



STAFF REPORT

DATE: 09/04/2024
TO: Honorable Mayor and City Council Members
FROM: Legal and Risk Management Department

2024-13

REQUEST FOR CITY COUNCIL ACTION

SUBJECT:

RESOLUTION NO. 2024-092 RE COMMERCIAL CANNABIS REGULATIONS TO RETROACTIVELY EXTEND THE STOREFRONT RETAIL MERIT-BASED FINAL RANKING LIST AND TO MAINTAIN THE FORMULA FOR THE MAXIMUM NUMBER OF STOREFRONT RETAIL PERMITS AT 1 PER 15,000 RESIDENTS

EXECUTIVE SUMMARY:

This staff report asks the City Council to consider adopting attached Resolution No. 2024-092 to: (1) retroactively extend the storefront retail merit-based final ranking list; and (2) maintain the formula for the maximum number of commercial cannabis permits available for storefront retailers and storefront retail microbusinesses at 1 per 15,000 residents. Notably, based upon the fact that the Department of Finance's estimated population for the City of Corona has dropped from 168,248 in 2020 to 156,615 in 2024, the maximum number has been reduced to 11 permits.

RECOMMENDED ACTION:

That the City Council adopt attached Resolution No. 2024-092 to: (1) retroactively extend the storefront retail merit-based final ranking list until terminated by the City Council; and (2) maintain the formula for the maximum number of commercial cannabis permits

available for storefront retailers and storefront retail microbusinesses at 1 per 15,000 residents.

BACKGROUND & HISTORY:

A. State Law

In 2016, voters approved Proposition 64, titled the Adult Use of Marijuana Act (the "AUMA") and enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical ("adult-use" or "recreational") cannabis, including cannabis, products, for use by adults twenty-one (21) years of age and older. In 2017, the Medical and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") was signed into law, which provides a comprehensive regulatory framework for licensing, control, and taxation of medical and adult-use cannabis-related businesses in California.

B. City Rules and Regulations

In 2020, the City Council first adopted Ordinance 3321 to amend Chapter 5.36 of the Corona Municipal Code ("CMC") to permit and regulate commercial cannabis businesses in the City. The City Council has also established certain Rules and Regulations for Commercial Cannabis Businesses by its adoption of various resolutions since 2020 ("Cannabis Rules & Regs").

Through its adoption of CMC 5.36 and the Cannabis Rules & Regs, City Council has established a strong and effective regulatory system with regard to cannabis businesses that, among other things as noted in those documents, seeks to: (1) protect the public health, safety and environmental resources; (2) provide a consistent regulatory pathway for the cannabis industry, consistent with state regulations; (3) foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy; and (4) ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.

C. Storefront Businesses

1. Impacts and Community Benefits

We are all aware that both community benefits and potential adverse impacts may result from the operation of commercial cannabis businesses in the City. Thus, the Cannabis Rules & Regs have been specifically designed to help ensure that all such adverse impacts are adequately mitigated and offset by the potential community benefits those businesses can provide to the City and its residents. Moreover, since storefront retailers and storefront retail microbusinesses are particularly prone to result in potential adverse impacts to the community, such businesses have been asked to specifically commit to providing particular community benefits of their choosing to help ensure that their impacts are adequately mitigated and offset.

2. Merit-Based Selection Process

Because the City was aware that the interest in obtaining storefront retailer and storefront retail microbusiness permits would significantly exceed the maximum number of such permits allowed by the City (originally 12), the City Council established a merit-based selection process. Pursuant to this process, each application was scored and the 47 applicants were listed on a “final ranking” form in order of most points to least points (#1 had 653 points and #47 had 483 points). Those applications with higher scores were provided an opportunity to obtain their permits first, starting with #1 and proceeding one at a time until all allowed permits were issued or until the “final ranking” expired.

3. Expiration of Merit-Based Final Ranking & Current Next Steps

The “final ranking” of applicants pursuant the merit-based process was posted on or about March 17, 2022. Pursuant to Section IV(B)(4) of the adopted Cannabis Rules & Regs, the merit-based “final ranking” of the storefront retailers and storefront retail microbusinesses expired twenty-four (24) months from the date it was posted on the City’s website. Accordingly, the “final ranking” expired on or about March 17, 2024 (“Final Ranking Expiration Date”).

Following the Final Ranking Expiration Date, the Cannabis Rules & Regs provide as follows:

“If, prior to expiration of the final ranking, the maximum number of commercial cannabis permits that are available for issuance to retailers and storefront retail microbusinesses within the City pursuant to CMC § 5.36.060 have not yet been approved and issued pursuant to Section VI, the City Manager shall designate a new application period pursuant to Section III(A) and a new application submittal and review process shall commence subject to the provisions set forth herein.” (Emphasis added.)

4. Maximum Number of Permits & Permits Issued Prior to Expiration

CMC 5.36.060(A)(1)(a) set the maximum number of permits for storefront retailers and storefront retail microbusinesses as follows:

“The maximum shall be calculated using a formula of one storefront retailer and/or storefront retail microbusiness per 15,000 city residents, as determined by the California Department of Finance and set forth in the E-1 report, rounded-up to the next whole number, or as established by City Council resolution pursuant to § 5.36.060(E) (“Storefront Maximum Number”). As of the date of adoption of the ordinance establishing this section in 2020, the storefront maximum number is 12.” (Emphasis added)

The maximum number was set at 12 because the City's estimated population, as published by the Department of Finance for the year 2020, was 168,248 ($168,248 \div 15,000 = 11.21$; rounded up to 12).

Prior to the Final Ranking Expiration Date, the City had issued eight (8) commercial cannabis permits for storefront retailers and/or storefront retail microbusiness.

D. August 21, 2024 City Council Direction

Following a staff presentation, community questions and input, and Council discussion at its August 21, 2024 meeting, the City Council directed staff to bring back a revised resolution to take the following actions:

- (1) Final Ranking List. Retroactively extend the storefront retail merit-based final ranking list until the City Council decides that it should be terminated and therefore provides at least one-hundred and eighty (180) calendar days' notice of its termination date; and
- (2) Maximum Permits. Maintain the formula for the maximum number of commercial cannabis permits available for storefront retailers and storefront retail microbusinesses at 1 per 15,000 residents.

ANALYSIS:

A. Reso 2024-092 – Retroactive Extension of Storefront Retail Final Ranking List

Since the maximum permitted number of commercial cannabis permits had not yet been issued before the Final Ranking Expiration Date, a new application period was to be set and a new merit-based selection process was to begin for storefront retailers and storefront retail microbusinesses. However, the City Council believes that not enough time has passed to diminish the value of the original merit-based selection process, particularly given the money, time and resources that applicants and the City invested into the process. Accordingly, the City Council has directed staff to prepare a resolution to retroactively extend the Final Ranking Expiration Date, so that the existing list can remain in place until the City Council determines that it should be terminated. The City can then continue to monitor the market and the value of the original merit-based selection process.

Accordingly, attached Resolution No. 2024-092 will revise Section IV(B)(5)(d) of the Cannabis Rules & Regs to read as follows:

Expiration of Ranking. The final ranking shall not expire unless and until the City Council, in its sole and absolute discretion, determines that it should expire. If the City Council determines that the final ranking will expire on a date certain, the City shall, at least one hundred and eighty (180) calendar days prior to the determined expiration date, take the following actions: (i)

post on its website written notice of the expiration date; and (2) deliver written notice of the expiration date to all applicants on the final ranking, either personally or by first class mail sent to each applicant’s address as listed on their application.”

B. Reso 2024-092 – Maintain Current Formula for the Maximum the Number of Storefront Retail Permits

As discussed above, CMC 5.36.060(A)(1)(a) states that the maximum number of available storefront retail permits is calculated using a formula of 1 per 15,000 city residents, as determined by the California Department of Finance and set forth in the E-1 report, rounded-up to the next whole number. In 2020, that calculation resulted in a maximum number of 12 permits.

Since only eight (8) commercial cannabis permits have been issued for storefront retailers and storefront retail microbusinesses, the maximum number of permits has not been reached. While CMC Sections 5.36.060 (D) & (E) give the City Council the authority to decrease the maximum number of storefront retail permits, at the August 21, 2024 meeting the City Council directed staff to maintain the formula for the maximum number to be calculated (i.e. 1 per 15,000 residents).

1. Department of Finance Population Estimate Has Decreased

What was not known at the August 21, 2024 City Council meeting is that the Department of Finance’s population estimate for the City has decreased somewhat significantly since 2020:

DEPT OF FINANCE POPULATION ESTIMATE

2020 = 168,248
2021 = 169,454
2022 = 156,778
2023 = 157,005
2024 = 156,615

Accordingly, using the 2024 population estimate, the maximum number of permits is now 11 ($156,615 \div 15,000 = 10.44$; rounded up to 11).

Adoption of the attached Resolution No. 2024-092 will take the following action (see Exhibit “A” to Reso 2024-092):

Maintain the Formula for the Maximum Number
Provided for in CMC 5.36.060(A) (Currently 11)

FINANCIAL IMPACT:

It is unknown if any of the actions discussed herein will have any direct financial impact on the City. For instance, while reducing the number of storefront retail cannabis businesses could be seen as reducing possible sales tax collections, it is also possible that a larger number of businesses only spreads out the same amount of sales tax collections.

ENVIRONMENTAL ANALYSIS:

This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action asks that the City Council provide direction on whether to make changes to the commercial cannabis program will not have a significant effect on the environment. Therefore, no environmental analysis is required.

PREPARED BY: Dean Derleth, City Attorney/LRM Director

REVIEWED BY: Dean Derleth, City Attorney/LRM Director

ATTACHMENTS:

1. Exhibit 1 – Resolution No. 2024-092 (Redline)
2. Exhibit 2 – Resolution No. 2024-092 (Clean)