



Economic Development, Placemaking and Branding/ Marketing Committee

City of Arts & Innovation

TO: ECONOMIC DEVELOPMENT, PLACEMAKING AND BRANDING/MARKETING COMMITTEE **DATE: AUGUST 17, 2023**

FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT **WARDS: ALL**

SUBJECT: REVIEW AND PROVIDE DIRECTION ON THE PROPOSED CANNABIS BUSINESS PERMIT APPLICATION REVIEW PROCESS AND REVIEW CRITERIA

ISSUE:

Review and provide direction on the Proposed Cannabis Business Permit Procedure Application Review Process and Review Criteria.

RECOMMENDATIONS:

That the Economic Development, Placemaking and Branding/Marketing Committee:

1. Review and provide direction on the Proposed Cannabis Business Permit Application Review Process and Review Criteria;
2. Direct staff to initiate the procurement process for a third-party consultant to assist with the Cannabis Business Permit Application Review process; and
3. Direct staff to initiate the process to request that City Council approve the addition of up to five staff members to support the City's cannabis program.

LEGISLATIVE HISTORY:

On November 18, 2021, the Economic Development, Placemaking and Branding/Marketing Committee (Committee) discussed the need to develop an Ordinance with the legal and regulatory framework for the permitting, licensing, enforcement, taxation, and legal operations of commercial cannabis storefronts within the City limits and directed Staff to return to the Committee with Ordinance options.

On March 24, 2022, the Committee directed Staff to prepare amendments for the Riverside Municipal Code (RMC): 1) Title 5 – Business Taxes, Licenses and Regulations amendments related to licensing of cannabis business uses; 2) Title 9 – Peace, Safety and Morals amendments to clean up and provide consistency in cannabis regulations and terminology; and 3) Title 19 –

Zoning amendments related to land use regulations for cannabis related uses and microbusinesses. Staff was also directed to conduct a financial analysis on potential revenue and move forward with a cannabis tax ballot measure in 2024, with the type of tax, language, and percentage to be determined at a later date.

On October 20, 2022, the Committee provided Staff with final direction on remaining decision points to finalize the Proposed Amendments and directed Staff to forward the Proposed Amendments to the City Planning Commission and City Council for consideration and adoption.

City Planning Commission

On December 8, 2022, the City Planning Commission received a workshop on Proposed Amendments to Title 19 – Zoning to update permitted land use regulations to facilitate the Program, should it be adopted. The Proposed Amendments to Titles 5 and 9 were also presented as information only.

On January 19, 2023, the City Planning Commission recommended approval of the proposed Title 19 Amendments (Planning Case PR-2022-001435, Zoning Text Amendment) by a vote of 8 ayes, 0 noes, and 0 abstentions.

City Council

On February 28, 2023, the City Council approved Planning Case PR-2022-001435 and introduced Ordinance 7628, amending Title 5 (Business Taxes, Licenses and Regulations) of the RMC and replacing Chapter 5.77 (Cannabis Business Activities) in its entirety, Ordinance 7629 amending Title 9 (Peace, Safety and Morals) of the RMC, and Ordinance 7630 amending Title 19 (Zoning) of the RMC, and directed staff to develop and implement a Cannabis Business Permit Program including the development of a Cannabis Equity Program and established a 1,000-foot buffer from K-12 schools.

At the February 28 meeting, the City Council also directed staff to 1) include language for a bona fide business defined as an organization that is actively seeking to represent cannabis workers in the State as codified and USC 402(i) certified bargaining representatives, members of a region or labor national regional, 2) define "true ownership" under section 5.77.060, and 3) clarify Section 5.77.090-A such that unsuccessful applications for permits in jurisdictions with limited permit availability does not constitute a disqualifying prior denial, suspension or revocation.

Ordinances 7628, 7629, and 7630 were subsequently adopted by City Council on March 14, 2023.

BACKGROUND:

Chapter 5.77 of the RMC regulates Cannabis Business Activities in the City of Riverside, including the types and maximum number of businesses permitted within the City. Based on City Council Direction, Chapter 5.77 allows up to 14 storefront retail cannabis businesses as well as an unlimited number of manufacturing/distribution cannabis businesses and Cannabis testing laboratories. Currently, all commercial cannabis cultivation operations and cannabis microbusinesses are prohibited.

In addition to the types and number of cannabis businesses permitted, Chapter 5.77 includes the following provisions:

- 1) **Permit required:** No cannabis business is permitted to operate without a Cannabis

Business Permit; Permittees must hold required State licenses/permits, City business tax certificates, and any required Building Permits or Certificates of Occupancy.

- 2) **Permit application process:** Council must adopt Procedure Guidelines and Review Criteria to establish an application review process, timeframes, requirements, scoring criteria and selection process for permit issuance, administered by City Manager.
 - A. **Application fees:** Established by Council resolution to cover costs to City, due at filing.
 - B. **Labor Peace Agreement:** Required for applicants with five or more employees.
 - C. **Community Benefits:** All applicants must agree to provide Community Benefits, to be defined and incorporated into Review Criteria and conditioned on permit issuance.
- 3) **Permit term and renewal:** Permits valid for one year; annual renewal required; conditions may be added.
- 4) **Denial, suspension, revocation:** Grounds for denial of application, denial of renewal, revocation or suspension of permit, or addition of conditions to a permit or renewal.
- 5) **Appeals:** Procedures, timeframes, roles and responsibilities for appeal of denial, revocation, suspension or conditions; appeals heard by Appointed Hearing Officer appointed by Council.
- 6) **Liability:** Applicants and permittees must agree to indemnify and release City from all liability related to permit issuance, business operations or legal challenges; must maintain adequate insurance coverage.
- 7) **Reporting requirements:** Permittees must submit an annual financial audit, report gross sales receipts, submit a register of all owners, managers, employees; must maintain inventory control and reporting system; must report inventory loss, theft, security breaches.
- 8) **Location requirements:** Cannabis businesses must meet all required General Plan, Zoning, Specific Plan and development standards and must meet the following location restrictions:
 - A. 600 feet from:
 - i. Commercial Daycare Centers
 - ii. Community Centers
 - B. 1,000 feet from:
 - i. K-12 Public/Private Schools
- 9) **Security requirements:** Exterior lighting, access control, security cameras, alarm systems, on-site security personnel required; must designate a Security Liaison answerable to City Manager and Police.
- 10) **Operating requirements:** Permit requirements and limitations, compliance requirements, allowed activities, display of permits, required signage, access restrictions, security protocols, age restrictions, prohibitions on consumption on site, hours of operation, odor control measures, delivery requirements and procedures, and hazardous materials and waste compliance.
- 11) **Community relations:** Permittees must designate a Community Relations contact person to meet and discuss issues and concerns with City; contact information shall be provided to all businesses and residences within 100 feet of premises.

DISCUSSION:

Proposed Draft Procedure Guidelines

As stated in item 2 under the Background section above, RMC Section 5.77.130 requires that City Council adopt a resolution establishing the Procedure Guidelines and Review Criteria to create an application review process, timeframes, requirements, scoring criteria and selection process for permit issuance, administered by the City Manager. Following a review of comparable jurisdictions within Southern California that already allow cannabis businesses, staff developed a proposed Cannabis Business Permit Application Review Process based upon previously proven approaches while taking into consideration local requirements, policy direction, and internal processes.

Three-Phase Review Process: The proposed Cannabis Business Permit Application Review Process includes a three-phase review process to evaluate Cannabis Business Permit applications as illustrated below.

Figure 1 – Procedure Guideline Phases:



Application Period: Staff recommends a limited application period for those interested in applying for one of the fourteen (14) Storefront Retail Cannabis Permits. Applications for Cannabis Manufacturing/Distribution and Cannabis Testing Laboratories would not be limited to a specified application period as there are no permit limits for these types of uses. Prior to the commencement of the Application Period staff would develop and implement a robust public-facing website complete with application materials, reference documents, timeline, and other relevant information.

Phase 1 – Application Clearance, Preliminary Qualifications and Selection of Finalists: Upon conclusion of the application period, applications will be evaluated for Application Clearance by the City Manager. The Application Clearance evaluation consists of ensuring the applications meet the minimum completeness requirements in accordance with the Procedure Guidelines and Chapter 5.77 and an initial review of the clearance documents.

Applications that receive Application Clearance will proceed to a merit-based evaluation process made up of two steps that include an initial ranking followed by an interview-based ranking. The merit-based evaluation will be based on a set of criteria established by the City Council and adopted as part of the Procedure Guidelines. The merit-based evaluation will be conducted for each qualified application by a review panel and/or a third-party consultant as determined by the City Manager and/or City Council. The resulting scores will be used to rank all applications based on the qualifications of the applicant(s) and the quality and responsiveness of their application.

packet. The fourteen (14) top ranked applicants will be deemed finalists and may possibly be presented to the City Council for confirmation and authorization to proceed to Phase II.

Phase 2 –Site Review and Final Vendor Selection Process: Following Phase 1, all qualified finalists will be required to specify their preferred location and submit documentation such as a lease or a deed, and including property owner authorization, demonstrating that the applicant has the legal right to occupy and use the premises to operate a commercial cannabis business described in their application. This will be the first time an applicant for a storefront retail business will be required to provide a preferred business location so as not to interfere with the Application Clearance and qualification review process. The preferred location and all accompanying documents will be reviewed for compliance with the RMC, including zoning clearance, and, upon the satisfaction of the City Manager, will receive notice of Provisional Approval and will be directed to move on to Phase III – Final Administrative Approval.

Phase 3 – Final Administrative Approval: Upon notice of Provisional Approval, applicants will be required to execute a Commercial Cannabis Operational Agreement in a manner deemed acceptable by the City Manager and City Attorney. At minimum, the Commercial Cannabis Operational Agreement shall include proof of insurance, indemnification clause, operating fees as established by the City based on gross receipts (if adopted), a description of the community benefits, and a description of local hiring practices. The applicant will also be required to obtain and demonstrate proof of a state cannabis license and a City business tax certificate. All businesses must also obtain and maintain all required permits and approvals from the Fire Department and the Building and Safety Division. Once all of these items are complete, the application will receive a final approval and be granted a Cannabis Business Permit. The business can then begin any necessary site improvements and commence operation. Approved Cannabis Business Permit must be exercised within twelve (12) months of the final approval.

Merit-Based Evaluation Criteria

As part of the Procedure Guidelines, and pursuant to RMC Chapter 5.77, the City Council is required to adopt specific criteria used as part of evaluation process. In looking at the criteria used in other jurisdictions, staff found a broad range of criteria used as part of their evaluations, some using as little as 6 criteria areas and a scale of 100 points, and some using as many as 58 criteria areas and a scale of 2,500 points. Many of the sample criteria explored fall into one of 7 topic areas: qualifications of owners/operators; business plan/financial investment; operations plan; safety/security plan; community benefit; location/design concept; and labor and employment plan. Staff has prepared a list of potential criteria for consideration and discussion by the Committee (Attachment 1).

Third-Party Consultant Review of Applications

Many cities use a third party to conduct the evaluation of cannabis business permits, particularly when using a merit-based approach to rank storefront retailers for a limited number of available permits. This approach removes the City from the ranking process. A few cities have established an ad hoc committee or a confidential cannabis review committee to conduct the evaluations and ranking. There may also be an opportunity to take a hybrid approach to include a combination of a third-party consultant, City staff, and/or community members.

In all instances, there is a high potential for public and industry scrutiny to ensure that the process is done equitably and in accordance with the established regulations and timelines. Staff recommends that a third-party consultant be engaged and contracted with to conduct all merit-based evaluations and is seeking direction to proceed with this effort. A third-party consultant

would possess a very specialized degree of expertise in the cannabis application process and would be better equipped to meet the constrained timelines and scrutiny.

Concurrent and Next Steps

There are a number of significant efforts currently underway to complement and inform the Cannabis Business Permit process. The following tasks have been identified as ongoing and next steps to the Cannabis program and will be discussed during the oral presentation along with a projected timeline:

1. Finalize Procedure Guidelines and Develop Evaluation Criteria
 - a. Stakeholder Engagement
 - b. Prepare a Resolution to Adopt
2. Engage Evaluation Consultant (if directed)
3. Prepare Public-Facing Content and Website
4. Complete Cannabis Fee Study
 - a. Prepare Resolution to Adopt
5. Initiate Cannabis Tax Measure
 - a. Prepare Fiscal Impact Analysis
 - b. Draft Ballot Language
6. Commence Equity Grant Effort
 - a. Prepare/Release RFP for Consultant
 - b. Initiate Project
7. Initiate Authorization for Dedicated Staff Recruitment

Decision Points

In addition to receiving feedback on the general approach and content of the Cannabis Business Permit Application Review Process and Review Criteria, staff will be seeking guidance and clarification on the following specific topics:

1. Direction on the appropriate application period.
2. Direction on the review panel makeup.
 - a. Staff only;
 - b. Third-Party consultant only;
 - c. Community representatives; or
 - d. Combination of any of the above.
3. Feedback on Evaluation Criteria and scoring to be used for the merit-based evaluation.
4. Guidance on whether the City Council should be included in the selection process to confirm and authorize the selected finalists.
5. Feedback on whether applicants should be required to conduct a formal presentation and site tour of the proposed location prior to final approval of a Cannabis Business Permit.

6. Direction on whether to set aside a specified number of permits in anticipation of applicants eligible for equity benefits.
7. Direction to create up to 5 new dedicated staff positions to help stand up the Cannabis Business Permit program.
8. Guidance on whether Manufacturing/Distribution and Testing Laboratories should follow the same process as Storefront Retailers.

STRATEGIC PLAN ALIGNMENT:

This item contributes to the **Strategic Priority 3 – Economic Opportunity** and **Goal 3.3 – Cultivate a business climate that welcomes innovation, entrepreneurship, and investment**. It also supports **Strategic Priority 5 – High Performing Government** and **Goal 5.4 – Achieve and maintain financial health by addressing gaps between revenues and expenditures and aligning resources with strategic priorities to yield the greatest impact**.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – The City continues to be transparent in studying and developing the Cannabis Business Permit process.
2. **Equity** – The City is committed to ensuring proposed Cannabis Business Permit Application Review Process and Review Criteria are equitable and will continue to develop an equity component to facilitate opportunities for those impacted in the past because cannabis was illegal. The review process, open to all, would include criteria to choose those businesses that would best fit and operate in the City of Riverside.
3. **Fiscal Responsibility** – With the collection of a cannabis tax, anticipated to be voted on by the residents of the City in 2024, the City would realize additional revenues that is lost because these businesses are not permitted in Riverside. Additionally a operational fee based on gross sales, if approved, would help support the City's management of the Cannabis Business Permit program.
4. **Innovation** – The City is developing a program based on proven processes and building upon them to better meet the unique characteristics of the City. A creative approach will be used to implement the application review process.
5. **Sustainability & Resiliency** – The implementation of the proposed Cannabis Business Permit Application Review Process and Review Criteria will help the City to realize additional business tax that will ensure its sustainability and resiliency.

FISCAL IMPACT:

The content of this report was prepared by City staff with no additional fiscal impact to the City. If directed by the Committee, the cost of contracting with a third-party consultant to assist with the application review process would be determined and would likely be based on a per-application fee that would be passed on to the applicants for reimbursement. This cost would be presented at a future hearing. If directed by the Committee to begin the process to create up to five (5) new staff positions, staff will determine specific positions and identify the projected costs and fiscal impact at that time.

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Attachments:

1. Potential Merit-Based Evaluation Criteria
2. Presentation