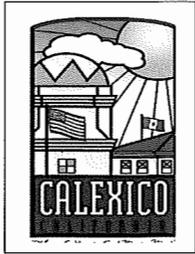


**AGENDA
ITEM**

11



AGENDA STAFF REPORT

DATE: January 9, 2019

TO: Mayor and City Council

APPROVED BY: David Dale, City Manager *DD*

PREPARED BY: Miguel Figueroa, Assistant City Manager *MF*
Carlos Campos and Jill Tremblay, City Attorney

SUBJECT: Resolution No. 2019- _____ A Resolution of the City Council of the City of Calexico, California, Setting Cannabis Business Tax Rates.

Recommendation:

Waive further reading and adopt City Council Resolution 2019 - _____, establishing cannabis business tax rates.

Summary:

In 2018, voters approved Measure K, a measure to tax certain cannabis businesses in the City of Calexico. Measure K added Chapter 3.40 to the Calexico Municipal Code permitting maximum cannabis taxes. The City Council now needs to set the actual cannabis business tax rates by resolution.

Discussion & Analysis:

This past July, the City Council adopted Resolution No. 2018-61. This resolution supported the placement of a general tax measure on cannabis businesses. In the November 2018 General Municipal Election, voters overwhelmingly approved Measure K with nearly 74 percent (74%) voting in favor of the proposed tax.

The cannabis tax rates approved by voters established a maximum limit on how much cannabis businesses could be charged and authorized the City Council to establish a tax rate that does not exceed the approved maximum amounts.



The measure approved by voters included the following maximum limits on tax rates for cannabis businesses:

Business Type	Max. Amount allowed under Measure K
All cannabis business types including cultivation, manufacturing, distribution, testing, retail and delivery.	15% of gross receipts
	\$25 per square foot

Maximum rates were set to ensure that the City had the opportunity to lower or raise the actual tax rate depending on the market for cannabis and cannabis products. As such, staff is recommending a lower initial tax rate. Staff proposes the following initial rates for taxation:

Business Type	Staff recommended rate
Cultivation	\$16 per square foot
Manufacturing	3% of gross receipts
Distribution	No tax
Testing	No tax
Retail (incl. delivery and microbusinesses)	10% of gross receipts

These initial rates are within the limits approved by voters. Staff is recommending these rates to be in-line with tax rates seen throughout the state. For example, in unincorporated areas, the County of Imperial has maximum rates of fifteen dollars (\$15) per square foot on the space utilized for cannabis cultivation, five percent (5%) on gross receipts of cannabis manufacture and eight percent (8%) on gross receipts of cannabis retail sale. In addition staff has discussed these rates with cannabis industry professionals.

Most cultivation and/or manufacturing operations also obtain distribution licenses. Therefore, in efforts not to double tax businesses, staff is recommending no tax on distributors operating within the City.

Also, the state does not tax testing laboratories. As such, staff is recommending that testing laboratories not be taxed at the City level.

Fiscal Impact:

Implementation of the proposed tax rates is estimated to generate up to \$700,000 in revenue annually from cannabis businesses which will be deposited into the general fund.

Attachments:

1. RESOLUTION NO. 2019 - _____ A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, SETTING CANNABIS BUSINESS TAX RATES.

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO,
CALIFORNIA, SETTING CANNABIS BUSINESS TAX RATES.**

WHEREAS, on July 5, 2017 the Calexico City Council ("City Council") of Calexico ("City") approved Ordinances 1177 and 1178 allowing for commercial cannabis related land-uses including cultivation, manufacturing, testing and research, and distribution within the City; and,

WHEREAS, on July 18, 2018 the City Council at a regularly held City Council meeting adopted Resolution No. 2018-61 calling for the placement of a General Tax Measure on the ballot for the November 6, 2018 General Municipal Election for the submission to qualified voters of a proposed ordinance establishing a tax on cannabis businesses operating within the City of Calexico ("Cannabis Tax Measure"); and,

WHEREAS, the Cannabis Tax Measure passed by a majority vote of the People on November 6, 2018; and,

WHEREAS, on ,December 5, 2018 the City Council approved Ordinances 1191 and 1192 allowing for retail cannabis businesses within the City; and,

WHEREAS, the Cannabis Tax Measure added Chapter 3.40 *Cannabis Business Tax* to the City of Calexico Municipal Code ("Municipal Code"); and,

WHEREAS, Municipal Code Chapter 3.40 provides that tax rates can be set at a maximum of (1) fifteen percent (15%) of gross receipts or fractional part thereof, generated by a cannabis business at wholesale or retail; and (2) twenty five dollars (\$25.00) per square foot of space utilized in connection with a cannabis business.

WHEREAS, as allowed by Proposition 218, Municipal Code Chapter 3.40 further provides that the City Council may impose the tax detailed above at a lower rate without a vote of the People; and,

WHEREAS, the City Council now wishes to set the initial tax rates for cannabis businesses operating within the City by Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Calexico, as follows:

SECTION 1. Incorporation of Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. Cannabis Business Tax Rates. Pursuant to Section 3.40.030 and 3.40.050 of the Calexico Municipal Code, the City Council of the City of Calexico hereby sets the tax rates for cannabis businesses as follows:

A. Sixteen dollars (\$16) per square foot of space utilized in connection with cannabis cultivation businesses;

B. Three (3) cents for each \$1.00 of gross receipts for cannabis manufacturing businesses; and

C. Ten (10) cents for each \$1.00 of gross receipts for cannabis retail businesses.

SECTION 3. CEQA. The City Council hereby FINDS and DETERMINES that this Resolution relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

SECTION 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Calexico, California, at a regular meeting held on this 9th day of January 2019.

Lewis Pacheco, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney

State of California)
County of Imperial) ss.
City of Calexico)

I, Gabriela T. Garcia, Deputy City Clerk of the City of Calexico do hereby certify the above Resolution No. _____ was approved at a regular City Council meeting held on the 9th day of January 2019, by the following vote to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gabriela T. Garcia, City Clerk