

PLANNING COMMISSION  
RESOLUTION NO. 2020-08

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO TITLE 10 OF MODESTO MUNICIPAL CODE (ZONING REGULATIONS) TO AMEND 10-3.702, 10-3.704, 10-3.707 AND 10-3.730 (CITY INITIATED)

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 Modesto City Council adopted Ordinance NO. 3684-C.S. on January 16, 2018, Amending Article 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; and

WHEREAS, State law does not prevent a city from using its constitutional authority to enact nuisance, health and safety, and land use regulations regarding cannabis cultivation, dispensaries or other commercial cannabis uses, including commercial cannabis deliveries; and

WHEREAS, the City desires to amend Title 10 of the Modesto Municipal Code, in compliance with MAUCRSA and California Bureau of Cannabis Control Regulations, to mitigate the potential negative impacts to the public health, safety and welfare of the City's residents from commercial cannabis deliveries; and

WHEREAS, the City further desires to reaffirm its prohibition of commercial cannabis consumption on the premises of licensed commercial cannabis businesses within the City; and

WHEREAS, a public hearing was held by the Planning Commission on May 4, 2020, in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission, by Resolution No. 2020-01, voted to recommend to the City Council that the amendment to Title 10 of Modesto Municipal Code (Zoning Regulations) to amend Sections 10-3.702, 10-3.704, 10-3.707 and 10-3.730, be approved; and

WHEREAS, subsequent to the May 4, 2020, Planning Commission hearing and before City Council consideration of the ordinance, the City determined it necessary to further amend the ordinance to comply with Penal Code Sections 11105(b)(11) and 13300(b)(11), which require the City Council, Board of Supervisors, governing body of a

city, county, or district or joint powers authority to specifically authorize access to federal level criminal history information by transmitting fingerprint images and related information to the California Department of Justice to be transmitted to the Federal Bureau of Investigation for cannabis employment, licensing, or certification purposes; and

WHEREAS, the City is proposing to modify the ordinance to incorporate the above change and seeking from the Planning Commission a revised recommendation of approval of the ordinance; and

WHEREAS, a public hearing was held by the Planning Commission on August 17, 2020, 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 code amendment will not be detrimental to the public health, safety or welfare because the regulations contained in the proposed code amendment ensures the safe and successful operation of cannabis businesses and deliveries within the City.
2. The proposed Zoning Text amendment is exempt from California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061(b)(3). Specifically, this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment because it does not authorize the construction of any new structures or other physical changes to the environment.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that the amendment to Title 10 of Modesto Municipal Code (Zoning Regulations) to amend Sections 10-3.702, 10-3.704, 10-3.707 and 10-3.730, as set forth in Attachment A, be approved.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on August 17, by Commissioner Smith was seconded by Commissioner Vohra and carried by the following vote:

Ayes: :Escutia-Braaton, Morad, Pollard, Shanks, Smith, Vohra, Biring  
Noes: None  
Absent: None  
Recused: None

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

Original, signed copy on file in CEDD

Steve Mitchell, Secretary

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