



## CITY OF COMMERCE AGENDA REPORT

**TO:** Honorable City Council

**Item No.** \_\_\_\_\_

**FROM:** City Administrator

**SUBJECT:** APPROVE SECOND READING AND ADOPTION, BY READING BY  
TITLE ONLY AND WAIVING FURTHER READING, OF ORDINANCE  
CONCERNING COMMERCIAL CANNABIS REGULATIONS

**MEETING DATE:** September 4, 2018

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### **RECOMMENDATION:**

1. Approve Second Reading and Adoption, by title only and waiving further reading, of Ordinance concerning commercial cannabis regulations, as attached hereto and marked as "Option A," concerning commercial cannabis regulations; and/or
2. Make any motion(s) to execute any City Council directive(s).

### **DISCUSSION:**

#### **August 21, 2018 City Council Meeting:**

On August 21, 2018, City staff and agents, including the City Attorney's Office and Principal/Planner Ebony McGee Anderson, from ejma Planning, provided an update to City Council on the community outreach that was conducted in Commerce concerning cannabis, as well as presenting a proposed ordinance regulating commercial cannabis businesses for City Council's consideration.

On August 21, 2018 the proposed ordinance was approved for Introduction and First Reading on a 3-2 City Council vote, with 2 oral modifications, (1) that the ordinance be more explicit with respect to the ban on retailer storefronts in the City of Commerce, and (2) that the ordinance also prohibit residential deliveries in the City.

#### **August 28, 2018 Special City Council Meeting:**

A duly noticed Special City Council meeting was held on August 28, 2018 providing City Council with the following options:

1. Option A:
  - I. Approve Introduction and First Reading, by reading by title only and waiving further reading, of Revised Proposed Ordinance, marked as “Option A,” concerning commercial cannabis regulations, which were reflective of the August 21, 2018 City Council meeting, to include only the amendment to explicitly prohibit dispensaries; and
  - II. To bring back Revised Proposed Ordinance marked as “Option A” to City Council meeting on September 4, 2018 for Second Reading and Adoption; and/or
2. Option B:
  - I. Receive and file report; and
  - II. Proceed with future Second Reading and Adoption of Ordinance marked as “Option B” at the City Council meeting on September 4, 2018, which included the amendments made at the August 21, 2018 City Council meeting, to include both amendments regarding explicit prohibition of dispensaries and residential deliveries; and/or
3. Provide staff with further direction on commercial cannabis regulations including the explicit prohibition on dispensaries, residential deliveries or any other issues deemed appropriate; and/or
4. Make any motion(s) to execute any City Council directive(s).

For purposes of the August 28, 2018 Special City Council meeting, City staff incorporated into the ordinance introduced on August 21, 2018 more explicit language concerning the prohibition of retailer storefronts, so as to continue said ban in the City of Commerce. These proposed amendments were explicitly included in the Revised Proposed Ordinance, which was made available on August 28, 2018, and that is attached hereto and marked as “Option A.” The amendments made to the proposed ordinance, consistent with the City Council directive, are italicized in the ordinance marked as “Option A.” City staff recommended that the City Council proceed with the introduction and first reading of said version of the Ordinance, as further discussed below.

With regards to the amendment concerning banning residential deliveries, a careful review of the implications and potential unintended consequences of same was the basis for

staff's recommendation to not move forward with said oral amendment to the proposed ordinance. It was staff's opinion that while the City could move forward with such a ban, enforcing it would not only prove difficult, but it would also further create unreliable or inaccurate record-keeping by permitted businesses as to the locations of delivery. Additionally, in reviewing practical scenarios, the City may be superseded by state law. Commerce may also inadvertently create unforeseen issues as residents are compelled to engage with outside retailers that the City does not regulate, as residents with medical recommendations act to meet their medicinal cannabis needs via other under-regulated means, as an example. Moreover, staff was also unable to sufficiently substantiate some of the stated concerns with residential deliveries, which would be dispersed over various unknown sites throughout the City, as opposed to a designated location(s).

Therefore, for these reasons, at the Special City Council meeting on August 28, 2018, City staff recommended proceeding only with the modifications that addressed the explicit prohibition on retailer storefronts, which are otherwise known as dispensaries and are open to the general public, which are reflected in "Option A." Notwithstanding City staff's recommendation, in the event the City Council opted to proceed with the two modifications orally made at the City Council meeting on August 21, 2018 - to ban retailer storefronts otherwise known as dispensaries, and to ban residential deliveries - said amendments were reflected in an Ordinance that was made available and identified as "Option B." Accordingly, both versions of the Ordinance, identified as "Option A" and "Option B" were made available to City Council for their review and consideration.

On August 28, 2018, the proposed ordinance marked as "Option A" was approved for Introduction and First Reading on a 3-2 City Council vote, to include only the amendment to explicitly ban retailer storefronts, which are commonly known as "dispensaries" that are open to the public. Said Ordinance is before the City Council today for approval of Second Reading and Adoption.

#### **SUPPLEMENTAL BACKGROUND PRESENTED AT THE AUGUST 28, 2018 SPECIAL CITY COUNCIL MEETING:**

At the City Council meeting on August, 21 2018, City staff presented the proposed regulations on commercial cannabis business regulations in the form of a draft ordinance, and also provided the City Council with an update on the outreach efforts (attached) which show that Commerce residents are supportive of regulation by a 2 to 1 margin. In addition to the meetings listed below that were directed by City Council to take place, staff also held a community meeting at St. Marcellinus Church on August 21, 2018, and with senior residents at the Commerce Senior Center on August 15, 2018. Attendees of the St. Marcellinus meeting were predominantly opposed, while attendees of the Senior Center meeting were largely supportive. All four meetings were livestreamed and are available for

viewing on the city's Facebook page, which has over 2,000 followers. Collectively, the presentations received over 3,700 views.

The meeting at Veteran's Park featured Sheriff's Lieutenant Walsh, who educated the attendees on negative impacts pertaining to cannabis regulation, by using and citing to collected data from other states. He also provided his experience with the "black market" in other jurisdictions that the Sheriff's police but none outlining experience in Cudahy, Lynwood, Maywood and West Hollywood which are currently policed by the Sheriff's and also regulate cannabis. Notwithstanding, the survey results from this meeting produced a similar support-oppose ratio as the other held community meetings. The Sheriff's presented at 2 out of the 4 community-wide meetings and also presented on this matter at the August 14, 2018 City Council-Sheriff's Public Safety Special Council Meeting.

#### **BACKGROUND PRESENTED AT THE AUGUST 21, 2018 CITY COUNCIL MEETING:**

On July 17, 2018, the City Attorney's Office made a presentation to the City Council on the State of California's laws and regulations concerning commercial cannabis businesses, and local jurisdictions' authority to regulate the industry, as well as policy considerations in doing so. At the conclusion of the presentation, City Council passed a motion with a 5-0 vote, with the following directives to be executed concurrently:

- a. Host community meetings throughout the City to disseminate information to the public on cannabis and get the community's input on the subject matter; and
- b. Draft a proposed ordinance regulating commercial cannabis businesses in the City's jurisdiction.

#### **Community Meetings:**

City staff was directed to host community meetings throughout the City, specifically in the City's four (4) parks, in order to disseminate information to the public on the regulation of cannabis, the State of California laws regulating cannabis, and to provide a forum to the public to discuss the topic, and in doing so, gather the community's input on this topic.

A City flyer which is attached hereto was prepared to invite the City's residents to four (4) different town hall meetings, as follows:

1. August 8, 2018, at 6:00 p.m. at Bandini Park;
2. August 9, 2018, at 6:00 p.m. at Bristow Park;
3. August 13, 2018, at 6:00 p.m. at Rosewood Park Senior Center; and
4. August 20, 2018, at 6:00 p.m. at Veteran's Park.

The flyer was mailed to all households in the City, and was posted and disseminated on social media. Additionally, every household was personally invited to attend the meetings.

Due to the City consultant's subject matter expertise on complex and highly regulated land uses, including cannabis uses, ejma Planning + Development, was tasked to host the community meetings, with principal Ebony Anderson, spearheading the effort. Each meeting also featured a majority if not a supermajority of the council members in attendance. Members of the community who attended the meetings were also asked to complete a survey. Attached is a true and correct copy of the survey. Each of the meetings was streamed live on the City's Facebook page, where it is still available for viewing.

A fifth community meeting specifically for the senior constituency of the City was held on August 15, at 10 a.m., at the Rosewood Park Senior Center.

City consultant Blue Icon Communications also participated in the community meetings by providing translation and interacting with Spanish speakers, and conducted public outreach, by performing citywide canvassing by distributing and collecting surveys, with the hopes of reaching all residents, including those residents who were unable to participate in the community meetings.

It is important to note that ejma Planning + Development also conducted a study session on cannabis with the City's Planning Commission on July 25, 2018, in order to provide them with a similar overview that was presented to City Council.

The data and research collected thus far from the community meetings and community outreach by undertaking canvassing and disseminating surveys, is showing that the majority of the community is interested in creating a process where the City may consider commercial cannabis related uses within its jurisdiction.

**Proposed Ordinance:**

On July 17, 2018, City Council passed a motion directing the City Attorney's Office, in conjunction with City staff, to draft a proposed ordinance regulating commercial cannabis businesses in the City's jurisdiction, and to bring it back to City Council.

Accordingly, consistent with City Council's motion, and the majority of the community's interest in creating a system to regulate the cannabis industry in the City's jurisdiction, the City Attorney's office has drafted a proposed ordinance. The general provisions of the proposed ordinance include the following:

1. Type: Commercial medicinal and adult-use cannabis businesses are allowed.
2. Classifications Allowed: The classifications allowed, based on the state licenses issued, include:
  - a. Cultivation,
  - b. Manufacturer,
  - c. Distributor,
  - d. Testing Laboratory,
  - e. Non-Storefront Delivery-Only Retailer, not open to the public,
  - f. and Microbusiness.

Activities including transportation and delivery of cannabis is an ancillary activity to some of the classifications hereinabove, which would also be monitored and regulated. Its important to note that none of these uses are open to the general public, thereby limiting their impact on the surrounding community.

3. Locations Where Businesses will be Allowed: Consistent with California State law, the ordinance contemplates allowing the location of commercial cannabis businesses to be six-hundred (600) feet away from the state laws designated sensitive sites, including schools providing instruction in kindergarten or any grades one (1) through twelve (12), day care centers, and youth centers. Commercial cannabis businesses within the 600-foot radius from the sensitive sites would be explicitly prohibited.
4. Minimum Application Requirements: In addition to the state application requirements to secure the requisite state license to operate a business, the ordinance has imposed additional minimum application requirements, and has specified an enumerated list of grounds for denying an application.
5. Type of Approval(s) and Permit(s) Required to Establish a Commercial Cannabis Business: The ordinance requires a selected applicant to obtain a regulatory "Commercial Cannabis Permit," as well as to negotiate and enter into a Development Agreement with the City, allowing the City to impose terms, including imposing development standards for the business facilities, incorporating all operational and security plans, imposing a fee structure payable to the City based on revenue, and making the selected applicants community partners by making it an obligation for them to fund a Community Benefits Program. The latter will allow the City to allocate funds to

specialized City programs and/or services. The selected applicants would also be obligated to obtain all necessary approvals, permits and licenses required to occupy the business premises, and to operate a business.

6. Review and Approval Process: The draft ordinance proposes three (3) review, scoring and selection phases: an initial application screening process to ensure that minimum, albeit rigorous, requirements are met; those applications are then reviewed by a “Review Committee” using scoring criteria to rank the applicants to ultimately present to City Council; and finally City Council making a final approval of the high-ranking qualified applicants.
7. Fee and Revenue Structures: As discussed above, the City will be imposing fees based on a percentage of gross revenue and/or square footage of a facility, which will be negotiated pursuant to a Development Agreement. The City will be able to designate City fund(s) where revenue will be allocated, including specialized programs or services identified by the City and/or the applicant by establishing a Community Benefits Program(s). Successful applicants will also be required to pay fees for the required Commercial Cannabis Permit, and all other permits, licenses, inspections, etc. that are required pursuant to the ordinance in order to defray the costs associated with the time and resources spent by City staff, representatives, and agents, in processing the applications, and thereafter monitoring the program in the future to ensure on-going compliance.
8. Compliance and Enforcement Provisions: Penalty provisions are in place to serve as a deterrent for those businesses operating unlawfully without City approvals, and to ensure compliance is continuous for those approved businesses, as well as the implementation of enforcement tools to allow law enforcement, Code Enforcement, and other City staff to effectively monitor approved businesses, and terminate illegal operations.

It is necessary to remind City Council that the City’s current ban on all commercial cannabis activity citywide, pursuant to Ordinance 691, is set to expire in November 2018, approximately less than three (3) months away. Before said time, City Council has the opportunity to pass an ordinance to regulate commercial cannabis to replace the moratorium before it expires. Alternatively, the City Council has the ability to extend the moratorium for an additional year before deciding on whether to adopt an ordinance regulating cannabis, or permanently banning commercial cannabis activity citywide.

## **ALTERNATIVES:**

1. Approve Second Reading and Adoption, by title only and waiving further reading, of Ordinance concerning commercial cannabis regulations, as attached hereto and marked as “Option A,” concerning commercial cannabis regulations; and/or
2. Make any motion(s) to execute any City Council directive(s).

## **FISCAL IMPACT:**

The recommended action can be carried out without additional impact on the current operating budget.

## **RELATIONSHIP TO STRATEGIC GOALS:**

The subject matter is consistent with Economic Growth Guiding Principle #4 of the City’s Strategic Plan. This Guiding Principle calls for a focus on strategic economic development pursuits that will increase local jobs, generate additional revenue and create demand for supporting businesses.

Respectfully submitted:	Edgar P. Cisneros, City Administrator
Recommended by:	Rene Bobadilla, Interim Director of Economic Development and Sustainability
Approved as to form:	Norma Copado, Assistant City Attorney

## **Attachments:**

1. Commercial Cannabis Business Regulations Revised Proposed Ordinance marked as “Option A”, to include language explicitly prohibiting retailer storefronts, commonly known as dispensaries along with all other proposed applicable cannabis regulations.