

Agenda Item: ID17-1269 (2:30 P.M.)

Date: 9/21/17

FRESNO CITY COUNCIL



REC'D SEP 18 '17 PM 4:30
FRESNO CITY CLERK

Supplemental Information Packet

Agenda Related Item(s) – ID17-1269 (2:30 P.M.)

Contents of Supplement: Amended Ordinance

Agenda Item Title

Consider Text Amendment Application No. TA-17-006 and the related environmental finding to address recreational marijuana operations, dispensaries, sales, and public consumption by prohibiting them in all zone districts within the City

1. Adopt Environmental Assessment No. TA-17-006 prepared for this matter approving a Finding of No Possibility pursuant to Section 15061 (b)(3) of the Environmental Quality Act Guidelines
2. ***BILL NO. B-46 - (Intro. 8/31/2017) (For adoption) - Approving Text Amendment Application No. TA-17-006 prohibiting recreational marijuana activities by adding Section 15-2739.1 to the Fresno Municipal Code. (Subject to Mayor's veto)

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA
ADDING SECTION 15-2739.1 OF THE FRESNO
MUNICIPAL CODE, RELATING TO MARIJUANA

WHEREAS, the City of Fresno currently prohibits medical marijuana dispensaries; and

WHEREAS, Proposition 64 was approved by the voters of California on November 8, 2016, which expressly legalizes recreational marijuana and marijuana businesses; and

WHEREAS, the City intends to promote the health, safety, and general welfare of the residents and businesses within the City by restricting recreational marijuana activities to the fullest extent allowed under state law.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 15-2739.1 of the Fresno Municipal Code is added to read:

SECTION 15-2739.1. RECREATIONAL MARIJUANA ACTIVITIES.

A. Definitions

1. "Marijuana" means all parts of the plant Cannabis sativa L., Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, as defined in California Health and Safety Code § 11018, as may be amended.

1 of 5

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: MED

Ordinance No.

Marijuana includes “marijuana products,” which means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis or other ingredients, as defined in California Health and Safety Code § 11018.1, as may be amended.

Marijuana does not include "Medical marijuana" as used for medical purposes in accordance with California Health and Safety Code §§ 11362.7 et seq.

2. "Marijuana Dispensary" means any operation, including a store-front facility or structure, mobile facility, club, or delivery service to or from any location within the city, wherein marijuana is made available, sold, offered for sale, given, distributed, traded, cultivated for, or otherwise provided to any person for recreational purposes.

A Marijuana Dispensary shall not include the following uses, as long as the location of such uses are otherwise regulated by code or applicable law: (i) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; (ii) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; (iii) a residential care facility for persons with chronic life-threatening illness licensed pursuant to

Chapter 3.01 of Division 2 of the California Health and Safety Code;
(iv) a residential care facility for the elderly licensed pursuant to
Chapter 3.2 of Division 2 of the California Health and Safety Code;
and (v) a residential hospice or a home health agency licensed
pursuant to Chapter 8 of Division 2 of the California Health and
Safety Code, as long as any such use complies strictly with
applicable law including, but not limited to, California Health and
Safety Code § 11362.7 et seq.

3. A "Commercial Marijuana Operation" includes, other than expressly permitted under the Fresno Municipal Code or state law, any cultivation, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of marijuana.

4. "Consumption of marijuana" means receiving marijuana into the body by any means, including, but not limited to, smoking, eating, drinking, consuming, vaporizing, ingesting and topical application.

B. Consumption of marijuana prohibited in public. Consumption of marijuana is prohibited in any public place, in conformance with state law, including, but not limited to, any city owned building, city owned or leased property, city right-of-way, city parks, and city buses. Any consumption of marijuana shall be done in a manner so as to not cause a

nuisance to nearby occupants with noxious odors or other adverse health and safety impacts.

C. Marijuana Dispensary as a prohibited use. A Marijuana Dispensary is a prohibited use in all zone districts in the city.

D. Commercial Marijuana Operation as a prohibited use. A Commercial Marijuana Operation is a prohibited use in all zone districts in the city. However, this prohibition does not apply to a commercial entity that conducts laboratory testing of marijuana (either recreational or medicinal), if testing of marijuana comprises twenty percent or less of the entity's and its affiliates' business at the Fresno location, the entity is located in an Industrial District, the entity complies with all applicable state laws, and the entity creates a public health benefit with a focus on public safety.

E. Severability. If any section, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this article. The Council hereby declares that it would have passed this ordinance and adopted this article and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage. Council shall conduct a review on the effectiveness of this ordinance one year from the date of its final passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2017.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2017
Mayor Approval/No Return: _____, 2017
Mayor Veto: _____, 2017
Council Override Vote: _____, 2017

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Mary Raterman-Doidge Date
Deputy

MRD:prn [74551prn/ord] 09-18-17