

September 20, 2022

Lompoc City Council
100 Civic Center Plaza
Lompoc, California 93436

Re: Proposed Moratorium on Issuance of Commercial Cannabis Use Licenses

Honorable Mayor Osborne and City Council Members,

I write to you in opposition of any proposed moratorium on the issuance of commercial cannabis use licenses.

When the Lompoc City Council voted to approve the current commercial cannabis use ordinances in 2017, it did so based on principle and deference. The ordinances passed by the Council were grounded in the principle that the free market should determine how many and what type of commercial cannabis activity was conducted in Lompoc. The Council tacitly acknowledged the principle that the market was a better gauge of demand than elected officials and City staff. The Council wisely deferred to the will of the voters, both on a local and state level, who overwhelmingly passed Proposition 64. Further, in crafting the language of the ordinances, the Council deferred to state-level regulators and essentially mirrored the requirements for prospective applicants and license holders.

In essence, while other jurisdictions opted to prohibit commercial cannabis, Lompoc welcomed a new industry with open arms and the investment soon followed. Those investments came from entrepreneurs who saw an opportunity based on a permissive code. Some stakeholders came to the table early; others are still trying to claw their way into the market. However, as with any industry, mere investment does not guarantee success. As it relates to cannabis, product availability and diversity, pricing, service offering, environment, staff, and a wide variety of other factors contribute to success. Some businesses thrive, others fold.

Lompoc has benefited from an increase in the number and quality of jobs, increased property values, increased economic activity by and through contractors, tradesmen, and professionals assisting commercial cannabis use entrepreneurs, and increased tax receipts as a direct result of the City's stance on commercial cannabis.

While there may be some who see a saturation in the market, or a glut of product, there are still others vying for a chance to enter the market. Despite the risks, their due diligence concludes the market can support additional operations. Those operations are not simply limited to retail, although that's typically all the public sees. Cannabis must be harvested, processed, tested, packaged, stored, and distributed before it's ultimately sold. Those various market sectors contribute to the overall economic benefit the City enjoys.

Apart from my general views on commercial cannabis operations in the City, I have particular concerns specific to a proposed moratorium.

First, I think the timing of this discussion, in the midst of an election cycle, should give you pause. This community, state, and country is not well served by electioneering, pandering, and fearmongering. If it is appropriate to discuss revisions to the Lompoc Municipal Code, those discussions should be held in regularly noticed meetings, not hastily passed under the guise of urgency ordinances. The most effective way to reduce political posturing is to proceed in the ordinarily prescribed fashion.

Second, I think the motivation of those advocating for a moratorium should be closely examined. It strikes me as disingenuous for a current license holder to advocate for a fundamental overhaul of the regulatory scheme. They entered the market with full knowledge of the ground rules, now they suggest the City artificially bolster their business model by limiting competition. This community is not well served when government limits competition. Rather, the community is best served when competition is fostered. A moratorium flies in the face of a free and competitive market.

Third, based on the materials provided in the meeting agenda, the implementation of a moratorium raises transparency and equity concerns. Would the City suspend *all* operations while it determined a way ahead for reducing the number of operators? If so, is it realistic to assume the privileged few, whoever they may ultimately be, will have the economic and emotional fortitude to weather the storm, especially if there is no end in sight? And even if a moratorium was imposed on a limited based, is it reasonable for a current licensee or prospective applicant to assume it won't happen again?

Fourth, considering the non-transferable nature of commercial cannabis use permits, based on the materials provided, it is unclear how the City would handle the submission of an application based on the acquisition of an existing operation. Is it reasonable for the City to expect an operator be left with only two options: 1) operate in perpetuity or 2) shutter the business?

Fifth, I am concerned about the adequacy of notice provided to stakeholders and the general, underlying driver behind an "urgency" ordinance. Based on my understanding, licensees received direct notice of this agenda item, but property owners did not. And as it relates to the notion of "urgency," all too frequently, citizens are subject to emergency and urgency legislation where there is no actual emergency or urgency. The City has functioned with the current ordinance for years. There is no immediate threat to the public peace, health, or safety based on commercial cannabis use.

Sixth, and perhaps most importantly, there are stakeholders who have vested interests in their commercial cannabis use permit/operation. These stakeholders have active Conditional Use Permits and building permits. As a self-insured municipality, does the Council believe the General Fund is most appropriately spent on defending legal attacks on a moratorium? I have lost count of the number of times public safety funding has been the subject of discussion and concern. This community is not well served by poor stewardship of limited funds. Lompoc should not dedicate any portion of the General Fund to defending lawsuits arising from an urgency ordinance. In my view, if the Council adopts an urgency ordinance imposing a moratorium on commercial cannabis use licenses, the only question that will remain is: "How quickly will the first summons and complaint be filed and served?"

Based on my decades of experience in the military, the entirety of my legal career, and my general life experience, I believe effective problem-solving process starts with first identifying the problem. The “problem” here remains undefined. Do not confuse action with resolution. Adopting an urgency ordinance will not resolve inadequately defined problems.

Again, I encourage each of you to oppose the proposed moratorium on the issuance of commercial cannabis use licenses or any other encroachment or limitation of the free market in the cannabis space.

Regards,

A handwritten signature in blue ink, appearing to read "R. E. Traylor", with a stylized flourish at the end.

Robert E. Traylor
Attorney