

7/16/18

item 5

City of Santa Clara Cannabis Business Tax Ballot Measure

Item # 5

July 16, 2018



Background

- November 2016 – Prop 64 Passed
- 2017 thru January 2018 – State regulations developed and State licensing began
- January 2018 - Council Goal Setting Meeting - discussed the fiscal outlook of the City. Requested revenue options for further Council discussion
- February – Community Outreach process began on possible Santa Clara commercial cannabis



POST MEETING MATERIAL

Background

- May 29, 2018 - Council directed staff to analyze two revenue options, Cannabis Tax and Infrastructure Bond Measure, for the 2018 November Ballot
- July 5, 2018 – Results of polling suggested Cannabis Business Tax viable. Directed staff to bring back a measure to Council for consideration

Local Cannabis Policy

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 - Health & Safety Regulations (August and September)

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 - **Fiscal:**
 - **Regulatory Fees**
 - **Taxes**

Local Cannabis Policy

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 - Health & Safety Regulations (August and September)
 - Land Use Regulations (August and September)
 - Fiscal:
 - Regulatory Fees
 - Taxes

Regulatory Fee vs. Tax

- Regulatory fees may be charged to businesses seeking a license to operate in the City.
- The calculation of fee includes full cost recovery of all City staffing costs associated with the licensing activity. The fee cannot include costs associated with general deterrence or enforcement activity for activities not directly associated with the license.
- Recommendation to Council - September/October.

Regulatory Fee vs. Tax

- Taxes may be used for specific or general purposes
- Direction to staff: seek revenue opportunities to improve the fiscal health of the City
- Proposed ballot measure would be a general tax on commercial cannabis activity - unrestricted revenue for General Fund.

Establishment of New Taxing Regulations

- California Constitution Article XIIIIC, Section 2: No local government may increase any general tax unless submitted to the electorate and approved.
- A general tax measure must be considered at a general election and requires a 50%+1 majority vote to pass.

Cannabis Business Tax

- Only cannabis businesses would be required to pay tax to City
- Appropriate tax rates: Revenue maximization vs. black market suppression & possible market competition from nearby municipalities
- The economic impact on the industry and overall business climate
- Methodology commonly based on either gross receipts (i.e., revenue) and/or square footage

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Cannabis Business Tax

- Maximum limit:
 - Up to 10% of gross receipts
 - Up to \$25 per square foot of canopy for cultivation



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Cannabis Business Tax

- Initial Rates:

Business	Rate
Retail	5% of gross receipts
Manufacturing	5%
Cultivation	Greater of 5% or \$6/psf
Distribution	3%
Nurseries	3%
Testing	3%
Transportation	3%



Other Elements of Business Tax

- Collected by Finance Department on quarterly basis
- Subject to audit
- Data collection and review by staff on progress/trends with reports to Council
- Fee may be modified by adoption of a Resolution by Council no more frequently than on an annual basis
- Provides for flexibility for Council to adopt policies that ensure a sustainable approach to management of cannabis businesses



Taxing Regulations Statewide

- In November 2016, there were more than 35 local measures on the ballot throughout the State of California relating to a cannabis tax.
- Nearly all were passed by the voters.
- Examples of cities with a Cannabis Tax:
 - Campbell - Initial rate of 7% and max rate of 15%
 - Oakland - 5% of gross receipts
 - San Jose - 10% of gross receipts
 - Hayward - 6% of gross receipts
 - Richmond - 5% of gross receipts
 - Sacramento - 4% of gross receipts
 - Pasadena - 6% on retail; 4% on other cannabis businesses; up to \$10 per canopy square foot for cultivation (adjustable for inflation)



Ballot Measure



Submission of Measure

- Ballot measures must be forwarded to the Registrar of Voters 88 days prior to the November 6, 2018 election for placement on the ballot.
- The deadline is **August 10, 2018**.



Proposed Ballot Question

City of Santa Clara Commercial Cannabis Activity Measure To maintain fiscal stability/essential city services, including rapid 911 emergency response times; preventing cuts to police officers/firefighters; repairing streets/potholes; maintaining library/youth/senior services, shall an ordinance be adopted establishing a tax on commercial cannabis up to 10% of gross receipts and up to \$25 per square foot for cultivation, generating approximately \$2,200,000 annually until ended by voters, with annual independent audits, and all funds used locally?	YES
	NO



Other Actions - Arguments

- Appointment of Committee authorized to prepare Arguments
- Argument In Favor (maximum 300 words)
Due to City Clerk: noon on August 14
- Rebuttal to Argument Against (maximum 250 words)
Due to City Clerk: noon on August 21

Impartial Analysis

- Elections Code Section 9280
- City Council may direct City Attorney to prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure.
- Limit 500 words
- Due to City Clerk - noon on August 21, 2018.

Resolutions

- Calling a Special Municipal Election
- Request consolidation of Special Municipal Election with General Election
- Submitting a ballot measure for voter consideration

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Other Items - Submittal

- Recitals of Resolution sets out the purpose/intent of the tax measure and the rationale for the imposition of taxes
- Full text of the proposed Cannabis Business Tax Ordinance is attached to the Resolution
- Full text of proposed Cannabis Business Tax Ordinance will not be printed by ROV but will be available on City's website and at no cost by request to the City Clerk

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Cost

- Registrar of Voters (ROV) has provided cities with an estimated cost of \$366,605 for General Municipal election and one ballot measure
- ROV as estimated that each additional ballot measure to be \$90,800
- City Clerk has included estimated cost associated with General Election and two ballot measures in FY2018/19 Operating Budget

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Summary of Recommended Actions

- Adopt Resolutions
 - Calling a Special Municipal Election
 - Request consolidation
 - Submitting a ballot measure
- Author Arguments
- Impartial Analysis

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Recommendation #1

- Adopt Resolution calling for a Special Municipal Election on November 6, 2018 for a vote on a ballot measure entitled City of Santa Clara Commercial Cannabis Activity Measure which would amend Title 3 “Revenue and Finance” of the Code of the City of Santa Clara adding a new Chapter 3.60 entitled “Cannabis Business Tax”

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Recommendation #2

- Adopt Resolution requesting the consolidation of a Special Municipal Election with the Statewide General Election to be held on November 6, 2018 for the purpose of submitting a ballot measure entitled City of Santa Clara Commercial Cannabis Activity Measure related Cannabis Business Tax

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Recommendation #3

- Adopt Resolution ordering the submission of a ballot measure entitled City of Santa Clara Commercial Cannabis Activity Measure to qualified electors of the City related to Cannabis Business Tax

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Recommendation #4

- Authorize three members of the Council to author and submit an Argument in Favor of the ballot measure, and if necessary, a Rebuttal to an Argument Against the ballot measure

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Recommendation #5

- Direct the City Attorney to prepare an Impartial Analysis for submission to the City Clerk

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**City of
Santa Clara**

**Cannabis Business Tax
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