RESOLUTION NO. 2017-175

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, INITIATING A TEXT AMENDMENT TO THE ZONING ORDINANCE OF THE CITY OF FRESNO PURSUANT TO FRESNO MUNICIPAL CODE SECTION 15-5803-A(1) TO PROHIBIT RECREATIONAL MARIJUANA OPERATIONS, DISPENSARIES, SALES, AND PUBLIC CONSUMPTION WITHIN THE CITY OF FRESNO

WHEREAS, under the federal Controlled Substances Act (CSA) of 1970, marijuana is classified as a Class I substance, having a high potential for abuse and dependency; marijuana possession, distribution, cultivation, or use is a federal crime, subjecting a defendant to fines, prison time, or both; and

WHEREAS, the citizens of California recently approved "Proposition 64," which would allow, under state law, marijuana to be dispensed, cultivated, and used for recreational purposes; under Prop 64, recreational marijuana dispensaries would be allowed as of January 2018, following the state's implementation of a regulatory system; Prop 64, however, also recognizes the authority of local jurisdictions to prohibit or regulate marijuana dispensaries under local land use regulations; Prop 64 contradicts the CSA, and courts have determined that the CSA preempts state and local law to the contrary; and

WHEREAS, the City Council desires to formally address recreational marijuana operations, dispensaries, sales, and public consumption within the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Pursuant to Fresno Municipal Code, Section 15-5803-A(1), the Council initiates the necessary proceedings to amend the text of the City of Fresno's Zoning

Date Adopted: 06/22/2017
Date Approved: 06/22/2017
Effective Date: 06/22/2017

Ordinance so as to formally address recreational marijuana operations, dispensaries, sales, and public consumption by prohibiting them in all zone districts within the City.

2. The Council further directs staff to bring the Text Amendment before the Airport Land Use Commission for review within thirty-one days (or as soon thereafter as environmental review under CEQA may be legally completed) of the effective date of this Resolution, before the Planning Commission for review within thirty days of it being reviewed by the Airport Land Use Commission, and back before the Council for consideration within thirty days of the Planning Commission's review. Staff shall return to Council thirty days from the effective date of this Resolution to update the Council on the status of the proposed Text Amendment and shall return to Council every thirty days thereafter until it returns to Council for final consideration.

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

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 22nd day of June, 2017.

AYES : Brandau, Bredefeld, Caprioglio, Chavez
NOES : Baines, Olivier, Soria
ABSENT : None
ABSTAIN : None

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____ 7/24/17
Mary Raterman-Doidge Date
Deputy City Attorney

Attachment: Ordinance Adding Section 15-2739.1 Relating to Marijuana

MRD:prn [75491prn/reso] 6-14-17