

# AGENDA ITEM SUMMARY

February 7, 2017

City Council

## ITEM WITHDRAWN FROM AGENDA

### STAFF

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Talisa Gula-Yeast, Licensing Coordinator  
Ginny Sawyer, Policy and Project Manager

### SUBJECT

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Items Relating to the Submission of a City-Initiated Ordinance Relating to Medical Marijuana Businesses to a Vote of the Registered Electors of the City at the April 4, 2017, Regular Municipal Election.

### EXECUTIVE SUMMARY

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- A. Possible Public Hearing and Motions Regarding Protest(s) of Ballot Language.
- B. Resolution 2017-016 Submitting a City-Initiated Ordinance Dealing with Medical Marijuana Businesses to a Vote of the Registered Electors of the City at the Municipal Election to be Held on April 4, 2017.

The purpose of this item is to submit a City-Initiated Ordinance to the registered electors of the City at the April 4, 2017 municipal election. The proposed Ordinance amends Section 15-491 (a) and (b) of Article XVI of the City Code to allow Council to change or add any provisions in Chapter 15, Article XVI to be consistent with state laws, rules and regulations relating to medical marijuana.

Any protest of the proposed ballot language must be received no later than Monday, February 6, at noon. The protest(s) shall be heard, considered, and resolved by Council prior to adoption of Resolution 2017-016. If protest(s) are received, copies will be included in Council's "Read-before" packet.

### STAFF RECOMMENDATION

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Staff recommends adoption of the Resolution.

### BACKGROUND / DISCUSSION

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Chapter 15, Article XVI of the City Code regulating medical marijuana businesses is the result of a citizen-initiated ordinance approved by the voters in November 2012. As such, the provisions contained therein can only be amended by the voters. However, since that time, state laws concerning medical marijuana businesses have changed considerably, and will continue to do so for some time. In order to address changes in the state law and to make new types of licenses available in Fort Collins, the voters would have to vote repeatedly on issues relating to medical marijuana. To facilitate updates to the City Code to reflect the most current laws, staff is proposing submitting a question to the voters that would allow Council to change or add provisions in Chapter 15, Article XVI of the City Code to be consistent with applicable state laws, rules and regulations without going to the voters each time.

Some of the changes in state law that should be or are desirable to be added to the City Code include, by way of example, changes in types of ownership structures, medical marijuana testing facilities, transporter licenses, and off-premise storage facilities.

**PUBLIC OUTREACH**

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Staff met with representatives of the local marijuana business industry to discuss the limitation of a voter approved initiative, and to discuss staff's desire to make it easier to amend the Code for consistency with State law.

Original drafters of the citizen-initiated ordinance support updating the Code to be consistent and wanted to ensure that the referred ballot would not allow Code changes beyond the scope of remaining consistent with state law. The proposed amendment to be put to the voters addresses both the needs of the City while protecting the original intent of the citizen-initiated ordinance.

Staff does not anticipate any impact to the general public and staff informed TEAM Fort Collins of the initiative and impacts. They did not have any concerns.

**ATTACHMENTS**

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1. Powerpoint presentation (PDF)



**City Council Meeting  
February 7, 2017**

**Medical Marijuana Ballot Referral**

- § November 2010 - March 2011- temporary ban
- § March 2012 - licensing mechanism in place
- § October 2011 - 20 licensed medical marijuana centers
- § November 2011 - citizen initiated measure banning all marijuana businesses passes
- § February 14, 2012 - all businesses shuttered
- § November 2012 - citizen initiated measure (#301) allowing medical marijuana businesses passed

- § Because #301 was citizen initiated, no changes may be made without a vote of the people
  
- § State continues to update medical marijuana regulations and we are unable to reflect these changes in our code
  
- § Measure would only allow changes to reflect state changes

Examples of updates include additions of:

- § Types of ownership structures
- § Medical marijuana testing facilities
- § Transporter licenses
- § Off-premise storage facilities

### **Sec. 15-491. - Administrative regulations; action by City Council.**

- (a) The City Manager is authorized to promulgate such rules and regulations as are necessary to effectuate the implementation, administration and enforcement of this Article.
- (b) The City Council shall be permitted to lessen any restriction contained in this Article.
- (c) **The City Council shall be permitted to adopt additional provisions in this Article or change any provision in this Article in order to conform this Article to applicable state laws, rules and regulations.**

Shall the proposed Ordinance amending Section 15-491 of the Code of the City of Fort Collins be adopted, so as to allow the City Council to adopt additional provisions in or change any provision in Chapter 15, Article XVI of the City Code pertaining to Medical Marijuana Businesses in order to be consistent with applicable state laws, rules and regulations?

RESOLUTION 2017-016  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
SUBMITTING A CITY-INITIATED ORDINANCE DEALING WITH MEDICAL  
MARIJUANA BUSINESSES TO A VOTE OF THE REGISTERED ELECTORS OF THE  
CITY AT THE REGULAR MUNICIPAL ELECTION TO BE HELD ON APRIL 4, 2017

WHEREAS, on November 6, 2012, the registered electors of the City approved a citizen-initiated measure that became Chapter 15, Article XVI, of the City Code which strictly regulates, controls and permits a limited number of State-authorized medical marijuana businesses within the City of Fort Collins; and

WHEREAS, pursuant to City Charter, Article X, Section 4, a citizen-initiated measure submitted to the registered electors of the City by the City Council, and adopted by electoral vote, cannot be repealed or amended except by a subsequent electoral vote; and

WHEREAS, Section 15-491 (b) of the City Code authorizes the City Council to lessen any restriction in the provisions related to medical marijuana, but does not specifically allow for modifications to the provisions to conform to new or additional state law provisions; and

WHEREAS, the state marijuana laws, rules and regulations are ever-evolving; and

WHEREAS, staff has recommended that Council submit a city-initiated ordinance to the registered electors to add a new subsection to Chapter 15, Article XVI, Section 15-491 to permit the City Council to make changes or additions to the City Code consistent with the state laws, rules and regulations; and

WHEREAS, Article X, Section 6 of the City Charter requires that the Council conduct a public hearing and adopt a resolution in order to set a ballot title and submission clause for an initiative or referendum measure; and

WHEREAS, the ballot title for the measure must identify the measure as either a city-initiated or citizen-initiated measure; and

WHEREAS, the submission clause must be brief, must not conflict with those selected for any petition previously filed for the same election and must unambiguously state the principle of the provision sought to be added.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby submitted to the registered electors of the City at the regular municipal election to be held on Tuesday, April 4, 2017, the following proposed City-initiated ordinance:

ORDINANCE NO. 026, 2017  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ADOPTING A NEW SUBSECTION TO CHAPTER 15, ARTICLE XVI, SECTION 15-491, OF THE CODE OF THE CITY OF FORT COLLINS PERMITTING THE CITY COUNCIL TO MAKE CHANGES OR ADDITIONS TO ARTICLE XVI OF CHAPTER 15 OF THE CITY CODE CONSISTENT WITH THE COLORADO MEDICAL MARIJUANA CODE, RULES AND REGULATIONS

WHEREAS, the State of Colorado's medical marijuana laws, rules and regulations are ever-evolving; and

WHEREAS, it is the intent and desire of the citizens of the City of Fort Collins, in an effort to keep up with the ever-evolving state medical marijuana laws, rules and regulations, that a new Subsection (c) be added to Chapter 15, Article XVI, Section 15-491 of the City Code that would permit the City Council of the City of Fort Collins to make changes or additions to Article XVI consistent with the state laws, rules and regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT COLLINS, COLORADO, that a new Subsection (c) is added to Section 15-491 of Article XVI of the Code of the City of Fort Collins which reads in its entirety as follows:

- (a) The City Manager is authorized to promulgate such rules and regulations as are necessary to effectuate the implementation, administration and enforcement of this Article.
- (b) The City Council shall be permitted to lessen any restriction contained in this Article.
- (c) The City Council shall be permitted to adopt additional provisions in this Article or change any provision in this Article in order to conform this Article to applicable state laws, rules and regulations.

Section 3. That the foregoing proposed City-initiated ordinance is hereby submitted to the registered electors of the City at said municipal election to be held on April 4, 2017, in substantially the following form:

CITY-INITIATED PROPOSED ORDINANCE

Shall the proposed Ordinance amending Section 15-491 of the Code of the City of Fort Collins be adopted, so as to allow the City Council to adopt additional provisions in or change any provision in Chapter 15, Article XVI of the City Code pertaining to Medical Marijuana Businesses in order to be consistent with applicable state laws, rules and regulations?

\_\_\_\_\_ YES/FOR  
\_\_\_\_\_ NO/AGAINST

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 7th day of February, A.D. 2017.

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Mayor

ATTEST:

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City Clerk