



CITY OF COMMERCE AGENDA REPORT

TO: Mayor and City Council **Item No. _____**

FROM: Noel Tapia, City Attorney
Norma Copado, Assistant City Attorney

SUBJECT: Government Code Section 65858(d) Report: Measures Taken to Alleviate the Condition(s) Leading to the Adoption of Urgency Ordinance No. 691; Moratorium on the Establishment of Non-Medical Marijuana Activities

MEETING DATE: January 9, 2018

RECOMMENDATION

To comply with State Government Code Section 65858(d), it is recommended that the City Council receive and file this report describing measures taken by the City to alleviate conditions that led to the adoption of Ordinance No. 691.

Fiscal Impact:

The recommended City Council action does not have a fiscal impact.

Background:

On November 8, 2016, California voters approved Proposition 64 enacting the Adult Use of Marijuana Act ("AUMA"). The AUMA legalized various non-medical marijuana activities for persons 21 years of age or older, including but not limited to non-medical marijuana businesses, dispensaries, retailers, delivery services, use, possession, transportation, manufacture, testing, indoor and outdoor cultivation, and other activities as detailed and outlined in the AUMA (collectively, "Non-Medical Marijuana Uses").

Senate Bill 94 became law on June 27, 2017, which merged California's licensing scheme relative to medical marijuana activities and businesses, with the licensing scheme enacted by the AUMA. What was formerly known as the AUMA has now been renamed to the "Medicinal and Adult-Use Cannabis Regulation and Safety Act" (hereinafter, "MAUCRSA" or "AUMA").

AB 133 became law on September 18, 2017, which, amongst other changes, removes the requirement that different commercial license types of cannabis businesses (e.g., cultivators, manufacturers, retailers, etc.) maintain "separate and distinct" premises. By

removing that requirement, a single physical location can now hold multiple state licenses, subject to applicable local ordinances.

Government Code Sections 36937 and 65858 authorize the adoption of an urgency ordinance to protect the public health, safety, and welfare and to prohibit certain land uses that may conflict with land use regulations that the City Council is considering or intends to study within a reasonable time.

On December 5, 2017, the City Council adopted Interim Urgency Ordinance No. 691 temporarily prohibiting all Non-Medical Marijuana Uses (i.e., including, cannabis-related commercial activities) authorized by the AUMA. The purpose of the moratorium was to allow staff time to: study the negative direct and secondary impacts associated with Non-Medical Marijuana; study and determine whether such uses should be allowed in the City, and if so appropriate regulations; and to study and determine the potential locations, zoning districts, or development standards that should be applied to Non-Medical Marijuana Uses.

Government Code Section 65858(d) requires that ten (10) days prior to the expiration or extension of any interim ordinance, the City must issue a written report describing the measures taken to alleviate the condition that lead to the adoption of the interim ordinance. Interim Ordinance No. 691 is scheduled to expire on January 19, 2018, unless the City Council takes action to extend it. City Council will consider a ten-(10)-month-and-fifteen (15)-day extension of the interim ordinance on January 16, 2018.

Measures Taken to Alleviate the Condition Which Led to Adoption of Ordinance No. 691

City staff has begun to take the following measures to address the conditions that led to the adoption of Ordinance No. 691:

- Evaluated the City's comprehensive local land-use and public safety policies;
- Researched the City's General Plan, including the City's Land Use Element Goals and Policies;
- Evaluated risk(s) of Non-Medical marijuana related businesses and personal outdoor cultivation being located in areas and operated in a manner that is not conducive to maintaining proper public safety and neighborhood quality of life;
- Researched the City's Municipal Code relative to the appropriate zoning designation and locations for Non-Medical marijuana businesses and activities;
- Reviewed nearby communities proposed policies and regulations pertaining to Non-Medical marijuana uses;
- Reviewed business licensing procedures and regulations pertaining to the use; and
- Consulted with City Attorney's Office regarding relevant land use and Non-Medical marijuana laws.

City staff has not completed its research and drafting of said ordinance. Additional time is required to prepare a draft ordinance and to consult with interested parties. It is prudent to extend the moratorium because the City cannot predict the precise time necessary to complete its research and drafting and to conduct public hearings. However, adoption of the new ordinance and repeal of this moratorium may take place sooner.

The following issues and standards have been identified for further review:

- Further study the potential impacts that marijuana operations, activities and uses may have on the public health, safety and welfare;
- Research and craft possible amendments to the Commerce Municipal Code and the Zoning Code relating to recreational marijuana and craft appropriate regulations governing recreational marijuana dispensaries, cultivation, and processing of marijuana outdoors and indoors, and the use and possession of marijuana and marijuana products in public places; and
- Ensure that regulations relating to marijuana operations, activities and uses can be implemented in such a way as to minimize any harmful effects they might have on the City's residents, as well as nearby businesses and property owners.

FISCAL IMPACT

There is no fiscal impact with this report.