



**PLANNING COMMISSION HEARING DATE: MAY 31, 2018**

**AGENDA ITEM NO.: 3**

**PROPOSED PROJECT**

<i>Case Numbers</i>	<b>P18-0337</b>
<i>Request</i>	Proposal by the City of Riverside to amend the Zoning Code (Title 19 of the Municipal Code) to prohibit marijuana uses, including retail sales, cultivation, manufacturing, distribution, and microbusinesses, but excluding Cannabis Testing Laboratories.
<i>Applicant</i>	City of Riverside
<i>Project Location</i>	Citywide
<i>Ward</i>	Citywide
<i>Staff Planner</i>	David Murray, Principal Planner, 951-826-5773; <a href="mailto:dmurray@riversideca.gov">dmurray@riversideca.gov</a>

**RECOMMENDATIONS**

Staff Recommends that the City Planning Commission:

1. **RECOMMEND that the City Council DETERMINE** that Planning Case P18-0337 (Zoning Code Text Amendment) is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment) and additionally find that this action is categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment), CEQA Guidelines section 15308; and
2. **RECOMMEND that the City Council APPROVE** Planning Cases Case Numbers: P18-0337 (Zoning Code Text Amendment), based on the analysis outlined in the staff report.

## AUTHORITY

Pursuant to City of Riverside Charter Article VIII, Section 806, and Title 19 of the Riverside Municipal Code (RMC) Sec. 19.050.030, the Planning Commission is responsible for reviewing and making recommendations to the City Council on the proposed Zoning Code Text Amendment.

## BACKGROUND

On November 8, 2016, California voters approved Proposition 64 (the Adult Use of Marijuana Act or AUMA). AUMA approved recreational use of marijuana, and allows commercial marijuana activities associated with the cultivation, manufacturing, transportation, distribution, testing and dispensing of marijuana for recreational and personal use in the State of California. Proposition 64 was in addition to the 2015 Medical Cannabis Regulation and Safety Act (MCRSA). On June 27, 2017 Governor Jerry Brown signed Senate Bill 94, creating the Medicinal Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which effectively repealed MCRSA and incorporated certain provisions of MCRSA into the licensing provisions of AUMA, thereby integrating the rules for medicinal cannabis (MCRSA) and adult use of marijuana (AUMA). On September 16, 2017 Assembly Bill 133 was adopted, providing technical cleanups to MAUCRSA.

The City Council held workshops on March 7, 2017, July 25, 2017, and January 9, 2018, regarding potential cannabis regulations in response to the adoption of Proposition 64, Senate Bill 94, and subsequent State actions, such as Assembly Bill 133. Throughout these workshops, staff and consultants from HdL presented information regarding state legislature, the state's cannabis licensing structure, and regulation and tax considerations, as well as responded to questions.

On July 25, 2017, the City Council directed staff to prepare a moratorium on commercial marijuana activity, while excluding marijuana testing laboratory facilities, which they directed staff to bring back a code amendment for consideration. Subsequently, City Council adopted an interim moratorium on September 12, 2017, followed by a ten-month fifteen-day moratorium extension on October 24, 2017. The moratorium is set expire on September 11, 2018. The moratorium was intended to provide staff additional time to work with HdL to conduct a comprehensive analysis of state law and best practices from other communities, provide additional information to City Council, and develop the necessary regulations or prohibition of marijuana uses upon City Council direction. The moratorium prohibits all land use entitlements, building permits, business licenses and any other applicable approvals or decisions for commercial marijuana land uses and activities, as well as on outdoor personal cultivation of recreational marijuana.

On November 7, 2017, the City Council adopted Ordinance No. 7398 to permit and regulate Cannabis Testing Laboratories in industrial zones, subject to State and City licensing requirements. The effective date of the ordinance was December 28, 2017.

At the third City Council workshop on January 9, 2018, City Council continued the cannabis regulation discussion for 45 days to provide an opportunity to include information from a planned City delegation trip to Colorado. This planned trip occurred on January 10 and 11, 2018 with the intent to gain a better understanding of the cannabis industry in an established regulatory environment. Recreational use and regulation of marijuana has been legal in Colorado since 2013. The delegation included:

- Chuck Conder, Councilmember, Riverside City Council – Ward 4
- Steve Adams, Councilmember, Riverside City Council – Ward 7
- Tom Hunt, Board Member, RUSD Board of Education – Trustee Area 4

- Tim Walker, Assistant Superintendent of Pupil Services, RUSD
- Frank Assuma, Captain of Investigations, Riverside Police Department
- Neil Okazaki, Assistant City Attorney, Riverside City Attorney's Office

A summary of the Colorado visit was provided to the City Council at the fourth workshop on March 27, 2018, along with a fiscal analysis of the anticipated costs and potential revenue related to commercial cannabis uses in Riverside. This workshop also included a presentation by representatives from the City of Denver Police Department who shared their experiences and lessons learned since the legalization of recreational marijuana use and sales in Colorado in 2013.

At the March 27, 2018 workshop, City Council, by a vote of 5 Ayes and 2 Noes, directed staff to immediately prepare an ordinance prohibiting within the City of Riverside (a) retail and commercial sale of marijuana; (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) and establishment of microbusinesses such as boutique marijuana pot lounges; and (f) outdoor cultivation of all marijuana plants, including medical marijuana.

Detailed discussions related to the four workshops and the state legislature can be found in the attached staff reports and accompanying materials (Exhibits 1-4).

## DISCUSSION

Currently, the City specifically prohibits medical marijuana dispensaries and commercial marijuana cultivation per the Permitted Uses Table (19.150.020 (A)) of the Zoning Code. Other commercial marijuana land uses, particularly related to non-medical purposes, are not specifically listed within the Permitted Uses Table, and are therefore prohibited per Section 19.150.020 which states that "uses not listed in Tables are prohibited, unless the Community & Economic Development Director or his/her designee, pursuant to Chapter 19.060 (Interpretation of Code), determines that the use is similar and no more detrimental than a listed permitted or conditional use." With the passage of Prop 64, remaining silent on non-medical commercial marijuana land uses in the Municipal Code results in ambiguities that could be put into question if challenged. The proposed amendment is intended to remove ambiguities.

Also, as adopted by City Council on January 12, 2016, *Chapter 19.342 – Marijuana Cultivation* currently provides a limited exemption for the non-commercial medical marijuana cultivation of no more than eight (8) marijuana plants by primary caregivers and qualified patients for their own medical use, subject to site location, operational and development standards. This Ordinance also established an annual license requirement for primary caregivers and qualified patients. Per City Council direction received on March 27, 2018, and as a result of Prop 64 which allows for the indoor personal cultivation of marijuana of up to 6 plants in residential units, *Chapter 19.342 – Marijuana Cultivation* is proposed to be eliminated and replaced in whole as described below.

Per City Council's March 27, 2018 direction to prohibit all marijuana cultivation, processing, delivery, sales and dispensaries, staff has identified a number of amendments to the *Zoning Code (Title 19 of the Riverside Municipal Code)* that are necessary to clearly and effectively regulate and prohibit these uses. Most of the proposed amendments include minimal changes to add clarity, whereas the existing *Chapter 19.342 – Marijuana Cultivation* is to be replaced in whole and renamed as *Chapter 19.342 – Marijuana Uses and Activities*. This new Chapter will be the primary regulating chapter for the prohibition of marijuana uses.

As stated in the Background above, the City Council adopted an Ordinance amending *Title 5 - Business Taxes, Licenses and Regulations* of the Municipal Code to allow for Cannabis Testing

Laboratories as licensed by the State of California. From a zoning and land use perspective, Cannabis Testing Laboratories are permitted anywhere other scientific laboratories are allowed and are not called out specifically within the Zoning Code. However, *Chapter 5.77 – Cannabis Testing Laboratories* includes specific permitting processes and operational requirements that must be met. The City Council, at the March 27, 2018 workshop, excluded the prohibition of Cannabis Testing Labs in their direction to staff. As such, the proposed amendments do not include a prohibition of Cannabis Testing Labs.

As part of the proposed amendments to the Zoning Code, staff has prepared the following exhibits in redline-strikeout format (except for the replacement Chapter 19.342) to easily identify the recommended changes:

- Amend *Chapter 19.147 – Downtown Specific Plan Zone (DSP)* (**Exhibit 5**)
- Amend *Chapter 19.150.020 – Permitted and Incidental Uses Tables* (**Exhibit 6**)
- Amend *Chapter 19.220 – Specific Plan Overlay Zone (SP)* (**Exhibit 7**)
- Replace in whole *Chapter 19.342 – Marijuana Cultivation* with the new *Chapter 19.342 – Marijuana Uses and Activities* (**Exhibit 8**)
- Amend *Chapter 19.485 – Home Occupations* (**Exhibit 9**)

In addition to the above amendments, staff recommends the following revisions to the definitions within *Chapter 19.910 – Definitions* (redline text denotes added text):

- **Agricultural stand** - In the RA-5 Zone, a stand for the sale of agricultural products produced or raised on the same premises, **excluding marijuana and hemp.**
- **Agricultural use** - The use of land for the commercial or non-commercial purpose of planting, growing, raising, and harvesting of crops, livestock, or poultry; all of which shall be subject to any applicable state license, to a conditional use permit where required under this Code, and to the limitations and exclusions presented in this definition or as set forth for specific zones created under this Code. **For the purpose of this definition, crops shall not include marijuana or hemp.**
- **Cannabis** – See Marijuana
- **Home occupation** - Any use of a dwelling unit and related property for employment or occupational purposes that is incidental to the residential use of the dwelling unit. **The cultivation, manufacturing, distribution, transport, or sale of marijuana or marijuana products is not a permitted home occupation.**
- **Marijuana** - Marijuana The term “marijuana” shall mean all items included in the Health and Safety Code sections 11018 and 11018.1.
- **Marijuana Cultivation Personal** - Marijuana Cultivation **in a private residence for the exclusive personal use of a resident of the residence who is twenty-one (21) years of age or older, as permitted by Health and Safety Code sections 11362.1 and 11362.2.**

## ENVIRONMENTAL REVIEW

The Planning Division has determined that this project is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have

a significant effect on the environment) and additionally find that this action is categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment), CEQA Guidelines section 15308.

## **PUBLIC NOTICE AND COMMENTS**

Pursuant to Government Code Sections 65353 and 95091, public hearing notices were published as one-eighth page advertisements in the newspaper at least 12 days prior to the Planning Commission meeting. As of the publication of this report, no responses have been received by staff.

## **APPEAL INFORMATION**

Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten calendar days after the decision. Appeal filing and processing information may be obtained from the Planning Department Public Information Section, 3rd Floor, City Hall.

## **EXHIBITS LIST**

1. March 7, 2017 City Council Workshop 1 Report
2. July 25, 2017 City Council Workshop 2 Report
3. January 9, 2018 City Council Workshop 3 Report
4. March 27, 2018 City Council Workshop 4 Report
5. Chapter 19.147 – Downtown Specific Plan Zone (DSP) Amendments
6. Chapter 19.150.020 – Permitted and Incidental Uses Table Amendments
7. Chapter 19.220 – Specific Plan Overlay Zone (SP) Amendments
8. Chapter 19.342 – Marijuana Uses and Activities (Replaces 19.342 – Marijuana Cultivation)
9. Chapter 19.485 – Home Occupations Amendments

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Prepared by: David Murray, Principal Planner

Reviewed and Approved by: Rafael Guzman, Community & Economic Development Director