

# URGENCY ORDINANCE EXTENSION/COMMERCIAL CANNABIS REGULATIONS

City Council  
City of Los Altos

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# Federal Legality

- **Attorney General Jeff Sessions:**
  - “States, they can pass the laws they choose,” he added. “I would just say it does remain a violation of federal law to distribute marijuana throughout any place in the United States, whether a state legalizes it or not.”
- **Extension of Rohrabacher amendment – for now**
  - Previously known as Rohrabacher-Farr, this prohibits the U.S. Department of Justice from using federal funds to prosecute marijuana-related activities if permitted under State medical marijuana laws.
- **Attorney General rescinds 2013 Cole Memorandum**
  - Obama-era policy directed the DOJ to not prioritize marijuana enforcement against businesses that were following state law and adhering to certain criteria.
  - Sessions announced Thursday, January 4, 2018, that he will instead let federal prosecutors where pot is legal decide how aggressively to enforce federal marijuana law.



# Overview

- Legal Overview and Regulatory Update
- Urgency Ordinance Extension
- Potential Local Actions



# Proposition 64

## The Adult Use of Marijuana Act

- Legalized recreational use of marijuana by adults in California, including:
  - Personal use by those 21 years of age or older
  - Possession of up to 28.5 grams of cannabis plant material or 8 grams of concentrate
  - Indoor cultivation of up to 6 plants for personal use inside a private residence or accessory structure, and possession of any marijuana produced by those plants



# Restrictions on Personal Use

- No smoking in a public place (except where authorized locally)
- No smoking where smoking tobacco is prohibited
- No smoking within 1,000 feet of a school, day care center or youth center while children are present
- No smoking while driving or riding in a vehicle
- Cities may prohibit smoking and possession in buildings owned, leased, or occupied by the city
- Employers may maintain drug-free workplaces



# Proposition 64



- Creates Division 10 of the B&P Code to license cannabis businesses
- State excise tax of 15% on medical and recreational marijuana
- State cultivation tax of \$9.25 on flower/\$2.75 on non-flower plant leaf for medical and recreational
- Retail sales are subject to sales tax, except medical cannabis purchased with a medical marijuana identification card



# State Licensing

- Bureau of Cannabis Control
  - Within Dept. of Consumer Affairs
  - Retailers, distributors, testing laboratories and microbusinesses (track-and-trace)
- Dept. of Food and Agriculture
  - Cultivation and implementation of track-and-trace system for plants from cultivation to sale
- Dept. of Public Health
  - Manufacturing
- These agencies began issuing commercial cannabis licenses on January 1, 2018





# SB 94: Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) - June 27, 2017

- Repealed MCRSA and combines medical and adult-use cannabis business regulations under a single regulatory umbrella
- Retains local control and dual permitting scheme
- Requires local jurisdictions to notify the State whether an applicant is either compliant or non-compliant with local ordinances. Failure to respond to the State's inquiry within a 60-business-day period results in a rebuttable presumption that applicants are in compliance with local ordinances.





# California Regulatory Update

- Emergency regulations published in November, 2017 totaling ~270 pages
- Temporary licenses issued until permanent license application processed
- BCC will not approve an application for a state license if approval of the license would violate the provisions of any local ordinance or regulation
- Operators may operate A- and M- licenses for the same cannabis activity on the same premises if the licenses are held under identical ownership and the licensee only conducts one type of cannabis activity on the premises



# Current Regulations in Los Altos

- Ordinance No. 2016-418 prohibits marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries activities in the City (LAMC, Chapter 14.82)
- Urgency Ordinance imposed a moratorium to expressly prohibit all medical and adult-use commercial cannabis activities. Without further action the moratorium expires January 12, 2018
- Indoor and outdoor cultivation of up to 6 plants for personal use is allowed subject only to state law requirements



# Fiscal Impacts

- Allowing commercial cannabis uses comes with increased costs associated with:
  - Licensing of businesses
  - Regulation of various uses
  - Enforcement of regulations
  - Tax collection
  - Auditing



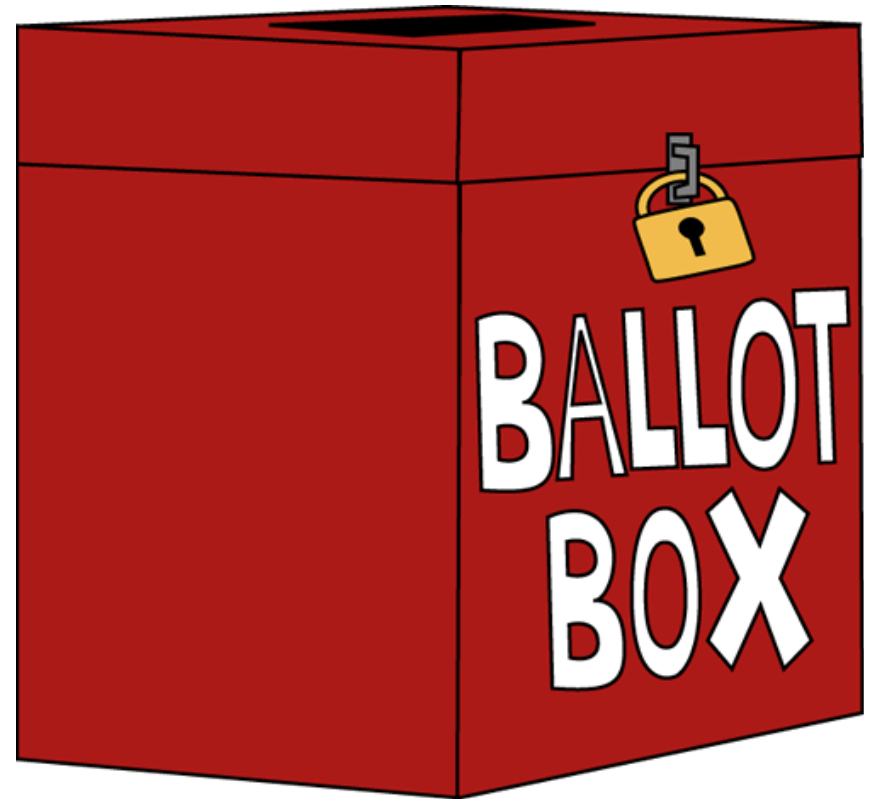
# Taxation and Revenue

- Revenue
  - Conditional use permit application fees and impact fees
  - Business license fee
- If a commercial use is allowed, it can also be taxed



# Taxation and Revenue

- Any tax imposed must be passed by the voters, per Prop 218.
  - A special tax must be passed by a 66% vote
  - A general tax must be passed by a 50% vote

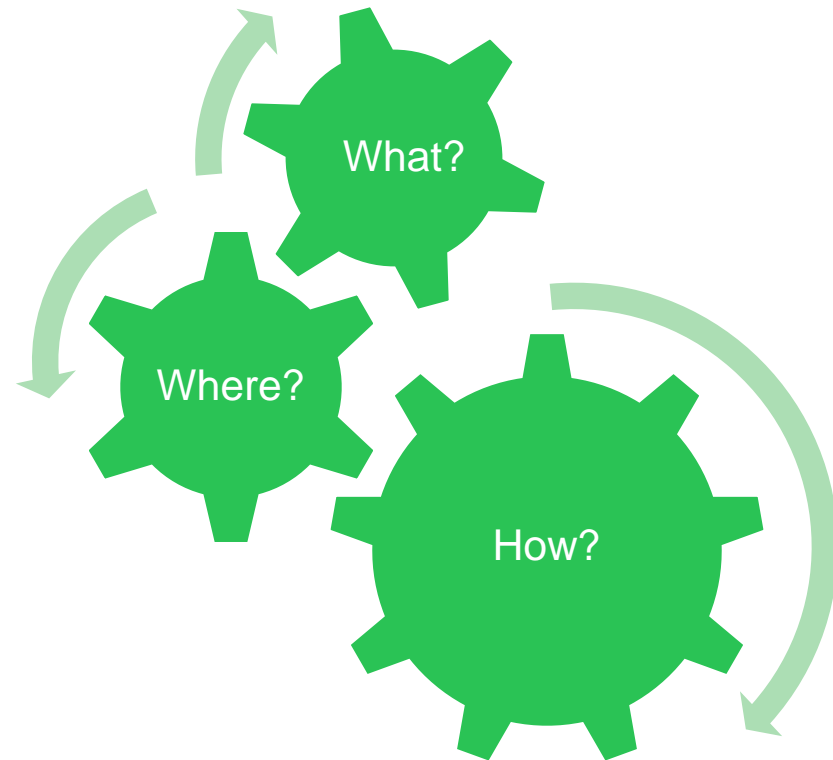


# Policy Decisions

Whether to allow any commercial cannabis uses in Los Altos?

- Manufacturing
- Testing
- Cultivating
- Distribution
- Microbusinesses
- Retailers / Non-storefront Retailers
- Delivery Services

The City can continue to ban any of these uses or it can choose to regulate them.





# Personal Cultivation

- Local governments may “reasonably regulate” but not prohibit personal indoor cultivation of up to 6 cannabis plants within a private residence.
- Includes cultivation within a greenhouse or other structure on the same parcel of property that is not visible from a public space.
- Local governments may regulate or prohibit personal outdoor cultivation.





# Policy Decision

- Whether to regulate indoor or outdoor cultivation for personal use?



# Recommendation

- Waiver Further Reading and Adopt Urgency Ordinance
- Provide Policy Direction on Permanent Cannabis Regulations

