



CITY OF POMONA COUNCIL REPORT

September 10, 2018

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Kirk Pelser, Deputy City Manager
Arnold Alvarez-Glasman, City Attorney

Subject: Receive and File the Impact Analysis of “The Pomona Regulate Cannabis Act of 2018” Prepared Pursuant to Section 9212 of the California Elections Code on the Possible Effects of the Proposed Initiative to Create “Safe Access Cannabis” (SAC), “Industrial Cannabis” (IC) Overlay Zones, to Allow Delivery of Cannabis in the City, and to Impose a \$5.00 per Square Foot Assessment on Commercial Cannabis Businesses; and Consider Whether to Adopt the Proposed Ordinance, or Direct Staff to Prepare said Ordinance for Placement on the Ballot of the Next General Election

OVERVIEW

Recommendations - That the City Council:

- (A) Receive and file the Impact Analysis Report (The “Impact Report”) (see Attachment No. 1) prepared under Section 9212 of the California Elections Code on the possible effects of the proposed initiative to create “Safe Access Cannabis” (SAC), “Industrial Cannabis” (IC) Overlay Zones, allow delivery of cannabis in the City, and impose a \$5.00 per square foot assessment on commercial cannabis businesses; and
- (B) Adopt the proposed ordinance, to the extent it can be legally implemented, **OR** alternatively
- ~~(C) Direct Staff to prepare the ordinance and resolutions needed to place the measure on the ballot for the next general election. (or at a Special Election if the City Council so chooses).~~

Fiscal Impact- The estimated costs and revenues are subject to a variety of variables and are estimated in the Impact Analysis Report (See Attachment No. 1). There are also unknown costs associated with holding a consolidated election at a future date.

Previous Council Action – At the August 10, 2018 Council meeting, Council:

- A) Accepted a Certificate of Sufficiency by the Interim City Clerk of Pomona regarding, “The Pomona Regulate Cannabis Act of 2018”, and
- B) Directed staff to prepare an Impact Analysis Report of the Pomona Regulate Cannabis Action of 2018 pursuant to 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.

EXECUTIVE SUMMARY

City Council will receive and file an Impact Analysis 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. The Impact Analysis Report was prepared by staff in collaboration with HdL Companies, a qualified and experienced consultant.

Council received the Impact Analysis Report on September 5, 2018 and is required to either adopt the proposed ordinance (see Attachment No. 2), to the extent it can be legally implemented, or alternatively direct staff to prepare the ordinance and resolutions needed to place the measure on the ballot for the next general election. ~~(or at a Special Election if the City Council so chooses).~~

DISCUSSION

During the August 6, 2018 City Council meeting, Council directed staff to prepare an Impact Analysis 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, with the completed report to be delivered within thirty (30) days. Staff delivered the report to City Council on September 5, 2018. The completed report is also attached to this staff report. The Impact Analysis Report was prepared by staff in collaboration HdL Companies, a qualified and experienced consultant. The comprehensive report is organized into the following basic sections:

- I Introduction
- II. Overview of the Initiative
- II. Land Use Analysis
- IV. Fiscal Analysis
- V. Additional Impacts
- VI. Conclusion

A series of appendices and maps are also provided.

Based upon the detailed analysis found in the Impact Report, the following conclusions about the Pomona Regulate Cannabis Act of 2018 are set forth in the Impact Report and are restated as follows:

- The Act intends to provide a regulatory framework for commercial cannabis activities in the City, it is so poorly written that the City would incur great difficulty trying to implement it, were it to pass. The Act is vague and internally inconsistent, at some points both allowing and prohibiting the same activity in the same zone.
- The fees imposed by the Act are arbitrary and bear no relation to the actual time and cost of reviewing the applications.
- The taxes imposed by the act are far below current norms, depriving the City of revenues that could assist with a variety of pressing needs.
- The limited ministerial review allowed by the Act denies the City the ability adequately protect public health and safety, externalizing, not self-funding, but transferring the associated costs and the possible impacts onto the general public at the expense of the City's General Fund.

After review of the Impact Analysis Report, Council has the option to adopt the proposed ordinance, to the extent it can be legally implemented; or alternatively, Council may direct staff to prepare the ordinance and resolutions needed to place the measure on the ballot for the next general election. ~~(or at a Special Election if the City Council so chooses).~~

Attachments:

- 1- Impact Analysis Report
- 2- Petition Text