SPECIAL JOINT MEETING
Atascadero City Council
Atascadero Planning Commission

Tuesday, August 29, 2017
6:00 P.M.

Atascadero City Hall Council Chambers, 4th Floor
6500 Palma Avenue, Atascadero, California
(Enter from Lewis Avenue)

AGENDA

ROLL CALL:

DISCUSSION:

1. Atascadero Cannabis Regulations Proposed Zoning Amendments
   - Fiscal Impact: Any potential amendments to the Zoning Code addressing adult
     and medical use of cannabis may have impacts on staff resources. Any
     revenue that may be associated with these amendments is currently unknown.
   - Recommendation: Council and Planning Commission discuss, and Council
     provide direction, pertaining to amending Title 9, Planning and Zoning, of the
     Atascadero Municipal Code in response to Proposition 64 and Senate Bill 94,
     adult and medical use of cannabis. [Community Development]

ADJOURNMENT:

The City Council will adjourn to its next Regular Session on September 12, 2017; and the Planning
Commission will adjourn to its next Regular Session on September 5, 2017.

STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO
CITY OF ATASCADERO

AMANDA MUTHER, being fully sworn, deposes, and says: That she is the Deputy City Clerk of the City of
Atascadero and that on August 23, 2017, she caused the above Notice to be posted at the Atascadero City Hall,
6500 Palma Avenue, Atascadero, California and was available for public review in the Customer Service Center at
that location.

AMANDA MUTHER, Deputy City Clerk
City of Atascadero
Atascadero City Council
Staff Report - Community Development Department

Atascadero Cannabis Regulations
Proposed Zoning Amendments

RECOMMENDATION:

Council and Planning Commission discuss, and Council provide direction, pertaining to amending Title 9, Planning and Zoning, of the Atascadero Municipal Code in response to Proposition 64 and Senate Bill 94, adult and medical use of cannabis.

REPORT-IN-BRIEF:

At the April 25, 2017 City Council Meeting, the City Council evaluated community input and discussed options towards a zoning code amendment to address Proposition 64, also known as the Adult Use of Marijuana Act (“AUMA”). The City Council directed staff to return with additional information towards the formulation of code revisions.

Since the City Council hearing, staff has continued to gather information from other agencies, seminars, roundtable discussions and community input. The state has also established a new website known as the California Cannabis Portal (https://cannabis.ca.gov). The new website provides detailed information on the state’s effort to regulate the cannabis industry. This website will continue to be updated to provide information on each of the cannabis licenses that will be issued, starting in 2018, in addition to links to a wide variety of important resources for consumers. The state has also released a draft Environmental Impact Report that addresses the new licensing process.

On June 27th, the Governor signed Senate Bill 94 (SB 94), repealing the 2015 Medical Cannabis Regulation and Safety Act (“MCRSA”) but including certain provisions from MCRSA, regarding medical marijuana, that can be found in Proposition 64. SB 94 renamed the AUMA as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). In addition to consolidating state laws regarding medical marijuana and adult-use marijuana, SB 94 introduced more uniform terminology. SB 94 revised references in existing law to refer to “marijuana” or “medical marijuana” as “cannabis” or “medicinal cannabis”, and revised references of “nonmedical” to “adult-use.” Business
and Professions Code section 26200, which is part of MAUCRSA, expressly recognizes the ability of cities to completely prohibit all adult-use (recreational) cannabis businesses or to regulate such businesses.

Preparation of a zoning code that responds to new state regulations starts by formulating a set of new land use definitions that describe each of the local activities to be licensed by the state (Attachment 1). In order to determine what activities will ultimately be allowed in the City, each item must be defined, so that it is clear what will be allowed, conditionally allowed, or prohibited in the City’s Zoning Code.

The state’s licensing process will treat medical cannabis no differently than adult use cannabis. Designing the City’s amended Zoning Code regulations, to respond to the new state licensing process while also responding to local needs, will help avoid confusion and overlap. The City’s Zoning Code should also be formulated this way to avoid confusion and overlap. Staff has researched state licensing, and the draft codes of other communities, to formulate draft regulations and options for each of the categories detailed below. Following Council discussion, Zoning Code amendments will require Planning Commission review followed by City Council review and adoption.

DISCUSSION:

Background:
At the April 25, 2017 City Council Meeting, the Council reviewed each of the land use areas to address in response to Proposition 64. The City Council gave staff broad direction on cannabis land uses activities that could occur in the City and asked staff to return following research into these specific topic areas. The additional information gathered and included in this report is designed to help Council formulate amendments to the Zoning Code (Title 9, Planning and Zoning, of the Atascadero Municipal Code). This report examines the state’s licensing process, and further explores suggested Zoning Code amendments that would allow certain commercial uses such as cannabis testing facilities, manufacturing, deliveries and other non-retail land uses. The suggested Zoning Code amendment options would also refine the City’s regulations on private cultivation.

Zoning Code Amendment Process:
The development of these important Zoning Code amendments is a gradual process that relies on continuous community involvement. Four phases of the process, listed below, were identified and presented to Council:

- Phase 1 – Gather public feedback through a series of public workshops and informational discussions. *This phase is complete.*
- Phase 2 – Direction from the City Council on the formulation of local Ordinances. *This phase is complete.*
- **Phase 3 – Provide refined information to the City Council based on specific feedback. Introduce land use definitions and information towards Zoning Code development while hearing additional input.**
• Phase 4 - Hold required public hearings of the Planning Commission and City Council to review final amended Zoning Code language, introduction of ordinance on first reading and finally, adoption of ordinance on second reading.

Analysis:

Section 1 – State Licensing

State Licensing Process – Commercial Activities
The primary governing authority for the regulation of cannabis is known as the Bureau of Cannabis Control. Responsibility for licensing is given to:

A. Bureau of Cannabis Control (Testing, Retail, Distribution)
B. Department of Public Health (Manufacturing)
C. Department of Food and Agriculture (Cultivation)

The state authority known as “CalCannabis” (http://calcannabis.cdfa.ca.gov/) has prepared the framework to establish 19 different types of commercial cannabis licenses. Attachment 2 includes a FAQ from CalCannabis that describes each of the license types. The types of licenses are as follows:

• 13 different types of commercial cultivation
• 2 manufacturing licenses pertaining to non-volatile / volatile solvents used for processing
• 1 license for testing
• 1 license retail sales
• 1 license for wholesale distribution
• 1 license for what is considered a “microbusiness” (small retail and cultivation not exceeding 10,000 sf in size)

Similar to alcohol licensing by ABC, the state licensing process for cannabis will provide regulations that help to ensure public safety and neighborhood compatibility. The state cannot issue licenses to applicants whose operations violate the provisions of any local ordinances or regulations. The minimum requirements to obtain a state license for a commercial operation include:

• Originally, under Proposition 64, a license would not be issued to a business licensed as a retailer of alcoholic beverages; however, SB 94 changes that and will allow a license to be issued to an alcohol retailer.
• A license will not be issued to a business that is within 600-feet of a school, daycare, center, or youth center (a municipality may adopt a larger radius).
• A license will not be issued if the business violates any local ordinance or state regulations in effect prior at the time or prior to license issuance.
Section 2 – Land Use Definitions
The City should have definitions that accommodate the categories of state licenses to describe each potential land use. A detailed draft description of the below proposed definitions are included in Attachment 1.

- Cannabis
- Cannabis Canopy
- Commercial Cannabis Cultivation
- Personal Cannabis Cultivation
- Cannabis Delivery
- Cannabis Dispensary
- Mobile Delivery
- Mobile Dispensary
- Cannabis Distribution
- Cannabis Edible Product

- Cannabis Hoop Structure
- Cannabis Greenhouse
- Cannabis Manufacturing Volatile
- Cannabis Manufacturing Non-Volatile
- Cannabis Nursery
- Cannabis Testing Facility
- Cannabis Transport
- Industrial Hemp

Section 3 – Draft Regulations
Staff has developed a set of Zoning Code amendment options for each of the categories identified by City Council. Attachment 3 includes a map of commercial districts that fall outside of the 600-foot buffer zone required by state licensing. The Downtown Commercial Zone and the Retail Commercial Zone have been removed from the map as these zones may not be appropriate for manufacturing, testing labs, or distribution centers.

1. Personal Cultivation – Indoors
The City Council asked staff to provide information on options for regulating personal cultivation. The following are components that may be regulated:

- Number of plants and size/location of planting area
- Type of structure
- Ensure a construction permit is obtained for new electrical, or other construction
- Ensure that sleeping rooms are not converted for cultivation use
- Consider establishing a database of personal cultivation sites

Staff has considered the establishment of a database system for personal cultivation sites. Although the idea has merit, it could be somewhat problematic because it may create a potential security risk for those who wish to remain discreet and it is likely to create an additional burden on staff. Staff would need to maintain, update and monitor the list. At this time, there are no additional staff resources available to maintain nor enforce such a list. Instead, it is recommended that performance standards, along with firm code enforcement options (increased penalties, confiscation of plants), be considered for those who violate personal cultivation allowances.

Given the evolution of state laws, it is important to treat personal medical cultivation and personal adult cultivation the same. If not, the implementation and enforcement of personal cultivation may be confusing and challenging for both the public and City staff to understand. The proposed Zoning Code language below would cover both medical and adult personal use cultivation.
Suggested Zoning Code for Personal Indoor Cultivation

<table>
<thead>
<tr>
<th>Suggested code options</th>
<th>□ No more than six plants per residence may be allowed for both medical and/or adult personal use whether indoors or outdoors.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>□ No more than 120 square feet of indoor residential space, per residence, may be utilized for personal cultivation.</td>
</tr>
<tr>
<td></td>
<td>□ More than six plants, up to a maximum of 15 plants per residence for personal use may be allowed with approval of an administrative use permit and site registration.</td>
</tr>
<tr>
<td></td>
<td>□ Cultivation may not be allowed within a room designed for sleeping.</td>
</tr>
<tr>
<td></td>
<td>□ Cultivation site shall not be visible to the public or from adjacent residences.</td>
</tr>
<tr>
<td></td>
<td>□ A construction permit shall be required for new electrical, plumbing, or other construction that would otherwise be subject to a construction permit.</td>
</tr>
<tr>
<td></td>
<td>□ Hoop structures, transparent greenhouses, and similar transparent or partial structures are considered outdoor cultivation.</td>
</tr>
<tr>
<td></td>
<td>□ Landlord approval required for personal cultivation on rental properties.</td>
</tr>
<tr>
<td></td>
<td>□ Violation of the personal cultivation standards shall be subject to a municipal code violation.</td>
</tr>
</tbody>
</table>

2. **Personal Cultivation- Outdoors**

The City Council asked staff to bring back a reasonable regulation with protections and conservative limits:

- Set maximum number of plants for medical or adult use
- Ensure screening, setbacks, protection from access
- Consider registration system or database for personal cultivation
- Ensuring neighborhood compatibility, minimize odor

Draft Regulations for Personal Outdoor Cultivation

<table>
<thead>
<tr>
<th>Suggested code options</th>
<th>□ 15-foot setback from property line required for personal outdoor cultivation site. Shall be located 25 feet from nearest adjacent residence.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>□ 120 square foot maximum plant canopy coverage unless a greater coverage is approved with an administrative use permit.</td>
</tr>
<tr>
<td></td>
<td>□ Landlord approval required for rental properties.</td>
</tr>
<tr>
<td></td>
<td>□ Six plants maximum per residence at any time</td>
</tr>
<tr>
<td></td>
<td>□ More than six plants (maximum of 15) may be allowed with approval of an administrative use permit and site registration/approval.</td>
</tr>
<tr>
<td></td>
<td>□ Screening to consist of six foot tall solid wood fence or similar.</td>
</tr>
<tr>
<td></td>
<td>□ Plants shall not be visible to public or from adjacent residences.</td>
</tr>
<tr>
<td></td>
<td>□ Fencing shall not exceed six feet in height unless a fence height exception is obtained</td>
</tr>
<tr>
<td></td>
<td>□ Prohibited on attached residential units within decks, balconies or rooftops unless within a private yard area subject to screening and setbacks.</td>
</tr>
</tbody>
</table>

3. **Commercial Cultivation**

The City Council asked that all commercial cultivation activities be prohibited at this time. There will be 13 different types of licenses issued by the state for commercial cultivation. The City is not required to allow commercial cultivation at this time and this option may be explored at a later date as the industry matures.

Draft Regulations for Commercial Cultivation

| Suggested code options | □ Prohibit all commercial cultivation types, both indoor, outdoor and nursery stock. |
4. **Retail Sales of Cannabis / Medical Dispensaries / Distribution Center**

The City Council asked staff to return with additional information on a retail use that is delivery based only with no on-site retail sales. Delivery services currently operate in other places within the County for medical use. Starting January 1, 2018, the state will begin to offer licenses for delivery to adults (non-medical). Delivery services could be based in the City or outside of the City. Those based in the City would keep potential tax revenue in the City. A delivery service could be based out of a distribution center, which is a small commercial office with no retail storefront. Any cultivation associated with a delivery service would need to occur outside of the City.

Delivery services would offer retail sales of cannabis products that would be delivered to a home in an unmarked vehicle. Ordering would occur through the internet or by phone. Delivery services may not use mail service since that is currently prohibited by Federal law.

Some of the items that need to be considered include:

- Provide specific zoning locations for distribution centers
- Provide aesthetic and sign limitations for a distribution center to discourage an attractive nuisance
- Consider hours of operation
- Consider safety and security for delivery vehicles
- Provide information on local taxation of retail sales and the process to set up new fees, taxes, etc. and potential increase in City revenues

<table>
<thead>
<tr>
<th>Draft Regulations for Cannabis Distribution Center</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Suggested code options</strong></td>
</tr>
<tr>
<td>□ A Cannabis distribution center with no on-site sales may be allowed with a Major Conditional Use Permit (CUP) in CPK, CS and Manufacturing Zones.</td>
</tr>
<tr>
<td>□ Use shall be at least 600 feet from schools, parks, and youth centers.</td>
</tr>
<tr>
<td>□ Use shall be at least 300 feet from another distribution center.</td>
</tr>
<tr>
<td>□ Building signs, and exterior treatment shall be subject to appearance review standards for buildings.</td>
</tr>
<tr>
<td>□ Mobile dispensaries shall be prohibited.</td>
</tr>
<tr>
<td>□ All delivery sales shall originate from a state licensed facility that is operating with a current business license.</td>
</tr>
<tr>
<td>□ Use shall be subject to local excise taxes / fees for retail sales or dispensaries.</td>
</tr>
<tr>
<td>□ Distribution centers shall be subject to annual compliance review.</td>
</tr>
</tbody>
</table>

5. **Testing Facilities for Cannabis**

Testing facilities include medical research of cannabis, as well as labs that test for pesticides, contaminants, TCH, CBD, the active chemical compound that determines potency of cannabis and other types of tests. No retail or wholesale sales to the public would be involved. Under the recent passage of SB 94, no storage of cannabis would be allowed at a testing lab; cannabis distributors or cultivators will be required to store their cannabis on site during testing. Testing lab employees would obtain small
samples of cannabis from a distributor or cultivator and transport those samples to the testing lab. A testing lab can typically fit into a small office building or small warehouse site. Several employees, some of which would be qualified chemists, would operate a lab. Some of the things to consider include:

- Zoning location
- Hours of operation
- Appearance standards

<table>
<thead>
<tr>
<th>Draft Regulations for Testing Labs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suggested code options</td>
</tr>
<tr>
<td>□ Allow testing facilities with an Administrative Use Permit (CUP) in CPK, CS, and Manufacturing zones. Allow in CR zone with Minor Conditional Use Permit.</td>
</tr>
<tr>
<td>□ Shall be prohibited within 600-feet of schools, parks, and youth centers.</td>
</tr>
<tr>
<td>□ Design Review Committee review required for building signs, security, and appearance.</td>
</tr>
<tr>
<td>□ No cannabis related advertising or association with cannabis shall be allowed on exterior of building.</td>
</tr>
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6. Manufacturing Facilities

Over the past couple of years, the cannabis manufacturing industry has become mainstream and is playing an active role in the national financial market. A recent article by Investopedia highlighted several major companies that are getting involved in the manufacturing market. They specialize in items such as pharmaceuticals that help chemotherapy patients, sclerosis and epilepsy. There are also many industries that create topical lotions, edible products and even veterinary products. However, industrial uses in this category are fairly new and there are no known local examples to learn from.

There are two types of non-retail manufacturing facilities that are recognized by the State Licensing Authority. The state utilizes the term Type 1 for non-volatile manufacturing and Type 2 for volatile manufacturing. A Type 1 facility is a facility that does not use hazardous or volatile solvents. Type 1 would typically consist of food products, edible items and finish products for topical use that do not include the use of solvents or heavy manufacturing.

A Type 2 manufacturing process uses flammable solvents and other more intensive manufacturing processes similar to the City’s existing “Manufacturing and Processing High Intensity”. Type 2 manufacturing is employed to create other product types including extracts, oils, tinctures and topical applications. Currently, there are many examples of these manufacturing operations that are operating in the pacific northwest in the states of Oregon and Washington. These manufacturing uses can operate in a small warehouse space or even a bakery type space depending on level of intensity and storage/operation needs.
A cannabis manufacturing facility is a facility that could be locally taxed based on floor area or based on sales. It may be premature to create and allow this land use prior to establishing an appropriate tax that will assist the City in accommodating any necessary planning, building, or law enforcement staffing that will be needed to help regulate such businesses.

Things to consider:
- Tax structure
- Zoning
- Distance separation
- No-retail sales, no storefront
- Appearance and security
- Neighborhood compatibility and protection from odors

**Draft Regulations for Manufacturing Uses**

<table>
<thead>
<tr>
<th>Suggested code options</th>
<th>□ Type 1 manufacturing facilities allowed with a Conditional Use Permit (CUP) in CPK, CS and Manufacturing Zone.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>□ Type 2 manufacturing facilities allowed with a Conditional Use Permit in the CPK, CS and Manufacturing zone.</td>
</tr>
<tr>
<td></td>
<td>□ Manufacturing facilities shall be prohibited within 600 feet from schools, parks, and youth centers.</td>
</tr>
<tr>
<td></td>
<td>□ Manufacturing facilities shall not include retail sales in the City unless by delivery service.</td>
</tr>
<tr>
<td></td>
<td>□ Manufacturing facilities shall be subject to an annual compliance review.</td>
</tr>
<tr>
<td></td>
<td>□ Design Review Committee review shall be required for all facilities.</td>
</tr>
<tr>
<td></td>
<td>□ All manufacturing facilities shall be subject to local excise taxes / fees.</td>
</tr>
</tbody>
</table>

**Cannabis Delivery Services**

Delivery services consist of a personal delivery vehicle that distributes retail deliveries to adults in a discreet manner. Delivery services allow for the delivery of cannabis for medical or adult use. Delivery services could have a distribution center within Atascadero or come from a nearby community. In order to avoid mobile sales such as from an “ice cream” truck, the Zoning Code option suggests that all deliveries shall originate from a state licensed facility and that mobile deliveries shall be prohibited.

The state will require specific licensing for a delivery service. A delivery service with its origin in the City can have its sales taxed by the City.

**Draft Regulations for Delivery Services**

<table>
<thead>
<tr>
<th>Suggested code options</th>
<th>□ Deliveries to retail customers shall be prohibited between the hours of 11PM and 7AM.</th>
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<tr>
<td></td>
<td>□ Delivery services shall be provided by unmarked vehicles.</td>
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<tr>
<td></td>
<td>□ Out of town vendors and local vendors shall be subject to a City business license. Business licenses shall be reviewed/renewed annually.</td>
</tr>
<tr>
<td></td>
<td>□ Mobile dispensaries shall be prohibited.</td>
</tr>
<tr>
<td></td>
<td>□ All delivery sales shall originate from a state licensed facility that is operating with a current business license.</td>
</tr>
<tr>
<td></td>
<td>□ City could require deliveries to be from a brick and mortar distribution site that is located within the City or County.</td>
</tr>
</tbody>
</table>
8. **Smoking and Consumption**

Proposition 64 prohibits public consumption of cannabis. However, the state does not provide a definition of “public” therefore it is up to the courts, or each local jurisdiction, to define what is considered a public place. Based on alcohol consumption, the courts have generally ruled that any place freely accessible by your mail carrier or friendly neighborhood solicitor, is public. Therefore, a public sidewalk, street, a front porch, driveway, or other space directly exposed to the public right of way may be considered “public” for the purposes of cannabis consumption.

Based on feedback from residents, the overwhelming majority wanted cannabis smoking in public prohibited. The City’s Zoning Code should provide for a prohibition on public cannabis consumption, including vaping, smoking and consumption of edible products even through the state already prohibits such consumption. New definitions have been crafted to carefully describe public spaces where smoking, vaping, and ingesting of both tobacco and cannabis products shall be prohibited.

<table>
<thead>
<tr>
<th>Draft Smoking Regulations</th>
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<tr>
<td><strong>Suggested Code Options</strong></td>
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**Section 4 – Taxation**

The state has combined medical and adult use cannabis for the purposes of taxation and local excise taxes. To get a better understanding of taxation, Prop 64 authorizes the State of California to collect the following excise taxes on medical and non-medical cannabis:

- 15% state excise tax on gross retail receipts for medical dispensaries and non-medical retail outlets
- $9.25 per dry weight ounce on cannabis flower state excise tax for medical and non-medical cultivation
- $2.75 per dry weight ounce on cannabis leaves state excise tax for medical and non-medical cultivation
- Sales tax to be collected on all non-medical retail sales

Personal cultivation of both medical and non-medical cannabis is exempt from cultivation taxes imposed by the state.
A local municipality has the ability to impose excise taxes in addition to state excise taxes which include:

- New Business license taxes for cultivation, dispensaries, retail sales, manufacturing, and delivery services
- Business regulatory fees to recover cost of implementing both medical and non-medical commercial operations

These additional taxes would require voter approval and would need 2/3 voter approval if the tax is utilized for a specific reason (i.e. law enforcement services / roads) versus a general tax that goes into the General Fund. Local taxes will need to be maintained at lower level (less than 8%) to ensure that the industry is not driven to the black market.

If the City proceeds with amendments to the Zoning Code towards some form of cannabis manufacturing distribution center(s) or delivery, a process to adopt appropriate taxes and business license fees will need to be brought back to Council for approval. The City may tax cannabis sales from a local distribution or manufacturing center. Additionally, the City may adopt a different fee structure for the permitting and licensing of cannabis facilities.

Allocation of State Taxes
The State Legislative Analysis estimates that retail sales of cannabis will exceed the wine industry at 44 billion dollars each year. Currently, the wine industry is reaching 33 billion dollars annually. The tax revenue from the legalization of non-medical cannabis will range from the high hundreds of millions of dollars to over $1 billion dollars annually. State law has allocated where those monies are to be expended.

### Percentage Allocation

<table>
<thead>
<tr>
<th>Allocation</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Law Enforcement / Health Impacts</td>
<td>20%</td>
</tr>
<tr>
<td>Environmental Clean Up &amp; Remediation</td>
<td>20%</td>
</tr>
<tr>
<td>Youth programs, substance abuse, education etc.</td>
<td>60%</td>
</tr>
</tbody>
</table>

Section 5 – State Regulations
All state-licensed commercial cannabis activities will be subject to state regulations that are being drafted by the various state licensing authorities. The Department of Food and Agriculture, Department of Public Health, and Department of Consumer Affairs circulated draft regulations pertaining to medicinal cannabis activities. With the passage of SB 94, these regulations will require revisions. It is anticipated that further draft regulations will be released this fall.
Conclusion:

This is a new industry with both local and federal legal complexities. With additional time, the industry will be refined, and state and federal law may get closer aligned. Currently, cannabis is still federally prohibited, therefore its long term future is unknown. However, the City has no choice but to respond to Proposition 64 and SB 94, as the voters of the state have chosen to allow adult use. Although the City does not have to allow all forms of the retail cannabis industry, defining it and regulating it in moderation will reduce the illegal market and will create the potential for a tax revenue that can assist enforcement and regulation. It is easier to start with stricter regulations, then later explore options as warranted, than it is to allow all forms of cannabis then attempt to roll back ordinances. Furthermore, since this industry is new, many of its land use implications and revenue vs cost implications are not known. Based on this fact, many local communities are choosing to wait until the industry matures before adopting codes to allow commercial business.

It is the City’s goal to adopt regulations prior to January 1, 2018. Since the Zoning Code is part of Title 9, it requires review and action by both the Planning Commission and City Council. To allow time for the second reading and the 30 day time period for code adoption, final action by the City Council will need to take place on or prior to the October 24, 2017 City Council meeting.

There are five primary considerations that need to be taken into consideration prior to allowing commercial cannabis business in the City. At this time, staff continues to work on Stage 2 of this process:

1. Community Research and Outreach (*Completed*)
2. Land Use Regulations (*Currently in process*)
3. Full Cost Recovery (Application, use permit and regulatory fees)
4. Revenue (Taxation Ballot Measure)
5. Monitoring and Compliance (As defined by ordinance)

Following the completion of land use regulations, which is the primary discussion of this report, the City will need to shift the discussion towards application fees and taxation (should commercial activities be allowed). The earliest that a tax measure could be placed on the ballot would be November 2018.

Concurrences:

Staff has reviewed the proposed code options with each of the City departments. Police Department staff are concerned about impacts to staffing levels and the need for additional law enforcement with the implementation of new land uses that include cannabis businesses. Since the industry is not legal federally, and utilizes cash for all of its transactions, the potential for criminal activity may be higher than that of other business types. Police staff are concerned that an increase in cannabis related business will directly result in an increase in criminal activity which will directly result in an increase in law enforcement that cannot be accommodated under current staffing. The unknown cost vs revenue of the industry along with the relatively poor perception of cannabis businesses may be reason to postpone implementation of land use policies that allow for anything other than testing labs or personal cultivation.
CEQA Determination:
The action within this Staff Report and City Council direction is not a project within the meaning of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000, et seq.) Section 15378 and is therefore exempt from CEQA. It will not result in any direct or indirect physical change in the environment because the administrative activities of the City of Atascadero (government) will not result in direct or indirect physical changes in the environment.

Currently, the State of California has drafted an Environmental Impact Report (EIR) that addresses the implementation of the new state licensing process. The EIR is designed to address the potential impacts of licensing all the way down to the local level. A copy of the draft EIR can be viewed on the state website at CalCannabis.

FISCAL IMPACT:

Any potential amendments to the Zoning Code, addressing adult and medical use of cannabis, may have impacts on staff resources. Code enforcement, law enforcement and planning application activities are likely to increase with the passage of Proposition 64 and SB 94, but not directly as a result of amendment to the Zoning Code. The passage of a revised Zoning Code is intended to reduce the illegal activities associated with cannabis, and therefore reduce law enforcement activities over time. However, there will be an increase in planning applications and code enforcement activities especially within the first year or two as the new regulations are put into place. It is anticipated that the increased funding from state revenue and the potential increased local tax revenue will offset local fiscal impacts. However, at this time, the balance between increased revenue and increased impacts to staff resources are unknown.

A recent analysis completed by SCI consulting group (August 14, 2017) found that the average general fund revenue that will be generated by cannabis sales in a community that allows for both commercial cultivation and sales will be $15 per capita. In other words, for a community with a population of 100,000 the average revenue is 1.5 Million. In Atascadero, this calculator would project a revenue of approximately $450,000 annually, assuming commercial sales and cultivation.

ATTACHMENTS:

1. Draft land use definitions
2. Q & A from Cal Cannabis state licensing
3. Buffer map identifying schools, youth centers etc. and allowable commercial zones
Attachment 1: Land Use Definitions

- **Cannabis.** “Cannabis” or “cannabis product” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof, the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code. For the purposes of this Title, “cannabis” does not include “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code (See “Industrial Hemp”).

- **Cannabis Canopy.** All areas occupied by any portion of a cannabis plant, encompassing all vertical planes (i.e. stacking of plants), whether contiguous or noncontiguous on any one site. Cannabis Canopy shall be measured by taking the longest length and widest width of existing plants (including all gaps and open areas between plants) and multiplying the length and width to get square footage.

- **Cannabis Cultivation “commercial”** Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for the sale, trade or exchange to others for money, services or other goods.

- **Cannabis Cultivation “personal”** Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for personal Adult use only.

- **Cannabis Delivery.** The commercial transfer of cannabis or cannabis products from a licensed dispensary, up to an amount allowed by the Bureau of Marijuana Control or its successor, to a primary caregiver, qualified patient, or Adult individual as defined in Section 11362.7 of the California Health and Safety Code, a licensed cannabis dispensary, or a licensed testing laboratory.

- **Cannabis Dispensary.** A facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

- **Mobile Delivery.** The commercial transfer of cannabis or cannabis products from a dispensary, up to an amount allowed by the Bureau of Marijuana Control or its successor, to a primary caregiver, qualified patient, or Adult customer. “Mobile Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables a primary caregiver, qualified patient, or customer to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or products.

- **Mobile Dispensary.** The commercial transfer of cannabis or cannabis products from an outdoor location or mobile structure (e.g. food truck or food cart), up to an amount allowed by the Bureau of Marijuana Control or its successor, to a primary caregiver, qualified patient, or customer.

- **Cannabis Distribution.** The procurement, sale, and transport of cannabis and cannabis products between entities authorized pursuant to this chapter.
• **Cannabis Edible Product.** Manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code."

• **Cannabis Greenhouse.** A fully enclosed permanent structure that is clad in transparent material. For the purposes of this Title, cannabis cultivation within an enclosed, non-transparent greenhouse is considered indoor cultivation.

• **Cannabis Hoop Structure.** A readily removable plastic covered hoop structure without in-ground footings or foundations, which are not more than 12 feet in height and do not have vertical sides that exceed 4 feet in height. Cannabis hoop structures are accessory uses on residential land use categories which shall not exceed 120 square-feet. For the purposes of this Title, cannabis cultivation within hoop structures is considered outdoor cultivation.

• **Cannabis Manufacturing.** 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, using volatile or non-volatile organic compounds, at a fixed location, that packages or repackages cannabis or cannabis products, or labels or relabels its containers.

• **Cannabis Nursery.** A licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. No finished products or mature flowering plants are available at a Cannabis Nursery.

• **Cannabis Testing Facility.** A facility, entity, or site in the state that offers or performs test of cannabis or cannabis products and that is both accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state, and registered with the California State Department of Public Health.

• **Cannabis Transport.** Transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to the California Business & Professions Code Sections 19300, et seq. and 26000, et seq.

• **Industrial Hemp.** A fiber or oilseed crop, or both, that is limited to nonpsychoactive types of the plant Cannabis sativa L. and the seed produced therefrom, having no more than three-tenths of 1 percent etrahydrocannabinol (THC) contained in the dried flowering tops, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin or flowering tops extracted therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.
Frequently Asked Questions

When can I apply for a cannabis cultivation license?

Applications will be available for all cannabis cultivation licenses—both medical and adult-use (nonmedical)—on January 1, 2018.

What types of cannabis cultivation licenses will be offered in California?

11 Types of State (Medical) Cannabis Cultivation Licenses

The California Department of Food and Agriculture (CDFA) is authorized to issue the following 11 types of medical cannabis cultivation licenses:

**Type 1—Specialty Outdoor**
For outdoor cultivation that uses no artificial lighting for a 5,000-square-foot or smaller total canopy size on one premises, or for up to 60 mature plants on noncontiguous plots.

**Type 1A—Specialty Indoor**
For indoor cultivation that exclusively uses artificial lighting for 601 to 6,000 square feet of total canopy size on one premises.

**Type 1B—Specialty Mixed-Light**
For cultivation that uses a combination of natural and supplemental artificial lighting at a maximum threshold (which will be determined by the licensing authority) for 2,501 to 5,000 square feet of total canopy size on one premises.

**Type 1C—Specialty Cottage**
For cultivation that uses a combination of natural and supplemental artificial light at a maximum threshold (which will be determined by the licensing authority) on one premises for:
- 2,500 square feet or less of total canopy size for mixed-light cultivation
- up to 25 mature plants for outdoor cultivation, or
- 600 square feet or less of total canopy size for indoor cultivation

**Type 2—Small Outdoor**
For outdoor cultivation that uses no artificial lighting for 5,001 to 10,000 square feet of total canopy size on one premises.

**Type 2A—Small Indoor**
For indoor cultivation that exclusively uses artificial lighting for 5,001 to 10,000 square feet of total canopy size on one premises.
Type 2B—Small Mixed-Light
For cultivation that uses a combination of natural and supplemental artificial lighting at a maximum threshold which will be determined by the licensing authority for 6,001 to 10,000 square feet of total canopy size on one premises.

Type 3—Outdoor
For outdoor cultivation that uses no artificial lighting for 10,001 square feet to up to 1 acre of total canopy size on one premises.
Note: CDFA will limit the total number of Type 3 licenses allowed.

Type 3A—Indoor
For indoor cultivation that exclusively uses artificial lighting for 10,001 to 22,000 square feet of total canopy size on one premises.
Note: CDFA will limit the total number of Type 3 licenses allowed.

Type 3B—Mixed-Light
For cultivation that uses a combination of natural and supplemental artificial lighting at a maximum threshold which will be determined by the licensing authority for 10,001 to 22,000 square feet of total canopy size on one premises.
Note: CDFA will limit the total number of Type 3 licenses allowed.

Type 4—Nursery
For cultivation of medical cannabis solely as a nursery. Examples of typical nursery activities include cloning and seed propagation.
Note: Type 4 licensees may transport live plants. If they also hold a Type 12 transporter license, please contact the Bureau of Medical Cannabis Regulation for information on how to obtain a Type 12 transporter license via email or call (301) 532-5210.

13 Types of State (Adult Use (Nonmedical) Cannabis Cultivation Licenses:
The California Department of Food and Agriculture (CDFA) is authorized to issue the following 13 types of adult-use cannabis cultivation licenses:

Type 1—Small Specialty Outdoor
Type 1A—Small Specialty Indoor
Type 1B—Small Specialty Mixed-Light
Type 2—Small Outdoor
Type 2A—Small Indoor

Type 5—Large Outdoor
For outdoor cultivation that uses no artificial lighting for more than 1 acre of total canopy size on one premises.
Note: CDFA will not issue any Type 5 licenses prior to January 1, 2023.

Type 5A—Large Indoor
For indoor cultivation that exclusively uses artificial lighting for more than 22,000 square feet of total canopy size on one premises.
Note: CDFA will not issue any Type 5 licenses prior to January 1, 2023.
Type 5B—Large Mixed-Light
For cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold (which will be determined by the licensing authority) for more than 22,000 square feet of total canopy size on one premises.
Note: CDF has not issued any Type 5 Licenses prior to January 1, 2018.

How are you developing the cannabis cultivation licensing regulations?

The California Department of Food and Agriculture (CDF) is required to follow the statutory requirements found in the California Administrative Procedure Act. CDF works with stakeholders, the public, and licensing authorities to develop the standards and regulations necessary to successfully implement a statewide cannabis cultivation regulatory structure in California.

SPECIAL NOTE: Proposed regulations for medical cannabis cultivation licensing are now available for public review and comment. Read more here.

Proposed regulations for adult-use (nonmedical) cultivation licensing will be available for public review and comment later in 2017. CDF intends to use the emergency rulemaking process in 2017 for the adult-use licensing regulations and expects these regulations to be similar to the medical cannabis cultivation regulations. Until these proposed regulations are released, prospective adult-use cultivation applicants might benefit from reviewing the licensing requirements outlined in the Adult Use of Marijuana Act (AUMA, also known as Proposition 64). Examples of requirements listed in AUMA include providing detailed description of the applicant’s operating procedures and a comprehensive diagram of the proposed premises.

How do I apply for a cannabis cultivation license?

The California Department of Food and Agriculture (CDF) is not issuing any cultivation licenses until January 1, 2018. However, in preparation for state licensure, CDF recommends staying up to date on city and/or county government requirements for local cannabis cultivation licenses and permits.

How can I receive updates on the status of California’s cultivation licensing regulations?

The California Department of Food and Agriculture (CDF) regularly posts information on its CalCannabis Cultivation Licensing website and via these three social media channels: Facebook, Instagram, and Twitter. Email alerts are another way to get information; please sign up here.

Public input is greatly encouraged during the official public comment periods. The 45-day comment period for the proposed medical cannabis cultivation licensing regulations is open now; the last day to submit comments is Wednesday, June 14, 2017, by 6pm (PST). For tips on how to submit comments, please click here.
Attachment 3: Buffer Zone Maps: These maps illustrate commercial zones that are at least 600 feet from sensitive land uses that could accommodate Commercial uses such as manufacturing, testing labs, or delivery service businesses.

600 foot buffer map: Traffic Way Area
600 foot buffer map: Morro Road/Downtown

Cannabis Buffer Map - Downtown / Morro Road

Legend
- Circulation - Aerial Entries
- CP: Commercial Professionals
- CIR: Commercial/Recreational
- CS: Commercial Service
- CPK: Commercial Park
- I: Institutional
- IP: Industrial Park
- 600 Foot Buffer

Business Type
- Churches
- Daycares
- Public Parks
- Schools
- Youth Centers

1 inch = 1,000 feet
600 foot buffer map: West Morro Road

Legend
- Conservation - Aerial Laboratories
- CP: Commercial Professional
- CO: Commercial Office
- CR: Commercial Retail
- CS: Commercial Service
- CPK: Commercial Park
- I: Industrial
- IP: Industrial Park

Business Type
- Church
- Daycare
- Park
- School
- Youth Center

1 inch = 1,000 feet

CITY OF ATASCADERO
Community Development Department
600 foot buffer map: North El Camino Real
600 foot buffer map: Mid El Camino Real

Cannabis Buffer Map - Mid El Camino Real

Legend
- Circulation - Aerial Roads
- DP: Commercial Professional
- CR: Commercial Retail
- CS: Commercial Service
- CPN: Commercial Park
- I: Industrial
- IP: Industrial Park
- 600 Foot Buffer

1 inch = 1,000 feet

CITY OF ATASCADERO
Community Development Department