



Agenda Report

Item #: 24-188

Meeting Date: 05/07/2024

TITLE: SECOND READING AND ADOPTION OF ORDINANCES TO AMEND TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) AND TITLE 9 (LICENSES AND BUSINESS REGULATIONS) OF THE COSTA MESA MUNICIPAL CODE TO MODIFY THE CITY'S RETAIL CANNABIS PROVISIONS AND FIND THIS PROJECT TO BE CATEGORICALLY EXEMPT FROM CEQA

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTED BY: MICHELLE HALLIGAN, SENIOR PLANNER

CONTACT INFORMATION: MICHELLE HALLIGAN, SENIOR PLANNER, 714-754-5608

RECOMMENDATION:

Staff recommends the City Council:

1. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA), Section 15061(b)(3) ("General Rule").
2. Give second reading to and adopt Ordinance No. 2024-03 amending Title 13 (Planning, Zoning and Development) and Ordinance No. 2024-04 amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code to modify the City's retail cannabis provisions.

BACKGROUND:

At the March 19, 2024, City Council meeting, the City Council considered the Planning Commission's recommendations, as well as other issues raised by members of the cannabis industry and the public. The City Council passed nine motions for staff to modify and return with revised Ordinances for "first reading". The March 19, 2024, City Council report and video are linked below:

March 19, 2024 City Council Agenda Report:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6576096&GUID=EF1D8EE8-A9A0-4153-82A6-19FFB634CE53>

Video: https://costamesa.granicus.com/player/clip/4107?view_id=14&redirect=true

At the April 2, 2024, City Council meeting, the Council considered the follow-up draft ordinance modifications, heard public comment, and voted 6-1 to give first reading of Ordinance 2024-03 and Ordinance 2024-04 without modifications, and conduct the second reading at the next regularly scheduled City Council meeting.

April 2, 2024 City Council Agenda Report:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6606557&GUID=9BC36605-449D-4FC2-B4C0-2D06126BE2B6>

Video: https://costamesa.granicus.com/player/clip/4112?view_id=14&redirect=true

At the April 16, 2024 City Council meeting, the Council considered modifications to Ordinance 2024-03 and Ordinance 2024-04, heard public comment, and gave new first reading to the ordinance as revised by a 6-1 vote. The Council provided specific direction that staff: (1) remove the proposed requirement for financial interest holders to obtain a City business license; and (2) return with additional information regarding the establishment of a City-issued storefront informational emblem. Although not part of the motion, the City Council also discussed CMMC Section 9-494.5 which permits subsequent cannabis business permits (CBPs) to be issued for ownership changes of cannabis storefronts approved to operate.

April 16, 2024 City Council Agenda Report:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6634614&GUID=338D3CD3-22B3-42E8-B5E6-4FD2ECFDDC81>

Video: https://costamesa.granicus.com/player/clip/4120?view_id=14&redirect=true

ANALYSIS:

Remove Requirement for Financial Interest Holders to Obtain/Maintain a City Business License

Municipal Code Sections 9-493 and 9-495(a)(5) have been modified consistent with its April 16th first reading to remove the requirement of a financial interest holder to obtain and maintain a City business license.

City-Issued Storefront Informational Emblem

At the April 16, 2024, City Council meeting, the Council directed staff to return with information regarding a potential City-issued informational emblem to help the public identify licensed cannabis storefronts before entering. The City of Long Beach and County of Los Angeles issue 8.5 by 11-inch approximately sized window sticker emblems to all licensed retail storefronts so consumers can distinguish permitted storefronts from unpermitted ones. Both example emblems feature a QR code linking to the jurisdictions’ cannabis webpage, as shown in the below Image 1.

Image 1 - Emblem Examples



Staff has determined that a City-issued informational emblem to help identify a permitted cannabis facility is not a business sign or advertisement; therefore, establishing a City-issued emblem program, similar to the above Long Beach and Los Angeles County examples, would not be inconsistent with the CMMC or State cannabis laws. The issuance of such an informational emblem would be an administrative procedure that would be established in the City's Cannabis Administrative Regulations, and no Municipal Code modifications would be necessary. If directed by the City Council, staff would draft design options for City Manager review and approval.

Cannabis Business Permit (CBP) Issuance for Ownership Changes

At the April 16, 2024 hearing, the City Council expressed concern that the draft Ordinance language in Title 9-494.5 could be interpreted as prohibiting the City from issuing subsequent cannabis business permits (CBPs) for changes in ownership at cannabis storefronts. During the meeting, the City Attorney confirmed that the proposed language in Title 9-494.5 would not prohibit approved cannabis storefront operations from obtaining CBPs following approved changes in ownership.

ENVIRONMENTAL DETERMINATION:

The proposed Ordinances are exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) ("General Rule") in that the updates to the City's Municipal Code provisions for retail cannabis storefronts will not have a significant impact on the environment.

ALTERNATIVES:

The City Council may give second reading and adopt the Ordinances as proposed, modify the Ordinances, or not adopt the Ordinances. If the City Council chooses to make substantive modifications to the Ordinances after introduction, the modified Ordinances would need to be brought back at a future meeting for adoption.

FISCAL REVIEW:

The adoption of the proposed Ordinances is not anticipated to have any fiscal impact on the City's budget.

LEGAL REVIEW:

The draft Ordinances and staff report have been prepared in conjunction with and reviewed by the City Attorney's Office.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following City Council Goal:

- Achieve long-term fiscal sustainability.

CONCLUSION:

The proposed retail cannabis ordinance amendments are intended to address issues of potential over concentration, land use compatibility, as well as improving economic and business conditions. The City Council's proposed amendments to the retail cannabis provisions are reflected in the attached exhibits.