

PLANNING COMMISSION
RESOLUTION NO. 2017-28

RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN ORDINANCE TO
ESTABLISH STANDARDS AND REGULATIONS FOR COMMERCIAL CANNABIS
USES AND AN ORDINANCE TO REGULATE INDOOR PERSONAL CULTIVATION OF
CANNABIS

WHEREAS, on November 8, 2016, California voters approved Proposition 64, also known as the Adult Use of Marijuana Act ("AUMA"), legalizing recreational use of cannabis for adults 21 years of age and older and providing a regulatory and taxation structure for commercial cannabis activity and for retail sales of recreational cannabis, and

WHEREAS, the California Legislature passed Senate Bill 94 in June 2017 ("MAUCRSA"), which merged certain portions of the Medical Cannabis Regulation and Safety Act ("MCRSA") with AUMA to create a more comprehensive regulatory structure for both medical and recreational cannabis uses, and

WHEREAS, the City may enact regulations relating to allowed commercial cannabis activity in the City and the appropriate zones in which the commercial activity takes place, and

WHEREAS, the City may also enact reasonable regulations for the personal cultivation of nonmedical cannabis that occurs inside a residence or accessory structure, and may completely prohibit outdoor nonmedical cannabis cultivation, and

WHEREAS, the current Zoning Code prohibits commercial cannabis activity and personal cannabis cultivation in all zones of the City, and

WHEREAS, City staff has drafted a proposed Ordinance to establish standards and regulations for commercial cannabis uses which makes changes to the Zoning Code to allow certain commercial cannabis activity in certain zones of the City, and

WHEREAS, City staff has also drafted a separate proposed Ordinance for the regulation of personal cannabis cultivation, to meet the minimum requirements of state law, in all zones of the City, and

WHEREAS, the draft Ordinances are in conformance with current state laws relating to cannabis, and

WHEREAS, the Planning Commission held a workshop on November 20, 2017 to discuss the current status of California law relating to cannabis and the proposed Ordinances, and

WHEREAS, a properly noticed public hearing was held by the Planning Commission on November 28, 2017 in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. The proposed Ordinances will not be detrimental to the public health, safety or welfare because the regulations contained in the proposed Ordinances ensure the safe and successful operation of cannabis businesses within the City, as they contain extensive regulatory and operational requirements including security plans, background checks, applications procedures and zoning clearances for such businesses.
2. The proposed change will result in an orderly planned use of land because commercial cannabis use and personal cannabis cultivation will not affect the planned land use and how land is developed.
3. The proposed Ordinances are in accordance with the community's objectives as set forth in the General Plan because the proposed Ordinance relating to Commercial Cannabis Uses conforms to Chapter III, Community Development Policies and Chapter V, Community Service and Facilities in that the regulations address the general goals for Community Service and Facilities including regulations for security and safety, fire, utilities, water and waste. The proposed Ordinance for Personal Cannabis Cultivation will provide regulations to ensure that the cultivation is done in a safe manner which not only protects the community but also the housing stock of the City. The regulations also conform to Chapter V, Community Service and Facilities in that the regulations address the general goals for Community Service and Facilities including regulations for security and safety, fire and utilities.
4. The proposed Ordinances are exempt from environmental review. Business and Professions Code section 26055(h) provides that an ordinance allowing commercial cannabis use permits which are subject to discretionary review is not required to be reviewed pursuant to the California Environmental Quality Act ("CEQA"). Furthermore, the proposed Ordinances are exempt from CEQA under the general rule in CEQA Guidelines section 15061(b)(3), that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

BE IT FURTHER RESOLVED by the Planning Commission that it hereby recommends to the Council:

1. "Ordinance Amending Articles 1 and 2 of Chapter 3 of Title 10 of the Modesto Municipal Code and adding Article 7 to Chapter 3 of Title 10 to Establish Standards and Regulations for Commercial Cannabis Uses"; as shown in Exhibit A, and
2. "Ordinance Amending Section 10-3.101, "Land Use Table"; Amending Section 10-3.210(a), "Medical Marijuana Uses"; and Adding Title 6, "Personal Cannabis Cultivation" to the Modesto Municipal Code to Regulate Indoor Personal Cultivation of Cannabis.", as shown in Exhibit B.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the Council that cannabis dispensaries in the Central Downtown (CD) and Transition Downtown

(TD) Zones be limited to no more than three (3) dispensaries, and be subject to enhanced design, development and operational standards.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on November 27, 2017, by Commissioner Lucas, who moved its adoption, which motion was seconded by Commissioner Birring, and carried by the following vote:

Ayes:	Birring, Lucas, Morad, Pollard, Smith, Escutia-Braaton
Noes:	None
Absent:	Vohra
Recused:	None

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD
Patrick Kelly, Secretary

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EXHIBIT A

**Ordinance Amending Articles 1 and 2 of Chapter 3 of Title 10 of the Modesto
Municipal Code and adding Article 7 to Chapter 3 of Title 10 to Establish Standards
and Regulations for Commercial Cannabis Uses**

EXHIBIT B

Ordinance Amending Section 10-3.101, "Land Use Table"; Amending Section 10-3.210(a), "Medical Marijuana Uses"; and Adding Title 6, "Personal Cannabis Cultivation" to the Modesto Municipal Code to Regulate Indoor Personal Cultivation of Cannabis