



DATE: March 11, 2024
TO: Honorable Mayor and Members of the City Council through City Manager
FROM: Eric Danly, City Attorney
Ingrid Alverde, Director of Economic Development and Open Government
SUBJECT: Discussion of Cannabis Regulation Options

RECOMMENDATION

It is recommended that the City Council provide guidance to staff on the timing and scope of possible cannabis regulation amendments for the City Council's consideration and action.

BACKGROUND

The City Council has identified the enactment of cannabis retail regulations to expand our current cannabis regulations as one of the Council's top 10 priorities. Although staff have not yet presented retail cannabis regulations for Council review, staff have been diligently researching legal developments, exemplars, and regulatory options in preparation for developing a robust suite of retail cannabis regulations and related policy considerations. The Council has expressed a desire to provide staff high-level direction to help expedite and target the staff work in keeping with the current council's policy objectives regarding retail cannabis. Also, the cannabis regulatory updates will require appropriate outreach to and engagement with our community and stakeholders as well as the involvement of City departments that will play key roles in the regulations' implementation. City Council direction to staff at this time will help staff focus and expedite all of these efforts.

The interdisciplinary work the City's retail cannabis regulations will require involves several departments in addition to the City Attorney's Office. The Finance Department will provide crucial cannabis program information by analyzing program costs, revenue needs, and potential revenue generation - even if, as appears to be the case, the Council does not intend to seek approval of a retail cannabis tax. The Economic Development and Open Government Department, leveraging its work developing and administering the regulations for the City's existing cannabis program, will help craft updated regulations for the expanded cannabis program to cover retail sales. Of course, the Finance Department would also assist in evaluating tax considerations if the Council decides to take those up during its policy deliberations. Finally, the

Police Department will help address health, safety, and security requirements associated with cannabis retail operations to the extent there are safety considerations not already covered by the City's existing testing, manufacturing, wholesale, and delivery-only cannabis program. The involvement of each of these departments will ensure a comprehensive approach to implementing the City Council's expanded cannabis sales objectives and also help build on the City's existing, successful cannabis program.

Chapter 10.15 of the Petaluma Municipal Code regulates commercial cannabis within the City. Currently, only three types of cannabis-related businesses are permitted: "manufacture/processing," "laboratory," and "retail sale through delivery services." The Code permits a maximum of two retail sale through delivery permits but does not limit the number of cannabis manufacturers or laboratories in the City. Chapter 4 of our Implementing Zoning Ordinance (IZO) permits cannabis "delivery," "laboratory," and "manufacturing/processing" activities as defined in the ordinance by right in Business Park and Industrial zones. Such commercial cannabis activity is currently allowed in these designated zones and prohibited in all other locations within the City.

Updating Petaluma's cannabis regulations will involve and include three main types of regulation: administrative regulations, land use regulations, and health and safety regulations. Expanding commercial cannabis activity in Petaluma to permit on-site retail sales would involve amending Petaluma Municipal Code Chapter 10.15 to allow on site retail sales and include any needed additional health and safety requirements to minimize potential safety impacts. Expanded retail cannabis regulations would also involve amending the IZO to allow cannabis retail. Affected portions of the IZO would include the land use table, glossary sections, and a new cannabis regulatory standards section.

As staff draft regulations, we will consider any potential impacts that may result from expansion of cannabis business in Petaluma in accordance with the Council's direction. The Council's direction on updated cannabis regulation will need to address, among other issues, in how many locations, and in which areas of the City expanded cannabis uses are to be allowed. Council and staff will receive input from our community on expanded cannabis commercial activity in Petaluma, and the Council's policy direction will be implemented in the provisions of the proposed regulations.

DISCUSSION

The two recommended options before Council are either a "Limited Option" which staff can bring before Council in June or a "Comprehensive Option" which staff can bring back to Council later in the year.

Limited Option

- Staff could present draft regulations to Council in June to enact limited changes to the City's current regulations. This limited option would involve keeping most of the current

regulations intact, with changes to allow cannabis retail under a limited number of permits – such as up to 3 permits - in the zones where cannabis retail delivery businesses are currently allowed, under similar rules as for the delivery sales. The limited option results in fewer regulatory changes, fewer potential impacts, and has a more expedient implementation.

Comprehensive Option

Staff anticipate that a “Comprehensive Option” for updated Petaluma commercial cannabis regulations would include the following considerations in addition to those listed under the limited option:

- Additional stakeholder outreach to address a broader range of policy considerations, including a workshop with the Planning Commission and reporting of the results to Council.
- Economic analysis of the implications of a potential cannabis tax, and or consideration of administrative charges to defray program costs.
- A workshop with City Council to discuss a fuller range of policy and regulatory options for expanded Petaluma commercial cannabis regulations, potentially including additional cannabis business types.

Regardless of whether the City Council prefers a limited or a more comprehensive approach to expanded commercial cannabis regulations (or a hybrid), staff anticipates that policy choices that the City Council will need to consider will include:

- How many on site cannabis retail sales locations and/or businesses should the City permit?
- Where in the City should cannabis retail sales be permitted?
- Should on site retail sales be permitted by right, or should they require a conditional use permit approved by the Planning Commission?

Both the limited and more expanded approaches to regulating onsite retail cannabis sales will require amending the IZO. The Planning Commission will be required to consider and provide a recommendation to the City Council regarding retail cannabis sales zoning amendments before they can come before the City Council.

PUBLIC OUTREACH

This item was discussed during the February 26, 2024, City Council meeting Council Goals and Priorities item and was noticed in compliance with the Brown Act.

COUNCIL GOAL ALIGNMENT

Enacting updated cannabis regulations are one of the City Council’s top ten priorities.

CLIMATE ACTION/SUSTAINABILITY EFFORTS

Petaluma regulations permitting on-site retail cannabis sales in the City may reduce greenhouse gas emissions from vehicle miles traveled to retail sales locations outside the City.

ENVIRONMENTAL REVIEW

Whatever regulatory option the Council chooses, review under the California Environmental Quality Act (CEQA) will be required. A recent CEQA case, *Lucas v. City of Pomona* (2023) 92 Cal.App.5th 508, held that Pomona’s cannabis retail ordinance was exempt from CEQA pursuant to CEQA Guidelines Section 15183, which exempts projects that tier off the General Plan EIR. Pomona’s retail cannabis use analyzed under its General Plan EIR was held to be similar to the proposed cannabis uses. It is likely that since Petaluma’s General Plan EIR has already analyzed cannabis retail sales and delivery, CEQA analysis for updated Petaluma cannabis regulations can tier off the City’s General Plan EIR.

FINANCIAL IMPACTS

Whether the Council directs staff to pursue limited or more comprehensive cannabis regulation updates, the Council may if it chooses direct staff to present a cannabis tax measure for approval. The Council’s ultimate staff direction regarding updated cannabis regulations will affect the financial impacts of that direction and such factors as: whether a cannabis tax measure will be offered, or whether administrative fees will be established to help defray the City’s program costs, or whether the sole City revenue from the program will come from local transactions and use (“sales”) tax. Based on the Council direction or questions when it is considering its options, the Finance Department can assist with analysis of the foreseeable financial impacts of the various choices. Whatever the Council direction, decisions on imposition of taxes or fees regarding the cannabis program need not be made immediately and can be revisited at a later date.

ALTERNATIVES

With this report staff are presenting the Council options for more limited or more comprehensive cannabis regulation updates. The Council may of course depart from these options and direct a different approach, such as a hybrid approach including elements of both options presented by staff.

ATTACHMENTS/LINKS

As this item seeks Council direction, no regulation drafts are attached. The City’s existing Municipal Code cannabis regulations may be accessed here: <https://petaluma.municipal.codes/Code/10.15>. The City’s existing commercial cannabis administrative regulations may be accessed here: <https://cityofpetaluma.org/commercial-cannabis-regulations/>.