



# Staff Report

## City Council

Item No. {{section.number}}.{{item.number}}

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**Meeting Date:** February 26, 2025

**From:** Andrew Firestine, AICP, Director of Community and Economic Development

**Title:** Extension of Cannabis Moratorium

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### **RECOMMENDATION:**

Staff recommends approval of the ordinance extending the cannabis moratorium on the approval of new cannabis licenses and conditional use permits and the issuance of building permits for the build-out or expansion of new cannabis businesses.

### **BACKGROUND:**

On October 25, 2017, the City Council adopted Ordinance Nos. 800 and 801 establishing a set of regulations allowing adult-use cannabis businesses to operate within the City. Ordinance No. 802 established enforcement provisions for cannabis. These regulations were created to provide the public with a clear understanding of the process for obtaining City approval to operate a Cannabis Business within the City. These regulations were codified within the Cathedral City Municipal Code in chapters 5.88 and 9.108, and Section 13.80.240, which have been amended since their adoption, with the last amendment in 2022.

Chapter 5.88 provides for the regulation and licensing of medical and adult-use cannabis business throughout the City in conformance with applicable state and local laws and regulation pertaining to medicinal and adult-use cannabis.

Chapter 9.108, as currently codified is contained in Title 9 of (Zoning Ordinance) of the Municipal Code, regulates cannabis business land uses, including the zone districts where cannabis uses are permitted, as authorized by section 26200 of the California Business and Professions Code, in a manner designed to minimize negative impacts on the City and neighboring uses, and to promote the health, safety, morals, and general welfare of residents and businesses within the City.

Section 13.80.240 defines a range of cannabis related public nuisances.

The City currently has 64 cannabis businesses with 105 licenses comprised of 47 operating businesses with 67 licenses and 17 non-operational businesses with 38 licenses.

On January 22, 2025, the City Council adopted an urgency ordinance enacting a 45-day interim moratorium on new licenses, permits, approvals, or other entitlements for grading,

building, improvements, and/or use shall be approved for or issued to a cannabis business, including, without limitation, local licenses pursuant to Chapter 5.88 of the Code; conditional use permits pursuant to Chapter 9.108 of the Code; any permits for cannabis business lounges; and any permits for temporary cannabis events pursuant to Section 5.88.035 and Chapter 9.68 of the Code ("Permit"). In addition, no modification to any existing Permit shall be approved, including, without limitation: 1) modifications resulting in an increase, intensification or expansion in the cannabis-related use or operations, or the square-footage utilized for cannabis cultivation, manufacturing, processing, distribution, storage, sales, display, or similar cannabis-related activity, of a cannabis business ("Increase in Operations"); or 2) modifications changing the location of a cannabis business. The interim moratorium included several exemptions, including:

1. Any modification to an existing Permit solely for the purposes of changing ownership of a cannabis business, provided that such modification shall not result in an Increase in Operations or a change in location of the cannabis-related operations of the cannabis business.
2. Any Permit or modification thereof that does not result in the Increase in Operations of the cannabis-related operations of the cannabis business, such as expansions to administrative office space, minor tenant improvements, and repairs.
3. Any Permit modification that decreases the cannabis-related use or operations, or square-footage utilized for cannabis cultivation, manufacturing, processing, distribution, storage, sales, display, or similar cannabis-related activity, of a cannabis business.
4. Any renewal of a Permit.
5. If both applications for a local license pursuant to Chapter 5.88 of the Code and conditional use permit pursuant to Chapter 9.108 of the Code were received by City staff by 4:30 p.m. on January 22, 2025, and such applications were fully completed and accompanied by all of the required supporting documents and application deposits as required by the Cannabis Regulations, then Permits related to such applications may be approved and/or issued, as applicable.

The January 22, 2025 staff report to the City Council acknowledged that 10 days prior to the expiration of such an ordinance or any extension, a written report is to be issued describing the measures taken to alleviate the condition that led to the adoption of the ordinance. As well, the staff report also acknowledged that the moratorium may be extended twice, initially by a period of 10 months and 15 days and again by an additional year with the same findings as the interim moratorium that there is a current and immediate threat to the public health, safety or welfare, and that the approval of applicable land use entitlements would result in that threat to public health, safety or welfare and a 4/5 vote of City Council. This staff report constitutes both the written report required under California Government Code section 65858 as part of the interim ordinance imposing a 45-day moratorium and as support for an extension of the moratorium.

## **DISCUSSION:**

### **Odor Complaints**

As described in the January 22, 2025, staff report, the City has received an increasing number of odor complaints over the course of 2024, which supported the interim ordinance imposing a moratorium. The City continues to receive odor complaints. In response to the complaints, the City has increased its resources dedicated to cannabis odor detection. The Code Compliance Division created and distributed a cannabis odor reporting memorandum and implemented a proactive patrol system with a schedule for collecting data on cannabis

odor within the community. These patrols have included overtime shifts through the Code Compliance Division and overnight patrols by the Cathedral City Police Department with an emphasis on the areas in proximity to the large cannabis cultivation facility near Date Palm Drive and Ramon Road.

Between December 1, 2024, and February 12, 2025, the City has conducted 59 patrols and collected 227 observation points, identifying odor 37 percent of the time. The frequency of the cannabis odor detections has declined since repairs were made to an exhaust fan at the large cannabis cultivation facility near Date Palm Drive and Ramon Road in mid-January and are now detected intermittently by City staff. The intensity of these observations has ranged from light to strong. The patrols and observations reveal there are still odors, although they are most appropriately classified as nuisance odors under section 13.80.240 of the Cathedral City Municipal Code.

Both the Riverside County Department of Environmental Health and the South Coast Air Quality Management District (AQMD) have inspected the business near Date Palm Drive and Ramon Road. The Riverside County Department of Environmental Health is responsible for administering the hazardous materials programs within Riverside County and has found the facility to be compliant with County and State requirements following their inspection. AQMD required a permitting process for their boilers and chillers, which the business is in the process of completing. There are no public health concerns identified by either agency.

### **Cannabis Regulations**

The City of Cathedral City cannabis regulations are codified within the Cathedral City Municipal Code in chapters 5.88 and 9.108. Enforcement provisions are adopted as chapter 13.80.240 of the Cathedral City Municipal Code. Together, these regulations were initially adopted through Ordinance Nos. 800, 801, and 802. While the regulations have been amended several times since their initial adoption, including through Ordinance Nos. 807, 817, 827, 841, 848, 863, and 870, as described in further detail in the table below, many of the regulations remain as they were adopted in 2017, particularly those in chapters 9.108 and 13.80.240.

<b>Ordinance No.</b>	<b>Date</b>	<b>Subject</b>
807	March 14, 2018	Amendment to Chapter 5.88 to permit on-site consumption at licensed dispensaries and to provide a grace period for employee background checks
817	December 12, 2018	Amendment to Chapter 5.88 to require cannabis businesses to enter into labor peace agreements as a condition of licensure renewal
827	September 25, 2019	Amendment to Chapter 5.88 to establish a cannabis industry employee identification card program
848	January 27, 2021	Amendment to Chapter 5.88 to repeal the Cathedral City Task Force regulations contained in Section 5.88.125 and to replace those with new regulations in Chapter 2.32, recognizing the Cannabis Task Force in a consistent manner with other commissions and committees
863	September 14, 2022	Amendment to Chapter 5.88 to update local regulations to address new concerns and ensure

		consistency with State requirements
870	June 28, 2023	Amendment to Chapter 5.88 to address cannabis business license expiration and renewals

Cannabis uses may be permitted as a conditional use in the Planned Community Commercial (PCC), Commercial Business Park (CBP-2), and Light Industrial (I-1) zoning districts subject to chapter 9.72 of the Cathedral City Municipal Code. The table below identifies the City's commercial and industrial zoning districts and those districts that allow cannabis uses:

	<b>PCC</b>	<b>CBP-2</b>	<b>I-1</b>
Cannabis cultivation sites	CUP	CUP	CUP
Cannabis dispensaries	CUP	CUP	CUP
Cannabis distribution sites	CUP	CUP	CUP
Cannabis testing laboratories	CUP	CUP	CUP

The PCC zoning district is the most common commercial zoning district in the City and is typified by retail uses and shopping centers throughout the City. The CBP-2 and I-1 zoning districts are generally clustered around Perez Road.

Through the conditional use permit process, a cannabis use must demonstrate it meets the locational requirements set in section 9.108.070 of the Cathedral City Municipal Code, which are summarized in the following table:

<b>Minimum Separation Requirement from Use</b>			
	<b>School, Day-Care Center, or Youth Center<sup>1</sup></b>	<b>Residential Zone<sup>2</sup></b>	<b>Resort Residential Zone</b>
Dispensaries	600-feet.	250-feet	250-feet, if the dispensary allows for outdoor consumption
Cultivation, Manufacturing, and Distribution Sites	600-feet	300-feet	-

<sup>1</sup> Setbacks from schools, day-care centers and youth centers, shall be measured to the nearest property line of the parcel where such use is located

<sup>2</sup> Setbacks from residential zones shall be measured to: the nearest point of any legally permitted structure located in a residential zone; or if there is land within a residential zone with no legally permitted structure, the measurement shall be to the nearest property line unless the nearest property line is within the public right-of-way, in which case the measurement shall be to the edge of the right-of-way furthest from the proposed cannabis business.

The Resort Residential (RR) zoning district is separately identified in section 9.108.070 and the locational requirements only apply to dispensaries with outdoor consumption, not to other dispensaries or cultivation, manufacturing, and distribution sites.

Across the City, the RR zoning district includes Desert Princess, Outdoor Resort Palm Springs, Desert Shadows RV Resort, Cathedral Canyon Country Club, Canyon Shores, Date

Palm Country Club, Cathedral Palms RV Resort, and the District. Any of the cannabis uses could propose a conditional use permit on a property zoned PCC, CBP-2, or I-1 adjacent to one of these properties and it would not be subject to any locational restriction from the RR zoning district, and there are examples of that, including on Kieley Road adjacent to the Cathedral Palms RV Resort and on Ramon Road adjacent to the Outdoor Resort Palm Springs. Most of the odor complaints received in 2024 were received from residents in Outdoor Resort Palm Springs concerning the adjacent cultivation site.

The City's odor control regulations are contained primarily in chapter 9.108 of the Cathedral City Municipal Code. Section 9.108.080 requires as a condition of approval:

- A. All Cannabis Businesses. Every cannabis business conditional use permit shall include the following conditions of approval.
  - 1. The premises must be equipped with an odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside the cannabis business, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breeze-ways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the cannabis business. As such, cannabis businesses must install and maintain the following equipment or any other equipment which local licensing authority determines has the same or better effectiveness:
    - a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or
    - b. An air system that creates negative air pressure between the cannabis businesses' interior and exterior so that the odors generated inside the cannabis business are not detectable outside the cannabis business.

This has been applied consistently to cannabis conditional use permits as a condition of approval and sets a "no odor" standard. This is further addressed in section 13.80.240.J of the Cathedral City Municipal Code, which declares a public nuisance:

- J. To cause or permit persistent cannabis odors that are offensive to individuals of normal sensitivity, and which adversely impact or unreasonably interfere with the use and enjoyment of property, to:
  - 1. Emanate across any property line.
  - 2. Emanate across a common wall or otherwise be detectable within an adjacent or nearby unit in a multi-tenant building or in a multi-family residential building that is occupied by another.

This section continues by establishing that "cannabis odors shall be presumed to be persistent, offensive to individuals of normal sensitivity, and adversely impacting or unreasonably interfering with the use and enjoyment of property, if the City receives three or more verified complaints from individuals representing separate residences or places of business within the City of a persistent cannabis odor emanating from the subject property within a one-month time span" while also qualifying that the City may determine that a public

nuisance exists if less than complaints are received or even if no complaints are received but City detects odor conditions that violate this section of code.”

The process of cannabis cultivation and manufacturing produces odor. The requirements of chapter 9.108 are intended to mitigate these odors but practical experience in the years since the code was adopted reveal that cannabis odor persists and that it doesn't take much for cannabis odors to be released from a building, including through open doors or HVAC exhaust points. The presence of cannabis businesses is likely to produce cannabis odor. While it declares it a public nuisance, the code lacks sufficient detail in section 13.80.240.J of the Cathedral City Municipal Code on how violations should be resolved. Section 13.80.240.J of the Cathedral City Municipal Code references chapter 13.90 for enforcement, subjecting cannabis violations to fines of \$100 for a first violation, \$200 for a second violation within a 12-month period, and \$500 for a third and every subsequent violation within a 12-month period from the first violation.

The cannabis odor mitigation requirements in chapter 9.108 are applied as a condition of approval to cannabis conditional use permits. While this is the case for all cannabis conditional use permits, the means and methods of achieving compliance and how it is maintained once the entitlements are in place are not clear. Typically, these systems are incorporated into the mechanical heating, ventilation, and air conditioning (HVAC) plans submitted as part of a building permit application and consist of carbon filters, including activated carbon filters, that trap the odor causing compounds in the filter media. The filter media becomes less effective over time as it absorbs the odor causing compounds and requires maintenance to replace it with new filter media.

Currently, however, this is not a separate plan or document and there are no standards or minimum requirements for its contents or preparation. Questions such as what type of filtration should be installed, how much is required, and how often the filters should be changed out are not sufficiently addressed. While there are building code requirements for HVAC systems, they are not sufficient to address cannabis odor mitigation techniques, and the building permit plan check and inspection process is not calibrated to gauge the type and quantity of mitigation needed to adequately control cannabis odor.

## **Assessment**

Other communities have required odor control plans as part of a permitting or licensing process, requiring the identification of specific odor control systems and detailed information on how a business is mitigating cannabis odor. The City of La Mesa, as an example, requires an odor control and air filtration concept plan as part of a conditional use permit and cannabis business license, defined as:

An odor control and air filtration concept plan designed by a California licensed engineer shall be submitted with the Conditional Use Permit application and/or the Adult Use Cannabis Business License application for cultivation and/or manufacturing. The air filtration concept plan shall include:

- An odor control and air filtration concept plan narrative, prepared by a California licensed mechanical engineer, an environmental engineer, or a similar professional discipline acceptable to the Building Division, that describes the approach and equipment to be utilized to contain, absorb, and neutralize all odors emanating from the property, and the field testing
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methodology to be utilized to determine the effectiveness of the odor containment, absorption, and/or neutralization design.

- An odor control and air filtration concept plan design that clearly shows the location of proposed equipment and appurtenances on site and floor plans.
- Building section(s) and elevation(s) to clearly illustrate all equipment located on the exterior of the building, including all ducting and conduits, and the proposed method of achieving required screening.

This requirement is similar to what is required in the City of Palm Springs, which requires a written plan describing specific odor mitigation technologies and techniques incorporated to ensure that odors are not detected off-site. This odor control plan is required as part of a cannabis permit application and is also reinforced in their enforcement provisions which reference compliance with an approved odor control plan and direct enforcement staff to start with a written warning and directs a permittee to work with the City of Palm Springs to modify an approved odor control plan to mitigate odor issues within seven days. Following this period, if a permittee cannot mitigate the odor issues, the use must cease until effective odor control measures are in place. The City of Palm Springs code also contains fines of \$10,000 for failure to comply with an approved odor control plan and \$25,000 for odor violations related to an unpermitted activity.

The preceding examples are not exclusive of the range of potential solutions, although they provide important context for the gaps identified in the Cathedral City Municipal Code and what should continue to be studied as part of a potential code amendment, including an evaluation of:

- Definitions and standards in the cannabis regulations, including the thresholds for an odor violation;
- Requirements for a separate odor control plan to be submitted as part of a cannabis permit or license;
- Enforcement provisions, including the maintenance of an approved odor control plan and a well-articulated enforcement process for odor violations; and
- Fines and penalties for non-compliance with an approved odor control plan.

Additionally, the allowances for cultivation, manufacturing, and distribution sites as a conditional use in the PCC zoning district should be assessed together with the locational requirements from the RR zoning district.

### **Next Steps**

California Government Code section 65858 provides statutory authority for interim ordinances prohibiting uses that may conflict with a contemplated general plan, specific plan or zoning proposal that the City is studying or plans to study. An interim ordinance, commonly called a moratorium, imposes temporary land use controls based on a documented, current and immediate threat to public health, safety, and welfare. An interim ordinance protects and promotes the planning process by prohibiting the introduction of potentially nonconforming land uses that could defeat or impair a later adopted general plan or zoning ordinance.

Procedurally, such an ordinance may be adopted initially without a public hearing following a 4/5 vote of the legislative body, which describes the actions taken by the City Council on January 22, 2025. The initial moratorium lasts for 45 days. After notice and a public hearing, the ordinance may be extended, again with a 4/5 vote, for an additional 10 months and 15 days. The cannabis moratorium has been noticed as a public hearing for February 26, 2025

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to allow the City Council to consider an extension of the moratorium for an additional 10 months and 15 days.

Thereafter, the ordinance can be extended twice: the first extension is for a period of 10 months and 15 days and the second extension is for a period of 1 year. Both extensions must be approved by the City Council with a 4/5 vote. No more than two extensions may be adopted.

The City Council cannot adopt or extend any interim ordinance unless the ordinance contains a finding that there is a current and immediate threat to the public health, safety or welfare, and that the approval of applicable land use entitlements would result in that threat to public health, safety or welfare.

The attached ordinance provides the necessary findings to support an extension of the cannabis moratorium and the staff report. The urgency ordinance is written to prohibit new cannabis licenses and conditional use permit applications for all cannabis business types while the moratorium is in effect together with the issuance of new building permits that would permit the build-out and development of an approved cannabis license and conditional use permit where no building permit had been previously issued. The urgency ordinance excludes the renewal or transfer of existing cannabis licenses, except where the transfer is to a new location without an approved conditional use permit or where the transfer proposes an amendment or modification to an approved conditional use permit, such as for an expansion or a change in use. It also excludes the issuance of building permits to existing cannabis businesses with an approved cannabis license and conditional use permit where the building permit does not involve the build-out or expansion of the use but rather pertains to the ordinary use and maintenance of the business.

Should the City Council extend the cannabis moratorium, it is staff's recommendation that specific recommendations be presented to the Planning Commission and Cannabis Task Force to address the zoning, locational requirements, definitions, standards, and enforcement provisions, fines, and penalties identified in this staff report while building out an odor control plan to implement the required conditions of approval. Following recommendations from the Planning Commission and Cannabis Task Force, an ordinance proposing code amendments can be prepared and scheduled for public hearings within the moratorium period.

**FISCAL IMPACT:**

None at this time.

**FIVE-YEAR STRATEGIC PLAN:**

F-11 – Implement a code compliance program that proactively identifies and responds to code compliance complaints

**ATTACHMENTS:**

1. Cannabis Moratorium Extension Ordinance