



Legislation Details (With Text)

**File #:** ID17-1070    **Version:** 1    **Name:**  
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**File created:** 7/28/2017    **In control:** City Council  
**On agenda:** 8/31/2017    **Final action:** 8/31/2017

**Title:** HEARING to 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, with the exception of laboratory testing in industrial districts

1. Recommend approval of 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. Recommend approval of the adoption of Text Amendment Application No. TA-17-006

**Sponsors:** Lee Brand, Garry Bredefeld

**Indexes:**

**Code sections:**

**Attachments:** 1. Finding of No Possibility pursuant to Section 15061 (b) 3 of the Environmental Quality Act Guidelines, 2. Text Amendment Application No. TA-17-006, 3. Fresno City Council Resolution 2017-175 relating to Marijuana, 4. Fresno City Planning Commission Resolution No. 13482

Date	Ver.	Action By	Action	Result
8/31/2017	1	City Council	approved	Pass

**August 31, 2017**

**FROM:** JENNIFER K. CLARK, AICP, HDFP, Director  
Development Services Division

**THROUGH:** MIKE SANCHEZ, AICP, Assistant Director  
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Development Services Division

**BY:** BRUCE BARNES, Project Manager  
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**SUBJECT**

**HEARING to 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, with the exception of laboratory testing in industrial districts

1. **Recommend approval** of 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. Recommend approval** of the adoption of Text Amendment Application No. TA-17-006

**EXECUTIVE SUMMARY**

The City Council adopted Resolution No. 2017-175 on June 22, 2017, to initiate this text amendment. Text Amendment Application No. TA-17-006 proposes to add Section 15-2739.1 to the Municipal Code which pertains to recreational marijuana regulations. The amendment specifically proposes to a) define “Marijuana”, “Marijuana Dispensary”, a “Commercial Marijuana Operation” and “Consumption of Marijuana”, b) prohibit “consumption of marijuana” in public, c) prohibit “marijuana dispensaries” in all zone districts in the City and d) prohibit “commercial marijuana operations” in all zone districts in the City, with the exception of laboratory testing in industrial districts.

**BACKGROUND**

This text amendment defines Marijuana, Marijuana Dispensaries, and Commercial Marijuana Operations, and prohibits the consumption of marijuana in public, and prohibits recreational marijuana dispensaries and commercial marijuana operations in all zone districts in the City of Fresno. There is, however, an exception that laboratory testing of marijuana be permitted in the City’s industrial zone districts.

**Public Notice and Comment**

A Public Hearing Notice was published in the Fresno Bee on August 18, 2017. No comments have been received to date.

**Planning Commission**

This item was heard on August 2, 2017, by the Planning Commission. The Commission voted 4-1 to recommend approval of the text amendment, with one abstention.

**Airport Land Use Commission**

This item was heard on August 7, 2017, by the Airport Land Use Commission. The Commission unanimously approved the text amendment.

**ENVIRONMENTAL FINDINGS**

An environmental assessment was prepared for the project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines.

The State Guidelines for the implementation of the California Environmental Quality Act provide for the exemption of projects which have no potential for causing a significant effect on the environment. More specifically, Section 15061 (b) (3) of the CEQA Guidelines states: “...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

The City of Fresno has determined that a Finding of No Possibility that the project will have impacts on the environment pursuant to Section 15061 (b)(3) of the Environmental Quality Act Guidelines is appropriate for the proposed text amendment. Given that the proposed text amendment will prohibit recreational marijuana operations, dispensaries, sales and public consumption in all zone districts within the City of Fresno, these restrictions will not result in a change to the physical environment.

## **FRESNO MUNICIPAL CODE FINDINGS**

Pursuant to the Fresno Municipal Code (FMC), the Planning Commission shall not recommend, and the City Council shall not approve, an application unless the proposed amendment meets the following criteria:

Development Code Text Amendment findings:

- 1. The Code Text Amendment is consistent with the General Plan and any applicable operative plans.*

The proposed project is consistent with the Fresno General Plan. For example, one of the 17 goals of the General Plan is to “Protect and improve public health and safety.” The prohibitions in this text amendment clearly meet this goal.

- 2. The amendment is consistent with the purpose of the Development Code to promote the growth of the City in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort and general welfare.*

The proposed project also meets the goal of “Promoting a city of healthy communities and improves the quality of life in established neighborhoods.”

## **CONCLUSION**

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan and other applicable operative plans and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Text Amendment Application No. TA-17-06 is appropriate for the City of Fresno.

Attachments:

1. Finding of No Possibility pursuant to Section 15061 (b)(3) of the Environmental Quality Act Guidelines
2. Text Amendment Application No. TA-17-006
3. Fresno City Council Resolution 2017-175 relating to Marijuana
4. Fresno City Planning Commission Resolution No. 13482

