

City Council Point of Direction #1: Review current cannabis business zoning to determine if they continue to serve the purpose for which they were adopted.

Issues

- Most cannabis business are subject to a Conditional Use Permit which, by declared regulatory purpose, is for land uses, “that are known to have a distinct impact on the area,” and which, “...are capable of creating special problems for bordering properties, unless given special attention.” (See [Sec. 17.808.200.A](#)).
- The 2022 Comprehensive Cannabis Study demonstrates that cannabis land uses do not cause ‘impacts’ or ‘problems’. Analysis showed that cannabis uses have not had a negative impact on adjacent retail or industrial uses or created increases in crime.
- Cannabis conditional use permits can cost between \$7,000-\$14,000 and take 4-9 months to process.
- Public discourse at hearings falls into two categories: (Opponents) cannabis should not be legal (i.e., despite the results of Proposition 64 in 2016 + City Council decision to allow and regulate locally); and (Proponents) cannabis is subject to excessive regulation which inhibits repair to the harm caused by past racially discriminatory practices (i.e., the ‘War on Drugs’).
- Public hearings for Conditional Use Permit applications are a zero-sum game that requires prospective business owners to assume substantial monetary risk to eventually arrive at a public hearing with discourse not about the merits of their specific location or business practices.

Existing Land Use Permit Framework

All land uses in the City are subject to one of the following based on location (i.e., zoning district):

- By-Right: No land use permit application required.
 - Land use change only; no new construction
 - Staff level review (i.e., with Title 5 business operating tax certificate application)
 - No public hearing
 - No cost
 - Fastest review timeframe
 - Decision not subject to reconsideration or appeal
- Administrative Permit: A ministerial permit - involves little or no discretion, apply a checklist or clear requirements to the facts as presented (see [Sec. 17.808.240](#)).
 - Subject to uniform objective standards
 - No public notice or hearing
 - Staff level review
 - Lowest cost; \$500-\$1,200
 - 1-2 month review timeframe

- Decision subject to reconsideration only (i.e., no appeal rights)
- **Conditional Use Permit:** A discretionary permit – involves discretion, is not the automatic right of the applicant (see [Sec. 17.808.200](#)).
 - Subject to uniform objective standards + ad hoc requirements
 - Public notice and hearing required
 - Zoning Administrator *if not located* within sensitive use buffer
 - Planning & Design Commission review *if located* within sensitive use buffer
 - Highest cost \$7,623 (ZA), \$14,336 (PDC)
 - 4-9 month review timeframe
 - Decision subject to appeal

Existing Land Use Permit Requirements for Cannabis Businesses						
	Dispensary	Cultivation	Distribution	Nonvolatile Manufacturing	Volatile Manufacturing	Testing
By-Right/No Permit			✓ ₁	✓ ₂		✓
Ministerial Permit						
Discretionary Permit	✓	✓	✓	✓ ₃	✓	
1. Type-S and Type-T distribution licenses allowed by-right. 2. Packaging, labeling, and infusion uses allowed by-right. 3. Nonvolatile extraction subject to CUP.						

Recommended Land Use Permit Framework Changes

Recommended Land Use Permit Requirements for Cannabis Businesses						
	Dispensary	Cultivation	Distribution	Nonvolatile Manufacturing	Volatile Manufacturing	Testing
By-Right/No Permit						
Ministerial Permit	✓	✓	✓	✓	✓	✓
Discretionary Permit						

Rationale for Recommendation

- Land use permit type change to Administrative Permit aligns with the known/documented impacts of the land use (i.e., no distinct impact, not capable of creating special problems).
- Administrative Permit enables verification of compliance with standards (i.e., sensitive use buffers) (see [Sec. 17.808.240](#)).
- Final Security Plans are approved through the BOP process. Currently, cannabis CUPs include security conditions of approval, however, these conditions would remain enforceable through cannabis BOPs even if cannabis land uses were subject to an Administrative Permit.
- As a result of the permit type change:
 - Permitting risk is removed for prospective business owners who comply with location standards (i.e., appropriate zoning district + distance from sensitive uses); and
 - Permit application fees are ~10% of current cost; and
 - Application processing time is ~25% of the current average.