



CITY OF CITRUS HEIGHTS

CITY COUNCIL STAFF REPORT MEMORANDUM

DATE: February 8, 2024

TO: Mayor and City Council Members
Ashley J. Feeney, City Manager

FROM: Casey Kempenaar, Community Development Director
Meghan Huber, Economic Development and Community Engagement Director
Susan Talwar, Administrative Services Director
Alex Turcotte, Police Chief

SUBJECT: Cannabis Dispensary Study Session

Summary and Recommendation

At the December 14, 2023, City Council meeting two members of the Council requested that within 60 days, staff to bring options forward to consider modification of existing regulations related to cannabis dispensaries for the Council's consideration. Staff has prepared the information in this report to inform this discussion.

Staff recommends that the City Council:

1. Provide feedback and direction whether or not to proceed with necessary Municipal Code updates necessary to allow retail Cannabis Businesses as set forth in this staff report
2. Approve a proposed timeline for implementation
3. Provide direction whether or not to proceed with a cannabis tax measure for the November 2024 ballot

City Council Strategic Goal/Objective

This staff report aligns with the following Citrus Heights City Council Strategic Plan Objectives:

- Goals:
- Diversify for a resilient economy
 - Maintain and enhance fiscal stability

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Fiscal Impact

Costs of preparing the proposals as directed by the City Council, will be absorbed by the existing budgets for Community Development, Police, Economic Development, Administrative Services, and the City Manager's Office.

Costs associated with the processes to evaluate and/or approve new cannabis businesses would be subject to a fee schedule that ensures full cost recovery for staff activity.

The scope of any future cannabis regulations directed by Council is unknown at this time. As a result, there is not enough information to provide accurate estimates of the revenue potential of the proposed business types. If directed to move forward, additional information will be provided to the Council as the scope is developed.

Background and Analysis

Since the mid-1990s, a variety of laws and regulations have shaped the landscape for the production, sale, and use of cannabis in California. The key laws and regulations are discussed briefly below. Depending on the Council's direction, additional information about key regulations will be provided to support future decisions.

Prop 215 Medicinal Cannabis Background

In November 1996, California voters passed Proposition 215, also known as the Compassionate Use Act. This law exempted patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician from criminal laws which otherwise prohibit possession or cultivation of cannabis. Subsequent to the passage of Prop 215, a series of trailer legislation related to the law made numerous clarifications over the following decade.

On January 1, 2004, SB 420 the Medical Marijuana Program Act ("MMPA") went into effect. The MMPA was enacted by the State Legislature to clarify the scope of the Compassionate Use Act (CUA). The MMPA allows cities, counties, and other governing bodies to adopt and enforce rules and regulations consistent with the MMPA.

In August 2011, the State Legislature adopted AB 1300, which clarified that nothing in CUA or MMPA prevents a city or county from adopting local ordinances that regulate the location, operation or establishment of a medical marijuana cooperative or collective or from civilly or criminally enforcing those ordinances.

Prop 64 Recreational Cannabis Background

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act ("Prop 64" or "AUMA"). According to election results provided by the County, of the 33,451 Citrus Heights votes cast in the 2016 November election, Prop 64 received 17,246 (52%) votes in favor of the proposition and 16,205 (48%) votes against the proposition.

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Prop 64 established state and local regulatory frameworks for personal use and commercial operation of cannabis businesses. Prop 64 requires state licenses to operate commercial recreational cannabis businesses. State licensing authorities began issuing state commercial licenses on January 1, 2018.

Prop 64 establishes a regulatory and licensing framework for commercial recreational marijuana operations. Local jurisdictions retain local land use and zoning authority over these operations. Pursuant to that local land use authority, jurisdictions may elect to prohibit commercial outdoor and commercial indoor cultivation. State licensing authorities are not permitted to issue state licenses to businesses in jurisdictions where proposed operations would conflict with local regulations.

Department of Cannabis Control

In 2017, the Legislature enacted the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) which created a single regulatory structure for both medicinal and recreational cannabis. The MAUCRSA granted authority to the Department of Cannabis Control (DCC) to develop rules and regulations and assigned DCC as the state agency that licenses and regulates commercial cannabis activity in California. The DCC promulgates and enforces regulations for cultivation, sales, transportation, testing and manufacturing of cannabis and cannabis products.

Under Prop 64 and DCC regulations, a local jurisdiction is able to determine whether or not to permit most commercial cannabis facilities and types permitted to operate within a local jurisdictional boundary. If a jurisdiction determines they would like to allow cannabis operations within their city limits, licensing is required from both DCC and the local jurisdiction.

While local governments can determine whether or not to allow most cannabis related uses, DCC, regulations allow delivery of cannabis goods to most physical addresses within the state, including those in Citrus Heights. ¹ Delivery services are required to be licensed by the state and local government can include reasonable regulations of delivery, including local taxes, however, local government cannot prohibit delivery from occurring in the City.

Sales tax for orders made through delivery services are deposited in a county pool, similar to online orders and other delivery services. Citrus Heights receives an allocation of tax revenues deposited in the county pool based on the proportion of total sales tax that is directly allocated to the City.

Citrus Heights Cannabis Regulation History

In 2004, the Citrus Heights Municipal Code (CHMC) was updated to allow one Medical Cannabis Dispensary in the City with approval of a Use Permit. A facility was granted a Use Permit in 2004, however, never began operation.

¹ According to Weedmaps.com, over 35 cannabis delivery services, located outside the City, offer delivery to Citrus Heights.

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In 2006, the City amended the CHMC to prohibit all cannabis related uses in the City. Between 2006 and 2016, various actions, including moratorium and ordinance amendments were enacted in response to evolving state laws regulating medical cannabis.

Following the passage of Prop 64 in 2018, the Council adopted regulations prohibiting delivery, commercial cultivation and dispensaries within the City.

In 2020, in response to a variety of legislative actions, the Council adopted regulations which allowed delivery of both medical and recreational cannabis in the City; however, continued to prohibit any cannabis businesses from being located within the City.

Municipal Code Amendments and other required actions

If the City Council directs staff to proceed with the development of a regulatory framework to permit Cannabis dispensary(s), the following amendments or actions would be required by the City Council:

- CHMC Chapter 106 (Zoning Ordinance) Amendment: Currently all cannabis dispensaries are prohibited by the Zoning Code in all existing Zones include Special Planning Areas. There are currently no standards related to number of establishments, location requirements, operation conditions, etc. that would generally need to be developed.
- CHMC Chapter 47 (Marijuana Dispensaries, Businesses, and Deliveries) Amendment or repeal: Currently, this chapter effectively prohibits all Cannabis related businesses with the exception of deliveries which take place in Citrus Heights from businesses located outside the City.
- CHMC Chapter 22 (Business Licenses) Amendment: Currently the Business License Chapter does not regulate cannabis uses.
- Specific Plan Amendment(s): Currently all three specific plans (Auburn Boulevard, Stock Ranch, and Sunrise Tomorrow) prohibit cannabis businesses. If directed by the Council, these Specific Plans could require amendments of allowed use tables to regulate cannabis sales.
- Fee structure for the regulatory permit process
- Permit process for review of dispensary applications

If the Council directs staff to proceed; staff suggests establishing a single regulatory framework for all retail dispensaries (medical or recreational) for simplicity and consistency. Further, staff would request Council direction on any desired regulations related to cannabis deliveries from outside the city being delivered to addresses within the City limits.

Revenue Approaches

At the December 14, 2023, City Council meeting two members of the Council requested staff to bring options forward to consider modification of existing regulations related to cannabis dispensaries for the Council's consideration. During this meeting, one of the considerations

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mentioned was to consider cannabis as an opportunity to generate revenue for municipal operations and infrastructure.

While there are multiple avenues to generate revenue from cannabis sales within a city, the most common approach is a tax specific to cannabis-related uses. Alternatively, a Development Agreement may be used to generate revenue. Each approach can generate a wide range of revenues; typically based on the quantity of cannabis sold through gross receipts from any cannabis business. As any future regulations related to cannabis are unknown at this time (number of dispensaries, type of dispensary, location, etc.), the anticipated amount of revenue generated by each approach is not possible to quantify. Each of the potential revenue approaches is discussed broadly below:

Cannabis Tax

Numerous cities in California currently tax cannabis businesses. As the City Council provides direction related to cannabis dispensaries, a Cannabis Tax is one approach to consider. This report is informational, to provide the Council with information about existing cannabis related taxes/approaches in the state or region. Depending on the direction from Council, staff will return at a later date to provide additional information/recommendation about any proposals for Citrus Heights. Locally the City of Sacramento, City of Davis, City of Dixon, and City of Colfax have approved Cannabis Tax Measures approved by the voters:

Agency	Approved Maximum Tax	23/24 Anticipated Cannabis Tax Revenue
City of Sacramento ²	4% of annual gross receipts	\$22,000,000
City of Davis ³	10% of annual gross receipts	\$2,300,000
City of Dixon ⁴	15% of annual gross receipts	\$ 734,000
City of Colfax ⁵	4% of annual gross receipts	\$ 45,000

If Council directed staff to initiate a cannabis tax, staff would recommend modeling the City of Sacramento or Davis cannabis tax to include “cannabis business” broadly to include both medical and nonmedical cannabis and impose up to a 10% tax on the gross receipts of cannabis businesses.

Cannabis Tax Process

If the City Council wishes to put a tax measure before the voters in November 2024 as a general tax, Government Code section 53724 requires the resolution calling for a general tax to be placed on a general municipal election be adopted by two-thirds of the Legislative Body.

² As of the end of 2023, the City of Sacramento had a total of 290 cannabis business permits issued and 71 pending permits. This includes a wide variety of uses including delivery, cultivation, retail dispensary (29), manufacturing, etc.- *Source: CORE Stakeholder Meeting December 13, 2023 Presentation.*

³ The City of Davis had a wide variety of cannabis business permits. This includes dispensaries, cultivation, testing, etc.

⁴ The City of Dixon currently has two dispensaries operating.

⁵ The City of Colfax currently has one operating dispensary.

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Council must adopt a resolution calling for and giving notice of the election on a proposed ballot measure on or before August 9, 2024 in order to consolidate the City election with the Statewide General Election. The additional cost of a ballot measure at the General Municipal Election would be approximately \$7,000, since the City is already participating for the upcoming City Council elections. Additional costs for drafting the measure and the required *City Attorney Impartial Analysis* are estimated to be between \$3,000 and \$5,000.

If the City Council wishes to pursue consideration of cannabis dispensary businesses, staff would recommend placing a cannabis tax measure on the 2024 ballot.

Cannabis Development Agreement

As discussed above, a cannabis tax measure would require approval by Citrus Heights voters in November to be established and in early 2025 to be implemented (if approved). As discussed below (under potential timeframe), depending on the Council's direction, the timeframe to develop regulations and permit the operation of cannabis business(es) in Citrus Heights could be sooner.

Absent an approved tax measure; revenue generated from a cannabis dispensary would be limited to sales tax, currently 7.75% in Citrus Heights. While it is anticipated that this would generate some local revenue, the City only retains 1-cent of the sales tax revenue generated from each \$1 spent by a customer.

A Development Agreement would be an agreement between a city and cannabis business to spell out the terms of operation, roles, and responsibilities, and would allow the city to capture revenue immediately upon business operation (i.e. not dependent on a tax measure). The City previously entered into a Development Agreement for the Stock Ranch development which memorialized roles and responsibilities of the developer and the City for the implementation of that project. Although, not specific to revenue, the Development Agreement held provisions related to reimbursement for public improvements, affordable housing requirements and similar milestones.

A similar Development Agreement approach could be used to allow revenue to be generated and stipulate operational criteria and similar deal points until such time a tax measure is approved by the voters. If a tax measure is approved, the Development Agreement could be made null (specifically to revenue or entirely), and the tax would dictate revenue generated by each business. If a tax were not approved by voters, the Development Agreement would continue to dictate the payment/revenue agreed to between the City and the business.

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Land Use Considerations

The Department of Cannabis Control has established land use regulations for cannabis establishments to provide separation between “sensitive uses” and cannabis uses as well as separation between various cannabis uses. Department of Cannabis control requires a minimum of 600 feet between:

- Cannabis Businesses
- Schools
- Daycare
- Youth Center

Nothing in the law prohibits the City from including land use regulations that are more restrictive than DCC separation requirements if directed by the City Council. For example, the City Council may want to consider requirements requiring separation from parks or similar properties and may want to restrict cannabis uses to areas in proximity to Interstate 80.

Depending on council direction, Staff would bring back policy related to land use considerations such as geographic location considerations, commercial corridor considerations, operating restrictions, and security measures. The most likely regulatory approach for these uses would be a Use Permit process with specific cannabis related operating requirements, similar to how the City currently regulates alcohol establishments such as bars and convenience stores.

Location Considerations and Recommended Parameters

Should the City Council give direction to allow cannabis retail operations, staff recommends several strategic parameters for consideration. The intent of these parameters is to ensure any proposed cannabis-related use is in a location that considers residents and visitors; considers sensitive uses that could be impacted by proposed cannabis uses but also a good match for destination retail uses that would decrease vacancy and advance economic development goals. The following strategic parameters are recommended for consideration and direction:

1. For ease of accessibility for residents and visitors, any proposed cannabis business should be near Interstate 80. Staff recommends the City Council consider a requirement that any cannabis related business is located within 2,500’ from I-80. This requirement would limit cannabis related uses to Antelope Crossing and the northern portion of the Auburn Boulevard Special Planning Areas. Each of these retail areas has struggled to attract retail tenants and the addition of a new retail typology would be beneficial to support continued retail investment in these areas. Furthermore, it would have more potential to capture customers that originate outside of the city limits increasing revenue opportunities.
2. For consistency with existing approaches for sensitive uses, in addition to the separation requirements established by DCC, staff recommends a minimum 600’ separation from parks.
3. Significant community engagement, planning, and strategic investment into the Sunrise MarketPlace has occurred over the last several years. While this area is the City’s most significant retail area, staff believes this area is not well suited for

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cannabis related uses. In particular, this area is in closer proximity to established residential areas and will likely see investment in uses that are often considered “sensitive” (parks, day cares, residential uses, schools, etc.) which could limit future investments within the MarketPlace.

Community Engagement

Should City Council give direction to explore allowance of cannabis retail operations, staff would then implement a Community Outreach Plan. Below is a synopsis of recommended outreach activities to collect and measure community sentiment:

- Host a Community Workshop to allow the public to share their point of view and engage in informal discussion regarding cannabis retail operations.
- Implement a robust public relations plan to promote the workshop and ensure awareness and inclusion.
- Issue a Flashvote survey on cannabis allowance in Citrus Heights to collect statistically valid community sentiment data.
- Create and maintain a project webpage to house workshop information, Flashvote data, and background information to ensure equitable and inclusive community access to information.

Potential Timeline

Should the City Council wish to amend the Municipal Code by way of Ordinance adoptions and process Conditional Use Permit applications that would allow dispensaries to be operable prior to the end of 2024 the timeline to develop and adopt the necessary ordinance and review process structure will be very constrained. Further, as discussed in the Revenue Approaches section (above) the ability to generate revenue in 2024 would be reliant on a Development Agreement approach until such time a tax measure is approved by the voters. Under the timeline below, a tax measure would be possible in November 2024 with implementation in early 2025. The timeline below outlines major steps and tentative dates for consideration:

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|----------------------|---|
| • March-April | Community Engagement |
| • May 8, 2024 | Planning Commission Review of Ordinance(s) |
| • June 13, 2024 | City Council Review (First Reading) |
| • June 27, 2024 | City Council Second Reading |
| • July 1- July 30 | Application Window for Use Permit submittal |
| • July 11, 2024 | Council Action on Ballot for Cannabis Tax Measure |
| • August 1-31 | Staff Review of Applications |
| • September 25, 2024 | PC Review of Applications |
| • October 24, 2024 | City Council Review of Applications |
| • November 5, 2024 | General Election for Cannabis Tax Measure |
| • Early 2025 | Implementation of Cannabis Tax Measure |