

# ALBANY CALIFORNIA



CITY OF ALBANY  
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March 2, 2020

## MEMORANDUM

To: Albany City Council Members

From: Council Members Maass & Pilch

Re: Cannabis Policy Update II

## SUMMARY

Pursuant to Council Members Maass and Pilch's request: a continuation of the discussion on the Consent Item Cannabis Policy Update on the September 3, 2019 Council Agenda, and the Planning and Zoning Commission's interest at the July 24, 2019 meeting in creating regulations to allow cannabis activities in Albany, a discussion item is placed on the agenda.

## RECOMMENDATION

That Council hold an open discussion for the consideration of directing the Planning and Zoning Commission to create regulations to expand cannabis activities and identify the preferred type of activities/facility in Albany based on updated experiential and financial information from the communities of El Cerrito, San Leandro and Emeryville.

## PLANNING & ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission received an informational report on July 24, 2019. Though not a formal recommendation, the Planning and Zoning Commission remains interested in creating regulations that would allow permitting of commercial cannabis activities in the City, should the Council provide direction to allow such activities.

## **BACKGROUND**

With the passage of the **Compassionate Care Act** of 1996 (Proposition 215) California became the first state to legalize medical cannabis. In November of 2006 Albany voters approved **Measure D**, an advisory vote to allow a Medical Cannabis dispensary. In November of 2016 California voters passed the **Adult Use of Marijuana Act** (Proposition 64) to legalize the adult use of cannabis.

Between 2007 and 2011, the City did approve Ordinance No. 2007-01 allowing a dispensary, received and processed an application, which ultimately was denied by the City Council on appeal, which in turn led to litigation against the City. The final outcome was that the City went back to prohibiting dispensaries with the adoption of Ordinance No. 2011-08.

On November 20, 2017 Council passed Ordinance No. 2017-07 amending Section 20.20.110 in the "**Medical Marijuana Dispensaries**" of the Albany Code. While this affirmed that personal use and defined personal cultivation activities, commercial medical and recreational dispensaries continued to remain banned in Albany. At the time Council agreed to revisit the issue within the next two years. The Cannabis Policy update item appeared on the September 3, 2019 Consent Calendar.

## **ANALYSIS**

The main take away from the materials provided by staff in the Update was that legal cannabis had not provided anywhere near the tax revenue to cities that had been anticipated by the supporters of Prop. 64, and whether allowing cannabis dispensaries, or other commercial activities, would provide enough tax revenues to recover costs associated with oversight. Cannabis dispensaries had been allowed in several east bay cities, but due to the early stages of the implementation, there was little collectible financial data for staff to include in the update.

Over the past month I was able to visit three of the four cities that were mentioned in the September update report and speak with staff members involved in cannabis projects.

### **El Cerrito**

Construction on a permitted cannabis dispensary seems to have halted since October of last year. Senior Planner Jeff Ballantine told me that the Building Inspector had stopped construction at the Bishop Center site because of inadequacies in the plans. It's unclear when the issues may be resolved.

## **San Leandro**

San Leandro's regulations allow up to three dispensaries but as of the end of 2019, only one had been able to open. Deputy City Manager, Eric Engelbart, spoke with me regarding his experience overseeing the development of the first cannabis dispensary, which happened in 2019. The tax receipts for the one dispensary in CY 2019 were:

Q1 2019: \$11,118 (medical only)  
Q2 2019: \$42,182 (recreational section opens)  
Q3 2019: \$82,623  
TOTAL: **\$135,923**

## **Emeryville**

Miroo Desai, Senior Planner in the Community Development Department, spoke with me last week regarding Emeryville's experience developing cannabis regulations. In Emeryville Manufacturing and Distribution are allowed in addition to medical and recreational dispensaries. All permitted commercial activities had been running from July 2019 to December 2019 (although one permitted dispensary has not yet opened), the City collected **\$325,000** in cannabis revenues. The City received \$251,712 in revenues in fiscal year 2018/19. Ms. Desai's guesstimate was that 90% of the revenue came from dispensary sales. It was her opinion that dispensaries, manufacturing and distribution of cannabis were very manageable for Emeryville. She did not think that production would be as easy.

## **FINANCIAL IMPACT**

Unknown at this point.

### **Attachment:**

1. Regional Context on Local Taxes

# Regional Context on Local Taxes

<u>Jurisdiction</u>	<u>Retail</u>	<u>Manufacturing</u>	<u>Distribution</u>
Alameda County (unincorporated areas)	0%	0%	0%
City of Alameda	0%	0%	0%
Berkeley	5% Adult Use 2.5% Medicinal	5% Adult Use 2.5% Medicinal	5% Adult Use 2.5% Medicinal
Emeryville	3%	2%	1%
Hayward	6.00%	6.00%	6.00%
Oakland*	10% Adult 5% Medicinal 0.12% if <\$500k	10% Adult Use 5% Medicinal 0.12% if <\$500k	10% Adult Use, 5% Medicinal 0.12% if <\$500k
Richmond	5.00%	5.00%	5.00%
San Francisco (effective 1/1/21)	Exempt =<\$500K 2.5% =\$500K-\$1Mil 5.0% =\$1Mil+	Exempt =<\$500K 1% =\$500K-\$1Mil 1.5% =\$1Mil+	Exempt =<\$500K 1% =\$500K-\$1Mil 1.5% =\$1Mil+
San Jose	10%	10%	10%
<b>San Leandro</b>	<b>6.00%</b>	<b>6.00%</b>	<b>6.00%</b>
Santa Rosa	3%	1%	0%
Union City	4%	4%	2%

\*City of Oakland exploring reduced tax rates

