



Agenda Report

20-353

Agenda Date: 4/8/2020

REPORT TO PLANNING COMMISSION

SUBJECT

Action on an Amendment to Zoning Code Chapter 18.102 - Regulation of Marijuana (Cannabis)

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.

Prior to January 2018 the California State Bureau of Cannabis Control ("State") adopted regulations allowing for six general license types for commercial cannabis businesses: retail (including delivery); cultivation; manufacturing; transportation; distribution; and testing. For issuance of a State license the State requires, among other items, a local license if local regulations have been enacted. If there are no local regulations in place, the State may issue a license based on State regulations.

To address this possibility, on November 21, 2017, the City Council adopted an Ordinance which temporarily prohibited all commercial cannabis activity until January 1, 2019 and imposed reasonable restrictions on marijuana growth for personal use. (The terms marijuana and cannabis are identified as interchangeable in the Municipal Code.) This Ordinance was further amended on November 27, 2018 and May 21, 2019 to extend the temporary ban of all commercial cannabis activity until June 30, 2020 to allow staff time to conduct research and respond to regulatory, taxing, law enforcement and revenue questions raised by the City Council.

Several updates on potential cannabis regulations have been presented to Council over the past three years. A final report was presented to the Council on February 20, 2020. (Attachment 1). At the February 20, 2020 meeting, Council directed staff to bring back a ban on commercial cannabis (i.e., no longer a temporary ban) for its consideration prior to the expiration of the temporary ban on June 30, 2020.

DISCUSSION

At the February 20, 2020 City Council meeting, the Council reviewed the information presented by staff that depicted significant reduced revenue projections and the amount of regulation and staffing required to implement commercial cannabis policies. As a result of this information, particularly the reduced revenue expectations and greater law enforcement implications, the Council opted to move forward with a ban on commercial cannabis activity in the City of Santa Clara.

The proposed ordinance would amend two sections of Chapter 18.102 ("Regulation of Marijuana") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California". The amendment to Section

18.102.010 ("Commercial Marijuana Activity Prohibited") would permanently ban all commercial cannabis activity in Santa Clara. The proposed amendment to Section 18.102.030 ("Transport and Delivery of Marijuana") would also prohibit marijuana delivery services originating in Santa Clara. The amendment would also modify references in these sections and the chapter to use the term "Cannabis" in place of "Marijuana", consistent with current practices, and add a definition of "Cannabis" to Chapter 18.06 ("Definitions").

The Planning Commission is being requested to consider the proposed amendment to create a ban of all commercial cannabis activity in Santa Clara and make a recommendation on the Ordinance amendments to the City Council. If the Ordinance amendment is adopted by the City Council, the ban would be effective in mid-June, 2020. Consideration of the ordinance amendment is scheduled for the City Council meeting of April 28, 2020.

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 is a potential loss of tax revenue by creating a ban on commercial cannabis activity in the city. As a general estimate, in the past, municipalities expected to generate \$10-\$20 per capita on an annual basis. Applying this factor to Santa Clara, a local cannabis tax measure may generate \$1.2 to \$2.4 million annually. However, it should be noted that the amount of revenue generated for local jurisdictions with relatively new commercial cannabis programs has been less than their original projections.

In the FY 2019/20 and FY 2020/21 Biennial Operating Budget, no revenue was assumed from Cannabis Tax.

COORDINATION

This report has been coordinated with the City Attorney's Office and Police Department.

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. Recommend that City Council adopt the Ordinance amending Chapters 18.06 ("Definitions") and 18.102 ("Regulation of Marijuana") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California" to prohibit all commercial cannabis activity;
2. Recommend that the City Council not adopt the Ordinance amending Chapters 18.06 ("Definitions") and 18.102 ("Regulation of Marijuana") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California" to prohibit all commercial cannabis activity; or

3. Any other action directed by the Planning Commission.

RECOMMENDATION

Alternative 1:

Recommend that the City Council adopt the Ordinance amending Chapters 18.06 ("Definitions") and 18.102 ("Regulation of Marijuana") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California" to prohibit all commercial cannabis activity.

Reviewed by: Andrew Crabtree, Community Development Director

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. City Council Agenda Report of February 20, 2020
2. Ordinance