



**Agenda
City of Vernon
Regular Vernon Business and Industry
Commission Meeting
Thursday, February 11, 2021, 09:00 AM
City Hall, Council Chamber
4305 Santa Fe Avenue
Vernon, California**

**Jack Cline, Chair
Jimmy Andreoli II, Vice Chair
John Baca, Commissioner
Thomas Condon, Commissioner
William Davis, Commissioner
Duncan Sachdeva, Commissioner
Douglas Williams, Commissioner**

SPECIAL REMOTE PROTOCOLS

In accordance with Governor Newsom's Executive Order N-29-20, this will be a teleconference meeting without a physical location to help stop the spread of COVID-19. This meeting will be conducted entirely by remote participation via Zoom Webinar.

The public is encouraged to view the meeting at <http://cityofvernon.org/webinar-bic> or by calling (408) 638-0968, Meeting ID 951-3323-5153#.

You may submit comments to PublicComment@ci.vernon.ca.us with the subject line "February 11, 2021 Business and Industry Commission Meeting Public Comment Item #__." Comments received prior to 8 a.m., Thursday, February 11, 2021, will be read into the record.

CALL TO ORDER

FLAG SALUTE

ROLL CALL

APPROVAL OF THE AGENDA

PUBLIC COMMENT

At this time the public is encouraged to address the Commission on any matter that is within the subject matter jurisdiction of the Commission. The public will also be given a chance to comment on matters which are on the posted agenda during deliberation on those specific matters.

PRESENTATIONS

1. **City Administration**
[Update on Metro Link Union Station Project](#)
Recommendation:
This is a presentation only. There is no action required by the Commission.

2. **City Attorney**
[Regulation of Commercial Cannabis Businesses: State Law Authority, Local Regulation, and Policy Considerations](#)
Recommendation:
Receive a presentation from the City Attorney's Office regarding regulation of commercial cannabis businesses; and provide further direction to the City Attorney's Office and/or City staff, if any.
 1. [VBIC Cannabis Study Session](#)
 2. [January 19, 2021 Agenda Item Report](#)
 3. [February 2, 2021 Agenda Item Report](#)

CONSENT CALENDAR

All matters listed on the Consent Calendar are to be approved with one motion. Items may be removed from the Consent Calendar by any member of the Commission. Those items removed will be considered immediately after the Consent Calendar.

3. **City Clerk**
[Approval of Minutes](#)
Recommendation:
Approve the November 12, 2020 Regular Business and Industry Commission meeting minutes.
 1. [20201112 BIC Minutes](#)

NEW BUSINESS

4. **Finance/Treasury**
[Citywide Fee Schedule Update for Fiscal Year \(FY\) 2021-22](#)
Recommendation:
Recommend that the City Council adopt the proposed fee schedule.
 1. [Proposed Fee Schedule FY21-22](#)

ORAL REPORTS

Brief reports, announcements, or directives to staff.

Next regular meeting: Thursday, May 13, 2021 at 9:00 a.m.

ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting.

Dated this 4th day of February, 2021.

By: 
Sandra Dolson, Administrative Secretary

Business and Industry Commission Agenda Item Report

Agenda Item No. COV-483-2021
Submitted by: Diana Figueroa
Submitting Department: City Administration
Meeting Date: February 11, 2021

SUBJECT

Update on Metro Link Union Station Project

Recommendation:

This is a presentation only. There is no action required by the Commission.

Background:

The Metro team will provide an update on their Link Union Station (Link US) Project and its potential impacts to Vernon. The Link US Project maintains its goal to increase commuter and intercity rail service capacity by enabling one-seat rides across Southern California, transforming the Los Angeles Union Station from a stub-end tracks station into a run-through tracks station. The proposed project would boost capacity and volume at the Union Station transportation hub which would, ultimately, accommodate the future growth of Metrolink's Commuter Rail service and a California High-Speed Rail System.

Following extensive stakeholder outreach to property owners and tenants who will be directly impacted by BNSF/Malabar Yard modifications in Vernon, the Link US team will return to the Business and Industry Commission on February 11, 2021 to offer insight on the latest plan developments and proposed next steps for the project.

Fiscal Impact:

There is no fiscal impact associated with this report.

Attachments:

Business and Industry Commission Agenda Item Report

Agenda Item No. COV-484-2021
Submitted by: Eva Muro
Submitting Department: City Attorney
Meeting Date: February 11, 2021

SUBJECT

Regulation of Commercial Cannabis Businesses: State Law Authority, Local Regulation, and Policy Considerations

Recommendation:

Receive a presentation from the City Attorney's Office regarding regulation of commercial cannabis businesses; and provide further direction to the City Attorney's Office and/or City staff, if any.

Background:

The City of Vernon currently has a regulatory ban on commercial cannabis businesses and operations citywide. The existing blanket prohibition was adopted by City Council in 2011 at a time when the proliferation of medical marijuana dispensaries was of concern. Since then, statewide regulations have changed significantly, the type of cannabis businesses has diversified and many cities have implemented programs to allow cannabis businesses as these can provide a significant revenue stream for municipalities. Recently, the Vernon City Council has expressed an interest in learning about the regulation of commercial cannabis business and is exploring potential changes to the City's prohibition on cannabis.

At this time, the City Attorney's Office has conducted two (2) Study Sessions before the City Council, on January 19, 2021 (Attachment 2) and February 2, 2021 (Attachment 3) to discuss the regulation of commercial cannabis businesses in the City. At the February 2, 2021, City Council meeting, City Council provided direction to make a similar presentation to BIC, conduct two (2) Community Town Hall Meetings, and directed the City Attorney's Office to commence preparing a draft ordinance.

The City Attorney's Office will provide a presentation to the Business and Industry Commission (Commission) on the regulation of and policy decisions regarding Cannabis as addressed with the City Council to date. The City Attorney's Office is prepared to provide additional information on any topic raised herein, and is prepared to receive any directive issued by the Commission, and/or report back to City Council on any matters raised as a result of today's presentation.

Fiscal Impact:

There is no fiscal impact associated with this report.

Attachments:

1. [VBIC Cannabis Study Session](#)
2. [January 19, 2021 Agenda Item Report](#)
3. [February 2, 2021 Agenda Item Report](#)

STUDY SESSION

Regulating Commercial Cannabis Businesses: State Law Authority, Local Regulation & Policy Considerations



City of Vernon
February 11, 2021

Arnold Alvarez-Glasman, Interim City Attorney
Norma Copado, Interim Assistant City Attorney
Alvarez-Glasman & Colvin, Attorneys at Law

Overview of Study Session

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- ❑ State Law Regulating Commercial Cannabis Businesses
- ❑ State Licensing and Cannabis Classifications
- ❑ Local Regulation, Jurisdiction, and Authority: Current City of Vernon Laws and Information on Other Municipal Jurisdictions
- ❑ Policy Considerations, Including those to Incorporate in a Local Program/Ordinance Allowing Commercial Cannabis Businesses, Including Fee and Revenue Streams
- ❑ Recommended Elements to Incorporate into a City of Vernon Commercial Cannabis Business Ordinance, and Specific Topics Addressed
- ❑ Questions, Comments, and/or Direction to City Attorney's Office and/or City Staff

Prop 64 = "AUMA"

- November 8, 2016: voters passed Prop 64, titled the "Adult Use of Marijuana Act" (the "AUMA").
- AUMA enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical (i.e., adult-use) cannabis, for use by adults twenty-one (21) years of age and older.

Prop 64 Voting “Yes” Results

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- ◆ **Statewide: 57.40% voted “Yes”**
- ◆ **Los Angeles County: 59.5% voted “Yes”**
- ◆ **City of Vernon: 53% voted “Yes”**

SB 94 – “MAUCRSA”

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“MAUCRSA”

Medicinal
and Adult-
Use
Cannabis
Regulation
and Safety
Act

- Senate Bill 94 became law on June 27, 2017
- SB 94 merged California’s licensing scheme relative to medical cannabis activities and businesses, with the licensing scheme enacted by the AUMA.
- What was formerly known as the AUMA was renamed to the “Medicinal and Adult-Use Cannabis Regulation and Safety Act.”



MAUCRSA – General Provisions

(Business & Professions Code §§26000 et seq.)

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- **Purpose and Intent:** Establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing and sale of both of the following:
 - (1) Medicinal cannabis (and cannabis products) for patients with valid physician recommendations.
 - (2) Adult-use cannabis (and cannabis products) for adults 21 years of age and over.

State License Classifications

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- There are six (6) general state license classifications. The different license classifications include:
 - Cultivation
 - Manufacturer
 - Distributor
 - Testing laboratory
 - Retailer, and
 - Microbusiness

State License Classifications

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Cultivation means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

Cultivation licenses have 3 main categories: cultivators, nurseries and processors.

- License Classifications, at minimum, are as follows:
 - CULTIVATION – including mix of small, medium, or large operations; mixed-light sites; indoor and outdoor; specialty cottage; and nursery.
- California Department of Food and Agriculture (“CDFA”) is designated as the state agency responsible for issuing licenses to commercial cannabis cultivators in California.

State License Classifications (cont'd)

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The California Department of Public Health ("CDPH") is responsible for regulating the manufacturing component of the industry.

□ Manufacturer

- "Manufacturer" is defined as a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container. A manufacturer may also be a person that infuses cannabis in its products but does not perform its own extraction.

State License Classifications (cont'd)

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- Distributor
- Distribution is defined as “the procurement, sale, and transport of cannabis and cannabis products between licensees.”
- Some cities that regulate commercial cannabis activity will allow distribution as an ancillary use to other authorized activities, and not necessarily a main, principal use.

State License Classifications (cont'd)

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Currently, a testing lab license is not required to designate whether the cannabis is used for medicinal ("M") or adult-use ("A") – all other licenses require to designate the intended use of the cannabis & cannabis products.

- Testing Laboratory
- Defined as a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products and that is both of the following:
 - (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
 - (2) Licensed by the State of California.
- A licensed testing lab cannot hold any other state license for another classification.

State License Classifications (cont'd)

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The Bureau of Cannabis Control is designated as the state agency to issue licenses for retail operations.

- Retailer:
- The retail sale and delivery of cannabis or cannabis products to customers. A retail site includes a physical location, including a building, room, or other area where the commercial cannabis activities are conducted.
- The two main categories under retail allowed by certain cities are (1) store-front retailers open to the public (i.e., commonly known as “dispensary”, and (2) delivery-only retailer, closed to the public.

State License Classifications (cont'd)

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While the two other state agencies assist in ensuring the microbusiness licensee is in compliance, the Bureau of Cannabis Control is designated to issue licenses to these operations.

- Microbusiness
- Microbusiness licensees must engage in at least three (3) of the following commercial cannabis activities:
 1. cultivation (less than 10,000 square feet),
 2. manufacturing (level 1, type 6),
 3. distribution, and
 4. retail.

Examples of State License Application Requirements

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- ❑ Owners of a commercial cannabis business must submit fingerprints and information regarding any criminal state or federal convictions and arrests (i.e., to serve as basis for denial, including any illegal cannabis operations cited by local jurisdiction).
- ❑ Evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property, or his or her agent, where the commercial cannabis activity will occur, as proof demonstrating acknowledgement and consent.
- ❑ For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

Examples of State License Application Requirements (cont'd)

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- ❑ Obtain a current and valid state seller's permit.
- ❑ Proof that does/will not sell tobacco or alcohol.
- ❑ Provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.
- ❑ Applicant's operating procedures including, but not limited, for: cultivation; extraction and infusion methods; transportation process; inventory procedures; quality control procedures; security protocols; and for applicants seeking to cultivate, the source or sources of water the applicant will use for cultivation.

Examples of State License Application Requirements (cont'd)

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- A complete diagram of the proposed premises with “sufficient particularity.”
 - Interior building diagrams
 - Additional requirements for cultivation sites
- Provide a complete list of every person with a financial interest in the entity applying for the license.

Examples of State License Application Requirements (cont'd)

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- A licensed premises shall not be located within a 600-foot radius of:
 - a school providing instructions in kindergarten or any grades 1 through 12;
 - day care center (includes any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers), or
 - youth center (any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities).

A local jurisdiction is authorized to (1) specify a more restrictive radius, and (2) may designate other “sensitive sites” to create distance buffers from businesses.

Additional State Requirements

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- ❑ Cannabis purchased by a customer cannot leave a licensed retail premises unless they are placed in an opaque package.
- ❑ Local jurisdictions cannot prohibit the use of public roads by a licensee transporting cannabis in compliance with state law.
- ❑ Deliveries may only be made by a licensed retailer, microbusiness, or a licensed non-profit.
- ❑ Prohibitions related to advertising or marketing:
 - in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products;
 - that is attractive to children; and
 - advertising signs within 1,000 feet of a day care center, school, playgrounds, or youth center.

Local Jurisdictions

MAUCRSA “shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.”

[Business and Professions Code Section 26200(a)(1)].

Local Jurisdictions (cont'd)

“Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.”

[Business and Professions Code Section 26201].

Current City of Vernon Law Concerning Cannabis

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- Vernon Municipal Code Section 26.4.1-5(b), “Uses that Are Prohibited or Limited,” currently regulates that “No Dispensary, Store, Co-op, or Cultivation Operation is permitted in any Zone or Overlay Zone.”
- Vernon Municipal Code Section 26.2.9, defines “Marijuana Dispensary, Store, Co-op, or Cultivation Operation” to mean and include any location, structure, facility, residence, or similar to the same used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed, planted, cultivated, or processed, including any of the foregoing if used in connection with the delivery of marijuana.”
- In essence, the City of Vernon currently has a regulatory ban on commercial cannabis businesses and operations citywide.

LA County Cities Currently Regulating At Least One Cannabis License Classification

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- Avalon
- Baldwin Park
- Bell
- Bellflower
- Carson
- Commerce**
- Cudahy**
- Culver City
- El Monte
- Huntington Park
- Lancaster
- Long Beach
- Los Angeles
- Lynwood**
- Malibu
- Montebello**
- Palmdale
- Pasadena
- Pomona
- Santa Monica
- West Hollywood

**Some specifics are provided about these programs in this presentation

November 2020: City-Specific Cannabis-Related Measures Passed by Voters in Los Angeles County

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- Artesia: Measure Q was passed to impose a tax on cannabis up to \$20.00 per square foot of cultivation, and 15% of gross receipts for all other cannabis businesses (passed by 67.36%)
- Calabasas: Measure C was passed to impose a cannabis tax of up to 10%, raising up to \$10,000 a year, with additional revenue of up to \$300,000 per dispensary (passed by 61.12%)
- Hawthorne: Measure CC was passed to impose a 5% cannabis business tax on the gross receipts of a cannabis business (if permitted in the future) (passed by 61.49%)
- Pomona: Measure PM amends the Pomona Zoning Ordinance to create zones (passed by 51.25%), and Measure PO implements a regulatory program to allow manufacturing, retail-storefront, indoor cultivation, distribution, testing, and microbusiness (passed by 59.11%)
- At least 21 other cities in the State of California submitted cannabis-related measures to the voters in November 2020 ranging from gauging whether there is support for the program, implementing a regulatory program, to imposing taxes.

Information on Cities' Cannabis Programs

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□ CITY OF LYNWOOD*

Approved Operators: 19 operators were approved by the City

Types of Businesses Allowed: Manufacturing, Distribution, Non-Storefront Retail Delivery, & Testing

Businesses Currently Operating: 6

Fees and Revenues collected by the City:

FY 2019-20

Cost Recovery Fee (CRF): \$196,000

Quarterly Fees: \$203,548.62

Transfer or Change in Ownership: \$112,500

Delays or Obstacles in businesses operating: The LA County Fire Department has been the biggest obstacle, as there are delays in the review and approval of the construction documents.

Has the City had to address any public safety problems specific to a commercial cannabis program: No

Any other relevant information or data: To assist operators, the City developed a Release of Liability that allows the construction to begin while the project is being reviewed by the LA County Fire Department. A final approval of the project will not be given until they have approval from the LA County Fire Department.

*Information current as of November 2020.

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Information on Cities' Cannabis Programs (cont'd)

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□ CITY OF MONTEBELLO*

Total Applications Received: 39 applications received

Approved Operators: 24 operators approved by the City

Types of Businesses Allowed: Indoor Cultivation, Manufacturing, Distribution, Non-Storefront Retail Delivery

Businesses Currently Operating: 2 businesses currently operating, 2 pending business license issuance

Fees and Revenues collected by the City: The City collected approximately \$1.7 million in one-time application and program fees from the 24 approved operators. The City will soon start to collect operating fees and Community Benefit Fund Program fees from the businesses that are currently in operation.

Delays or Obstacles in businesses operating: Operators seeking amendments to their development agreements, especially as they relate to changes or transfers of ownership.

Has the City had to address any public safety problems specific to a commercial cannabis program: The City has not experienced any safety issues or calls for service at any of the 24 approved locations.

Any other relevant information or data: Working capital and seeking the proper investors has been an ongoing challenge within this industry.

*Information current as of November 2020.

Information on Cities' Cannabis Programs (cont'd)

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□ CITY OF COMMERCE*

Total Applications Received: 45 complete/eligible applications received

Approved Operators: 23 operators approved by the City

Types of Businesses Allowed: Indoor Cultivation, Manufacturing, Distribution, Non-Storefront Retail Delivery, Microbusiness, and Testing

Businesses Currently Operating: 7 businesses currently operating

Fees and Revenues collected by the City (as of December 31, 2020):

- Program Fees, including Application and Licensing Fees (one-time fees): \$3,040,350.60
- Ongoing Operational and Non-Operational Fees: \$1,016,334.14
- Community Benefits Fund Program (ongoing): \$846,820.64
- Grand Total: \$4,903,505.38

Delays or Obstacles in businesses operating: The plan check and permit approval process has been challenging and lengthy for most operators. Prior to being fully operational, each business must obtain approval from Building & Safety, Fire Department, Industrial Waste, Sanitation, and Public Health. The LA County Fire plan check process has proved to slow down the operators and the overall plan check and approval process.

Has the City had to address any public safety problems specific to a commercial cannabis program: No.

Any other relevant information or data: Subtracting expenditures from the \$4.9, in approximately two years with only 7 operators in business (and some only partially), the City has made a healthy profit and it has reinvested in City services.

*Information current as of December 31, 2020.

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Policy Considerations Being Discussed with City Council, Including those Recommended to Incorporate into a Local Program and Ordinance Allowing Commercial Cannabis Businesses

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- Types of classifications/businesses it wants or does not want in its jurisdiction.
- The review and approval process.
- What type of land use and/or development or operating agreements, regulatory permits or licenses will be required. Regulatory business permit/license, land use entitlement, development agreement, operating agreement, or a combination thereof?
- Incorporate ALL minimum State requirements, and impose additional/more stringent requirements, including operational standards, stringent security plans, pro forma/financial health of applicants, authority to monitor businesses continuously, odor control plans, limitations on signage.

Policy Considerations to Incorporate in an Ordinance Allowing for Commercial Cannabis Businesses

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- What zones will the businesses be allowed to operate and/or should a special overlay zone be established?
- What is the buffer distance required between licensed premises and sensitive sites?
- Will sensitive sites be designated in addition to those identified by the state?
- What taxes and /or fee structure does the City want to impose?

Policy Considerations to Incorporate in an Ordinance Allowing for Commercial Cannabis Businesses

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□ Penalty Provisions

- Any ordinance should have explicit language as to what the violations are if a cannabis business is operating illegally without City approvals, and the City's ability to proceed administratively, civilly and/or criminally.
- Any lawful operator not in compliance should be made aware of the legal consequences, including penalties, City's ability to revoke any permits or licenses, and/or payment of staff time and attorneys fees for compliance efforts, which may also be negotiated as part of an agreement.
- Authority to inspect premises, and authority to audit business records, should also be explicitly included in any ordinance.

Fee Structures and Revenue Sources

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- Processing/ Regulatory / Permit / Entitlement Fee – Imposed as part of the application process to the City and/or if a regulatory permit or an entitlement is required to operate. Typically this fee will be charged to allow the City to recover all the costs associated with screening and processing applications, undergoing the review and approval process, and ensuring on-going compliance. The regulatory fee may be charged on an annual basis.
- Negotiated Operating Fees – For cities that require applicants to obtain a Development Agreement or Operating Agreement or Contract, a term that is typically negotiated with the operators is a percentage of the gross revenues, and/or a specified dollar amount based on the square footage of a cultivation facility. This avenue is an alternative to a tax ballot measure so that a city can secure operating fees from a business through a contract in consideration/exchange for the city allowing the establishment of a cannabis business.
- Community Benefit Fund Program – Each approved operator may be required to annually allocate and pay an amount to fund this program, which is a separate account from the General Fund. Most cities designate this fund for social and recreational programs, such as for youth and seniors programming, but also for economic development. The latter has proved true especially with current drained city resources caused by COVID. For example in Vernon, operators can be required to annually allocate a required amount to the Vernon Community Fund.
- Utility Enterprise Funds Benefit - Vernon is in a unique position unlike other cities because it has its own utility servicing, wherein electricity and water will be in demand. While the literature across the board highlights the fact that the data remains scarce still at this point, in 2015, researchers estimated that cannabis grow facilities made up almost 50% of the new power demand in Colorado.

Taxes on Cannabis – Potential Revenue for Cities

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- Prop 64 exempted state and local sales tax against medical cannabis, however excise taxes may still be levied, including against the cultivation and manufacturing of medical cannabis
- State excise tax of 15% on adult-use cannabis.
- The law also imposes a cultivation tax of \$9.25/dry-weight ounce (flowers) and \$2.75/dry-weight ounce (leaves) on the privilege of cultivating cannabis.
- Local agencies that ban cultivation or retail sales of cannabis are not eligible for grants from taxes generated.
- Cities should take any cumulative tax rate into account before levying a cannabis specific tax, as
 - All existing local sales tax on adult-use cannabis will apply
 - All existing business license taxes will apply

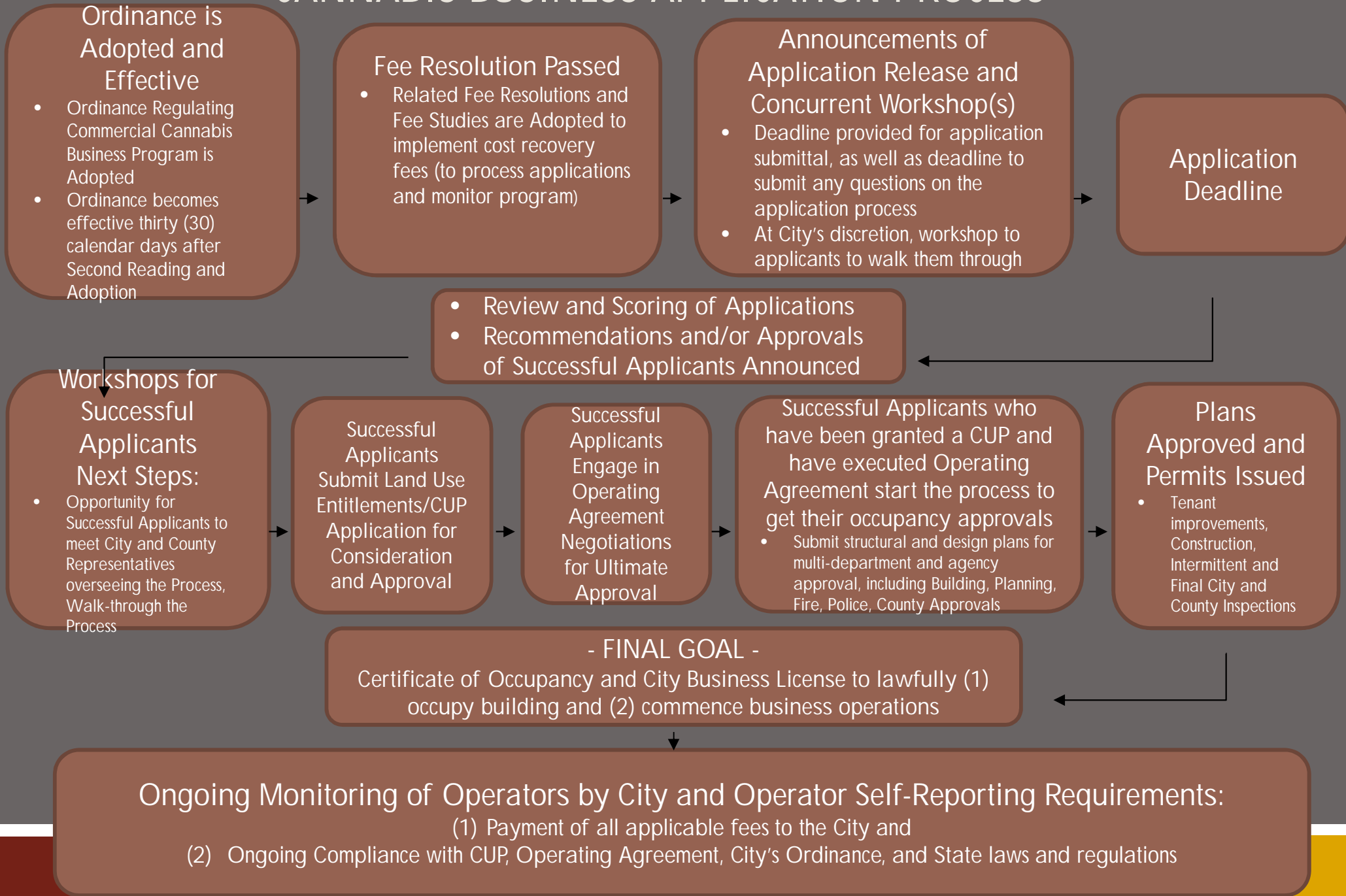
Recommended Main Elements to Consider to Incorporate into a Commercial Cannabis Business Ordinance / Program

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- Business Classification: Indoor Cultivation, Manufacturing, Non-Storefront Retail Delivery, Testing, and ancillary Distribution (licensee to licensee), with all operations closed to the public. This allows the city the ability to legislate so as ease into regulating a new industry.
- Prohibitions: Explicitly Prohibit Outdoor Cultivation, Festivals, Store-front Retailer open to the public (i.e., dispensary), On-site Consumption Facilities.
- Sensitive Sites: Include residences as sensitive sites along with schools, youth centers and day cares. Review sensitive sites in immediately surrounding cities to be a “good neighbor.”
- Minimum Application Requirements: Include ALL minimum state requirements, and have more stringent requirements relating to criminal background of operators; financial plan, as well as pro forma; security plan, with requirements of surveillance cameras accessible to the City’s Police Department and registered security guard(s) from a pre-approved and vetted list of security companies; designated manager or liaison to the City, Law Enforcement and Business and Residential Community; operational and development standards; regulations on outdoor signage or advertisement; and enforcement and monitoring provisions.
- Fees and Revenue: (1) Ensure cost recovery fee analysis is complete and thorough to have a self-sustaining program when imposing program and application fees, (2) discretion to negotiate an established range of operating fees through an Operational Agreement or Development Agreement, and (3) establish a Community Benefit Fund Program requiring operators to annually contribute to same.
- “Licensing Scheme” either through an Operational Agreement, with a land use entitlement (and designate zones allowed for this use), or through a Development Agreement.
- Application Review and Approval Process: Merit-based, with objective, scoring criteria, and applications reviewed, evaluated and scored by a Panel or Committee (i.e., comprised of interdepartmental department directors or staff, as well as department directors and staff from other cities or governmental agencies).

Discussion of Some Topics Raised Since the First Study Session with City Council

CANNABIS BUSINESS APPLICATION PROCESS



Los Angeles County Fire Department Commitment to Support City Efforts

35

- Purported concerns raised about delays in plan-check process as a result of other municipalities concerns. City's goal is to be business-friendly.
- Fire Department has:
 - (1) confirmed its commitment to assist the City should it implement a program;
 - (2) has made internal changes to improve their process – as with any new program, there is a learning curve for everyone; and
 - (3) has developed documents to assist the public, including specific to cannabis operators, such as Regulation 30.

Recommendations to Address any Purported Delays from Los Angeles County Fire Department

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City Efforts:

- Hold a workshop for Approved Applicant Operators to Walk them through Fire Department plan check review and approval process, with Fire Department's attendance
- Designate a City Liaison Between Approved Applicant Operators and Fire Department to Facilitate Communications and to also Keep Everyone Accountable – Monitor Activities

Requirements from Operators:

- Make attendance to workshop mandatory
- Include Deadline Requirements in Operating Agreement to ensure no delays from the operators. For example, "Within fourteen (14) calendar days from being notified by the Fire Department that plan corrections are necessary, resubmit corrected plans to the Fire Department.

Steps to Ensure Successful Applicants Commence Operations Without Delays

- As noted above, include Deadline Requirements in Operating Agreement to ensure no delays from the operators. For example, “Within fourteen (14) calendar days from being notified by the Planning Division/Building Division/Fire Department that plan corrections are necessary, resubmit corrected plans to corresponding Agency.” If repeated pattern of delays, impose certain penalties.
- Impose a Non-Operational Monthly Fee: Impose an obligation that if after applicant is selected and does not secure a certificate of occupancy and business license within a pre-set timeline, then a monthly non-operation fee shall be imposed. Amount should be substantial enough to create an incentive to operator to want to get all final approvals to commence operations.

Strict Monitoring of Sale or Transfer of Vernon Commercial Cannabis Licenses and Permits

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- Pattern exists in other municipalities of ongoing request to sell, transfer, and/or change the ownership of the City approvals, licenses and permits.
- While these requests cause delays in businesses commencing operations because of internal organizational issues, there are times that businesses want to change ownership structure to bring in additional investors. Other times, more sophisticated and/or experienced operators want to purchase the business.
- Recommendation: To not prohibit the sales/transfers, however, to require that no such sale, transfers or changes can occur WITHOUT securing City approval for same AND requiring that new applicant-owners be subject to the same rigorous application procedures, criminal background checks, etc., and pay the City the corresponding original application fees, as the original owners.

Safeguarding Integrity of Application and Selection Process

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Concerns Raised About Protecting the Integrity of the City's Process and Suggestions on how to Safeguard It:

- All applicants can be required to submit a notarized non-collusion affidavit, with the consequence that if a violation is discovered at any time, same is cause for immediate disqualification. Applicants are also required to submit to Live Scans for a criminal background check, and City may disqualify on basis of convictions.
- If hiring outside consultants/independent contractors, such as reviewers/scorers of applications, planners, etc., recommendation is that agreement include prohibitions of conflicts of interest, as well as for them to sign notarized affidavits/declarations of criminal convictions, non-collusion affidavits, civil litigation history, false claims, etc.

Safeguarding Integrity of Process – Suggestions continued

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- Applications to be scored on a merit-based system – objective criteria, with scoring points allocated for said criteria.
 1. If city limits number of licenses, top ranking applicants fill in the limited number of spots for each business classification;
or
 2. If City has no limits to number of licenses, City can designate a top % of the overall rankings to get automatically approved/selected.

Safeguarding Integrity of Process – Suggestions continued

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- Review Panel Members Reviewing, Scoring and Ranking Applications:
 1. Members appointed by the City Administrator;
 2. Members cannot have any financial conflicts of interest and required to sign declarations; some members should have expertise in planning/land use, cannabis regulations, public safety, and/or finance;
 3. Confidentiality of Panel Members shall be preserved, disclosure only subject to applicable state law. This is to protect the members and the process.

Once applications are scored by the Review Panel, only those applications that meet the highest merit-based criteria, and successfully thereafter meet the required conditions, are approved and selected to operate.

City Council Members as Final Selection / Approval Authority instead of a Confidential Review Panel

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□ Pros:

1. Ability to have the final decision as policy makers; and/or
2. Final decision based on merit-based, objective criteria as recommended by the Review Panel

□ Cons:

1. Not insulated from being contacted and lobbied by potential applicants, consultants, etc. in a highly competitive and lucrative industry.
2. If final decision is not based on merit-based, objective criteria, more susceptible to legal challenge.

City Council Members as Final Selection / Approval Authority instead of a Confidential Review Panel

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- If City Council decides to not be the final selection and approval body, there are other ways to implement policy preferences, such as:
 1. direct staff in the implementation and preparation of the application and review process to add application requirements and/or designate weighted/bonus points for important policy implications to City Council, such as % of local hires, established business and/or property ownership in Vernon, proven track-record of supporting Vernon community, etc.
 2. Continue to direct staff and the City Attorney's office in these study sessions of policy elements it wants incorporated in the City's program and ordinance establishing the program, including application requirements and selection criteria.
- Ultimately, the City Attorney's office and Staff will take direction from City Council as to its preferences.

Two Main Ways the City of Vernon's Commercial Cannabis Program Can Remain Competitive and Attract Applicants

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□ Operating Fee Structure

- Established data of what other cities charge is available, especially in Los Angeles County, and Vernon can establish competitive fees
- Set a range of fees to give the City the discretion to adjust the fees based on the market, or other relevant factors

□ City of Vernon is Inherently an Industrial City

- Historically, if anyone challenges a City's commercial cannabis program, it is residents
- Vernon has the benefit that the make-up of the City is inherently industrial. The idea is that the commercial cannabis businesses are operating like any other company in a factory/warehouse, as a manufacturer, etc.
- Vernon has very few designated sensitive sites, opening vast areas for proposed businesses

City of Vernon Proposed Cannabis Area Maps

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- ❑ DISCUSSION OF MAPS GENERATED BY THE CITY'S PUBLIC WORKS DEPARTMENT
- ❑ SIX-HUNDRED FOOT (600') RADIUS FROM DESIGNATED SENSITIVE SITES
- ❑ AREAS ILLUSTRATED OF PROPOSED AREAS IN THE CITY WHERE COMMERCIAL CANNABIS BUSINESS COULD BE ALLOWED

Limiting Number of Licenses: Pros & Cons

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PROS

- City can ease into regulating a new industry with limited amount of operators
- Treat the new program as a de facto “pilot program” and evaluate and assess the program for a period before deciding whether to expand the program
- Oversight / monitoring of smaller number of operators is more manageable

CONS

- Selection process tends to become very contentious and litigious when number of operators is limited to a small number
- Prices for real property are highly increased for the selected business properties if the landlord/property owner sells or leases the property. Unintended consequences for potential/future development is that property values / comparables are artificially increased

Inquiries Raised on What Opportunities Exist in Using the City's Kern County Property as Part of a Proposed Public-Private Partnership

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- Currently, state laws regulating cannabis are silent as to private-public partnerships. However, typically in order to utilize a private-public partnership model, explicitly statutory legislation authorizing same must exist. Further, we are unable to locate an existing model where a municipality partakes in a public-private partnership related to the cannabis industry within and outside of California.
- Another main concern is that the City would be participating in a public-private partnership for a revenue raising venture in an industry it is ultimately tasked to regulate, if implementing said program. Conflicts of interest are real because the City would be regulating itself.
- An option worth exploring is that of the City being a landlord and/or selling property. There are legal limitations, or procedures the City would need to follow, but we can certainly continue to further explore this option.

BIC's Options

- ❑ Receive and file; and/or
- ❑ BIC may provide direction to the City Attorney's office, and/or City staff, to conduct further research on any issue discussed and/or to report to City Council on any matter raised by BIC Commissioners as a result of today's presentation and meeting.

DISCUSSION, DIRECTION AND/OR QUESTIONS

City Council Agenda Item Report

Agenda Item No. COV-474-2021

Submitted by: Eva Muro

Submitting Department: City Attorney

Meeting Date: January 19, 2021

SUBJECT

Regulation of Commercial Cannabis Businesses: State Law Authority, Local Regulation, and Policy Considerations

Recommendation:

Hold a Study Session to receive a presentation from the City Attorney's Office regarding regulation of commercial cannabis businesses; and provide further direction to the City Attorney's Office and/or City staff.

The City Attorney's Office is prepared to provide additional information on any topic raised herein, and is prepared to receive any directive issued by City Council, including preparing a draft ordinance to include any provision, terms and standards discussed herein or at a future City Council meeting.

Background:

On November 8, 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"). Effective November 9, 2016, AUMA legalized the nonmedical use (herein after, "adult-use") of cannabis by persons 21 years of age and over, and the personal cultivation of up to six cannabis plants per residence. An initiative statute approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. (Cal Const, Art. II § 10(a)). Generally, AUMA created a state regulatory licensing system, which became effective January 1, 2018, governing the commercial cultivation, testing, distribution, and the manufacturing of adult-use cannabis products. Senate Bill 94 became law on June 27, 2017, which merged California's licensing scheme relative to medical cannabis activities and businesses, with the licensing scheme enacted by the AUMA. What was formerly known as the AUMA has now been renamed to the "Medicinal and Adult-Use Cannabis Regulation and Safety Act" (hereinafter, "MAUCRSA").

This report, and in more detail, the more comprehensive information and discussion that will take place with the City Council at the January 19, 2021 meeting, and at subsequent meetings if so desired by the Council, specify what state law regulates, and the authority pursuant to state law for the City of Vernon ("City") to regulate commercial cannabis activities within its jurisdiction. The report provides a summary of what the Vernon Municipal Code currently regulates concerning cannabis. This report further provides information on what other jurisdictions are regulating, and seeks a directive from City Council should it opt to direct the City Attorney's Office and/or City staff to present a draft ordinance to the City Council.

DISCUSSION:

A. Summary and History of State Cannabis Related Laws, and Vernon's Legislative Actions.

- In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and entitled "The Compassionate Use Act of 1996" or "CUA").

- The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of [cannabis] for non-medical purposes.”
- In 2004 the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code section 11362.7 et seq. and referred to as to the “Medical Marijuana Program” or “MMP”) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate cannabis for medical purposes with a limited defense to certain specified state criminal statutes.
- Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances.
- In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land” Further, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that “there is no right – and certainly no constitutional right – to cultivate medical marijuana” The Court in *Maral* affirmed the ability of a local government entity to prohibit the cultivation of cannabis under its land use authority.
- On October 9, 2015, Governor Jerry Brown signed three bills into law (AB 266, AB 243, and SB 643), collectively currently known as the Medical Cannabis Regulation and Safety Act (“MCRSA”, formerly “MMRSA”). MCRSA establishes a state-licensing scheme for commercial medical cannabis uses, while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a state license. MCRSA allows the City to completely prohibit commercial medical cannabis activities.
- On November 8, 2016, California voters approved Proposition 64, titled the “Adult Use of Marijuana Act” (the “AUMA”), which became effective immediately, and enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of adult-use cannabis, including cannabis products, for use by adults twenty-one (21) years of age and older. The AUMA set an implementation date for commercial operations of January 1, 2018.
- The AUMA added, among other provisions, subdivision (a)(3) to Section 11362.1 of the Health and Safety Code (which all subsequent statutory references being to such Code) making it legal under state and local law for persons twenty-one (21) years and older to possess, plant, cultivate, harvest, dry, or process not more than six (6) living cannabis plants, and possess the cannabis produced by the plants, upon the grounds of a private residence, provided such personal cultivation activities comply with various requirements set forth in Section 11362.2.
- Notwithstanding the foregoing, in subdivision (b) of Section 11362.2 the AUMA allows cities to completely prohibit persons from engaging in outdoor Personal Cultivation Activities, and while cities may not completely prohibit indoor Personal Cultivation Activities, cities may enact and enforce reasonable regulations on indoor Personal Cultivation Activities.

- Pursuant to Business & Professions Code section 26200(a), the AUMA allows cities to ban all or part of the uses allowed under its provisions:

Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (Emphasis added).

- Senate Bill 94 became law on June 27, 2017, which merged California's licensing scheme relative to medical cannabis activities and businesses, with the licensing scheme enacted by the AUMA. What was formerly known as the AUMA was renamed to the "Medicinal and Adult-Use Cannabis Regulation and Safety Act" ("MAUCRSA").

- AB 133 became law on September 18, 2017 which, amongst other changes, removed the requirement that different commercial license types of cannabis businesses (e.g., cultivators, manufacturers, retailers, etc.) maintain "separate and distinct" premises. By removing that requirement, a single physical location can now hold multiple state licenses, subject to applicable local ordinances.

- In late November 2017, the three state licensing authorities charged with licensing and regulating commercial cannabis activity in California commenced releasing Emergency Regulations, outlining the standards and licensing procedures for both medicinal and adult-use commercial cannabis. Said Emergency Regulations were readopted in June 2018.

- Federal Controlled Substance Act, 21 U.S.C § 801 et seq., continues to classify cannabis as a Schedule 1 drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. Currently, the Federal Controlled Substances Act contains no exemption for medical purposes.

- The City of Vernon currently has a regulatory ban on commercial cannabis businesses and operations citywide. Municipal Code Section 26.4.1-5(b), "Uses that Are Prohibited or Limited," currently regulates that "No Dispensary, Store, Co-op, or Cultivation Operation is permitted in any Zone or Overlay Zone." Vernon Municipal Code Section 26.2.9, defines "Marijuana Dispensary, Store, Co-op, or Cultivation Operation" to mean and include any location, structure, facility, residence, or similar to the same used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed, planted, cultivated, or processed, including any of the foregoing if used in connection with the delivery of marijuana."

B. Regulating Commercial Cannabis Activities Pursuant to State Law.

1. State License Types:

There are different state license types, and with the exception for laboratory testing, each license issued will have an "M" for medicinal or an "A" for an adult-use license. The different license types include:

- Cultivation
- Manufacturer
- Distributor
- Testing laboratory
- Retailer, and
- Microbusiness

2. State Licensing Authorities:

There are three state licensing authorities charged with licensing and regulating commercial cannabis activity in California. These include the Bureau of Cannabis Control (“BCC”), California Department of Food and Agriculture (“CDFA”), and the California Department of Public Health (“CDPH”).

- CDFA is designated as the state agency responsible for issuing licenses to commercial cannabis cultivators in California. Cultivation licenses have three main categories: cultivators, nurseries and processors.
- CDPH is responsible for regulating the manufacturing component of the industry. CDPH released Emergency Regulation outlining the standards and licensing procedures for both medicinal and adult-use commercial cannabis manufacturing and products. There are four (4) manufacturing license types.
- BCC is responsible for regulating all other commercial cannabis businesses. All cannabis businesses must have a state license in order to lawfully operate. State licenses cannot be issued to an applicant whose operations would violate provisions of any local ordinance or regulations. State licenses are valid for one year.

3. California Code Regulations:

Regulations issued by the state are extensive, comprehensive and technical depending on the type of cannabis operation. Notwithstanding, below are some standards worth highlighting:

- Local compliance verification is required before the state issues a license.
- Cannabis operations must be at least 600 feet from sensitive sites, such as schools, youth centers and day care centers. Local ordinances can be more restrictive.
- Owners of a commercial cannabis business must submit fingerprints, information regarding any criminal convictions, and disclose whether they have a financial interest in any other commercial cannabis business licensed under MAUCRSA.
- Security measures are required at licensed premises, including employee badges, designated limited-access areas, and security personnel; 24-hour video surveillance for areas containing cannabis and cannabis products, as well as all entryways and exits; retailers must also have video surveillance in point-of-sale areas and security personnel; and alarm systems.
- Applicant for a license with more than 20 employees must either: attest that they have entered into a labor peace agreement and that they will abide by the terms of the agreement, and provide a copy of the agreement to BCC; or, provide a notarized statement indicating the applicant will enter into and abide by the terms of the labor peace agreement.
- As noted above, there are additional and separate requirements by license type, which the operators are required to adhere, and the state to enforce.
- Cultivation applicants will be required to demonstrate California Environmental Quality Act (CEQA) compliance. This may be achieved by a local jurisdiction completing a site-specific analysis or the applicant providing a CEQA documents to be certified by the lead agency.
- There are specific waste management laws concerning cannabis waste.

4. State Tax:

- Excise tax is fifteen (15) % of the average market price of any retail sale by a cannabis retailer.
- The excise tax is in addition to the sales and use tax imposed by state and local governments.
- The law also imposes a cultivation tax of \$9.25/dry-weight ounce (flowers) and \$2.75/dry-weight ounce (leaves) on the privilege of cultivating cannabis.
- Local agencies that ban cultivation or retail sales of cannabis are not eligible for grants from taxes generated.

C. Federal Preemption, Enforcement and Recent Development at the Federal Level:

Cannabis remains an illegal Schedule 1 drug. In June 7, 2018, a bipartisan congressional bill was introduced to remove the federal ban on cannabis, but nothing transpired from same. On June 11, 2018, seven mayors formed a coalition to advocate for a federal cannabis policy reform. Specifically, mayors from the cities of Denver, Seattle, Portland, San Francisco, Los Angeles, Las Vegas and West Sacramento sponsored a resolution at the U.S. Conference of Mayors in Boston that asked the federal government to remove cannabis from a list of illegal drugs, among other things. The incoming White House administration has pledged to decriminalize cannabis nationwide, which would dramatically reshape the nation's legal landscape for commercial cannabis businesses, including federal banking and financing of said industries.

D. What are other Cities Doing:

The presentation that accompanies this Staff Report provides what cities in Los Angeles County currently regulate at least one cannabis business classification, and provides information on three (3) cities' current commercial cannabis programs.

E. Where do we go from Here: City of Vernon's Options and Considerations:

1. Regulate Certain Commercial Cannabis Activities:

The City may opt to allow and regulate some or all commercial cannabis uses and activities, by implementing an ordinance with a permitting and regulatory structure. The City would need to adopt corresponding land use and business regulations, and impose corresponding fees. The City could also impose additional fees on selected and permitted cannabis operators through Operational or Development Agreements, which may be negotiated and ultimately mutually agreed upon by the City and said operators. For example, the fees may be in the form of a percentage of gross revenues and/or a rate for the square footage of a facility.

The City may also impose taxes on commercial cannabis businesses to cover costs incurred with licensing, regulation, tax collection, enforcement, auditing, etc. Any tax imposed would require voter approval.

If the City decides to permit and regulate any of the uses or activities currently prohibited in the City's laws, Council would need to direct the City Attorney's office, with the support of City staff, to initiate code amendments. The presentation that accompanies this report included recommended elements to

incorporate into an ordinance regulating commercial cannabis business, if that is the direction provided by City Council.

2. Continue to Prohibit All Commercial Cannabis Activities:

If the City opts to continue to ban all commercial cannabis activity citywide, then Vernon Municipal Code Section 26.4.1-5(b) can remain in place, or amendments to same may also be made.

F. If the City Council opts to explore regulation of cannabis activities, it could direct the City Attorney's Office and City staff to review the matter further and return with recommendations or provide feedback or direction on the major provisions, topics, standards and regulations.

1. Type:

The two types are Medicinal and Adult-Use. The City may consider allowing one type, both types, or the type depending on the allowed business classification(s).

2. Classifications Allowed:

Classifications are based on the state licenses issued: Cultivation, Manufacturer, Distributor, Testing Laboratory, Retailer, and Microbusiness.

3. Explicit Prohibited Cannabis Activities and Businesses:

Explicit prohibitions may be included, if the City Council desires, such as retail storefront businesses.

4. Locations Where Businesses will be Allowed:

The City may allow businesses in specified zones only and/or it may establish a special overlay zone.

- **Additional Consideration:** Distances from sensitive sites, and what is considered a "sensitive site." Staff may generate maps showing current state-required buffer zones of 600' from schools, park, day care centers, and youth activities based on sites identified. City staff may generate maps to reflect where businesses would be allowed based on different minimum distance requirements from additional sensitive sites, as well as different distances from such sites (e.g., 1,000' vs. 600'). Note: buffer zones may change in the future as sensitive uses are established (new uses) or existing uses cease to exist.

5. Minimum Application Requirements:

- **General Comment:** In addition to the state application requirements, the City may impose additional minimum application requirements, which may be considered as an initial screening process, and/or as part of a merit-based, scoring system.

6. Type of Approval(s), License(s), Permit(s), and/or Land Use Entitlement(s) Required to Establish a Commercial Cannabis Business:

- **General Comment:** Authorization to establish a business may come in the form of a ministerial license, where it is issued by right; a regulatory permit or license, where the City is allowed to impose terms; and/or through land use approvals that may be negotiated and/or approved. This does not affect the requirement to obtain state-issued license which will also be required.

7. Review and Approval Process:

- General Comment: Matters to consider include types of review and approval processes (allowed “by-right”, approved by body, or negotiated); single or multiple stages of review and approvals (i.e., initial screening, if meet minimum requirements move to next phase, etc.); individual(s) or bodies reviewing and approving applications, making recommendations to other bodies, and/or issuing final approvals.

8. Tax and Revenue Structures:

- General Comment: The City may impose fee or tax structures (tax requires a ballot measure), or a combination of both; a specific fee or tax may be designated based on a percentage of gross revenue or square footage of a facility, or a fee may be negotiated; and a designation of City fund(s) where revenue will be allocated, including whether the City wants to establish community based fund program(s), and require applicants to fund same.

9. Compliance and Enforcement Provisions:

- General Comment: Provisions to serve as a deterrent for those businesses operating unlawfully without City approvals, and to ensure compliance is continuous for those approved businesses, as well as the implementation of enforcement tools to allow law enforcement, Code Enforcement, and other City staff to effectively monitor approved businesses, and terminate illegal operations.

10. Any Additional Operational Provisions Important to the City:

- General Comment: additional standards the Council desires to impose as a term in an ordinance under any topic, including those listed hereinabove.

Fiscal Impact:

The recommended action can be carried out without additional impact on the current operating budget.

Attachments:

1. [Cannabis City Council Study Session](#)

STUDY SESSION

Regulating Commercial Cannabis Businesses: State Law Authority, Local Regulation & Policy Considerations



City of Vernon
January 19, 2021

Arnold Alvarez-Glasman, Interim City Attorney
Norma Copado, Interim Assistant City Attorney
Alvarez-Glasman & Colvin, Attorneys at Law

Overview of Study Session

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- ❑ State Law Regulating Commercial Cannabis Businesses
- ❑ State Licensing and Cannabis Classifications
- ❑ Local Regulation, Jurisdiction, and Authority: Current City of Vernon Laws and Information on Other Municipal Jurisdictions
- ❑ Policy Considerations, Including those to Incorporate in a Local Program/Ordinance Allowing Commercial Cannabis Businesses, Including Fee and Revenue Streams
- ❑ Recommended Elements to Incorporate into a City of Vernon Commercial Cannabis Business Ordinance
- ❑ Questions, Comments, and/or Direction to Interim City Attorney's Office and/or City Staff

Compassionate Use Act - 1996

In 1996, the voters of the State of California approved Proposition 215, entitled “The Compassionate Use Act of 1996” or “CUA”.

The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances.

Prop 64 = "AUMA"

- November 8, 2016: voters passed Prop 64, titled the "Adult Use of Marijuana Act" (the "AUMA").
- AUMA enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical (i.e., adult-use) cannabis, for use by adults twenty-one (21) years of age and older.

AUMA made effective immediately...

- Portions effective Nov. 9, 2016:
 - Legalized non-public adult-use of cannabis (21 and over), and
 - Personal cultivation of up to 6 plants per residence.

AUMA – effective January 1, 2018...

The AUMA set an implementation date for commercial operations of 1/1/2018, establishing a state regulatory system to issue state licenses for operations, including:

- commercial cultivation (growing)
- distribution of adult-use (selling)
- testing
- manufacturing of cannabis products

Prop 64 Voting “Yes” Results

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- ◆ **Statewide: 57.40% voted “Yes”**
- ◆ **Los Angeles County: 59.5% voted “Yes”**
- ◆ **City of Vernon: 53% voted “Yes”**

SB 94 – “MAUCRSA”

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“MAUCRSA”

Medicinal
and Adult-
Use
Cannabis
Regulation
and Safety
Act

- Senate Bill 94 became law on June 27, 2017
- SB 94 merged California’s licensing scheme relative to medical cannabis activities and businesses, with the licensing scheme enacted by the AUMA.
- What was formerly known as the AUMA was renamed to the “Medicinal and Adult-Use Cannabis Regulation and Safety Act.”



AB 133 “Cannabis Regulation” – effective September 18, 2017

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- AB 133 became law on September 18, 2017 which, amongst other changes, removed the requirement that different commercial license types of cannabis businesses (e.g., cultivators, manufacturers, retailers, etc.) maintain “separate and distinct” premises.
- By removing that requirement, a single physical location can now hold multiple state licenses, subject to applicable standards.

MAUCRSA – General Provisions

(Business & Professions Code §§26000 et seq.)

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- **Purpose and Intent:** Establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing and sale of both of the following:
 - (1) Medicinal cannabis (and cannabis products) for patients with valid physician recommendations.
 - (2) Adult-use cannabis (and cannabis products) for adults 21 years of age and over.

“Commercial Cannabis Activity”

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Commercial cannabis activity is defined as “activities that include the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in [MAUCRSA].”

[Section 26001(k) of the Business and Professions Code].

State-Issued Licenses

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- ❑ All cannabis businesses must have a state license in order to lawfully operate.
- ❑ State licenses cannot be issued to an applicant whose operations would violate provisions of any local ordinance or regulations. For example, if an operation in the City of Vernon currently desired to get a state license for a dispensary, the state could not issue a license due to the City's current prohibition on commercial cannabis operations.
- ❑ State licenses are valid for one year.

State License Classifications

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- There are six (6) general state license classifications. The different license classifications include:
 - Cultivation
 - Manufacturer
 - Distributor
 - Testing laboratory
 - Retailer, and
 - Microbusiness

Three State Agencies are Authorized to Issue State Licenses

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- There are three state licensing authorities charged with licensing and regulating commercial cannabis activity in California. These include:
 1. Bureau of Cannabis Control (“BCC”),
 2. California Department of Food and Agriculture (“CDFA”), and
 3. California Department of Public Health (“CDPH”).

State License Classifications

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Cultivation means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

Cultivation licenses have 3 main categories: cultivators, nurseries and processors.

- License Classifications, at minimum, are as follows:
 - CULTIVATION – including mix of small, medium, or large operations; mixed-light sites; indoor and outdoor; specialty cottage; and nursery.
- California Department of Food and Agriculture (“CDFA”) is designated as the state agency responsible for issuing licenses to commercial cannabis cultivators in California.

State License Classifications (cont'd)

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The California Department of Public Health ("CDPH") is responsible for regulating the manufacturing component of the industry.

□ Manufacturer

- "Manufacturer" is defined as a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container. A manufacturer may also be a person that infuses cannabis in its products but does not perform its own extraction.

State License Classifications (cont'd)

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- Distributor
- Distribution is defined as “the procurement, sale, and transport of cannabis and cannabis products between licensees.”
- Some cities that regulate commercial cannabis activity will allow distribution as an ancillary use to other authorized activities, and not necessarily a main, principal use.

State License Classifications (cont'd)

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Currently, a testing lab license is not required to designate whether the cannabis is used for medicinal ("M") or adult-use ("A") – all other licenses require to designate the intended use of the cannabis & cannabis products.

- Testing Laboratory
- Defined as a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products and that is both of the following:
 - (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
 - (2) Licensed by the State of California.
- A licensed testing lab cannot hold any other state license for another classification.

State License Classifications (cont'd)

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The Bureau of Cannabis Control is designated as the state agency to issue licenses for retail operations.

- Retailer:
- The retail sale and delivery of cannabis or cannabis products to customers. A retail site includes a physical location, including a building, room, or other area where the commercial cannabis activities are conducted.
- The two main categories under retail allowed by certain cities are (1) store-front retailers open to the public (i.e., commonly known as “dispensary”, and (2) delivery-only retailer, closed to the public.

State License Classifications (cont'd)

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While the two other state agencies assist in ensuring the microbusiness licensee is in compliance, the Bureau of Cannabis Control is designated to issue licenses to these operations.

- Microbusiness
- Microbusiness licensees must engage in at least three (3) of the following commercial cannabis activities:
 1. cultivation (less than 10,000 square feet),
 2. manufacturing (level 1, type 6),
 3. distribution, and
 4. retail.

Examples of State License Application Requirements

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- ❑ Owners of a commercial cannabis business must submit fingerprints and information regarding any criminal state or federal convictions and arrests (i.e., to serve as basis for denial, including any illegal cannabis operations cited by local jurisdiction).
- ❑ Evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property, or his or her agent, where the commercial cannabis activity will occur, as proof demonstrating acknowledgement and consent.
- ❑ For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

Examples of State License Application Requirements (cont'd)

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- ❑ Obtain a current and valid state seller's permit.
- ❑ Proof that does/will not sell tobacco or alcohol.
- ❑ Provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.
- ❑ Applicant's operating procedures including, but not limited, for: cultivation; extraction and infusion methods; transportation process; inventory procedures; quality control procedures; security protocols; and for applicants seeking to cultivate, the source or sources of water the applicant will use for cultivation.

Examples of State License Application Requirements (cont'd)

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- A complete diagram of the proposed premises with “sufficient particularity.”
 - Interior building diagrams
 - Additional requirements for cultivation sites
- Provide a complete list of every person with a financial interest in the entity applying for the license.

Examples of State License Application Requirements (cont'd)

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- A licensed premises shall not be located within a 600-foot radius of:
 - a school providing instructions in kindergarten or any grades 1 through 12;
 - day care center (includes any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers), or
 - youth center (any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities).

A local jurisdiction is authorized to (1) specify a more restrictive radius, and (2) may designate other “sensitive sites” to create distance buffers from businesses.

Additional State Requirements

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- ❑ Cannabis purchased by a customer cannot leave a licensed retail premises unless they are placed in an opaque package.
- ❑ Local jurisdictions cannot prohibit the use of public roads by a licensee transporting cannabis in compliance with state law.
- ❑ Deliveries may only be made by a licensed retailer, microbusiness, or a licensed non-profit.
- ❑ Prohibitions related to advertising or marketing:
 - in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products;
 - that is attractive to children; and
 - advertising signs within 1,000 feet of a day care center, school, playgrounds, or youth center.

Local Jurisdictions

MAUCRSA “shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.”

[Business and Professions Code Section 26200(a)(1)].

Local Jurisdictions (cont'd)

“Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.”

[Business and Professions Code Section 26201].

Current City of Vernon Law Concerning Cannabis

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- Vernon Municipal Code Section 26.4.1-5(b), “Uses that Are Prohibited or Limited,” currently regulates that “No Dispensary, Store, Co-op, or Cultivation Operation is permitted in any Zone or Overlay Zone.”
- Vernon Municipal Code Section 26.2.9, defines “Marijuana Dispensary, Store, Co-op, or Cultivation Operation” to mean and include any location, structure, facility, residence, or similar to the same used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed, planted, cultivated, or processed, including any of the foregoing if used in connection with the delivery of marijuana.”
- In essence, the City of Vernon currently has a regulatory ban on commercial cannabis businesses and operations citywide.

LA County Cities Currently Regulating At Least One Cannabis License Classification

29

- Avalon
- Baldwin Park
- Bell
- Bellflower
- Carson
- Commerce**
- Cudahy**
- Culver City
- El Monte
- Huntington Park
- Lancaster
- Long Beach
- Los Angeles
- Lynwood**
- Malibu
- Montebello**
- Palmdale
- Pasadena
- Pomona
- Santa Monica
- West Hollywood

**Some specifics are provided about these programs in this presentation

November 2020: City-Specific Cannabis-Related Measures Passed by Voters in Los Angeles County

30

- Artesia: Measure Q was passed to impose a tax on cannabis up to \$20.00 per square foot of cultivation, and 15% of gross receipts for all other cannabis businesses (passed by 67.36%)
- Calabasas: Measure C was passed to impose a cannabis tax of up to 10%, raising up to \$10,000 a year, with additional revenue of up to \$300,000 per dispensary (passed by 61.12%)
- Hawthorne: Measure CC was passed to impose a 5% cannabis business tax on the gross receipts of a cannabis business (if permitted in the future) (passed by 61.49%)
- Pomona: Measure PM amends the Pomona Zoning Ordinance to create zones (passed by 51.25%), and Measure PO implements a regulatory program to allow manufacturing, retail-storefront, indoor cultivation, distribution, testing, and microbusiness (passed by 59.11%)
- At least 21 other cities in the State of California submitted cannabis-related measures to the voters in November 2020 ranging from gauging whether there is support for the program, implementing a regulatory program, to imposing taxes.

Information on Cities' Cannabis Programs

31

□ CITY OF LYNWOOD*

Approved Operators: 19 operators were approved by the City

Types of Businesses Allowed: Manufacturing, Distribution, Non-Storefront Retail Delivery, & Testing

Businesses Currently Operating: 6

Fees and Revenues collected by the City:

FY 2019-20

Cost Recovery Fee (CRF): \$196,000

Quarterly Fees: \$203,548.62

Transfer or Change in Ownership: \$112,500

Delays or Obstacles in businesses operating: The LA County Fire Department has been the biggest obstacle, as there are delays in the review and approval of the construction documents.

Has the City had to address any public safety problems specific to a commercial cannabis program: No

Any other relevant information or data: To assist operators, the City developed a Release of Liability that allows the construction to begin while the project is being reviewed by the LA County Fire Department. A final approval of the project will not be given until they have approval from the LA County Fire Department.

*Information current as of November 2020.

Information on Cities' Cannabis Programs (cont'd)

32

□ CITY OF MONTEBELLO*

Total Applications Received: 39 applications received

Approved Operators: 24 operators approved by the City

Types of Businesses Allowed: Indoor Cultivation, Manufacturing, Distribution, Non-Storefront Retail Delivery

Businesses Currently Operating: 2 businesses currently operating, 2 pending business license issuance

Fees and Revenues collected by the City: The City collected approximately \$1.7 million in one-time application and program fees from the 24 approved operators. The City will soon start to collect operating fees and Community Benefit Fund Program fees from the businesses that are currently in operation.

Delays or Obstacles in businesses operating: Operators seeking amendments to their development agreements, especially as they relate to changes or transfers of ownership.

Has the City had to address any public safety problems specific to a commercial cannabis program: The City has not experienced any safety issues or calls for service at any of the 24 approved locations.

Any other relevant information or data: Working capital and seeking the proper investors has been an ongoing challenge within this industry.

*Information current as of November 2020.

Information on Cities' Cannabis Programs (cont'd)

33

□ CITY OF COMMERCE*

Total Applications Received: 45 complete/eligible applications received

Approved Operators: 23 operators approved by the City

Types of Businesses Allowed: Indoor Cultivation, Manufacturing, Distribution, Non-Storefront Retail Delivery, Microbusiness, and Testing

Businesses Currently Operating: 7 businesses currently operating

Fees and Revenues collected by the City (as of December 31, 2020):

- Program Fees, including Application and Licensing Fees (one-time fees): \$3,040,350.60
- Ongoing Operational and Non-Operational Fees: \$1,016,334.14
- Community Benefits Fund Program (ongoing): \$846,820.64
- Grand Total: \$4,903,505.38

Delays or Obstacles in businesses operating: The plan check and permit approval process has been challenging and lengthy for most operators. Prior to being fully operational, each business must obtain approval from Building & Safety, Fire Department, Industrial Waste, Sanitation, and Public Health. The LA County Fire plan check process has proved to slow down the operators and the overall plan check and approval process.

Has the City had to address any public safety problems specific to a commercial cannabis program: No.

Any other relevant information or data: Subtracting expenditures from the \$4.9, in approximately two years with only 7 operators in business (and some only partially), the City has made a healthy profit and it has reinvested in City services.

*Information current as of December 31, 2020.

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Policy Considerations, Including those Recommended to Incorporate into a Local Program and Ordinance Allowing Commercial Cannabis Businesses

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- Types of classifications/businesses it wants or does not want in its jurisdiction.
- The review and approval process.
- What type of land use and/or development or operating agreements, regulatory permits or licenses will be required. Regulatory business permit/license, land use entitlement, development agreement, operating agreement, or a combination thereof?
- Incorporate ALL minimum State requirements, and impose additional/more stringent requirements, including operational standards, stringent security plans, pro forma/financial health of applicants, authority to monitor businesses continuously, odor control plans, limitations on signage.

Policy Considerations to Incorporate in an Ordinance Allowing for Commercial Cannabis Businesses

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- What zones will the businesses be allowed to operate and/or should a special overlay zone be established?
- What is the buffer distance required between licensed premises and sensitive sites?
- Will sensitive sites be designated in addition to those identified by the state?
- What taxes and /or fee structure does the City want to impose?

Policy Considerations to Incorporate in an Ordinance Allowing for Commercial Cannabis Businesses

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□ Penalty Provisions

- Any ordinance should have explicit language as to what the violations are if a cannabis business is operating illegally without City approvals, and the City's ability to proceed administratively, civilly and/or criminally.
- Any lawful operator not in compliance should be made aware of the legal consequences, including penalties, City's ability to revoke any permits or licenses, and/or payment of staff time and attorneys fees for compliance efforts, which may also be negotiated as part of an agreement.
- Authority to inspect premises, and authority to audit business records, should also be explicitly included in any ordinance.

Fee Structures and Revenue Sources

37

- Processing/ Regulatory / Permit / Entitlement Fee – Imposed as part of the application process to the City and/or if a regulatory permit or an entitlement is required to operate. Typically this fee will be charged to allow the City to recover all the costs associated with screening and processing applications, undergoing the review and approval process, and ensuring on-going compliance. The regulatory fee may be charged on an annual basis.
- Negotiated Operating Fees – For cities that require applicants to obtain a Development Agreement or Operating Agreement or Contract, a term that is typically negotiated with the operators is a percentage of the gross revenues, and/or a specified dollar amount based on the square footage of a cultivation facility. This avenue is an alternative to a tax ballot measure so that a city can secure operating fees from a business through a contract in consideration/exchange for the city allowing the establishment of a cannabis business.
- Community Benefit Fund Program – Each approved operator may be required to annually allocate and pay an amount to fund this program, which is a separate account from the General Fund. Most cities designate this fund for social and recreational programs, such as for youth and seniors programming, but also for economic development. The latter has proved true especially with current drained city resources caused by COVID. For example in Vernon, operators can be required to annually allocate a required amount to the Vernon Community Fund.
- Utility Enterprise Funds Benefit - Vernon is in a unique position unlike other cities because it has its own utility servicing, wherein electricity and water will be in demand. While the literature across the board highlights the fact that the data remains scarce still at this point, in 2015, researchers estimated that cannabis grow facilities made up almost 50% of the new power demand in Colorado.

Development Agreements

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- ❑ Development agreements are contracts negotiated between project proponents and public agencies that govern land uses that may be allowed in a particular project. They are subject to negotiation, notwithstanding, the underlying allowable land uses must be consistent with the city's zoning laws, as well as the general and any specific plans.
- ❑ In practice a development agreement is commonly used in conjunction with other land use requirements. It is not uncommon to see a project proponent apply for approval of a conditional use permit, zone change and development agreement for the same project.
- ❑ Development agreements have three defining characteristics:
 1. They allow greater latitude than other methods of approval to advance local land use policies in sometimes new and creative ways;
 2. They allow public agencies greater flexibility in imposing conditions and requirements on proposed projects; and
 3. They afford project proponents greater assurance that once approved, their projects can be built.

Types of Fee Structures – Examples

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□ Cudahy

- Cannabis Permit Application Fee \$11,590
- Cannabis Development Agreement deposit is \$10,000
- Cannabis Development Review Permit (i.e., CUP) \$6,500 deposit
- Fees negotiated in the Development Agreement:
 1. % of gross revenues will be payable to the City as a negotiated term of the Development Agreement
 2. Funding of a Community Benefits Program – each operator is required to pay the same amount on an annual basis to fund this program

Types of Fee Structures – Examples (cont'd)

40

□ Lynwood – Development Agreement

- Fees negotiated in the Development Agreement:
 1. Annual fee of \$12.50 per square foot of cultivation area
 2. Annual fee of 2.5 % of gross revenues from manufacturing activities
 3. Funding of a Community Benefits Program – each operator is required to fund this program, to fund items such as community recreation facilities, expansion, and/or improvement to existing facilities or other physical improvements

Taxes on Cannabis – Potential Revenue for Cities

41

- Prop 64 exempted state and local sales tax against medical cannabis, however excise taxes may still be levied, including against the cultivation and manufacturing of medical cannabis
- State excise tax of 15% on adult-use cannabis.
- The law also imposes a cultivation tax of \$9.25/dry-weight ounce (flowers) and \$2.75/dry-weight ounce (leaves) on the privilege of cultivating cannabis.
- Local agencies that ban cultivation or retail sales of cannabis are not eligible for grants from taxes generated.
- Cities should take any cumulative tax rate into account before levying a cannabis specific tax, as
 - All existing local sales tax on adult-use cannabis will apply
 - All existing business license taxes will apply

Taxes on Cannabis – Potential Revenue for Cities (cont'd)

42

- Cannabis specific tax (unlike fees via a development agreement), require passage by 2/3 of voters at a municipal election
- Example: Culver City Measure A (approved at municipal election ballot on April 10, 2018).*
Initial and maximum rates:
 - Storefront Medicinal Retail: 5-8%
 - Storefront Adult-Use Retail: 6-10%
 - Manufacturing: 4-6%
 - Distribution: 2-6%
 - Laboratory Testing: 1-5%
 - Indoor Commercial Cultivation: \$12 per square foot

*Initial rates are subject to change after 2 years. Too early to assess how much revenue Culver City will generate as applications were recently submitted in early May. (Culver City also charges an application fee that varies depending on category of business, but base amount is \$7,879 and thereafter increases. Also, Annual Permit Fee is \$27,771.)

Recommended Main Elements to Consider to Incorporate into a Commercial Cannabis Business Ordinance / Program

43

- Business Classification: Indoor Cultivation, Manufacturing, Non-Storefront Retail Delivery, Testing, and ancillary Distribution (licensee to licensee), with all operations closed to the public. This allows the city the ability to legislate so as ease into regulating a new industry.
- Prohibitions: Explicitly Prohibit Outdoor Cultivation, Festivals, Store-front Retailer open to the public (i.e., dispensary), On-site Consumption Facilities.
- Sensitive Sites: Include residences as sensitive sites along with schools, youth centers and day cares. Review sensitive sites in immediately surrounding cities to be a “good neighbor.”
- Minimum Application Requirements: Include ALL minimum state requirements, and have more stringent requirements relating to criminal background of operators; financial plan, as well as pro forma; security plan, with requirements of surveillance cameras accessible to the City’s Police Department and registered security guard(s) from a pre-approved and vetted list of security companies; designated manager or liaison to the City, Law Enforcement and Business and Residential Community; operational and development standards; regulations on outdoor signage or advertisement; and enforcement and monitoring provisions.
- Fees and Revenue: (1) Ensure cost recovery fee analysis is complete and thorough to have a self-sustaining program when imposing program and application fees, (2) discretion to negotiate an established range of operating fees through an Operational Agreement or Development Agreement, and (3) establish a Community Benefit Fund Program requiring operators to annually contribute to same.
- “Licensing Scheme” either through an Operational Agreement, with a land use entitlement (and designate zones allowed for this use), or through a Development Agreement.
- Application Review and Approval Process: Merit-based, with objective, scoring criteria, and applications reviewed, evaluated and scored by a Panel or Committee (i.e., comprised of interdepartmental department directors or staff, as well as department directors and staff from other cities or governmental agencies).

City of Vernon's Options

- ❑ City Council may direct the City Attorney's office, in conjunction with City Staff, to draft a proposed ordinance, including any zoning law amendments such as a special overlay zone amendment, regulating commercial cannabis businesses in the City's jurisdiction, and to include any policy directives given by City Council at today's meeting; and/or
- ❑ City Council may provide direction to the City Attorney's office (and/or City staff) to conduct further research on any issue discussed; and/or
- ❑ City Council may decide to maintain the current ban on commercial cannabis businesses by allowing the ban to remain; and/or
- ❑ Receive and file.

City Council

DISCUSSION, DIRECTION AND/OR
QUESTIONS

City Council Agenda Item Report

Agenda Item No. COV-493-2021
Submitted by: Diana Figueroa
Submitting Department: City Attorney
Meeting Date: February 2, 2021

SUBJECT

Regulation of Commercial Cannabis Businesses: State Law Authority, Local Regulation, and Policy Considerations (Continued from January 19, 2021)

Recommendation:

Hold a discussion and provide further direction to the City Attorney's Office and staff regarding regulation of commercial cannabis businesses, including providing directives or guidance in preparing a draft ordinance to include any provision, terms and standards discussed.

Background:

This report, and in more detail, the more comprehensive information and discussion that will take place with the City Council at the February 2, 2021 meeting (a continuation of the discussion initiated on its meeting on January 19, 2021), and at subsequent meetings if so desired by the Council, specifies what state law regulates, and the authority pursuant to state law for the City of Vernon (City) to regulate commercial cannabis activities within its jurisdiction.

This report further seeks a directive from City Council as the City Attorney's Office and staff continue its efforts to prepare a thoughtful, comprehensive draft ordinance to present to the City Council at a future meeting. The City of Vernon currently has a regulatory ban on commercial cannabis businesses and operations citywide; however, the City may opt to allow and regulate some or all commercial cannabis uses and activities, by implementing an ordinance with a permitting and regulatory structure. Please also note the City Attorney's Office is scheduled to make a presentation on commercial cannabis regulations to the Vernon Business & Industry Commission (BIC) on February 11, 2021. Any substantive feedback received from BIC members because of said presentation will also be reported to the City Council.

Council will need to direct the City Attorney's Office, with the support of City staff, to initiate code amendments. The presentation that will be made on February 2, 2021 includes further discussion on topics and questions that have been raised, and that ultimately will be policy considerations and recommended elements to address and possibly incorporate into an ordinance regulating commercial cannabis business.

Fiscal Impact:

There is no fiscal impact associated with this report.

Attachments:

STUDY SESSION – PART II

Regulating Commercial Cannabis Businesses: State Law Authority, Local Regulation & Policy Considerations



City of Vernon
February 2, 2021

Continued Discussions from January 19 City Council Meeting

2

- Questions, Requests, and Direction Provided on, and Raised Since, January 19, 2021
- Information Being Provided to Facilitate Additional Discussions Based on Inquiries Posed
- Further Discussion of Policy Considerations or Recommended Elements to Incorporate into a City of Vernon Commercial Cannabis Business Ordinance
- Questions, Comments, and/or Direction to Interim City Attorney's Office and/or City Staff

CANNABIS BUSINESS APPLICATION PROCESS

Ordinance is Adopted and Effective

- Ordinance Regulating Commercial Cannabis Business Program is Adopted
- Ordinance becomes effective thirty (30) calendar days after Second Reading and Adoption

Fee Resolution Passed

- Related Fee Resolutions and Fee Studies are Adopted to implement cost recovery fees (to process applications and monitor program)

Announcements of Application Release and Concurrent Workshop(s)

- Deadline provided for application submittal, as well as deadline to submit any questions on the application process
- At City's discretion, workshop to applicants to walk them through

Application Deadline

- Review and Scoring of Applications
- Recommendations and/or Approvals of Successful Applicants Announced

Workshops for Successful Applicants Next Steps:

- Opportunity for Successful Applicants to meet City and County Representatives overseeing the Process, Walk-through the Process

Successful Applicants Submit Land Use Entitlements/CUP Application for Consideration and Approval

Successful Applicants Engage in Operating Agreement Negotiations for Ultimate Approval

Successful Applicants who have been granted a CUP and have executed Operating Agreement start the process to get their occupancy approvals

- Submit structural and design plans for multi-department and agency approval, including Building, Planning, Fire, Police, County Approvals

Plans Approved and Permits Issued

- Tenant improvements, Construction, Intermittent and Final City and County Inspections

- FINAL GOAL -

Certificate of Occupancy and City Business License to lawfully (1) occupy building and (2) commence business operations

Ongoing Monitoring of Operators by City and Operator Self-Reporting Requirements:

- (1) Payment of all applicable fees to the City and
- (2) Ongoing Compliance with CUP, Operating Agreement, City's Ordinance, and State laws and regulations

Los Angeles County Fire Department Commitment to Support City Efforts

4

- Purported concerns raised about delays in plan-check process as a result of other municipalities concerns. City's goal is to be business-friendly.
- Fire Department has:
 - (1) confirmed its commitment to assist the City should it implement a program;
 - (2) has made internal changes to improve their process – as with any new program, there is a learning curve for everyone; and
 - (3) has developed documents to assist the public, including specific to cannabis operators, such as Regulation 30.

Recommendations to Address any Purported Delays from Los Angeles County Fire Department

5

City Efforts:

- Hold a workshop for Approved Applicant Operators to Walk them through Fire Department plan check review and approval process, with Fire Department's attendance
- Designate a City Liaison Between Approved Applicant Operators and Fire Department to Facilitate Communications and to also Keep Everyone Accountable – Monitor Activities

Requirements from Operators:

- Make attendance to workshop mandatory
- Include Deadline Requirements in Operating Agreement to ensure no delays from the operators. For example, "Within fourteen (14) calendar days from being notified by the Fire Department that plan corrections are necessary, resubmit corrected plans to the Fire Department.

Additional City Planner(s) – Inhouse and/or Consultant

- Each agency reviews plans submitted by applicants for different purposes, such as, compliance with Building Codes, City's site development standards, Fire & Safety, safety plan, etc.
- There are firms whose principals/members are planner/zoning specialists, but who also are highly experienced in cannabis regulations and are familiar with county agency and state approvals. Proven to be helpful in other municipalities to provide support to in-house Planning & Building Divisions, with oversight by the City.

Recommendation: Additional City Planner(s) – Inhouse and/or Consultant

Recommendation: At minimum for City to reach out to several firms, contact references, and explore option to hire a consultant firm to provide these services, AND/OR to hire an additional City staff member whose experienced to provide support services to the City's Public Work Department.

- ***Either way, the time spent in reviewing these plans by either a consultant or staff member must be included in a fee resolution imposing application and program fees to ensure the City recovers all its costs in processing and reviewing said plans.***

Steps to Ensure Successful Applicants Commence Operations Without Delays

- As noted above, include **Deadline Requirements** in Operating Agreement to ensure no delays from the operators. For example, “Within fourteen (14) calendar days from being notified by the Planning Division/Building Division/Fire Department that plan corrections are necessary, resubmit corrected plans to corresponding Agency.” If repeated pattern of delays, impose certain penalties.
- **Impose a Non-Operational Monthly Fee:** Impose an obligation that if after applicant is selected and does not secure a certificate of occupancy and business license within a pre-set timeline, then a monthly non-operation fee shall be imposed. Amount should be substantial enough to create an incentive to operator to want to get all final approvals to commence operations.

Strict Monitoring of Sale or Transfer of Vernon Commercial Cannabis Licenses and Permits

9

- Pattern exists in other municipalities of ongoing request to sell, transfer, and/or change the ownership of the City approvals, licenses and permits.
- While these requests cause delays in businesses commencing operations because of internal organizational issues, there are times that businesses want to change ownership structure to bring in additional investors. Other times, more sophisticated and/or experienced operators want to purchase the business.
- **Recommendation:** To not prohibit the sales/transfers, however, to require that no such sale, transfers or changes can occur WITHOUT securing City approval for same AND requiring that new applicant-owners be subject to the same rigorous application procedures, criminal background checks, etc., and pay the City the corresponding original application fees, as the original owners.

Safeguarding Integrity of Application and Selection Process

10

Concerns Raised About Protecting the Integrity of the City's Process and Suggestions on how to Safeguard It:

- All applicants can be required to submit a notarized non-collusion affidavit, with the consequence that if a violation is discovered at any time, same is cause for immediate disqualification. Applicants are also required to submit to Live Scans for a criminal background check, and City may disqualify on basis of convictions.
- If hiring outside consultants/independent contractors, such as reviewers/scorers of applications, planners, etc., recommendation is that agreement include prohibitions of conflicts of interest, as well as for them to sign notarized affidavits/declarations of criminal convictions, non-collusion affidavits, civil litigation history, false claims, etc.

Safeguarding Integrity of Process – Suggestions continued

11

- Applications to be scored on a merit-based system – objective criteria, with scoring points allocated for said criteria.
 1. If city limits number of licenses, top ranking applicants fill in the limited number of spots for each business classification;
or
 2. If City has no limits to number of licenses, City can designate a top % of the overall rankings to get automatically approved/selected.

Safeguarding Integrity of Process – Suggestions continued

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- Review Panel Members Reviewing, Scoring and Ranking Applications:
 1. Members appointed by the City Administrator;
 2. Members cannot have any financial conflicts of interest and required to sign declarations; some members should have expertise in planning/land use, cannabis regulations, public safety, and/or finance;
 3. Confidentiality of Panel Members shall be preserved, disclosure only subject to applicable state law. This is to protect the members and the process.

Once applications are scored by the Review Panel, only those applications that meet the highest merit-based criteria, and successfully thereafter meet the required conditions, are approved and selected to operate.

City Council Members as Final Selection / Approval Authority instead of a Confidential Review Panel

13

□ **Pros:**

1. Ability to have the final decision as policy makers;
and/or
2. Final decision based on merit-based, objective criteria as recommended by the Review Panel

□ **Cons:**

1. Not insulated from being contacted and lobbied by potential applicants, consultants, etc. in a highly competitive and lucrative industry.
2. If final decision is not based on merit-based, objective criteria, more susceptible to legal challenge.

City Council Members as Final Selection / Approval Authority instead of a Confidential Review Panel

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- ❑ If City Council decides to not be the final selection and approval body, there are other ways to implement policy preferences, such as:
 1. direct staff in the implementation and preparation of the application and review process to add application requirements and/or designate weighted/bonus points for important policy implications to City Council, such as % of local hires, established business and/or property ownership in Vernon, proven track-record of supporting Vernon community, etc.
 2. Continue to direct staff and the City Attorney's office in these study sessions of policy elements it wants incorporated in the City's program and ordinance establishing the program, including application requirements and selection criteria.
- ❑ Ultimately, the City Attorney's office and Staff will take direction from City Council as to its preferences.

Two Main Ways the City of Vernon's Commercial Cannabis Program Can Remain Competitive and Attract Applicants

15

□ Operating Fee Structure

- Established data of what other cities charge is available, especially in Los Angeles County, and Vernon can establish competitive fees
- Set a range of fees to give the City the discretion to adjust the fees based on the market, or other relevant factors

□ City of Vernon is Inherently an Industrial City

- Historically, if anyone challenges a City's commercial cannabis program, it is residents
- Vernon has the benefit that the make-up of the City is inherently industrial. The idea is that the commercial cannabis businesses are operating like any other company in a factory/warehouse, as a manufacturer, etc.
- Vernon has very few designated sensitive sites, opening vast areas for proposed businesses

City of Vernon Proposed Cannabis Area Maps

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- ❑ DISCUSSION OF MAPS GENERATED BY THE CITY'S PUBLIC WORKS DEPARTMENT
- ❑ SIX-HUNDRED FOOT (600') RADIUS FROM DESIGNATED SENSITIVE SITES
- ❑ AREAS ILLUSTRATED OF PROPOSED AREAS IN THE CITY WHERE COMMERCIAL CANNABIS BUSINESS COULD BE ALLOWED

Limiting Number of Licenses: Pros & Cons

17

PROS

- City can ease into regulating a new industry with limited amount of operators
- Treat the new program as a de facto “pilot program” and evaluate and assess the program for a period before deciding whether to expand the program
- Oversight / monitoring of smaller number of operators is more manageable

CONS

- Selection process tends to become very contentious and litigious when number of operators is limited to a small number
- Prices for real property are highly increased for the selected business properties if the landlord/property owner sells or leases the property. Unintended consequences for potential/future development happens where property values / comparables are artificially increased

Inquiries Raised on What Opportunities Exist in Using the City's Kern County Property as Part of a Proposed Public-Private Partnership

18

- Currently, state laws regulating cannabis are silent as to private-public partnerships. However, typically in order to utilize a private-public partnership model, explicitly statutory legislation authorizing same must exist. Further, we are unable to locate an existing model where a municipality partakes in a public-private partnership related to the cannabis industry within and outside of California.
- Another main concern is that the City would be participating in a public-private partnership for a revenue raising venture in an industry it is ultimately tasked to regulate, if implementing said program. Conflicts of interest are real because the City would be regulating itself.
- An option worth exploring is that of the City being a landlord and/or selling property. There are legal limitations, or procedures the City would need to follow, but we can certainly continue to further explore this option.

Recommended Main Elements to Consider to Incorporate into a Commercial Cannabis Business Ordinance / Program [Slide from January 19, 2021]

19

- **Business Classification:** Indoor Cultivation, Manufacturing, Non-Storefront Retail Delivery, Testing, and ancillary Distribution (licensee to licensee), with all operations closed to the public. This allows the city the ability to legislate so as ease into regulating a new industry.
- **Prohibitions:** Explicitly Prohibit Outdoor Cultivation, Festivals, Store-front Retailer open to the public (i.e., dispensary), On-site Consumption Facilities.
- **Sensitive Sites:** Include residences as sensitive sites along with schools, youth centers and day cares. Review sensitive sites in immediately surrounding cities to be a “good neighbor.”
- **Minimum Application Requirements:** Include ALL minimum state requirements, and have more stringent requirements relating to criminal background of operators; financial plan, as well as pro forma; security plan, with requirements of surveillance cameras accessible to the City’s Police Department and registered security guard(s) from a pre-approved and vetted list of security companies; designated manager or liaison to the City, Law Enforcement and Business and Residential Community; operational and development standards; regulations on outdoor signage or advertisement; and enforcement and monitoring provisions.
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- **“Licensing Scheme”** either through an Operational Agreement, with a land use entitlement (and designate zones allowed for this use), or through a Development Agreement.
- **Application Review and Approval Process:** Merit-based, with objective, scoring criteria, and applications reviewed, evaluated and scored by a Panel or Committee (i.e., comprised of interdepartmental department directors or staff, as well as department directors and staff from other cities or governmental agencies).

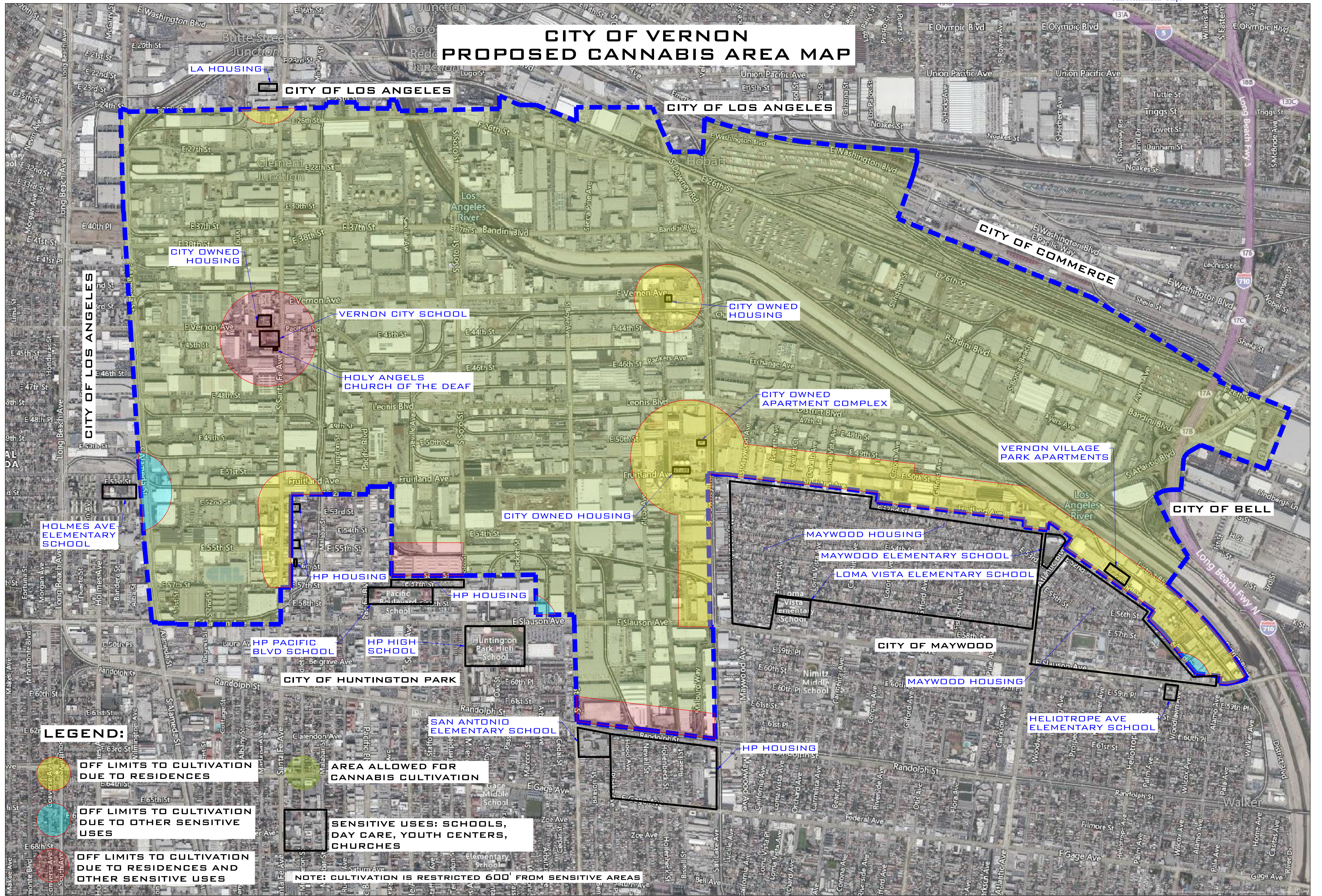
City of Vernon's Options

- ❑ City Council may direct the City Attorney's office, in conjunction with City Staff, to draft a proposed ordinance, including any zoning law amendments such as a special overlay zone amendment, regulating commercial cannabis businesses in the City's jurisdiction, and to include any policy directives given by City Council at today's, and past, meeting(s); and/or
- ❑ City Council may provide further direction to the City Attorney's office and/or City Staff to conduct further research on any issue discussed, as well as to direct City Staff to conduct two (2) Community Town Hall meetings and one (1) meeting before the City of Vernon's Business and Industry Commission (BIC) on the topic of regulating commercial cannabis businesses; and/or
- ❑ Receive and file.

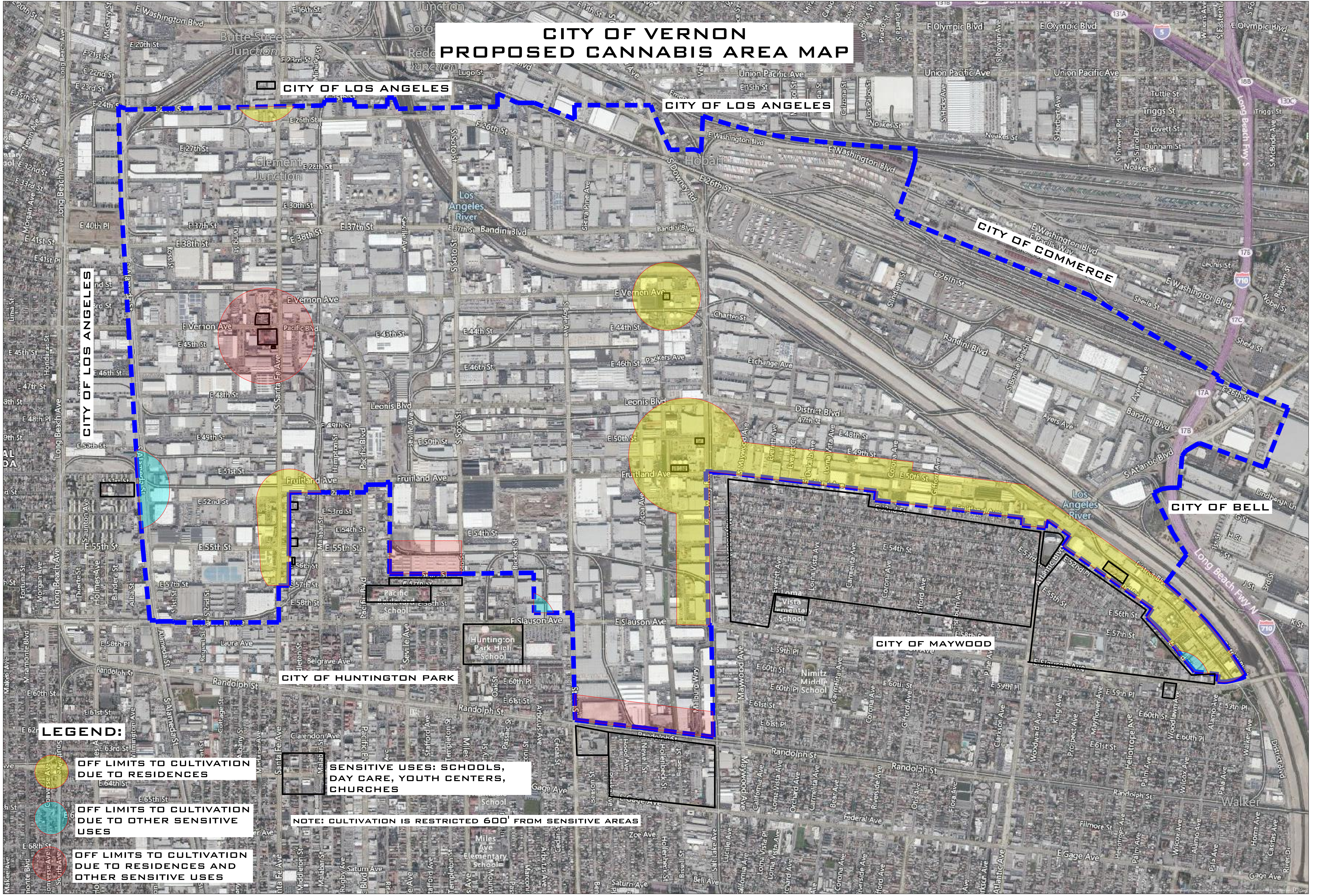
City Council

DISCUSSION, DIRECTION AND/OR
QUESTIONS

CITY OF VERNON PROPOSED CANNABIS AREA MAP



CITY OF VERNON PROPOSED CANNABIS AREA MAP



CITY OF LOS ANGELES

CITY OF LOS ANGELES

CITY OF COMMERCE

CITY OF BELL

CITY OF MAYWOOD

CITY OF HUNTINGTON PARK

LEGEND:

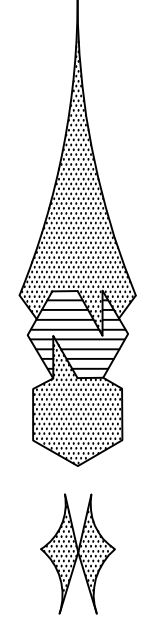
OFF LIMITS TO CULTIVATION
DUE TO RESIDENCES

OFF LIMITS TO CULTIVATION
DUE TO OTHER SENSITIVE
USES

OFF LIMITS TO CULTIVATION
DUE TO RESIDENCES AND
OTHER SENSITIVE USES

**SENSITIVE USES: SCHOOLS,
DAY CARE, YOUTH CENTERS,
CHURCHES**

NOTE: CULTIVATION IS RESTRICTED 600' FROM SENSITIVE AREAS



Business and Industry Commission Agenda Item Report

Agenda Item No. COV-446-2021
Submitted by: Sandra Dolson
Submitting Department: City Clerk
Meeting Date: February 11, 2021

SUBJECT

Approval of Minutes

Recommendation:

Approve the November 12, 2020 Regular Business and Industry Commission meeting minutes.

Background:

Staff has prepared and hereby submits the minutes for approval.

Fiscal Impact:

There is no fiscal impact associated with this report.

Attachments:

1. [20201112 BIC Minutes](#)

MINUTES
VERNON BUSINESS AND INDUSTRY COMMISSION
REGULAR MEETING
THURSDAY, NOVEMBER 12, 2020
COUNCIL CHAMBER, 4305 SANTA FE AVENUE

CALL TO ORDER

Chair Cline called the meeting to order at 9:03 a.m.

FLAG SALUTE

City Clerk Pope led the Flag Salute.

ROLL CALL

PRESENT: Jack Cline, Chair (via remote access)
Jimmy Andreoli II, Vice Chair (via remote access)
John Baca, Commissioner (via remote access – arrived at 9:15 a.m.)
Thomas Condon, Commissioner
William Davis, Commissioner
Duncan Sachdeva, Commissioner (via remote access)

ABSENT: Douglas Williams, Commissioner

STAFF PRESENT:

Zaynah Moussa, Senior Deputy City Attorney
Lisa Pope, City Clerk
Abraham Alemu, Public Utilities General Manager
Dan Wall, Public Works Director
Scott Williams, Finance Director (via remote access)

APPROVAL OF THE AGENDA

MOTION

Commissioner Davis moved and Commissioner Condon seconded a motion to approve the agenda. The question was called and the motion carried 5-0, Commissioner Baca and Commissioner Williams absent.

PUBLIC COMMENT

None.

At 9:15 a.m., Commissioner Baca arrived via remote access.

PRESENTATIONS

1. Presentation on Fiber Optic Service Rate Restructuring

Recommendation: This is a presentation only. No action is required by the Commission.

Public Utilities General Manager Alemu presented a PowerPoint regarding Fiber Optic Service Rate Restructuring.

In response to Commission questions, General Manager Alemu explained the dark web; pricing and quality of service; the need for a long-term business plan; efforts to be competitive in the industry; and 24/7 customer service.

2. Presentation on City-wide Enterprise Resource Planning System

Recommendation: This is a presentation only. No action is required by the Commission.

Finance Director Williams presented a PowerPoint regarding the City-wide Enterprise Resource Planning System.

CONSENT CALENDAR

MOTION

Commissioner Davis moved and Commissioner Baca seconded a motion to approve the Consent Calendar. The question was called and the motion carried 6-0, Commissioner Williams absent.

The Consent Calendar consisted of the following item:

3. Approval of Minutes

Recommendation: Approve the August 13, 2020 Regular Business and Industry Commission meeting minutes.

NEW BUSINESS

4. Ad Hoc Committee Formation Consisting of Business and Industry Commission Members to Consider a Business Priority Housing Policy

Recommendation: Based upon recommendation by the Vernon Housing Commission (VHC), it is proposed that the Business and Industry Commission (BIC) select two of its members to form an Ad Hoc Committee which shall be composed of two members of its board to confer on the prospect of a Business Priority Housing policy; and engage in a dialog with the VHC Ad Hoc Committee regarding this limited matter; any resulting findings or proposals would be taken back to the respective Commission(s) for consideration and final action.

Public Works Director Wall presented the staff report.

MOTION

Vice Chair Andreoli II moved and Commissioner Condon seconded a motion to create the BIC Business Priority Housing Policy Ad Hoc Committee of Chair Cline and Vice Chair Andreoli II to engage in a dialog with the VHC Ad Hoc Committee, with any resulting findings or proposals taken back to the respective Commission(s) for consideration and final action. The question was called and the motion carried 6-0, Commissioner Williams absent.

ORAL REPORTS

None.

ADJOURNMENT

With no further business, Chair Cline adjourned the meeting at 10:00 a.m.

JACK CLINE, Chair

ATTEST:

LISA POPE, Secretary
(seal)

Business and Industry Commission Agenda Item Report

Agenda Item No. COV-498-2021

Submitted by: Scott Williams

Submitting Department: Finance/Treasury

Meeting Date: February 11, 2021

SUBJECT

Citywide Fee Schedule Update for Fiscal Year (FY) 2021-22

Recommendation:

Recommend that the City Council adopt the proposed fee schedule.

Background:

The City's fees are reviewed and updated on an annual basis in preparation for the budget adoption. Prior to the proposed Fiscal Year 2020-21 Fee Schedule, the City contracted for a cost allocation fee study. The findings were compiled into the proposed fee schedule and presented to the Commission, Council and at a town hall meeting to explain how the proposed fees would impact Vernon businesses. Due to the potential business impacts of the COVID-19 state of emergency, the City Council directed staff to postpone any fee adjustments until further notice.

The proposed fee schedule presented to the Commission incorporates only fees that were missing from the schedule, mandated by the State, and/or minor revisions that do not impact businesses for fees related to permits and inspections (changes are highlighted). Potential fee adjustments will be considered after the state of emergency has ended and economic forecasts can be reasonably assessed.

Fiscal Impact:

There is no fiscal impact associated with this report.

Attachments:

1. [Proposed Fee Schedule FY21-22](#)

PROPOSED GENERAL FEE SCHEDULE



City of Vernon

Draft
February 4, 2021

CITY OF VERNON
GENERAL FEE SCHEDULE
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ADMINISTRATIVE FEES	
BUSINESS LICENSE FEES**	
Warehousing	
≤ 5,000 Square Feet	\$1,200.00
≥ 5,001 Square Feet (Maximum tax is \$11,950.00)	\$0.21 per square foot
Manufacturing	
Based on number of employees	Application
Hybrid Business	
Please refer to business license tax calculation worksheet	Application
Contractor	
Based on number of employees and quarters working	Application
Catering	
Catering Vehicle-Cold Food (§ 5.25(b)(1)(ii))	\$602.00/yr.
Catering Vehicle-Hot Food (§ 5.25(b)(1)(i))	\$787.00/yr.
Hazardous Waste Treatment, Storage or Disposal Facilities	See Vernon Code § 5.35 and 5.36
Hazardous Waste Treatment, Storage or Disposal by or on behalf of related corporate entities.	See Vernon Code § 5.36
Waste to Energy Facilities	See Vernon Code § 5.37
Solid Waste Materials Processing and Recycling Facilities	See Vernon Code § 5.38
Lead-Acid Battery Recycling Facilities	See Vernon Code § 5.39
** Business license fees not listed above may be found in Vernon Code Chapter 5 – Business License Taxes and other City Taxes.	
COPIES	
Standard	\$0.20 per page
Certified	\$16 per document
Oversized Plans	\$5.00 per sheet or direct cost of duplication
Special Projects	Direct cost of duplication
Audio/Video/CD/DVD duplication (medium provided by requestor)	\$5.00
CREDIT CARD PAYMENT FEE	
City's direct cost to process credit card transactions for the convenience of the credit card user shall be collected from the credit card user as part of the transaction.	
ELECTIONS	
Candidate Statement Deposit	\$250.00
Filing Fee – Intent to Circulate a Petition (Election Code Section 9202(b))	\$200.00

FILMING	
Permit	\$268.00
Filming Location Fee – Private Property	\$150 per permit
Filming Location Fee – Under City Control	\$650 per day
Filming Location Fee – City Street	\$650 per day
Health Department Inspection Fee	\$150 per permit
Building Department Inspection Fee	\$150 per permit
On-Duty Police Officer (See Filming Guidelines)	Per Agreement with Police Officers Association
Encroachment Inspector	\$75 per hour
Posting	\$110 per location
Encroachment, Traffic and Street Closure Fees	See Engineering Fees
Filming without a Permit*	Double all permit fees
*With the exception of film permit violations, all Filming Fees are collected on behalf of the City by the City's Film Permit consultant (FilmLA).	
MISCELLANEOUS	
Returned Checks	\$26.00
Administrative Citations	See Resolution No. 2011-195
Civil Penalties	See Resolution No. 2011-195
PASSPORTS	
Processing Fee (Established by the U.S. Department of State)	\$35.00
Photograph	\$10.00 per photo
STAFF TIME – Special Projects Beyond Normal Course of Business	
As provided for in the California Public Records Act, City's staff time spent on extraordinary or infrequent requests that are large in scope or require development of information to satisfy such requests will require the requestor to reimburse the City for its actual direct cost. Actual direct cost will include the City staff's fully burdened hourly rate which includes PERS and Medicare. Outsourced consultant and attorney fees will be at cost billed to the City. A deposit, based upon an estimate to fulfill a request, will be collected prior to commencement.	
SUBPOENA DUCES TECUM	
Documents (Deposit for Civil Cases. No charge for Criminal Cases (Evidence Code Section 1563(b)(1)). No charge for Federal Cases unless significant (Federal Rules of Civil Procedure Rule 45)	\$15.00
Persons (Deposit for Civil Cases pursuant to Government Code Section 68096.1. No charge for Criminal Cases pursuant to Penal Code Section 1329).	\$275.00

BUILDING PERMIT FEES	
PERMIT FEES	Building, Electrical, Plumbing, Heating, Ventilating, Cooling, Refrigeration, and Fire Prevention Permits
VALUATION	FEE
\$1.00 to \$2,000.00	\$111.00
\$2,001.00 to \$5,000.00	\$111.00 for the first \$2,000.00 plus \$5.55 for each additional \$100.00 or fraction thereof, up to and including \$5,000.00
\$5,001.00 to \$25,000.00	\$277.00 for the first \$5,000.00 plus \$13.87 for each additional \$1,000.00 or fraction thereof, up to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$555.00 for the first \$25,000.00 plus \$10.40 for each additional \$1,000.00 or fraction thereof, up to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$815.00 for the first \$50,000.00 plus \$7.63 for each additional \$1,000.00 or fraction thereof, up to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1,196.00 for the first \$100,000.00 plus \$5.55 for each additional \$1,000.00 or fraction thereof, up to and including \$500,000.00
\$500,001.00 and up	\$3,415.00 for the first \$500,000.00 plus \$4.29 for each additional \$1,000.00 or fraction thereof.
Plan Check Fee when required, shall be equal to 65% of the Permit Fee. Plan Check Energy Fee 25% of the Permit Fee. Permit Energy Fee 10% of the Permit Fee.	
DESCRIPTION	FEE
Green Building Standards Plan Review Mandatory Provisions	\$1,310.00
Green Building Standards Plan Review Tier 1 Provisions	\$2,619.00
Green Building Standards Plan Review Tier 2 Provisions	\$3,929.00
Green Building Standards Inspection Mandatory Provisions	\$1,284.00
Green Building Standards Inspection Tier 1 Provisions	\$2,536.00
Green Building Standards Inspection Tier 2 Provisions	\$3,788.00
Grading Plan Review Fee (First 3 sheets)	\$1,329.00
Grading Plan Review Fee Each Additional Sheet	\$289.00
NPDES LID Inspection	\$1,210.00
Industrial Wastewater Discharge Permit Application Review	\$180.00
Penalty Fees	
Work commencing prior to the issuance of a permit shall be subject to an additional fee equal to the permit fee. (Authorized by California Building Code § 109.4.)	
CERTIFICATE OF OCCUPANCY FEES	
AFFECTED FLOOR AREA	
Inspection Fee:	
5,000 square feet or less	\$385.00
5,001 to 50,000 square feet	\$885.00

BUILDING PERMIT FEES	
50,001 to 100,000 square feet	\$1046.00
Over 100,000 square feet	\$1207.00
Issuance of a Temporary Certificate of Occupancy	
Less than 5,000 square feet	\$385.00
Less than 50,000 square feet	\$885.00
50,001 to 100,000 square feet	\$1,046.00
Over 100,000 square feet	\$1,207.00
INSPECTION AND OTHER FEES	
DESCRIPTION	FEE
Permit Inspection outside of normal business hours (minimum charge four hours)	\$244.00/hour Minimum of \$976.00
Inspection of work not requiring a permit	\$168.00/hr.
Re-inspection fee	\$168.00/hr.
Additional structural plan review required by changes, additions or revisions to the plans submitted or determination if an existing structure can accept additional loads	\$321.00/hr.
Additional non-structural plan review required by changes, additions or revisions to the plans submitted	\$168.00/hr.
Certified Access Specialist (CASp) Review Fee	\$136.00/hr.
Trailer Permit	\$507.00/trailer
Trailer Permit for subsequent years	\$507.00
Final Map, parcel map, or tentative map which contains four or less parcels or lots	\$5,585.00
Final Map, parcel map, or tentative map which contains five or more parcels or lots	\$11,107.00 paid at the time of submittal plus any County surveyor and County Clerk filing fees and Fish and Game Section 711.4 fees
Conditional Use Permit	\$16,628.00 plus applicant is responsible for cost to retain a consultant to prepare the environmental document for the project plus a 25% administration fee, plus any County Surveyor and County Clerk filing fees & Fish & Game Section 713 fees
Zoning Variance and Zoning Amendment	\$11,075.00

BUILDING PERMIT FEES	
Building Code Variance	\$4,879.00
Certificate of Compliance Fee	\$1,014.00
Covenant and Lot Merger Review Fee	\$937.00
Grant / Easement Deed Review	\$1,445.00
Zoning Verification	\$276.00
Commercial/Industrial solar panel or other alternative energy sources installation greater than 150kw	\$1,000.00 plus \$7.00 per kW for each Kw above 50kW to 250kW and \$5.00 per kW above 250kW
Residential Solar Panel Installation	\$500 plus \$15 per kW for each kW above 15kW
Water Efficient Landscape Plan Review and Inspection Fee	\$828.00
Sanitary Sewer Flow Study Fee	\$2106.00
Green building Standards Administration Special Revolving fee	\$1.00 for every \$25,000.00 or portion thereof of valuation
Release of Building Drawings	\$64.00

ENGINEERING FEES		
ENGINEERING FEES		FEE
Lot Line Adjustment Fee	Per App	\$2,902.00
ENCROACHMENT FEES		
Permit Issuance Fee	Per App	\$161.00
Permit Inspection and Plan Check Fees		Regular Time \$166.00/hr. Overtime \$244.00/hr. Annual Permit \$578.00/hr.
Reconstruction Fees for Work Completed by City		All other direct costs to the City resulting from the Permittee's activity, calculated at actual cost plus 25% administrative cost
FRANCHISES AND LICENSES		
Railroad crossings, conveyor bridges, and tunnels across a street	Issuance \$25,000.00	Annual Fee \$3,210.00

ENGINEERING FEES		
Railroad Tracks, pipelines, or conduits along a street	\$25,000 for each one-half (1/2) mile or portion thereof	\$3,210.00 for each one-half (1/2) mile or portion thereof
Pipelines or conduits across a street or a metering manhole in the street	\$12,500.00	\$1,605.00
Building footings and appendages for traffic sensors, signs, monitoring wells and architectural projections	\$5,000.00	\$642.00
The fee for any encroachment not specifically listed in the table shall be the same fee for the most similar structure listed in the table as determined by the City.		
GRADING		
Low Impact Development Plan Review		\$2,770.00
Grading Inspection (No LID)		\$282.00
ENCROACHMENT PERMIT FAITHFUL PERFORMANCE BONDS OR CASH DEPOSIT REQUIREMENTS		
The amount of an encroachment permit cash deposit, certified or cashier's check, surety bond, or letter of credit shall be determined by multiplying the quantity of asphalt paving, concrete paving, sidewalk, concrete curb, monuments and trench excavations proposed to be removed, disturbed or opened by the rate shown in the table below, the sum of the totals shall establish the minimum amount of the bond or deposit, except that in no case shall the faithful total security be less than \$5,000. Authorized by Vernon Municipal Code §22.47.		
Type of Work to be performed		
Asphalt pavement		\$22.75/sq. foot
Concrete pavement and driveway		\$25.50/sq. foot
Concrete sidewalk		\$13.25/sq. foot
Concrete curb and gutter		\$67.50/lin. Foot
Trench excavations		\$9630.00 each open excavation
Monument replacement		\$3,852.00/monument

HEALTH AND ENVIRONMENTAL CONTROL PERMIT FEES	
CERTIFIED UNIFIED PROGRAM AGENCY	
ABOVE GROUND PETROLEUM STORAGE ACT PROGRAM	
Total Storage Capacity 1,320 to 10,000 Gallons	\$270.00
Total Storage Capacity 10,001 to 100,000 Gallons	\$539.00
Total Storage Capacity 100,001 to 1,000,000 Gallons	\$1027.00
Total Storage Capacity 1,000,001 to 10,000,000 Gallons	\$2054.00
Total Storage Capacity 10,000,001 to 100,000,000 Gallons	\$2054.00
Total Storage Capacity 100,000,001 or more Gallons	\$2054.00
HAZARDOUS MATERIALS BUSINESS PLAN PROGRAM	
Hazardous Material Inventory Class A	\$488.00
Hazardous Material Inventory Class B	\$551.00
Hazardous Material Inventory Class C	\$2042.00
Application Fee	\$327.00
UNDERGROUND STORAGE TANK PROGRAM	
Annual Tank Operating Permit	\$818.00/Tank
Underground Storage Tank Facility	\$1,252.00/Facility
HAZARDOUS MATERIAL CLOSURE	
Small	\$313.00
Medium	\$627.00
Large	\$940.00
Extra Large	\$976.00
Certificate of Closure	\$344.00
WELL PERMITS	
DRILLING A WATER WELL	\$648.00
DESTROYING OR CONVERTING AN EXISTING WATER WELL	\$648.00
DRILLING A MONITORING WELL less than 50 feet	\$584.00
REPAIRING / MODIFYING A WELL	\$478.00
FOOD PROTECTION PROGRAM	
FOOD PERMITS	
AGRICULTURAL OPERATION	\$207.00 Annual
CATERER	\$363.00 Annual
CATERER	\$121.00 Daily
COMMISSARY	\$741.00
FOOD PROCESSING Under 2000 square feet	\$520.00

HEALTH AND ENVIRONMENTAL CONTROL PERMIT FEES	
ESTABLISHMENT Over 2000 square feet	\$1,082.00
FOOD VENDING MACHINE BUSINESS	\$42.00 / machine
FOOD WAREHOUSE	\$416.00
RESTAURANT 0-30 SEATS	\$416.00
RESTAURANT 31 SEATS AND OVER	\$824.00
RETAIL FOOD MARKET	\$403.00
RETAIL FOOD PRODUCTION ESTABLISHMENT	\$403.00
TEMPORARY EVENT ORGANIZER	\$302.00
TEMPORARY FOOD FACILITY	\$117.00
FOOD VEHICLES	
MOBILE FOOD FACILITY (CART)	\$225.00
WHOLE PRODUCE	\$225.00
MOBILE FOOD PREP UNIT (HOT TRUCK)	\$552.00 Annual
MOBILE FOOD PREP UNIT (HOT TRUCK)	\$186.00 Daily
WHOLESALE FOOD VEHICLE	\$122.00
RETAIL FOOD VEHICLE	\$122.00
NON-FOOD	
GARMENT MANUFACTURING	\$395.00
LAUNDRY FACILITY (N/A IF FACILITY IS NOT A VERNON BUSINESS)	\$313.00
LAUNDRY VEHICLE	\$122.00 per vehicle
WASTE PROCESSING FACILITY	\$446.00
WASTE TRANSFER STATION	\$313.00
WASTE COLLECTION BUSINESS	\$1,532.00
WASTE COLLECTION VEHICLE	\$266.00
WASTE COLLECTION VEHICLE YARD	\$334.00
RENDERING PLANT BUSINESS	\$543.00
RENDERING PLANT VEHICLE	\$266.00
WASTE DISPOSAL SITE	\$313.00
WATER SUPPLY UTILITY	\$10.00 / Service connection
LIQUID WASTE PUMPING BUSINESS	\$266.00
LIQUID WASTE PUMPING VEHICLE	\$232.00
OFFAL BUSINESS	\$266.00
OFFAL VEHICLE	\$232.00

HEALTH & ENVIRONMENTAL CONTROL SERVICE FEES	
GENERAL PLAN CHECK	
1-5 sheets	\$547.00
6-10 sheets	\$1017.00
11-25 sheets	\$1,330.00
Additional Sheets	\$232.00

DRAFT

POLICE FEES	
GENERAL	FEE
Vehicle release fee - standard	\$50.00
Vehicle release fee - driving under the influence	\$144.00
Fee to release complete copy of arrest reports, traffic accident reports, incident reports	\$20.00
Fee to release complete copy of arrest reports, traffic accident reports, and incident reports (certified)	\$31.00
Repossession fee for vehicles repossessed in Vernon (Government Code 41612)	\$15.00
VIN verification fee	\$44.00
Citation sign-off fee	\$44.00
DUI Emergency Response	City's cost
Subpoenas witness attendance deposit (Government Code Section 68097.2)	\$275.00
Subpoenas for discovery motions	\$15.00
Basic Police background investigation	\$19.00
Video tape copy (blank tape provided by requester) – Digital	\$19.00
FALSE ALARMS	
No charge for the first 3 within a fiscal year	
4th false security alarm	\$168.00
5th false security alarm	\$207.00
6th false security alarm	\$246.00
7th false security alarm, and each additional security alarm thereafter	\$284.00