

**CITY COUNCIL OF THE CITY SONORA
STAFF REPORT**

MEETING DATE: March 4, 2019

TO: CITY COUNCIL

FROM: DOUGLAS L. WHITE, CITY ATTORNEY

RE: ADOPT RESOLUTION NO. 03-04-2019-A OF THE CITY COUNCIL OF THE CITY OF SONORA, IMPOSING A BUSINESS LICENSE TAX OF FIFTEEN PERCENT OF THE GROSS RECEIPTS OF ANY CANNABIS-RELATED BUSINESS THAT HAS NOT ENTERED INTO A DEVELOPMENT AGREEMENT WITH THE CITY OF SONORA.

RECOMMENDATION:

It is recommended that the Sonora City Council ("City Council") adopt a resolution imposing a business license tax of fifteen percent (15%) of the gross receipts of any cannabis-related business that has not entered into a development agreement with the City of Sonora ("City").

DISCUSSION:

On November 8, 2016, California voters enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act ("AUMA"), which establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older and to tax the growth and retail sale of cannabis for nonmedical use. On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which creates a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains provisions granting local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction.

On January 16, 2018, the City adopted Ordinance 848 ("Ordinance") amending the City's Municipal Code, authorizing commercial cannabis activity in the City. The City's cannabis Ordinance authorizes commercial cannabis dispensaries, manufacturing, and testing laboratories. Cannabis deliveries are prohibited, unless performed by a dispensary authorized by the City. The City reserves the right to prohibit dispensaries from delivering cannabis products.

Last month, the California Bureau of Cannabis Control ("BCC") published the final regulations that will govern the state's enforcement of the legal cannabis market. An area of particular concern to cities is the treatment of non-storefront delivery businesses, better known as delivery services. Now, in their final regulations, the BCC has narrowed the ability of cities to effectively regulate cannabis at the local level. Effective immediately, the regulation at the center of the controversy,

California Code of Regulations, title 16, section 5416, subdivision (d), authorizes commercial cannabis delivery anywhere in the state regardless of conflicting local regulations or bans. The state rules guarantee legal protection to state-licensed “non-storefront” delivery companies and their customers.

In preparation for changes to cannabis laws and regulations at the state level, the City Council submitted a ballot measure (“Measure N”) to City voters at the November 6, 2018 general election, seeking authorization for the imposition of a business license tax of up to fifteen percent (15%) of the gross receipts of any cannabis-related business. Measure N was approved by voters at the election.

Under Measure N, the City Council is authorized to impose a business license tax on cannabis businesses. Cannabis businesses include all entities engaged in the commercial cultivation, distribution, and exchange of cannabis, whether for medicinal or non-medicinal reasons. The tax would not apply to those cannabis businesses that have entered into a development agreement with the City.

Measure N adopted Chapter 5.18, Cannabis Business Tax, to Title 5, Business Taxes, Licenses, and Regulations of the City’s Municipal Code, codifying the framework for the cannabis business tax. Pursuant to Chapter 5.18, the cannabis tax rate shall be set by resolution of the City Council. The City Council may, in its discretion, implement such a cannabis business tax rate as it deems appropriate and may, by resolution, increase or lower such tax rate from time to time, provided that the cannabis business tax shall not exceed \$0.15 for each \$1.00 of gross receipts.

This proposed resolution imposes a fifteen percent (15%) business license tax on cannabis businesses in the City. The tax would not apply to those cannabis businesses that have entered into a development agreement with the City. While the City cannot ban cannabis deliveries under the state regulations, it is authorized to impose the cannabis business tax on any cannabis operators operating in the City that are not already paying any public benefit amounts through a negotiated development agreement.

FISCAL IMPACT:

An estimate for possible revenue generated from the cannabis business tax are unknown at this time, but the City anticipates any revenue resulting from the cannabis business tax will be utilized to offset any local impacts resulting from cannabis deliveries and other unregulated or illegal commercial cannabis activity.

ENVIRONMENTAL:

This item does not constitute a project under the California Environmental Quality Act because it does not establish any entitlements or authorize any projects within the City.

OPTIONS:

The City Council’s options regarding the proposed resolution include:

1. Adopt the resolution as written;
2. Reject the resolution; or
3. Adopt the resolution with amendments from the City Council.

ATTACHMENTS

Resolution

RESOLUTION 03-04-2019-A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONORA TO IMPOSE A BUSINESS LICENSE TAX OF FIFTEEN PERCENT OF THE GROSS RECEIPTS OF ANY CANNABIS-RELATED BUSINESS THAT HAS NOT ENTERED INTO A DEVELOPMENT AGREEMENT WITH THE CITY OF SONORA

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, on November 8 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, on May 23, 2017, the Sonora City Council ("City Council") held a public meeting to discuss the regulatory framework of cannabis in California and ultimately moved to form a marijuana working group (the "Working Group"). The goal of the Working Group was to make recommendations to the City Council concerning the local regulation of cannabis for the City Council's consideration; and

WHEREAS, on January 16, 2018, the City Council adopted an ordinance that would regulate cannabis businesses largely pursuant to the recommendations from the Working Group (the "Cannabis Business Ordinance"). The Cannabis Business Ordinance establishes the Sonora Cannabis Business Pilot Program ("Cannabis Business Pilot Program"), which allows for the regulation of cannabis businesses through a development agreement with the City of Sonora ("City") and a conditional use permit; and

WHEREAS, the City Council, acting in furtherance of Resolution No. 5-21-2018-A adopted May 21, 2018, submitted a local ballot measure ("Measure N"), asking City voters on November 6, 2018, "Shall the measure adopting an ordinance imposing a business license tax at a rate of up to fifteen percent (15%) of gross receipts on cannabis businesses, to help fund general municipal services; and increasing the City's appropriations limit for the Fiscal Years 2019-2023 by the amount of tax proceeds received, be adopted?"; and

WHEREAS, Measure N was approved on November 6, 2018, by sixty-seven percent (67%) of local voters, and thus, adopted Chapter 5.18 Cannabis Business Tax, to Title 5, Business Taxes, Licenses, and Regulations of the City's Municipal Code, codifying the framework for the cannabis business tax, which imposes a business license tax at a rate of up to

fifteen percent (15%) on the gross receipts of commercial cannabis businesses in the City, with the tax rate to be set by resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Sonora, by this Resolution, imposes a business license tax of fifteen percent (15%) of the gross receipts of any cannabis-related business that has not entered into a development agreement with the City.

The foregoing Resolution of the City Council of the City of Sonora was passed by the City Council at a public hearing held on the ___ day of _____ 2019, by _____, who moved its adoption, which motion was duly seconded by _____, and the Resolution adopted by the following vote:

AYES:
NOES:
EXCUSED:

APPROVED:

James M. Garaventa
Mayor of the City of Sonora

ATTEST:

Colette Such, City Clerk Pro Tempore
City of Sonora

APPROVED AS TO FORM:

Douglas L. White
Sonora City Attorney