



Council Agenda Report

From: Ty Lewis, City Manager

Subject: Cannabis Update

Date: July 19, 2022

Facts

1. The City's Zoning Code ([Code Chapter 21.33](#)) currently authorizes only medical cannabis delivery businesses in the Riverside Corridor (RC) and the C-3 district, subject to the granting of a conditional use permit. All other commercial cannabis businesses, including storefront cannabis retail dispensaries, are prohibited within the City. Delivery services based outside the City are legally able to deliver within the City, once obtaining and holding a state license and a Paso Robles business license.
2. Currently two businesses are authorized to operate medical cannabis delivery services within the City, both business locations are within the Riverside Corridor. No other cannabis business types are authorized at this time.
3. On November 6, 2018, City voters approved Measure I-18, which enacted Ordinance No. 1066 N.S. to establish a tax on cannabis-related activities as a general tax by adding Chapter 3.22 to the Paso Robles Municipal Code. The voter-approved ordinance establishes only the permissible maximum rates that may be imposed on cannabis businesses.
4. Under Code section 3.22.010, all cannabis businesses operating within the City shall be charged a cannabis business tax up to a maximum tax rate as follows: a cultivation tax rate of twenty dollars (\$20) per square foot of space utilized in connection with the cultivation of cannabis; a gross receipts tax of up to ten percent (10%) for cannabis delivery businesses; a gross receipts tax of fifteen percent (15%) for all cannabis manufacturing, testing, and distribution; and a gross receipts tax of ten percent (10%) for retailers. Although the maximum tax rates are set for each type of cannabis business, only medical cannabis delivery businesses are authorized to operate within the City.
5. On [October 20, 2020](#), the City Council amended Section 3.22.010 of Title 3 of the Paso Robles Municipal Code, setting cannabis business tax rates for such delivery businesses at 6% instead of the maximum 10% tax rate authorized by the voters with Measure I-18. The City Council also noted that when or if new types of cannabis businesses are permitted in the City, the City Council may adjust the applicable tax rates downward.
6. During the October 20, 2020 meeting, staff was also directed to do the work necessary to facilitate public input on the issue of various new levels of cannabis marketing in Paso Robles and appointed Councilmembers Hamon and Garcia as part of a task force.
7. Due to COVID-19 and leadership changes within the organization, the task force did not fully materialize or provide meaningful.
8. During the [February 26, 2022](#) and [April 19, 2022](#) City Council meetings, the City Council discussed and approved the inclusion of developing a cannabis governance framework as part of the City Council Goals for fiscal years 2022-23 and 2023-24.
9. In response to the adopted goals, staff contracted with HdL Companies to assist staff in developing the framework and share best practices for moving this discussion forward.

Options

1. Take no action;
2. Receive and file the staff and HdL Companies presentations, reaffirm the City Council's desire to advance the development of the cannabis governance framework, including recreational retail cannabis sales, approve the policy development and public outreach plan and provide any other general comments or direction pertaining to policy-specific issues outlined within the presentations.

3. Provide alternative direction to staff.

Analysis and Conclusions

California and Cannabis

California became the first state to allow medicinal cannabis use when voters passed the Compassionate Use Act in 1996. In 2016, a package of laws went into effect that were designed to regulate the medicinal-cannabis industry. Known as the California Medical Marijuana Regulation and Safety Act, this legislation sets forth comprehensive regulations and standards that governed many aspects of the industry from taxation and licensing to quality control, packaging, shipping, and standards for cultivation.

In November 2016, California voters passed Proposition 64, which, among other actions, legalized specified personal use and cultivation of marijuana for adults 21 years of age or older and includes provisions on regulation, licensing, and taxation of legalized use. Proposition 64 creates a framework for the regulation of nonmedical cannabis by establishing a state licensing and taxation structure. The system is meant to function with any local regulatory program by requiring that all licenses issued by the state work well in concert with local rules. However, local regulation of cannabis is voluntary.

Paso Robles and Cannabis (2016 to Present)

Just prior to the passage of Proposition 64, the City Council held a [study session](#) on September 6, 2016 and took public comment regarding the personal, medical, and commercial use of marijuana within the City.

On [September 20, 2016](#), the City Council:

1. Introduced an ordinance for first reading amending the Zoning Ordinance to repeal and replace Chapter 21.33 of the El Paso De Robles Municipal Code to regulate the personal, medical, and commercial use of marijuana. This was done preemptively to maintain as much local control as authorized under the assumption of the passage of Proposition 64. The City Council held the second reading and adopted the ordinance on [October 4, 2016](#). The ordinance (among other things), continued to allow medical marijuana delivery services within the City.
2. Established a task force to discuss and make recommendations to the City Council regarding the future of the cannabis industry within Paso Robles. The task force met six times between September 2016 and February 2017.

The task force presented its findings at the [May 16, 2017](#) City Council meeting. The City Council accepted the City Manager's Taskforce on Medical Marijuana reports for filing.

On November 6, 2018, City voters approved Measure I-18, which enacted Ordinance No. 1066 N.S. to establish a tax on cannabis-related activities as a general tax by adding Chapter 3.22 to the Paso Robles Municipal Code. Under Code section 3.22.010, all cannabis businesses operating within the City shall be charged a cannabis business tax up to a maximum tax rate as follows: a cultivation tax rate of twenty dollars (\$20) per square foot of space utilized in connection with the cultivation of cannabis; a gross receipts tax of up to ten percent (10%) for cannabis delivery businesses; a gross receipts tax of fifteen percent (15%) for all cannabis manufacturing, testing, and distribution; and a gross receipts tax of ten percent (10%) for retailers. The voter-approved ordinance establishes only the permissible maximum rates that may be imposed on cannabis businesses.

On [October 20, 2020](#), the City Council:

1. Amended Section 3.22.010 of Title 3 of the Paso Robles Municipal Code, setting cannabis business tax rates for such delivery businesses at 6% instead of the maximum 10% tax rate authorized by the voters with Measure I-18. The City Council also noted that when or if new types of cannabis businesses are permitted in the City, the City Council may adjust the applicable tax rates downward.
2. Directed staff to do the work necessary to facilitate public input on the issue of various new levels of cannabis marketing in Paso Robles and appointed Councilmembers Hamon and Garcia as part of a task force.

Based on all available information, it does not appear any further follow up occurred on this topic prior to February 2022.

During the [February 26, 2022](#) and [April 19, 2022](#) City Council meetings, the City Council discussed and approved the inclusion of developing a cannabis governance framework as part of the City Council Goals for fiscal years 2022-23 and 2023-24. Simultaneously, staff has received multiple inquiries from prospective business owners who are interested in opening retail cannabis storefronts within the City. Currently two businesses are authorized to operate medical cannabis delivery services within the City, both business locations within the Riverside Corridor. These operations do not have a store front retail component.

Staff has retained HdL Companies to assist the City in expediting this discussion and as a resource in developing a cannabis governance framework, should the City Council choose to pursue this option. HdL Companies has worked with over 175 California cities and counties on cannabis-related programs, including ordinance development and review, community outreach and education, merit-based application and permitting processes, cost recovery studies, compliance inspections, financial audits, fiscal analyses, and law enforcement training. HdL Companies works solely with public agencies and has no private-sector clients in the cannabis industry

Staff is also in contact with the City's grant writing team and the League of California Cities to determine if the City may be eligible for future grant funding under the Cannabis Local Jurisdiction Retail Access Grant Program. The program provides funding to cities to support local jurisdictions in the development and implementation of a local retail licensing program. Guidelines for the grant funding are currently being developed by the Department of Cannabis Control. Staff will continue to engage with the state to determine the City's eligibility for the funding, should the process of regulating retail cannabis sales move forward.

City staff and HdL staff will provide the City Council with presentations regarding the history of cannabis regulations within the state and City, as well as a review of policy items for discussion. Feedback from the City Council on the applicable policy items is requested by staff, however staff expects multiple future opportunities for continued policy input on this item following the community engagement process. Furthermore, staff recommends discussions regarding the specific elements of the application process (such as selection process, specific requirements, etc.) be discussed more fully in depth in the November meeting.

Proposed Timeline

Date	Action
August/September 2022	Community Meetings
October 2022	City Council Update/Next Steps/Application Process Discussion
November 2022	First reading of ordinance (if applicable)
January 2023	Application window opens (if applicable)

Fiscal Impact

There is no direct fiscal impact for receiving and filing this report. The City does currently realize between \$20,000 and \$30,000 annually in cannabis revenues from the cannabis delivery companies currently operating in the City. The fiscal impact of authorizing broader regulated cannabis activity within the City is highly speculative based on several variables. Variables include, but are not limited to:

- The types of cannabis businesses allowed;
- The number of licenses allowed and/or issued for each business type;
- The actual tax rate set by the City Council for each business (if set lower than the maximum approved by voters via Measure I-18);
- The market fluctuations within the industry, including price of product, volume of product sold, etc.;
- Assumptions that gross receipts are accurately reported for taxing purposes, given the predominately all-cash nature of the cannabis business as a result of federal banking regulations;
- Broader economic trends;

- Costs associated with the application processing, permitting, inspections, and other aspects of the local regulatory process not recouped through fees for service; and
- The actual cost to provide non-administrative services to any cannabis business, including police services which may “offset” cannabis specific revenues.

Any potential revenues derived from broader regulated cannabis activity within the City would be considered general revenues and subject to appropriation based on City Council direction.

Recommendation (Option 2)

Receive and file the staff and HdL Companies presentations, reaffirm the City Council’s desire to advance the development of the cannabis governance framework, including recreational retail cannabis sales, approve the policy development and public outreach plan and provide any other general comments or direction pertaining to policy-specific issues outlined within the presentations.