




TOWN OF FAIRFAX

STAFF REPORT

October 2, 2019

TO: Mayor and Town Council

FROM: Ben Berto, Planning Director 

SUBJECT: Adopt a Resolution approving commercial cannabis business permit procedures and reaffirming approval of the weighted scoring criteria

RECOMMENDATION

Adopt a Resolution approving commercial cannabis business permit procedures and reaffirming approval of the scoring criteria, weighting, and minimum qualify score.

DISCUSSION

The Town Council approved the second reading of the Town's commercial cannabis business regulations (Chapter 5.56) at their September 4, 2019 meeting. Those regulations will take effect on October 4, 2019.

Specifically, Section 5.56.070 B. 3. specifies that the Town Council will need to approve the specific scoring criteria, weighting (points per criteria), minimum qualifying scores and any additional application procedures prior to the commencement of the application period. The Council previously approved the scoring criteria, weighting, and minimum qualifying scores at its August 7, 2019 meeting by minute action. This resolution reaffirms the Council approval by resolution.

Based on the regulations set forth in detail in Chapters 5.56 and 17.110 (Zoning Standards and Restrictions for Commercial Cannabis Uses), staff developed "Commercial Cannabis Business Permit Procedures" (see Exhibit B of the resolution). The proposed commercial cannabis business application period will begin on November 1, 2020 and close on January 6, 2020. Applicants are required to include any needed planning applications and fees (e.g., exterior building changes/signage) with their cannabis business application. Applications may be submitted Monday through Thursday to the Planning and Building Services Department at Town Hall during normal business hours from 9:00am to noon and 1:00pm to 4:00pm.

The application will require an initial \$2,000 deposit to cover staff time and any required outside professional fees plus the 20% administrative overhead charge.

FISCAL IMPACT

None at this time.

ATTACHMENTS:

Resolution w/Commercial Cannabis Business Scoring Criteria (Exhibit A) and Commercial Cannabis Business Permit Procedures (Exhibit B)

RESOLUTION 19-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
APPROVING THE SCORING CRITERIA, WEIGHTING (POINTS PER CRITERIA),
MINIMUM QUALIFYING SCORES, AND APPLICATION PROCEDURES FOR
COMMERCIAL CANNABIS BUSINESS PERMITS IN FAIRFAX**

WHEREAS, on June 27, 2017, the State of California approved Senate Bill 94, consolidated the State licensing schemes applicable to both medical and adult-use commercial cannabis activity under a single regulatory framework titled the “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (“MAUCRSA”); and

WHEREAS, the MAUCRSA recognizes, preserves and does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that regulate state licensed cannabis businesses, including, but not limited to, local zoning and land use requirements, business license requirements; and

WHEREAS, on the September 4, 2019 the Town Council meeting of the Town of Fairfax adopted by ordinance regulations in Town Code Chapter 5.56 “Commercial Cannabis Business Permits”, and Chapter 17.110 “Cannabis Uses” governing all commercial cannabis businesses in the Town; and

WHEREAS, Section 5.56.070 B. 3. Chapter 5.56 directs the Town Council to adopt by resolution the scoring criteria, weighting (points per criteria), minimum qualifying scores, and any additional application procedures prior to the commencement of the application period and posted publicly on the Town’s website; and

WHEREAS, on August 7, 2019 the Town Council approved by minute action the scoring criteria, weighting (points per criteria), and minimum qualifying scores for commercial cannabis business permit applications.

NOW, THEREFORE, the Town Council of the Town of Fairfax does resolve as follows:

Section 1. The commercial cannabis business permit application period shall commence on November 1, 2020 and close on January 6, 2020. Applications may be submitted Monday through Thursday to the Planning and Building Services Department at Town Hall during normal business hours from 9:00am to noon and 1:00pm to 4:00pm.

Section 2. Approves Exhibit A- “Commercial Cannabis Business Scoring Criteria” and Exhibit B – “Commercial Cannabis Business Permit Procedures“ attached to this Resolution.

Section 3. The Town Manager is authorized to make minor modifications to Exhibit A- “Commercial Cannabis Business Scoring Criteria” and Exhibit B – “Commercial Cannabis Business Permit Procedures” of this resolution for clarification purposes.

The foregoing Resolution was approved at a regular meeting of the Town Council on the 2nd day of October 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Barbara Coler, Mayor

Attest:

Hannah Politzer, Deputy Town Clerk _____
Date

SCORING CRITERIA
FAIRFAX COMMERCIAL CANNABIS BUSINESS PERMITS

Review Criteria Rating System

- i. 35 points: **Business qualifications and business plan** as demonstrated by:
 - Industry experience
 - Financial capacity to start up and sustain business operations
 - Business design/layout: secure, attractive, unobtrusive design
 - Innovative or boutique business models consistent with the Fairfax community
 - Additional information that demonstrates the ability to operate in a manner consistent with the values of the Town, including, without limitation, local residency of principals (3+ years), connection to Fairfax, ability to serve Fairfax, familiarity with the Town

- ii. 35 points: **Quality of operating plan** as demonstrated by:
 - Demonstrated understanding of all State requirements, including but not limited to security, financial, other recordkeeping
 - Inventory controls and sales procedures to prevent diversion to illegal market and access by minors
 - Employee training above State requirements
 - Parking, circulation, and traffic plan, including truck and delivery parking if applicable, to ensure safe access and minimize traffic congestion
 - Complaint response program
 - Additional operational procedures demonstrating safety, commitment to community welfare and community responsiveness

- iii. 30 points: **Public benefits**, including, but not limited to the following:
 - All employees paid living wage and benefits
 - Social equity: One or more principals who earn at or below median household income; women or minority owned business; small business
 - Offer medical cannabis:
 - Patient services, such as physician or caregiver networking
 - Experience serving patients
 - Reduced-cost products to low-income medical patients
 - Locally-sourced, organic/pesticide-free products
 - Green business rating: Is certified or qualifies for certification
 - Participation and support of local youth-serving prevention and education programs, and/or adult addiction programs

Minimum qualifying score = 80 points

Scoring:

- (a) The Planning Commission will review each application at a public hearing based on the written materials and an applicant presentation.
- (b) Planning Commissioners decide scores based on the scoring criteria above. All Planning Commissioners' scores shall be totaled and averaged for each application for a preliminary score. This preliminary score would be referred to the Town Council.

SCORING CRITERIA
FAIRFAX COMMERCIAL CANNABIS BUSINESS PERMITS

- (c) The Town Council would hold a second hearing and review the Planning Commission's preliminary scoring. The Town Council would have the opportunity to issue an additional **10 points** based on the quality of the applicant's presentation.



TOWN OF FAIRFAX

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COMMERCIAL CANNABIS BUSINESS PERMIT PROCEDURES

PHASE 1: The commercial cannabis business permit application period shall commence on November 1, 2020 and close on January 6, 2020. During the application period, a Commercial Cannabis Business Licensing Permit Application and fee must be submitted to the Planning Department, and a Live Scan application form and fee must be filed with the Police Department. If the proposal includes exterior changes to the commercial building in which the business is proposed to be located, a Design Review application and fees shall also be submitted. If proposed signage involves an exception to the sign ordinance regulations, a Sign Permit applications and fees shall also be submitted.

Applications may be submitted Monday through Thursday to the Planning and Building Services Department at Town Hall during normal business hours from 9:00am to noon and 1:00pm to 4:00pm. Please note Town Hall will be closed for holidays and Town furlough.

A written determination will be made on the completion status of each Phase 1 application by February 5, 2020. If an application is deemed to be incomplete, the determination will list the requirements to complete the application. Each cannabis business applicant will then have until February 20, 2020 to provide the needed information to complete the application. Applications not completed within the 2-week period will be disqualified from further processing.

A final decision regarding applicants being accepted for further processing will be made by the Town Manager by March 26, 2020, or after receipt of Live-scan results, whichever is later.

PHASE 2: Application Review Period. Within 2 months of the completion of the Phase 1 process, applications that have been accepted for further processing will be reviewed by the Fairfax Planning Commission. The applications shall be scored against the scoring criteria adopted by the Town (attached).

PHASE 3: Applications achieving a score of 80 points or higher from the Planning Commission will be forwarded, with any accompanying Design Review or Sign Permit application(s), to the Fairfax Town Council. The Town Council will hold a public hearing to review the applications within 2 months of the Planning Commission reaching a decision on application(s) preliminary scores. The Council review the Planning Commission's scoring recommendations and make final scoring decisions, including an additional 10 points.

Based on the available number of cannabis business permits, the application(s) that are awarded the highest score(s) will be issued Cannabis Business Permit and be licensed to operate a commercial cannabis business.

Qualified applicants who are not selected will be placed on a qualified applicant list and will be notified when future applications are accepted. A qualified applicant will remain eligible for 3 years.

Issuance of a Cannabis Business Permit does not create a land use entitlement.

No business issued a Cannabis Business Permit may begin operations until they have obtained a permit to operate from the State of California, and until the business has complied with all of State and local laws and regulations, including but not limited to the requirements of Town Code Titles 5.56 and 17.138.