

**BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY**

**AGENDA REPORT**

For meeting of: **November 21, 2017**

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**TO:** Honorable Mayor and City Council

**VIA:** Magda Gonzalez, City Manager

**FROM:** Matthew Chidester, Deputy City Manager  
Heather Minner, Assistant City Attorney

**TITLE: UPDATE ON COUNTY AND STATE COMMERCIAL CANNABIS REGULATIONS AND DISCUSSION ON A POTENTIAL PLAN FOR CONDUCTING ADDITIONAL RESEARCH AND FINALIZING LOCAL REGULATIONS**

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**RECOMMENDATION:**

Receive updates on draft County commercial cannabis regulations and new state regulations, discuss and provide direction to staff on a potential plan to conduct additional research and finalize local regulations for commercial cannabis activities in the City.

**FISCAL IMPACT:**

There is no fiscal impact associated with this item.

**STRATEGIC ELEMENT:**

This recommendation supports the Healthy Communities and Public Safety and the Fiscal Sustainability Elements of the Strategic Plan.

**BACKGROUND:**

On November 8, 2016, California voters approved Proposition 64 (“Adult Use of Marijuana Act” or “AUMA”). AUMA legalized recreational use of marijuana under state law, and established a regulatory scheme to permit commercial marijuana activities associated with the cultivation, manufacturing, transportation, distribution, testing, and dispensing of marijuana for recreational use. AUMA also allows limited cultivation and possession of marijuana for personal use. Previous legislation in 2015, the Medical Cannabis Regulation and Safety Act, had developed a similar licensing scheme for medical marijuana commercial activities. On June 27, 2017, Governor Jerry Brown signed Senate Bill 94, creating the Medicinal Adult-Use Cannabis Regulation and Safety Act (“SB 94”), which effectively integrated the regulatory and licensing schemes for both medical and recreational marijuana, now referred to as medicinal cannabis and adult-use cannabis. On November 16, 2017, the state released commercial cannabis regulations pursuant to SB 94.

The County of San Mateo has released draft regulations for permitting limited commercial cannabis activities in the unincorporated areas of the County. These regulations are currently under public review, and the County plans to hold a public hearing to consider adopting them before the end of the year. The County regulations will not authorize any commercial cannabis activities within the City, but the proximity of the unincorporated areas to the City warrants review and consideration as the City develops its Commercial Cannabis regulations.

Half Moon Bay Municipal Code Section 9.09.010, adopted by the City in 2010, currently prohibits all commercial cannabis activities within City limits. Since the passage of the AUMA and SB 94, the City has held several public meetings on potential City regulations regarding Cannabis. At the August 15, 2017 City Council meeting, the City Council directed staff to craft a draft ordinance that would create a licensing system to regulate commercial cultivation in existing or reconstructed greenhouse facilities, including ancillary testing, wholesale distribution, and retail sales of medicinal or adult-use marijuana grown on-site. The City hosted a community meeting to review an outline of the draft ordinance on September 13, 2017, and the City Council received a summary of that meeting at the September 19, 2017 City Council Meeting.

Following a lengthy discussion at the September 19 meeting, various Councilmembers requested additional information and research including:

- A study of similar jurisdictions in states where commercial cannabis has been legalized and the impacts of cannabis cultivation and dispensaries in those communities
- A statistical opinion survey of Half Moon Bay residents regarding potential commercial cannabis activities in the City
- A revenue analysis including potential taxation options
- A review of new County and state commercial cannabis regulations

Councilmembers also recommended additional outreach to Half Moon Bay's Spanish speaking community members and a longer public review period for the draft ordinance before the required public hearings. There was not consensus, however, about the timing for the release of a draft ordinance and whether the Council had sufficient information to consider it. Accordingly, at this meeting staff is providing some of the additional information requested, proposing a timeline to move forward, and seeking Council direction regarding that timeline and additional research items to devote City resources to.

#### **DISCUSSION:**

##### **State Regulations**

State agencies have just released emergency regulations for licensing commercial cannabis cultivation, distribution, laboratory testing, manufacturing, and retail sales. Fact sheets summarizing those regulations are attached to this agenda report. Given that the regulations were released a day before this report, an analysis is not included here, but will be provided at the meeting. In general, the state regulations will serve as the minimum standards that must be

met for all commercial cannabis businesses and the City has the authority to adopt stricter standards for any operations within Half Moon Bay. Applications for commercial cannabis operations should be available before the end of the year. The state will also soon begin to accept applications for temporary licenses, which will allow a business to operate for a period of 120 days, pending approval of a regular license, provided the business has already obtained a local permit to operate. The state will not issue any commercial cannabis licenses until January 1, 2018 and a local license is required before a state license will be issued.

#### County Regulations

San Mateo County's draft ordinance would permit commercial cannabis cultivation in greenhouses and would prohibit all other commercial cannabis activities in unincorporated areas. Greenhouses must be located on lands designated agriculture or where commercial agriculture has occurred for the prior three years. The draft ordinance includes additional regulations such as setbacks and measures to address community impacts and displacement of existing floriculture. The County Planning and Building Department would grant a license if the proposed cultivation meets all the requirements in the ordinance. If new construction is proposed, however, it would also need to comply with any other required land use permitting procedures, including obtaining a coastal development permit for greenhouses located within the coastal zone. A licensee could have multiple licenses but the total combined canopy could not exceed 66,0000 square feet. A County power point presentation summarizing the draft County ordinance is attached to this agenda report.

The County currently has a moratorium on all commercial cannabis activities in all unincorporated areas, which expires on December 12, 2017. The County thus plans to consider its draft ordinance before the end of the year.

#### Current City Ban and Direction

The Half Moon Bay Municipal Code Section 9.09.010 currently bans all commercial cannabis activities in the City. The current ban will remain in place unless and until modified by the City Council.

On the direction of the Council, staff is drafting an ordinance that would license and regulate limited commercial cannabis greenhouse cultivation, and ancillary storage, distribution, testing, and retail, on existing greenhouse sites in the A-1 zoning areas. This meeting is another opportunity for City Council to provide additional direction regarding the scope of the ordinance; for example, to reflect components of the draft San Mateo County ordinance or to make other adjustments with respect to potential commercial cannabis uses.

#### Plan for Finalizing Local Regulations

Below is a potential plan and timeline to present a draft commercial cannabis ordinance to the City Council.

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| January 3, 2018  | Release draft commercial cannabis ordinance (allows for public review after the holiday season).                                                                                                                                                                                                                                                   |
| January          | (1) Release fee and tax report on estimated administrative costs, permit fees to recover those costs, and potential tax revenues if a tax measure is later presented to and approved by the voters; (2) hold community meetings, including targeted Spanish language meeting(s), to review and discuss the draft ordinance and fee and tax report. |
| February         | City Council study session to (1) receive summary of feedback from community meetings; (2) receive results of statistical survey; (3) review white paper study of impacts in other jurisdictions; and (4) review and provide feedback on draft ordinance.                                                                                          |
| February - March | Based on Council direction, the first reading of the ordinance could occur after the study session depending on the time necessary to incorporate any modifications and available meeting dates. The second reading of the ordinance and adoption of a resolution establishing a permit fee schedule would occur thereafter.                       |

Fee study: The fee study is required to adopt the permit fees and the City’s existing contract with HDL Consulting includes preparation of this study to estimate and recover the administrative costs of issuing and renewing permits and conducting inspections.

Potential tax revenue study: HDL’s contract can be amended to also estimate potential tax revenues in the event the Council submits a tax measure to the voters after the ordinance is adopted and the voters approve a tax on the cultivation and/or retail sale of cannabis. Staff is preparing an estimate of this additional work.

White paper on impacts in other jurisdictions: The City could contract for preparation of an unbiased white paper that summarizes existing literature on the impacts that commercial cannabis activities have had in other states and jurisdictions. Staff is preparing an estimate of this additional work.

Statistical Survey: The City could contract for a statistical survey of Half Moon Bay residents to inform them of potential types of commercial cannabis activities and gauge their opinions about these activities. Staff is preparing an estimate for the cost of this survey.

In light of the information received at this meeting, staff is requesting City Council direction on this potential plan and schedule for finalizing a draft City commercial cannabis ordinance and whether to contract for additional research items.

**ATTACHMENTS:**

1. County Ordinance PowerPoint
2. State Fact Sheet for Cannabis Regulations