



AGENDA NO: C-1

MEETING DATE: November 14, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: November 5, 2017

FROM: Chris F. Neumeyer, Assistant City Attorney

SUBJECT: Adoption of Ordinance No. 612, which Establishes a Commercial Cannabis Operations Regulatory Program to Permit Two Medical Cannabis Dispensaries, Wholesale Medical Cannabis Distribution and Medical Cannabis Deliveries, while Prohibiting All Other Commercial Cannabis Operations; Regulates and Permits Personal Cannabis Cultivation; and, Amends Current Secondhand Smoke Regulations

RECOMMENDATION

Staff recommends Council discuss and adopt, by second reading by title only and with further reading waived, Ordinance No. 612: An Ordinance of the City Council of the City of Morro Bay, California, adding Chapter 5.50 (Commercial Cannabis Operations Regulatory Program) to Title 5 of the Morro Bay Municipal Code to Permit Certain Medical Commercial Cannabis Uses (Retail Sales, Deliveries and (Wholesale) Distributor), to Prohibit All Other Medical Commercial Cannabis Uses, and to Prohibit All Adult-Use (Recreational) Commercial Cannabis Uses; Repealing Chapter 9.06 of Title 9 of the Morro Bay Municipal Code and Replacing It with a New Chapter 9.06 (Personal Cannabis Cultivation) to Regulate Personal Cannabis Cultivation; and, Amending Chapter 9.24 (Secondhand Smoking Regulations) of Title 9 of the Morro Bay Municipal Code to Strengthen Regulation of Secondhand Smoke and Expressly Include Cannabis and Electronic Smoking Devices.

FISCAL IMPACT

Ordinance No. 612 allows City regulatory and administrative costs associated with permitting commercial cannabis operations to be recouped through City fees. The ordinance allows a fee to be charged for issuance of a personal cannabis cultivation permit. However, the intent is no fee will be charged for a personal cultivation permit until July 1, 2018, and thereafter only a nominal fee be charged. These fees will be set at a later time by Council resolution. The ordinance encourages revenue generating development agreements be sought with commercial cannabis operations permitted in the City. Council has directed staff to timely provide analysis on a possible cannabis tax ballot measure for consideration by voters at the regular election to be held November 6, 2018.

BACKGROUND

Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), was approved by California voters on November 8, 2016. The AUMA legalized limited personal use, possession and cultivation of cannabis. Pursuant to the AUMA and Senate Bill 94 (the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA)), the state will begin issuing licenses for commercial cannabis operations on or after January 1, 2018. Cities maintain limited local control

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City Manager Review: <u>SC</u>	City Attorney Review: _____

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over personal cultivation of cannabis, and have the authority to prohibit or regulate commercial cannabis operations by local ordinance. A failure of a city to address these issues will cede substantial authority to the state. Cities may also regulate cannabis secondhand smoke akin to regulation of tobacco secondhand smoke.

At the Council meeting held on October 24, 2017, Ordinance No. 612 was introduced for first reading, to establish a commercial cannabis regulatory program, regulate and permit personal cannabis cultivation, and strengthen secondhand smoke regulations. For additional background, please refer to attached Staff Report from October 24, 2017 City Council regular meeting concerning the Introduction of Ordinance No. 612, and attached Staff Report from October 10, 2017 City Council special meeting entitled "Discussion on Council Cannabis Subcommittee Recommendations and Request for Direction on a Cannabis Ordinance to Regulate Businesses and Personal Use."

DISCUSSION

The Council discussed and introduced for first reading at the October 24, 2017 regular Council meeting Ordinance No. 612 which will:

1. permit and regulate (with applications accepted no sooner than July 1, 2018) two medical cannabis dispensaries, wholesale medical cannabis distribution operations, and medical cannabis deliveries, while prohibiting all other commercial cannabis operations; and
2. regulate personal cannabis cultivation at private residences; and,
3. strengthen the regulation of secondhand smoke.

Pursuant to direction from Council at the October 24, 2017 meeting, the proposed ordinance considered at that meeting had the following modifications made, which were included in the introduction and first reading of Ordinance No. 612 on that date:

1. Section 9.06.040(A)(5) – Personal cannabis cultivation permit requirement concerning site plan and floor plan no longer requires plans to be "scaled," and clarification that "dimensioned hand sketch acceptable" was added. (See page 8.)
2. Section 5.50.120(L) – Section to now read as follows: "Retail medical operations shall not have a physician or any person licensed to recommend medical cannabis for medical use, at the location of the commercial cannabis operation, to provide a recommendation or physician's recommendation, for the use of medical cannabis." (See page 34.)
3. Section 5.50.120(C)(2-3) and Section 5.50.130(C)(2-3) – Buffer zones restricting business locations modified by removing "religious institution" and by adjusting buffer zone from "park" to 100 feet. (See pages 32 and 35.) A radius map reflecting the buffer zones is attached.

Pursuant to Government Code section 36934 the following typographical or clerical errors in Ordinance 612 have been corrected:

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1. Section 5.50.030(W) - Definition of "labeling" includes cannabis products and cannabis (not just cannabis products). (See page 14.)
2. Definition of term "Secondhand smoke" in Section 9.24.020 uses the word "device" rather than word "decide" on third line from top. (See page 40)

CONCLUSION

Staff recommends Council adopt Ordinance No. 612 by second reading by title only and with further reading waived.

ATTACHMENTS

- 1) Proposed Ordinance No. 612.
- 2) Staff Report from October 24, 2017 City Council regular meeting entitled "Introduction of Ordinance No. 612, which Establishes a Commercial Cannabis Operations Regulatory Program to Permit Two Medical Cannabis Dispensaries, Wholesale Medical Cannabis Distribution and Medical Cannabis Deliveries, while Prohibiting All Other Commercial Cannabis Operations; Regulates and Permits Personal Cannabis Cultivation; and, Amends Current Secondhand Smoke Regulations."
- 3) Staff Report from October 10, 2017 entitled "Discussion on Council Cannabis Subcommittee Recommendations and Request for Direction on a Cannabis Ordinance to Regulate Businesses and Personal Use."
- 4) Radius Map for Commercial Cannabis Operations – 600 Foot Buffer from Schools (including Youth Centers) and Day Care Facilities; and, 100 Foot Buffer from Parks.