

City of Desert Hot Springs

City Council

AGENDA ITEM REPORT



To: City Council
Date: March 5, 2024
Department: Code & Cannabis Compliance
Prepared by: Christina Newsom, Compliance Director
Subject: **Ordinance for Cannabis Regulatory Permit Renewals**

RECOMMENDATION:

Introduce for first reading and read by title only: "An Ordinance of the City Council of the City of Desert Hot Springs, California, adding to Reserved Section 5.50.180 and amending Section 5.50.190 and adding Section 5.50.195 to Chapter 5.50 "Cannabis Businesses" of Title 5 "Business Licenses and Regulations" of the Desert Hot Springs Municipal Code in order to update Cannabis Regulatory Permit Regulations."

BACKGROUND:

Chapter 5.50 of the Desert Hot Springs Municipal Code requires every cannabis facility to obtain a regulatory permit to operate within the City. Historically, the City of Desert Hot Springs Cannabis Compliance Division has conducted regulatory permit audits annually of permit submittal requirements to determine compliance. These audits require numerous staff hours and dedicated personnel to ensure cannabis facility records are current, accurate, and complete. Further, staff conducts investigations into cannabis facility ownership, rosters, and entity status to ensure adherence to background and ownership regulations.

Implementing a requirement for an annual cannabis regulatory permit renewal will safeguard that cannabis facilities remain compliant throughout the life of their operation. Further, it will ensure that cannabis facilities provide current documentation to staff on an annual basis. Moreover, if a facility fails to renew a permit the City will have the authority to terminate the regulatory permit and require that the facility cease operations.

DISCUSSION:

If approved the proposed ordinance would:

- Establish that cannabis regulatory permits be valid for one year.
- Require that cannabis facilities submit regulatory permit renewal applications and fees no earlier than sixty (60) calendar days but no later than 30 days before the expiration of the permit.

- Establish that the failure to renew a regulatory permit shall result in the permit being terminated. In the event that a regulatory permit is terminated, the operator must cease all operations as a cannabis facility.
- Establish that cannabis retail facilities are exempt from the one-year regulatory permit term and the annual renewal permit requirements.

ATTACHMENTS:

[1\) Cannabis Regulatory Permit Renewals Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA ADDING TO RESERVED SECTION 5.50.180 AND AMENDING SECTION 5.50.190 AND ADDING SECTION 5.50.195 TO CHAPTER 5.50 “CANNABIS BUSINESSES” OF TITLE 5 “BUSINESS LICENSES AND REGULATIONS” OF THE DESERT HOT SPRINGS MUNICIPAL CODE IN ORDER TO UPDATE CANNABIS REGULATORY PERMIT REGULATIONS

WHEREAS, the City of Desert Hot Springs (“City”) is a charter city organized pursuant to Article XI of the California Constitution; and

WHEREAS, currently Chapter 5.50 of the Desert Hot Springs Municipal Code requires a regulatory permit in order for any cannabis facility to operate within the City; and

WHEREAS, currently Chapter 5.50 of the Desert Hot Springs Municipal Code imposes certain operating conditions on cannabis facilities, such as security plans, background checks, and odor control; and

WHEREAS, for years, City personnel have enforced Chapter 5.50 of the Desert Hot Springs Municipal Code, developing expertise in the field and recognizing significant issues affecting the cannabis industry and the public; and

WHEREAS, the City Council desires to require an annual renewal of a cannabis regulatory permit to ensure compliance with ownership, operating conditions, security plans, background checks, camera plans and odor control; and

WHEREAS, the City Council finds that adding sections 5.50.180 and 5.50.195 and amending section 5.50.190 of Chapter 5.50 “Cannabis Businesses” is in the best interest of the public health, safety and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Desert Hot Springs as follows:

Section 1. RECITALS

That the foregoing recitals are true and correct and are herein adopted by this reference.

Section 2. ADD TO RESERVED SECTION 5.50.180 “CANNABIS FACILITIES REGULATORY PERMIT TERM” OF TITLE 5 “BUSINESS LICENSES AND REGULATIONS” OF THE DESERT HOT SPRINGS MUNICIPAL CODE

5.50.180 Cannabis Facilities Regulatory Permit Term

A. A regulatory permit is valid for one year from the date that the permit is issued unless suspended or revoked sooner.

B. Retroactive. It is the express intent of the City that the provisions of this chapter shall apply to all current cannabis facility operators.

C. Any current owner of a cannabis facility on the effective date of the ordinance codified in this chapter shall be required to renew their regulatory permit within six months from the effective date of the ordinance codified in this chapter, or earlier. Failure to do so shall be a violation of this chapter and subject to the penalties herein.

1. Regulatory permits issued within the six months prior to the effective date of the ordinance codified in this chapter shall be required to renew their regulatory permit within one year from the effective date of the ordinance codified in this chapter.

Section 3.

AMEND SECTION 5.50.190 "TRANSFERENCE AND RENEWAL OF PERMITS" OF TITLE 5 "BUSINESS LICENSES AND REGULATIONS" OF THE DESERT HOT SPRINGS MUNICIPAL CODE

5.50.190 Transference and renewal of permits.

A. Permits issued pursuant to this chapter are not transferrable. Any unlawful transfer of a permit renders such permit void.

B. A permit issued pursuant to this chapter is valid only as to the permittee identified on the permit with respect to the premises identified on the permit. The permit shall not run with the land.

C. Change in Ownership. Any of the following changes in ownership affecting a permittee shall require the issuance of a new cannabis facilities regulatory permit pursuant to this chapter.

1. Any change affecting any ownership interest of a cannabis facility or person that results in a person holding an aggregate ownership interest of 20% or more of a cannabis facility, when that person did not previously hold an aggregate ownership interest of 20% or more in the cannabis facility.

2. Any change in the direction, control, or management of a cannabis facility.

D. Changes to a Cannabis Facility. Any of the following changes to the structure or operation of a cannabis facility shall require only a permit modification. A permittee seeking a permit modification as required under this subsection shall pay the required filing fee for a permit modification, as determined by resolution of the City Council, and provide such information, including the information required by Section 5.50.040, as may be required by the City Manager or designee. The City Manager or designee shall apply the criteria in Section 5.50.060 to decide whether to approve the modification. The decision of the City Manager or designee shall be final.

1. Any change affecting any ownership interest of a cannabis facility, including, but not limited to, any change in ownership that affects an ownership interest of less than 20% of the cannabis facility.

2. A change in the form or structure of a permittee. Notwithstanding any other provision of this section, a permittee may undertake any change in its form or structure, as long as the change in form or structure does not cause any change affecting an ownership interest. The permittee must promptly apply for and obtain a permit modification.

~~E. Applications for renewal of permits must be submitted on forms provided by the City no less than 30 days prior to the permit's expiration date. Any permittee allowing their permit to lapse, or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees, and be subject to all aspects of the application process in this chapter.~~

E. To renew a regulatory permit, a completed permit renewal application and renewal permit fee shall be submitted by the applicant no earlier than sixty (60) calendar days but no later than 30 days before the expiration of the permit.

F. Failure to renew a regulatory permit as prescribed in this section shall result in the permit being terminated. In the event that the permit is terminated the operator must cease all operations as a cannabis facility.

G. Any application for renewal shall be denied if:

1. The permittee fails to conform to any of the provisions of this Code;
2. The permittee is delinquent in payment of any City taxes related to commercial cannabis activity; or
3. The permit is suspended or revoked at the time of the application.

H. Relocation. Permittees who will relocate their cannabis facilities from a temporary structure to a permanent structure, or from one location within a cannabis business park to another location within the same cannabis business park, must obtain the approval of the City Manager or designee and acquire the applicable State cannabis license for the new location prior to relocation. (Ord. 777 3-21-23; Ord. 729 2-16-21)

Section 4. AMEND SECTION 5.50.195 "TRANSFERENCE AND RENEWAL OF PERMITS EXEMPTIONS" OF TITLE 5 "BUSINESS LICENSES AND REGULATIONS" OF THE DESERT HOT SPRINGS MUNICIPAL CODE

A. Cannabis retail facilities shall be exempt from the one year regulatory permit term as provided in section 5.50.180.

B. Cannabis retail facilities shall be exempt from annual regulatory permit renewal requirements as provided in section 5.50.190.

Section 3. SEVERABILITY

That, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 4. REPEAL OF CONFLICTING PROVISIONS

That all the provisions of the Municipal Code as heretofore adopted by the City of Desert Hot Springs that are in conflict with the provisions of this ordinance are hereby repealed.

Section 5. AMENDING OF BAIL SCHEDULE

That the City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 6. EFFECTIVE DATE

That this ordinance shall be effective thirty days after the second reading of the ordinance.

Section 7. CERTIFICATION

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the ___ day of _____, 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Scott Matas, Mayor

ATTEST:

Jerryl Soriano, City Clerk

APPROVED AS TO FORM:

Tuan Vu, City Attorney