



Agenda Item #:	4.C.
Meeting Date:	February 28, 2023
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REQUEST FOR PLANNING COMMISSION ACTION

PROPERTY ADDRESS: City-wide

APPLICANT: City of Healdsburg

SUBJECT: Healdsburg Municipal Code Amendments to Allow for Commercial Cannabis Uses

RECOMMENDED ACTION:

Review the draft revisions to the Healdsburg Municipal Code, hold a public hearing to receive and consider public comments, and adopt Resolution 2023-XX recommending the City Council repeal Healdsburg Municipal Code Chapter 8.32: Medical Marijuana Dispensaries; amend Section 20.08.145: Permitted and Conditionally Permitted Uses in the Plaza Retail (PR), Downtown Commercial (CD), and Service Commercial (CS) Districts; amend Section 20.08.155: Permitted and Conditionally Permitted Uses in the Mixed Use (MU) District; amend Section 20.08.195: Permitted and Conditionally Permitted Uses in the Industrial (I) District; add a new Section 20.20.095: Commercial Cannabis Uses and Requirements; amend Section 20.20.100: Marijuana Cultivation, Possession and Use; amend Section 20.28.310: Definitions; and related CEQA Exemption.

BACKGROUND:

The City of Healdsburg currently prohibits all commercial cannabis uses in the community. As required by Proposition 64, the City permits medical and nonmedical cannabis use and cultivation by individuals subject to specific requirements as outlined in Section 20.20.100 of the Healdsburg Municipal Code (HMC). The Council held a publicly noticed Work Session on Thursday, November 18, 2021, to discuss options for commercial cannabis uses. Staff presented materials at the Work Session that went over a range of alternatives regarding cannabis, from continuing the existing prohibition on commercial cannabis uses to allowing various types of commercial cannabis uses across the city. The staff report included:

- A Timeline and Overview of Federal and State Cannabis laws
- Definitions
- Types of commercial cannabis activities
- Types of cannabis products
- A layperson's explanation of what the laws say
- How State regulation and licensing work
- Zoning considerations for various commercial cannabis activities, including information about crime and cannabis
- Equity and Cannabis
- How other cities in Sonoma County regulate cannabis

- Taxation and revenue issues.

At the conclusion of the Work Session, the Council directed staff to conduct a community survey and to report back with the survey's results as well as with an approach to commercial cannabis based in part on the survey and in part on Council's direction to move away from a prohibition and to allow and apply limits to commercial cannabis uses. City staff prepared a community survey in January 2022 in English and Spanish, with a survey end date of February 11, 2022. A total of 604 persons responded to the survey.

On May 5, 2022, staff returned to City Council and discussed the results of the community survey. Staff also provided City Council with a proposed approach for allowing commercial cannabis uses and received feedback from the Council on the proposed approach. Staff received direction to continue with the development of a regulatory program for cannabis uses and return with formal land use code amendments.

On September 6, 2022 staff presented the City Council with draft land use code amendments which would provide a regulatory framework for allowing commercial cannabis uses in Healdsburg. City Council was supportive of the overall approach and directed Staff to move forward with the formal adoption process.

On November 8, 2022 staff presented the Planning Commission with draft land use code amendments, with minor changes based on input provided by the City Council at their September 6, 2022 meeting, that would allow commercial cannabis uses in Healdsburg. Overall, the Planning Commission was supportive of the proposed regulatory framework. One area of consensus was a recommendation to change the term of a commercial cannabis permit from two years to three years. Other issues raised but without a clear consensus was whether or not to allow non-retail uses such as manufacturing, whether or not a different approach should be considered with respect to location requirements for cannabis uses such as defining particular areas as opposed to buffering from sensitive receptors, and whether or not there should be a limit on the size of a dispensary.

On November 8, 2022, Healdsburg voters approved Measure M which established a cannabis business tax at annual rates up to and not to exceed 8% of gross receipts for cannabis businesses to be spent on unrestricted general revenue purposes, including for police, fire and emergency services, parks, affordable housing, and street maintenance.

On February 2, 2023 staff presented an update on the development of the cannabis ordinance to the Chamber of Commerce's *Good Morning Healdsburg* program outlining the proposed regulatory framework for commercial cannabis. There were no issues raised by those in attendance.

Since the Planning Commission workshop City staff along with the staff from the City Attorney's office have further refined the draft ordinance in an effort to provide a clear regulatory approach to commercial cannabis uses in the City of Healdsburg.

PROJECT DESCRIPTION AND ANALYSIS:

Overview of Land Use Code Amendments

Attachment 1 to this staff report provides a draft, red-lined version of specific chapters of the

Healdsburg Municipal Code which require amendments in order to establish commercial cannabis uses within the City of Healdsburg. The regulatory framework for allowing commercial cannabis uses in Healdsburg outlined in the amendments is substantially the same as that presented to the Planning Commission at the November 8th workshop with additional amendments to address other parts of the Healdsburg Municipal Code that need to be updated in order to allow for commercial cannabis uses. A brief analysis for each chapter to be amended by the proposed Ordinance can be found below:

Chapter 8.32: Medical Marijuana Dispensaries

Chapter 8.32 Medical Marijuana Dispensaries was enacted in 2007 to prohibit medical marijuana dispensaries from locating in the City of Healdsburg. Now that the City is proposing to allow commercial cannabis uses, both for recreational and medicinal use, this Chapter is no longer needed and will be repealed in its entirety.

Chapter 20.08: Base Zoning Districts

The proposed ordinance amends Sections 20.08.145: Permitted and conditionally permitted uses in the Plaza Retail (PR), Downtown Commercial (CD), and Service Commercial (CS) Districts; Section 20.08.155: Permitted and conditionally permitted uses in the Mixed Use (MU) District; and Section 20.08.195: Permitted and conditionally permitted uses in the Industrial (I) District to allow for commercial cannabis uses. The table below summarizes the proposed changes to the permitted and conditionally permitted uses in these five zoning districts that were identified for commercial cannabis uses during the May 5th City Council meeting and November 8th Planning Commission meeting.

Permitted (P) and Conditionally Permitted Uses (CUP)	Plaza Retail (PR)	Downtown Commercial (CD)	Service Commercial (CS)	Mixed Use (MU)	Industrial (I)	Specific Use Regulations
Cannabis storefront retailer (dispensary)	-	P	P	P	P	HMC 20.20.095
Non-storefront commercial medicinal retailer (delivery only)	-	-	-	-	P	HMC 20.20.295
Cannabis microbusiness (without cultivation)	-	P	P	P	P	HMC 20.20.095
Cannabis manufacturing facility (non-volatile/no solvents)	-	-	-	-	P	HMC 20.20.095
Cannabis manufacturing facility (volatile solvents)	-	-	-	-	-	
Cannabis distributor	-	-	-	-	P	HMC 20.20.095
Cannabis testing laboratory	-	-	-	-	P	HMC 20.20.095

No commercial cannabis uses would be allowed within the Plaza Retail district which surrounds the Healdsburg Plaza. Cannabis storefront retailers (dispensary) and cannabis microbusinesses would be allowed in the Downtown Commercial, Service Commercial, Mixed Use, and Industrial zoning districts subject to specific use regulations outlined in a new Section 20.20.095 which is discussed further below.

A Type 9 non-storefront retailer (delivery only) was presented to the City Council as not being a permitted commercial cannabis use in the proposed land use code amendments. Subsequent to that meeting the Governor signed SB 1186 on September 18, 2022, and the Act takes effect on January 1, 2024. The Act prevents cities from prohibiting the retail sale by delivery of medicinal cannabis and requires all local jurisdictions to allow licensed, non-storefront, delivery-only

medicinal cannabis businesses. Although cities and counties may still regulate or prohibit all other commercial cannabis activities, the Act represents a significant limitation on local control over cannabis businesses. The attached amendments have been modified to address this new law and provides that a licensed, non-storefront commercial medicinal retailer (delivery only) is a permitted use in the Industrial zone, that this use would not be included in the limit on the number of storefront retail dispensaries and or microbusinesses, and that it is subject to specific use regulations in the new Section 20.20.095.

Non-retail uses such as a cannabis manufacturing facility (utilizing non-volatile solvents), cannabis distributor, or cannabis testing laboratory would be allowed in the Industrial zoning district only and subject to specific use regulations in the new Section 20.20.095. Cannabis manufacturing facilities that rely on volatile solvents would not be permitted in any zoning district in Healdsburg. Commercial cannabis cultivation would also not be an allowed use in Healdsburg under the proposed changes.

Chapter 20.20 Standards for Specific Land Uses

A new Section 20.20.095 titled “Commercial cannabis uses and requirements” is proposed to be added to Chapter 20.20: Standards for Specific Land Uses to establish standards for commercial cannabis uses. This new section includes the following subsections:

- A. Standards for all Commercial Cannabis Uses
- B. Standards for Cannabis Storefront Retailers and Cannabis Microbusinesses.
- C. Standards for Manufacturing, Testing, Storage, and Distribution of Commercial Cannabis
- D. Standards for Non-Storefront Commercial Medicinal Cannabis Retailers
- E. Enforcement

Rather than duplicate all of the information contained in the above subsections, the following summarizes each subsection and discusses areas of interest raised by the City Council and Planning Commission and how those issues are addressed. See the attached ordinance (Attachment 1) for a full accounting of the proposed amendments to the Healdsburg Municipal Code.

A. Standards for all Commercial Cannabis Uses

This section outlines standards that apply to all commercial cannabis uses and address areas such as, but not limited to, application procedure and requirements, development standards, permit requirements, renewal requirements, taxes, and security requirements. One notable change based on input received at the City Council and Planning Commission meetings is an adjustment to the term for commercial cannabis permits which was originally proposed as 2 years to a term of 3 years.

B. Standards for Cannabis Storefront Retailers and Cannabis Microbusinesses

The proposed ordinance limits the number of retail dispensaries to two (2). A Type 12 microbusiness license would count as a retail dispensary under the limits on the number of dispensaries. Also note that while the Type 12 microbusiness license from the State allows for up to 10,000 square feet of cultivation area, the proposed land use code amendments for Healdsburg do not allow for cultivation as part of a microbusiness. Both Type 10 storefront retail dispensaries and microbusinesses would be able to deliver cannabis goods under their respective licenses.

Based on City Council input at their May 5, 2022 meeting staff has included location requirements for dispensaries. "Path of travel" was selected as opposed to simple buffers in an effort to address barriers to path of travel such as the railroad right-of-way and Foss Creek. A buffer from a sensitive receptor on one side of a barrier could impact the potential location of a commercial cannabis use on a parcel on the other side of that barrier which for all intents and purposes has adequate separation. This could result in a commercial cannabis use being physically located close to a sensitive receptor but not readily accessible from a path of travel perspective. The City Council at their September 6, 2022 meeting noted that they would like to see West Plaza Park and 3 North Street removed from the list of parks as they are not active parks and do not represent sensitive receptors. Attachment 2 presents a general view of parcels that may be eligible for locating a retail dispensary or microbusiness. Any proposed retail dispensary or microbusiness will be evaluated in greater detail to ensure compliance with the criteria outlined below:

- A retail dispensary which is open to the public may only be located within the allowed zoning district(s) under Table 10 of Section 20.08.145, Table 12 of Section 20.08.155, and Table 15 of Section 20.08.195.
- A retail dispensary shall not be established on any parcel containing a dwelling unit, or immediately abutting (sharing a common property line with) a residential zoning district. Residentially zoned does not include mixed-use zoning for purposes of this chapter.
- A retail dispensary shall not be established within five hundred feet from any youth-oriented property.
- A retail dispensary shall not be established within two hundred and fifty feet of any public park (with the exception of West Plaza Park and 3 North Street), public playground, or public library.
- The distances listed above shall be measured between the nearest entrance (ingress/egress to commercial cannabis establishment, e.g., front door/public entry or service door) of the retail dispensary and the nearest property line of the parcel(s) on which the youth-oriented property, public park, public playground, or public library is located, along the shortest route intended and available for public passage (any public road, street, or highway, including footpaths and bicycle paths, or other route provided for the passage of people).

C. Standards for Manufacturing, Testing, Storage, and Distribution of Commercial Cannabis

This subsection addresses standards for manufacturing, testing, storage, and distribution of commercial cannabis. The ordinance only allows for manufacturing which relies on non-volatile solvents. Non-volatile solvents are chemicals that do not produce a flammable gas or vapor. Examples of which include ethanol, carbon dioxide, cooking oils, and butter. Manufacturing that relies on volatile solvents are not allowed. Volatile solvents are chemicals that produce a flammable gas or vapor and examples include butane, heptane, hexane, and propane.

D. Standards for Non-Storefront Commercial Medicinal Cannabis Retailers

This subsection was added to address SB 1186 as discussed earlier in this report. The Act prevents cities from prohibiting the retail sale by delivery of medicinal cannabis and requires all local jurisdictions to allow licensed, non-storefront, delivery-only medicinal cannabis businesses. The attached amendments have been modified to address this new law and provides

that a licensed, non-storefront commercial medicinal retailer (delivery only) is a permitted use in the Industrial zone, that this use would not be included in the limit on the number of storefront retail dispensaries and or microbusinesses, and that it is subject to the specific use regulations outlined in this subsection.

E. Enforcement

This subsection outlines the reasons for and the process by which the City may revoke, modify, or suspend any commercial cannabis permit. Permittees would be provided notice and an opportunity for a hearing.

Section 20.20.100 Marijuana Cultivation, Possession and Use

The proposed ordinance amends this existing section of the Land Use Code to remove and replace the term “Marijuana” with the term “Cannabis” to provide consistency with the previously discussed amendments; eliminates references to previously prohibited commercial uses which are now proposed to be allowed under the ordinance; and eliminates duplicative definitions. Commercial cultivation is not allowed, and personal cultivation, possession, and use standards remain unchanged and consistent with State law.

Section 20.28.310: Definitions

The Definitions section of the Land Use Code is proposed to be amended to include cannabis-related definitions that will provide additional clarity in the implementation of the commercial cannabis ordinance.

NEXT STEPS:

As the amendments to the Healdsburg Municipal Code move forward, staff will also be working to develop and finalize the application process for cannabis dispensaries with the City Council. This process will include an application that will consider several factors based on Council feedback. The application process will allow for the selection of up to two retail dispensaries. Dispensaries selected through this process would then apply for a commercial cannabis permit subject to the requirements outlined in the attached amendments.

A fee study will be prepared to establish a commercial cannabis business permit fee that will cover staff costs associated with administering the program.

The City Council will set the annual rate of the cannabis business tax not to exceed 8%.

APPLICABLE GENERAL PLAN AND LAND USE CODE INFORMATION:

General Plan Consistency

The Land Use Code Amendments are consistent with the following guiding principle and goals of the General Plan:

Guiding Principle:

5-A Provide an open and inviting business climate, a balanced economic environment, and a diverse tax base.

GOAL ED-A Expand the commercial and industrial sectors of Healdsburg’s economy to increase jobs, meet the needs of residents and visitors, and generate revenues that support City services.

ENVIRONMENTAL ANALYSIS:

The proposed Healdsburg Municipal Code amendments are exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) (the “common sense exemption”) because it can be seen with certainty that there is no possibility that the amendments will have a significant effect on the environment.

FISCAL INFORMATION:

The establishment of a commercial cannabis business permit fee will recover costs associated with staff time associated with in implementing the commercial cannabis program. Additional revenues are anticipated from the cannabis business tax and may be spent on unrestricted general revenue purposes, including for police, fire and emergency services, parks, affordable housing, and street maintenance.

ATTACHMENT(S):

1. Draft Resolution No. 2023-XX with Exhibit A: Draft City Council Ordinance
2. Parcels Eligible for Retail Dispensary or Microbusiness