



CITY OF POMONA

JOINT MEETING STAFF

REPORT

May 1, 2019

To: Honorable Mayor and Members of the City Council and;
Chair and Members of the Planning Commission

From: Linda Lowry, City Manager

Submitted By: Anita D. Gutierrez, AICP, Development Services Director

SUBJECT: STUDY SESSION ON CANNABIS ZONING

RECOMMENDATION:

After discussion, provide staff direction on the draft zoning overlay approach.

EXECUTIVE SUMMARY:

The permitting program for Commercial Cannabis Businesses in Pomona has three main components: 1) Business Ordinance, 2) Zoning Ordinance and; 3) Implementation Guide. The purpose of the study session is to briefly review the adopted Business Ordinance and then commence discussion on the approach to the Zoning Ordinance.

FISCAL IMPACT:

If enacted, the two ordinances (business permit and zoning amendment) are anticipated to have a positive fiscal impact. Under Measure PC, cannabis cultivation businesses are taxed at annual rates up to \$10.00 per canopy square foot. All other cannabis businesses are taxed at a rate up to 6% of gross receipts. At the time that Measure PC was submitted to the voters, the City estimated that the tax was likely to generate an estimated \$400,000 to \$500,000 annually, until repealed by the voters. This estimate was based on an assumption of two cultivator permits and up to four retail cannabis businesses allowed and operating in the City.

The costs of permitting will be recovered through permitting fees, which can be set in an amount to recoup the actual cost of implementing the permitting review provisions. The permitting fees will be brought forward for Council consideration after the Zoning Ordinance Amendment is adopted and the Implementation Guide has been drafted. The implementation process will have a direct impact establishing the permitting fee.

Staff anticipates continued enforcement costs, which are currently less than \$100,000 per year. It is difficult to estimate what the enforcement demand will be once the cannabis related uses are permitted, but it is reasonably expected that the cost would be substantially less than the amount of tax collected, resulting in an anticipated positive fiscal impact which could allow investment in drug/substance abuse education or other City needs as determined by the City Council.

PREVIOUS RELATED ACTION:

On December 5, 2018, the City Council certified election results which included the passage of Measure PC, which imposes a tax on cannabis (marijuana) businesses. On April 1, 2019, the City Council adopted Ordinance Number 4257 (Attachment 1) establishing a merit-based competitive review and permit procedure for commercial cannabis business licenses.

DISCUSSION:

The permitting program for Commercial Cannabis Businesses in Pomona has three main regulatory components: 1) Business Ordinance, 2) Zoning Ordinance, and 3) Implementation Guide, summarized below.

Business Ordinance

On April 1, 2019, the City Council adopted Ordinance Number 4257 establishing a merit-based competitive review and permit procedure for commercial cannabis businesses. The types of commercial cannabis businesses defined in the Ordinance are: indoor cultivation, manufacturing, testing, distribution, retail-storefront, and microbusiness of medicinal and adult-use cannabis and cannabis products, as well as the ancillary transportation and delivery of cannabis or cannabis products.

This Ordinance established the framework by which applicants and businesses will be evaluated based on a four phase process which includes: Phase 1: Application, Phase 2: Initial scoring, Phase 3: Public presentation and, Phase 4: Final ranking and permit issuance. The adopted Ordinance established a 1,000 foot buffer between any potential commercial cannabis business and specified sensitive uses, including, school K-12 schools, day care centers, and youth and recreation centers. Additionally, storefront retail business shall not be located with 1,000 feet from another commercial cannabis storefront retailer.

Zoning Ordinance

The next step is to establish a Zoning Ordinance that will designate specific zones where cannabis businesses will be allowed to operate. To date, the discussions call for allowing cannabis businesses in commercial and industrial zones, excluding the Downtown and the Fairplex and prohibiting retail sales in Council District 3.

Commercial cannabis businesses may have objectionable operational characteristics, particularly when they are aggregated in one area. Since these uses could have an undesirable effect upon adjacent uses, particularly residential and sensitive uses, special regulation of cannabis business uses is necessary to avoid adverse effects arising from cannabis businesses upon the surrounding neighborhood.

The intent of the Zoning Ordinance is to ensure that such uses be contained in specified areas and business licenses are dispersed in a reasonable manner. A Cannabis Overlay (CO) District adds a layer of zoning regulation on top of select commercial and industrially zoned areas. The CO District would designate areas where commercial cannabis business are permitted provided that they meet all other provisions set forth in the Business Ordinance, including distance requirements from sensitive uses. A draft Cannabis Permit Area Overlay (Attachment 2) has been prepared for discussion at this evening's meeting. The proposed CO District represents areas outside of the 1,000 foot sensitive use buffer and then was further broken down into twelve potential Cannabis Permitting Area's (CPA) that were field evaluated by staff for compatibility with surrounding uses and General Plan consistency.

Once the Cannabis permitting program is finalized, the implementation of the process is wholly administrative in that the areas designated to allow cannabis would be permitted by right and would not require a discretionary process such as a Conditional Use Permit, assuming the cannabis business met all the criteria in both ordinances and was then ultimately selected to receive a cannabis business license.

Implementation Guide

As discussed at previous City Council meetings, staff will be developing an Implementation Guide to further elaborate on some the requirements set forth in the Business Ordinance, such as what details should be provided when submitting an Air Quality Plan or Security Plan. This will be a valuable tool in ensuring the applications received are as detailed as possible.

Prepared by:

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Development Services Director

Attachment No. 1 – Adopted Ordinance 4257
Attachment No. 2 – Draft Cannabis Permit Area Overlay