



STAFF REPORT
12/16/2020

TO: Planning Commission Chair and Commissioners

FROM: Luis Lopez, Development Services Director

SUBJECT: Review of Ordinance No. 1171 amending various provisions of the Coachella Municipal Code regarding Interim Outdoor Cannabis Cultivation. City-Initiated.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission review and recommend that the City Council approve the following Ordinance:

ORDINANCE NO. 1171 An Ordinance of the City Council of the City of Coachella, California, Amending Various Provisions of the Coachella Municipal Code Regarding Interim Outdoor Commercial Cannabis Cultivation.

BACKGROUND:

In November 2016, voters approved Proposition 64, otherwise known as the Control, Regulate, Tax Adult Use of Marijuana Act (“AUMA”) which legalized the adult use of cannabis and created a statutory framework for the state to regulate adult use of cannabis. Senate Bill 94, adopted on June 27, 2017, reconciled standards for medical and adult use cannabis activity under a single law, entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”).

The City of Coachella adopted Chapter 17.85 “Medical Cannabis Cultivation Facilities,” in January 2016, to allow commercial cannabis cultivation, manufacturing, testing, distribution, and transportation activities in the wrecking yard (M-W) zone with a development agreement or conditional use permit (“CUP”) the M-W zone and IP Industrial Park Overlay Zone, and general commercial C-G for testing laboratories only with a CUP. All such businesses also require a regulatory permit to operate. The commercial cannabis regulations have been amended over the past four years to now allow for medical and non-medical commercial cannabis businesses, in addition to retail stores.

On February 26, 2020 the City Council conducted a study session which included a discussion item on the possibility of allowing outdoor cannabis cultivation uses in the City’s remote agricultural areas bounded by Avenue 48 on the north, Tyler Street on the west, the All-American Canal on the east, and Avenue 52 on the south. The City Council provided staff direction to work on a draft ordinance that would allow for “interim agricultural uses” for outdoor cannabis

cultivation on properties that are: 1) remotely located and removed from sensitive odor receptors; 2) have land use entitlements for future development but wish to include an interim agricultural use to cultivate cannabis for three to five years prior to construction of the first phase of urban development, or 3) are owned or leased by an applicant that voluntarily agrees to limit the term of any conditional use permit for outdoor cannabis cultivation.

The proposed Ordinance has been drafted to encompass discussion and comments from the February 2020 study session.

DISCUSSION/ANALYSIS:

I. SUMMARY

The proposed Ordinance would allow interim outdoor commercial cannabis cultivation in agricultural and remote areas of the City with a conditional use permit and subject to certain property development standards.

II. OUTDOOR COMMERCIAL CANNABIS CULTIVATION

A. References to Interim Outdoor Cultivation

The proposed Ordinance includes new references to “interim outdoor cultivation” to distinguish this new use from the indoor commercial cannabis cultivation, which has been allowed in certain areas of the City since 2016.

B. Interim Nature of Outdoor Cultivation Use

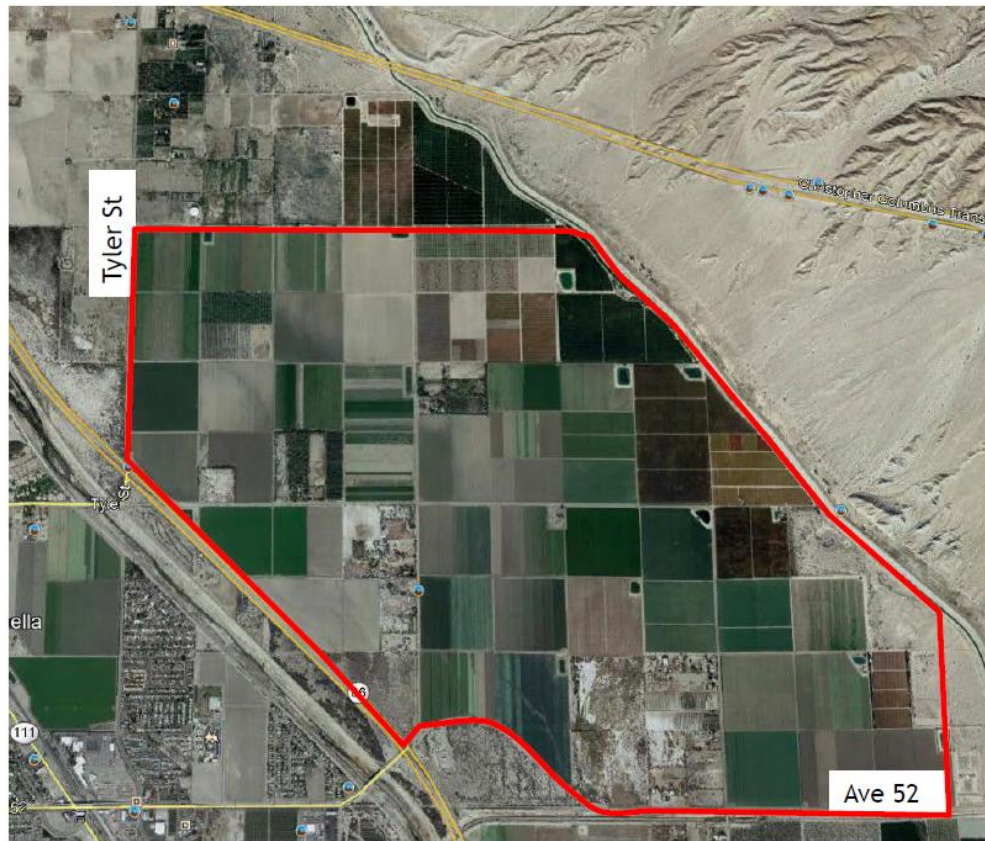
The City’s existing Ordinance requires that commercial cannabis businesses obtain a conditional use permit (“CUP”) or development agreement prior to operation.

The proposed Ordinance makes clear that a CUP issued for indoor cultivation will not automatically give the applicant permission to operate outdoor cultivation as well. Instead, separate CUPs may be issued for indoor versus outdoor cannabis cultivation. Each CUP for interim outdoor cultivation may include a condition of approval that limits outdoor cultivation activities to a specified duration not to exceed the sooner of forty eight (48) months, or the first phase of construction establishing a new residential or commercial use. If the condition is accepted by the applicant, the City may thereafter record a covenant memorializing this restriction against the property, which will include a reference to the approved CUP.

C. Zones Where Interim Outdoor Commercial Cultivation is Allowed

Interim outdoor commercial cannabis cultivation may be proposed on any agricultural property, subject to obtaining a conditional use permit, if the property is located within the agricultural reserve (A-R) zone, agricultural transition (A-T) zone, residential single-family (R-S) zone, multiple-family residential (R-M) zone, and general commercial (C-G) zone and is within the geographic area bounded by Avenue 48 on the north, the All-American Canal on the east, Avenue 52 on the south, and the 86 Expressway and Tyler Street on the west, as shown on the map exhibit below.

Agricultural Properties



D. Property Development Standards for Outdoor Commercial Cultivation

All interim outdoor commercial cannabis cultivation sites must:

- be located on a site having a minimum of five (5) acres in size.
- have a maximum canopy size equal to the lesser of two (2) acres or the maximum size authorized by the State license for that business. It should be noted that the State limits outdoor cultivation to 1 acre until 2023. As such, this Ordinance would allow outdoor cannabis up to 1 acre through the end of 2022 and up to 2 acres thereafter, unless further modified.

- provide a minimum fifty-foot (50 ft.) landscaped or agriculturally-planted buffer from adjoining properties and abutting streets.
- provide perimeter fencing with dwarf Oleander hedge along all public streets.

As for distance limitations, no interim outdoor commercial cannabis cultivation shall be located within:

- 500 feet of another interim outdoor commercial cannabis cultivation use;
 - 1,000 feet of any public or private school (K-12), day care center or youth center;
- or
- 600 feet of any residentially-zoned lot.

E. Operating Standards for Outdoor Commercial Cultivation

The proposed Ordinance includes new operating standards for outdoor commercial cultivation, including the following:

- **Visibility.** Cannabis plants shall not be easily visible from offsite. All interim outdoor commercial cultivation sites should have a minimum fifty-foot (50 ft.) landscaped or agriculturally-planted buffer from adjoining properties and abutting streets.
- **Security.** All interim outdoor commercial cultivation activities shall occur within a secure fence at least six (6) feet in height that fully encloses the cultivation area(s) and prevents access to the cultivation area(s). The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress and egress.
- **Outdoor lighting.** Outdoor lighting shall be used for the purpose of illumination only. Outdoor lighting shall not be located within the canopy area, used for photosynthesis, mixed-light processes, other purposes intended to manipulate cannabis plant growth. Temporary lighting, whether powered by a portable generator or permitted electrical service, is prohibited.

F. Regulatory Permit Application Information

The proposed Ordinance requires cultivation applicants to provide a detailed water management plan including the proposed water supply, proposed conservation measures, and any water offset requirements; information regarding stormwater control and wastewater discharge; a list of all pesticides, fertilizers, and any other hazardous materials that are expected to be used in the cultivation process; a storage and hazard response plan for all pesticides, fertilizers, and any other hazardous materials kept on the cultivator’s site; all power sources proposed to be used.

With regards to the required security plan, the proposed Ordinance includes wrought iron or decorative masonry fencing as an option, with Planning Commission approval.

And, Polyethylene Plastic Film, Polycarbonate Sheeting, and Shade Cloth Fabrics may be used in temporary greenhouses and temporary hoop houses as part of an approved interim outdoor cannabis cultivation use to assist in odor suppression.

FISCAL IMPACT:

None.

ALTERNATIVES:

- 1) Adopt Resolution No. PC2020-13 recommending approval of Ordinance No. 1171 as presented.
- 2) Adopt Resolution No. PC 2020-13 recommending approval of Ordinance No. 1171 with amendments.
- 3) Recommend denial of Ordinance No. 1171.
- 4) Continue this item and provide staff with direction.

RECOMMENDED ALTERNATIVE(S):

Staff recommends Alternative #1 or Alternative #2 above.

Attachments: Resolution No. PC2020-13
Draft Ordinance No. 1171