

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

DATE: May 17, 2016

FROM: Christopher A. Callihan, City Attorney

SUBJECT: **COMMERCIAL CANNABIS BUSINESS PERMIT APPLICATIONS;
ORDINANCE AMENDMENTS**

RECOMMENDATION:

It is recommended that the City Council

- (1) approve a Resolution establishing such forms, fees, and procedures as are necessary to implement the provisions of Salinas Municipal Code Chapter 16B with respect to the initial selection and investigation process for the issuance of commercial cannabis permits; and
- (2) introduce and adopt an ordinance to incorporate technical, non-substantive amendments to Chapter 16B.

DISCUSSION:

Commercial Cannabis Permits

In January 2016, the City Council adopted an ordinance amending Salinas Municipal Code Chapter 16B to allow for the establishment of commercial cannabis businesses in Salinas. Specifically, the ordinance allows for the establishment of up to twelve (12) commercial cannabis businesses (three in each of the four business categories: dispensary, cultivation, manufacturing, and delivery). Once the ordinance was adopted, staff from the City Attorney's Office, the Community Development Department, the Salinas Police Department, and the Finance Department began work with HdL Companies to prepare an application and an application process for the issuance of commercial cannabis permits pursuant to Chapter 16B. HdL was brought on to assist with the preparation of the application and the application guidelines because of their expertise in this area of business and because of their working relationship with the County of Monterey and other cities in Monterey County also working on ordinances/applications for cannabis businesses. Staff were also cognizant of the need for some consistency with Salinas's neighboring jurisdictions to try and ensure that none is negatively impacted over the others. The proposed application and the application guidelines attached to this Report are being presented to the City Council for approval by Resolution as required by Salinas Municipal Code section 16B-30.150.

Provided the City Council approves the proposed Resolution related to the application and the application guidelines, the application period would open on June 6, 2016 and would close on Thursday July 7, 2016. The application process would consist of four phases with each phased having a maximum number of possible points: (1) preliminary determination of eligibility based primarily on a LiveScan background check; (2) initial ranking based on proposed business location, business plan, neighborhood compatibility plan, and safety and security plan; (3) second ranking of the top ten (10) applications in each category who would be subject to an interview process and possibly a Medical Cannabis Expertise Examination, among other factors; and (4) public meeting and selection Committee's final recommendation. As directed by the City Council, the selection process includes a local preference and as recommended by the Planning Commission takes into consideration such matters as the incorporation of technology, water and energy efficiency, and medical research opportunities.

The proposed Resolution establishing the application and the application guidelines also establishes the application fee and associated fees. The proposed fees cover only the City's costs in administering the program, including the completion of the initial background check and the review of applications. The proposed fees include a \$47.00 LiveScan processing fee, a \$280.35 fee to obtain a "Zoning Information Letter" to ensure the proposed location meets all the zoning requirements, and a \$415.00 initial application fee. As the application moves through the process and becomes subject to additional review and scrutiny, additional fees will be required to be paid: \$913.00 prior to the commencement of Phase 2 and \$1,760.00 prior to the payment of Phase 3. An annual renewal fee will be established and incorporated into the City's fee schedule.

Proposed Ordinance

As mentioned above, in January 2016, the City Council adopted an ordinance amending Salinas Municipal Code Chapter 16B to allow for the establishment of commercial cannabis businesses in Salinas. Through the process of preparing the proposed application and the proposed application guidelines, it became evident that technical, non-substantive amendments to the ordinance are necessary. The proposed amendments are shown in the attached ordinance in track changes format.

ISSUES:

Shall the City Council

- (3) approve a Resolution establishing such forms, fees, and procedures as are necessary to implement the provisions of Salinas Municipal Code Chapter 16B with respect to the initial selection and investigation process for the issuance of commercial cannabis permits; and
- (4) introduce and adopt an ordinance to incorporate technical, non-substantive amendments to Chapter 16B?

FISCAL IMPACT:

There is no impact on the City's General Fund or either the Measure V or Measure G funds with the City Council's approval of the proposed Resolution of Intention, other than the receipt of application fees necessary to cover the costs incurred by the City in administering the commercial cannabis ordinance and program.

TIME CONSIDERATIONS:

There are no particular time considerations associated with the proposed actions other than the public's anticipation for the eventual opening and operation of commercial cannabis businesses in Salinas.

ALTERNATIVES:

The City Council may choose to not take the proposed actions.

CITY COUNCIL GOALS:

The City Council's approval of the proposed Resolution and adoption of the proposed Ordinance will allow for the establishment of commercial cannabis businesses which promotes the City Council's goal of economic diversity and prosperity.

CONCLUSIONS:

The proposed actions are the next step toward the City Council's direction of allowing a limited number of commercial cannabis businesses to establish operations in Salinas. It is anticipated that the application process will take approximately ninety (90) days to complete which means the first permit could be issued as early as September 2016. The City Council is also reminded that staff are working to prepare a ballot measure for the November 2016 election which would seek voter approval for a tax on the sale and the cultivation of cannabis in Salinas. The proposed tax measure will be presented to the City Council for consideration in June.

Back Up Pages:
Application and Application Guidelines
Proposed Ordinance

RESOLUTION NO. _____ (N.C.S.)

**A RESOLUTION OF THE SALINAS CITY COUNCIL ESTABLISHING THE FORM, FEES,
AND PROCEDURES NECESSARY TO IMPLEMENT SALINAS MUNICIPAL CODE
CHAPTER 16B WITH RESPECT TO THE INITIAL SELECTION AND INVESTIGATION
PROCESS FOR THE ISSUANCE OF**

WHEREAS, the Salinas City Council adopted an ordinance allowing for the establishment of a limited number of commercial cannabis businesses in Salinas; and

WHEREAS, Salinas Municipal Code section 16B-30.150 requires the City Council to approve a Resolution establishing the application and the forms, fees, and procedures related to the initial selection and investigation process for commercial cannabis permits; and

WHEREAS, the Salinas is a charter city organized pursuant to California Constitution Art. XI, sec. 7 with legislative power subject only to limitations of general law; and

WHEREAS, pursuant to the authority granted Salinas through Art. XI, sec. 7, the City has the power to impose valid regulatory fees; and

WHEREAS, the City Council desires to ensure that all costs incurred, whether through staff time or otherwise, are fully recovered to maintain established City service standards; and

WHEREAS, the fees proposed in this Resolution and associated with the commercial cannabis business permit application process do not exceed the estimated reasonable cost of providing the service for which the fee is charged.

NOW THEREFORE, be it resolved by the Council of Salinas as follows:

1. The Commercial Cannabis Application Form attached hereto is hereby approved in its form and may be updated from time-to-time by the City Manager or his designee, as necessary.
2. The Application Guidelines to Operate a Commercial Cannabis Business in Salinas attached hereto is hereby approved in its form and may be updated from time-to-time by the City Manager or his designee, as necessary.
3. The following fees shall be imposed on commercial cannabis businesses by the Finance Director or his designee and shall be incorporated into the City's fee schedule and updated from time-to-time as are the City's other fees:
 - a. Live Scan processing fee: \$47.00
 - b. Zoning Information Letter: \$280.35
 - c. Initial Application Fee: \$415.00
 - d. Application Fee, Phase 2: \$913.00

e. Application Fee, Phase 3: \$1,760.00

PASSED AND APPROVED this 17th day of May 2016 by the following vote:
AYES:

NOES:

ABSENT:

APPROVED:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

ORDINANCE NO. _____ (N.C.S.)

**AN ORDINANCE AMENDING CHAPTER 16B
RELATED TO COMMERCIAL CANNABIS BUSINESSES**

WHEREAS, on January 26, 2016, the Salinas City Council adopted an ordinance amending Salinas Municipal Code Chapter 16B to allow for the establishment of a limited number of commercial cannabis businesses in Salinas (Ordinance No. 2566 (N.C.S.); and

WHEREAS, with the anticipated release and review of applications to operate these commercial cannabis businesses it has become necessary to make technical, non-substantive amendments to Chapter 16B to ensure for the orderly administration of the program.

NOW THEREFORE, be it ordained by the City Council of Salinas as follows:

SECTION 1. Chapter 16B of the Salinas Municipal Code is hereby amended as follows (with additions shown as underlined and deletions shown as strikethrough):

1. Section 16B-20.10(p) is hereby amended to read as follows:

“(p) “License” means a permit or license issued by the State of California, or one of its departments or divisions, under the Medical Marijuana Regulation and Safety Act to engage in commercial cannabis activity.”

2. Section 16B-30.30(a) is hereby amended to read as follows:

“(a) On no less than a quarterly basis (at or before the time of the renewal of a commercial cannabis permit issued pursuant to this Chapter) or at any time upon reasonable request of the City of Salinas, each commercial cannabis business shall file a sworn statement with the Chief of Police indicating the number of patients, collectives, and primary caregivers served by the commercial cannabis business within the previous twelve-month period (or shorter period based upon the timing of the request).”

3. Subdivision (a)(11) shall be added to Section 16B-30.40 to read as follows:

“(11) Each commercial cannabis business shall have signage clearly indicating those areas which are accessible to the public and those which are not accessible to the public, for example ‘No Person Beyond This Point’.”

4. Section 16B-30.160(a) is hereby amended to read as follows:

“(a) Subject to the Health Insurance Portability and Accountability Act (HIPPA) regulations, each commercial cannabis business shall allow the City of Salinas officials to have access to the commercial cannabis business’s books, records, accounts, and any and all data relevant to its permits activities for the purpose of conducting an audit or

examination. Books, records, accounts, and any and all relevant data will be produced no later than twenty-four (24) hours after receipt of the City's request, or at such other time as may be required by the City."

5. Section 16B-30.190(m) is hereby amended to read as follows:

"(m) Background Check. Every person listed as an owner, manager, supervisor or employee of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Chief of Police or his designee for a background check by the Salinas Police Department. No person shall be issued a permit to operate a commercial cannabis business unless they first have cleared the background check, as determined by the Chief of Police, as required by this section. A fee for the cost of the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis permit is submitted. The applicant(s) shall provide an initial deposit in an amount the Chief of Police or his designee estimates will cover the cost of the background investigation, which shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If the amount is not sufficient, the applicant shall provide additional amounts that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Any fees paid pursuant to this section are non-refundable."

6. Section 16B-40.20(c) is hereby amended to read as follows:

"(c) Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities."

7. Section 16B-60.30 entitled "Periodic Review by the City Council" shall be renumbered to Section 16B-70.30.

8. Section 16B-50.30(g) is hereby amended to read as follows:

"(g) Except as may otherwise be expressly permitted by the City for a manufacturing business permitted to operate pursuant to Article 7 of this Chapter, in no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site."

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

SECTION 3. Effective Date. This Ordinance shall be in full force and effect commencing thirty (30) days after its final passage and a summary hereof shall be published once within fifteen

(15) days in the Salinas Californian, a newspaper of general circulation printed and published in the County of Monterey and circulated in the City of Salinas and hereby designated for that purpose by the Council of Salinas.

This Ordinance was introduced and read by title only on the 17th day of May 2016 and was adopted on the 14th day of June 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney