



# CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

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Long Beach, CA 90802

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May 17, 2018

CHAIR AND PLANNING COMMISSIONERS  
City of Long Beach  
California

## RECOMMENDATION:

Recommend that the City Council accept Negative Declaration ND 13-17 and approve Zoning Code Amendment (ZCA18-003) and Local Coastal Program Amendment (LCPA17-009) to amend Title 21 of the Long Beach Municipal Code (Zoning Ordinance) to define and designate Adult-Use Cannabis uses as permitted, conditionally permitted, or prohibited within specific zoning districts in the City. (Citywide)

APPLICANT: City of Long Beach, Development Services Department  
333 West Ocean Boulevard, 5th Floor  
Long Beach, CA 90802  
(Application 1804-20)

## BACKGROUND

March 23, 2010, the City adopted Chapter 5.87 to establish a permitting process to allow medical marijuana collectives. As a result, approximately 22 medical marijuana collectives were established in Long Beach. In 2011, a Court of Appeals decision (*Pack v. City of Long Beach*) affected the City's ability to regulate dispensaries and collectives, finding that this was contrary to Federal law. On February 14, 2012, the City Council voted to ban all medical marijuana collectives in the City of Long Beach.

In 2015, the City Council convened a Medical Marijuana Task Force to study and develop regulations for medical marijuana businesses. After numerous Task Force meetings and extensive deliberation, in February 2016, the City Council elected not to adopt regulations to permit medical marijuana collectives.

In 2016, a voter initiative to require the City to allow for and regulate medical marijuana businesses was placed on the ballot. On November 8, 2016, the voters of the City of Long Beach adopted Measure MM, establishing Chapter 5.90 of the Long Beach Municipal Code and setting forth a process in 2017 to begin permitting medical marijuana businesses, establishing priority for those that were formerly in operation. To date, seven medical marijuana dispensaries have opened in Long Beach.

Also, on November 8, 2016, the Control, Regulate and Tax Adult Use of Cannabis Act ("AUMA" or "Proposition 64") was approved by the voters of the State of California to legalize the recreational adult use of marijuana (now referred to using the scientific name of "cannabis") for individuals twenty-one (21) years of age and older. Subsequently, the California Legislature passed Senate Bill 94 in June 2017, which was signed by the Governor and went into effect immediately, and which merged certain portions of existing regulations governing medicinal cannabis with AUMA to create a more comprehensive regulatory structure for both medical and adult-use cannabis.

While AUMA would allow cities to begin allowing for and regulating adult-use cannabis uses beginning January 1, 2018, these State laws do not prevent a city from using its constitutional authority to enact nuisance, health, and safety, and land use regulations regarding commercial cannabis activities and personal adult-use or medical cannabis uses. Therefore, the City Council desires to regulate all adult-use Cannabis Businesses operating in the City of Long Beach, as well as the personal adult-use and medical cultivation of cannabis at residentially zoned properties in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan.

On December 19, 2017, the City declared a moratorium prohibiting adult-use cannabis uses from establishing in the City for 180 days, and directed staff to develop recommendations to legalize and regulate adult-use cannabis businesses in Long Beach, and request that the City Attorney prepare a draft ordinance to allow, license, and regulate adult-use cannabis businesses. The City Manager's Office convened an interdisciplinary team of City representatives to develop recommendations in concert with the City Attorney's Office.

## **DISCUSSION**

This Zoning Code Amendment request involves additions to Title 21 of the Long Beach Municipal Code (Zoning Ordinance) to regulate adult-use cannabis uses. Currently, adult-use cannabis uses are not defined or permitted uses in the City's Zoning Ordinance. The proposed adult-use cannabis regulations would add definitions for and designate whether adult-use cannabis uses are permitted, conditionally permitted, or prohibited within specific zones in the City.

The Zoning Ordinance regulates land uses based on physical layout, intensity of use, and placement in relation to other uses. Land uses are divided into specific categories, such as retail (selling of consumer goods directly to customers), professional services (selling of services directly to customers), industrial/manufacturing (turning raw materials into a product), industrial/distribution (an establishment that transports goods), etc. Land uses in one category may include many different products; therefore, retail establishments could sell apparel, housewares, or groceries and all have a similar land use pattern, such as traffic intensity, number of people inside a building, parking requirements, and hours of operation. Defining adult-use cannabis uses within specific land use categories creates clarity and certainty when business owners are seeking a location.

The following definitions would be added to the Zoning Ordinance:

- 21.15.XXX Adult-Use Cannabis Dispensary. A retail use (SIC Code 59) where cannabis goods or devices for the use of cannabis goods are offered, either individually or in any combination, for retail sale to customers at an on-site fixed location, including an establishment that also offers delivery of cannabis goods as part of a retail sale, in addition to on-site sales, in compliance with Title 5.90 and 5.92.
- 21.15.XXX Cannabis Cultivation. An industrial use (SIC Code 072) that engaged in the commercial cultivation of cannabis, and all associated commercial cultivation activities involved in the cultivation of cannabis, pursuant to this Chapter, including a nursery which produces clones, immature plants, seeds, or other agricultural products specifically for the planting, propagation, and cultivation of cannabis.
- 21.15.XXX Cannabis Manufacturing/Processing. An industrial use (SIC Code 283) engaged in the production, conversion, preparation, propagation, deriving, processing, or compounding of cannabis goods either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis goods or labels or relabels its container.
- 21.15.XXX Cannabis Distribution. An industrial use (SIC Code 42) engaged in the business of the distribution of cannabis goods between licensed cannabis facilities.
- 21.15.XXX Cannabis Testing. A professional service use (SIC Code 873) that offers or performs tests of cannabis goods and that is ISO/IEC 17025 accredited, or pending ISO/IEC 17025 accreditation, and licensed by the California Bureau of Cannabis Control that provides independent testing of marijuana or marijuana products.

Correspondingly, the Zoning Ordinance has various chapters which pertain to zoning districts to indicate whether uses are permitted, conditionally permitted, or prohibited in those zoning districts, Specific Plans, and in Planned Development Districts. Each chapter contains a "use table" that lays out land uses and indicates whether or not they can be permitted. The proposed changes to the Zoning Ordinance would allow for the above-referenced adult-use cannabis uses to be regulated in the same manner as other uses in their land use category. The "red-lined" changes to the Zoning Ordinance are included as Exhibit A to this report.

Table 1 provides a summary of how the different types of adult-use cannabis businesses would be permitted. Note that the allowance designations (Y, N, C, AP) are established for the Land Use Category and are not specific to adult-use cannabis businesses.

**Table 1  
Adult-Use Cannabis Business – Regulations by Land Use Category**

Adult-Use Cannabis Businesses			Zoning District							
Business Type	Land Use Category	SIC Code	Residential	Institutional	Park	Commercial	Industrial (Light)	Industrial (Medium)	Industrial (General)	Industrial (Port)
Dispensary	Retail	59	N	N	N	Y	Y	C	C	N
Cultivation	Industrial	072	N	N	N	N	Y	Y	C	N
Manufacturing	Industrial	283	N	N	N	N	Y	Y	Y	N
Distribution	Industrial	42	N	N	N	N	C	C	C*	N
Testing	Professional Service	873	N	N	N	Y	Y	AP	AP	N
N = Not Permitted Y = Permitted C = Conditional Use Permit AP = Administrative Use Permit *Regulations Pertaining to Trucking Uses May Apply										

In addition to the definitions and amendment to the use tables, references to Title 5 are included in Title 21 to direct users to the business and operational regulations within that code section. The purpose of Title 5 (Sec 5.02.010) is to identify those businesses, trades and professions conducted and carried on in the City that require local regulation in order to promote and protect the public health, safety and welfare of Long Beach and its citizens. Chapter 5.92 of the Long Beach Municipal Code would be added to provide regulations pertaining to the following general topics relating to adult-use cannabis.

- At-Home Cultivation Regulations
- Requirement for Professionally-Prepared Project Plans
- Locational Requirements / Separation Buffers from Sensitive Uses
- Signage, Lighting, Advertising
- Cannabis Handling Storage / Employee Health
- Product Regulation
  - Testing / Quality Assurance
  - Adulterated / Misbranded Products
  - Packaging

- Facilities Regulation
  - Building Appearance
  - Fire Prevention
  - Visibility / Safety / Nuisance Provisions
  - Building Code Compliance
- Operating Conditions
- Process / Penalties / Violations / Suspensions

Additional locational requirements and buffers are detailed in Chapter 5.92 that largely reflect those in Chapter 5.90, which currently governs medical marijuana. The buffers include: 1) 1,000 feet from a public or private school, or public beach, and 2) 600 feet from a public park or public library. The City Council may also consider additional locational requirements. Exhibit B is a map which indicates existing buffers in Chapter 5.90 and maps industrial areas to provide an indication of where adult-use cannabis manufacturing, distribution, and cultivation could locate.

Plan review and permitting for adult-use cannabis is a multi-departmental effort, led by the Department of Financial Management. The Planning Bureau would be responsible for verifying that the proposed location for a specific type of adult-use cannabis business is within an allowable zone, and process any necessary planning applications (Administrative Use Permit, Conditional Use Permits, etc.) if necessary. The Planning Bureau would also work in tandem with other City Departments on regulations that are ultimately within Chapter 5.92, including locational requirements (buffers), and ensuring that proposed building plans comply with both Zoning Regulations and other design requirements found in Chapter 5.92.

### **PUBLIC HEARING NOTICE**

Notice of this public hearing was published in the Long Beach Press-Telegram on May 3, 2018, in accordance with provisions of the Zoning Ordinance. Additionally, written notices were sent to the California Coastal Commission and all City libraries, and three public hearing notices were posted in public places throughout the City. Furthermore, staff conducted a study session on this matter with the Planning Commission on May 3, 2018. Five speakers were present at the meeting, generally in support of adult-use cannabis uses, and commenting on various aspects of regulation.

### **ENVIRONMENTAL REVIEW**

In accordance with the California Environmental Quality Act (CEQA), a Negative Declaration was prepared for the Adult-Use Cannabis Regulations. The Negative Declaration was posted on the City's website and has been circulated for a 30-day review period. As of the date of preparation of this report, no comments have been received. The Negative Declaration is available as an attachment to this report (Exhibit C – Negative Declaration 13-17).

CHAIR AND PLANNING COMMISSIONERS


May 17, 2018

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Respectfully submitted,



CARRIE TAI, AICP  
CURRENT PLANNING OFFICER



LINDA F. TATUM, FAICP  
DIRECTOR OF DEVELOPMENT SERVICES

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Attachments:           Exhibit A – Draft Code Amendment with Redlines  
                                  Exhibit B – Adult-Use Cannabis GIS Buffer Map Analysis  
                                  Exhibit C – Negative Declaration ND 13-17