

STOCKTON PLANNING COMMISSION

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STOCKTON RECOMMENDING THAT THE CITY COUNCIL APPROVE OPTION 2, AN AMENDMENT TO TITLE 16 OF THE STOCKTON MUNICIPAL CODE RELATING TO THE CANNABIS REGULATORY PROGRAM

On March 5, 2019, City Council approved changes to the City's cannabis regulatory program to: (a) align state/local regulation; (b) allow additional business types; (c) establish a method to control the pace of new business openings; and (d) establish a method to address historic racial inequities.

On July 16, 2019, City Council approved additional amendments to the Cannabis Regulatory Program that allowed additional by-right allowances for eight (8) existing cannabis businesses, location requirement changes to further align with State requirements, and adjusted the tax rate structure reflect the current market.

On June 23, 2020, the City Council approved a code amendment to SMC chapter 12.72 (Special Events) to allow temporary cannabis events (which include on-site sales and consumption of cannabis and cannabis goods/products) at the Stockton Municipal Civic Auditorium, Weber Point Event Center, and the County of San Joaquin Fairgrounds.

On February 2, 2021, City Council provided direction to evaluate the cannabis regulatory program and develop recommendations to improve the current program. City Council expressed concern with overconcentration, encouragement of certain business types, location requirements and issues related to the equity program.

Multiple study sessions and meetings have been held with stakeholders, the City Council Legislation and Environmental Committee, and Planning Commission to craft potential changes to the Cannabis regulatory program. Three recommendations have been developed (presented as Options 1-3). These proposed changes reflect the City Council's desire to align the program with best practices, implement equity program changes, create consistent code language, and establish a balance between geography, resident quality of life, desired business types, and economic development.

The Planning Commission is authorized by section 16.212.040 of the Stockton Municipal Code (SMC) to review and make recommendations to the Council for amendments to the provisions of Title 16; and

The proposed amendments will revise the Cannabis Regulatory Program in the City of Stockton, including changes to Chapter 16.20, Section 16.20.020 020 "Allowable land uses and permit requirements" and Chapter 16.80, Section 16.80.195 "Cannabis business types—Commission use permitting".

The proposed amendments will provide:

Allowance for Retail, Distribution, Manufacturing (RDM) microbusinesses to be located within Commercial, Office (CO), Commercial, General (CG), Commercial, Large-Scale (CL) zoning districts if the retail component of the business floor area is 50% or more and no cultivation activities take place.
Removal of Cannabis retailer storefronts and non-storefront retail (delivery) from the Commercial Neighborhood (CN) zone
Consolidation of by-right allowance language for pre-existing business
Addition of residential use to location requirements
Alignment of location requirements with ABC regulations (retaining religious facilities and recovery/treatment facilities)
Addition of 1,000-foot separation between storefront retailers and microbusinesses with a retail component
Clarification that distances are measured from nearest property lines
Removal of location waiver option
Clarification of what 'Established and in Operation' means in terms of existing uses
Allowance for transfer to a new location with obtaining a new use permit and surrendering the previous use permit for former location
Clarification of AUP requirement for new Non-Storefront Retail (delivery) businesses after 7/16/2019.
Exemption from 600-foot separation for religious facilities in IL and IG zones for Non-Storefront Retail (delivery), Cultivator, Volatile Manufacturer, Non-Volatile Manufacturer, Distributor, and Testing Laboratory.
Removal of lottery requirement for Cultivators
Consolidation of by-right allowance language for pre-existing cultivator businesses
Removal of lottery requirement for Volatile Manufacturers
Allowance for RDM microbusinesses to be located within Commercial, Office (CO), Commercial, General (CG), Commercial, Large-Scale (CL) zoning districts if the retail component of the business floor area is 50% or more and no cultivation activities take place.
DCM Microbusiness exemption from 600-foot separation for religious facilities in IL and IG zones*
Addition of 1,000-foot separation between storefront retailers and microbusinesses with a retail component (RDC, RDM, and RCM types)
Updated language to reflect that the Equity Program now exists (deleted "The City shall create...")
Added 5-year residency requirement for Equity applicants
Removed MBE/WBE, Opportunity Zone/HUD designated area residency as eligibility options for equity applicants
Removed Cultivators and Volatile Manufacturers from controlled roll-out (annual limit) requirement.
Clarified that there are no annual limits on Non-storefront retail (delivery only), Cultivator, Volatile Manufacturer, Non-Volatile Manufacturer, Distributor, and Testing Laboratory business types.
Clarified lottery process to include a lottery application form which will include proposed business address for use permit. Said address shall meet all location requirements.
Additional language stating that lottery deadlines will be publicly advertised by the City.
Removed Cultivators and Volatile Manufacturers from lottery process
Additional language to clarify that lottery winners must then apply for a use permit in accordance with SMC 16.168.
New language clarifying that lottery winners are entitled to one (1) use permit submittal and if the use permit is denied that the lottery winner status expires.
New language requiring that lottery winners must submit their land use applications (i.e. use permit applications) within 90-days of notification that they won the lottery and that nonsubmittal within that time frame is grounds for revocation of lottery winner status.
Clarifying language regarding lottery winners' good faith efforts towards obtaining a use permit.
Clarifying language regarding next steps if a lottery winner's status is revoked, denied, or withdrawn.
New language requiring an equity applicant maintain over 50% ownership of business for a minimum of 5 years. Includes a sales provision for hardship situations.
New language requiring annual metrics and annual submittal for 5 years starting at operator's permit approval.
New language providing resources/assistance to equity applicants if they are available.

New language requiring all equity applicants that received resources (either lottery or assistance) to follow ownership and metric reporting requirements.

On November 18, 2021, the Planning Commission conducted a public hearing and heard and considered a presentation by staff and all relevant testimony and evidence, now, therefore,

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The Planning Commission is authorized by Stockton Municipal Code Section 16.212.040(F)(1)(c), to review and make recommendations to the Council for amendments to the provisions of Title 16. Based on the foregoing information, which is incorporated by reference, the Planning Commission makes the following Mandatory Findings of Fact, pursuant to Section 16.116.050.B, for the proposed amendments to Stockton Municipal Code Chapter 16.20, Section 16.20.020 020 and Chapter 16.80, Section 16.80.195:

- a. Finding 1: The proposed amendment ensures and maintains internal consistency with general land uses, objectives, policies, programs, and actions of all elements of the General Plan (GP) on balance and would not create any inconsistencies with this Development Code as commercial cannabis uses are consistent with predefined commercial and industrial land uses. Amendments to the Cannabis Regulatory program are consistent with GP Policy LU-4.2 by attracting employment and tax-generating business types that support the economic diversity of the City; GP Action LU-4.2c by improving the timeliness and transparency of the city's cannabis permitting process to assist businesses in expanding or locating in Stockton; and GP Policy CH-3.1 promoting Entrepreneurial Development and Small Business Expansion in the Stockton cannabis industry.
- b. Finding 2: The proposed amendment will not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the City. Amendments to the Cannabis Regulatory Program further mitigate impacts created by commercial cannabis businesses by regulating land use locations, distances from sensitive land uses, providing clarity about the entitlement process, and ensuring compatibility between cannabis businesses and their proposed locations. Further, amendments will provide more clarity for equity applicants and reduce barriers to entry.
- c. Finding 3: The proposed SMC amendment is exempt from the California Environmental Quality Act (CEQA) under the "general rule" that CEQA applies only to projects that have the potential for causing significant environmental effects, as specified in section 15061(b)(3).
- d. Finding 4: The proposed amendments are internally consistent with other applicable provisions of the Development Code as they provide clarity to and are aligned with existing Code language pertaining to the Cannabis Regulatory Program.

2. The Planning Commission recommends that the City Council adopt Option 2, an amendment to Title 16, Chapter 16.20, Section 16.20.020 and Chapter 16.80, Section 16.80.195 of the Stockton Municipal Code Relating to the Cannabis Regulatory Program, as set forth in Exhibit 1, attached hereto and incorporated by this reference.

PASSED, APPROVED and ADOPTED: November 18, 2021.

ANNE MALLET, CHAIR
CITY OF STOCKTON PLANNING COMMISSION

ATTEST:

WILLIAM CREW, SECRETARY
CITY OF STOCKTON PLANNING COMMISSION