



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: FEBRUARY 28, 2023

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

SUBJECT: AMENDMENTS TO TITLES 5 (BUSINESS TAXES, LICENSES AND REGULATIONS), 9 (PEACE, SAFETY AND MORALS), AND 19 (ZONING) OF THE RIVERSIDE MUNICIPAL CODE TO ESTABLISH A CANNABIS BUSINESS PERMIT PROGRAM

ISSUE:

Adopt Ordinances amending Titles 5 (Business Taxes, Licenses and Regulations), 9 (Peace, Safety and Morals), and 19 (Zoning) of the Riverside Municipal Code to establish a Cannabis Business Permit Program (Program) and provide direction on future actions to implement the Program.

RECOMMENDATIONS:

That the City Council:

1. Determine that the Proposed Amendments are exempt from further California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) (General Rule), as it can be seen with certainty that approval of the Amendments will not have an effect on the environment;
2. Approve Planning Case PR-2022-001435 (Zoning Text Amendment) to amend Title 19 (Zoning) of the Riverside Municipal Code related to the proposed Cannabis Business Permit Program;
3. Introduce and subsequently adopt the attached Ordinances amending Titles 5 (Business Taxes, Licenses and Regulations) of the Riverside Municipal Code related to cannabis business activities, Title 9 (Peace, Safety and Morals) of the Riverside Municipal Code related to cannabis business activities, and Title 19 (Zoning) of the Riverside Municipal Code related to cannabis business activities; and

4. Provide direction to Staff on future actions to implement a Cannabis Business Permit Program including, but not limited to, options to pursue development of a Cannabis Equity Program.

COMMITTEE RECOMMENDATION:

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 (Attachment 1).

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 (Attachments 2 and 3).

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 (Attachment 4). 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 (Attachment 5 and 6).

LEGISLATIVE HISTORY:

In 2016, California voters passed Proposition 64 (The Adult Use of Marijuana Act), which allowed 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 the 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, which remains in effect today.

BACKGROUND:

On September 28, 2021, the City of Riverside received a Notice of Intent to Circulate a Petition (Notice) for the Riverside Cannabis Taxation and Regulation Act (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. This began a 180-day timeframe for the proponents to collect enough valid signatures to place the Act on the ballot for the next regularly scheduled municipal election (Attachment 7).

If passed by voters or accepted by the City Council, this would have created 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.

The filing of the Notice prompted the Committee's direction to Staff to explore development of a program to license and regulate commercial cannabis businesses. As of the expiration of the original Notice in May of 2022, no petition signatures were submitted by the original Proponents to place an initiative on the ballot. However, the original proponents or any other sponsors may submit a Notice and restart the process for a similar initiative at any time.

Following the Committee's direction in November 2021, a team of City Staff assembled to address the Riverside Municipal Code amendments and the ballot measure direction. The team includes Staff from the City Manager's Office, City Attorney's Office, City Clerk's Office, Community &

Economic Development Department, Finance Department, and Police Department. On January 18, 2022, the City Council approved a supplemental budget appropriation to fund consultant services needed to develop a cannabis business licensing program. In February 2022, the City entered into an agreement with HdL Companies (Consultant) for professional consulting services to begin development of the Program and draft Ordinances (Attachment 8). Since then, the City Staff team has developed the Proposed Amendments with the assistance of the Consultant and at the direction of the Committee.

DISCUSSION:

Proposed Amendments

At the direction of the Committee, Staff has prepared the Proposed Amendments to RMC Titles 5, 9 and 19 to facilitate the establishment of a Cannabis Business Permit Program in the City (Program). The full text of the Proposed Amendments are included as Attachments 9, 10, and 11.

The Program would be established primarily through amendments to Title 5 to entirely repeal Chapter 5.77 – Cannabis Testing Laboratories, replacing it with a new Chapter 5.77 – Cannabis Business Activities, which includes the following provisions:

- 1) **Permitted business types:** Cannabis Storefront Retail (with and without delivery); Cannabis Manufacturing/Distribution; and Cannabis Testing Laboratories.
- 2) **Prohibited businesses:** Cannabis Microbusinesses and Cannabis Cultivation, and Cannabis Non-Storefront Retail (i.e., delivery-only).
- 3) **Maximum number:** 14 permits for Cannabis Storefront Retail; no limit for Cannabis Manufacturing/Distribution and Cannabis Testing Laboratory permits.
- 4) **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.
- 5) **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.
- 6) **Permit term and renewal:** Permits valid for one year; annual renewal required; conditions may be added.
- 7) **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.
- 8) **Appeals:** Procedures, timeframes, roles and responsibilities for appeal of denial, revocation, suspension or conditions; appeals heard by Appointed Hearing Officer appointed by Council.
- 9) **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.

- 10) **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.
- 11) **Location requirements:** Cannabis businesses must meet all required General Plan, Zoning, Specific Plan and development standards (to be established in Title 19); location must meet minimum 600-foot separation from K-12 schools, licensed daycare facilities and Community Centers. The Committee’s recommendation would increase the minimum separation from K-12 schools to 1,000 feet and would also establish a minimum 1,000-foot separation requirement from public and private colleges and universities.
- 12) **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.
- 13) **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.
- 14) **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.

Proposed Amendments to Title 9 are intended only to conform to the changes in Title 5 and include the following changes:

- 1) **Section 9.04.230 – Offenses – Display and sale of drug paraphernalia:** Update terminology only.
- 2) **Chapter 9.07 – Social Host of Minors Accountability:** Update terminology only.
- 3) **Chapter 9.65 – Mobile Marijuana Dispensaries:** Delete chapter.

Proposed Amendments to Title 19 are intended only to be consistent to the changes in Title 5 and include the following changes:

- 1) **Sections 19.146.025, 19.150.020, 19.220, 19.342.020:** Eliminates language prohibiting commercial cannabis uses.
- 2) **Chapter 19.150 – Base Zones Permitted Land Uses:**
 - a. Revises the Permitted Uses Table (19.150.020.A) to include commercial cannabis uses and the respective zone in which they are permitted. Cannabis storefront retail, cannabis testing laboratories, and cannabis warehouse & distribution will all be referred to existing uses as they operate in the same manner. No new uses are introduced.
 - b. Revises the Permitted Uses Table (19.150.020.A) to add Cannabis Microbusiness as a prohibited use. Cannabis Cultivation remains a prohibited use.
 - c. Update terminology in Permitted Uses Table (19.150.020.A) and Incidental Uses Table (19.150.020.B).
- 3) **Chapter 19.910 – Definitions:** Definitions for cannabis uses provide a references to Title 5 and terminology updates.

Issues Needing Resolution:

At the October 20, 2022, Committee meeting, Committee members provided Staff with final direction on several remaining decision points needed to finalize the Proposed Amendments and forward them to the City Council for consideration. However, the Committee expressed a desire for the full Council to provide input on two remaining matters, summarized below:

- 1) **Sensitive Receptors and Minimum Separation:** State law grants local jurisdictions the authority to “specify a different radius” other than the 600-foot requirement for schools, daycare centers, and/or youth centers. 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).
 - A. Staff’s recommendation is to require a minimum distance of 600 feet from K-12 schools, licensed childcare facilities and community centers.
 - B. The Committee recommended adding college and university campuses and for the City Council to consider 1,000-foot separation from K-12 schools, colleges and universities.
 - C. At the December 8, 2022 Planning Commission Workshop and the January 19, 2023 Planning Commission public hearing, several Commissioners also suggested adding parks, places of worship and hospital as sensitive uses.
 - D. A series of maps has been prepared to illustrate the effects of all three scenarios on the remaining appropriately zoned areas where cannabis businesses could potentially locate, included as Attachment 12.
 - i. Under the Staff recommended scenario, approximately 76% of appropriately zoned sites remain available.
 - ii. Under the Committee scenario, approximately 54% remain available.
 - iii. Under the scenario suggested by the Planning Commission, approximately 19% remain available.
- 2) **Equity Study and Program:** 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. Pursuant to Business and Professions Code Section 26249(c), a local jurisdiction may also implement “equity application and license” standards, which can consist of a number of different strategies to prioritize permits or provide technical or financial assistance to those most affected by the criminalization of cannabis.

The Governor’s Office of Business and Economic Development (GO-Biz) also provides grant funding to local jurisdictions to help fund the development of cannabis equity studies or equity licensing programs. Jurisdictions can apply for up to \$75,000 to fund these activities. GO-Biz also offers up to \$5,000,000 in grant funding to jurisdictions to provide direct technical or financial assistance to qualifying equity businesses for jurisdictions that have established equity programs (Attachment 13). These grants are made available annually with applications due in December (applications for FY22-23 were due December 14, 2022). The Consultant estimates the cost of an Equity Study to range from \$10,000 to \$100,000, depending on the rigorousness of study and expansiveness of program desired.

The Committee’s recommendation included direction to pursue an Equity Study. Should the Council agree with that recommendation, there are multiple options for how to proceed:

- A. **Option 1:** Delay adoption of the Proposed Amendments or implementation of the Program for approximately 18 months to allow time to pursue a GO-Biz grant to perform an Equity Study and develop an Equity Program.
- B. **Option 2:** Delay adoption of the Proposed Amendments or implementation of the Program for approximately 6 months and procure professional services to prepare an Equity Study without State support.
- C. **Option 3:** Adopt the Proposed Amendments and implement the Program, holding a certain minimum number of Permits in reserve until an Equity Study can be performed.

Implementation and Next Steps

Should the Council adopt the Proposed Amendments, the Staff Team will pursue implementation of the program, which will include the following actions and tentative schedule and lead Department:

- 1) **March – June 2023:** Develop Procedure Guidelines and Review Criteria. *Lead: City Manager's Office and Community & Economic Development Department*
 - a. Procure professional consultant to assist with application development, review process, scoring criteria, and related materials (estimated cost \$10,000-\$20,000);
 - b. Conduct community outreach to develop scoring criteria and identify community benefits priorities;
 - c. Develop a Community Benefits Agreement template (*City Attorney's Office*);
 - d. Develop annual audit reporting and monitoring procedures (*Finance Department*);
 - e. Conduct a Fee Study to determine potential costs and appropriate application fees for cost recovery (*Finance Department*); and
 - f. Return to City Council for adoption of Procedure Guidelines and Review Criteria and Fee Resolution.
- 2) **July 2023:** Begin accepting applications (unless delayed pending Equity Study). *Lead: City Manager's Office and Community & Economic Development Department*
- 3) **July – September 2023:** Prepare a Fiscal Impact Analysis potential revenues from a future Cannabis Tax Measure. *Lead: Finance Department*
- 4) **August – October 2023:** Develop language for a Cannabis Tax Measure. *Lead: City Clerk's Office*
- 5) **November 2023:** Adopt a Resolution placing a Cannabis Tax Measure on the ballot for the November 2024 General Election. *Lead: City Clerk's Office*

It is anticipated that several actions noted above will necessitate consultant support to both meet the tentative timelines and for subject matter expertise.

Program Costs

Staff is exploring costs associated with the implementation and management of a Cannabis program. While all potential costs are unknown at this time and will require additional analysis, several one-time and on-going costs are anticipated. Should the City Council approve a Cannabis program, there will be several one-time costs associated with the development of proposed amendments (~\$25,000), development of procedure guidelines and review criteria (~\$25,000),

professional technical assistance for reviewing and scoring permit applications (~\$75,000), and development of an equity scoring and equity program (~\$100,000). An additional one-time cost associated with a Ballot Measure is anticipated to be approximately \$160,000. There are also on-going program and personnel costs associated with a Cannabis program, including the establishment of a new Cannabis Program Manager position. Additional Police, Code Enforcement and Finance personnel may be needed to support a Cannabis program. Again, additional analysis is needed and will be dependent on the scope and scale of a Cannabis program.

A Cannabis application fee is anticipated and would help offset many costs. In addition, a Cannabis Tax Measure is also anticipated and depending on the tax rate could generate additional revenue. There are a variety of variables that go into determining the annual revenue forecast such as market share in the region, types of products sold and the tax rate established. If a gross receipt tax of 5% was established via Ballot Measure and 14 retail locations were authorized, the annual business tax could generate approximately \$1 million to \$1.5 million and a sales tax could generate between \$250,000 to \$500,000, for a total of \$1.25 million to \$2 million annually.

The City Attorney's Office, City Clerk's Office, Finance Department, Fire Department, and Police Department concur with this Staff report.

Public Outreach

Public input has been conducted as part of the discussions before the Committee. Meetings were held in November 2021, March 2022, and October 2022. A workshop was held before the Planning Commission on December 8, 2022, in addition to the Public Hearing held on January 19, 2023. Also, Committee members have conducted presentations, upon request, to several community groups.

Community engagement efforts will be implemented as part of developing the Procedure Guidelines and Review Criteria for the application review process as described above. A public outreach program will also be developed for the prospective 2024 sales tax measure moving forward.

STRATEGIC PLAN ALIGNMENT:

This item contributes to **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 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 an 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 a 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.

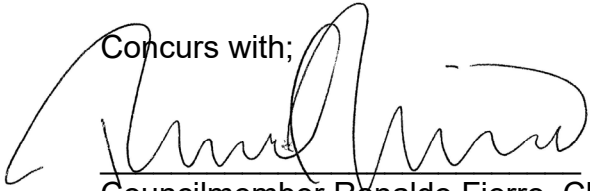
FISCAL IMPACT:

The total fiscal impact of this report is estimated to be up to \$385,000, which includes the Amendment, Implementation, and Operational costs listed below (estimate \$225,000), and the ballot measure (estimate \$160,000). The exact cost of the ballot measure is unknown at this time, but the Registrar of Voters has indicated that the approximate cost to the City is \$160,000. Currently, \$100,000 is budgeted and available in the General Fund, Planning, Cannabis Commercial Use account number 2810000-450094 for the development of the Proposed Amendments and Program Implementation. Of this, \$25,000 has been encumbered for consultant services for services related to the preparation of the draft ordinances. Personnel costs are not known at this time and will vary depending on the scope and scale of the Cannabis program. Should additional funding be needed, Staff will return to Council for a supplemental appropriation. The table below shows the costs that would be incurred for the program setup, implementation, and operation:

Estimated Costs for Amendments & Implementation & Operations	
Development of Proposed Amendments	\$25,000
Development of Procedure Guidelines & Review Criteria	\$25,000
Professional Technical Assistance for Reviewing & Scoring Permit Applications	\$75,000
Development of Equity Scoring & Equity Program	\$100,000
<i>Subtotal</i>	<i>\$225,000</i>
Ballot Measure	\$160,000
<i>Subtotal</i>	<i>\$385,000</i>
Personnel*	<i>TBD*</i>
Total	\$385,000*

Prepared by: Jennifer Lilley, Community & Economic Development Director
 Certified as to availability of funds: Edward Enriquez, Interim Assistant City Manager/Chief Financial Officer/City Treasurer
 Approved by: Rafael Guzman, Assistant City Manager
 Approved as to form: Phaedra A. Norton, City Attorney

Concurs with;



Councilmember Ronaldo Fierro, Chair

Economic Development, Placemaking and Branding/Marketing Committee

Attachments:

1. EDPBM Committee Report – March 24, 2022
2. EDPBM Committee Report – October 20, 2022
3. EDPBM Committee Draft Minutes – October 20, 2022
4. City Planning Commission Workshop Draft Minutes – December 8, 2022
5. City Planning Commission Staff Report – January 19, 2023
6. City planning Commission Draft Minutes – January 19, 2023
7. Notice of Intent to Circulate Petition for the Riverside Cannabis Taxation and Regulation Act
8. Agreement – HdL Companies
9. Ordinance – Title 5 (Business Taxes Licenses and Regulations) Amendments
10. Ordinance – Title 9 (Peace, Safety and Morals) Amendments
11. Ordinance – Title 19 (Zoning) Amendments
12. Sensitive Uses and Buffer Maps
13. Cannabis Equity Grants Program for Local Jurisdictions
14. Presentation