



STAFF REPORT
4/15/2020

TO: Planning Commission Chair and Commissioners

FROM: Luis Lopez, Development Services Director

SUBJECT: Resolution No. PC2020-04 approving Zoning Ordinance Amendment (ZOA 20-01) and recommending approval of an Ordinance amending various sections of Title 17 (Zoning) of the Coachella Municipal Code to update and clarify provisions regarding retail cannabis businesses, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission approve Zoning Ordinance Amendment (ZOA 20-01) and recommend to the City Council approval of a draft Ordinance amending Coachella Municipal Code Title 17 (Zoning), Chapters 17.26 C-G General Commercial Zone, 17.30 M-S Manufacturing Service Zone, 17.32 M-H Heavy Industrial Zone, 17.34 M-W Wrecking Yard Zone, 17.46 IP Industrial Park Overlay Zone, 17.47 RC Retail Cannabis Overlay Zone, 17.84 Retail Cannabis Businesses and 17.85 Commercial Cannabis Activity to Update Cannabis Business Zoning Regulations, including Regulations Specific to Non-Storefront Retail Cannabis Businesses and Microbusinesses, by adopting the attached resolution.

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”).

The City of Coachella adopted Chapter 17.85 “Medical Cannabis Cultivation Facilities,” in January 2016, to allow commercial medicinal cannabis cultivation, manufacturing, testing, distribution, and transportation activities in the wrecking yard (M-W) zone with a conditional use permit (“CUP”). Since then, the City has allowed both medicinal and adult use cannabis cultivation, manufacturing, testing, distribution, and transportation activities in the M-W zone and IP Industrial Park Overlay Zone for all commercial cannabis activity, and general commercial C-G for testing laboratories only with a CUP. All such businesses also require a regulatory permit to operate.

A City Council study session was held on June 6, 2017 at which time City staff was given direction to prepare and present an ordinance regulating retail cannabis businesses. During the study session, the City Council discussed various potential zoning limitations, including areas within the City that would be suitable and would benefit by such uses, distance limitations between retail cannabis businesses themselves, and distance limitations between these businesses and schools. The City Council took public comment at the meeting, which was generally in favor of allowing such uses. Commenters asked that retail cannabis businesses be allowed in commercial areas, asked the Council to be “business friendly” when considering such uses, and to carefully think about and plan for revenue generated.

In February 2018, the City Council adopted an ordinance, which among other things, allowed five (5) retail cannabis businesses to operate within the City.

In April 2019, the City adopted new retail cannabis regulations, including updating the language to reflect changes in State law; reducing the “minimum project area” size from thirty (30) acres to ten (10) acres in the MS-IP (Manufacturing Service - Industrial Park) overlay zone; expanding area of Sub-Zone #1 *Pueblo Viejo*; adding a new Sub-Zone #3 *Dillon Road Corridor*; adding property development standards for microbusinesses; allowing ten (10) retail cannabis businesses to operate in the City; and allowing retail cannabis businesses in the M-W Wrecking Yard Zone and the IP Industrial Park Overlay Zone, in addition to the RC Retail Cannabis Overlay Zone.

Since that time, staff has been working to update the City’s zoning regulations for cannabis businesses based on City Council comments, public comments, internal review of the Zoning Map and General Plan, staff meetings, and current State law. City Council recently gave staff direction to pursue two code amendments to consider allowing “interim outdoor cannabis cultivation farms” and “non-storefront retail cannabis businesses”. Because the next growing season for outdoor cultivation is not imminent, that code amendment will be further studied and brought to the Commission in the summer months. This ordinance presented herein deals strictly with allowing “non-storefront retail cannabis businesses” in various commercial and industrial districts of the City.

DISCUSSION/ANALYSIS:

I. SUMMARY

The proposed Ordinance would amend Title 17 (Zoning), Chapters 17.26, 17.30, 17.32, 17.34, 17.46, 17.47, 17.84, and 17.85 to (i) allow non-storefront retailers in the C-G General Commercial Use Zone, M-S Manufacturing Service Zone, M-H Heavy Industrial Zone, M-W Wrecking Yard Zone, and RC Retail Cannabis Overlay Zone and subject to certain property development standards, (ii) clarify the different types of cannabis microbusinesses that may operate in different City zones, and (iii) comply with current City policies and State law.

II. NON-STOREFRONT RETAILERS

A. Non-storefront Retailer Defined

Currently, the City does not allow non-storefront retailers. The proposed Zoning

Ordinance Amendment (“ZOA”) would allow non-storefront retailers to operate in certain zones in the City (described below) subject to certain development standards (described below). The City is not proposing to limit the number of non-storefront retailers, but these uses will be limited by land use restrictions, e.g. they will be limited to certain zones and have distancing/spacing restrictions, which are discussed below.

A “non-storefront retailer” means a cannabis retailer that provides cannabis **exclusively through delivery**. Like the name implies, these businesses do not have a retail storefront that is open to the public. Rather, the business will obtain cannabis and cannabis products, secure the merchandise on site, and then deliver it to customers. Customers do not come to the business location.

State law and regulations regarding cannabis delivery ensure documented transfer from the retailer to the customer. All deliveries of cannabis goods must be performed by a delivery employee (at least 21 years of age) who is directly employed by a licensed retailer and be made in person. The process of delivery begins when the delivery employee leaves the retailer’s licensed premises with the cannabis goods for delivery and ends when the delivery employee returns to the retailer’s licensed premises after delivering or attempting to deliver the cannabis goods. A delivery employee of a licensed retailer shall, during deliveries, carry a copy of the retailer’s current license, a copy of the QR Code certificate issued by the Bureau of Cannabis Control, the employee’s government-issued identification, and an identification badge provided by the employer. Prior to providing cannabis goods to a delivery customer, a delivery employee shall confirm the identity and age of the delivery customer. A delivery employee may not carry cannabis goods with a value in excess of \$5,000 at any time. (Bus. & Prof. Code, §§ 26013, 26090.) QR is short for “Quick Response” and these codes are used to take a piece of information from a transitory media and put it onto a person’s cell phone. Once on the cell phone, it gives the person information about the business.

In February 2020, new cannabis regulations were enacted requiring cannabis retailers and delivery services to post QR codes in their storefront windows and carry it with them while transporting or delivering cannabis products. These regulations are designed to help consumers identify licensed cannabis retail stores, assist law enforcement, and support the legal cannabis market. It has been reported that illicit cannabis sales in California in 2019 were estimated at \$8.3 billion, while legalized sales were expected to reach \$3 billion.

B. Zones Where Non-storefront Retailers are Allowed

The ZOA proposes to allow non-storefront retailers in the following zones:

- C-G General Commercial Use Zone;
- M-S Manufacturing Service Zone;
- M-H Heavy Industrial Zone;
- M-W Wrecking Yard Zone; and

- RC Retail Cannabis Overlay Zone.

Non-storefront retailers would be permitted as conditional uses in the above zones, meaning that they must secure a conditional use permit (“CUP”) or development agreement prior to operating. Please note that these businesses must also obtain a regulatory permit pursuant to Coachella Municipal Code Chapter 5.69 *Cannabis Retailer and Retail Microbusiness Regulatory Permit*.

C. Property Development Standards

The ZOA proposes that non-storefront retailers be subject to three property development standards:

- A minimum of one hundred (100) feet separation from any residential structure;
- be at least five hundred (500) feet from any other storefront retail or non-storefront retail cannabis business; and
- may not be located in the City’s Pueblo Viejo District.

The ZOA defines “Pueblo Viejo District” as that area in the city bounded by Cesar Chavez Street on the west, 1st Street on the north, Grapefruit Boulevard on the east, and 9th Street on the south.

III. MICROBUSINESSES

The City’s current regulations distinguish between microbusinesses with a retail component and microbusinesses without a retail component. The proposed ZOA further clarifies the regulations related to microbusinesses.

A. Types of Microbusinesses

The proposed ZOA adds new definitions to specify the three types of microbusinesses: non-retail, storefront retail, and non-storefront retail microbusinesses.

A “non-retail microbusiness” is a commercial business that engages in indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution. Like the name implies, there is no retail component to the business.

A “storefront retail microbusiness” is a commercial business that engages in storefront retail cannabis sales and at least two of the following: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution.

A “non-storefront retail microbusiness” is a commercial business that engages in non-storefront retail cannabis sales and at least two of the following: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution.

B. Zones Where Microbusinesses are Allowed

1. Non-retail Microbusinesses

The Municipal Code currently allows non-retail microbusinesses in the following zones:

- M-W Wrecking Yard Zone; and the
- IP Industrial Park Overlay Zone.

2. Storefront Retail Microbusinesses

The Municipal Code currently allows storefront retail microbusinesses in the following zones:

- M-W Wrecking Yard Zone;
- IP Industrial Park Overlay Zone; and the
- RC Retail Cannabis Overlay Zone.

3. Non-storefront Retail Microbusinesses

The ZOA proposes to allow non-storefront retail microbusinesses in the following zones:

- C-G General Commercial Use Zone;
- M-S Manufacturing Service Zone;
- M-H Heavy Industrial Zone;
- M-W Wrecking Yard Zone; and
- RC Retail Cannabis Overlay Zone.

C. Microbusinesses Conditionally Permitted

All microbusiness types are permitted as conditional uses in the above zones, meaning that they must secure a CUP or development agreement prior to operating. These businesses must also obtain a regulatory permit pursuant to Coachella Municipal Code Chapters 5.68 and 5.69.

FISCAL IMPACT:

None.

ALTERNATIVES:

- 1) Adopt Resolution No. PC2020-04 recommending approval of the attached Draft Ordinance.
- 2) Adopt Resolution No. PC2020-04 recommending approval of the attached Draft Ordinance with amendments.
- 3) Recommend denial of the attached Draft Ordinance.
- 4) Continue this item and provide staff with direction.

RECOMMENDED ALTERNATIVE(S):

Staff recommends Alternative #1 or Alternative #2 above.

Attachments: Resolution No. PC2020-04
 Draft Ordinance Amending Coachella Municipal Code