

RESOLUTION NO. 2020-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, ESTABLISHING REVISED SELECTION CRITERIA TO BE USED DURING THE REVIEW OF CONDITIONAL USE PERMITS FOR CANNABIS RETAILERS AND RETAIL MICROBUSINESSES (ROUND #2) WITHIN SUBZONE #1 (PUEBLO VIEJO), #3 (DILLON ROAD), #4 (WRECKING YARD), OR #5 (INDUSTRIAL PARK) OF THE CITY.

WHEREAS, pursuant to the authority granted to the City of Coachella (“City”) by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, adoption and enforcement of comprehensive zoning regulation and other land use regulations lies within the City’s police powers; and,

WHEREAS, 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 cannabis with the standards for adult use cannabis activity under a single law, entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, the City Council of the City of Coachella, California (“City Council”), did on the 8th day of May, 2019 and on the 26th day of June, 2019, held duly noticed public hearings

to consider changes to the City of Coachella Municipal Code (“Code”), and adopted Ordinance Nos. 1140 establishing retail and personal cannabis regulations and a conditional use permit review process; and,

WHEREAS, Ordinance 1140 amends Title 17 (Zoning), Chapters 17.34, 17.46, 17.47, 17.84, and 17.85 to (i) comply with current City policies and State law; (ii) to allow additional cannabis retail businesses in the City; (iii) to designate additional areas in the City where cannabis retail businesses may operate; and,

WHEREAS, the City has established five new subzones where cannabis will be allowed. These subzones are identified geographically as part of Ordinance No. 1140 as follows: Subzone #1 (Modified Downtown/Pueblo Viejo Area); Subzone #2 (Expanded Glenroy Resort Area); Subzone #3 (Dillion Road Area); Subzone #4 M-W (Wrecking Yard Area); and Subzone #5 MS-IP (Industrial Park Area); and,

WHEREAS, the City Council directed staff to establish a selection criteria that allowed for Sub-Zone #1 (Downtown/Pueblo Viejo) applicants in Round #1 to participate without a competitive process including an allowance to relocate the business from its approved Round #1 location, and to establish new criteria for applicants within Sub-Zones #2 (Glenroy Resort), #3 (Dillion Road), #4 (M-W, Wrecking Yard Area), and #5 (MS-IP, Industrial Park) to be used for retailers and retail microbusinesses during the conditional use permit process in Round #2 to ensure that only qualified operators are permitted in the City and to provide a basis for prioritizing applicants should the number of applicants exceed the number or locations of available conditional use permits; and,

WHEREAS, on October 9, 2019 the City Council adopted Resolution No. 2019-51 establishing the new selection criteria for review of retailers and retail microbusinesses during the conditional use permit process to ensure that only qualified operators are permitted in the City and to provide a basis for prioritizing applicants should the number of applicants exceed the number or locations of available conditional use permits; and,

WHEREAS, on March 11, 2020, April 22, 2020, and May 13, 2020 the City Council gave staff direction to revise the new selection criteria previously adopted by Resolution No. 2019-51.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Adoption of Recitals. The City Council hereby adopts the foregoing recitals as its findings in support of the following regulations and further finds that the following revised regulations to establish selection and prioritization criteria for retailers and retail microbusinesses are beneficial and appropriate to protect the health, safety and welfare of the residents and businesses of the City of Coachella.

SECTION 2. Adoption of Revised Selection Criteria. The City Council hereby adopts the revised selection criteria set forth in Exhibit “A,” attached hereto, to review retailer applicants through the conditional use permit process.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this resolution or related ordinances or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this resolution or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 4. Immediate Effect. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution.

SECTION 5. Supersession. This Resolution hereby annuls, repeals, and replaces in its entirety, the new selection criteria previously approved by City Council as part of Resolution No. 2019-51.

PASSED, APPROVED and ADOPTED this 27th day of May 2020.

Steven A. Hernandez
Mayor

ATTEST:

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. 2020-23 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on the 27th day of May 2020, by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Andrea J. Carranza, MMC
Deputy City Clerk

EXHIBIT “A”

The City of Coachella is located at the eastern end of the Coachella Valley and enjoys a rich cultural heritage known for its entrepreneurial families and engaged youth population. It is the City Council’s desire to promote potential cannabis businesses that will further the economic development goals, and cannabis social equity policies, of the community in order to create jobs, provide a stronger tax base, and enhance the public health and wellness of the community. The policies and selection criteria listed below, along with the Eligible Applicant and Eligible Business descriptions in the attached “Appendix 1 – City of Coachella Cannabis Social Equity Program” will be used in the City’s Retail Cannabis (Round #2) reviews of Conditional Use Permit applications.

Revised Subzone 1 Policy – Round #1 Applicant Policies:

The applicants which submitted a complete application for Change of Zone and Conditional Use Permit for Retail Cannabis Businesses as part of Round #1 and were prioritized by the Cannabis Ratings Committee in the Pueblo Viejo (Sub-Zone #1) will be allowed to proceed with Conditional Use Permit public hearings on any qualifying location without competing with new applicants in Round #2, if the previously-approved location was adversely affected by the removal of the R-C (Retail Cannabis Overlay) zone as part of Ordinance No. 1040. The previously-ranked applicant that chooses a new location will be required to forfeit their prior-approved location. All Round #1 dispensary owners are disqualified from competing for a second dispensary as part of Round #2 applications.

Subzone 2 Policy – Reserved through a Development Agreement:

The City reserves the right to allocate two (2) retail cannabis businesses within the Glenroy Resort Sub-Area #2, subject to a negotiated Development Agreement, and these two businesses will not be required to compete in Round #2.

Revised Subzones 1, 3, 4, & 5 Selection Criteria–Round #2 Applicants:

With the adoption of Ordinance No. 1140 setting the zoning and regulatory framework for new retailers, the City anticipates that there may be more applications for cannabis business conditional use permits than allowed under the City regulations. Only four (4) new businesses will be moving forward, after the Round #1 awardees have been given an additional nine (9) months to establish their businesses.

The City has enacted, through Resolution, the following process for prioritizing applications.

I. Completeness Review

All cannabis retailers are required to submit a Conditional Use Permit (CUP) application with fee using the City’s on-line resources and guidance documents, and a Cannabis Regulatory Permit Application with all required Attachments. The applicant shall participate in the City’s pre-submittal workshop and shall become informed about the City’s cannabis social equity policies contained in the attached Appendix 1. The City’s staff and consultants shall review all applications for “completeness” to ensure that

applicants have submitted all the required information necessary for review of the application. Only applications received between July 27, 2020 and August 31, 2020 (“initial review and prioritization period”) and deemed complete will move on for review under the City’s revised selection criteria, unless exempted through a Development Agreement. Persons and/or entities that are currently involved or were involved in the 6 months prior to the initial review and prioritization period with an active court proceeding adverse to the City are ineligible to apply for a CUP.

II. Revised Selection Criteria

The following selection criteria will be used by the Development Services Department to evaluate and prioritize CUPs for retailers and retail microbusinesses. Selection criteria are each worth either 5, 10, or 15 points, with a grand total of 125 points possible. To obtain the points, the applicant must demonstrate compliance with each criterion listed in the section below.

1. Proof of Applicant’s Ability to Open in Short Period of Time (Up to 25 Points)
 - a. Has the landowner provided written authorization for a retailer and provided the applicant with a lease agreement? (*Worth 5 points*)
 - b. Is the proposed retailer property capable of opening the business within 180 days after approval? (*Worth 5 points*)
 - c. Is the proposed retailer property not the subject of any outstanding code enforcement activity? (*Worth 5 points*)
 - d. Has the applicant submitted a construction schedule with a signed affidavit acknowledging an informed consent that the City will revoke an approved CUP for retail cannabis business if the business does not open within six (6) months of the effective date of the CUP? (*Worth 10 points*)
2. Proof of Local Ownership (Up to 30 Points)
 - a. Is there evidence showing that: 1) the Local Stakeholder Owner of the retail cannabis business has a primary residence in the City of Coachella where he/she has been residing for the past 36 months; or, 2) the Local Stakeholder Owner is a Coachella business owner which has 5 or more City of Coachella residents employed which have been employed during the past 36 months? (*Worth 10 points*)
 - b. Does the applicant commit to hiring City of Coachella residents for 85% of all hires of the retail cannabis and secondary businesses? (*Worth 10 points*)
 - c. Does the applicant have proof (through financial documents and/or capital investments) that there is a 20% Local Stakeholder Ownership Interest by either the applicant, partner or shareholder to apply for all aspects of the retailer or retail microbusiness? (*Worth 10 points*)
3. Proof of Social Equity Factors (Up to 30 Points)
 - a. Is the applicant an eligible applicant under the City’s Cannabis Social Equity Program as a Classification 1 or Classification 2 applicant? (*Worth 10 Points*)
 - b. Is the proposed Cannabis Retailer or Cannabis Microbusiness an eligible applicant under the City’s Cannabis Social Equity Program as a Classification 3 business? (*Worth 10 points*)

- c. Does the applicant commit in a signed writing to hire City of Coachella residents for 85% of all hires of the retail cannabis business? *(Worth 10 points)*
- 4. Proof of Ability to Open a Secondary Business (Up to 20 Points)
 - a. Does the applicant propose to operate a new secondary business (such as a restaurant, retail sales, hotel, bed & breakfast, bakery, art gallery, bar/tavern, coffee shop, bookstore or personal service business, etc.) on separate premises within 12 months of the application date in addition to the proposed retailer business? *(Worth 5 points)*
 - b. Does the applicant provide written proof of available financing to construct a secondary business consisting of new construction or tenant improvements with the ability to open the business at the same time as the dispensary. *(Worth 5 points)*
 - c. Does the applicant commit in a signed writing to hire City of Coachella residents for 85% of all hires for the secondary business? *(Worth 5 points)*
 - d. Does the secondary business have a minimum of 1,000 square feet and is it located within a separate commercial suite from the retail cannabis business? *(Worth 5 points)*
- 5. Proposed Retail Location/Community Benefits (Up to 20 Points)
 - a. Does the applicant provide a detailed architectural plan for building façade improvements *(Worth 5 points)*
 - b. Does the applicant provide a written commitment for intended contributions to a Coachella community-based organization or non-profit in the form of recurring monetary donations for a minimum of ten years. *(Worth 5 points)*
 - c. Is the applicant committing to exterior façade and landscape improvements that will enhance the surrounding areas? *(Worth 5 points)*
 - d. Has the applicant provided a detailed description of how the premises and exterior building areas will be managed so as to avoid nuisance, loitering, and other negative impacts on surrounding properties? *(Worth 5 points)*

III. Ranking and Appeals

Applications will be ranked by a 3-Member Ad-Hoc Committee made up of one disinterested member of the Chamber of Commerce, one disinterested member of the City Parks Commission, one disinterested Community Resident, and one disinterested 3rd Party Consultant, with the Director of Development Services serving as the Committee coordinator. The final rankings of the Ad-Hoc Committee will be subject to an appeal hearing by a 3-Member Appellate Board made up of two City mid-management staff and one City executive staff member.