

**REPORT TO THE
CITY COUNCIL**
City of Salinas, California

DATE: July 12, 2016

FROM: Christopher A. Callihan, City Attorney

SUBJECT: **CANNABIS BUSINESS TAX**

RECOMMENDATION:

It is recommended that the City Council take the following actions relative to the placement of a Cannabis Business Tax on the November 2016 general election ballot:

Approve a Resolution calling an election to ask the voters of Salinas to approve a business tax on commercial cannabis businesses and through the Resolution authorize the Monterey County Board of Supervisors to consolidate the election with the established general election to be held on November 8, 2016, and requesting the Monterey County Elections Department to conduct the election on the City's behalf.

DISCUSSION:

On January 26, 2016, the City Council adopted an ordinance to permit a limited number of commercial cannabis businesses to open and to operate within the city. Up to a total of twelve (12) cannabis-related businesses may be permitted to open and to operate, one in each of four separate categories: dispensaries, manufacturing facilities, cultivation facilities, and delivery services. The regulations imposed through the ordinance are intended to prevent nuisance conditions from occurring, to provide for effective controls, to enable medical cannabis patients to obtain cannabis from safe sources, and to provide appropriate permitting and revenue for the City.

The ordinance adopted by the City Council requires each person engaging in the operation of a commercial cannabis business within the city to obtain a City of Salinas business license and to comply with all applicable provisions and requirements of that license. Currently, there is no category in the Salinas Municipal Code for commercial cannabis businesses, therefore, there is no mechanism by which they may be assessed a local business tax. The proposed measure is intended to establish the appropriate business categories and thus impose business tax liability on all commercial cannabis businesses which open and operate in the city. The existing manufacturing business has paid a manufacturing business license tax since its opening and continues to pay its business license tax at that rate. Should the proposed measure gain voter approval, the existing business (and all other cannabis businesses which open and operate) will be subject to the tax rates set in the proposed measure.

As shown in the attached proposed ordinance, the measure would amend the Salinas Municipal Code to create Chapter 19A to establish the categories and the rates for commercial cannabis businesses including medical cannabis cultivation, medical cannabis manufacturing, medical cannabis dispensary, medical cannabis delivery service and non-medical cannabis businesses (whether dispensing, delivering, cultivating, or manufacturing other than medical cannabis). A further purpose of the ordinance was to generate additional funding to allow the City to continue providing essential public service: all revenues generated from the cannabis business tax will be deposited in the general fund of the City to be expended for general purposes.

The tax rates proposed to be imposed on commercial cannabis businesses are set out in Section 19A.10.070 (Amount of cannabis tax owed) of the attached, proposed ordinance. For cultivation businesses, whether not-for-profit or for-profit, the maximum proposed tax rate is twenty-five dollars (\$25.00) per square foot, with the initial rate being set at fifteen dollars (\$15.00) per square foot for the first three years. After the first three years, the City Council would have the authority by resolution to increase the per square footage tax rate up to twenty-five dollars (\$25.00). And, after the third year the tax is imposed, the amount of tax is automatically adjusted up to the most-recent change in the consumer price index (CPI). The proposed measure seeks to impose a maximum ten percent (10%) tax rate on dispensary, manufacturing, and delivery cannabis-related businesses, with an initial tax rate of five percent (5%) for the first three years. The City Council could increase the tax rate up to the ten percent (10%) by resolution after the first three years. The tax would be imposed on the cannabis businesses' gross revenues.

ISSUES:

Shall the City Council approve a resolution calling an election to ask the voters of Salinas to approve a business tax on commercial cannabis businesses, to authorize the Monterey County Board of Supervisors to consolidate the election with the established general election to be held on November 8, 2016 and to request the Monterey County Elections Department to conduct the election on the City's behalf?

FISCAL IMPACT:

Revenue from the commercial cannabis tax would go directly to the General Fund and may be used for any general municipal purpose.

The City would incur costs associated with placement of the proposed measure on the ballot. Those costs have not yet been determined.

TIME CONSIDERATIONS:

Time is of the essence given the time periods established in State law to move forward with the November 8, 2016 election.

ALTERNATIVES:

The City Council may choose to not place a commercial cannabis tax measure on the November 8, 2016 ballot.

CITY COUNCIL GOALS:

Adoption of the proposed measure does not directly advance any of the City Council's goals or initiatives; however, to the extent commercial cannabis businesses are allowed to establish and operate the ordinance includes requirements and operating restrictions designed to mitigate negative impacts on the city and on the community and the proposed tax measure provides an additional revenue source for the City to allow it to continue providing essential public services.

CONCLUSIONS:

The City Council's adoption of an ordinance to permit the establishment of commercial cannabis businesses and the implementation of regulations upon those businesses is a significant change in policy. The proposed measure has been prepared consistent with the ongoing discussions at the City Council regarding commercial cannabis businesses operating in Salinas. The proposed tax rates are reasonable and consistent with rates imposed throughout the State.

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Resolution (with attached proposed tax measure ordinance)