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# CITY OF POMONA COUNCIL REPORT

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August 6, 2018

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Marie Macias, Interim City Clerk  
Arnold Alvarez-Glasman, City Attorney

Subject: **Certification of Initiative Measure to Amend the Pomona Zoning Code to Allow Commercial Cannabis Uses by Creating the “Safe Access Cannabis” (SAC) and “Industrial Cannabis” (IC) Overlay Zones and Prohibiting Cannabis Businesses Within 600 Feet of a School, Daycare, or Youth Center as Defined by State Law**

## OVERVIEW

**Recommendations** - That the City Council:

- (A) Accept the Certificate of Sufficiency (**Attachment 1**) issued by the Interim City Clerk of the City of Pomona regarding, “The Pomona Regulate Cannabis Act of 2018”, and
- (B) Order staff to prepare an Impact Report consistent with Elections Code Section 9212 on the possible effects of the proposed creation of “Safe Access Cannabis” (SAC), “Industrial Cannabis” (IC) Overlay Zones, allowing delivery of cannabis in the City, and imposing a \$5.00 per square foot assessment on commercial cannabis businesses, and complete such report within thirty (30) days.

Alternatively, the City Council may:

- 1) Adopt the ordinance, without alteration, immediately or within 10 days; or
- 2) Direct staff to prepare the required ordinance and resolutions in order to place the measure on the ballot for the November 6, 2018 General Municipal Election.

**Fiscal Impact-** Full costs of the measure on an annual basis are unknown at this time. Measure calls for a fee of \$5.00 per square foot to be imposed on all locations with commercial cannabis operations (retail sales, indoor cultivation, testing, and processing). Revenue dependent on the number of commercial establishments operating.

An additional item added to the November election ballot is anticipated to cost \$12,000.

Unknown costs associated with holding a consolidated election at a future date. Costs associated with the 9212 Impact Report are unknown at this time.

**Previous Council Action** – None.

## **EXECUTIVE SUMMARY**

The initial review of sampled signatures did not have a sufficient number of valid signatures to qualify for the ballot without a full review of all signatures submitted. The City Clerk forwarded the signatures to the Los Angeles County Registrar of Voters to review the 8970 signatures submitted to determine if the minimum number of required signatures (6,257 valid signatures) existed. The Registrar of Voters completed their count and provided a Letter of Finding that a sufficient number of signatures were determined to be valid. (**Attachment 2**).

Since the petition was signed by the sufficient number of voters to qualify for consideration, the results must be presented to the City Council and the City Council must select one of the three following options 1) adopt the ordinance without alteration, 2) placed the ordinance/initiative without alteration on the ballot at the next General Election, or 3) prior to engaging in options 1 of 2 request an Impact Report regarding the impacts of the initiative to be presented within 30 days to the Council pursuant to Elections Code Section 9212.

## **DISCUSSION**

### **Review of Petition Signatures**

On March 7, 2018, proponents submitted a request for ballot title and summary for a petition entitled the “Pomona Regulate Cannabis Act of 2018.” (**Attachment 3**) The City Clerk determined that 6,257 valid signatures of Pomona registered voters would be required in order to place the measure on the November 6, 2018 ballot as 10% of the registered votes of the City of Pomona.

On May 15, 2018, proponents submitted 8,970 signatures for verification.

State law requires that no later than 30 days thereafter (Saturdays, Sundays and holidays excluded) the Elections Official review a sample of 500 signatures to determine through a statistical sampling process whether a sufficient number of valid signatures exist to qualify for the ballot. In this instance, the random sample of 500 signatures resulted in an insufficient number of signatures to directly qualify for the ballot, but since the random sampling yielded an amount of valid signatures between 95 and 110% of the 6,257 required signatures within the total number of signatures submitted for verification, the petitions qualified for a complete review of all signatures. Therefore, a review of all signatures was required until 6,257 valid signatures were verified.

Since the random sampling State law requires that the Elections Office review all signatures not later than 60 days (Saturdays, Sundays and holidays excluded) from submission to determine if the minimum number of 6,257 valid signatures exist. For completion of the verification process, the Office of the City Clerk sought the assistance of the Los Angeles County Registrar of Voters. After reviewing 6,988 signatures, the Registrar of Voters determined that the initiative petition had been signed by the required number of registered voters, noting 6,357 valid signatures, 631

invalid signatures, and 67 duplicate signatures (one duplicate in 104 signatures). (**Attachment 2**).

The elections Code requires that the City Clerk to certify to the City Council any initiative petition with qualifies for an election (Elections Code sections 9211 and 9114). Therefore the initiative petition is sufficient to be certified to the City Council. The Certification of the Elections Official is attached hereto as **Attachment 1**.

### **Council Action Required**

The City Council is required to accept the results of the City Clerk's review and verification of the petition review process. As stated above, the City Council has three options allowed by law. One of these options is prior to either adopting the ordinance or placing it before the voters, the Council may ask for a report to evaluate the impact of the petition on the city before taking action to approve the ordinance directly or submit the matter to the voters.

Elections Code Section 9212 allows a council to request that an Impact Report be prepared prior to the city taking any action in order to evaluate the various impacts the initiative will have on the city. Such Impact Report must be returned to the City Council no later than 30 days after the certification of the sufficiency of the petition is presented to the Council.

The topics which may be evaluated regarding the initiative include the following:

- (1) Its fiscal impact.
- (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, and the consistency between planning and zoning.
- (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
- (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
- (5) Its impact on the community's ability to attract and retain business and employment.
- (6) Its impact on the uses of vacant parcels of land.
- (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
- (8) Any other matters the legislative body requests to be in the report.

After the above mentioned impact report is completed, pursuant to Elections Code section 9215(a), the Council may choose to adopt the ordinance, without alteration. If the Council does not adopt the proposed ordinance in its entirety, then the proposed ordinance would be submitted without alterations to the voters at the next general election (or at a Special Election if the City Council so chooses). The deadline for placing the petition on the ballot for the November 6, 2018 election is August 10, 2018. If the City Council elects to exercise its option of seeking the impact report, it is anticipated that the report would be presented to the City Council at its first meeting in September.

### **Attachments:**

- 1- Certificate of Sufficiency by the Interim City Clerk of the City of Pomona regarding,

“The Pomona Regulate Cannabis Act of 2018”, and

- 2- Letter of Finding re Signature Verification by Dean Logan, Registrar-Recorder of the County of Los Angeles
- 3- Petition Text