



# Adult Use of Marijuana Act

*Council Workshop, February 1, 2017 – David Swing, Chief of Police*

# Proposition 64

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- Proposition 64 Overview
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# Background

- Recreational Marijuana Passed on Nov 8, 2016
- Previously passed in several other states – Colorado, Oregon, Washington and Alaska
- Morgan Hill voters supported Prop 64 at 58%

# Goal of Workshop

Seeking policy direction in areas of:

1. Retail sales
2. Delivery services
3. Commercial cultivation
4. Production of marijuana infused or related products
5. Smoking on public sidewalks

## Current Ordinances

- MHMC 9.16.010 and 9.16.030 – prohibits all activities related to cultivation, delivery and dispensing of marijuana (silent on production)
- MHMC 8.44 – prohibits smoking in public areas except sidewalks not within 25' of a door or window – includes marijuana

## Prior Council Actions

- May 2011 – Added MHMC 9.16 prohibiting Medical Marijuana Distribution Facilities
- July 2011 – Supported Cities Association resolution requesting consistent State and Federal regulation of medicinal marijuana

## Prior Council Actions

- April 2012 – Amended MHMC 8.44 which strengthened secondhand smoke ordinance
- January 2016 – Amended MHMC 9.16 to prohibit cultivation, delivery services and dispensaries

## Recent Enforcement History

- **Two commercial marijuana grows**
  - One with 2800 plants in a warehouse
  - One with 311 in a rented home, electricity stolen
- **Four honey oil labs in MH and nearby areas**
  - One in an industrial area with over 200lbs of finished product
  - Another found oil and 3 lbs of heroin
- **Vehicle stop uncovered two ounces of concentrated marijuana**



# Proposition 64 Overview

- Allows possession up to one ounce of marijuana and edibles for those 21 and older
- Provides licensing and state tax structure for cultivation and sale

# Proposition 64 Overview

- Allows local governments (LG) to prohibit the establishment or operation marijuana businesses – prohibition required for control
- LG cannot prohibit indoor cultivation for personal use or possession up to an ounce if 21 years of age or older

# Before and After Prop 64

Offense (21+)	Before Prop. 64	After Prop. 64
Possession of <1 oc of cannabis	\$100 fine	Legal
Possession of <8 grams of concentrate	Misdemeanor (1 year and/or \$500)	Legal
Cultivation < 6 plants	Felony (16 months / 2-3 years)	Legal Ages 18-20 = \$100 fine
Cultivation > 6 plants	Felony (16 months / 2-3 years)	Misdemeanor (6 months and/or \$500)
Possession of cannabis for sale	Felony (16 months / 2-3 years)	Misdemeanor (6 months and/or \$500)
Transportation of Marijuana for Sale	Felony (16 months / 2 - 3 years)	Misdemeanor (6 months and/or \$500)
Third or aggravated offense: cultivation > 6 marijuana plants	Felony (16 months / 2 - 3 years)	Wobbler
Third or aggravated offense: possession for sale	Felony (16 months / 2 - 3 years)	Wobbler

Wobbler – can be prosecuted as felony or misdemeanor

# Prop 64 State Tax Revenue

- State excise tax 15% at retail sale
- Excise tax of \$9.25/dry-weight ounce (flowers) and \$2.75/dry-weight ounce (leaves)
- Estimated revenue of \$1 billion annually per Legislative Analysts Office

# Tax Revenue Opportunities

## State:

- Cities that do not allow sales and cultivation are ineligible to apply for funding.

## Local:

### Other cities cannabis related measures:

- assess \$15-25/square foot for cultivation
- 2.5-10% on production items
- up to 15% for retail sales

# State Tax Expenditures

- After start-up costs, additional funds are allocated as follows:
  - \$10 million/year for 10 years to study the effects.
  - \$3 million/year for four years for impaired driving protocols
  - \$2 million/year for medical marijuana research
  - \$10-50 million/year for community grants

# State Tax Expenditures

- After those obligations are met... 60% to youth education, 20% to environmental restoration, 20% to law enforcement – mostly CHP

# Morgan Hill's Policy Considerations

Activity	Potential Impact	Potential Benefits
Sales and delivery	Increased youth access and drugged driving incidents – increased demand for public safety services	Tax revenue (State and local)*, jobs and ease of access
Cultivation	Increased demand on water and electricity. Increased use of pesticide.	Tax revenue* and jobs
Production	Inventory control and safety/security of facility – potential increased demand on law enforcement	Tax revenue* and jobs
Public Consumption	Second-hand smoking for those nearby – increased demand on law enforcement	TBD

\*tax revenue amount is dependent on details and a passage of a local tax measure



# Other States' Experience

- Colorado experienced a 92% increase in marijuana related traffic deaths (Volume 3: Legalization of Marijuana in Colorado: The Impact)
- Marijuana is five times more potent than it was 30 years ago (Columbia Magazine, Spring 2014)
- Communities of color and low-income have seen a disproportionate share of marijuana businesses (Denver Post, January 3, 2016)
- Marijuana related fatalities doubled in Washington ([www.newsroom.AAA.com](http://www.newsroom.AAA.com))

# Summary

- AUMA allows local control in the areas of:
  - retail sales and delivery
  - commercial cultivation
  - Production
  - smoking
- Other states have seen significant impacts since implementing recreational use.
- Morgan Hill voters supported Proposition 64 at 58%

# Policy Question

- Should Morgan Hill allow??
  - retail sales
  - delivery
  - commercial cultivation
  - production of marijuana related products
  - smoking in public