



CITY COUNCIL AGENDA STATEMENT



January 15, 2019

File ID: 18-0596

TITLE

- A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA SETTING THE CANNABIS BUSINESS TAX AT 7% OF GROSS RECEIPTS

- B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA SETTING THE CANNABIS CULTIVATION TAX AT \$25 PER SQUARE FOOT OF CANOPY

RECOMMENDED ACTION

Council adopt the resolutions.

SUMMARY

On August 7th, 2018 City Council adopted Ordinance No. 3434 adding Chapter 5.21, "Cannabis Business Tax," to Title 5 of the Chula Vista municipal Code establishing cannabis tax ranges on all cannabis business activities in Chula Vista to take effect ten days after the certification of its approval by voters at the November 6, 2018 election. On November 6, 2018 the voters of the City of Chula Vista voted in favor of the cannabis tax ranges. A statewide survey was conducted by staff to make a recommendation to set the initial tax within Council's established ranges. The state cannabis business average is 6% of gross receipts and the City of San Diego has a gross receipts tax of 8%. Staff is recommending that Council establish an initial 7% gross receipts tax on all cannabis businesses excluding commercial cannabis cultivation. The majority of California Cities that allow for cannabis cultivation set their square footage tax at \$25 per square foot of canopy. Staff is recommending an initial \$25 per square foot of canopy tax for all commercial cannabis cultivation businesses.

ENVIRONMENTAL REVIEW

The proposed activity has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity qualifies for an exemption pursuant to State CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan or Zoning); Section 15301 (Existing Facilities); Section 15303 (New Construction or Conversion of Small Structures); and Section 15061(b)(3), 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. Thus, no further environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not Applicable

DISCUSSION

In November of 2016 the voters of the State of California adopted the Adult Use of Marijuana Act (AUMA) which decriminalized non-medicinal cannabis and established a regulatory system for non-medicinal cannabis businesses in California. In June of 2017, the California State Legislature established a comprehensive set of laws regulating both individual and commercial medicinal and non-medicinal cannabis activity throughout California. In response to changes in California law the City decided to license, and regulate commercial cannabis activity by adopting Ordinance No. 3418, adopted by the City Council on March 6, 2018 and codified as Chula Vista Municipal Code Chapter 5.19. Ordinance No. 3418 and the associated staff report are included as Attachment 1. to this report; Chapter 5.19 is included as Attachment 3 to this report.

On August 7th, 2018, the Chula Vista City Council adopted Ordinance No. 3434 adding chapter 5.21, "Cannabis Business Tax" to title 5 of the Chula Vista Municipal Code to establish a tax on cannabis business activity. Ordinance No. 3434 is attached as attachment 2. The ordinance took effect ten days after the certification of its approval by the voters at the November 6, 2018 election, pursuant to Election Code section 9217, and imposes a general tax that generates revenue that may be used for any lawful purpose of the City, in the discretion of the City Council. Chula Vista Municipal Code chapter 5.21 imposes a tax, to be adopted by ordinance or resolution of the City Council, within a range of 5%-15% of gross receipts on all cannabis businesses excluding cannabis cultivation businesses, and within a range of \$5 to \$25 per square foot of canopy on all cannabis cultivation businesses.

In order to make an initial tax rate recommendation to the City Council, Staff surveyed municipal cannabis tax rates throughout the state of California. Staff determined that the current average gross receipts non-cultivation cannabis businesses is 6%. Staff then noted that the City of San Diego currently has their gross receipts tax set at 8%. Staff is recommending that City Council set an initial 7% gross receipts tax on all cannabis businesses except cannabis cultivation and then evaluate such rate after a period of one year or as determined by Council. Staff also determined that the majority of California cities that allow for cannabis cultivation have a \$25 per square foot of canopy tax rate. As a result, Staff is recommending an initial tax rate of \$25 per square foot of canopy with evaluation after one year or as determined by Council.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section 18702.2(a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

No current fiscal impact

ONGOING FISCAL IMPACT

It will have a positive fiscal impact which will be discussed in future budget workshops as more information is available

ATTACHMENTS

1. Staff Report dated 11/13/2018 and Ordinance
2. Ordinance No. 3446
3. Amended Municipal Code chapter 5.19

Staff Contact: Kelley Bacon, Deputy City Manager