



CITY OF SALINAS

COUNCIL STAFF REPORT

DATE: **July 11, 2017**

DEPARTMENT: **CITY ATTORNEY'S OFFICE**

FROM: **Christopher A. Callihan, City Attorney**
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TITLE: **AN ORDINANCE UPDATING SALINAS CITY CODE CHAPTER 16B (COMMERCIAL CANNABIS ACTIVITY)**

RECOMMENDED MOTION:

A motion to adopt an Ordinance amending Chapter 16B of the Salinas City Code (Chapter 16B).

RECOMMENDATION:

It is recommended that the City Council consider amending Chapter 16B of the Salinas City Code (Commercial Cannabis Activity) to increase the number of available commercial cannabis permits, to allow for an administrative permit for cannabis testing facilities, and to provide for technical, non-substantive updates to the City's regulations.

EXECUTIVE SUMMARY:

On June 19, 2017, City staff provided an update to the City Council's Finance Subcommittee (Mayor, Councilmember Barrera, and Councilmember Davis) on the status of the City's issuance of Commercial Cannabis Permits. During their discussion of the matter, the Finance Subcommittee recommended that the City Code be updated to increase the maximum number of Commercial Cannabis Permits from twelve to fifteen, with five permits available in each of three categories (dispensary, manufacturing, and cultivation) instead of the three in each category as provided under current City Code provisions. The Finance Subcommittee did not recommend additional permits in the delivery services category given that no companies were identified during the first round of applications. The Finance Subcommittee also recommended that the City Code be amended to allow for cannabis testing laboratories without the need for a Commercial Cannabis Permit.

The proposed Ordinance amends City Code Chapter 16B in three ways: (1) It increases the maximum number of permits in three categories (dispensary, cultivation, and manufacturing) from three to five, each; (2) It provides a streamlined permitting process for cannabis testing laboratories; and (3) It provides for general clean-up of Chapter 16B to address changes in State law and to address issues discovered during the initial application and review process.

BACKGROUND:

Existing City Code Provisions; Update on the Application Process.

In January 2016, the City Council adopted an ordinance to add Chapter 16B to the City Code. Chapter 16B, titled “Commercial Cannabis Activity”, codified the City’s regulations on medically-related commercial cannabis activity in the city. Specifically, the purpose of the ordinance was to accommodate the needs of medically-ill persons in need of cannabis for medical purpose while imposing regulations on the use of land to protect Salinas’s neighborhoods, residents, and businesses from negative impacts. Under the existing provisions of Chapter 16B, up to three commercial cannabis business permits may be issued in each of the four business categories (dispensary, manufacturing, delivery, and cultivation).

Once Chapter 16B became effective, the City opened up a competitive application process and through a review and vetting process identified the top applicants in three categories (dispensary, cultivation, and manufacturing). No delivery service applicants were determined to be sufficiently qualified to receive a permit.¹ Three top applicants were identified in the dispensary and the manufacturing categories and two top applicants were identified in the cultivation category.² City staff have developed permits for those top eight businesses and will issue those permits this week. In developing the permits, City staff took into account the concerns raised by residents and businesses who chose to comment on the permit process. Some of the resident and businesses’ concerns including odors from the businesses, traffic, parking, and the danger posed by the manufacturing process. Conditions have been developed to mitigate these potential negative effects to the extent possible.

Proposed Ordinance.

As mentioned above, the proposed Ordinance would update Chapter 16B in three ways: (1) It would increase the number of available permits in the dispensary, cultivation, and manufacturing categories from three in each to five in each; (2) It would provide a streamlined permitting process for cannabis testing facilities; and (3) It would clean-up those portions of the City Code which need to be updated as a result of changes in State law or to incorporate better practices into the City’s regulation of commercial cannabis businesses.

¹ City staff are considering a process pursuant to which delivery services may be allowed to re-apply for commercial cannabis permits. State law has changed (and may continue to change) with respect to the regulation of delivery services which may obviate the need for the City to issue permits to this business category. This will not require additional action by the City Council; however, City staff will keep the City Council informed of the process and the progress with respect to the delivery services.

² A third applicant was identified; however, given that applicant’s proximity to a sensitive use, the applicant’s permit was denied. The applicant has appealed the denial and will have a public hearing before the Planning Commission on July 19, 2017. The Planning Commission may grant a deviation from the distance restriction for this applicant.

With the increase of available permits in three categories, City staff recommend that the City open a competitive application process for the additional permits. Existing applicants may re-apply with the same or with new, updated applications. The application submittal and review period will be shortened in order to issue the additional permits as efficiently as possible.

At least two interested persons have contacted City staff inquiring about the process for opening and establishing a cannabis testing facility. These facilities are not open to the general public and do not sell or otherwise distribute cannabis or cannabis-related products; rather, they receive limited quantities of cannabis from permitted commercial cannabis business and test (either on-site or by transporting the product to an affiliated site) the product for a variety of purposes, including quality. Akin to medical testing facilities currently operating in the City, City staff recommend that a streamlined permitting process be available for cannabis testing facilities which meet the requirements of the City Code. These businesses will need to comply with current zoning regulations, but would not need to compete for commercial cannabis business permits given their unique operations.

State law continues to evolve and the legislature continues to update State law and State regulations on medical cannabis. The changes are occurring rapidly and may result in obsolete provisions of the City Code. State law and State regulation updates will continue to be monitored and City Code updates recommended, as needed. Additionally, the City Council will later this year consider regulations on recreational cannabis which will be separate and apart from regulations on medical cannabis.

Given the concerns and questions raised by some in the community, Councilmember McShane has asked that an FAQ sheet be developed outlining, in general terms, the process for review and issuance of permits, and other information related to the City's regulation of commercial cannabis businesses. An FAQ sheet will be developed and will be posted on the City's website.

CEQA CONSIDERATION:

The City Council's adoption of the proposed Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. [CEQA Guidelines Section 15061(b)(3)]

STRATEGIC PLAN INITIATIVE:

The City Council's adoption of the proposed Ordinance is not among the City Council's current goals and objectives as identified in the City Council's current Strategic Plan.

FISCAL AND SUSTAINABILITY IMPACT:

No immediate impact to the City's General Fund is anticipated upon the City Council's adoption of the proposed Ordinance. Once the additional permits are issued, the City will realize tax revenue once the commercial cannabis businesses are operational.

ATTACHMENTS:

Ordinance