



Agenda Report

Item #: 24-128

Meeting Date: 04/16/2024

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

ANALYSIS:

On April 2, 2024, the City Council voted to give first reading to the proposed Ordinances without amending the draft Ordinances. A brief summary of the first reading amendments to the Ordinances is provided below:

- Allow processing of only pending applications which have moved past the pre-application phase, up to a cap of 35 cannabis storefronts, and, thereafter, suspend processing applications for new storefronts until such time when the number of operating licensed cannabis storefronts falls below 10;
- Increase the minimum separation between cannabis storefronts and youth centers, as defined in the CMMC, from 600 feet to 1,000 feet;
- Establish a 250-foot minimum separation between cannabis storefronts and properties zoned for residential use;
- Allow the word cannabis to be used up to two times with a maximum letter height of two inches on a notice posted at cannabis storefront entrances;
- Incorporate California Code of Regulations Title 4 Section 15040 (cannabis advertising and marketing) into the CMMC by reference;
- Require property owners to notify existing tenants when a cannabis storefront is proposed to occupy an existing occupied tenant space;
- Modify the existing cannabis storefront security guard provisions to indicate that “at a minimum, all cannabis storefront operations must have one licensed security guard onsite during hours of operation, including when any cash, cannabis or cannabis products are shipped from or received at the facility. Select cannabis storefront operations, as determined by the Chief of Police or designee based on their professional opinion, must have a licensed security guard onsite for 24 hours per day”; and
- Define “financial interest holders” in cannabis businesses to reflect recent changes in State law and require all financial interest holders to obtain a City business license.

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