



Agenda Report

MEETING DATE: Tuesday, October 10, 2023

TO: City Council

FROM: COMMUNITY DEVELOPMENT DIRECTOR MERRIAM

THROUGH: CITY MANAGER MENDEZ

SUBJECT: STUDY SESSION ON POTENTIAL MODIFICATIONS TO THE
WATSONVILLE MUNICIPAL CODE CHAPTER 14-53
(CANNABIS FACILITIES)

RECOMMENDED ACTION:

It is recommended that the City Council provide direction to City staff on potential modifications to the Cannabis Ordinance (WMC Chapter 14-53), based on input from existing cannabis business owners in the City.

BACKGROUND:

On November 8, 2016, California voters passed Proposition 64 (The Adult Use of Marijuana Act), which legalized cannabis in California. The deadline to pass permanent state regulations governing the cultivation, manufacture, distribution, testing and sales of cannabis was January 1, 2018.

On November 8, 2016, Watsonville voters passed Measure L. the Watsonville Marijuana Business Tax 74.2% to 25.8%.

On December 13, 2016, the City Council adopted Ordinance 1345-16, adding a new Chapter 52 (Cultivation, Processing, Manufacture, Distribution, Testing and Sale of Nonmedical Cannabis) of Title 14 (Zoning) of the Watsonville Municipal Code. The purpose of the ordinance was to make clear to prospective businesses that commercial recreational cannabis activities are not allowed in the City.

On April 25, 2017, the City Council adopted Ordinance No. 1352-17, adding a new Chapter 14- 53 to the Watsonville Municipal Code. The purpose of this ordinance was to permit and regulate medical cannabis cultivation and manufacturing within the City. Recreational or "adult-use" cannabis continued to be prohibited in the City.

On December 7, 2017 the California State Bureau of Cannabis Control adopted emergency regulations to clarify and make specific licensing and enforcement criteria for commercial

cannabis businesses under the Medicinal and Adult-Use Regulation and Safety Act (MAUCRSA or the Act).

On January 1, 2018, the state Medicinal and Adult-Use Cannabis Regulation and Safety Act (codified at §§ 26000 of the California Business and Professions Code became effective. This law rescinded the December 7, 2017, emergency regulations.

On January 16, 2018, the Council adopted Ordinance No. 1362-18 (codified at WMC 14-53 101 et seq which allowed cultivation and manufacture of cannabis for the adult-use market, and rescinded Ordinance 1361-18 which prohibited recreational cannabis. These changes became effective on March 15, 2018.

On March 13, 2018, the Council adopted Ordinance No. 1364-18 which allowed existing cultivation and manufacturing facilities to distribute cannabis for the adult-use market. This amendment became effective April 26, 2018.

On March 12, 2020, the City Council adopted Ordinance No. 1404-20 that further modified the Cannabis Ordinance to allow retail cannabis sales, increased the cultivation canopy, and developed a robust application process for new businesses.

DISCUSSION:

Since the adoption of modifications to the Cannabis Ordinance in 2020 that allowed for the establishment of retail dispensaries in Watsonville, there are now 3 retail stores in operation. Given the continuing changes in the regulatory and economic environment regarding cannabis businesses, staff has reached out to our local cannabis businesses to understand their concerns regarding the existing cannabis ordinance and their recommended modifications to assist them in achieving success in the cannabis marketplace.

There were several shared recommendations amongst the local businesses, and while most businesses had recommended changes, not all businesses support modifications that would increase the number of dispensaries or modify the zoning districts in which retail dispensaries are allowed.

After receiving direction from City Council, staff will meet with local prevention partners and the cannabis businesses before bringing modifications, if any, to the Planning Commission and City Council for consideration. In this report, the recommended modifications have been grouped into topic areas. Given the breadth of subjects proposed for modification by the cannabis businesses, it is requested that the City Council direct staff to research and compile more information on those topics listed only if the Council is interested in modifying the ordinance to accommodate those changes.

Number of Retail Permits Allowed

Staff has been approached about allowing an additional retail cannabis license in the City to provide an opportunity for a local business to open a retail location in the City of Watsonville.

The City of Santa Cruz allows up to 5 dispensaries, Capitola allows 2, and the County of Santa Cruz has 12 dispensaries, while Watsonville has 3 dispensary permits.

Jurisdiction	# Licenses	Population	Population Density
Watsonville	3	52,067	1 per 17,356 people
Capitola	2	9,846	1 per 4,923 people
County of Santa Cruz	12	267,792	1 per 22,316 people
City of Santa Cruz	5	61,950	1 per 12,390 people
County of Monterey	9	437,235	1 per 48,582 people

An additional retail dispensary in Watsonville could serve to reduce demand for the 3 existing retail locations but would provide additional choice for residents. With 4 locations, there would be 1 dispensary for every 13,017 residents, a reduction of over 4,000 residents.

Location of Retail Cannabis Businesses

Retail dispensaries are allowed in the Industrial Park (IP), General Industrial (IG) and Visitor Commercial (CV) Zoning districts. Existing stores are located exclusively in the IP and IG zones, two of which have very little street frontage as they are tucked away in the IG zoning district.

The retail stores with limited visibility from the street have requested that the City consider additional commercial locations to allow retail dispensaries.

During the last ordinance update in 2020, staff considered the Thoroughfare Commercial Zoning district, however the distance requirements from residential uses significantly limited the CT zoned parcels on which a dispensary could be accommodated.

Signage

The Cannabis Ordinance allows very little signage for retail cannabis businesses. Businesses are limited to 1 20 square foot exterior building sign per location that includes the name of the business and a green cross.

Given that all three dispensaries are in Industrial zones, their visibility is limited. In fact, one dispensary is tucked away on Kearney Street west of Walker, while another is located at the rear of a parcel accessed by a 550-foot-long driveway, completely hidden by a building in front. Now that these dispensaries are open for business, they are having difficulties bringing customers to their stores.

The businesses have recommended defaulting to the City's Sign Ordinance to give them more options and opportunity to advertise on their properties.

Annual Renewal

Cannabis businesses are tasked with renewing their state licenses every year, and also must submit a separate application packet to renew their City permits. This causes a significant

burden to the cannabis businesses, who have requested another way to ensure that the businesses are complying with local regulations.

It is recommended that the City modify its regulations to require a copy of the material submitted to the state for annual renewal supplant the current process, with a signed affidavit from the business that they have complied with local regulations over the course of the year. In addition, staff would then schedule a site inspection to check the premises to ensure compliance.

Definition of Owner

As the cannabis industry is changing at a rapid pace and businesses are struggling to survive, changes in business ownership structures have also changed. The current ordinance requires a new Special Use Permit application any time that the ownership for a cannabis business changes, with no consideration for whether that owner had a controlling interest in the business or had any influence on day-to-day operations.

It has been recommended that the City modify the Cannabis Ordinance to default to the state's definition of an owner, which is a person that has a 20% or more ownership interest in the business. The text of the state definition is outlined below:

“Owner” shall mean a person with an aggregate ownership interest of 20 percent or more in the commercial cannabis business, unless the interest is solely a security, lien, or encumbrance. For purposes of this section, “aggregate” means the total ownership interest held by a single person through any combination of individually held ownership interests in a commercial cannabis business and ownership interests in an entity that has an ownership interest in the same commercial cannabis business. For example, a person who owns 10 percent of the stock in a commercial cannabis business as an individual shareholder and 100 percent of the stock in an entity that owns 10 percent of the stock in the same commercial cannabis business has a 20 percent aggregate ownership interest in the commercial cannabis business.

1. An individual who manages, directs, or controls the operations of the commercial cannabis business, including but not limited to:
 - A. A member of the board of directors of a nonprofit.
 - B. A general partner of a commercial cannabis business that is organized as a partnership.
 - C. A non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company.
 - D. The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.
 - E. The chief executive officer, president or their equivalent, or an officer, director, vice president, general manager or their equivalent.
1. If the commercial cannabis business is owned in whole or in part by an entity and the entity includes individuals who manage, direct, or control the operations of the commercial cannabis business, as described in subsection (a)(2)(E), those individuals shall also be disclosed as owners. Department of Cannabis Control

Medicinal and Adult-Use Commercial Cannabis Regulations (January 2023)
Page 23 of 222

2. If available evidence indicates that an individual qualifies as an owner, the Department may notify the applicant or licensee that they must either disclose the individual as an owner and submit the information required by section 15002 or demonstrate that the individual does not qualify as an owner.

Application Period for Non-Retail Permits

The City allows cannabis cultivation, manufacturing, testing, non-storefront retail, distribution, and processing in addition to retail dispensary permits. The Cannabis Ordinance only allows cannabis applications during a fixed application period, which was set up to limit staff workload as the City anticipated that many applications might be submitted on an ongoing basis if it were not managed through a set application period. This has not borne out, and cannabis business owners have requested that the City allow the submittal of applications outside of a predetermined application period for non-retail permits.

Currently, there are processing, distribution, testing, manufacturing, and non-storefront delivery permits available.

Hours of Operation

The current hours of operation for retail dispensaries is 9 am to 9 pm. Permittees are requesting an increase in hours to match state regulations, which would be 7 am to 10 pm, with the last delivery scheduled at 9:30. For comparison, the County of Santa Cruz limits hours to be from 8 am to 10 pm.

Identification Badges

The Cannabis Ordinance requires every owner, manager, and employee engaged in a cannabis business to wear an identification badge issued by the Police Department. These badges must be renewed annually.

The cannabis businesses have requested that the ordinance be changed to remove the annual renewal requirement for ID badges, and clarify that badges are required for those employees, managers, and owners who are involved in the day-to-day operation of the business.

Background Checks

The Cannabis Ordinance requires background checks for all owners and managers. The businesses have recommended the removal of the requirement for background checks for cannabis managers, given the high employee turnover being experienced. The background check requirement for managers significantly slows down the hiring process, which hinders the ability to operate effectively.

Retail Operational Changes- Security

The Cannabis Ordinance requires retail businesses to have a 24-hour security guard on the premises. It has been recommended that the code be modified to require on-site security

personnel while the business is open, but then allowing a security system to monitor the premises when the business is closed.

Dab Pens and Flavored Products

The Cannabis Ordinance prohibits the manufacture and sale of flavored combustible products, also known as dab pens, which are intended for inhalation or vaporization. It has been recommended that the City follow state law which states:

Cannabis products intended for inhalation shall only contain cannabis, cannabis concentrate, terpenes, rolling paper, leaf, pre-roll filter tips, or ingredients permitted by the United States Food and Drug Administration as an “inactive ingredient” for inhalation, as specified in the United States Food and Drug Administration Inactive Ingredients Database, available at <https://www.fda.gov/drugs/drug-approvals-anddatabases/inactive-ingredients-database-download>.

This standard, coupled with the following definition for “terpenes,” would significantly limit the flavors available to be added to a vape product, and the flavors menthol, mint, mango, strawberry, grape, orange, clove, cinnamon, and pineapple would be prohibited:

“Terpenes” is defined to mean “terpenes, terpenoids, flavonoids, polyphenols, and other naturally occurring phytochemicals and secondary metabolites contributing to the aroma or flavor of cannabis” in section 15000(ppp). Through this definition, Watsonville has specifically limited the terpenes that may be added to inhaled products to those that are naturally occurring and contribute to the flavor or aroma of cannabis.

Curbside Delivery

The Cannabis Ordinance prohibits the sale of cannabis to anyone in a motor vehicle. State regulations (Government Code 15025(2)) allow for curbside delivery so that the dispensary would act as a “drive in,” with customers pre-ordering items and then picking up and paying from their car in the dispensary parking lot. A dispensary employee would greet the customer at their car, exchange money and goods, and then the customer would drive away.

Cannabis Event Consumption Permits

Current businesses have expressed an interest in providing this service to their customers. State law allows temporary cannabis events to be held by businesses or entities that hold a cannabis event license through the state. Government Code Section 15601 describes a temporary cannabis event as one in which the onsite sale and consumption of cannabis goods is authorized at a specific location during the dates identified on the license. A temporary cannabis event is not open to anyone under 18 years of age. The City does not have a permit category that corresponds to this type of business.

Decriminalization of Psychoactive Plants

Cannabis business owners have expressed interest participating in the research and development surrounding hallucinogenic mushrooms, also known as entheogenic psychoactive plants and fungi. Some local jurisdictions, like the City of Santa Cruz in 2020,

have adopted resolutions decriminalizing adults (over age 21) found in possession of such drugs for personal use, and making these arrests amongst the lowest priorities for the Police Department.

Nurseries/Hoophouses in City Limits

The City has 6 businesses conducting cannabis cultivation, and all of the cultivators have separate nurseries for juvenile plants. The City has been asked to consider allowing the installation of hoophouses on the same parcel as their cultivation facility to accommodate juvenile plants. The City does not allow temporary structures like hoophouses within City limits, which would require an ordinance modification.

Waivers to Distance Requirements

If the Council directed staff to modify the Cannabis Ordinance to allow retail dispensaries in commercial zones, businesses have asked also whether the City would consider allowing waivers or variances from distance requirements in particular situations.

STRATEGIC PLAN:

The proposed modifications to the Cannabis Ordinance aligns with Goals 3, 5, and 6 of the 2023-2025 Strategic Plan, in that the modifications would serve to support the local cannabis industry in a way that includes engagement with the community and ensures the safety of the public.

FINANCIAL IMPACT:

If the City Council directs staff to pursue modifications to the Cannabis Ordinance, such update will take staff time, which would be borne by the General Fund. It is estimated that the modifications described in this report would take approximately 40 hours of staff time and \$10,000.

ALTERNATIVE ACTION:

The Council may choose not to direct staff to make any modification to the Cannabis Ordinance at this time.

ATTACHMENTS AND/OR REFERENCES (If any):

1. Chapter 14-53 (Cannabis Facilities)