



STAFF REPORT
5/4/2022

TO: Planning Commission Chair and Commissioners

FROM: Gabriel Perez, Development Services Director

SUBJECT: Cannabis Business Streamline Code Amendments to amend Coachella Municipal Code Title 5 and 17 regarding cannabis business zoning and operation in the City. City-Initiated (Continued from April 20, 2022). City-Initiated.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission review and adopt Resolution No. PC2022-14 recommending that the City Council (Council) approve an ordinance to amend the City's Cannabis business zoning and operation regulations of the Coachella Municipal Code.

BACKGROUND:

In November of 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"). Since 2016, the City of Coachella acted to establish cannabis business regulations as follows:

- **November 2016 - Cannabis Tax** the voters in Coachella approved Measure II, which authorized the City to impose a cannabis tax of \$15 per square foot on cultivation and manufacturing facilities and 6 percent of revenue on cannabis. The tax applies to both medicinal and nonmedicinal cannabis businesses, including retail cannabis businesses, regardless of whether the business is properly permitted by the City.
- **January 27, 2016 - Medical Cannabis Cultivation Facilities and Medical Cannabis Cultivation Regulatory Permits, (Zoning Ordinance Amendment ZOA No. 15-03)** Council adopted **Ordinance No. 1803**, amending Section 17.24.020, amending Chapter 17.84, Medical Cannabis Dispensaries, creating Chapter 17.85 Medical Cannabis Cultivation Facilities, and amending Chapter 17.34 to allow commercial medicinal cannabis cultivation, manufacturing, testing, distribution, and transportation activities in the wrecking yard (M-W) zone on a site of a minimum of 5 acres, paved street frontage minimum of 250 ft, and 1,000 feet from any residential zone with a conditional use permit ("CUP"). **Ordinance No. 1084** added Chapter 5.68 to the Coachella Municipal Code for medical cannabis cultivation

regulatory permits.

- **July 12, 2017 - Cannabis Testing Laboratories and Commercial Cannabis Activity Regulatory Permits** Council adopted **Ordinance No. 1108** (Zoning Ordinance Amendment 17-03), amending Chapters 17.26, 17.46 and 17.85, Commercial Cannabis Activity, regarding commercial cannabis activity zoning allowing cannabis testing laboratories with a CUP in M-W, IP and C-G zones. Council also adopted **Ordinance No. 1109** amending Chapter 5.68 of the Coachella Municipal Code regarding Cannabis Activity regulatory permits.
- **February 14, 2018 - Retail Cannabis Businesses (ZOA No. 17-05)** Council adopted **Ordinance No. 1114**, amending Chapter 17.84, Retail Cannabis Businesses, and Chapter 17.85, Commercial Cannabis Activity, allowing retail cannabis businesses subject to a development agreement or Conditional Use Permit in the M-W Wrecking Yard Zone, the IP Industrial Overlay Zone, and the RC retail cannabis overlay zone subject to strict land use guidelines. Council also adopted **Ordinance No. 1115** adding Chapter 17.47, RC Retail Cannabis Overlay Zone, to regulate the Retail Cannabis Overlay Zone specific to areas the City would like to see developed with new and thriving businesses (Sub-Zones # 1 and 2). The City took a conservative approach and kept these sub-areas small in size. A distance of 250 from public or private school (K-12), day care center or youth center was adopted.
- **July 10, 2019 - Commercial Cannabis Activity Amendments** Council adopted **Ordinance No. 1140** (ZOA No. 19-01), allowing retail cannabis in the Industrial Park overlay Zone, expanded Downtown Sub-Zone #1 and added Sub-Zone #3 Dillon Road Corridor applies to projects that are located along either side of Dillon Road, between State Highway 86 and Vista Del Norte; and have either a front or side lot line fronting Dillon Road or Camp Court. The ordinance also added microbusinesses with a CUP in the RC Overlay Zone, increased the number of retail cannabis businesses from four (4) to ten (10), and expanded the allowed area for retail cannabis businesses beyond the RC Overlay Zone to the M-W Zone and MS-IP Overlay Zone. Lastly, the Ordinance reduced the minimum project area size in the IP Overlay Zone from 30 acres to 10 acres.
- **May 27, 2020 – Non-Storefront Retail Cannabis Business Code Amendments** (ZOA No. 20-01) Council adopted **Ordinance No. 1161** updating and clarifying Title 17 provisions and **Ordinance No. 1162** amending Chapters 5.68 and 5.69 regarding retail cannabis businesses, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses.
- **July 14, 2021 Interim Outdoor Cannabis Cultivation** (ZOA No. 20-02) Council adopted **Ordinance No. 1171** establishing regulation for outdoor cannabis cultivation in the agricultural areas of the City subject to certain zoning districts, a CUP with a maximum term of 4 years, minimum canopy size of 2 acres, and 1,000 feet from schools and youth centers.
- **Interim Outdoor Cannabis Cultivation Amendments** (ZOA No. 21-04) Council adopted **Ordinance No. 1188** removing the limitation of 2 acre canopy size and allowing limited cultivation lighting during winter months.
- **February 23, 2022 New Tax Rate Structure Adopted** Council acted to remove the square

footage tax for cultivation and manufacturing, and charge cannabis businesses as follows: Cultivation 2%, Retail 6%, Manufacturing 2%, Distribution 0%, and Testing 0%.

The City's cannabis business regulations allow for a diverse mix of cannabis retail, cultivation (indoor and outdoor), distribution, retail, and testing businesses. In 2021, the cannabis tax revenues were \$1,897,514. In 2021, a Cannabis Action Team was assembled of key City staff responsible for regulation and support of the local Cannabis business to assess progress of the City's cannabis business program over the past 5 years. The City of Coachella was early to adopt a legal regulatory framework for cannabis businesses to operate in the City and took a conservative approach to cannabis business regulation. The Cannabis Action Team was able to identify opportunities for streamlining the City's zoning and business regulation for cannabis operations with the goal of reducing processing times, costs, and providing greater regulatory clarity.

DISCUSSION/ANALYSIS:

The Cannabis Action Team evaluated the Cannabis zoning and business regulations of the Coachella Municipal Code and proposes several Municipal Code Amendments to Title 5, Business Licenses and Regulations, and Title 17, Zoning to streamline the City's cannabis business program as follows:

- Remove the requirement of commercial cannabis or retail cannabis applicants to pursue a change of zone to apply either a Retail Cannabis RC Overlay or Industrial Park IP Overlay. This would eliminate the need to process both a Change of Zone and a CUP, which requires public hearings at the Planning Commission and the City Council.
- Eliminate Sub-Zones for retail cannabis businesses in Chapter 17.47, RC Retail Cannabis Overlay Zone, and allow them in any Commercial zones (C-N, Neighborhood Commercial, C-G, General Commercial, C-T, Tourist Commercial Zone) in the City with a CUP, but subject to the 10 dispensary limit allowed in the Municipal Code. City staff believes this change would allow for greater feasibility for dispensaries to open within the 10 dispensary limit, while still limited by any eligibility criteria established by Council for new retail cannabis business application rounds.
- Allow commercial cannabis activity permitted in Chapter 17.85, Commercial Cannabis Activity, to occur in M-S, Manufacturing Service or M-H, Heavy Industrial Zones subject to a CUP and eliminate the need to be located in one of 3 allowed Sub-areas. Currently, commercial cannabis activity is only allowed on M-S zoned properties with an IP Overlay rezoning in Sub-areas #6 (Downtown Expansion), #7 (South Employment District), or #10 (North Employment). The City receives many applications to allow commercial cannabis activity that require both a Change of Zone for IP Overlay and a rezoning from M-S to M-H zones despite the proposed locations within the eligible Sub-areas. Staff's recommendation would allow commercial cannabis activity in M-S and M-H zones subject to 600-foot distance requirement from a residentially zoned lot. A map of the 600 foot distance from residential zones lots demonstrates that the eligible commercial cannabis activity locations would continue to be consistent with Sub-areas 6, 7, and 10, but would allow new commercial cannabis activity in industrial zones east of the 86 Expressway (Attachment 3).

- Remove the requirement for a Development Agreement for retail cannabis businesses in Chapter 17.84, Retail Cannabis Businesses and for Commercial Cannabis Activity in Chapter 17.85. Staff conducted an assessment of existing Development Agreements for cannabis businesses in the City and determined that the development agreements mainly secure a taxation rate for cannabis business activity. This taxation rate in a development agreement is no longer required as the City has a citywide tax rate structure for cannabis businesses. Development agreements could still be entered into voluntarily by applicants as many of the existing development agreements allow for maintaining approved permits activity for up to seven years.
- Reconcile the inconsistent distance requirement from residential zoned lots for cannabis businesses of 1,000 feet in the IP Overlay, Chapter 17.46 and Commercial Cannabis Activity, the Chapter 17.85, distance requirement of 600 feet.
- Eliminate the 250 foot paved street frontage and 5 acre lot size restrictions for Commercial Cannabis businesses in the M-W zone Chapter 17.85. The City has previously granted variances from these limitations. It is unclear why these limitations are necessary and Staff believes it is better to allow for more flexible standards than create a situation that requires variance approvals.
- Allow an expiration timeframe of two (2) years for CUPs and Architectural Review (AR). Currently, CUPs and ARs expire after one year unless an extension of time is granted. Staff observed that it is difficult to obtain a building permit for a cannabis related development application within a year and the one-year timeframe for CUPs and ARs is not realistic to expect building permit issuance and diligent pursuit of construction. The City of La Quinta and City of Indio have similar two-year expiration timeframe for CUPs and Development Review Permits.
- Establish more defined CUP and AR revocation procedures in Chapter 17.74, Conditional Uses, and Chapter 17.72, Architectural Review. If a cannabis business is determined to be out of compliance with its CUP, it is important to have clear procedures for staff and applicants regarding the revocation process.
- Establish a 12-year maximum time period for Interim Outdoor Cannabis Cultivation. Currently, the Zoning Ordinance limits the maximum term to 4 years and it is unclear whether the CUP can be renewed. Interested outdoor cultivators have expressed that the lack of certainty for the maximum term for outdoor cannabis cultivation is a deterrent to proceeding with an outdoor cultivation operation.

The proposed amendments would update the Coachella Municipal Code based on the evaluation of cannabis businesses operations within the last 5 years. The amendments would streamline the process and reduce costs for new cannabis businesses. Staff time and resources would reduce significantly from the processing of multiple Zone Changes and variance requests for cannabis business activity proposals.

ALTERNATIVES:

- 1) Adopt Resolution No. PC2022-14 recommending approval of an Ordinance as presented.
- 2) Adopt Resolution No. PC 2021-14 recommending approval of an Ordinance with amendments.
- 3) Recommend denial of the ordinance.
- 4) Continue this item and provide staff with direction.

RECOMMENDED ALTERNATIVE(S):

Staff recommends Alternative #1.

Attachments:

1. Resolution No. PC2022-14
Exhibit A - Draft Ordinance
Exhibit B – Redlines of Code Sections
2. Coachella Business Program – Allowed Cannabis Business Areas
3. Commercial Cannabis Activity eligible areas (600 ft. residential zone buffer)
4. Commercial Zoning District Map