Title: Study of Adverse Impacts of Marijuana Cultivation, Neighborhood Responsibility Agreements and Mitigation Fund

Recommendation: Pass a Resolution authorizing the City Manager or City Manager’s designee to 1) conduct a study of the adverse impacts of marijuana cultivation developments on the surrounding community, the measures that can mitigate those impacts, and the cost of those mitigation measures; 2) enter into legally-binding neighborhood responsibility agreements with property owners seeking conditional use permits for marijuana cultivation; 3) establish a marijuana cultivation impact mitigation fund into which all monies received pursuant to the neighborhood responsibility agreements shall be placed; and 4) establish a procedure through which monies in the marijuana cultivation impact mitigation fund is used to implement mitigation measures identified in the mitigation study.

Location: Citywide

Contact: Randi L. Knott, Director of Government Affairs, (916) 808-5771, Office of the City Manager; Steve Itagaki, Senior Deputy City Attorney, (916) 808-5760, Office of the City Attorney

Presenter: Randi L. Knott, Director of Government Affairs, (916) 808-5771, Office of the City Manager

Department: Office of the City Manager

Attachments: 1-Description/Analysis 2-Resolution
Description/Analysis

Issue Detail: At the City Council meeting of November 22, 2016, the City Council adopted an ordinance that will permit commercial cultivation of marijuana as a land use in appropriately zoned areas of the City. Due to the unknown impact of this use, Council directed staff to return with a resolution establishing how applicants can satisfy the requirement for a Neighborhood Responsibility Plan (NRP) to ensure that cultivators be responsible for any potential adverse impacts due to their operations.

Policy Considerations: There is a long history of ensuring that developments mitigate any potential adverse impacts on surrounding communities and businesses. This proposal ensures that the City will have funding to conduct a study of the impacts of this new industry and to mitigate any potential negative impacts resulting from it.

Economic Impacts: Not applicable

Environmental Considerations: This action is not a project subject to CEQA because it involves only administrative activities, general policy and procedure making, and government fiscal activities that do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. (CEQA Guidelines § 15378(b)(2), (b)(4), and (b)(5).)

Sustainability: Not applicable

Commission/Committee Action: Not applicable

Rationale for Recommendation: Every marijuana cultivator in the City who wishes to receive a conditional use permit and an operating permit must provide a Neighborhood Responsibility Plan (NRP) to address the potential adverse impacts of marijuana cultivation on the surrounding area. Compliance with the NRP may be achieved through an agreement with the City. One acceptable means to comply with this requirement is to pay an amount of money that can be used by the City to pay for measures to mitigate the adverse impacts of development.

Financial Considerations: In addition to any payments remitted relating to the NRP, marijuana cultivators will be charged a permitting fee to cover the cost of administration and enforcement to ensure compliance with City and State laws. However, the unknown impacts of this new industry will need to be addressed. The NRP will create a funding source to mitigate the potential negative impacts.

Local Business Enterprise (LBE): Not applicable
RESOLUTION NO.

Adopted by the Sacramento City Council

AUTHORIZING THE CITY MANAGER TO CONDUCT A STUDY OF THE ADVERSE IMPACTS OF MARIJUANA CULTIVATION, ENTER INTO NEIGHBORHOOD RESPONSIBILITY AGREEMENTS, AND ESTABLISH A MITIGATION FUND

BACKGROUND

A. On November 22, 2016, the city council amended the Planning and Development Code to require a conditional use permit to establish a marijuana cultivation land use (Ordinance No. 2016-0050).

B. As a requirement for a conditional use permit, property owners must provide a neighborhood responsibility plan that mitigates the ongoing adverse effects of marijuana cultivation on the surrounding neighborhood in order for the decision-maker to make the following findings:

1. The proposed marijuana cultivation will not adversely affect the peace or general welfare of the surrounding neighborhood (Sacramento City Code § 17.228.127.A.1); and

2. The proposed use and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance (Sacramento City Code § 17.808.200.C.1.d).

C. Implementation of a neighborhood responsibility plan may be assured through conditions of approval that address the impact on the surrounding neighborhood, an agreement with the city, or through other means acceptable to the city. (Sacramento City Code § 17.228.127.B.5.)

D. The city council finds that one acceptable means for developers to comply with the neighborhood responsibility plan requirement is to contribute 1% of the marijuana cultivation business’ gross receipts into a fund that can be used by the city to pay for measures to mitigate the adverse impacts of the development.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:
Section 1. The city council finds and determines that the background statements A through D are true.

Section 2. The city manager or designee is hereby authorized to enter into legally-binding neighborhood responsibility agreements with property owners seeking a conditional use permit for marijuana cultivation for the payment of money to be used by the city to pay for measures to mitigate the adverse impacts of the development on surrounding neighborhoods.

Section 3. The neighborhood responsibility agreements may either be for (a) the periodic payment of 1% of the gross receipts of every marijuana cultivation business on the subject property, or (b) the payment of a fee in the amount established by a development impact fee study.

Section 4. The city manager or designee is authorized to commission a study of the adverse impacts of marijuana cultivation developments on the surrounding community, including the secondary effects, measures that may mitigate those impacts, the cost to the city of those impacts, and the identified range of mitigation measures. The study shall determine if the periodic payment of 1% of gross receipts is justified, or identify an alternative rate to be utilized in all neighborhood responsibility agreements entered into thereafter.

Section 5. The city manager is authorized to establish a marijuana cultivation impact mitigation fund into which all monies received pursuant to neighborhood responsibility agreements shall be placed. The fund shall be divided into sub-accounts for each city council district, and the monies received from each development shall be placed into the sub-account for the district in which the development is located. The monies in each sub-account may be utilized only for the implementation of mitigation measures that are located within that city council district.

Section 6. The city manager shall establish a procedure through which monies in the marijuana cultivation impact mitigation fund are used to implement mitigation measures that address the impacts of marijuana cultivation sites.

Section 7. Though Sacramento City Code section 17.228.127.B.5 indicates that the requirement for a neighborhood responsibility plan may be achieved through other means, a property owner who has voluntarily entered into a neighborhood responsibility agreement described above, shall be deemed to have sufficiently mitigated its neighborhood impact and satisfied that requirement.