

STAFF REPORT FOR PLANNING COMMISSION MEETING OF AUGUST 25, 2021

FILE NO: ZA-2021-0284

AGENDA ITEM: 13.D

STAFF CONTACT: Hope Sullivan, Community Development Director

AGENDA TITLE: For Possible Action: Discussion and possible action regarding a recommendation to the Carson City Board of Supervisors concerning a proposed ordinance amending Title 18 Appendix, division 1, section 1.20 of the Carson City Municipal Code to revise provisions related to curbside pickup for medical marijuana and retail marijuana stores. (Hope Sullivan, hsullivan@carson.org)

STAFF SUMMARY: Senate Bill (SB) 168 was enacted by the Nevada Legislature during the 81st session in 2021 and signed into law by the Governor on May 27, 2021. SB 168, among other things, establishes provisions governing "curbside pickup" of cannabis by cannabis sales facilities. The proposed amendment will create supplemental standards for marijuana dispensaries concerning signage, security measures, and the location of "curbside pickup."

PROPOSED MOTION: "I move to recommend to the Board of Supervisors approval of the ordinance"

LEGAL REQUIREMENTS: NRS 278.260; CCMC 18.02.050 (Review); CCMC 18.02.075 (Zoning map amendments and zoning code amendments); Development Standards 1.20 (Medical Marijuana Establishments and Marijuana Establishments).

KEY ISSUES: Will the proposed provisions associated with curbside pickup result in continued neighborhood compatibility?

DISCUSSION:

Senate Bill (SB) 168 was enacted by the Nevada Legislature during the 81st (2021) Session and signed into law by the Governor on May 27, 2021. SB 168 generally relates to cannabis and establishes, among other things, various provisions governing "curbside pickup," defined by the legislative measure as the delivery of cannabis or cannabis products by a cannabis sales facility to a consumer in a motor vehicle on the premises of the cannabis sales facility.

In the Carson City Municipal Code, a cannabis sales facility is referred to as a Medical Marijuana Dispensary or a Marijuana Retail Store. Per Development Standards 1.20, not more than 2 Medical Marijuana Dispensaries are allowed to operate at the same time in Carson City, and a Marijuana Retail Store may only be jointly located within the same premises of an existing Medical Marijuana Dispensary that is operating in good standing. There are currently two cannabis sales facilities in Carson City: Rise Recreational Dispensary Carson City located in the southern portion of the City on Clearview Drive and Sierra Well located in the northern portion of the City on Highway 50.

At its meeting of August 5, 2021, the Board of Supervisors approved a business impact statement and considered an ordinance prohibiting curbside pick up of cannabis. In considering the ordinance, the Board provided direction that it would like to consider curbside pickup of cannabis at the local dispensaries or retail stores subject to conditions relative to the scheduling of pickup times so as to not cause congestion, prohibiting commercial signage on any curbside related directional signs or shade structures, and prohibiting the curbside pick up locations from being in front of other businesses. During the Board meeting, safety concerns were raised by both the Sheriff and the District Attorney. In response to those concerns, staff is also recommending that in cases where curbside pickup of cannabis is utilized, the pickup locations will be subject to security cameras.

As proposed, Development Standards 1.20.2 would read as follows (additional language appears in bold and underlined.).

The following standards apply to all Medical Marijuana Dispensaries and Retail Marijuana Stores:

- (a) A single point of secure public entry must be provided and identified.*
- (b) Hours of operation are limited to between 8:00 a.m. and 10:00 p.m., daily.*
- (c) Drive-through service is prohibited.*
- (d) A Medical Marijuana Dispensary or Retail Marijuana Store is prohibited on any property, or within a shopping center with frontage, that is located on the same street on which a residentially zoned property is also located unless the dispensary or store is located more than three hundred (300) feet from the residential property, as measured on a straight line from the nearest residential property line abutting the street right-of-way to the front door of the dispensary or store.*
- (e) Curbside pick up is allowed only when specifically included in the Special Use Permit and must comply with the following standards:**
 - (1) Pickup must be by appointment only and scheduled so as to avoid congestion and off-site spill over;**
 - (2) Pickup locations must be on-site and on private property;**
 - (3) No commercial signage may be located on any curbside directional signs or shade structures associated with the curbside pickup;**
 - (4) Designated curbside pickup locations may not be located in front of another business or in any required fire lane;**
 - (5) All curbside pickup locations must be visible on a security camera.**

PUBLIC COMMENTS:

As of the writing of this staff report, no public comments were received. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

FINDINGS:

The Commission, in forwarding a recommendation to the Board for approval of a Zoning Code Amendment, shall make the findings of fact found in CCMC 18.02.075(5). The following findings are recommended by staff:

- 1. That the proposed amendment is in substantial compliance with and supports the goals and policies of the Master Plan.**

The proposed addition of provisions associated with the curbside pickup of cannabis is consistent with the Master Plan. Goal 2.3 of the Master Plan encourages the City to provide opportunities for a range of retail services; and Guiding Principle 5: *A Strong Diversified Economic Base* encourages the City to maintain and enhance the base of primary jobs and provide a broader range of retail services to serve residents of Carson City as well as those in surrounding counties.

2. **That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.**

Medical Marijuana Dispensaries and Marijuana Retail Stores are allowed to establish upon issuance of a special use permit. If either dispensary seeks to incorporate curbside pick up into its business operations, it will be required to amend the special use permit. As part of that review, the Planning Commission will review the specific request against the required findings, including a finding relative to neighborhood compatibility.

The proposed standards are also intended to create neighborhood compatibility by prohibiting additional exterior advertising, preventing congestion and spill over, and promoting security.

3. **That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.**

Each of the existing dispensaries / marijuana stores has operated for a number of years in the community without creating a negative impact on existing public services or facilities. Also, for the past year during COVID, the dispensaries / marijuana stores have had curbside pickup without incident. The Sheriff, although opposed to curbside pickup, acknowledged at the Board meeting that each dispensary is well run. It is not anticipated that the proposed amendment will negatively impact existing or planned public services or facilities.

Attachments:

- 1) Draft ordinance

Summary: Revises provisions related to curbside pickup for medical marijuana and retail marijuana stores.

BILL NO. _____

ORDINANCE NO. 2021 - _____

AN ORDINANCE RELATING TO MARIJUANA; AMENDING TITLE 18 APPENDIX (CARSON CITY DEVELOPMENT STANDARDS), DIVISION 1 (LAND USE AND SITE DESIGN), SECTION 1.20 (MEDICAL MARIJUANA ESTABLISHMENTS AND MARIJUANA ESTABLISHMENTS) OF THE CARSON CITY MUNICIPAL CODE TO ADD PROVISIONS FOR CURBSIDE PICKUP FOR MEDICAL MARIJUANA DISPENSARIES AND RETAIL MARIJUANA STORES; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 18 Appendix (CARSON CITY DEVELOPMENT STANDARDS), Division 1 (LAND USE AND SITE DESIGN), Section 1.20 (MEDICAL MARIJUANA ESTABLISHMENTS AND MARIJUANA ESTABLISHMENTS), is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) as follows:

1.20 - Medical Marijuana Establishments and Marijuana Establishments.

The following standards are intended to establish minimum standards and Special Use Permit review criteria for Medical Marijuana Establishments and Marijuana Establishments, in addition to other standards for commercial and industrial development.

1. The following standards apply to all Medical Marijuana Establishments and Marijuana Establishments:

(a) ~~[All]~~ Medical Marijuana Establishments and Marijuana Establishments require the issuance of a Special Use Permit. Special Use Permits for Medical Marijuana Establishments and Marijuana Establishments are only valid at the specific location for which a person has obtained the required approval through the applicable state agency to operate as a Medical Marijuana Establishment or Marijuana Establishment. A Special Use Permit that is issued in accordance with this Division automatically expires and shall be deemed ~~[null and]~~ void if the Medical Marijuana Establishment or Marijuana Establishment loses or otherwise forfeits the required state approval to operate. A Special Use Permit issued in accordance with this Division is not transferable between operators and locations within Carson City. Except as otherwise provided in this Division and notwithstanding any other provision of CCMC, a separate Special Use Permit is not required for a Medical Marijuana Establishment or Marijuana Establishment that will be

established in an existing location at which a Medical Marijuana Establishment or Marijuana Establishment in good standing already operates. The expansion of any location of a Medical Marijuana Establishment or Marijuana Establishment that will result in an increase of more than ten (10) percent of the space in which the Medical Marijuana Establishment or Marijuana Establishment has been approved to operate requires the issuance of an amended Special Use Permit.

(b) The consumption of marijuana products is prohibited on the premises of any Medical Marijuana Establishment and Marijuana Establishment.

(c) All business activities related to Medical Marijuana Establishments and any marijuana cultivation facility, marijuana testing facility, marijuana product manufacturing facility or retail marijuana store must be conducted indoors and within a permanent building. The use of an office trailer or other temporary structure is prohibited. All Medical Marijuana Establishments and Marijuana Establishments must at all times maintain an interior and exterior appearance that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical offices.

(d) The outdoor display or sale of any Medical Marijuana Establishment or Marijuana Establishment merchandise or product is prohibited.

(e) Accessory outside storage for Medical Marijuana Establishments and Marijuana Establishments must comply with the provisions of Title 18 Appendix (Carson City Development Standards), Division 1.12 (Outside Storage).

(f) Access to Medical Marijuana Establishment or Marijuana Establishment must comply with all applicable state and federal laws and regulations.

(g) Medical Marijuana Establishment and Marijuana Establishment merchandise and products must not be visible when viewed from outside the building in which the Marijuana Establishment or Marijuana Establishment is located.

(h) All signage for Medical Marijuana Establishments and Marijuana establishments must be discreet, professional and consistent with the traditional style of signage for pharmacies and medical offices. All Medical Marijuana establishments and Marijuana Establishments are limited to following signage:

(1) A maximum of thirty (30) square feet of wall sign area.

(2) A maximum of thirty-two (32) square feet of freestanding sign area.

(3) The maximum freestanding sign height for Marijuana Dispensaries and Marijuana Retail Stores shall be determined by the applicable commercial or shopping center regulations of Division 4 (Signs).

(4) The maximum freestanding sign height for all Medical Marijuana Establishments and Marijuana Establishments other than Medical Marijuana Dispensaries and Marijuana Retail Stores shall be ten (10) feet.

(5) Where a Medical Marijuana Establishment and Marijuana Establishment are jointly located on a single property, the maximum permitted sign area applies to the property and not each type of Establishment.

(i) Off-street parking must be provided for Medical Marijuana Establishments and Marijuana Establishments in accordance with the following:

(1) For Medical Marijuana Dispensaries and Marijuana Retail Stores[‡], [A] a minimum of one space for every 300 square feet of gross floor area.

(2) For Medical Marijuana Cultivation Facilities and Marijuana Cultivation Facilities, a minimum of one space for every 1,000 square feet of gross floor area.

(3) For Medical Marijuana Product Manufacturing Facilities and Marijuana Product Manufacturing Facilities, a minimum of one space for every 500 square feet of gross floor area.

(4) For Medical Marijuana Testing and Marijuana Testing Facilities, a minimum of one space for every 400 square feet of gross floor area.

(j) Notwithstanding any other provision of CCMC, not more than two (2) Medical Marijuana Dispensaries are allowed to operate at the same time in Carson City.

(k) A Marijuana Retail Store may only be jointly located within the same premises of an existing Medical Marijuana Dispensary that is operating in good standing.

(l) A Medical Marijuana Establishment or Marijuana Establishment is prohibited within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12, or within 300 feet of a facility that provides day care to children, a public park, a playground, a public swimming pool, and any other center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents, which already exists on the date the application for the proposed Medical Marijuana Establishment or Marijuana Establishment is submitted to the applicable state agency for approval to operate, as measured on a straight line from the property line of the nearest [such] school or facility to the front door or primary entrance of the Medical Marijuana Establishment or Marijuana Establishment.

2. The following standards apply to all Medical Marijuana Dispensaries and Retail Marijuana Stores:

- (a) A single point of secure public entry must be provided and identified.
- (b) Hours of operation are limited to between 8:00 a.m. and 10:00 p.m., daily.
- (c) Drive-through service is prohibited.

(d) A Medical Marijuana Dispensary or Retail Marijuana Store is prohibited on any property, or within a shopping center with frontage, that is located on the same street on which a residentially zoned property is also located unless the dispensary or store is located more than 300 feet from the residential property, as measured on a straight line from the nearest residential property line abutting the street right-of-way to the front door of the dispensary or store.

(e) Curbside pickup is allowed only when specifically included in the Special Use Permit and must comply with the following standards:

(1) Pickup must be by appointment only and scheduled so as to avoid congestion and off-site spill over;

(2) Pickup locations must be on-site and on private property;

(3) No commercial signage may be located on any curbside directional signs or shade structures associated with the curbside pickup;

(4) Designated curbside pickup locations may not be located in front of another business or in any required fire lane;

5. All curbside pickup locations must be visible on a security camera.

3. In addition to the required findings for a Special Use Permit, the following standards must also be considered in the review of a request for a Special Use Permit for a Medical Marijuana Dispensary or Marijuana Retail Store to be located within the General Industrial zoning district:

- (a) That the proposed Medical Marijuana Dispensary or Marijuana Retail Store is located where sufficient, convenient and safe access is provided to the public.
- (b) That the proposed location has adequate lighting and street improvements for a use providing public access.

SECTION II:

That no other provisions of Title 18 of the Carson City Municipal Code are affected by this ordinance.

SECTION III:

This ordinance becomes effective on _____, 2021.

PROPOSED on _____, 2021.

PROPOSED by _____.

PASSED _____, 2021.

VOTE:

AYES: _____

NAYS: _____

ABSENT: _____

LORI BAGWELL, Mayor

ATTEST:

AUBREY ROWLATT, Clerk-Recorder