



City of Culver City

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Staff Report

File #: 18-0832, **Version:** 1

Item #: A-2.

CC - (1) Adoption of a Resolution Establishing the Maximum Number of Permits, Permitted Hours of Operation, and the Procedures for the Application and Selection Process for Commercial Cannabis Cultivation, Manufacturing, Distribution, Delivery-Only Retail, and Testing Businesses; and (2) Adoption of a Resolution Establishing the Maximum Number of Permits, Permitted Hours of Operation, and the Procedures for the Application and Selection Process for Commercial Cannabis Storefront Retail Businesses; and (3) Discussion of Additional Distancing Requirements for Commercial Cannabis Storefront Retail Businesses; and (4) Direction to the City Manager as Deemed Appropriate.

Meeting Date: February 12, 2018

Contact Person/Dept: Jesse Mays, City Manager's Office
Lisa Vidra, Senior Deputy City Attorney
Michael Allen, Planning Manager

Phone Number: City Manager's Office (310) 253-6000
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Fiscal Impact: Yes No **General Fund:** Yes No

Public Hearing: **Action Item:** **Attachments:**

Commission Action Required: Yes No **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (02/06/18); GovDelivery e-mail lists: Marijuana (02/06/18)

Department Approval: John Nachbar, City Manager (02/06/18)

RECOMMENDATION

Staff recommends the City Council (1) adopt a resolution establishing the maximum number of permits, permitted hours of operation, and the procedures for the application and selection process for commercial cannabis cultivation, manufacturing, distribution, delivery-only retail, testing, and storefront retail businesses; (2) adopt a resolution establishing the maximum number of permits, permitted hours of operation, and the procedures for the application and selection process for commercial cannabis storefront retail businesses; (3) discuss additional distancing requirements for commercial cannabis storefront retail businesses; and (4) provide direction to the City Manager as

deemed appropriate.

BACKGROUND/DISCUSSION

On December 11, 2017, the City adopted the “Culver City Commercial Cannabis Regulation and Safety Ordinance” (“the Ordinance”). The Ordinance allows the City to issue permits for commercial cannabis businesses, and specifies that the following issues are to be established by City Council resolution:

- Hours of operation (CCMC 11.17.200)
- Maximum number of each type of commercial cannabis business permitted to operate (CCMC 11.17.105)
- Procedures to govern the application process for the issuance of permits (CCMC 11.17.110)
- Procedures to govern the selection process for the issuance of permits (CCMC 11.17.115)

Hours of Operation

The proposed hours of operation are as follows:

- Retail - Storefront businesses: Monday through Sunday, 8:00 a.m. to 9:00 p.m.
- Retail - Delivery businesses: Monday through Sunday, 8:00 a.m. to 10:00 p.m.

Other cannabis business types (manufacturing, distribution, cultivation, and testing) would be subject to the same restrictions as any other non-cannabis business of the same type. Additional information on cannabis business hours of operation restrictions in other jurisdictions, as well as information on operating hour restrictions for other types of businesses in Culver City, is included in Attachment 1.

Maximum Number of Permits

The proposed maximum number of permits by permit type is as follows, with additional details included in Attachment 2.

<i>Permit Type</i>	<i>Maximum Number of Permits</i>
Storefront Retail	3
Delivery-only Retail	5
Manufacturing	6
Distribution	6
Cultivation (Indoors)	3
Testing Laboratory	4

On September 25, 2017, the City Council gave direction to limit the maximum number of cannabis businesses permitted in Culver City by business type, as follows: retail storefronts (3), delivery-only retail (5), inclusive of any storefront retailers that also provide delivery; manufacturing (6); distribution (6); cultivation (indoors) (3); and testing laboratories (4). Since September, the City has been notified

by several manufacturers that they will seek not only permits to manufacture, but also to distribute and deliver. This follows changes in state law, stemming from the passage of the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA, or SB 94) in June 2017, and subsequent state regulations released in November, 2017, that deemphasized the formation of large cannabis distribution companies (which would have made cannabis distribution look similar to beer distribution) and allowed vertical integration of cannabis businesses. In short, manufacturers are now permitted to distribute their own product, instead of relying on third-party distributors. Due to this shift, staff and the Cannabis Subcommittee are now recommending Culver City allow Culver City cannabis manufacturers to also apply for and receive distribution and delivery permits without those permits counting towards the maximum number of permits issued by the City, as long as the permits are all for a single location. This will allow Culver City's cannabis manufacturers to be competitive, while also allowing the City to attract distributors and deliverers who do not have a manufacturing presence in Culver City.

Application and Selection Process

The Ordinance requires that the application process for storefront retailer permits includes a multi-stage screening process and public meeting where the public is allowed to comment on the proposed business (CCMC 11.17.115A). The City Council will make the final selection of which applicant receives the storefront retail permit. For non-storefront businesses, the Ordinance states that permits will be issued by the Permit Administrator, who is the Finance Director (CCMC 11.17.115B). Due to the difference in the application and selection process for storefront retail permits and the non-storefront retail permits, two separate resolutions have been proposed: one for non-storefront retail businesses (Attachment 3) and one for storefront retail permits (Attachment 4). The two resolutions and their exhibits contain a detailed description of the application process and the selection criteria. The resolutions authorize the City Manager to prepare the actual application form, as well as any additional rules, regulations, and processes concerning the applications and the application process.

Council Member Clarke's Proposed Distancing Requirements

At the City Council meeting on December 11, 2017, Council Member Clarke requested that staff review and bring back more information on three proposals related to commercial cannabis:

Proposal #1: "The first priority for location of a retail cannabis store shall be within a commercial center that maintains its own off-street customer parking."

According to cannabis businesses consulted by staff, as well as additional published sources such as the New York Times and Canna Law Blog, placing a retail cannabis storefront in a large commercial center with off-street customer parking would likely be difficult. Large commercial centers with off-street parking are typically owned by large-scale corporate real estate entities. These properties typically have mortgages that are provided under certain federal lending guidelines that prohibit "illegal activity". Since the federal government still considers sale of cannabis to be illegal, a commercial center with a bank loan could not have a cannabis business as a tenant without running the risk of being out-of-compliance with its mortgage terms. For this reason, most commercial centers with off-street customer parking would not be willing to have a cannabis retailer as a tenant.

Proposal #2: "If there is no available space within the commercial center or the landlord of the commercial center disallows the operation of a retail cannabis store, then the store may be located in

a commercial area adjacent to a residential neighborhood provided the store is located at least 100 feet from the corner of any residential street.”

The effect of this proposal would be to prohibit cannabis retail storefronts from locating on street corners where commercial districts abut residential neighborhoods. This situation describes many neighborhoods in Culver City, including many where cannabis retail storefronts would be permitted under the current Council approved distancing requirements (the Arts District, Sepulveda Boulevard, Washington West Business District, etc.). Corner retail locations typically have greater visibility and get more foot traffic, which might result in more business for these locations and make them more attractive to businesses as a location. These locations also have more accessible street parking, since parking is closer on the side streets. While convenient for businesses and their customers, this could lead to undesired neighborhood impacts such as less available parking for residents and their guests. Mid-block retail locations are typically less visible, since they have one façade instead of two. There is not as much accessible street parking. However, many Culver City commercial blocks are short, so customers and employees may still find it convenient to park on residential side streets even if the storefront is mid-block.

In general, the 100 foot distancing requirement restricts the corner parcel on each block. The map in Attachment 5 shows locations that might remain eligible for commercial cannabis retail storefronts after the imposition of a prohibition against siting at the corner parcel on a residential street. For comparison, the map in Attachment 6 shows locations that might be eligible for retail storefronts under the existing distancing requirements. No examples of a similar corner lot restriction could be identified in another city.

Proposal #3: “No two retail cannabis stores may be located closer than one half linear mile [2,640 feet] from each other.”

The effect of this proposal would be to limit the number of cannabis businesses within any specific area. Looking at the current map that shows potentially eligible storefront retail parcels (after taking into account zoning and buffering requirements) (Attachment 6), the half-mile restriction would most likely limit the maximum number of cannabis retail storefronts to one in any given cluster of green or blue on the map. Examples of distancing requirements between cannabis retailers used in other cities include 600 feet (Santa Monica), 700 feet (Los Angeles), 1,000 feet (Denver, San Diego, Long Beach), and 500 feet of three other cannabis businesses (Boulder, CO).

FISCAL ANALYSIS

There are no fiscal impacts associated with this item. Permitting and regulatory activities will be cost recoverable through application and permit fees. Fees are in the process of being established to compensate the City for the resources expended to investigate and process the applications, issue permits, etc. A fee resolution setting forth the proposed new fees will be brought forth to City Council prior to the release of any applications or permits.

ATTACHMENTS

1. 2018-02-12 - ATT Proposed Hours of Operation
2. 2018-02-12 - ATT Proposed Maximum Number of Permits
3. 2018-02-12 - ATT Proposed Resolution for Non-Storefront Retail Businesses
4. 2018-02-12 - ATT Proposed Resolution for Storefront Retail Businesses
5. 2018-02-12 - ATT Potential Storefront Retail Locations (Corner Restrictions)
6. 2018-02-12 - ATT Potential Storefront Retail Locations (Current)

MOTION

That the City Council:

1. Adopt a Resolution establishing the maximum number of permits, permitted hours of operation, and the procedures for the application and selection process for commercial cannabis cultivation, manufacturing, distribution, delivery-only retail, and testing businesses; and,
2. Adopt a Resolution establishing the maximum number of permits, permitted hours of operation, and the procedures for the application and selection process for commercial cannabis storefront retail businesses; and,
3. Discuss the proposed additional distancing requirements for commercial cannabis retail storefront businesses; and,
4. Direct the City Manager as deemed appropriate.