



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: November 21, 2017

TO: Mayor and Councilmembers

FROM: City Attorney's Office

SUBJECT: Cannabis Regulatory and Zoning Ordinances

RECOMMENDATION: That Council:

- A. Make the environmental findings contained in this Council Agenda Report;
- B. Introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Adding Chapter 9.44 "Commercial Cannabis Businesses" to Title 9 of the Santa Barbara Municipal Code and Amending Santa Barbara Municipal Code section 30.185.250 and Subsequently Repealing Santa Barbara Municipal Code Chapter 28.80, Section 30.185.250 and Ordinance Nos. 5526 and 5551;
- C. Introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Amending sections 30.20.020, 30.25.020, 30.30.020, 30.175.040, 30.295.040, and 30.295.050 of Title 30 [Inland Zoning] of the Santa Barbara Municipal Code to Regulate Cannabis Uses; and
- D. Introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Amending in their Entirety sections 28.87.300 and 30.185.110 of the Santa Barbara Municipal Code Pertaining to Personal Cannabis Cultivation.

EXECUTIVE SUMMARY

With the adoption of the Medical Cannabis Regulation and Safety Act (MCRSA), the passage of the Adult Use of Marijuana Act (Proposition 64), and their subsequent consolidation by Senate Bill (S.B.) 94 – the Medicinal and Adult-Use of Cannabis Regulation and Safety Act (MAUCRSA), the use of cannabis and associated commercial activities was legalized through a state licensing scheme. Under the new state regulations, if a local government does not expressly prohibit commercial cannabis

activity, it will be permitted and subject exclusively to state licensing and regulation. A local government may adopt commercial cannabis regulations that are more restrictive than adopted by the state under MAUCRSA.

The City currently has an ordinance regulating medical cannabis dispensaries which reflects the laws and policies adopted under the Compassionate Use Act of 1996, and the Medical Marijuana Program Act (S.B. 420); however, the City lacks a comprehensive policy that addresses the recent legalization of other commercial activities related to both medical and non-medical cannabis. As such, on June 20, 2017, the City Council directed staff to research and develop a draft ordinance that would regulate all cannabis related activities, including medical and non-medical cannabis for personal use, and medical and non-medical commercial cannabis businesses. Council directed staff to return with an ordinance for adoption prior to January 1, 2018.

Pursuant to Council's direction, staff presented the proposed cannabis ordinances to the Ordinance Committee on October 10, 2016. The Ordinance Committee approved the ordinances, with a request for further investigation into the feasibility of outdoor personal cultivation, and forwarded the zoning ordinances on to the Planning Commission for consideration. On October 26, 2017, the Planning Commission reviewed the proposed zoning ordinances and moved that they be forwarded to the City Council for adoption. The Planning Commission also requested that staff provide the Council with the Commissioners' comments regarding the commercial cannabis business regulations being proposed in Santa Barbara Municipal Code (SBMC) Chapter 9.44.

DISCUSSION:

Background

MCRSA became effective on January 1, 2016, and established a state licensing program for commercial medical cannabis related activities, including the dispensing and cultivation of cannabis. It also allowed local jurisdictions to adopt and enforce local regulations and permitting requirements relating to commercial medical cannabis activities, so long as they met the minimum state licensing standards and regulations. Similarly, on November 8, 2016, the citizens of California voted to approve Proposition 64, Adult Use of Marijuana Act (AUMA). The AUMA allowed, at the discretion of local jurisdictions, the retail sale, cultivation, distribution, production, and testing of cannabis and cannabis products. It also made it lawful to possess a limited amount of cannabis for personal use, and allowed for the personal cultivation of up to six cannabis plants at a private residence for medical or non-medical use.

Subsequently, on June 12, 2017, Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act was enacted to provide a single cohesive licensing scheme for all cannabis related activities. SB 94 repealed MCRSA, and included certain provisions of MCRSA in the licensing provisions of AUMA. Under Senate Bill 94, these consolidated provisions became known as MAUCRSA.

The State will begin issuing state licenses on January 2, 2018. During the initial months, the State has forecasted a possible interruption to the flow of legally-conforming cannabis products to consumers. For that reason, the State plans to issue temporary commercial cannabis licenses. This initial stop-gap would provide a four (4) month license, with an option to extend for 90 days if the licensee remains in good standing with state regulation and local jurisdictions.

These temporary licenses will primarily be issued to operators who have express local regulatory approval to operate, thereby allowing them to continue to operate lawfully in the short term. To qualify for a temporary license, the State will require: 1.) a copy of a valid local license; 2.) a copy of a local permit; or 3.) proof of other authorization issued by the local jurisdiction. Once notified of a pending state license application for a commercial cannabis business, cities will have only 60 days to respond to the State regarding whether or not the applicant is permitted to operate locally.

Existing City Cannabis Ordinances

The City currently has three ordinances regulating the sale and cultivation of medical and non-medical cannabis; specifically:

- Ordinance Nos. 5526 & 5798 – Medical Cannabis Dispensaries (SBMC §30.185.250);
- Ordinance Nos. 5733 & 5798 – Personal Cannabis Cultivation (SBMC §§28.87.300 and 30.185.110); and
- Ordinance Nos. 5763 & 5774 – Interim Urgency Zoning Ordinance Prohibiting Non-Medical Marijuana Related Businesses.

Council should note that Ordinance Nos. 5526 and 5733 were originally codified in SBMC Title 28 as Chapter 28.80, Medical Cannabis Dispensaries, and Section 28.87.300, Personal Cannabis Cultivation. With the enactment of the City's New Zoning Ordinance, these ordinances were codified into SBMC Title 30.

The City's Interim Urgency Zoning Ordinance Prohibiting Non-Medical Marijuana Related Businesses (Interim Ordinance) was adopted and enacted by Council on September 6, 2016 in response to the anticipated passage of the AUMA, and the City's desire to retain local control of commercial cannabis businesses through adoption of its own ordinances. Council subsequently adopted Ordinance No. 5774 extending the term of the Interim Ordinance to September 5, 2018. To the extent any challenges pertaining to the enforceability or validity may be raised to all or a portion of the proposed commercial cannabis ordinances after their adoption, the Interim Ordinance will remain in effect as to the challenged portions.

Procedural History

On October 10, 2017, staff presented a proposed ordinance to the Ordinance Committee to add Chapter 9.44 to the Santa Barbara Municipal Code to restrict and regulate the

operation of commercial cannabis businesses within the City. Chapter 9.44 regulates all forms of medical and non-medical commercial cannabis activity, including retail sales, delivery, distribution, indoor cultivation, manufacture, and testing. In conjunction with the proposed SBMC Chapter 9.44, staff also recommended amending SBMC Title 30 to restrict commercial cannabis businesses to within the Manufacturing Industrial (M-I) zones, with the exception of storefront retail, which would also be allowed within the Commercial Restricted (C-R) and Commercial General (C-G) zones. Additionally, staff presented amendments to SBMC section 30.185.250 pertaining to the permitting of Medical Cannabis Collective Dispensaries, and SBMC section 28.87.300 and 30.185.110 pertaining to cultivation of cannabis for personal use.

As discussed in greater detail below, the Ordinance Committee referred the proposed zoning ordinance amendments to the Planning Commission for consideration and recommendation for adoption by the City Council. The Ordinance Committee also requested that staff investigate the feasibility and best practices for allowing outdoor cultivation of cannabis for personal use. Because the proposed ordinance adding Chapter 9.44 did not implicate any changes to the City's zoning codes, the Ordinance Committee recommended that it be forwarded directly to the City Council for consideration and recommendation for adoption.

Pursuant to the direction given by the Ordinance Committee, the proposed zoning ordinances were presented to the Planning Commission on October 26, 2017. In order to provide context to the proposed zoning amendments, staff also included a copy of the proposed SBMC Chapter 9.44 for Planning Commissions' review. As discussed below, the Planning Commission voted to recommend adoption of the ordinances amending SBMC sections 28.87.300, 30.185.110 and 30.185.120, and the various amendments to Title 30 restricting commercial cannabis businesses to the M-I zones, with the exception of storefront retail, which could occur in the C-G and C-R zones. The Planning Commission also requested that the Council consider their comments pertaining to the regulations being proposed through the adoption of Chapter 9.44.

Proposed Zoning Amendments

A. PERSONAL CANNABIS CULTIVATION ZONING AMENDMENT

The proposed Personal Cannabis Cultivation Ordinance presented to Ordinance Committee on October 10, 2017 replaces SBMC §30.185.110 in its entirety (and §28.87.300 within the Coastal Zone). Currently, Section 30.185.110 only allows personal indoor or outdoor cultivation of 100 square feet of medical cannabis at or within a legal dwelling unit by a qualified patient. The proposed amendment would bring the City into compliance with MAUCRSA, which mandates that local jurisdictions allow individuals to cultivate up to six (6) cannabis plants for personal medical or non-medical use inside a private dwelling unit or accessory building. MAUCRSA allows the City to enact reasonable regulations to regulate indoor personal cultivation, and further allows the City to entirely prohibit outdoor cultivation for personal use.

If the City, however, chooses to entirely prohibit outdoor cultivation of cannabis for personal use, it will not be eligible for limited state grant funding as authorized under Revenue and Taxation Code §34019(f)(3)(C).

The proposed amendment to SBMC §30.185.110 that was reviewed by the Ordinance Committee authorized indoor cultivation of up to six (6) cannabis plants for personal use, subject to certain reasonable restrictions, within a lawful private dwelling unit or accessory building in any zone of the City, and expressly prohibited personal outdoor cultivation. While the Ordinance Committee members expressed concern about outdoor cultivation creating community compatibility concerns (e.g. security, odor), they expressed additional concerns about limiting individuals' desire to cultivate outdoors and precluding the City's ability to access grant funding because of the prohibition on outdoor personal cultivation. The Ordinance Committee directed staff to explore best practices for limited outdoor personal cultivation that would address nuisance and odor concerns.

After performing general research, staff believes that the principal public policy concerns with regard to outdoor cultivation are security and nuisance odor. State law requires that cannabis cultivated for personal use be screened from public view, making it difficult to identify where the plant is being cultivated. With adequate screening and secure outdoor enclosed spaces, the threat of theft would be adequately minimized and further security measures are not required, or would be unduly burdensome.

With respect to nuisance odor, staff considered proximity, frequency, duration, and intensity of cannabis blooms in devising an outdoor cultivation policy recommendation. Cannabis plants produce a strong odor during their bloom (or bud) cycle, but otherwise have little detectible odor. A typical outdoor cannabis plant can be expected to bloom 3-4 times per year, for a period of approximately two weeks each bloom. Although not normally pungent, during this blooming (or bud) period, cannabis plants produce a strong distinct odor. By limiting outdoor cultivation to just one plant at a time, staff felt that the City could reduce exposure to nuisance odor to no more than 8 weeks per year, occurring within 2 week intervals, and only at the intensity of a single plant. Further, by prohibiting the cannabis plant to be cultivated at least 10 feet from interior property lines, exposure to nuisance odor by an adjoining property could be minimized.

As a result of this general research, and pursuant to the direction given by the Ordinance Committee, staff prepared a "revised" draft Personal Cultivation Ordinance that would allow cultivation of up to six (6) cannabis plants for personal use, one of which could be located outdoors, at any given time, so long as it was not located in the front yard, within 10 feet of an interior property line, or visible from public view. Outdoor cultivation would be limited to detached single-family residences, and prohibited in multi-unit dwellings due to the close proximity of the outdoor space to neighbors.

Staff presented both the original Personal Cultivation Ordinance, which restricts cultivation to indoors only, and the "revised" Cultivation Ordinance, to the Planning Commission. The Planning Commission voted unanimously to recommend that the City

Council adopt the “revised” Personal Cultivation Ordinance allowing cultivation of one plant outdoors, subject to specific limitations. Based on a comment at Planning Commission that there may be some ambiguity with regards to whether or not two cannabis plants could be cultivated outdoors on the same property if the lot contains an assessor dwelling unit (ADU), staff added clarifying language that only one plant may be cultivated outdoors regardless of whether or not the lot contains an ADU.

The personal cannabis cultivation ordinance in Chapter 28.87, regulating land use within the Coastal Zone, mirrors existing SBMC §30.185.110. For that reason, Staff proposes amending section 28.87.300, so that it provides the same restrictions and regulations being proposed in the amendment to SBMC §30.185.110.

B. MEDICAL CANNABIS STOREFRONT COLLECTIVE ZONING AMENDMENT

SBMC §30.185.250 authorizes up to three medical cannabis storefront collective dispensaries to operate within the City at any one time, and establishes regulations for operation of these dispensaries under a “collective” or “cooperative” model. This collective style of operation was required under the laws relating to the Compassionate Use Act and Medical Marijuana Program Act when the ordinance was enacted, because at that time it was illegal to sell cannabis. Currently, with the passage and adoption of MCRSA and AUMA (subsequently consolidated by MAUCRSA), the prohibition against the sale of cannabis and other commercial cannabis related activities has been lifted. The City’s current requirement that dispensaries operate under a collective model is outdated and conflicts in part with the new laws established under MAUCRSA. The proposed amendment would remove the collective model of operation, and would additionally allow cultivation of cannabis to occur outside the Tri-Counties area so that the dispensaries can more easily comply with the new state laws requiring that cannabis be purchased from a state licensed manufacturer and cultivator.

Even once amended, the existing ordinance still does not contain the more robust and detailed regulations that are being proposed within the new Commercial Cannabis Business Ordinance (SBMC Chap. 9.44). For that reason, staff recommended that the Ordinance Committee and the Planning Commission consider repealing SBMC §30.185.250 subsequent to the amendments, and allow the dispensaries that currently hold an issued medical marijuana storefront dispensary permit to continue to operate as a legal non-conforming use. The non-conforming dispensaries would be subject to the operational provisions imposed under SBMC §30.185.250 (former SBMC Chapter 28.80), the City dispensary permit conditions of approvals, and the new State licensing requirements and regulations. These existing legal non-conforming dispensaries could, if they chose, apply for a City permit under the new Chapter 9.44 Cannabis Regulations (assuming they are in an allowable zone) to operate either as a medical or a non-medical dispensary; however, they would be given no special priority over the other applicants.

On October 26, 2017, the Planning Commission recommended that the City Council adopt the proposed amendments to SBMC section 30.185.110, and subsequently repeal Ordinance No. 5526 – Medical Cannabis Dispensaries.

C. COMMERCIAL CANNABIS ZONES AND PROPOSED REGULATORY SCHEME

1. SUMMARY OF REGULATORY AND ZONING SCHEME

On October 10, 2017, the Ordinance Committee also considered staff's recommendation that commercial cannabis businesses be regulated through both zoning restrictions and an exercise of the City's police power. The proposed operational provisions for commercial cannabis businesses would be codified in Chapter 9.44 of the Santa Barbara Municipal Code, and the locations where such commercial activities could occur would be restricted through amendments to Title 30 of the City's new zoning ordinance.

The proposed amendments to the City's Zoning Ordinance restricting the location of commercial cannabis businesses are found in Title 30 of the Santa Barbara Municipal Code. The proposed locations would occur primarily within the M-I, Manufacturing Industrial Zone, with limited use of the C-G, Commercial General and C-R, Commercial Restricted Zones for storefront retail cannabis dispensaries. The Ordinance Committee moved that the proposed amendments to Title 30 be brought to the Planning Commission for consideration and subsequent recommendation to the City Council. The Planning Commission then recommended approval of the proposed zoning amendments restricting commercial cannabis businesses to within specific zones within the City.

2. ZONING RESTRICTIONS – AMENDMENTS TO TITLE 30

The locations in which commercial cannabis activities could occur must be restricted through an amendment to the City's New Zoning Ordinance. The proposed amendment to Title 30, which was recommended by the Ordinance Committee and the Planning Commission, would limit all commercial cannabis business activities, including storefront retail, retail delivery-only, manufacture, distribution, testing, and indoor commercial cultivation to the City's M-I zones, with the exception of storefront retail which would also be allowed within the C-R and C-G zones. It is important to note that Retail delivery-only businesses are distinct from storefront retail establishments. Delivery-only businesses do not allow customers to purchase cannabis from the "brick and mortar" warehouse locations where the cannabis is stored, but instead require that customers "call-in" orders that are then delivered by vehicle. Because the delivery-only businesses operate more like commercial warehousing distribution centers, unlike "storefront" cannabis retailers, they would be limited to operation within the M-I zone.

Attached is a map illustrating the location of the M-I, C-R, and C-G zones where commercial cannabis business activities could occur (see Attachment 1). Note, however, that the portions of the identified zones on the map that are located within the Coastal Zone would not be allowed to have commercial cannabis businesses until adoption of a

Local Coastal Plan amendment, and subsequent approval by Council through an amendment to Title 28.

The Ordinance Committee also requested that staff investigate the possibility of allowing commercial cannabis businesses within the industrial zones on the Airport property. Since this type of use would require an amendment to the Airport Specific Plan, it cannot be achieved by January 1, 2018. Staff, however, will continue to investigate the Airport as a feasible location for commercial cannabis businesses and, if such a use can legally be accommodated, will return to Council for further direction.

D. COMMERCIAL CANNABIS BUSINESS ORDINANCE (SBMC CHAPTER 9.44)

The proposed Commercial Cannabis Business Ordinance allows storefront retail, retail by delivery only, manufacture, distribution, testing, and indoor cultivation of cannabis businesses to operate within the City under a strict permitting scheme, regardless of whether it is for medical or non-medical use. Due to potential nuisance related factors (e.g. security and odor) that can occur with outdoor cannabis cultivation, this commercial activity would be prohibited within any zone in the City. Chapter 9.44 would authorize the Council to set by resolution the maximum number of cannabis-related businesses within the City. The ordinance also provides for an application and selection process, approved by Council resolution, to be conducted by the City Administrator for each cannabis related business category. As part of the selection process, applicants would be required to submit written applications within a specified time period. The submittal of applications would be followed by a meeting whereby the public could comment on the proposed cannabis business applications. After the public meeting, the City Administrator would select qualified applicants for further and final consideration. Approval or denial of the issuance of the commercial business permits by the City Administrator would be final. To be consistent with the State's annual license renewal requirement, and to allow the City flexibility to adjust to a rather unknown commercial cannabis market, the City's permits would expire on an annual basis unless renewed by the applicant and approved by the City Administrator.

The MAUCRSA sets specific restrictions on the operation of each type of cannabis business being licensed. The Bureau of Cannabis Control is also in the process of preparing operational regulations that will expand on the laws established under the MAUCRSA and impose additional regulations over commercial cannabis operations. Chapter 9.44, as proposed, would place restrictions beyond those being imposed by the State on cannabis businesses permitted by the City. The City's ordinance is intended to provide stringent regulations for each type of commercial cannabis business that address health, safety, and potential nuisance concerns that may be unique to the City of Santa Barbara, and are specific to each type of cannabis business activity. For example, the regulations specific to indoor commercial cultivation require that the permit holders submit descriptions of their legal water and electrical sources, whereas, one of the regulations specific to cannabis manufacturers requires that they provide a certification from a licensed engineer that the closed loop extraction system was commercially manufactured

and built to meet code requirements. Additionally, to prevent an over concentration of storefront retail business within a particular location, storefront retail businesses are prohibited from locating within 1,000 feet of each other. The restrictions and regulations related to the specific type of cannabis businesses can be found in sections 9.44.270 through 9.44.340.

The proposed ordinance also allows City employees responsible for ensuring compliance with the provisions of the ordinance to enter any commercial cannabis business during regular business hours to inspect the premises and records. Failure to comply with the regulatory provisions established under Chapter 9.44 could result in suspension or revocation of a commercial cannabis business permit, and civil or criminal penalties.

For convenience and ease of reference, a summary of SBMC Chapter 9.44 is attached to this Council Agenda Report (see Attachment 2).

1. Planning Commission Comments on Chapter 9.44

While the regulatory provisions of the Commercial Cannabis Businesses Ordinance, codified in Chapter 9.44, are not generally within the purview or discretion of the Planning Commission, because a basic understanding of the provisions is necessary in order to consider the potential impacts of the proposed zoning amendments, staff presented the Commercial Cannabis Businesses Ordinance to the Planning Commission for review on October 26, 2017. Several of the commissioners had comments regarding the proposed regulations and asked that their comments be forwarded to Council for consideration. The Commissioners had the following comments regarding Chapter 9.44:

- Annual Permit Renewal (§ 9.44.100). There was concern that the one year permit renewal requirement, with no guarantee that the request for renewal would be approved, was too restrictive and may result in potential cannabis business operators being too reluctant to make the capital investment necessary to open a business. The suggestion was made that if a permittee was operating in compliance, they should be allowed to operate for a longer period. (Commissioner Thompson)
- Denial of Permit Renewal (§ 9.44.120.G.). There was concern that prohibiting an individual from resubmitting an application until one year after the denial of the permit renewal may be too restrictive if the denial was simply for failure to submit a complete and timely application. The suggestion was made that § 9.44.120.G. be stricken or modified. (Commissioner Campanella)
- Appeal by Hearing Officer (§ 9.44.140). There was concern that the term “hearing officer” was raised for the first in the section pertaining to appeal, and no prior explanation of how this person was appointed by Council had been made. (Commissioner Thompson)

- Land Use Issue. The suggestion was made that the regulations proposed in Chapter 9.44 impacted land use and may be more appropriately identified as such and relocated into Title 30. (Commissioner Higgins)

2. Limitation on the Number of Commercial Cannabis Businesses

On October 10, 2017, the Ordinance Committee also directed staff to study and consider the maximum number of commercial cannabis businesses that should be permitted within the allowed zones, and bring a recommendation to the City Council for consideration. In determining an appropriate limit on the initial number of cannabis related businesses to be permitted within the City, staff looked at the potential health and safety impacts, cumulative nuisance impact associated with a concentration cannabis businesses in one area, staffing resources for code compliance, and the numerical caps that other government agencies have implemented in California and other States.

In looking at what other California jurisdictions are doing, it appears that one storefront retail per 30,000 residents may be the trend. For example:

- The City of Santa Cruz (pop 60,000) implemented a cap of 2 (1:30,000).
- The City of Los Angeles (pop 4 million) has an effective cap of 135 (1:30,000).
- San Diego (1.4 million) has a cap of 18 (1:78,000).
- The Santa Barbara County Board of Supervisors has expressed interest in a cap but has not suggested a number yet.
- California Department of Alcoholic Beverage Control attempts to limit liquor licenses to 1:2,000 for off-sale and 1:2,500 for on-sale. A 1:30,000 cap could be interpreted as a statement that a dispensary is 15 times more of a liability for a community than a liquor store, however, staff does not have any quantitative evidence to support this.

Placing a cap on the number of retail cannabis storefronts similar to what other jurisdictions are doing would allow the City to monitor and respond to any nuisance activities without unduly taxing staff resources. Additionally, a cap would prevent over concentration of storefront retail businesses in a particular area of the City.

The Santa Barbara Police Department believes that the retail sale of cannabis will closely parallel the risks associated with the retail sale of alcohol. Law enforcement and public health agencies report that a disproportionate share of crime emanates from retail alcohol outlets. New research has shed light on the relationship between criminal activity and the sale of alcohol, particularly as it relates to the location of alcohol sales. Neighborhoods where bars, restaurants, and liquor and other stores that sell alcohol are in close proximity to one another suffer more frequent incidences of crime. As such, limiting the number of retail cannabis storefronts within the City and creating a thousand foot buffer between them should help reduce the potential for nuisance related activity.

Staff also looked at the impacts experienced by other states that legalized cannabis sales prior to California. In a study that was published in the Journal of Primary Prevention, researchers examined crime statistics for 481 Census block groups in Denver over 34 months (January 2013 to October 2015). When the study began, cannabis could only be sold for medical purposes, however, beginning in January 2014, cannabis outlets were able to sell to the general public giving the researchers the opportunity to see if non-medical cannabis sales were tied to increases in crime. The study did find that that legal sales were linked to an increase in burglaries and other crimes at marijuana outlets themselves.

Establishing a limit on the number of storefront retail establishments, at least initially, will give the City the opportunity to gradually evaluate potential impacts to the community and staff resources. The Police Department does not feel that other cannabis business types, i.e. delivery-only, manufacture, indoor cultivation, distribution, or testing, have the same potential for generating nuisance activity as storefront retail businesses, and a similar cap may not necessarily be needed for these types of businesses. Non-storefront commercial cannabis businesses are not open to the public and do not receive the same amount of uncontrolled foot traffic. Additionally, these other types of commercial cannabis businesses are typically operated in secure non-descript buildings and will be located in the manufacturing zone away from private residences. For these reasons, staff feels that the same limitation of one permit per 30,000 residents that is being suggested for storefront retail may not be necessary for other cannabis business types, and Council could consider a more liberal number of permits.

Staff requests direction regarding the number of each type of commercial cannabis business permits Council would like to authorize. Staff will then prepare a resolution establishing the number of permits and return to Council for review and adoption.

BUDGET/FINANCIAL INFORMATION:

Regulation and enforcement of the City's ordinance, with the exception of periodic financial audits, will be completed by staff. The proposed cannabis regulations require that cannabis business permittees pay a fee set by resolution to cover the cost of administering the commercial cannabis business permit program. Staff anticipates modeling this fee resolution similar to the City of Ventura's compliance officer fee program for alcohol outlets.

The periodic financial audits that will be performed are designed to ensure the accurate and complete payment of taxes to the City by commercial cannabis businesses. These audits will be completed by a contracted consultant. While the cannabis businesses will be subject to the excise tax approved by City voters in November 2016, it is too premature to estimate the revenues that will be generated from these businesses if and when they open.

ENVIRONMENTAL REVIEW:

The Environmental Analyst has determined that the proposed cannabis regulation ordinances and future cannabis activities occurring under the ordinances are within the scope of analysis for the Certified Final Program Environmental Impact Report (EIR) for the 2011 General Plan. The Addendum to the Certified Final General Plan EIR provides documentation of environmental analysis of the proposed ordinances and ordinance amendments under California Environmental Quality Act (see Attachment 3). Staff recommends that Council make the below CEQA findings.

CEQA FINDINGS:

The City Council makes the following findings with respect to the California Environmental Quality Act (CEQA):

- A. CEQA Findings for City Council Consideration of Certified Final General Plan Program Environmental Impact Report (EIR) and EIR Addendum pursuant to CCR §15090 and City Guidelines §III.C.2.k-l.

The Final EIR Addendum dated November 1, 2017 for the Cannabis Regulations Ordinances, together with the certified Final Program EIR and prior Addenda for the 2011 General Plan, were presented to the City Council, and the City Council has reviewed and considered the information contained in these documents. This CEQA documentation for the Cannabis Regulations Ordinances constitutes adequate environmental review in compliance with CEQA, and reflects City Council's independent judgment and analysis.

- B. CEQA Findings for Use of Certified Final General Plan Program Environmental Impact Report (EIR) and EIR Addendum, pursuant to CEQA Guidelines §§ 15162 and 15164.

The Cannabis Regulations Ordinances are consistent with the General Plan and are within the comprehensive scope of analysis of the certified Program FEIR and Addenda for the 2011 General Plan update and 2012 Climate Plan.

The Final EIR Addendum dated November 1, 2017 documents that the Cannabis Regulations Ordinances would not result in new environmental issues, circumstances, or information; additional significant environmental impacts beyond those identified in the General Plan Program EIR; a substantial increase in the severity of impacts identified in the EIR; or require new mitigation measures. None of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR are applicable.

- C. Council Resolutions 11-079 and 12-065 Findings per PRC Section 21081 and CCR Section 15091 Apply to this Action.

Council findings for adoption of the 2011 General Plan regarding Class I significant impacts, Class 2 mitigated impacts, overriding considerations, and infeasibility of some mitigation measures and alternatives all remain applicable for adoption of the Cannabis Regulations Ordinances, and are incorporated herein by reference.

Prior environmental documents relevant to the proposed Council action and findings have been provided to Council and are available for public review at the City Planning Division office (630 Garden Street, 2nd Floor) and at the City Clerk's office (735 Anacapa Street).

CONCLUSION AND NEXT STEPS:

Upon introduction of the ordinances, staff will begin drafting the Council Resolution identified in the proposed SBMC Chapter 9.44 to establish the cannabis business application procedure process, fees, and maximum number of permitted businesses. Staff will return to Council at a later date for adoption of the resolution.

- ATTACHMENTS:**
1. Map of Zones Allowing Cannabis Businesses
 2. Outline Summary of SBMC Chap. 9.44
 3. Final EIR Addendum dated November 6, 2017

PREPARED BY: Tava Ostrenger, Assistant City Attorney

SUBMITTED BY: Ariel Pierre Calonne, City Attorney

APPROVED BY: City Administrator's Office