

December 3, 2024

Honorable Mayor and City Council
City of Long Beach
California

RECOMMENDATION:

Recommendation to receive the supporting documentation into the record, conclude the public hearing, review and determine that the proposed Long Beach Municipal Code (LBMC) amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15183 (Projects Consistent with a Community Plan or Zoning) and Section 15061(b)(3) (Common Sense Exemption) of state CEQA Guidelines, as it will not result directly or indirectly in significant environmental impacts (CE 24-133);

Declare an Ordinance approving Zoning Code Amendment (ZCA24-001), and adopt the proposed findings related thereto, amending the Long Beach Municipal Code by, adding Section 21.15.114, adding Section 21.45.700, amending Section 21.15.113, amending Section 21.32 Table 32-1, and amending Section 21.33 Table 33-2 to introduce and establish new regulations for adult-use cannabis delivery-only dispensaries within Title 21 (Zoning) of the Long Beach Municipal Code to support proposed changes to Title 5 (Regulation of Businesses, Trades and Professions) of the Long Beach Municipal Code, read the first time and laid over to the next regular meeting of the City Council for final reading;

Declare an Ordinance approving Zoning Code Amendment (ZCA24-001), and adopt the proposed findings related thereto, amending the Long Beach Municipal Code by, amending Section 22.15.030, Table 15-2 and 15-3 to introduce and establish new regulations for adult-use cannabis delivery-only dispensaries within Title 22 (Transitional Zoning Code) of the Long Beach Municipal Code to support proposed changes to Title 5 (Regulation of Businesses, Trades and Professions) of the Long Beach Municipal Code, read the first time and laid over to the next regular meeting of the City Council for final reading; and,

Adopt a Resolution authorizing the City Manager, or designee, to submit the Local Coastal Program Amendment (LCPA24-002) and associated materials and findings related to changes to Title 21 of the Long Beach Municipal Code to the California Coastal Commission for its review and certification in compliance with the Certified Local Coastal Program. (Citywide)

DISCUSSION

On September 19, 2024, the Planning Commission held a public hearing, approved a Categorical Exemption (CE 24-133), and recommended that City Council approve the proposed Zoning

Code Amendment (ZCA24-001) and Local Coastal Program Amendment (LCPA24-002) to introduce and establish new regulations for adult-use cannabis delivery-only dispensaries within Long Beach Municipal Code (LBMC) Title 21 (Zoning) and Title 22 (Transitional Zoning Code) (Attachment A). The proposed Zoning Code Amendment is pursuant to an action by the City Council in 2021 directing City of Long Beach (City) staff to allow the establishment of adult-use cannabis delivery-only dispensaries.

While delivery is a common characteristic of the cannabis industry in California, specific regulations for delivery-only businesses do not currently exist in the LBMC. This update not only fixes an issue necessary for the City's overall cannabis oversight and delivery of its cannabis equity applicant program, it informs future updates to the Zoning Code to address the proliferation of delivery-only goods and products that have proliferated in the post-pandemic era.

Current regulations for adult-use cannabis establishments exist primarily within Title 5 (Regulation of Businesses, Trades and Professions), with supplemental references in LBMC Title 21 (Zoning). Adopted in 2020, Title 22 (Transitional Zoning) does not currently have regulations for adult-use cannabis establishments. As such, to allow the establishment of adult-use cannabis delivery-only dispensaries, the LBMC would need to be amended in three areas:

1. Changes to Title 5 of the LBMC to amend the existing operating conditions for adult-use cannabis dispensary businesses;
2. An amendment to the existing text of Title 21 of the LBMC to update regulations for 12 existing zoning districts and clarify how these regulations pertain to Planned Development Districts; and,
3. An amendment to the existing text of Title 22 of the LBMC to update regulations for eight existing zoning districts.

Since the Planning Commission's jurisdiction is limited to LBMC Titles 21 and 22, the Planning Commission provided recommendation only for proposed amendments to those titles. Title 21 and 22 amendments would support the broader changes being considered for Title 5 as a separate item on the City Council agenda. Additionally, LBMC Title 21 is part of the Implementation Plan (IP) of the City's Certified Local Coastal Program (LCP). Therefore, the Planning Commission's recommendation also includes an amendment to the LCP, as required for any revisions to LBMC Title 21, consistent with the Coastal Act.

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, 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.

In 2018, subsequent to the above state regulations, the City adopted changes to portions of the LBMC Title 5 (Regulation of Businesses, Trades and Professions) and Title 21 (Zoning), pertaining to the regulation of adult-use cannabis. The Title 21 amendments established the regulations that govern each adult-use cannabis type by its land use category. The changes to LBMC Title 5 included the establishment of cannabis facility location requirements, operating conditions, and security standards.

Since 2018, the City Council has adopted numerous local ordinances adapting to the evolution of the cannabis industry. On July 7, 2020, the City Council requested City staff to explore ways to strengthen the Cannabis Social Equity Program to expand equitable business ownership opportunities in Long Beach. In response, City staff released a memorandum to the City Council identifying policy options for the City Council to consider, including:

- Licensing and regulating share-use manufacturing
- Non-storefront retail (delivery); and,
- Additional storefront retail (dispensary) businesses

On August 17, 2021, City staff released a feasibility analysis, in response to a request made by City Council on January 5, 2021, to outline the potential impacts of allowing cannabis delivery-only services in Long Beach. Subsequent to the release of the feasibility study, City Council directed the City Attorney's office to prepare an Ordinance to allow cannabis delivery-only facilities in Long Beach on October 12, 2021.

The Community Development Department's Planning Bureau initiated work on the ordinance to consider the incorporation of cannabis delivery-only facilities in the Zoning Regulations. As part of this work, City staff hosted a virtual community meeting on August 31, 2022, to educate participants about the growing demand for e-commerce and delivery-only retail use in Long Beach, such as ghost kitchens, cannabis retailers and distribution centers. Members of the public were also given an opportunity to provide feedback to the City regarding their level of support and/or concerns regarding e-commerce and delivery-only cannabis retail through a survey. The City received 43 responses to an online survey made available in 2022 on this topic. Of these responses, participants were categorized as outlined in Table 1.

Table 1: 2022 Survey Results

Participant Type	Number of Participants	Percentage of Overall Responses
Residents	21	48.8
Non-cannabis Business Owners	8	18.6
Cannabis Business Owner (equity applicant)	6	13.9
Cannabis Business Owner (non-equity applicant)	3	6.97
Other/Interested Party	5	11.6

Out of all of the participants, the majority were supportive of a code amendment allowing businesses to operate without an active storefront. Some of the concerns raised regarding non-storefront buildings was the lack of visibility into the storefront, lack of in-person activity, and parking impacts. However, the majority of participants expressed no concern for non-storefront buildings, so long as the property is well-maintained and has a visually interesting building façade.

Planning Commission Action

Pursuant to LBMC Chapter 21.21, the Planning Commission is the initial hearing body for amendments to the zoning regulations and LCP. As such, the proposed amendments that were heard by the Planning Commission on September 19, 2024, included building design standards for non-storefront buildings. At the conclusion of the public hearing, the Planning Commission voted (5-0) to approve the amendments recommended by City staff, with revisions to City staff's recommendation to prohibit cannabis delivery-only dispensaries on ground levels within the Community Pedestrian-Oriented (CCP) Zoning District. The Commission also made a clarifying amendment that cannabis delivery-only dispensaries in pedestrian-oriented zoning districts can be located not only on the 2nd Floor but also on floors above the second floor. The following overview of the proposed amendments and associated attachments include the revisions proposed by the Planning Commission.

Proposed Title 21 Amendments

Title 21 of the LBMC is known and cited as the "Zoning Regulations of the City of Long Beach" or the "Zoning Regulations". The purpose of the Zoning Regulations is to promote and preserve the public health, safety, comfort, convenience, prosperity and general welfare of the people of Long Beach. Proposed amendments to LBMC Title 21 would introduce a new definition of "Adult-Use Delivery-Only Dispensaries" and add this land use category to the zoning regulations for 12 existing zoning districts (Attachment B).

Definitions

Chapter 21.15 of the LBMC establishes definitions for words, phrases and terms used in LBMC Title 21 to provide clarity of intent and interpretation. Currently, the only definition in Title 21 related to cannabis dispensary uses (LBMC Section 21.15.113) is for adult-use retail storefront uses. As "Adult-Use Cannabis Delivery-Only Dispensaries" are a new land use being proposed for inclusion into the LBMC, Chapter 21.15 would be amended to include a definition for the new land use. The proposed amendment is intended to specifically categorize "Adult-Use Cannabis Delivery-Only Dispensary" (distinct from "Adult-Use Cannabis Dispensary") and establish a framework for its allowance within Title 21 and 22 use tables (Attachment C).

Land Use

Title 21 of the LBMC currently does not include "Adult-Use Cannabis Delivery-Only Dispensaries" as a classified land use. LBMC Chapter 21.32 sets forth regulations that govern commercial zoning districts and LBMC Chapter 21.33 sets forth regulations that govern industrial zoning districts, all with the intent to ensure compatible and mutually beneficial land uses. Based

on the nature of non-storefront and/or e-commerce establishments, staff has determined that Adult-Use Delivery-Only Dispensaries are appropriate within commercial and industrial zoning districts, contingent upon several caveats that will guide the regulatory framework. Therefore, proposed amendments to the Chapter 21.32 use table (Table 32-1) and the Chapter 21.33 use table (Table 33-2) would introduce Adult-Use Delivery-Only Dispensary as a classified use and establish in which zoning districts it is allowed by-right, discretionarily allowed, or not allowed.

In reference to commercial zoning districts, City staff proposes that Adult-Use Cannabis Delivery-Only Dispensaries within smaller buildings or tenant spaces (750 square feet or less) be allowed by right only within the following community and regional commercial districts: Community Auto-Oriented District and Regional Highway. Their use within the following neighborhood commercial and mixed-use zoning districts would be limited to second floors or above (as by-right uses): Neighborhood Pedestrian District; Neighborhood Auto-Oriented District; Neighborhood Commercial and Residential District; Community R-4-R District; and, Community R-4-N District. City staff proposes that Cannabis Delivery-Only Dispensaries within larger buildings or tenant spaces (exceeding 750 square feet) require discretionary review through an Administrative Use Permit (AUP) (subject to the approval of the City's Zoning Administrator) within applicable zoning districts that correspond to the by-right allowances for smaller spaces.

In reference to industrial zoning districts, smaller establishments (750 square feet or less) would be allowed by right within the Light Industrial, Medium Industrial, and General Industrial zones, while larger establishments (exceeding 750 square feet) would also require an AUP. Pursuant to LBMC Sections 21.37.180 and 21.37.040, when Title 21 is amended to add or change regulations for a specific land use in citywide zones such as those established within Commercial Districts (Chapter 21.32) or Industrial Districts (Chapter 21.33), the Zoning Administrator may determine that the same use regulations apply to all or certain Planned Development Districts or Specific Plans if certain conditions are met.

The proposed zoning code amendment would also include amendments to LBMC Chapter 21.45 (Special Development Standards) for the addition of operational standards such as storefront and display requirements (even though not open to the public), architectural design, delivery loading on-site, business delivery vehicles on-site, and limits on the number of business-owned vehicles allowed. These special development standards would apply to both by-right uses and AUPs, and are intended to address concerns voiced by participants of the aforementioned virtual community meeting on August 31, 2022.

Proposed Title 22 Amendments

Title 22 (Transitional Zoning Code) of the LBMC was established in 2020, in order to facilitate a substantial update to the City's Zoning Regulations to implement the City's General Plan Land Use Element (LUE), which was updated in 2019. The City is now in the process of adding more zones to Title 22 and rezoning all parcels in the City over time through a geographic rezoning program. The intention is to fully transition from LBMC Title 21 to Title 22. At this time, Title 22 only applies to designated areas outside the Coastal Zone.

Similar to LBMC Title 21, Title 22 currently does not include "Adult-Use Cannabis Delivery-Only Dispensaries" as a classified land use. LBMC Section 22.15.030 sets forth the land use

regulations that govern the zoning districts of Title 22. More specifically, Table 15-2 sets forth regulations that govern mixed-use districts and Table 15-3 sets forth regulations that govern commercial zoning districts. Proposed amendments to Table 15-2 and Table 15-3 would introduce Adult-Use Cannabis Delivery-Only Dispensary as a classified use and establish in which zoning districts it is allowed by-right, discretionarily allowed, or not allowed (Attachment D).

In reference to commercial and mixed-use zoning districts, City staff proposes that smaller (750 square-foot or less) Cannabis Delivery-Only Dispensaries be allowed by right within the C-3 zoning district, while limiting their use within the MU-1, MU-2, and MU-3 zoning districts to second floors or above (as by-right uses). Staff proposes that larger (exceeding 750 square feet) Cannabis Delivery-Only Dispensaries would require an AUP within applicable zoning districts that correspond to the by-right allowances.

Title 22 of the LBMC presently cross references the definitions and special development standards in LBMC Title 21, therefore the requirements in both titles will be internally consistent for by right and conditionally permitted uses.

Zoning Code and Local Coastal Program Amendment Findings

In accordance with state law, and supported by the findings attached hereto, the proposed amendments are consistent with the General Plan, specifically with the LUE's emphasis on maintaining and improving the quality of life and the Public Safety Element's emphasis on creating safer physical environments (Attachment E). The proposed amendment would site these types of uses within commercial and industrial zones in locations sited a minimum distance from a variety of sensitive uses such as schools, daycares and libraries. The proposed amendment would be supported by operating conditions being considered for LBMC Title 5, to ensure there are no detrimental impacts on the surrounding areas. There would be no change to the location of commercial uses, or the development intensity planned for in the LUE.

With any changes to the IP (LBMC Title 21) of the LCP, a LCPA is required to ensure the proposed regulations are consistent with the Coastal Act. The California Coastal Commission (CCC) certified a LCPA on September 10, 2020, that included the introduction of the existing definitions and use categories for adult-use cannabis uses into LBMC Title 21. As described above, the proposed changes to the zoning regulations would be to establish a new land use category and associated definition and development standards for a variation of commercial cannabis dispensary uses. There would be no change to the development intensity in commercial or industrial zones, including those within the Coastal Zone. The CCC has preliminarily determined that the proposed amendments could constitute a minor or *de minimis* LCPA pursuant to Section 30514 of the California Public Resources Code.

This matter was reviewed by Principal Deputy City Attorney Erin Weesner-McKinley on November 13, 2024, and Revenue Management Officer Geraldine Alejo on November 8, 2024.

PUBLIC HEARING NOTICE

In accordance with the requirements of LBMC Chapter 21.21, a public hearing notice was published in the Long Beach Press Telegram on November 18, 2024, posted online, and emailed via LinkLB. Pursuant to LBMC 21.21.302.C, the notice of public hearing was posted in at least three public places within the boundaries of the City. The notice of public hearing was also mailed, together with all proposed changes, additions, modifications or deletions to all City libraries and to anyone requesting such notice. Notice was also emailed to the 48 individuals who signed up for interested parties notification on this project (43 of whom participated in the aforementioned community meeting). At the time of finalization of this report, no comments have been received.

As noted above, the CCC has preliminarily determined that the proposed amendments could constitute a minor or *de minimis* LCPA. In compliance with Section 30514 of the California Public Resources Code, the required noticing has been conducted at least 21 days prior to the intended date of submitting the amendment to the Executive Director of the CCC. This includes the required publication in the Press Telegram, posting of the notices in the area affected by the proposed amendment, direct mailing to those requesting notice, and direct mailing to the CCC. The City's notice specifies the dates and places where comments will be accepted on the proposed LCPA, contains a brief description of the proposed LCPA, and states the location where copies of the proposed amendment are available for public review.

Environmental Review

The proposed Zoning Code Amendment is exempt from the CEQA in accordance with Section 15183 (Projects Consistent with a Community Plan or Zoning) and Section 15061(b)(3) (Common Sense Exemption) (CE-24-133) (Attachment F). Pursuant to CEQA Guidelines Section 15183, project activities have been determined to be within the scope of activities analyzed in the General Plan Land Use and Urban Design Elements (LUE/UDE) Program Environmental Impact Report (PEIR) (State Clearinghouse No. 2015051054) and will not result in any new significant impacts.

The LUE/UDE PEIR was circulated for public review and was certified by the City Council on December 3, 2019. This PEIR analyzed the buildout of the General Plan LUE, which includes PlaceTypes that establish commercial and mixed-use areas in the City, among other uses. The proposed amendment would not change the established PlaceTypes in the LUE nor the buildout of the City. Rather, the new regulations would introduce and establish a new land use category, associated definition, and operating conditions for a variation of an existing commercial use. These uses would be limited to commercial zones within commercial and mixed-use PlaceTypes established in the LUE. As this project would not change the intensity of development identified in the LUE, it has been determined that the project will not result in any new significant impacts that exceed those analyzed in the PEIR.

Furthermore, the proposed project introduces a new commercial land use category and associated regulations within established commercial and mixed-use zoning districts. There would be no physical development as a result of the proposed zoning code amendment. Future applications would have a similar form and function as non-cannabis commercial uses in the

same zoning districts. Therefore, per Section 15061 of the State CEQA Guidelines, it can be seen with certainty that the subject modifications to the LBMC would not have the potential for having a significant effect upon the environment.

The proposed amendments introduce a newly categorized land use and establish an approval process and development standards for that land use. 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 exempt from CEQA.

TIMING CONSIDERATIONS

City Council action is requested on December 3, 2024. Pursuant to the LBMC, this request must be presented to the City Council with 60 days of the Planning Commission hearing, which took place on September 19, 2024.

FISCAL IMPACT

The recommendation establishes new land use regulations in the Long Beach Municipal Code for adult-use cannabis which will allow for delivery-only operators in the City. The City Manager Department will present an accompanying item to City Council to update the LBMC for the implementation of this license type. The fiscal impact and local job impact is currently unknown and will be based on the number of licensed operators and market demand. City staff will monitor revenue impacts and factor net new revenues as part of future projections. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with City Council priorities.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



Christopher Koontz
Director
Community Development

APPROVED:



THOMAS B. MODICA
CITY MANAGER

ATTACHMENTS: ORDINANCES
RESOLUTION

- A – SEPTEMBER 19, 2024, PLANNING COMMISSION STAFF REPORT AND ATTACHMENTS
- B – MAP OF AFFECTED ZONING DISTRICTS
- C – TITLE 21 AMENDMENTS
- D – TITLE 22 AMENDMENTS
- E – FINDINGS
- F – CE-24-133 AND CEQA STATEMENT OF PURPOSE