



# City of Chula Vista

## Staff Report

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**File#:** 18-0071, **Item#:** 11.

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### ORDINANCE OF THE CITY OF CHULA VISTA ADDING CHULA VISTA MUNICIPAL CODE SECTION 5.19 TO REGULATE COMMERCIAL CANNABIS (FIRST READING)

#### **RECOMMENDED ACTION**

Council place the ordinance on first reading.

#### **SUMMARY**

The City of Chula Vista desires to permit, license and fully regulate specified commercial cannabis activity within the City limits and to authorize enforcement and prosecution of unlicensed businesses, which bring dangerous and negative impacts to the community.

#### **ENVIRONMENTAL REVIEW**

##### **Environmental Notice**

The Project qualifies for a Categorical Exemption pursuant to the California Environmental Quality Act State Guidelines Section 15061(b)(3); Section 15183 (Projects Consistent with a Community Plan or Zoning); Section 15301 (Existing Facilities); and Section 15303 (New Construction or Conversion of Small Structures).

##### **Environmental Determination**

The City Council finds that the adoption of this ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to the following provisions of the CEQA Guidelines, 14 Cal. Code of Regulations, Chapter 3:

1. The Ordinance is exempt under Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Further, there is no possibility that this Ordinance would create cumulative impacts that are significant because this Ordinance does not authorize a total number of businesses in the City than would otherwise be authorized; there are no other significant impacts that could occur as a result of this ordinance, and there are no unusual circumstances that would cause any such significant impacts;

2. The Ordinance is also exempt under Section 15183 (Projects Consistent with a Community Plan or Zoning) since the types of businesses permitted by the Ordinance are consistent with those contemplated by general plan and zoning;

3. The Ordinance is also exempt under CEQA Guidelines Section 15301 (Existing Facilities) since permitted cannabis business under the Ordinance may locate in existing facilities, and any additions to structures would be expected to be also exempt under 15301; and

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4. The Ordinance is exempt under Section 15303 (New Construction or Conversion of Small Structures). The businesses will be established in an urban area, and given the build out of the existing City, and sufficient existing leasable property, the amount of construction that would occur is minimal to non-existent, and any such construction would be less than the thresholds established in Section 15303.

Thus, no further environmental review is required.

## **BOARD/COMMISSION RECOMMENDATION**

Not Applicable

## **DISCUSSION**

The Adult Use of Marijuana Act (AUMA, adopted by the voters of the State of California in November 2016, decriminalized non-medical cannabis and established a regulatory system for non-medicinal cannabis businesses in California. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), enacted by the California Legislature in June 2017, established a comprehensive set of laws regulating both individual and commercial medicinal and non-medicinal cannabis activity throughout the State of California. Under California law, local jurisdictions are authorized to either permit or prohibit the operation of cannabis businesses within their boundaries.

The City has experienced the negative impacts and secondary effects associated with the operation of unlawful cannabis businesses in the City. Unregulated businesses remain a source of danger and disruption for both residents and businesses.

On February 6, 2018, staff brought forward a proposed ordinance intended to permit and regulate commercial cannabis activity in the City. City Council requested that staff return with revisions to the proposed ordinance that considered: 1) amending the applicant experience requirements to permit a broader range of applicants whilst maintaining substantive qualification standards; and 2) identifying the proposed Premises location in Phase One of the application process.

The proposed amended ordinance addresses both of the Council's primary requests by:

- 1) narrowing the number of people required to have twelve (12) months of lawful cannabis business experience (substantially similar to the type of business license for which the applicant is applying) to only one Manager, and expanding the qualifying experience required of one Owner to include a third option: operation for at least three years of a lawful business in the City of Chula Vista employing ten or more employees; and
- 2) providing for applicant identification of a proposed business location in Phase One.

The proposed ordinance also includes other modifications and clarifications that appear in underline, strikethrough text in an attached document, including for example:

- clarification that storefront retailers are allowed in mixed-use zones and that residences in mixed-use zones are not sensitive receptors
- additional language supporting the City's authority to reject applications from persons who have been involved in unlawful commercial cannabis activity

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- a reference to pipeline provisions that will be adopted through regulations
- an updated license renewal section
- updated illustrations that depict the measurement paths between measuring points

Staff recommends that the Council place the proposed ordinance, containing the amendments identified above, on first reading.

#### **DECISION-MAKER CONFLICT**

Staff has determined that the action contemplated by this item is ministerial, secretarial, manual, or clerical in nature and, as such, does not require the City of Chula Vista Council members to make or participate in making a governmental decision, pursuant to California Code of Regulations Title 2, section 18704(d)(1). Consequently, this item does not present a conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.)

Staff is not independently aware and has not been informed by any City of Chula Vista Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

#### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. The resolution approving the ordinance to permit, license and fully regulate specified commercial cannabis activity within the City supports the Economic Vitality and Strong and Secure Neighborhoods goals.

#### **CURRENT YEAR FISCAL IMPACT**

There will be no current fiscal year impact, as permitting and regulatory costs are anticipated to be fully recovered by fees.

#### **ONGOING FISCAL IMPACT**

It is anticipated that the ongoing cost to permit, license and fully regulate specified commercial cannabis businesses will be recovered through the fees and taxes imposed and collected from each business. Taxes and fees are estimated to be approximately \$6 million a year.

#### **ATTACHMENTS**

1. Ordinance
2. Ordinance with strikeout underline text

*Staff Contact: Kelley Bacon*