

Agenda Report



MEETING DATE: Tuesday, October 22, 2024

TO: City Council

FROM: COMMUNITY DEVELOPMENT DIRECTOR MERRIAM
ASSOCIATE PLANNER CARMONA

SUBJECT: PUBLIC HEARING TO CONSIDER TEXT AMENDMENTS TO
WATSONVILLE MUNICIPAL CODE CHAPTER 5-49 (CANNABIS
EQUITY PROGRAM) AND CHAPTER 14-53 (CANNABIS
FACILITIES)

RECOMMENDED ACTION:

Introduce by title only, waiving full reading of the text, an ordinance to amend certain sections of Chapters 5-49 (Cannabis Equity Program) and 14-53 (Cannabis Facilities) of the Watsonville Municipal Code regarding the Cannabis Equity Ordinance Program.

CEQA REVIEW: an Ordinance amending Chapters 5-49 (Cannabis Equity Program) and 14-53 (Cannabis Facilities) of the Watsonville Municipal Code regarding cannabis facilities is not subject to review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, et seq. and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et. seq.), including without limitation, Public Resources Code section 21065 and California Code of Regulations 15378(a), as it is not a “project” that may cause a direct, or reasonably foreseeable indirect, physical change in the environment. In addition, if adoption of the Ordinance amendments were considered to be a “project”, it would be exempt under the “common sense” exception (14 Cal. Code Regs. § 15061(b)(3)), because it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment. The Ordinance amendments do not propose or permit any new development, nor does they increase (or change in any way) the land use, density, or development regulations applicable to any property.

BACKGROUND:

On November 9, 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 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 1352-17, adding a new Chapter 14-53 to the Watsonville Municipal Code. The purpose of this ordinance was to provide regulations for both medical cannabis cultivation and manufacturing within the City. Recreational or “adult-use” cannabis continued to be prohibited in the City.

In June 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 became effective. These permanent regulations rescinded the emergency regulations adopted in 2017.

On January 16, 2018, the City Council adopted Ordinance 1362-18 which allowed for the cultivation and manufacture of cannabis for the adult-use market, and rescinded Ordinance 1361-18 which prohibited recreational cannabis in the City. These two modifications became effective on March 15, 2018.

On March 13, 2018, the City Council adopted Ordinance 1364-18 which allowed for existing cultivation and manufacturing facilities to distribute cannabis for the adult-use market. This amendment became effective April 26, 2018.

On March 26, 2019, the City Council adopted Urgency Ordinance 1381-19 creating a Cannabis Equity Program in the City of Watsonville to provide opportunities for those who have been negatively impacted by the War on Drugs to enter into the legal cannabis marketplace.

On June 9, 2020, the City Council adopted Ordinance 1404-20 and 1405-20 which amended the Cannabis Ordinance Chapter 14-53 and District Regulations Chapter 14-16 of the WMC. The amendments to the WMC provided the following changes:

- Increased the cannabis cultivation canopy from 5,000 SF to 22,000 SF.
- Allowed cannabis cultivation to be established on more than one parcel for one permit.
- Increased manufacturing permits from 9 to 15.
- Created two standalone distribution permits.
- Allow processing and nursery permits under the cultivation permit.
- Allowed existing manufacturing and cultivation permit to apply for a delivery permit.
- Established three new cannabis retail permits within the Industrial (IG), Industrial Park (IP), and Visitor Commercial (CV) Zoning Districts.
- Created a 600 FT separation buffer from the following sensitive uses: schools (K-12), Parks, Residential zones, Legal residential uses, faith-based facilities, licensed day cares, preschools, and libraries.

- Required background checks for owners and managers only.

On November 15, 2022, the City Council adopted Ordinance 1448-22 which amended Chapter 5-49 (Cannabis Equity Program) to align with the recommendations outlined in the Cannabis Equity Assessment prepared by the California Center for Rural Policy at Cal Poly Humboldt, which allowed the City to apply for state cannabis equity grant funding.

On June 11, 2024, the City adopted Ordinances 1464-24 and 1465-24 which amended Chapter 14-16 (District Regulations) and 14-49 (Cannabis Facilities) respectively, to provide more visibility, location options, and streamlined permitting for cannabis businesses in the City.

In November 2016, California voters adopted Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). AUMA called for regulating cannabis in a way that “reduces barriers to entry into the legal, regulated market.” One way to address the impacts that the War on Drugs had on certain populations was the creation of a Cannabis Equity Grant program, which is administered by the Governor’s Office of Business and Economic Development (GO-Biz).

While the City of Watsonville adopted a Cannabis Equity Ordinance in 2019, the City did not undertake a Cannabis Equity Assessment until 2022. After completion of the Equity Assessment and modifications to the Cannabis Equity Ordinance in 2022, the City became eligible to apply for grant funding through the state Cannabis Equity Grant program.

In the 2022-2023 year, the City received a \$767,436 grant to support those businesses who were designated eligible to participate in the City’s Cannabis Equity program. A total of \$690,699 in grant funding was issued to local cannabis businesses to support their development and ongoing operations.

The Cannabis Equity Grant program was modified in 2023 as more cities in the state developed their own cannabis equity programs and the grant became much more competitive. Although the City had just undergone an equity assessment the year before, the state found two deficiencies in the City’s program:

1. Subsection (b)(3) of WMC Chapter 5-49.04 (Eligibility Criteria) was found to be in violation of the Equal Protection Clauses of the U.S. and California Constitutions, Article 1, Section 31 of the California Constitution (Prop) 209) regarding gender, in that it allowed businesses that are at least 50% women-owned to be eligible for participation in the Equity Grant program.
2. In general, GO-Biz found that the limitation of 1 Cannabis Equity Permit set aside for each business category was in conflict with the goals of the program.

DISCUSSION:

Staff has drafted modifications to both Title 5-49 (Cannabis Equity Program) and Title 14-53 (Cannabis Facilities) to remove the eligibility criteria for women-owned businesses and to

remove the set-aside permits for cannabis equity businesses in Title 14-53.106(c) and 14-53.107, based on feedback from the state.

Definitions in Title 5-49 were also modified to follow the correct terminology used in Title 14-53. For example, Title 5-49 refers to approvals by the City as licenses or licensees, however the correct term is permit or permittee.

Sections 14-53.106 and 107 have been amended to align with the equity programs in cities such as San Jose and Sacramento, who have equity programs that have been competitive for state cannabis equity grant funding. Their programs do not differentiate application processes for equity and non-equity permittees, nor do they limit the number of permits set aside for equity businesses. They do provide funding and technical assistance as needed to their eligible equity businesses. To review their regulations, please click on the links below:

City of Sacramento:

CORE Program

[Cannabis Opportunity Reinvestment and Equity Program](#)

City of San Jose:

[Cannabis Equity Assistance Program](#)

[Cannabis Equity Program](#)

Planning Commission Meeting

Staff presented the proposed changes to the Planning Commission for consideration on October 1, 2024. The Planning Commission voted 4-0 to recommend that the Council adopt amendments to the Cannabis Equity Ordinance Program.

STRATEGIC PLAN:

The proposed amendments to Chapter 5-49 (Cannabis Equity Program) and 14-53 (Cannabis Facilities) will allow the city to competitively apply for state cannabis equity grant funding. The amendments are consistent with and support Priority #1 of the 2023-2025 Strategic Plan (Economic Development).

FINANCIAL IMPACT:

It is likely that the amendments to the Cannabis Equity Program will provide increased tax revenue through the cultivation, manufacturing, and retail sales tax of cannabis equity businesses.

ALTERNATIVE ACTION:

The Council could choose not to adopt the proposed ordinance or could suggest additional revisions, however delaying these amendments would prevent the City from submitting a competitive cannabis equity grant application to the state, which is due in November, 2024.

ATTACHMENTS:

1. Planning Commission Cannabis Equity Ordinance Staff Report – October 1, 2024
2. Planning Commission Cannabis Equity Resolution – October 1, 2024