

REPORT TO THE CITY COUNCIL



DATE: March 5, 2019

TITLE: An Ordinance Amending Chapter 17.180 Allowing and Setting Parameters for Marijuana Non-Storefront Retail as a Use

Prepared by: (At the direction of the City Council and recommendation of the Planning Commission)

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RECOMMENDATION

- 1) Staff Report;
- 2) Entertain questions of Staff from City Council;
- 3) Open the Public Hearing;
- 4) Take testimony from those in favor;
- 5) Take testimony from those opposed;
- 6) Take testimony from those in a neutral position;
- 7) Close the Public Hearing;
- 8) City Council discussion and questions to Staff; and
- 9) That the City Council concur with Planning Commission's recommendation to introduce and read by title only, "An Ordinance of the City Council of the City of Desert Hot Springs, amending Chapter 17.180 of the Desert Hot Springs Municipal Code allowing and setting parameters for Marijuana Non-Storefront Retail as a Use and harmonizing certain definitions and uses with State law."

BACKGROUND

Currently, the DHSMC only allows cannabis retail sales within the Commercial district and refers to such establishments as "dispensaries." Each dispensary must possess both a Conditional Use Permit and a Regulatory Permit. Through prior actions, the City Council has limited the number of permitted dispensaries to 16 specific applicants.

The state of California has removed references to the word "dispensaries" and licenses two types of cannabis retail, based on whether or not the business has a storefront. The two types of retail establishments are (1) Storefront Retail and (2) Non-storefront Retail. A Storefront Retail state license is comparable to the City's local dispensary permit; a Non-storefront Retail state license applies to businesses (without a storefront) that will utilize delivery as their method of sales. Further details regarding Storefront and Non-storefront Retail are provided in Exhibit 2.

The City has been contacted by several cannabis developers located in the Industrial zone who wish to add Non-storefront Retail activities to their business models. Many are conducting cannabis manufacturing activities and want to move their products statewide, via sales/delivery and distribution. Sales/delivery activities require a state Non-storefront Retail license, which requires sales transactions to be permitted at the business premises (even when transactions take place online or via delivery). However, the DHSMC does not have a non-storefront business use. Instead, the DHSMC only refers to "dispensaries" (which in essence are Storefront Retail establishments). Therefore, City Council action is needed to allow for Non-storefront Retail use activities.

There are both anticipated benefits and issues, when considering Non-storefront Retail. The benefits come from attracting businesses who wish to augment their business models to allow for a non-storefront sales/delivery component. Such sales reaching beyond the local market will

provide increased revenues to the City, via the current 10 percent tax on proceeds from the sales or provision of cannabis. Most issues created by allowing non-storefront cannabis retail are currently addressed via the zoning regulations in the City's Industrial zone, designated for cannabis cultivation, manufacturing, and distribution. Since non-storefront sales do not have a walk-in retail component, but rather utilize delivery (incorporating several vehicle trips), Staff believes such use would be best suited in the Industrial districts in the City. Additionally, Staff believes limiting Non-storefront Retail sales/delivery to recipients outside of the City provides further clarification on the differentiation of use from that of the City's current dispensary establishments.

DISCUSSION

In general, this ordinance will harmonize the term "dispensaries" to the new state law term of "Storefront Retail", and it will also allow the use of Non-Storefront Retail in the Industrial zones.

During the February 5th, 2019 City Council meeting, a discussion item regarding cannabis Storefront and Non-storefront Retail uses took place. The discussion resulted in direction from the City Council for Staff to prepare an ordinance to amend the Desert Hot Springs Municipal Code (DHSMC). Staff was directed to replace "dispensaries" with "Storefront Retail" and add "Non-storefront Retail" as a permitted use in the Industrial zone, with sales/delivery only to recipients outside of the City and uses to include manufacturing, distribution, and cultivation (limited to 99 plants). A chart comparing the two retail uses, in respect to zoning, permitted uses, and non-permitted uses is provided in Exhibit 3.

Planning Commission Action

On February 12, 2019, the Planning Commission held a duly noticed public hearing and recommended that the City Council approve the attached Ordinance. In particular, the Planning Commission wanted the Ordinance to cite to certain state regulations, which it does [see Section 17.180.040(e) and 17.180.045(g)]. In addition, the Planning Commission recommended that the City Council may want to re-visit the 99 plant limitation, at some point.

FISCAL IMPACT

City revenues will increase by an unknown amount (at this time), via new Non-storefront Retail sales that will be subjected to the City's 10% tax on cannabis sales.

EXHIBIT(S)

- 1) Ordinance Amending Chapter 17.180 re Storefront and Non-storefront Retail
- 2) Definition and Use Descriptions
- 3) Cannabis Retail Use Comparison Chart