

CITY OF MONTCLAIR

AGENDA FOR SPECIAL MEETING OF THE CITY COUNCIL

To be held in the Council Chambers
5111 Benito Street, Montclair, California

May 30, 2019

6:00 p.m.

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC COMMENT

This section is intended to provide members of the public with an opportunity to comment on any subject that appears on this agenda. (Government Code Section 54954.3(a)) Each speaker will be afforded five minutes to address the City Council. (Government Code Section 54954.3(b) & Montclair Municipal Code Section 2.14.030)

Under the provisions of the Brown Act, the City Council is prohibited from taking action on items not listed on the agenda.

IV. COUNCIL WORKSHOP

- A. Consider Receiving an Executive Report on the City's Response to Proposition 64 and Potential Regulations on Commercial Cannabis Activity in the City of Montclair

Consider Providing Direction to City Staff on Any Future Consideration Regarding the Medicinal and Adult-Use Cannabis Regulation and Safety Law for the City of Montclair (MAUCRSL)

V. ADJOURNMENT

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the City Council after distribution of the Agenda packet are available for public inspection in the Office of the City Clerk located at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office by telephone at (909) 625-9416 or send an email to cityclerk@cityofmontclair.org. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

I, Andrea M. Phillips, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 24 hours prior to this meeting on the bulletin board adjacent to the north door of Montclair City Hall on May 28, 2019.

The ordinances also represent a reasonable, rational and appropriate approach to addressing the continuing proliferation of illegal cannabis operations in the City and the public resources committed to addressing those ongoing concerns.

Finally, the ordinances recognize growing state and national support for the legalization of cannabis, as indicated in a September 2018 Pew Research Center study.

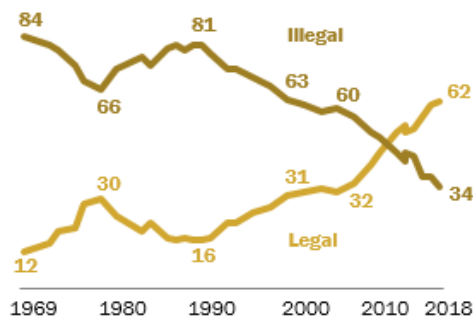
The Pew Research Center study found that U.S. public opinion on legalizing cannabis has evolved over the past forty years, with data demonstrating that approximately six-in-ten Americans (62 percent) say the use of cannabis should be legalized—double what it was in 2000 when support was at 31 percent.

Chart 1, on the following page, draws data from the September 2018 Pew Research Center study and demonstrates the trending increase in public support for cannabis legalization; **Chart 1** also depicts the level of growing support along different generational lines:

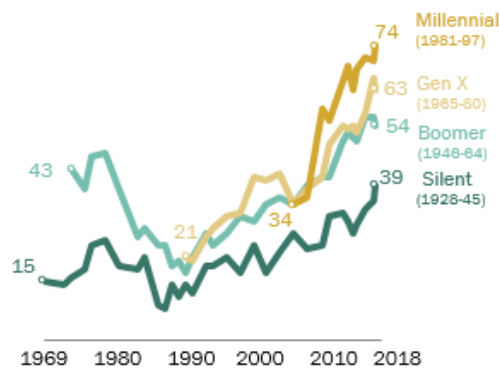
Chart 1

U.S. public opinion on legalizing marijuana, 1969-2018

Do you think the use of marijuana should be made legal, or not? (%)



% who say marijuana should be made legal



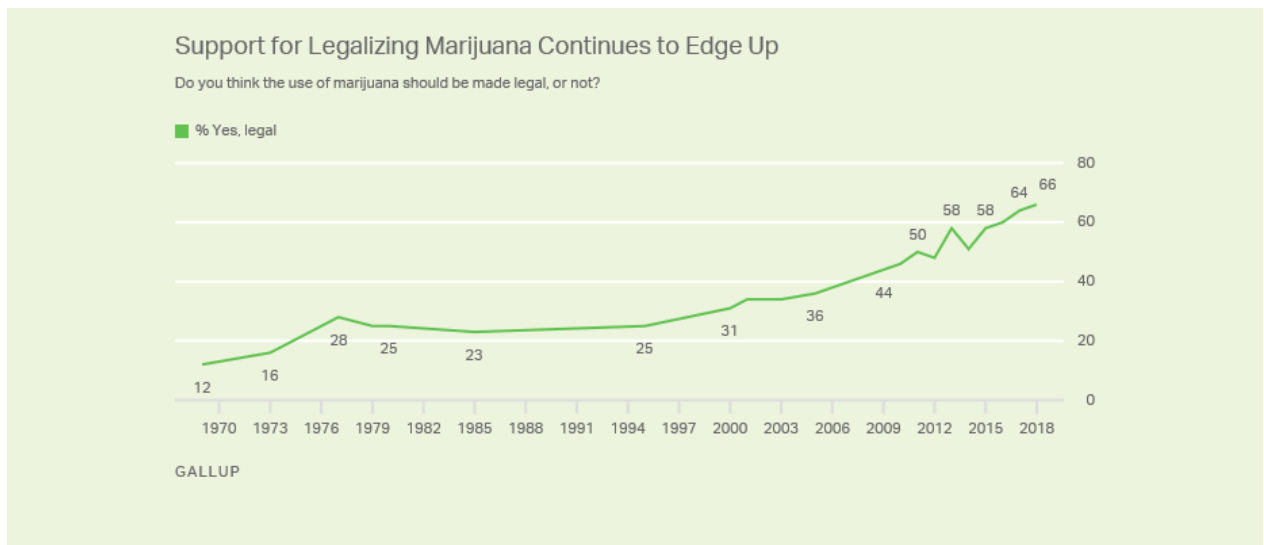
Note: Don't know responses not shown.
Source: Survey of U.S. adults conducted Sept. 18-24, 2018.

PEW RESEARCH CENTER

As indicated in **Chart 2**, below, an October 2018 Gallup Poll demonstrates even higher positive supporting trends for cannabis legalization in comparison to the September 2018 Pew Research Center study.

Chart 2 demonstrates that 66 percent of Americans support legalizing cannabis, marking a high in Gallup’s polling of cannabis legalization over nearly fifty years — the third consecutive year that support for cannabis legalization has increased since 2000, reaching majority support for the first time in 2013, a year after Colorado and Washington voters legalized adult-use of cannabis via ballot initiatives, making them the first states to do so:

Chart 2



As indicated in **Chart 3**, below, the October 2018 Gallup Poll also demonstrates that cannabis legalization has reached new peaks among Democrats (75 percent), Independents (71 percent) and, for the first time, a slim majority of Republicans support legalizing cannabis (53 percent):

Chart 3

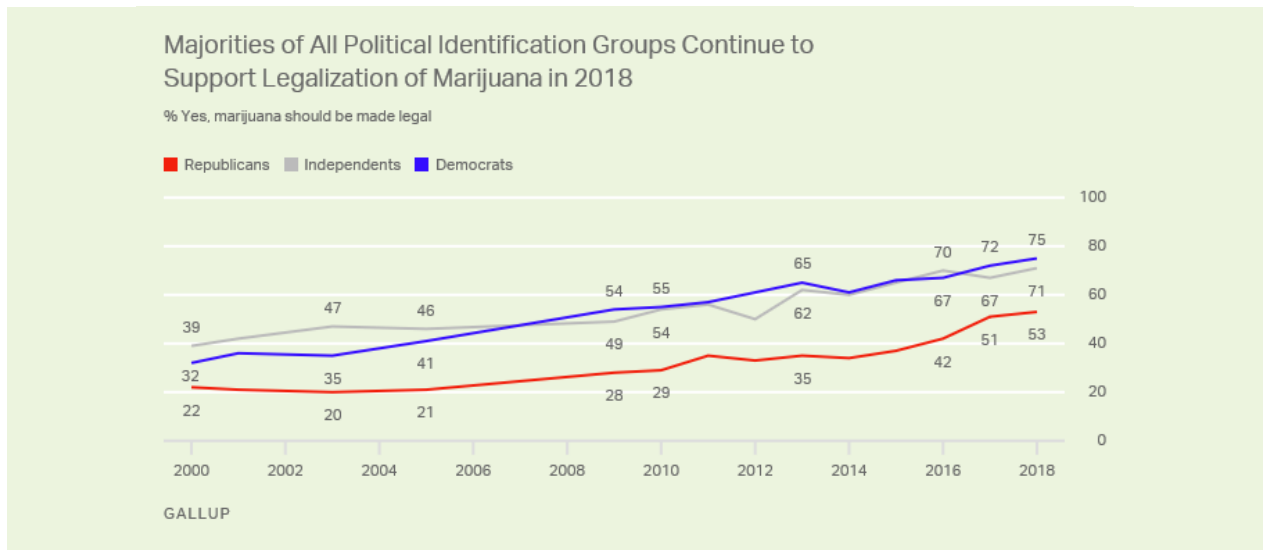
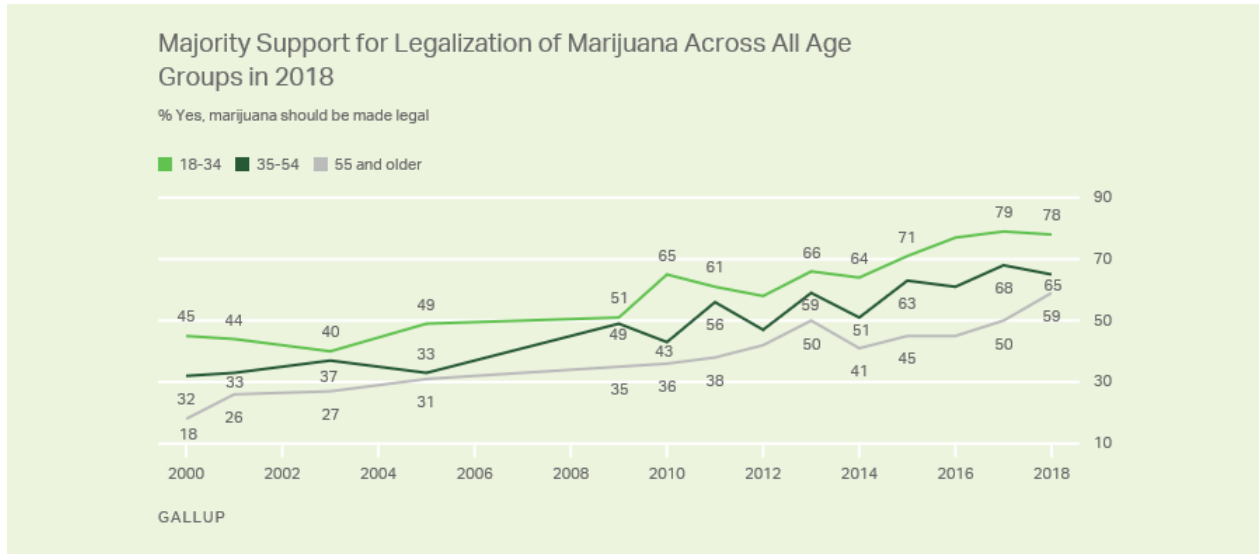


Chart 4, below, also from the October 2018 Gallup Poll, demonstrates that cannabis legalization has reached new peaks among Americans aged 55 and older, with 59 percent in support, up from 50 percent in 2017:

Chart 4



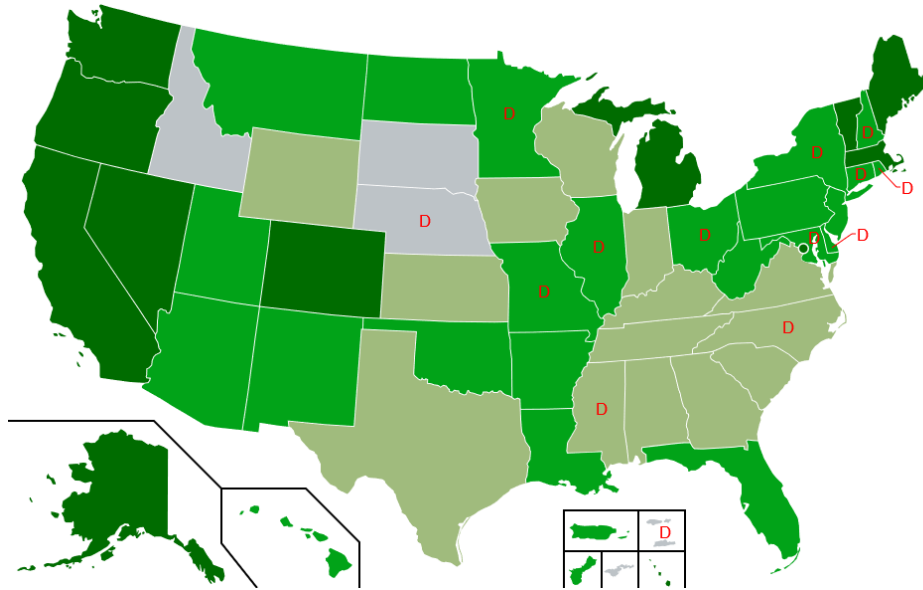
According to the October 2018 Gallup Poll, the trend for cannabis legalization has also continued across all regions of the U.S., with 67 percent support in the East, 65 percent support in the Midwest, 65 percent support in the South, and 65 percent support in the West, a trending pattern that is clearly demonstrated by a national movement of states to legalize cannabis in some form.

As indicated on **Map 1**, on the following page, as of January 2019, cannabis, nationally, has achieved the following levels of acceptance:

1. The medical use of cannabis is legal (with a doctor's recommendation) in 33 states, plus the District of Columbia, and the territories of Guam, Puerto Rico, Northern Mariana Islands and the U.S. Virgin Islands;
2. Fourteen states have laws that limit THD content, for the purpose of allowing access to products that are rich in cannabidiol (CBD), a non-psychoactive component of cannabis;
3. The adult-use of cannabis is legal in 10 states (Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont, and Washington), the District of Columbia, and the Northern Mariana Islands;
4. Thirteen states plus the U.S. Virgin Islands have decriminalized the adult-use of cannabis;
5. Commercial distribution of cannabis is allowed in all jurisdictions where cannabis has been legalized, except Vermont and the District of Columbia; and

6. Interest in other states to enact cannabis-friendly laws in 2019 remains high, including in Virginia, North Dakota, Wisconsin and Kentucky, while still other states anticipate expanding authorization for cannabis use.

Map 1



Map key:

- Legal
- Legal for medical use
- Legal for medical use, limited THC content
- Prohibited for any use
- D Decriminalized

Based on the above analysis, the legalization of cannabis nationally, appears to be trending from border to border.

The state's Legislature appears to be taking additional steps to promote the commercial cannabis marketplace in California: A total of 46 bills designed to support the commercial cannabis industry have been introduced, including Assembly Bill 1356, a bill that would require a local jurisdiction to issue a minimum number of local licenses (a specified ratio of retail commercial cannabis activity licenses to on-sale alcohol licenses) authorizing retail commercial cannabis activity if more than 50% of a local jurisdiction's electorate voted in favor of Proposition 64, an initiated state statute – in Montclair, 53.1% of voters approved Proposition 64.

In this milieu, City staff presents for City Council consideration Ordinances No. 19-982, 19-983, and 19-984, otherwise known as the Medicinal and Adult-Use Cannabis Regulation and Safety Law of the City of Montclair (the "MAUCRSL").

BACKGROUND: On October 9, 2015, former California Governor Jerry Brown signed into law the *Medical Cannabis Regulation and Safety Act* (the "MCRSA"), which consisted of three interrelated pieces of legislation (SB 643, AB 243, and AB 266) intended to

provide a comprehensive regulatory framework for the licensing, control, and taxation of commercial cannabis related businesses in California. The MCRSA expressly protected each county and municipality's local licensing practices, zoning authority, and other local actions taken under the City's constitutional municipal and police powers.

Pursuant to requirements of the MCRSA, the Montclair City Council, in March 2017, adopted Ordinance No. 17-968 adding Chapter 11.11 to Title 11 of the Montclair Municipal Code prohibiting uses related to medical cannabis dispensaries, cultivation and processing, commercial cannabis activities, delivery of cannabis and cannabis-related products, and outdoor cultivation of cannabis in the City.

On July 13, 2016, City staff provided the City Council with an update on illegal commercial cannabis activities in the City of Montclair, and an analysis on the proposed statutory initiative, Proposition 64, the ***Control, Regulate and Tax Adult-Use of Marijuana Act*** (the "Adult-Use Of Marijuana Act", also known as the "AUMA").

On August 1, 2016, the City Council entered into agreement with The HDL Companies to develop a Cannabis Management Program in the event Proposition 64 became law, with all members of the City Council voting in favor. The program would include development of regulatory and land use ordinances related to commercial cannabis activity in the City of Montclair and other responsibilities related to implementation of the effects of Proposition 64.

On November 8, 2016, Proposition 64 (the AUMA) was approved by California voters with 57.13% of the statewide vote and 53.1% of the vote in Montclair. Proposition 64 legalizes the recreational use of cannabis, and provides a comprehensive regulatory framework for the licensing, control, and taxation of adult-use commercial cannabis activities in California.

In addition to opening California for a legalized commercial cannabis marketplace, the AUMA provides additional protections for qualified patients, persons holding a valid identification card and their primary caregivers as it relates to possession and use of medicinal cannabis and medicinal cannabis products.

The AUMA also establishes clear law for the personal use, possession and cultivation of cannabis by private individuals, including authorizing a person 21 years of age or older to possess and use up to 28.5 grams of cannabis and up to eight (8) grams of concentrated cannabis, and to possess and process up to six (6) living cannabis plants and the cannabis produced by those plants, subject to certain restrictions, as specified by the AUMA and applicable state law and local ordinances.

Furthermore, under Title 16, Section 5416(d) of the Bureau of Cannabis Control regulations governing deliveries to a physical address, local governments have no authority to ban cannabis deliveries and the transportation of cannabis and cannabis products within their respective jurisdictions – under the authority of Senate Bill 95 (the ***Medicinal and Adult-Use Cannabis Regulation and Safety Act***, or the "MAUCRSA"), the Bureau of Cannabis Control and the Departments of Public Health and Food and Agriculture developed a comprehensive set of regulations governing the cannabis industry in California. Effectively, the Bureau's rule has the potential to bring commercial cannabis activity to the doorsteps of every household, without local regulatory control unless and until a local regulatory system is in place.

On February 16, 2017, a representative of The HDL Companies conducted a City Council Workshop and update on development of a regulatory ordinance for commercial cannabis activity in the City of Montclair. Shortly thereafter, The HDL Companies and the City discontinued the contractual relationship for development of a Cannabis Management Program and the City Manager's office assumed responsibility for ordinance development.

On June 27, 2017, Senate Bill 94 (SB 94) became law in California, repealing the MCRSA and incorporating the regulatory provisions of the MCRSA and the AUMA into the ***Medicinal and Adult-Use Cannabis Regulation and Safety Act*** (the "MAUCRSA").

To address this rapidly moving momentum toward the full legalization of medicinal and adult-use commercial and private cannabis activity, the City Manager's Office developed a set of uniquely comprehensive ordinances that achieve the following:

1. Implement the purpose and intent of the MAUCRSA;
2. Adhere to the fundamental eight guidelines established under the Cole Memo, discussed later in this Agenda Report;
3. Provide administrative and enforcement powers to the City's Code Enforcement and Police personnel; and
4. Respond to the needs and requirements of the City.

Development of the MAUCRS is also driven by the need to address a substantial and persistent illegal commercial cannabis marketplace in the Montclair community – an illegal marketplace that increasingly requires the commitment of financial and public safety resources, often to no avail, as illegal operators seek to thwart the City's enforcement efforts as follows:

1. Ignore the City's enforcement efforts until warrants and legal injunctions can be obtained – processes that can take months to a year to complete;
2. File legal challenges to the City's enforcement efforts;
3. Operate under layers of fictitious persons, thereby complicating enforcement action as it relates to identifying responsible parties;
4. Upon notice of injunction or warrant, relocate illegal cannabis operations to a different address in the community, thereby skirting local enforcement efforts and court judgements/injunctions/warrants and allowing violators to continue earning lucrative revenues from their illegal operations.

The effort to enforce against illegal commercial cannabis operators is not only an expensive legal effort, it is also hindered by a lack of enforcement powers that is only available through adoption of a regulatory system that also provides the City with access to an array of fines, penalties and other legal remedies.

In furtherance of the combative approach that is being taken by illegal commercial cannabis operators, the City Manager's office has been advised that a marketing firm was recently hired to petition the Montclair City Council to place a ballot initiative on the

November 2020 General Election Ballot. The initiative would presumably ask voters to reject the City's ban and define regulatory, fee, and land use conditions for commercial cannabis activity in the City, thereby removing from the City Council authority over defining legalized commercial cannabis activity in Montclair.

The illegal commercial cannabis marketplace also supports continuance of criminal, gang and black market activity in the cannabis industry, to the detriment of legal operators. Effectively, continuation of a black market adversely impacts enforcement efforts, discourages legalization by entrepreneurs, and undercuts the ability of state and local governments to raise revenues to combat illegal operations and sustain a regulated system.

The lack of an expanding and regulated commercial cannabis marketplace in California has also discouraged state officials, who are now seeking to enforce the spirit of Proposition 64 through a variety of legislative maneuvers, including the following:

1. A regulation promulgated by the Bureau of Cannabis Control that prohibits local governments from banning or enforcing against the door-to-door delivery of cannabis and cannabis products directly to households in each community;
2. A prohibition against obstructing the transport of cannabis and cannabis products on public streets and roadways;
3. Proposed reductions to state excise taxes on cannabis and on cannabis flowers;
4. Ongoing efforts to promote an expanded and regulated commercial cannabis activity marketplace – an effort that includes the introduction of at least 46 pro-cannabis bills in the current legislative session. One bill, Assembly Bill 1356 (Ting), provides for the following (as of May 28, 2019):
 - If more than 50% of the electorate of a local jurisdiction voted in favor of Proposition 64, the local jurisdiction would be required to issue a minimum number of local permits authorizing specified retail commercial cannabis activity within that jurisdiction that would be permitted under the MAUCRSA [*Montclair voters approved Proposition 64 with 53.1% of the vote*].
 - The minimum number of those local licenses required to be issued in that jurisdiction would be one-sixth of the number of currently active on-sale general license types for alcoholic beverage sales, unless the minimum number would result in a ratio greater than one local license for retail cannabis commercial activity for every 15,000 residents of the local jurisdiction, in which case the bill would require the minimum number to be determined by dividing the number of residents in the local jurisdiction by 15,000 and rounding down to the nearest whole number. The bill would authorize a local jurisdiction to impose a fee on licensees to cover the regulatory costs of issuing those local licenses. The number of on-sale general licenses for alcoholic beverages shall be determined by adding all of the currently active licenses issued in the jurisdiction that are of the following alcoholic beverage license types: Types 47, 47D, 48, 48D, 57, 57D, 68, 70, 71, 71D, 75, 75D 78, and 78D. The City of Montclair

would be required to provide City-issued permits to a minimum of two adult-use retail commercial cannabis activities.

- A local jurisdiction that wants to establish a lower number of local permits would be required to submit to the electorate at the next regularly scheduled local election following the operative date of the bill an ordinance or other law that clearly specifies the level of participation in the retail commercial cannabis marketplace.
- AB 1356 requires a two-thirds approval of each Legislative chamber.

Using the MAUCRSA as a guide, the City Manager's Office developed the following ordinances:

1. Ordinance No. 19-982 (the ***Comprehensive Commercial Cannabis Regulatory Ordinance of the City of Montclair***) establishing a comprehensive regulatory system for medicinal and adult-use commercial cannabis activity in the City;
2. Ordinance No. 19-983 (the ***Commercial Cannabis Land Use Ordinance of the City of Montclair***) establishing zoning and land use guidelines and procedures for medicinal and adult-use commercial cannabis activity in the City; and
3. Ordinance No. 19-984 (the ***Comprehensive Second-Hand Smoke Control Ordinance of the City of Montclair***) related to the effects of second-hand smoke and addressing those effects by imposing restrictions on smoking tobacco products and cannabis products in work and public places.

Together, the three ordinances comprise the ***Medicinal and Adult-Use Cannabis Regulation and Safety Law of the City of Montclair*** (the "MAUCRSL") and, as directed by the City Council, represent one of the most comprehensive municipal regulatory systems in California related to commercial cannabis activity.

Incorporated into the ordinances, by reference, are the ***Medicinal and Adult-Use Cannabis Regulation and Safety Act of California*** (the "MAUCRSA") and a series of comprehensive commercial cannabis regulations adopted separately by the Bureau of Cannabis Control, Department of Public Health and Department of Food and Agriculture (the State Licensing Agencies).

- The MAUCRSA (the State law) provides the general guidelines and authority for both the MAUCRSL (the City law) and the regulations adopted by the State Licensing Agencies;
- The regulations developed by the State Licensing Agencies establish the technical and regulatory requirements each separate commercial cannabis activity type is required to follow; and
- The MAUCRSL (the City law) fits the general guidelines and authority provided by the state (under the MAUCRSA) and the regulatory mandates promulgated by the State Licensing Agencies into a set of regulatory requirements designed for the Montclair community. The MAUCRSL also provides for a number of regulatory features and fee components that are unique to Montclair and not replicated in any other regulatory commercial cannabis activity ordinance in the state.

Ordinance No. 19-982

Key provisions of Ordinance No. 19-982 (the regulatory ordinance) include the following:

1. Provides for a number of regulatory measures for the private cultivation of cannabis and the commercial cannabis marketplace;
2. Establishes a comprehensive set of provisions for the regulation of adult-use and medicinal commercial cannabis in Montclair including the cultivation, distribution, transport, storage, manufacturing, processing, and sale of cannabis for adults 21 years of age or older and for patients with valid physician's recommendations for medicinal use;
3. Establishes compliance requirements by incorporation of a series of regulations adopted by State Licensing Agencies (the Bureau of Cannabis Control, Department of Public Health, and Department of Food and Agriculture);
4. Effective January 1, 2018, and only after City Council adoption of the MAUCRSL and the promulgation of necessary rules, regulations, applications and other applicable requirements deemed necessary to allow commercial cannabis activities in the City of Montclair, the City would be empowered to permit persons who obtain both a state license issued under the MAUCRSA and City permit issued under the MAUCRSL to engage in commercial medicinal and/or adult-use cannabis activities pursuant to the type of state-issued license and City-issued permit;
5. Imposes the same general requirements on both medicinal and adult-use commercial cannabis activity, with specific exceptions (e.g., persons 18 and older can purchase medicinal cannabis and cannabis products; however, to purchase adult-use cannabis and cannabis products, a person must be 21 years of age or older).
6. Requires protection of the public to be the highest priority in exercising the City's permitting, regulatory, and disciplinary authority functions under the MAUCRSL;
7. Pursuant to agreement between the City and State Licensing Agencies, the City would be delegated the full power and authority to enforce the MAUCRSA and regulations promulgated by State Licensing Agencies;
8. Establishes an application program for a commercial cannabis activity permit, including submission of the following:
 - Fingerprints and background check
 - Evidence of right to occupy a premises for commercial cannabis activity
 - Evidence of a labor peace agreement
 - Proof of bond to cover costs of destruction of cannabis if required by a violation of the MACURSL

- Description of operating procedures
- Premises diagram showing the layout of the commercial cannabis activity
- List of all owners and employees
- Business Plan incorporating the following components:
 - ✓ Security Plan
 - ✓ Premises Maintenance Plan
 - ✓ Lighting Plan
 - ✓ Storage and Transportation Plan
 - ✓ Financial Integrity and Transaction Plan
 - ✓ Statement of Commitment to Cole Memo Principles—a series of eight guiding principles established under the Obama Administration, including:
 - Prevent the distribution of cannabis and cannabis products to minors;
 - Prevent revenue from sale of cannabis and cannabis products from going to criminal enterprises, gangs, and cartels;
 - Prevent revenue from the sale of cannabis and cannabis products from states where it is legal under state law in some form to other states;
 - Prevent state-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
 - Prevent violence and the use of firearms in the cultivation and distribution of cannabis and cannabis products;
 - Prevent drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use;
 - Prevent the growing of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands; and
 - Prevent cannabis possession or use on federal property.
 - ✓ Plan to discourage loitering and panhandling
 - ✓ Anti-drug Campaign Plan for school-age persons
 - ✓ Community Engagement and Investment Plan
 - ✓ Fair Work Compensation Plan
 - ✓ Advertising Plan
 - ✓ Non-consumption Policies
 - ✓ Commitment for participation in a Legal Defense Fund

- ✓ Indoor Cultivation Plan, if applicable
 - ✓ Cannabis Waste Management Plan
 - ✓ Other requirements established by the MAUCRSL
9. Requires denial of an application for a City permit if an applicant does not qualify, and authorizes denial if any specified conditions occur as provided for in the MAUCRSL;
 10. Provides for appeals and hearing;
 11. Establishes the Commercial Cannabis Activity Evaluation Committee for selection of permitted applicants, and empowers the City Council to devolve all decisions related to permitting commercial cannabis activities to the Commercial Cannabis Activity Evaluation Committee, and allows for the City Council to divest itself of the permit approval process;
 12. Establishes the Cannabis Management and Compliance Program in the City Manager's office to support the Commercial Cannabis Activity Evaluation Committee;
 13. Prohibits the sale of adulterated or misbranded cannabis and cannabis products;
 14. Establishes a franchise program for a non-exclusive franchise agreement for five years, subject to annual reauthorization based on full compliance with the MAUCRSL;
 15. Provides for the number and types of commercial cannabis activity permits that may be issued;
 16. Imposes a franchise fee, set by resolution of the City Council, on all permitted commercial cannabis activities;
 17. Imposes annual permit fees and other fees related to receiving a City-issued commercial cannabis activity permit;
 18. Requires an application for a permit for cultivation to identify the source of water supply;
 19. Provides for the seizure and destruction of growing or harvested cannabis without a court order by the local Chief of Police when such cannabis is grown or harvested without a required permit;
 20. Establishes inspection requirements for permitted commercial cannabis activities;
 21. Establishes a legal defense fund that is based on contributions by permitted commercial cannabis activities for use by the City in defense of the MAUCRSL and the City's permitting processes;

22. Establishes a placard compliance system, similar to a county-sponsored restaurant grading system;
23. Establishes a disciplinary process for probation, suspension or revocation of permits;
24. Establishes a system of fines and penalties, including an administrative citation process; and
25. Establishes other regulatory provisions, rules, restrictions, requirements, procedures, and legal structures related to regulating the medicinal and adult-use cannabis marketplace in the City.

Ordinance No. 19-983

Key provisions of Ordinance No. 19-983 (the zoning and land use ordinance) include the following:

1. Imposes restrictions on the private cultivation of cannabis;
2. Provides for a specified CEQA process for applicants;
3. Provides for location by commercial cannabis activity type;
4. Designates zones where commercial cannabis activity is permitted;
5. Provides for an Administrative Professional Zone exemption for a Store-front Retail commercial cannabis activity;
6. Establishes separation requirements from sensitive uses (schools, public parks, public library, youth centers, and alcohol and drug treatment centers) and residential zones;
7. Prohibits home occupancy permits; and
8. Provides for fines and penalties for violations that are in addition to Ordinance No. 19-982.

Ordinance No. 19-983 would be submitted to the Montclair Planning Commission prior to being presented to the City Council for consideration as part of the MAUCRSL.

Ordinance No. 19-984

Key provisions of Ordinance No. 19-984 (the ordinance imposing restrictions on smoking tobacco products and cannabis products in work and public places) include the following:

1. Provides for restrictions on second-hand smoke and the consumption of tobacco, tobacco products and cannabis and cannabis products;

2. Provides that the smoking of tobacco products and cannabis products is prohibited in all places of employment and all places open to the public;
3. Provides that, except as otherwise provided by law, the smoking of adult-use and medicinal cannabis is prohibited at any place other than a private residence;
4. Provides limitations on the smoking of tobacco and cannabis in motels, hotels, guest homes, boarding houses, halfway houses, day care facilities, and other temporary lodgings;
5. Provides for the designation of indoor and outdoor smoking areas; and
6. Provides for fines and penalties and for a tobacco retailer permit fee to assist with enforcement of the ordinance.

The ordinances comprising the MAUCRSL are further expanded upon by the vast schedule of regulations promulgated by the State Licensing Agencies under their respective areas of regulatory control. These regulations, along with the MAUCRSA, have been incorporated into the MAUCRSL, by reference, as though set forth in full and are made available for review by the City Council in their respective Council offices.

Also submitted for City Council review is a *Comprehensive Executive Report RE: Proposition 64 and Commercial Cannabis Activity* dated April 25, 2019; draft copies of Ordinances No. 19-982, 19-983 and 19-984; a copy of the state's *Cannabis Disciplinary Guidelines*, incorporated into the MAUCRSL by reference; and the following Exhibits:

1. *Map Exhibit 1, Sensitive Uses Separation & Permitted Areas;*
2. *Map Exhibit 2, Commercial Cannabis Activity Permitted Types & Areas;*
3. *Map Exhibit 2-A, North Montclair;*
4. *Map Exhibit 2-B, Central Montclair;*
5. *Map Exhibit 2-C, South Montclair;* and
6. *Map Exhibit 3, Montclair Zoning Map.*

An action by the City Council to adopt the MAUCRSL would be followed by a period of time (approximately six months or longer) to set up a Cannabis Management and Compliance Program before the City would be in a position to accept applications. Required actions include the following:

1. Development of a variety of forms;
2. Submission of a fee resolution to the City Council;
3. Development franchise agreements, a placard program, and other administrative requirements;

4. Establishing a web-based application process;
5. Establishing agreements with State Licensing Agencies; and
6. Other requirements and mandates as defined by the MAUCRSL.

FISCAL IMPACT: The fiscal impact on the General Fund related to approving the MAUCRSL is indeterminate at this time; however, the City Manager's office projects the impact would be positive.

In order to effectively estimate a General Fund impact, the City Council would first need to consider adoption of a resolution fixing various fees, including the following:

1. Administration, enforcement, application and annual reauthorization fees;
2. Franchise fees;
3. A schedule of fees related to penalties and fines; and
4. Other fees determined necessary to implement provisions of the MAUCRSL.

In the event the MAUCRSL is adopted, a fee resolution would be presented to the City Council for consideration.

The potential for fee- and discipline-based revenue is difficult to ascertain, however, it could range from minimal to significant. For example, under the MAUCRSL the penalty for illegal commercial cannabis activity is three times the annual application fee for the type of illegal commercial cannabis activity engaged in, times each day of the violation. If the annual application fee is \$10,000, then the fine for each day of the violation under this scenario would be \$30,000. The purpose of the substantial fine against illegal commercial cannabis activity in the City is to undermine and eliminate the black market for cannabis. The mark of success would be the elimination of illegal commercial cannabis activities in the community and the elimination of this potential revenue source. It is noted, however, that there would be a positive corollary impact for legal commercial cannabis activities that would see an increase in sales and, thus, a positive General Fund impact related to franchise fees, taxes, and other fee-related assessments. Fees for penalties and fines would be based on the number of illegal commercial cannabis activities enforced against by the City, and other fines and penalties associated with enforcement of the MAUCRSL.

Presuming a five percent annual franchise fee, for each vendor earning \$2.5 million annually (a conservative annual estimate on earnings based on industry data), the franchise fee could generate an estimated \$125,000 annually per vendor, for a projected total of approximately \$500,000 to \$1.5 million annually in franchise fee revenue, based on the number of permits issued. Without further analysis, it may be prudent to initially introduce a lower franchise fee of approximately 3 percent during the first year of operation to allow each permittee to develop their business model.

Other state sales taxes and local transactions and use taxes would potentially produce an additional \$100,000 to \$350,000 annually, based on the number of permits issued.

Application and reauthorization fees have the potential to produce \$50,000 to \$300,000 annually, based on rates set by the resolution of the City Council and the number of permits issued.

A range of other annual administrative and processing fees could generate from \$50,000 to \$100,000 annually, based on final approval of a fee resolution approved by the City Council, and the number of permits issued.

The City would also stand to be a beneficiary of state grants provided to cities that have adopted a regulatory scheme for commercial cannabis activity. Grants are to be distributed on a *pro rata* share to promote the public safety and welfare and may have significant annual value in excess of \$100,000.

In the event that the MAUCRSL is adopted by the City Council, a fee resolution will be submitted for approval, at which time City staff anticipates providing more concrete estimates related to a regulated commercial cannabis marketplace in Montclair.

RECOMMENDATION: Staff recommends the City Council take the following actions:

1. Receive an executive report on the City's response to Proposition 64 and potential regulations on commercial cannabis activity in the City of Montclair; and
2. Provide direction to city staff on any future consideration regarding the Medicinal and Adult-Use Cannabis Regulation and Safety Law for the City of Montclair (MAUCRSL).