


REPORT TO CITY COUNCIL

Approved by:


Arnaldo Rodriguez, City Manager

Council Meeting of: January 6, 2021

Agenda Number: A-1

SUBJECT:

Workshop on Pending Cannabis Regulatory Ordinance and Related Procedures

RECOMMENDATION:

Consider workshop presentation and provide direction to staff

SUMMARY:

The City has historically prohibited cannabis businesses to operate within the City. However, with the evolving landscape surrounding the sale and use of cannabis in the State, the City Council (Council) directed staff to retain Hinderliter, deLlamas, & Associates (HdL), a leading subject matter expert, to provide consultant services. A two-prong approach was pursued. The first involved conducting a cost recovery study and assisting the City in developing a Cannabis Business Tax Ordinance for submittal to City voters at the November 3, 2020 General Election. Sixty-seven percent of the voters passed the ordinance (Measure R). The second prong involves development of a regulatory ordinance to allow, permit, regulate and tax cannabis businesses.

HdL, City staff, and the City Attorney have been working on a regulatory ordinance. At this workshop, staff will discuss the basic components of the ordinance, procedural guidelines, selection criteria, and approval of cannabis business permits. Staff will present reasoning for the recommended approach and will request input and direction by Council majority on policy considerations before completing the preparation of the ordinance as well as a land use ordinance designating zone districts where cannabis businesses may be permitted.

BACKGROUND:

In November 2016, California voters approved Proposition 64, also known as the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), requiring a State license to engage in commercial non-medical marijuana activities. This proposition legalized recreational use of marijuana by adults in California. AUMA; however, provides that local jurisdictions may adopt and enforce local ordinances that regulate local zoning and land use requirements, and other requirements deemed necessary to reduce potential impacts associated with retail marijuana

use. Locally, in the same election, City of Madera voter support for the proposition ranked at 47 percent voter support and 53 percent opposed.

Thereafter, the State legislature passed the Medicinal and Adult Use Cannabis Regulation & Safety Act, which created a comprehensive state licensing and regulatory framework for the cultivation, manufacturing, testing laboratories, distribution, retail (storefront and non-storefront), and microbusinesses of both adult and medicinal use of cannabis.

Since the voters approved the AUMA, various communities have permitted cannabis related activities. In response, the Council created an Ad-Hoc Committee comprised of three members to explore potential opportunities for the City. At the direction of the Cannabis Ad-Hoc Committee, staff retained HdL to provide Council with an overview of the cannabis industry. At the May 6, 2020 Council meeting, HdL conducted an introductory presentation outlining a basic understanding of cannabis. On May 20, 2020 Council approved the cannabis consulting services agreement with HdL to continue to move forward with developing a regulatory ordinance to allow, permit, regulate, and establish a business license tax. Moreover, Council directed staff to prepare a resolution to place a measure on the November 3, 2020 ballot to establish a business license tax should the City elect to permit cannabis related businesses in the City.

The ordinance, identified as Measure R on the November 3, 2020 General Election ballot, included the maximum amounts that can be charged by a Cannabis Business License Tax. In short, it established the maximum tax rates:

- \$10 per canopy square foot for cultivation (adjustable for inflation)
- 6 percent gross receipts for retail businesses
- 4 percent for all other cannabis business activities

Measure R passed with a voter approval of 67.16%.

While Measure R was the most recent action pertaining to cannabis, Table 1 provides a summary of key dates.

Table 1: Significant developments at the State level	
<i>Year</i>	<i>Item</i>
1996	<i>Compassionate Use Act of 1996 (CUA)</i> The CUA decriminalized the use of marijuana for medical purposes in California.
2003	<i>Senate Bill No. 42. Medical Marijuana Program Act (MMPA)</i> Further permitted qualified patients and primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subjected to criminal prosecution.
2015	<i>Medical Cannabis Regulation and Safety Act (MCRSA)</i> The MCRSA, established by Assembly Bill (AB) 266, AB 243, and Senate Bill (SB) 643, provided a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical

	cannabis. MCRSA did not amend patients’ or caregivers’ rights to use medical marijuana for medical purposes under the CUA.
2016	<i>Proposition 64</i> Enacted the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”) concerning use and cultivation of cannabis for non-medical "adult-use."
2017	<i>Senate Bill (SB) 94</i> A budget trailer bill that: <ul style="list-style-type: none"> ▪ Repealed MCRSA; ▪ Amended Proposition 64 to incorporate many of MCRSA's provisions; and ▪ Retitled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act” (MAUCRSA) The purpose of SB 94 was to, among other things, consolidate the state licensing of commercial cannabis businesses into one comprehensive State licensing scheme.

In response to the plethora of changes discussed above, the City developed a regulatory scheme consistent with State regulations; however, Council recently directed staff to research options to in order to best address local desires.

The following table provides a synopsis of some of the City’s actions pertaining to cannabis as prompted by changes in State regulations and local preference.

Table 2: Significant developments at the City level	
<i>Date</i>	<i>Item</i>
Nov. 15, 2017	Council held an initial public hearing for the consideration of the introduction of an ordinance amending Section 4-15.02 of Chapter 15 of Title IV of the Municipal Code pertaining to the cultivation of cannabis.
Dec. 6, 2017	Passage of the amendment to the ordinance was explicitly due to required compliance with Proposition 64, and it was Council’s intent that nothing in the ordinance would be construed, in any way, to expand the right of anyone to use or possess marijuana under state law; engage in public nuisance; violate federal law, or engage in any activity otherwise related to the cultivation, distribution, testing or consumption of marijuana that is otherwise illegal. In short, the ordinance prohibited cannabis related businesses in the City.
July 5, 2018	Council established an Ad-Hoc Committee to explore the potential of permitting cannabis related industry and/or industries in the City.
May 6, 2020	HdL provided Council an overview of the cannabis industry and market trends.
May 20, 2020	Council approved a contract with HdL to begin the process of developing a regulatory ordinance to allow, permit, regulate and tax cannabis businesses,

	conducting a cost recovery fee study, and developing a cannabis tax ordinance and accompanying ballot measure (Measure R).
July 15, 2020	Council adopted a resolution submitting to City voters a ballot measure to establish a business tax on businesses who sell, distribute, manufacture, and cultivate cannabis including industrial hemp and hemp products.
Oct. 1, 14, & 15, 2020	Staff held public workshops to educate the community on Measure R. Workshops were held in English and Spanish and were streamed via Zoom.
Nov. 3, 2020	Measure R passed with a voter approval of 67.16%.
Jan. 6, 2021	Council workshop seeking direction on the regulatory ordinance.

DISCUSSION:

Up to now, the City has not permitted cannabis businesses. Measure R, as approved by the voters, allows a business tax on businesses who the sell, distribute, manufacture, and cultivate cannabis including industrial hemp and hemp products. Council has not approved the allowance of cannabis related businesses and/or activities to operate within City limits.

The purpose of this meeting is to solicit Council feedback on policy direction for completion of a regulatory ordinance for Council consideration.

FINANCIAL IMPACT:

Costs associated with cannabis related work includes the following:

- Contract with HdL totaling \$30,000
- Cost to place the ballot measure on the November 3, 2020 election estimated between \$90,000 to \$100,000. No invoice has been received to date.
- Various staff time and City Attorney fees

It is noted that the HdL contract cost may be recovered by fees from potential applicants should the City permit cannabis activities in the City.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

While not specifically addressed, the requested action is consistent with the Vision Madera 2025 Plan; Effective Government: Strategy 115. – Ensure sufficient economic resources to provide adequate City services and prepare for future growth.

ALTERNATIVES:

The Council may direct staff to return with more information or to direct staff to return with agenda item to cease efforts relating to cannabis.

ATTACHMENTS:

No attachments.