



**STAFF REPORT**  
**7/14/2021**

**TO:** Honorable Mayor and City Council Members

**FROM:** Gabriel Perez, Assistant Community Development Director

**SUBJECT:** Ordinance No. 1171 amending various provisions of the Coachella Municipal Code regarding Interim Outdoor Commercial Cannabis Cultivation in the City's Agricultural Sector. City-Initiated. (*1<sup>st</sup> Reading*)

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**STAFF RECOMMENDATION:**

Staff recommends that the City Council introduce for first reading, by title only, Ordinance No. 1171 to amend various provisions of the Coachella Municipal Code regarding interim outdoor commercial cannabis cultivation in the City's agricultural sectors.

**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 medical 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 Planning Commission first reviewed draft Ordinance No. 1171 on December 16, 2020 and recommended to the City Council approval of the ordinance with some minor modifications as follows:

- 1) The recommended minimum lot area of five (5) acres for an Interim Outdoor Cannabis Cultivation use should be reduced to one (1) acre. The rationale for this was to allow local family farms to participate in commercial cannabis activity. Staff recommended a larger land area in order to create more separation from these farms and most of the parcels in the geographic area in question are larger than five acres. However, reducing the minimum acreage to one (1) acre would allow every land owner in the geographic area to participate, provided they are in the allowable zoning districts.
- 2) The requirements for a minimum 50-foot buffer around the perimeter of the outdoor cannabis grow area, to include either row crops or other landscaping, and an 8-foot tall security fence, should be modified to allow more flexibility in its design, subject to review and approval by the Planning Director. Staff has amended these development standards to require a minimum 20-foot setback on all sides with “an opaque fencing material” to be used along any street frontage to screen the cannabis grow areas from view to the street. This could include chain link with slats or canvas tarp (i.e. wind fence) similar to what is used in other California Counties for outdoor cannabis grow facilities.

On January 27, 2021 the City Council introduced Ordinance No. 1171 for first reading and on February 10, 2021, the City Council considered the ordinance on second reading, but remanded the item back to the Planning Commission for further review. The Economic Development and Planning Subcommittee reviewed the ordinance on March 4, 2021 and recommended expansion of the geographic boundaries for outdoor cannabis cultivation further north to Vista Del Sur. The proposed Ordinance was amended to encompass discussion and comments from the Subcommittee. The Planning Commission reviewed the revised ordinance on June 16, 2021 and recommended to the City Council approval of the ordinance.

## **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.

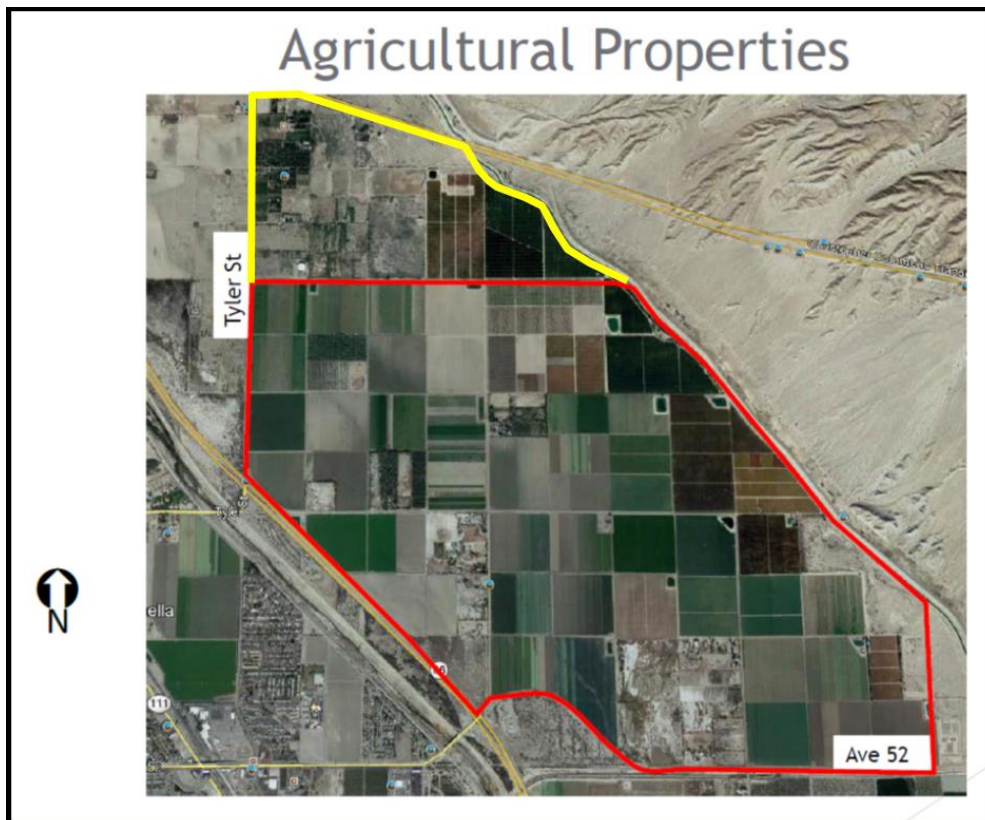
**B. Interim Nature of Outdoor Cultivation Use**

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 Vista del Sur 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. The northern boundary was modified from the boundary the City Council considered January 27, 2021, with Avenue 48 as the northern boundary.



**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 one (1) acre 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 twenty-foot (20 ft.) setback on all sides of the outdoor cannabis grow areas.
- provide perimeter fencing with an opaque fencing material, subject to review and approval by the Planning Director to screen the outdoor grow areas from view to 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

**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) Introduce Ordinance No. 1171 for first reading, by title only.
- 2) Introduce Ordinance No. 1171 for first reading, by title only, with minor modification.
- 3) Take no action.
- 4) Continue this item and provide staff with direction.

**RECOMMENDED ALTERNATIVE(S):**

Staff recommends Alternative #1 or Alternative #2 above.

Attachments: Ordinance No. 1171 – 1<sup>st</sup> Reading