort to protect their products, cash on the premises, and profits, owners and operators of marijuana businesses frequently arm themselves with weapons with or without regard to the surrounding businesses and neighborhoods. Given the challenges posed by commercial marijuana business enterprises to public safety, both the Folsom Police Department and the Community Development Department recommend that the proposed Ordinance prohibiting commercial non-medical marijuana uses in all zones and districts in the City be recommended to the City Council for adoption.

ENVIRONMENTAL REVIEW

The Ordinance is categorically exempt under Section 15061(B)(3) (Review for Exemption) of the CEQA Guidelines.

ATTACHMENTS

1. An Ordinance of the City of Folsom Adding Chapter 17.113 to the Folsom Municipal Code Pertaining to Commercial Non-Medical Marijuana Use

RECOMMENDATION / PLANNING COMMISSION ACTION

MOVE TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF ORDINANCE NO. _____ -AN ORDINANCE OF THE CITY OF FOLSOM ADDING CHAPTER 17.113 TO THE FOLSOM MUNICIPAL CODE PERTAINING TO COMMERCIAL NON-MEDICAL MARIJUANA USE, PER ATTACHMENT 1, WITH THE FOLLOWING FINDINGS:


GENERAL FINDINGS:

- A. NOTICE OF HEARING HAS BEEN GIVEN IN THE MANNER REQUIRED BY STATE LAW AND CITY CODE.
- B. THE ORDINANCE IS CONSISTENT WITH THE GENERAL PLAN AND ZONING CODE OF THE CITY.


CEQA FINDING:

- C. THE ORDINANCE IS CATEGORICALLY EXEMPT UNDER SECTION 15061(B)(3) (REVIEW FOR EXEMPTION) OF THE CEQA GUIDELINES.

Respectfully submitted,



CYNTHIA RENAUD, Chief
Folsom Police Department



DAVID MILLER, Director
Community Development Department

ATTACHMENT NO. 1

An Ordinance of the City of Folsom Adding Chapter 17.113 to
the Folsom Municipal Code Pertaining to
Commercial Non-Medical Marijuana Use

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF FOLSOM
ADDING CHAPTER 17.113 TO THE FOLSOM MUNICIPAL CODE
PERTAINING TO COMMERCIAL NON-MEDICAL MARIJUANA USE**

The City Council of the City of Folsom hereby does ordain as follows:

SECTION 1 PURPOSE

The purpose of this Ordinance is to add Chapter 17.113 to the Folsom Municipal Code in order to prohibit commercial non-medical marijuana uses in all zones and districts of the City of Folsom.

SECTION 2 ADDITION TO CODE

Chapter 17.113, “Commercial Non-Medical Marijuana Use” is hereby added to the Folsom Municipal Code as follows:

Chapter 17.113

COMMERCIAL NON-MEDICAL MARIJUANA USE

Sections:

- 17.113.010 Purpose and intent.**
- 17.113.020 Definitions.**
- 17.113.030 Prohibition.**

17.113.010 Purpose and intent.

The City Council finds and declares that the purpose and intent of this Chapter is to prohibit all commercial non-medical marijuana land uses in the City’s Zoning Code in order to protect the health, safety and welfare of the community. This Chapter is not intended to interfere with a patient’s right to medical marijuana, as provided for in California Health & Safety Code Section 11362, nor does it criminalize medical marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law. This Chapter is to expressly prohibit the use of property in all zones and districts of the City of Folsom for purpose of engaging in commercial non-medical marijuana activities such as, for example, the sale, use, storage, transport, distribution, delivery, testing, grading, marketing, processing, manufacturing or packaging of non-medical marijuana and related products containing marijuana. This Chapter is intended simply to impose zoning restrictions on the use real property in the City for commercial non-medical marijuana purposes.

17.113.020 Definitions.

A. "Commercial non-medical marijuana uses" means any commercial or business enterprise, whether for-profit or non-profit, engaged in, for example, the sale, use, storage, transport, distribution, delivery, testing, grading, marketing, processing, manufacturing or packaging of non-medical marijuana and related products containing marijuana.

B. "Marijuana" shall have the meaning as provided in California Health and Safety Code Section 11018.

C. "Medical marijuana" means marijuana for medical purposes upon the recommendation of a physician under the Compassionate Use Act of 1996.

17.113.030 Prohibition.

Commercial non-medical marijuana uses as defined in Section 17.113.020(A) is prohibited in all zones and districts of the City of Folsom.

SECTION 3 SCOPE

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

SECTION 4 SEVERABILITY

If any section, subsection, 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, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5 EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This Ordinance was introduced and the title thereof read at the regular meeting of the City Council on _____, 2016, and the second reading occurred at the regular meeting of the City Council on _____, 2016.

On a motion by Council Member _____, seconded by Council Member _____, the foregoing Ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this ____ day of _____, 2016 by the following vote, to wit:

AYES: Council Member(s)

NOES: Council Member(s)

ABSENT: Council Member(s)

ABSTAIN: Council Member(s)

Stephen E. Miklos, MAYOR

ATTEST:

Christa Saunders, CITY CLERK