

Meeting Date: 8/9/2016

Report Type: Staff/Discussion

Report ID: 2016-00796

Title: An Ordinance Extending the Interim Ordinance Imposing a Moratorium on Cannabis Cultivation

Location: Citywide

Recommendation: 1) Review an ordinance extending the moratorium on cannabis cultivation to September 18, 2017; and 2) pass a Motion forwarding the ordinance to City Council for approval.

Contact: Brad Wasson, Revenue Manager, (916) 808-1259, Department of Finance; Joy Patterson, Principal Planner, (916) 808-5607, Community Development Department

Presenter: Brad Wasson, Revenue Manager, (916) 808-1259, Department of Finance; Joy Patterson, Principal Planner, (916) 808-5607, Community Development Department

Department: Finance

Division: Revenue Administration

Dept ID: 06001211

Attachments:

1-Description/Analysis

2-Draft Ordinance

City Attorney Review

Approved as to Form

Steve Itagaki

8/2/2016 1:58:54 PM

Approvals/Acknowledgements

Department Director or Designee: Leyne Milstein - 7/28/2016 12:13:32 PM

Description/Analysis

Issue Detail: On February 2, 2016, City Council adopted an emergency ordinance amending various sections of Title 17 of the Sacramento City Code relating to cannabis cultivation. This action was taken to ensure land use requirements were in place before the State of California's statutory deadline of March 1, 2016.

In addition to the emergency ordinance to meet the state deadline, the City Council passed an interim ordinance that imposed a 45-day moratorium on cannabis cultivation in any zone, unless it was done in accordance with chapter 8.132 of the Sacramento City Code (indoor residential cultivation) or it was an "established operation" on that date.

On March 16, 2016, City Council extended the interim ordinance until September 18, 2016, to allow for additional time to develop cannabis cultivation regulations. Regulation of cannabis cultivation is new to California local governments. Consequently, a regulation blueprint is not readily available. Staff has been researching how other jurisdictions have addressed the issue and numerous meetings with stakeholders and site visits to cultivators have occurred. While staff has recommendations which are being presented to this committee today, the regulations will not be adopted by the moratorium expiration on September 18, 2016. Staff is hopeful that the fully vetted regulations will return to this Committee in October 2016 and be adopted by City Council in November 2016.

If the moratorium is not extended, the establishment of insufficiently regulated cannabis cultivation poses a current and immediate threat to the public health, safety, and welfare. If the moratorium were to expire without the additional regulations that are currently in process the City would be forced to grant conditional use permits for cultivation which could result in a potential increase in crime, blight, and other nuisance activity.

California Government Code section 65858 provides that the City Council may first extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance a second time for one year. Any extension requires a four-fifths vote of the City Council. At this time, staff recommends extending the moratorium for one year until September 18, 2017. This is the maximum amount of time that the moratorium may be extended. Staff believes regulations will be in place well before the end of the current calendar year.

Policy Considerations: In order for the Council to implement reasonable and effective regulations on cannabis cultivation, the moratorium should be extended.

Economic Impacts: None.

Environmental Consideration:

California Environmental Quality Act (CEQA): This action is not a project subject to CEQA because it involves only general policy and procedure making and does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines, §§ 15002(d), 15378, 15061(b)(3).)

Sustainability: Not applicable.

Rationale for Recommendation: With the amount of interest from individuals wishing to cultivate cannabis in Sacramento, the City needs to be thorough in developing regulations that protect the public health and safety. More time is necessary to develop regulations with the input of stakeholders from the cannabis industry, business associations and neighborhood groups. Staff is recommending a one-year extension of the moratorium

Financial Considerations: None.

Local Business Enterprise (LBE): Not applicable.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE EXTENDING THE TERM OF ORDINANCE NO. 2016-0007, RELATING TO A MORATORIUM ON CANNABIS CULTIVATION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Findings and Purpose

The City Council of the City of Sacramento finds and declares as follows:

A. On February 2, 2016, the city council adopted Ordinance No. 2016-0006, an emergency ordinance amending various sections of title 17 of the Sacramento City Code relating to cannabis cultivation (the "cannabis cultivation ordinance"). The cannabis cultivation ordinance took effect immediately upon adoption and allows the use of property for cannabis cultivation in certain specified zones. The urgency in adopting the cannabis cultivation ordinance was to satisfy a requirement in the California Medical Marijuana Regulation and Safety Act that has since been repealed.

B. On the same date, the city council also adopted Ordinance No. 2016-0007, an interim ordinance prohibiting the cultivation use (the "interim ordinance"). The interim ordinance was enacted because the city was considering and studying a proposal that would impose significant additional regulations to reduce the impact that cannabis cultivation may have on the surrounding areas, such as a potential increase in crime and nuisance activity. The interim ordinance would have expired on March 18, 2016, unless extended.

C. On March 16, 2016, the city council adopted Ordinance No. 2016-0013, an emergency ordinance extending the prohibition of the cultivation use (the "extension ordinance"). The extension ordinance was enacted because the city needed more time to thoroughly and thoughtfully consider the proposal for new regulations. The extension ordinance extended the interim ordinance that prohibits the cultivation use until September 18, 2016, unless extended again.

D. Since the adoption of the extension ordinance, city staff has met with city residents, city businesses, and the marijuana industry; reviewed the regulations of other jurisdictions; conducted site visits; met with the newly-created State Bureau of Medical Marijuana Regulations; and developed a draft ordinance implementing additional land use regulations, as requested by the city council. However, the city still desires to establish a marijuana cultivation business permit, as well as operational requirements regarding issues such as security, odor control, and record keeping. The proposed additional regulations need to be reviewed by the stakeholders; an ordinance must be drafted; and the ordinance must be presented to the law

and legislation committee and the city council. Those steps cannot be completed before the interim ordinance expires on September 18, 2016.

E. If the interim ordinance is allowed to expire, marijuana cultivation may proliferate within the city while being insufficiently regulated. That poses a current and immediate threat to the public health, safety, and welfare. The approval of entitlements that are required for those uses would result in a potential increase in crime, blight, and other nuisance activity.

F. Therefore, a second extension of the interim ordinance is necessary to protect the public health, safety, and welfare by prohibiting the marijuana or cannabis cultivation use, until the city council completes its consideration of the proposal for additional regulations.

G. California Government Code section 65858 provides that the city can extend the interim ordinance one more time for up to one more year. City staff anticipates the proposed additional regulations can be brought to the city council for adoption within that time.

SECTION 2. Term of the Interim Ordinance Extended

The term of the interim ordinance (Ordinance No. 2016-0007) is extended for one year. The interim ordinance will have no further force or effect after September 18, 2017.