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Title: Actions pertaining to Commercial Cannabis Activity:
1. Adopt a finding of statutory exemption to the California Environmental Quality Act (CEQA) pursuant to Section 26055(h) of the California Business and Professions Code.
2. ***RESOLUTION - Setting cannabis business license tax rates. (Subject to Mayor's veto)
3. BILL - (for introduction) Adding Article 33 to Chapter 9 of the Fresno Municipal Code relating to Medicinal Cannabis Retail Business and Commercial Cannabis Business.
4. BILL - (for introduction) Adding Article 34 to Chapter 9 of the Fresno Municipal Code relating to Adult Use and Medicinal Cannabis Retail Business and Commercial Cannabis Business.

Sponsors: Oliver L. Baines III, Paul Caprioglio, Clinton Olivier

Indexes:

Code sections:

Attachments: 1. Reso Setting Cannabis Tax Rates.pdf, 2. CH 33 Regulatory Medicinal Retail Cannabis Ord.pdf, 3. CH 34 Regulatory Adult and Medicinal Retail Cannabis Ord.pdf, 4. One Mile Buffer Highways.pdf, 5. Buffer-Analysis-800-Council-Districts.pdf, 6. Cannabis Business License Tax.pdf

Date	Ver.	Action By	Action	Result
12/6/2018	1	City Council	approved as amended	Pass

REPORT TO THE CITY COUNCIL

December 6, 2018

FROM: Councilmember Clinton J. Olivier
Councilmember Paul Caprioglio
Councilmember Oliver L. Baines, III

SUBJECT

Actions pertaining to Commercial Cannabis Activity:

1. Adopt a finding of statutory exemption to the California Environmental Quality Act (CEQA) pursuant to Section 26055(h) of the California Business and Professions Code.
2. ***RESOLUTION - Setting cannabis business license tax rates. (Subject to Mayor's veto)
3. BILL - (for introduction) Adding Article 33 to Chapter 9 of the Fresno Municipal Code relating to Medicinal Cannabis Retail Business and Commercial Cannabis Business.
4. BILL - (for introduction) Adding Article 34 to Chapter 9 of the Fresno Municipal Code relating to Adult Use and Medicinal Cannabis Retail Business and Commercial Cannabis Business.

RECOMMENDATION

It is recommended that the City Council adopt either Article 33 to Chapter 9 of the Fresno Municipal

Code, which allows and regulates medicinal cannabis retail businesses and adult use and medicinal commercial cannabis businesses, or Article 34 to Chapter 9 of the Fresno Municipal Code, which allows both adult use and medicinal cannabis retail businesses and commercial cannabis businesses.

It is also recommended that the City Council adopt a resolution setting the tax rates for the cannabis business license tax.

EXECUTIVE SUMMARY

The proposed ordinances implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), as well as provide access to adult use cannabis, while imposing sensible regulations on the use of land to protect the city’s residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Article to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution, and transportation of cannabis, cannabis products, medicinal cannabis, and medicinal cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the city and to enforce rules and regulations consistent with state law. The provisions of this Article are in addition to any other permits, licenses, and approvals which may be required to conduct business in the city, and are in addition to any permits, licenses, and approvals required under state, city, or other law.

The Medicinal Cannabis Retail Business and Commercial Cannabis Business Ordinance regulates medicinal cannabis retail businesses as well as commercial cannabis businesses (both adult use and medicinal).

The Cannabis Retail Business and Commercial Cannabis Business Ordinance regulates adult use and medicinal cannabis retail businesses as well as commercial cannabis businesses (both adult use and medicinal).

The difference between the two ordinances is that one only allows medicinal cannabis retail sales (Article 33) and the other allows both adult use and medicinal cannabis retail sales (Article 34). Both ordinances allow and regulate adult use and medicinal cultivation, manufacturing, distributing, and laboratory testing.

The resolution also sets the tax rates for commercial cannabis activities at rates that are competitive with other California cities that regulate cannabis activities.

BACKGROUND

On November 8, 2016, the State of California voters approved Proposition 64, The Adult-Use Marijuana Act, with 57.1% of the vote. Additionally, 51.4% of the citizens in Fresno voted in favor of Proposition 64. This measure allowed the State of California to set forward a process to regulate and license cannabis businesses within California.

In July 2017, the Governor signed Senate Bill 94, entitled the Medical and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which took effect immediately. MAUCRSA reconciles the State’s MCRSA with AUMA’s nonmedical/recreation adult-use cannabis regulations. The State issued

the newly revised regulations on November 16, 2017, under their emergency rule making process, and readopted their emergency regulations on June 4, 2018. Updated State regulations are in the process of becoming final.

On December 14, 2017, Council, by a unanimous Resolution of Initiation, directed staff to review cannabis policies and amend the zoning ordinance to allow medical cannabis operations, cultivation, manufacture, extraction, testing, distribution, delivery, and dispensaries within the City. In March, 2018, the Director of DARM initiated a text amendment to allow adult use cannabis cultivation, manufacture, extraction, testing, and distribution.

On November 6, 2018, the voters of the City of Fresno voted by a majority of over 70% to adopt a Cannabis Business License Tax Ordinance to tax cannabis cultivation up to \$12 per canopy square-foot annually and up to 10% of gross receipts for medical dispensaries and all other cannabis businesses. The resolution proposes tax rates \$6 per canopy square-foot of canopy space and 5% of gross receipts for retailers, testing laboratories, distributors, and manufacturers.

After input from the voters, the City Council Cannabis Subcommittee has brought forward these two ordinances and tax rate resolution to determine what cannabis policy should be for the City.

The Cannabis Sub-Committee received input from: HdL Companies, Police Chief Jerry Dyer, Police Chief Kerri Donis, DARM Director Jennifer Clark, Mayor Lee Brand's Office, and the community in the creation of these regulations.

No Commercial Cannabis Business Permits can be issued until a Text Amendment to the Zoning Code is adopted, the Cultivation Ordinance is amended, and these actions are environmentally assessed.

ENVIRONMENTAL FINDINGS

This action is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 26055(h) of the California Business and Professions Code because it is the adoption of an ordinance by a local jurisdiction that requires discretionary review and approval of permits to engage in commercial cannabis activity. Commercial cannabis activity cannot be commenced under the proposed ordinances until a Cannabis CUP is obtained, which will require an environmental assessment. Additionally, the resolution setting tax rates is exempt from the CEQA because it is not a project which has potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change to the environment, pursuant to CEQA Guidelines section 15378.

FISCAL IMPACT

Commercial Cannabis Business Permit fees will include the permittee's share of the cost of developing the regulations and the environmental review. Additionally, with the passage of Measure A and adoption of tax rates, these businesses will generate substantial revenue to the City, as much as \$10 million per year once dispensaries and cultivation, manufacturing, distribution and lab testing businesses are open.

Attachment:

Resolution setting tax rates

Article 33 to Chapter 9 of the Fresno Municipal Code

Article 34 to Chapter 9 of the Fresno Municipal Code

One Mile Buffer Highways

Buffer-Analysis-800-Council-Districts.pdf