



Agenda Report

18-232

Agenda Date: 11/13/2018

REPORT TO COUNCIL

SUBJECT

Action on an Ordinance Extending the Temporary Ban of All Commercial Cannabis Activity until June 30, 2019

BACKGROUND

The passage of Proposition 64, the Adult Use of Marijuana Act (AUMA), on November 8, 2016, legalized personal recreational use by persons 21 and over, and regulated commercial activities related to cannabis. Subsequently, the State legislature passed Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), unifying regulations on medical and non-medical commercial cannabis activities and the personal use of cannabis.

As of January 2018, California State ("State") licensing of commercial activity, depending on license type, is overseen by the Bureau of Cannabis Control, the Department of Public Health, and the Department of Food and Agriculture. State regulations allow for six general license types for commercial cannabis businesses: retail (including delivery); cultivation; manufacturing; transportation; distribution; and testing. Prior to the issuance of a State license, the State requires, among other items, a local license if local regulations have been enacted.

On November 21, 2017, Council adopted Ordinance No. 1973, which amended Chapter 18.06 ("Definitions") and Chapter 18.102 ("Medical Marijuana Dispensaries") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California" to temporarily prohibit all commercial cannabis activity until January 1, 2019 and to impose reasonable restrictions on marijuana growth for personal use. On December 19, 2017, Council approved a contract with SCI Consulting Group ("SCI") to assist the City with the development of commercial cannabis regulations.

As a potential revenue enhancement vehicle, the City Council directed staff to prepare a ballot measure for November 2018 that would allow the City to collect taxes on commercial cannabis activity. On July 16, 2018, Council adopted Resolutions No. 18-8569 and 18-8570 to call a Special Election to submit a Cannabis Business Tax ballot measure ("Measure M") to the voters of Santa Clara. If approved by the voters, Measure M would amend Title 3 ("Revenue and Finance") of the Municipal Code to add a Chapter 3.60 entitled "Cannabis Business Tax," and among other items, set the maximum tax rates for commercial cannabis activity. On November 6, Santa Clara voters will decide whether to levy a cannabis business tax.

DISCUSSION

The proposed amendment to Section 18.102.010 ("Commercial Marijuana Activity Prohibited") of Chapter 18.102 ("Regulation of Marijuana") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California" will extend the temporary ban of all commercial cannabis activity to June 30, 2019. Pending the outcome of Measure M, this extension of the temporary ban will afford the City time to

develop and bring forward the remaining ordinances and resolutions regulating commercial cannabis businesses in Santa Clara or bring forward a permanent ban on commercial cannabis activity.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There are no costs other than administrative staff time and expenses. If Measure M passes, there may be a loss of potential tax revenue from January 1, 2019 through the time a regulatory framework is brought forward to Council for consideration, becomes effective, and commercial activity is operational.

COORDINATION

This report has been coordinated with the City Attorney’s Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

ALTERNATIVES

1. Approve the introduction of an Ordinance amending Section 18.102.010 (“Commercial Marijuana Activity Prohibited”) of Chapter 18.102 (“Regulation of Marijuana”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” to temporarily prohibit all commercial cannabis activity until June 30, 2019;
2. Do not approve the introduction of an Ordinance amending Section 18.102.010 (“Commercial Marijuana Activity Prohibited”) of Chapter 18.102 (“Regulation of Marijuana”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” to temporarily prohibit all commercial cannabis activity until June 30, 2019; or
3. Any other Council direction.

RECOMMENDATION

Alternative 1: Approve the introduction of an Ordinance amending Section 18.102.010 (“Commercial Marijuana Activity Prohibited”) of Chapter 18.102 (“Regulation of Marijuana”) of Title 18 (“Zoning”) of “The Code of the City of Santa Clara, California” to temporarily prohibit all commercial cannabis activity until June 30, 2019.

Reviewed by: Ruth Shikada, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Ordinance