

# POLICY OPTIONS FOR CANNABIS REGULATIONS

## Presentation



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# Executive Summary

- The Medical Cannabis Regulation and Safety Act (MCRSA)<sup>1</sup> requires medical marijuana businesses (MMB) to obtain a state license and local license/permit in order to operate lawfully within California.
- The City does not currently issue a license, permit, or other authorization under Proposition (Prop) D.
- If Prop D compliant businesses are to conform to state law, the City would need to update its regulatory framework.
- The City could adopt ordinances to enact a comprehensive regulatory framework which could cover the entire supply chain for marijuana-related businesses.
- Imposition of new taxes or an increase to existing taxes would require a ballot measure.

<sup>1</sup>Formerly known as the Medical Marijuana Regulation and Safety Act (MMRSA)

# Background

- On November 5, 1996, California enacted Prop 215 and became the first state to establish a medical marijuana program.
- In May 2013, the City enacted Prop D to provide an enforcement and regulatory framework for medical marijuana dispensaries (MMDs) in the absence of state regulation.
- In 2015, the State enacted MCRSA.
- MCRSA recognizes a large range of medical marijuana businesses (MMB) such as: 1) cultivation; 2) product manufacturing; 3) distribution and transportation; 4) testing laboratories; and, 5) dispensaries.

# MEDICAL CANNABIS REGULATION AND SAFETY ACT (MCRSA)

The Bureau of Medical Cannabis Regulation, within the Department of Consumer Affairs, was created to administer and enforce MCRSA. MCRSA divides state licensing and enforcement responsibilities among three agencies:

- 1) The Department of Food and Agriculture will issue medical marijuana cultivation licenses.
- 2) The Department of Consumer Affairs will issue licenses for medical marijuana dispensaries, distributors, and transporters.
- 3) The Department of Public Health will issue licenses for medical marijuana manufacturers and testing laboratories.

# REGULATORY OPTIONS AVAILABLE TO THE CITY

- Regulatory framework – Since MCRSA establishes a state framework for regulating all aspects of the medical marijuana industry, the City has the option of allowing some or all such businesses through some form of a local regulatory permit/license system.
- Permissive zoning – The Zoning Code is drafted in a permissive fashion such that any use not enumerated therein is presumptively prohibited.
- Express bans – MCRSA recognizes a range of new medical marijuana businesses, including cultivators, manufacturers, distributors, transporters, and testing laboratories. The City may opt to ban all or specific activities under MCRSA.

# ADULT USE OF MARIJUANA ACT (AUMA)

- AUMA is a state-wide initiative that California voters will consider in November 2016 (Prop 64).
- AUMA's passage would legalize recreational marijuana throughout the State and allow the City, at its sole discretion, to institute a licensing system for cultivation, manufacturing, processing, distribution, and testing of marijuana, mirroring that in MCRSA.
- AUMA does not contain a dual licensing requirement; marijuana-related businesses (MRB) can apply for a state license without having to show proof of compliance with local regulations.

# FUNDAMENTAL QUESTIONS

- Should the City allow the MMDs granted limited immunity from enforcement under Prop D to continue to operate when MCRSA goes into effect?
- Should the City allow the MMDs granted limited immunity from enforcement under Prop D to engage in the expanded marijuana activities provided in State Law?
- Should the City establish precedence for these 135 MMDs for expanded activities?
- If AUMA, passes, should the City consider establishing regulations authorizing some, or all, recreational marijuana businesses?

# OTHER CONSIDERATIONS

- Create criminal and administrative penalties, and give the regulatory authority the ability to suspend and/or revoke a business license or any other permit/authorization.
- Require annual renewals of licenses/permits, and possibly require all employees to have a permit to work in a marijuana business, similar to the City's regulation for employees involved in ammunition sales.
- Registration and permitting process that clearly states which businesses are authorized.
- Licenses should be tied to physical locations and not to individuals.

# REVENUE ENHANCEMENT AND FEES

- Should all MRBs (Medical & Recreational) in the City be taxed at the same rate?
- What types of inspection and/or permit fee(s) should be charged to MRBs?
- What types of penalties should be charged to MRBs?

# Marijuana Report Backs

1. Issues Requiring an Environmental Analysis
2. Analysis of Best Practices Regarding Operating, Land Use, and Inspection Requirements
3. Analysis of Land Use Compatibility for Various Types of Marijuana-Related Businesses (MRBs)
4. Analysis of Tax Rates for Marijuana-Related Businesses (MRBs)
5. Penalties to Discourage Illegal Activities
6. Analysis of Administrative Costs to Regulate MRBs
7. Social Justice and Equity Issues