

**CITY COUNCIL OF THE CITY OF SONORA
STAFF REPORT**

MEETING DATE: FEBRUARY 4, 2019

TO: CITY COUNCIL

FROM: DOUGLAS L. WHITE, CITY ATTORNEY

SUBJECT: INFORMATIONAL STAFF REPORT REGARDING RECENT CANNABIS REGULATIONS, IMPACTS ON LOCAL AGENCIES, AND DISCUSSION CONCERNING IMPLEMENTATION OF CANNABIS BUSINESS TAX IN THE CITY OF SONORA

RECOMMENDATION:

Staff recommends the City Council consider and provide direction concerning the implementation of the voter approved cannabis business tax in light of recent cannabis regulations at the state level.

BACKGROUND/DISCUSSION:

On November 8, 2016, California voters enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act (“AUMA”), which establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use. On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which creates a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains provisions granting local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction.

On January 16, 2018, the Sonora City Council (“City Council”) adopted Ordinance No. 2017-848, establishing a Cannabis Business Pilot Program regulating the operation of cannabis businesses within the City of Sonora (“City”). The Ordinance specifically prohibits the delivery of commercial cannabis within the City, unless that activity is performed by a cannabis dispensary authorized by the City to operate as part of the pilot program. Additionally, all commercial cannabis activity is limited to medicinal cannabis.

Last week, the Bureau of Cannabis Control (“BCC”) published the final regulations that will govern the state’s enforcement of the legal cannabis market. An area of particular concern to cities is the treatment of non-storefront delivery businesses, better known as delivery services. Now, in their final regulations, the BCC has narrowed the ability of cities to effectively regulate cannabis at the local level. Effective immediately, the regulation at the center of the controversy, Section 5416(d), authorizes commercial cannabis delivery anywhere in the state regardless of conflicting

local regulations or bans. The state rules guarantee legal protection to state-licensed “non-storefront” delivery companies and their customers. In light of the new regulations, cities are presently evaluating possible options to challenge the legality of the cannabis regulations and their immediate implementation.

In preparation for changes to cannabis laws and regulations at the state level, the City Council submitted a ballot measure (Measure N) to the City’s voters at the November 6, 2018, general election seeking authorization for the imposition of a business license tax of up to fifteen percent (15%) of the gross receipts of any cannabis-related business. Measure N was approved by voters at the election.

Under Measure N, the City Council is authorized, but not required, to impose a business license tax on cannabis businesses. Cannabis businesses include all entities engaged in the commercial cultivation, distribution and exchange of cannabis, whether for medicinal or non-medicinal reasons. The tax would not apply to those cannabis businesses that have entered into a development agreement with the City.

Measure N adds Chapter 5.18, Cannabis Business Tax, to Title 5, Business Taxes, Licenses, and Regulations to the City’s Municipal Code, codifying the framework for the cannabis business tax. Pursuant to section 5.18.020, the cannabis tax rate shall be set by resolution of the City Council. The City Council may, in its discretion, implement such cannabis business tax rate as it deems appropriate, and may, by resolution, increase or lower such tax rate from time to time, provided that the cannabis business tax shall not exceed 15 cents for each \$1.00 of gross receipts.

City staff recommends the City Council give direction to staff to begin the process of implementing the cannabis business tax in response to the recent BCC regulations. While the City cannot ban cannabis deliveries under the state regulations, it is authorized to impose the cannabis business tax on any cannabis operators operating in the City, not already paying any public benefit amounts through a negotiated development agreement.