



Legislation Details (With Text)

File #: 21-0547 **Version:** 2 **Name:** DS - PD-30/Title 5 Code Amendment

Type: Ordinance **Status:** Adopted

File created: 5/27/2021 **In control:** City Council

On agenda: 6/15/2021 **Final action:** 7/6/2021

Title: Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Section 5.92.420, Section 5.92.760, Section 5.92.765, and Section 5.92.955; and by amending and restating the Downtown Planned Development District (PD-30), to allow the operation of adult-use cannabis dispensaries within mixed-use buildings in Downtown by way of Conditional Use Permit approval, read and adopt as read. (Districts 1,2)

Sponsors: Development Services

Indexes:

Code sections:

Attachments: 1. 061521-H-19sr&att.pdf, 2. 061521-H-19 PowerPoint.pdf, 3. 061521-H-19 Correspondence.pdf, 4. 070621-ORD-45att.pdf, 5. ORD-21-0021.pdf

Date	Ver.	Action By	Action	Result
7/6/2021	2	City Council	approve recommendation and adopt	Pass
6/15/2021	1	City Council	declare ordinance read the first time and laid over to the next regular meeting of the City Council for final reading	Pass

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Section 5.92.420, Section 5.92.760, Section 5.92.765, and Section 5.92.955; and by amending and restating the Downtown Planned Development District (PD-30), to allow the operation of adult-use cannabis dispensaries within mixed-use buildings in Downtown by way of Conditional Use Permit approval, read and adopt as read. (Districts 1,2)

In recent years, a number of Long Beach Municipal Code (LBMC) amendments have been adopted to regulate where and how both medical and adult-use cannabis businesses can operate in Long Beach, in conformance with State laws and a local voter-approved ballot initiative. On May 5, 2020, the City Council provided further direction regarding desirable changes to expand retail cannabis operations to mixed-use buildings. On April 15, 2021, the Planning Commission held a public hearing, approved a Categorical Exemption (CE20-147) and a Conditional Use Permit (CUP 20-016), and recommended that the City Council approve the proposed Zoning Code Amendments (ZCA) to clarify relevant regulations in LBMC Title 5 and in the Downtown Planned Development District (PD-30) to allow adult-use cannabis dispensaries to be located within mixed-use buildings in the Downtown area, with the approval of a Conditional Use Permit (CUP), and compliance with the storefront transparency requirements of the Downtown Plan (Attachment A - Planning Commission Staff Report and Attachments). In a related action, the Planning Commission also approved a CUP to allow the co-location of an adult-use cannabis dispensary with a proposed medical cannabis dispensary at 433 Pine Avenue, contingent on City Council adoption of the proposed code amendments.

As a result of a series of actions taken by the City Council, medical cannabis dispensaries are permitted citywide, and previous ZCA allowed adult-use cannabis dispensaries in Long Beach's commercial zoning districts. However, those ZCAs did not include similar updates to Planned Development Districts to allow cannabis dispensaries in Planned Development Districts (PDs) and subdistricts that allow commercial retail uses. As a result, adult-use cannabis dispensaries are not explicitly allowed in PD-30, and, they are moreover, not permitted in mixed-use buildings containing dwelling units citywide, as set forth in Title 5 of the LBMC. Consequently, the proposed ZCA would allow the operation of adult-use cannabis dispensaries in mixed-use buildings within PD-30. The proposed ZCA would entail the following LBMC amendments:

1. Amendments to the PD-30 Use Tables to allow adult-use cannabis business where retail uses are currently permitted, with a CUP.
2. Amendments to Title 5 to:
 - a. Allow cannabis dispensaries in mixed-use buildings in PD-30 only; and,
 - b. Require that dispensaries in PD-30 adhere to PD-30's greater storefront transparency requirements.

Background

On January 1, 2016, the Medical Cannabis Regulation and Safety Act (MCRSA) took effect, creating a statewide regulatory and licensing system for medical cannabis businesses in California. On November 8, 2016, Long Beach voters approved Measure MM. Measure MM established Chapter 5.90 (Medical Marijuana Businesses) within the LBMC and created a regulatory structure for medical cannabis businesses in Long Beach. As a part of Measure MM, a limitation of 32 medical cannabis dispensaries was established on a citywide basis. Additionally, Measure MM superseded many zoning regulations defining where medical marijuana businesses are allowed in Long Beach.

On November 8, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA serves as the equivalent of MCRSA, from the standpoint of adult-use cannabis businesses. The following year, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which merged State regulations for medicinal and adult-use commercial cannabis activity into a single framework. MAUCRSA has given local governments the ability to regulate and/or prohibit adult cannabis activity within their jurisdictions.

Subsequently, in 2018, the City of Long Beach (City) adopted additional changes to portions of LBMC Title 21 - Zoning, and Title 5 - Regulation of Businesses, Trades and Professions, all pertaining to the regulation of adult-use cannabis. Changes to LBMC Title 21 included amendments to Use Tables in Chapters 21.31 (Residential Districts), 21.32 (Commercial Districts), 21.33 (Industrial Districts), 21.34 (Institutional Districts), and 21.35 (Park Districts), establishing the regulations that govern each adult-use cannabis type by its land use

category. Changes to Chapter 21.32 (Commercial Districts) saw the addition of an “Adult-Use Cannabis Dispensary” category to Table 32-1, within Section 21.32.130 of the LBMC (whereby adult-use cannabis dispensaries would be allowed in each of the commercial zones), as shown in Table 1 below. However, it should be noted that these code amendments did not introduce specific changes to any of the PDs. As a result, adult-use cannabis dispensaries are currently not expressly permitted in any of the PDs (including PD-30).

Table 1 - “Adult-Use Cannabis Dispensary” in Commercial Zones

	Neighborhood			Community				Regional	Other
	CNP	CNA	CNR	CCA	CCP	CCR	CCN	CHW	CS
Retail Services									
Adult-Use Cannabis Dispensary	Y	Y	Y	Y	Y	Y	Y	Y	Y

Changes to LBMC Title 5 included the addition of Chapter 5.92 (Adult-Use Cannabis Business and Activities), providing all pertinent operational standards for the regulation of adult-use cannabis facilities. As a part of the adoption of Chapter 5.92, licensed dispensaries would be required to co-locate (i.e., hold both a medical license and an adult-use license at one location) and the City would only accept applications for adult-use dispensaries from the 32 existing medical cannabis dispensaries. As a result, the citywide limitation of 32 medical cannabis dispensaries was applied to adult-use cannabis dispensaries as well (notwithstanding the general citywide allowance of adult-use cannabis dispensaries in any of the commercial zones). In May 2020, the City Council requested an amendment to the LBMC with specific attention to allowing retail cannabis businesses on the ground floor of mixed-use buildings.

Proposed Zoning Code Amendments

Proposed PD-30 Amendments

The PD-30 Zoning District and regulations precede the changes in cannabis regulation, and PD-30 is currently “silent” regarding adult-use cannabis dispensaries. Although the PD-30 Zoning District Ordinance does not specifically call out or categorize adult-use cannabis dispensaries in Table 3-1 (Land Uses and Permit Requirements), several establishments exist in Downtown Long Beach because of the co-location requirement. Generally, in the zoning regulations (as outlined above) cannabis dispensaries are treated as any retail use and thus are allowed in commercial zoning districts. However, LBMC 5.92 currently allows dispensaries in commercial buildings only and expressly prohibits adult-use cannabis dispensaries from being located within mixed-use buildings. Consequently, Title 5 is proposed to be amended to allow adult-use cannabis dispensaries with in mixed-use buildings, only

within Downtown, given its existing mixed-use context and development patterns-and only if they comply with PD-30's greater storefront transparency requirements. Additionally, to allow adult-use cannabis dispensaries within mixed-use buildings in Downtown Long Beach, PD-30 must be amended to include them in the use table. The proposed amendments (Attachment B - Proposed PD-30 Amendments) include adding a "Cannabis Dispensary (Adult-use)" category to the Retail Section of Table 3-1 within the PD-30 Ordinance.

With the proposed PD-30 amendment, an adult-use cannabis dispensary would require a CUP approval within the Downtown Plan Area of the larger PD-30 boundaries and would be prohibited within the subarea designated as the Downtown-Neighborhood Overlay area. The proposed amendments would also indicate that the use would additionally be subject to Title 5 standards. Staff finds that the CUP process to approve such uses alongside the Title 5 regulations will sufficiently regulate the use, ensuring that these types of uses can operate in a manner compatible with the mix of commercial and residential uses found within Downtown. Furthermore, Title 5 requires several buffers from sensitive uses such as schools and parks, along with a minimum 1,000-foot distance separation between dispensaries. These buffers will further ensure that there would not be an overconcentration of the cannabis dispensaries within Downtown. The PD-30 map (Attachment C - PD-30 Map) provides an image of the PD-30 boundaries, which delineates the Downtown Plan Area from the Downtown-Neighborhood Overlay area.

Proposed Title 5 Amendments

In conjunction with the PD-30 amendment, changes to four different sections of Title 5 are proposed and are summarized below (Attachment D - Proposed LBMC Title 5 Amendments).

LBMC Sections 5.92.420 - Location Requirements, 5.92.760 - Visibility, 5.92.765 (C) - Building Design, and 5.92.955 - Interior Signage are each proposed to be amended to address how provisions of the respective Title 5 sections would apply to adult-use dispensaries in the Downtown. To summarize, the amendments would:

- Allow the dispensaries to be located within buildings that contain residential units;
- Supersede Title 5 provisions to the contrary and would require these uses to adhere to the high storefront transparency standards that reinforce the Downtown's walkable environment, while still complying with Title 5 requirements that limit product visibility from the public right-of-way; and,
- Harmonize PD-30 transparency requirements generally with Title 5 requirements that allow lower storefront transparency (Building design) and require posting of certain interior signs (Interior Signage), by reinforcing the PD-30 transparency requirements and eliminating any potential conflict between the regulations.

The Pedestrian-Oriented Map (Attachment E - PD-30 Pedestrian-Oriented Map), shows the main and secondary streets in Downtown that require a 60 percent ground floor transparency and prohibit interior blinds, drapes, posters, signage, and interior shelving for product

displays visible from the public right-of-way that obscure more than 10 percent of the transparent areas of each respective storefront.

Zoning Code Amendment Findings

In accordance with State law, the proposed amendments are congruent with the General Plan (Attachment F - Zoning Code Amendment Findings). Specifically, the proposed changes are consistent with the Land Use Element's goals for Downtown Long Beach. The Downtown (DT) PlaceType designation encourages a mix of land uses and housing types, with a focus on providing active ground floor shops, restaurants, and cafes. It promotes a highly urbanized core featuring compact development composed of a mix of compatible uses, building types and styles. Introducing adult-use cannabis dispensaries as a recognized use category eliminates the current ambiguity in the regulations and appropriately implements the goals of the DT PlaceType as it relates to the subject use. Dispensaries are recognized as retail uses, which generally fall within the vision of providing active ground floor shops among the mix of compatible uses. The proposed amendments also require that such uses seek a CUP to ensure sensitive integration of these uses and compatibility with surrounding uses.

This matter was reviewed by Assistant City Attorney Michael J. Mais on May 26, 2021 and by Budget Management Officer Rhutu Amin Gharib on May 27, 2021.

Public Hearing Notice

In accordance with public hearing notification requirements for a Zoning Ordinance Amendment in LBMC Section 21.21.302.C, notice of this public hearing was published in the Long Beach Press-Telegram on June 8, 2021. Due to the declared state of emergency, notices were not provided to City libraries (most are closed), notice posting was provided at City Hall but not at multiple locations. A notice of the proposed zoning code amendment was distributed through the City's LinkLB e-mail blast system and to individual stakeholders who have requested notification on this item. No responses were received regarding this matter as of the date of preparation of this report. Any comments received prior to the City Council hearing will be provided at the hearing.

Environmental Review

The proposed Zone Code Amendment is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15308 (Actions By Regulatory Agencies for Protection of the Environment) and Section 15061(b)(s) (Common Sense Exemption) as it can be seen with certainty that the subject modifications to the LBMC noted above will not have the potential for having a significant effect upon the environment and, therefore, the activity is not subject to CEQA. The proposed amendments modify the approval process for certain uses but do not modify the total amount of development nor the characteristics of that development beyond what was previously studied for Downtown Long Beach (CE20-147).

Pursuant to Section 21.25.103 of the Zoning Code, this request must be presented to the City

Council within 60 days of the Planning Commission hearing, which took place on April 15, 2020. The June 15, 2021 meeting of the City Council was the first available hearing date for this item.

The recommendation does not have a direct fiscal impact. The goal of the proposed Zoning Code Amendments is to facilitate business creation and access to services in the Downtown area. The exact timing or quantification of these activities is dependent on future actions by private property owners and any projection of their impact would be speculative. Costs associated with processing future development applications will be offset by permit fees and surcharges. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is potential for modest job growth associated with this recommendation.

Approve recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTION 5.92.420, SECTION 5.92.760, SECTION 5.92.765, AND SECTION 5.92.955; AND BY AMENDING AND RESTATING THE DOWNTOWN PLANNED DEVELOPMENT DISTRICT (PO-30), TO ALLOW THE OPERATION OF ADULT-USE CANNABIS DISPENSARIES WITHIN MIXED-USE BUILDINGS IN DOWNTOWN BY WAY OF CONDITIONAL USE PERMIT APPROVAL

OSCAR W. ORCI
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

THOMAS B. MODICA
CITY MANAGER