



## Agenda Report

19-421

Agenda Date: 4/24/2019

### REPORT TO PLANNING COMMISSION

#### SUBJECT

Action on an Amendment to Zoning Code Section 18.102.010 - Commercial Marijuana Activity Prohibited

#### 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 ("Regulation of Marijuana"; previously, "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.

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. The Cannabis Business Tax was passed by 76.7% of Santa Clara voters on November 6, 2018 and amends Title 3 ("Revenue and Finance") of the City Code to add a Chapter 3.60 entitled "Cannabis Business Tax," to set the maximum tax rates for commercial cannabis activity, among other things, when cannabis business is made a legal land use by the City Council.

On November 27, 2018, the Council adopted Ordinance No. 1990, which amended Chapter 18.102 ("Regulation of Marijuana") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California" to extend the temporary ban of all commercial cannabis activity until June 30, 2019.

On February 19, 2019, staff presented to the Council an update on current commercial cannabis policy implementation efforts. The Council requested staff to bring back information on key items, such as the potential impact of a commercial cannabis program on staffing resources. Additionally, staff communicated at the City Council meeting that more time is needed for staff to develop and

bring forward the remaining ordinances and resolutions regulating commercial cannabis businesses in Santa Clara and would return with an ordinance to extend the temporary ban on all commercial cannabis activities until 2020.

### **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, 2020. The City requires more time to prepare the analysis requested by the Council and then to either 1) develop and bring forward the remaining ordinances and resolutions regulating commercial cannabis businesses in Santa Clara or 2) bring forward a permanent ban on commercial cannabis activity.

If Santa Clara's temporary ban is not extended, State law would allow commercial cannabis businesses to seek permits from the State to operate in the City without any local control over such businesses.

### **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 loss of potential tax revenue until 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 Planning Commission 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 the Council adopts the 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, 2020;
2. Do not recommend the Council to adopt the 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, 2020; or
3. Any other action taken by the Planning Commission.

**RECOMMENDATION**

Alternative 1: Recommend the Council adopts the 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, 2020.

Reviewed by: Ruth Shikada, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Ordinance