



THE CITY OF
SAN FERNANDO

CITY COUNCIL PRESENTATION

NO. 1:

REGULATORY ALTERNATIVES UNDER THE
MEDICAL CANNABIS REGULATION AND
SAFETY ACT (“MCRSA”) & THE ADULT USE OF
MARIJUANA ACT (“PROP 64”/ “AUMA”)

PRESENTED BY:

JOAQUIN VAZQUEZ, ASSISTANT CITY ATTORNEY

FRED RAMIREZ, COMMUNITY DEVELOPMENT
DIRECTOR



THE CITY OF SAN FERNANDO

BACKGROUND: REGULATORY FRAMEWORK

- **1970** – Marijuana designated as an illegal Schedule 1 controlled substance.
- **1996** – California (“State”) voters approve Prop. 215 (Compassionate Use Act) protecting medical marijuana users from criminal prosecution.
- **January 2016** – Medical cannabis regulations become effective under the Medical Cannabis Regulation and Safety Act (“MCRSA,” formerly “MMRSA”).
- **November 2016** – Nonmedical cannabis regulations are governed by the Tax Adult Use of Marijuana Act (“Prop. 64 or “AUMA”).
- **January 1, 2018** – Formal State licensing for medical and nonmedical business/commercial activities.



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BACKGROUND – MCRSA – MEDICAL CANNABIS

- Governs **MEDICAL** cannabis and works concurrently with Prop. 64.
 - Establishes a **dual licensing** system for medical cannabis businesses called “**commercial cannabis activities**,” including cannabis cultivation, manufacturing, distribution, transportation, dispensaries/deliveries, and laboratory testing, which requires businesses both a state license and a local license.
 - Allows business locally licensed for a commercial cannabis activity to continue operating until the State issues licenses no later than January 1, 2018. (Bus. & Prof. Code, § 19321(c) – More on this section later.)
 - However, the City currently **bans** all such activities except deliveries from licensed dispensaries located outside of the City.
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BACKGROUND – PROP. 64 – NONMEDICAL MARIJUANA

- Governs **NONMEDICAL** marijuana.
- Allows persons 21 years or older to use, possess, transport, and purchase nonmedical marijuana in specified limited amounts and to cultivation of 6 plants per residence, subject to restrictions.
- Establishes a State-only licensing system for for medical marijuana businesses called “**commercial marijuana activities**,” including including marijuana cultivation, manufacturing, distribution, transportation, dispensaries/deliveries, and laboratory testing.
- Cities can regulate or ban any or all such commercial marijuana activities. The City’s code is currently silent as to such activities.
- If a city is silent as to a commercial marijuana activity after the State starts issuing licenses in 2018, the State could issue a license for such activity with no city input.



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MCRSA / PROP. 64: DIFFERENCES & SYNERGY

- Both State and local license required for medical business licenses under MCRSA. Only a State license required for nonmedical business licenses under Prop. 64. (Assuming City allowance of such activities.)
 - Medical and nonmedical cannabis can be sold from the same location with proper licensing.
 - Cities may ban medical business and allow nonmedical business or vice versa.
 - MCRSA created no new taxes but requires State BoE permit with 7.5-10% sales tax, subject to additional local taxes.
 - AUMA established a 15% excise tax on gross receipts for medical and nonmedical cannabis and cultivation taxes by weight on commercial cannabis but exempts the sale of medical cannabis from California's sales and use tax. Local additional taxes are also allowed.
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BACKGROUND – CITY COUNCIL ACTIONS TO DATE

General Ban on Unlawful Businesses – City Council Ordinance No. 1603 – January 18, 2011:

- Prohibits City issuance of business licenses for illegal or unlawful business that are determined to be illegal under the laws of the United States, State of California, or any city ordinance.

Response to MCRSA – City Council Ordinance No. 1654 – May 16, 2016:

- Prohibits “commercial cannabis” activities in all zones of the City, except except deliveries from licensed dispensaries located outside of the City.



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BACKGROUND – CITY COUNCIL ACTIONS TO DATE

To Address Prop. 64's Personal Cultivation Component – City Council Ordinances No. U-1658 and No. 1659 – November 7, 2016:

- Prohibit personal outdoor marijuana cultivation and establishes regulations and a permitting process for personal indoor marijuana cultivation.

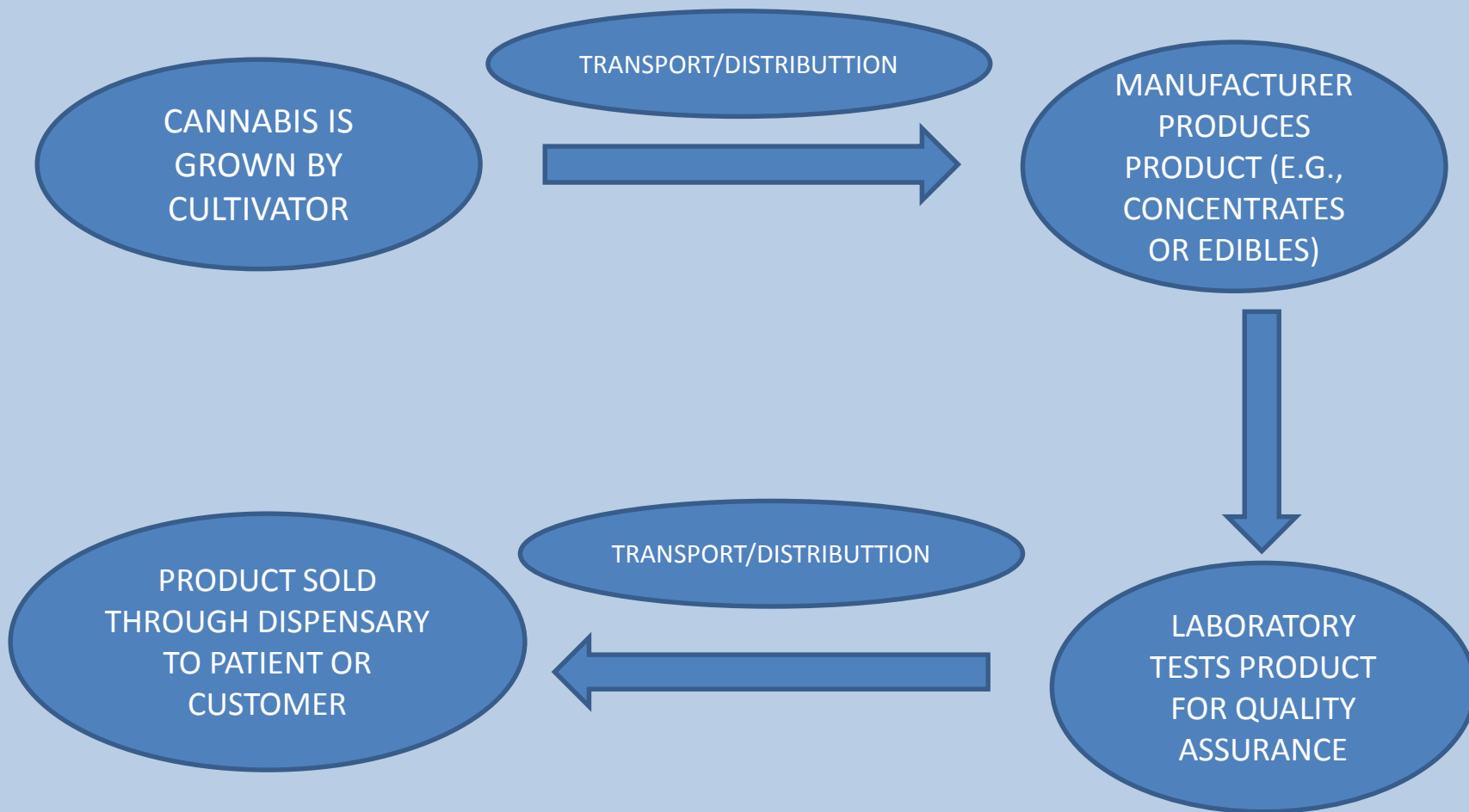
Councilmember Request – December 5, 2016:

- Councilmember Ballin placed “Discussion Regarding Commercial Cannabis Activities” as an item for discussion and consideration by the City Council. Based on council discussion, City staff in conjunction with the City Attorney’s Office prepared this Study Session as a first step in order to analyze possible alternatives that could be considered by the council when evaluating whether to allow some commercial cannabis uses in the City on a limited basis.



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SEED TO SALE: MEDICAL/NONMEDICAL COMMERCIAL ACTIVITIES





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STATE LICENSING CATEGORIES

MEDICAL (MCRSA):

“COMMERCIAL CANNABIS ACTIVITIES”

- Cultivation
- Manufacturing
- Testing
- Dispensary
- Distribution
- Transporting

NONMEDICAL (PROP. 64):

“COMMERCIAL MARIJUANA ACTIVITIES ”

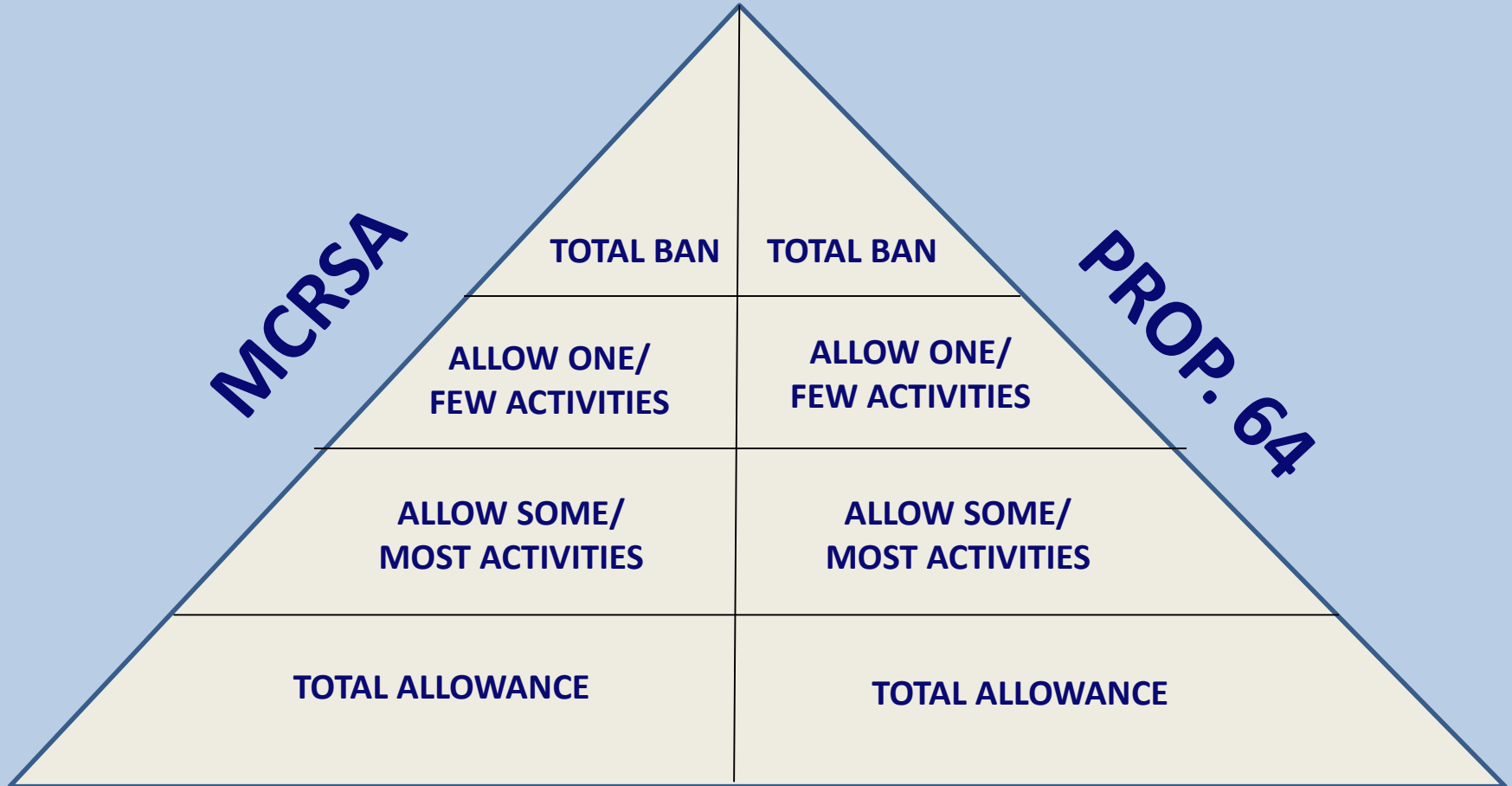
- Cultivation
- Manufacturing
- Testing
- **Retailers**
- Distribution
- **Microbusiness**

- Prop. 64 refers to dispensaries as “retailers,” eliminates the “transporting” license, which will be covered by distributors, and establishes a license for “microbusinesses” (limited to small operators with a cultivation not exceeding 10,000 sq. ft.)
- A microbusiness licensee allows holders to cultivate cannabis and act as a licensed distributor, manufacturer, and retailer.



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OPTIONS: COMMERCIAL ACTIVITIES – MCRSA & PROP. 64





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MENU OF COMMERCIAL ACTIVITIES

COMMERCIAL ACTIVITY	MEDICAL	NONMEDICAL
CULTIVATION	YES / NO	YES / NO
MANUFACTURING	YES / NO	YES / NO
TESTING (QUALITY CONTROL)	YES / NO	YES / NO
DISPENSARY/RETAILER	YES / NO	YES / NO
DISTRIBUTION	YES / NO	YES / NO
TRANSPORTING/MICROBUSINESS	YES / NO	YES / NO

NOTE: The City Council has discretion to (1) allow and regulate; or (2) ban any or all options above pertaining to medical and nonmedical commercial activities.



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BUSINESS & PROFESSIONS CODE SECTION 19321(c)

- Most cities currently await finalization of State standards for medical and nonmedical commercial businesses before allowing and regulating such uses. (Expected no later than January 1, 2018.)
- Section 19321(c) allows a city to adopt zoning regulations and standards to allow **medical** cannabis businesses prior to the State issuance of licenses in 2018.
- This section has recently been utilized in the cities Coachella and Lynwood.
- While a small number of cities are moving forward prior to the finalization of State standards, there are certain risks with moving forward in a manner:
 - A business operating in such a city would be allowed to continue to operation until its application for a state license is approved or denied, however, there is potential for a medical cannabis dispensary to be licensed in a city under Section 19321(c) to only later have its State license denied.
 - A city's standards allowing a business under Section 19321(c) may be more lenient and preempted by the eventually adopted State standards.



CASE STUDY: COACHELLA

- Allows medical cannabis cultivation, manufacturing, testing, distribution, and transportation through “medical cannabis cultivation facilities.”
 - Outdoor cultivation completely prohibited.
 - Prohibits retail sale through dispensaries and delivery services.
 - Permitted only in wrecking yard, M-W zones and must be at least 1,000 feet from residential.
 - Permits can only be granted to sites with a minimum size of five acres.
 - Conditional use permit required for facilities.
 - In November 2016, Coachella city voters approves a 15% per square foot tax on cultivation and manufacturing facilities and a 6% marijuana sales tax.
 - Applications reviewed on a priority point system.
 - An approved facility will produce flowers and extracts that will be sold under the brand name “Coachella Premium Cannabis.”
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CASE STUDY: LYNWOOD

- First Los Angeles County city to permit cannabis cultivation and manufacturing under MCRSA.
 - Allows ***medical*** cannabis cultivation and manufacturing at a maximum of 5 different sites for each use, which are required to comply with detailed native regulatory provisions..
 - Other commercial cannabis activities are prohibited except transportation required to facilitate cultivators and manufacturers.
 - Development agreement and business license required for operation, in addition to other land use entitlements and permits, as applicable.
 - Vague application process.
 - Prohibits retail sale through dispensaries and delivery services.
 - Manufacturing allowed in in M Manufacturing zones and cultivation allowed in certain commercial, manufacturing and specific plan areas.
 - Buffers of 600 feet from schools, day cares, and youth centers and 50 feet from residential required.
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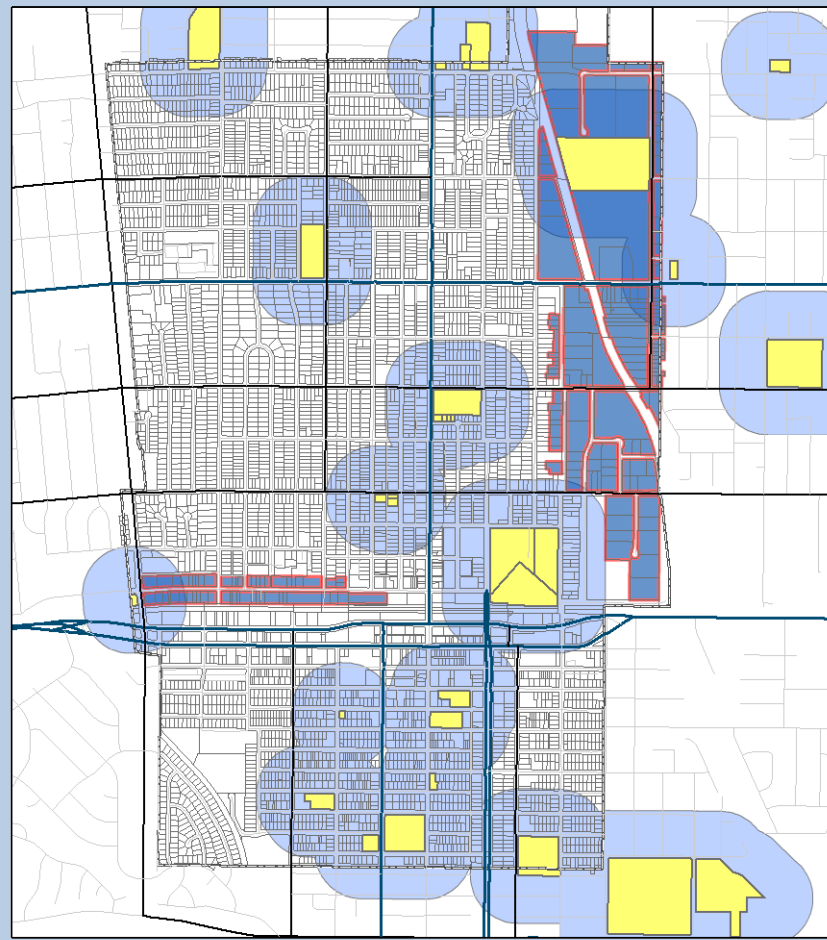
CODE AMENDMENTS & LICENSING

- If one or more commercial activities are desired by Council a Code Amendment would be necessary, which would require review by the Planning & Preservation Commission and two readings for City Council approval.
- In addition, regulations pertaining to the particular use would have to be drafted and adopted by the City (Can be concurrent with a Code Amendment). Recall that State regulations are anticipated to be finalized no later than January 1, 2018.
- Licenses could be issued in a variety of ways:
 1. First come, first serve;
 2. Lottery (e.g. Santa Ana); or
 3. Interview.



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CITY ZONING MAP- 600 FT BUFFER MAP FROM SCHOOLS





STUDY SESSION No. 2 – PREVIEW

1. Experiences from other states and jurisdictions.
2. Public safety considerations.
3. Taxation and other revenue options.
4. Additional land use .
5. Responses to City Council questions/direction.



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QUESTIONS/COMMENTS/DIRECTION TO STAFF