



Legislation Text

File #: 22-0278, **Version:** 1

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Alexandria Latragna, Policy and Management Analyst

SUBJECT:

Consideration of Presenting to the Voters a City Initiative Measure Establishing Local Regulation and Taxation of Commercial Cannabis Activity (City Manager Moe).

(Estimated Time: 1 Hr.)

DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that the City Council provide direction on a City initiative measure that, if adopted by the voters, would establish a City commercial cannabis tax and regulations (Measure Regulating/Taxing Cannabis).

FISCAL IMPLICATIONS:

There are no fiscal implications in providing direction as to the contents of the measure. If Council opts to proceed with two measures, according to Los Angeles County's Election Estimating Calculator on their website, the approximate costs of adding two additional initiatives to the November 8, 2022, ballot is \$38,281.26.

BACKGROUND:

All cannabis dispensaries (retailers) and commercial cannabis activities are currently illegal in Manhattan Beach under Ordinance Nos. 17-0024 and 17-0025 (attached).

On October 13, 2021, the Cannabis Industry filed a "Notice of Intent to Circulate Initiative Petition for the Manhattan Beach Cannabis Regulation and Public Safety Measure" (Cannabis Industry Measure). If adopted, the Cannabis Industry Measure would, among other things:

1. Repeal the City's existing prohibition of all commercial cannabis activity;
2. Require the City to issue permits to three cannabis retailers at locations located (i) in certain commercial districts, subject to exceptions, (ii) more than 1,000 feet from identified schools and youth centers, and (iii) more than 850 feet from identified day care centers (See attached map that indicates the areas where retailers could locate if the voters pass the Cannabis Industry Measure);

3. Direct the City Manager to adopt an application process that contains rules for submission, intake, and approval; and
4. Establish a point system for evaluating and ranking applicants.

The Cannabis Industry Measure does not impose a City tax on cannabis businesses.

DISCUSSION:

At the May 3, 2022 meeting, as required by law, the City Council submitted the Cannabis Industry Measure to the voters for the General Municipal Election to be held on Tuesday, November 8, 2022. In addition, the Council directed the City Attorney to draft two counter-measures:

1. A measure banning cannabis which would reaffirm the ordinances previously adopted by the City Council that prohibit the commercial sale of cannabis in the City. (That measure will be presented to the City Council on July 5, 2022, for Council consideration.)
2. The Measure Regulating/Taxing Cannabis, which would establish a City commercial cannabis tax and regulations.

Pursuant to Council direction, staff has begun drafting the Measure Regulating/Taxing Cannabis (solely for purposes of this report, hereinafter “The Measure”) to present to the voters an ordinance establishing City regulations of, and levy a local tax on, commercial cannabis activity.

Staff seeks Council direction regarding the following features of The Measure:

1. Location. The Cannabis Industry Measure authorizes permitted cannabis retailers to operate on property that is located (i) in certain commercial districts, subject to exceptions, (ii) more than 1,000 feet from identified schools and youth centers, and (iii) more than 850 feet from identified day care centers. Staff seeks direction on the following locational topics:
 - a. Buffer Zones Around Sensitive Uses. The City Council should review the buffer zones on the attached map prepared by City staff to determine whether the Council wants to propose different restrictions on locations. The areas in light grey and light brown are buffer areas where cannabis retailers cannot locate if the Cannabis Industry Measure passes. As shown on the map, such distancing requirements would preclude cannabis retailers from operating in most areas of the City. The Council may want to consider additional buffers. For instance, it appears that the Los Angeles County Library on Highland Avenue is on the fringe of a buffer zone and thus the Council may want to consider expanding the buffer zone from the Library, so that no cannabis retailer can establish at a location within 1,000 feet of any public library.
 - b. Separation between Cannabis Retailers. The Council may want to consider providing direction as to whether there should be spacing between cannabis retailers, providing for a buffer between locations.
 - c. Schools and Day Care Centers. The Cannabis Industry Measure identifies the location of specific existing schools and day care centers for purposes of the buffer zones. The City Council may want to use state definitions of day care center/childcare

facility and schools rather than identifying specific schools to be more inclusive.

2. Tax Rate. The City Council should consider the appropriate excise tax rate for The Measure. Last week, the El Segundo City Council authorized submitting a measure to the voters imposing a 10 percent excise tax, in addition to any State and County taxes. Some examples of the rates adopted in other jurisdictions that impose a local tax on commercial cannabis activity:

- City of Santa Barbara: 20 percent of gross receipts.
- City of Carson: 18 percent of gross receipts.
- City of Artesia: 15 percent of gross receipts.
- City of Long Beach: 8 to 12 percent of gross receipts.
- City of West Hollywood: 7.5 percent of gross receipts.

The State and Los Angeles County collectively impose a sales tax of 9.5 percent on all taxable goods sold within Manhattan Beach. If The Measure is adopted by the voters, this sales tax would apply to cannabis sales in Manhattan Beach. The State also imposes a separate 15 percent excise tax upon retail purchasers of cannabis or cannabis products.

3. Application Requirements. The Cannabis Industry Measure establishes a point system for evaluating and ranking applicants. The City Council might consider a different application process. For example, under the measure submitted to the voters in El Segundo, the City Manager is authorized to establish any additional rules, regulations, and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of cannabis businesses, and the City's oversight.
4. Number of Permits. The Cannabis Industry Measure authorizes three cannabis retailers to operate in the City. For The Measure, the City Council might consider changing the maximum number of cannabis permits allowed.
5. Miscellaneous Issues. Does the City Council want the Measure to address cultivation, lab testing, or sale of industrial hemp? Some cities have incorporated taxes on such activities into local measures, even where such activities are not currently permitted, in case they become legal in the future.

According to the Los Angeles County printed schedule, August 12, 2022, is the "last day City Clerks can file a resolution with the Board of Supervisors and the Registrar-Recorder/County Clerk requesting consolidation with the election." Thus, staff intends to place both measures on the July 5, 2022 Council agenda.

A Councilmember inquired about the regulation of cannabis-related signs. Such signage is already regulated by State law, and Council can supplement existing State regulations by ordinance in the future.

PUBLIC OUTREACH:

After analysis, staff determined that public outreach was not required for this issue.

ENVIRONMENTAL REVIEW:

The City Council's consideration of features to be incorporated into The Measure to present to the voters is exempt from CEQA pursuant to State CEQA Guidelines § 15061(b)(3), the common sense exemption (formerly the "general rule") that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question can have a significant effect on the environment, the activity is not subject to CEQA, as is the case with this item.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Ordinance No. 17-0024
2. Ordinance No. 17-0025
3. Map of Cannabis Industry Measure's Sensitive Use Buffer Areas
4. County of Los Angeles Election Calendar
5. PowerPoint Presentation