



City Council Memorandum

City of Arts & Innovation

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

FROM: CITY CLERK WARDS: ALL
COMMUNITY & ECONOMIC DEVELOPMENT
DEPARTMENT

SUBJECT: ADOPT A RESOLUTION CALLING FOR A MUNICIPAL ELECTION TO BE HELD ON MARCH 5, 2024, TO PLACE THE CITY OF RIVERSIDE CANNABIS BUSINESS TAX MEASURE ON THE BALLOT; TO CONSOLIDATE WITH THE STATEWIDE ELECTION; AND TO INTRODUCE AND ADOPT AN ORDINANCE ADDING CHAPTER 5.78 TO THE RIVERSIDE MUNICIPAL CODE TO IMPLEMENT A CANNABIS BUSINESS TAX

ISSUE:

Adopt a resolution calling for a Municipal Election to be held on March 5, 2024, for the purpose of placing a “City of Riverside Cannabis Business Tax Measure” on the ballot, to consolidate with the statewide election, and to introduce and subsequently adopt an Ordinance adding Chapter 5.78 to Title 5 of the Riverside Municipal Code to implement a Cannabis Business Tax subject to voter approval.

RECOMMENDATIONS:

That the City Council:

1. Adopt the attached resolution calling for a municipal election to be held March 5, 2024, for a measure entitled, "City of Riverside Cannabis Business Tax Measure" and requesting consolidation with the statewide election;
2. Introduce and subsequently adopt the attached Ordinance adding Chapter 5.78, entitled “Cannabis Business Tax,” to the Riverside Municipal Code to implement a Cannabis Business Tax, to become operative and enforceable upon approval by the voters of the City of Riverside of the measure entitled, "City of Riverside Cannabis Business Tax Measure";
3. Consent to the Registrar of Voters rendering election services to the City as requested by the City Clerk and as stated in the Memorandum of Understanding with the County of Riverside;
4. Direct the City Clerk to transmit a copy of the measure to the City Attorney for preparation of an impartial analysis; and
5. Determine if the Mayor or Members of the City Council wish to author ballot arguments.

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.

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.

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.

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. Since then, the City Staff

team has developed the Proposed Amendments with the assistance of the Consultant and at the direction of the Committee.

On February 28, 2023, the City Council introduced and on March 14, 2023, adopted 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.

- Chapter 5.77 of the RMC regulates Cannabis Business Activities in the City of Riverside, including the types of businesses and maximum number permitted within the City. The City of Riverside allows up to 14 storefront retail cannabis businesses as well as an unlimited number of manufacturing, distribution, and testing laboratories. All commercial cultivation operations and microbusinesses are prohibited. In addition to the types and number of cannabis businesses permitted, Chapter 5.77 also provides for Council to establish the procedure guidelines and review criteria as well as fees related to the process and permit.

On October 17, 2023, the City Council adopted Storefront Retail Commercial Cannabis Business Permit Procedure Guidelines and Application Review Criteria (Guidelines and Criteria). The Guidelines and Criteria outline the procedures to apply for a Storefront Retail Commercial Cannabis Business Permit including a requirement for the applicant to pay an Application Fee. Applicants receiving Provisional Approval are required to submit a Site Review Fee as part of the final review process.

On October 24, 2023, the City Council adopted an Ordinance amending Chapter 3.30 of the Riverside Municipal Code (RMC) to add an additional category to the Schedule of Regulations, Products and Services and a Resolution amending the City's Fees and Charges Schedule providing for a Storefront Retail Commercial Cannabis Business Permit Application Fee of \$13,842 per application and Site Review Fee of \$17,864 per application.

DISCUSSION:

Proposed Cannabis Business Tax

During the October 24, 2023, City Council meeting to adopt new fees related to the Cannabis application and review process, the discussion included a proposed Cannabis Business Tax measure to be placed on the 2024 ballot.

The proposed measure reads as follows:

CITY OF RIVERSIDE CANNABIS BUSINESS TAX MEASURE:

Shall the City of Riverside adopt an ordinance establishing a tax on all cannabis businesses at a maximum rate of 10% of the gross receipts of each business, potentially generating \$2 million or more dollars in revenues annually for unrestricted general revenue purposes, until repealed by voters?

Article XIIC of the California Constitution requires that any proposed increase in a general tax must be submitted to, and approved by, a majority of those qualified electors voting in an election to be held on the issuing of increasing the tax. Pursuant to City Charter Section 501 and Elections Code Section 10403, the attached resolution calls the March 5, 2023, municipal election and requests consolidation with the statewide election being held on the same day. The measure will require 50 percent plus one of the affirmative votes cast to pass.

A Cannabis Business Tax would generate additional revenue to support the program and its operation. 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 up to 10% was established via Ballot Measure and 14 retail locations were authorized, the annual business tax could generate approximately \$2 million and a sales tax could generate between \$250,000 to \$500,000, for a total of \$2.25 million to \$2.5 million annually.

Impartial Analysis and Ballot Arguments

Pursuant to California Elections Code Section 9280, the City Attorney shall prepare an impartial analysis of the measure, showing the effect on the measure on the existing laws and the operation of the measure.

California Elections Code Section 9282(b) provides:

"For measures placed on the ballot by the legislative body, the legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure."

Authors must submit ballot arguments not to exceed 300 words in length to the City Clerk on or before December 18, 2023. A ballot argument may not be accepted unless accompanied by the printed name(s) and signature(s) of the author(s), or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. No more than five signatures shall appear with any argument. If any argument is signed by more than five authors, the signatures of the first five shall be printed.

If the City Clerk receives more than one argument for or more than one argument against any City measure, the City Clerk shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to voters. In selecting the argument, the City Clerk shall give preference and priority, in the order named, to the arguments of the following:

1. The legislative body, or member or members of the legislative body authorized by that body.
2. The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
3. Bona fide associations of citizens.
4. Individual voters who are eligible to vote on the measure.

If both an argument in favor and an argument against are submitted, the author or a majority of the author(s) of an argument may submit rebuttal arguments not to exceed 250 words in length on or before December 28, 2023. Rebuttal arguments may be signed by up to five authors.

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

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 development of the Cannabis Business Tax is a transparent process that will culminate in a ballot measure submitted for community approval.
2. **Equity:** The Cannabis Business Tax will be applied to all cannabis businesses established within the City.
3. **Fiscal Responsibility:** The thoughtful and deliberate nature of the City's proposed Cannabis Business Tax demonstrates the City's commitment to responsible management of the City's financial resources.
4. **Innovation:** The proposed Cannabis Business Tax is an innovative solution to generate general revenues for citywide needs.
5. **Sustainability and Resiliency:** The proposed Cannabis Business Tax measure will help the City to generate additional revenues that will ensure its sustainability and resiliency.

FISCAL IMPACT:

The total fiscal impact of the election costs is estimated not to exceed \$160,000 and are included in the Fiscal Year 2023/24 budget of the Office of the City Clerk. The funds are budgeted and available in the General Fund, City Clerk-Election Services, Professional Services account 1205000-421000.

The potential revenue generated by the proposed ballot measure is projected to generate approximately \$2 million annually at the maximum 10% tax rate; actual revenue generated will depend upon the gross revenues generated by cannabis businesses operating within the City and the actual tax rate adopted by the City Council if the measure is approved.

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

Attachments:

1. Resolution
2. Cannabis Business Tax Ordinance
3. Presentation