



Economic Development, Placemaking and Branding/ Marketing Committee

City of Arts & Innovation

TO: ECONOMIC DEVELOPMENT, PLACEMAKING AND BRANDING/MARKETING COMMITTEE **DATE: OCTOBER 20, 2022**

FROM: CITY ATTORNEY'S OFFICE **WARDS: ALL**
CITY CLERK
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT
FINANCE DEPARTMENT
RIVERSIDE FIRE DEPARTMENT
RIVERSIDE POLICE DEPARTMENT

SUBJECT: REVIEW AND PROVIDE DIRECTION FOR THE PROPOSED RIVERSIDE MUNICIPAL CODE AMENDMENTS RELATED TO LEGALIZING CANNABIS USES: TITLE 5 – BUSINESS TAXES, LICENSES AND REGULATIONS; TITLE 9 – PEACE, SAFETY AND MORALS; AND TITLE 19 – ZONING

ISSUE:

Review and provide direction for the proposed Riverside Municipal Code Amendments related to legalizing cannabis uses: Title 5 – Business Taxes, Licenses and Regulations; Title 9 – Peace, Safety and Morals; and Title 19 – Zoning.

RECOMMENDATION:

That the Economic Development, Placemaking and Branding/Marketing Committee review and provide direction on the proposed Riverside Municipal Code Amendments related to legalizing cannabis uses: Title 5 – Business Taxes, Licenses and Regulations; Title 9 – Peace, Safety and Morals; and Title 19 – Zoning.

BACKGROUND:

In 2016, California voters passed Proposition 64 (The Adult Use of Marijuana Act) which allowed for adults 21 or older to legally grow, possess and use cannabis for recreational purposes and legalized the sale and distribution of cannabis statewide. Shortly thereafter, Governor Brown signed Senate Bill 94 (The Medicinal Adult-Use Cannabis Regulation and Safety Act or MAUCRSA) into law. While the MAUCRSA created minimum requirements for licensees statewide, Proposition 64 and Senate Bill 94 gave local governments the flexibility to implement local regulatory frameworks for land-use entitlements, building permits, and business/operating licenses for cannabis-related uses.

Following the passage of Proposition 64, actions related to cannabis in the City of Riverside included:

- July 25, 2017 - Prepared a moratorium on commercial marijuana activity (excluding testing laboratory facilities)
- September 12, 2017 - Adopted an interim moratorium, followed by a ten-month fifteen-day moratorium extension on October 24, 2017
- November 7, 2017 - Adopted Ordinance No. 7398 to amend Title 5 of the RMC to permit and regulate Cannabis Testing Laboratories in industrial zones, subject to permit requirements (effective December 28, 2017)
- January 9, 2018 - Continued the discussion of a regulatory framework for 45 days to follow a visit to Denver, Colorado to better understand the cannabis industry
- March 27, 2018 - Directed staff to immediately prepare an ordinance prohibiting (a) the retail and commercial sale of cannabis; (b) commercial agricultural cultivation of marijuana, (c) the manufacturing and sale of marijuana extractable and consumable products, (d) distribution of all marijuana and cannabis associated products, (e) the establishment of microbusinesses such as boutique lounges; and (f) outdoor cultivation of all marijuana plants, including medical marijuana
- May 31, 2018 – Amended Title 19 – Zoning – heard by Planning Commission at a public hearing (Planning Commission denied by a vote of 2 ayes, 5 noes and 1 abstention)
- July 10, 2018 – Appealed Planning Commission decision (Councilmember Conder) – heard by City Council who voted to approve the amendments to Title 5 and Title 19 of the RMC, codifying a prohibition of commercial cannabis uses within City limits

On Tuesday, September 28, 2021, the City of Riverside received a Notice of Intent to Circulate Petition for the Riverside Cannabis Taxation and Regulation Act, then amended on November 5, 2021. The City Attorney prepared and provided a Ballot Title and Summary to the proponents on November 18, 2021.

If the proponents continue through the initiative process and gather enough signatures required within 180 days (May 17, 2022), then City Council could choose one of two options: Call an election to place the ballot measure on the ballot during an election (special or regular); or Adopt the proposed Ordinance without revision.

If passed by voters or accepted by the City Council, it would create a regulatory framework for all cannabis uses within the City, largely without City Council, staff, or community input. Unlike ordinances passed by City Council, regulations established through a voter-initiated ballot cannot be amended or modified by sole action of the City Council. If an alternative third party-initiated ballot measure is passed by the voters, any future amendments must go through a ballot process during a general election for approval.

On November 18, 2021, the Economic Development, Placemaking and Branding/Marketing 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 Economic Development, Placemaking and Branding/Marketing Committee (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.

DISCUSSION:

Since the Committee meeting in March 2022, a team of City staff have worked with a consultant to draft RMC amendments (Draft Amendments) for Title 5, Title 9 and Title 19 (Attachment 1). The City team includes staff from the City Manager's Office, City Attorney's Office, City Clerk, Community & Economic Development Department, Finance Department, Riverside Fire Department, and Riverside Police Department. In preparing the amendments, several decision points were identified where further direction was needed from the Committee.

Draft Riverside Municipal Code Amendments

The following summarizes the decision points and the City team's recommended way forward for Committee discussion and direction. If appropriate, the page number in the Draft Amendments is included to facilitate the Committee's review.

1) Ownership Definition (Title 5 - Page 4)

Decision Point – What is the percentage of ownership the City wants to include in defining the owner of the Commercial Cannabis Business?

- A. The State defines an "owner" as a person with an aggregate interest of 20% or more in the Commercial Cannabis Business.
- B. The Draft Amendments follow the State definition and includes a percentage of 20% in the definition of "owner."
- C. A lower percentage (e.g., 10%) would require that more investors may have to follow the responsibilities of a defined owner.

2) Criminal Background Checks (Title 5 - Page 6)

Decision Point – Does the City want to require employee background checks?

- A. Employee background checks are not required by the State.
- B. The Draft Amendments would require City background checks for employees.
- C. Riverside Police Department indicates this is current practice in the City and conduct similar background checks for violent felony crimes for employees of other businesses requiring special operating permits such as massage parlors.

3) Number of Various Uses Allowed (Title 5 - Page 7) and Storefront Delivery (Title 5 - Page 24)

Decision Point – Does the total number of Commercial Cannabis Businesses include both storefront and non-storefront retail uses?

Decision Point – Should Manufacturing, Distribution, and Testing Laboratories not be limited?

Decision Point – Should storefront retailers be allowed to deliver?

- A. The Committee directed staff to allow up to 14 Commercial Cannabis businesses (2 per Ward) in the Draft Amendments.
- B. Clarification is needed if this includes both storefront and non-storefront (essentially delivery retail) businesses.
- C. Separate from the 14 retail businesses are Manufacturing, Distribution and Testing Laboratories, which are not limited in the Draft Amendments.
- D. The Draft Amendment recommends allowing storefront retailers to deliver (requirements for delivery are included).

4) Labor Peace Agreement (Title 5 - Page 9)

Decision Point – How many employees should trigger a labor peace agreement for the owner?

- A. Labor Peace Agreements are required by the State for 20 or more employees.
- B. Beginning July 1, 2024, a Labor Peace Agreement will be required by the State for all applicants/licenseses with 10 or more employees.
- C. The Draft Amendment recommends 5 employees based on recent policy direction from the City Council.

5) Appeal Officer (Title 5 - Page 13)

Decision Point – Who should hear appeals related to Commercial Cannabis Businesses?

- A. Appeals can be heard by a variety of parties: City Council, City Manager, Appointed Hearing Officer, City Board or Commission.
- B. The Draft Amendment recommends that an Appointed Hearing Officer hear appeals related to denial of permit applications and other appeals of citations and violations once a Commercial Cannabis Business is operational.
- C. This is consistent with current Code-related cases in the City of Riverside.
 - i. Currently hears appeals for numerous City Departments.
 - ii. Includes, but is not limited to, code enforcement citation appeals, Fire Prevention cases, RPD citations pertaining to fireworks and entertainment permits, massage parlor appeals for PD.
 - iii. Current Appointed Hearing Officer is an attorney.

6) Distance from Sensitive Receptors (Title 5 - Page 16)

Decision Point – What distance separation from sensitive receptors should be included?

- A. The State law grants local jurisdictions the authority to “specify a different radius” than the 600-foot requirement for schools, daycare centers, and/or youth centers.
- B. State law also grants local jurisdictions authority to impose additional requirements beyond rules/regulations mandated by the State (e.g., recognizing additional sensitive use buffers beyond state default of schools, daycare centers, and youth centers).
- C. The Draft Amendment recommends a 600-foot separation for schools, daycare centers and community centers. These uses can be tracked by the City when applications are submitted.
- D. The Draft Amendment includes no distance separation from “youth centers” as they are too broadly defined by the State for the City to be able to track the locations.
- E. Riverside Unified School District requested a minimum distance of 1,000 feet from schools.
- F. A map has been included to illustrate a 600-foot and 1,000-foot buffer to the sensitive receptors (Attachment 2).

7) Equity Application and License Standards

Decision Point – Should the City study the potential for Equity Application and License Standards?

- A. The State provides financial support to cannabis businesses by waiving licensing fees if applicants and licensees meet the equity eligibility criteria set in the proposed regulation such as past cannabis convictions or arrests, reduced income or residence in an area disproportionately impacted by past criminal justice policies, as well as other criteria.
- B. Pursuant to Business and Professions Code Section 26249(c), a local jurisdiction may implement “equity application and license” standards that require verification from the State.
- C. Local agencies are not required to establish local equity programs to provide waiver or deferral of application or license fees.
- D. At this time, staff has not yet received policy direction from the Committee to establish a local cannabis equity program. Therefore, the Draft Amendment does not include Equity Application and License Standards.
- E. Should the Committee, and ultimately City Council, wish to consider adopting Equity and License Standards, the first step in the process would be to direct staff to prepare a Cannabis Equity Study, which would form the basis of equity eligibility criteria and program benefits (study costs typically range from \$10,000 to \$100,000).

8) Public Outreach

Decision Point – Should additional outreach be completed for the RMC changes?

- A. To date, the Committee has heard the item in November 2021, March 2022 and at this meeting.
- B. Committee members have also made presentations, upon request, on the item.
- C. For the Draft Amendments, additional outreach has not been conducted.
- D. A public outreach program will be developed for the ballot measure moving forward.

There are no outstanding decisions for Titles 9 and 19 as these RMC changes are clean-up items and reflect the Title 5 proposed changes.

Future Actions

The next steps for the RMC changes include finalizing the Draft Amendments per the Committee direction for City Council consideration.

On a parallel path, the City is working on items required for implementation if the Draft Amendments are adopted by City Council. This includes but is not limited to:

- October 2022 - February 2023
 - Finalize the Draft Amendments
 - City Council Consideration
 -
- January 2023 – June 2023
 - Financial analysis on potential revenue
 - Implementation
 - Application Submission and Review process
 - Application Criteria and Application

- Community Benefit Agreement template
- Tracking, Monitoring and Reporting structure
- Fee Schedule
- 2023-2024 - Ballot Measure

STRATEGIC PLAN ALIGNMENT:

This item contributes to the Envision Riverside 2025 City Council Strategic Plan:

- **Priority 3 – Economic Opportunity**
 - **Goal 3.3** – Cultivate a business climate that welcomes innovation, entrepreneurship, and investment.
- **Priority 5 – High Performing Government**
 - **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 the potential for Riverside Municipal Code changes and a ballot measure. A community outreach program will be developed as part of the process, and ultimately, residents will decide on the ballot measure for any potential business tax.
2. **Equity** – The draft Riverside Municipal Code amendments will provide 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 business tax, voted on by the residents of the City, the City would realize additional revenues that is lost because these businesses are not permitted in Riverside.
4. **Innovation** – The changes to the Riverside Municipal Code and ballot measure would be prepared using an expert consultant that fully understands the State laws ensuring that the best and most creative approach will be used to regulate cannabis businesses.
5. **Sustainability & Resiliency** – The proposed changes to the Riverside Municipal Code and ballot measure will help the City to realize additional business tax that will ensure its sustainability and resiliency.

The City Attorney’s Office, City Clerk, Department of Finance, Riverside Fire Department, and Riverside Police Department concur with this staff report.

FISCAL IMPACT:

There is no fiscal impact associated with this staff report.

Prepared by: Chris Christopoulos, Acting Community & Economic Development Director

Certified as to availability of funds: Edward Enriquez, Interim Assistant City Manager/Chief Financial Officer/Treasurer

Approved by: Rafael Guzman, Assistant City Manager

Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. Draft Riverside Municipal Code Amendments – Title 5, Title 9 and Title 19
2. 600-foot and 1000-foot Radius Map – Sensitive Receptors
3. Presentation