



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: OCTOBER 17, 2023

FROM: COMMUNITY & ECONOMIC DEVELOPMENT WARDS: ALL
DEPARTMENT

SUBJECT: RESOLUTION TO ADOPT THE PROPOSED STOREFRONT RETAIL COMMERCIAL CANNABIS BUSINESS PERMIT PROCEDURE GUIDELINES AND APPLICATION REVIEW CRITERIA AND CONSIDER THE ADDITION OF UP TO FIVE STAFF TO SUPPORT THE CITY'S CANNABIS PROGRAM.

ISSUE:

Consider a Resolution to adopt the proposed Storefront Retail Commercial Cannabis Business Permit Procedure Guidelines and Application Review Criteria and consider the addition of up to five staff to support the City's cannabis program.

RECOMMENDATIONS:

That the City Council:

1. Adopt a Resolution to adopt the Storefront Retail Commercial Cannabis Business Permit Procedure Guidelines and Application Review Criteria;
2. With at least five affirmative votes authorize an increase of five (5) Full Time Equivalent (FTEs) in the General Fund for the purposes of Cannabis Permit Review Guidelines; and

HISTORY:

On November 18, 2021, the Economic Development, Placemaking and Branding/Marketing (EDPBM) 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 EDPBM Committee with Ordinance options.

On March 24, 2022, the EDPBM Committee reviewed draft amendments and on October 20, 2022, the Committee recommended the amendments to the Riverside Municipal Code (RMC) go forward for consideration by the Planning Commission and City Council including:

- Title 5 – Business Taxes, Licenses and Regulations: amendments related to licensing of cannabis business uses;

- Title 9 – Peace, Safety and Morals: amendments to clean up and provide consistency in cannabis regulations and terminology; and
- Title 19 – Zoning: amendments related to land use regulations for cannabis related uses and microbusinesses.

The Planning Commission received a workshop on the proposed amendments related to Commercial Cannabis and on January 19, 2023, the Commission recommended adoption of amendments to Title 19 by a vote of 8 in favor, 0 opposing, and 0 abstentions.

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.

The City Council also directed staff to:

- Develop a Cannabis Business Permit Program with a 600-foot distance requirement from Commercial Daycare Centers Community Centers and a 1,000-foot distance requirement from K-12 Public and Private Schools;
- Develop a Cannabis Equity Program;
- 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; and
- 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.

BACKGROUND:

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. Currently, all commercial cultivation operations and microbusinesses are prohibited. In addition to the types and number of cannabis businesses permitted, Chapter 5.77 also includes the following key provisions:

- Permittees must hold required State licenses/permits, City business tax certificates, and any required Building Permits or Certificates of Occupancy;
- Council must adopt Procedure Guidelines and Review Criteria to establish an application review process, timeframes, requirements, scoring criteria and selection process for permit issuance;
- Council will establish an application fee by resolution to cover costs to City;
- All applicants with five or more employees shall enter into a Labor and Peace Agreement;
- All applicants must agree to provide Community Benefits;

- Applicants and permittees must agree to indemnify and release City from all liability related to permit issuance, business operations or legal challenges and must maintain adequate insurance coverage;
- Permittees must submit an annual financial audit, report gross sales receipts, register all owners, managers, employees; must maintain inventory control and reporting system; and must report inventory loss, theft, or security breaches;
- Cannabis businesses must meet all required General Plan, Zoning, Specific Plan, and development standards including location restrictions;
- Permittees must designate a Security Liaison reporting to the City Manager and Police Chief; and
- Permittees must designate a Community Relations contact person to meet and discuss issues and concerns with the City; contact information shall be provided to all businesses and residences within 100 feet of premises.

DISCUSSION:

Retail Commercial Cannabis Business Permit Procedures

The City Council provided staff direction on the policies and procedures to establish a Cannabis Business Permit Program. Building upon this direction staff researched examples and contacted several agencies to gather and compile information on the process to establish a Cannabis Business Program. These examples aided in the development of the draft framework for the Riverside Storefront Retail Commercial Cannabis Business Permit Procedure Guidelines (Guidelines) and Application Review Criteria (Criteria). The Guidelines and Criteria include a process with policies and procedures to reduce or eliminate ambiguity and subjectivity, offer a high-quality program with a streamlined process to ensure predictable outcomes for Applicants as well as for those managing and implementing the program.

On August 17, 2023, the EDPBM Committee met to review and provide direction on the draft Guidelines and Criteria; consider several key factors; and consider information related to additional staff to support the City's cannabis program. After discussion and deliberation, the EDPBM Committee voted to forward for City Council consideration the Guidelines and Criteria with the following direction:

1. Limit the application period to 30 days;
2. Adjust the process to review the Application and Proposal concurrently;
3. Amend the time to secure property to 180 days;
4. Define the review panel, at a minimum, to the City Manager, Fire Chief, Police Chief, Police designees, a staff member from Community and Economic Development;
5. Remove the design and location requirement from the scoring criteria;
6. Remove the Council review from identifying finalists;
7. Bring back additional information for the City Council to consider the addition of 5 staff positions;

8. Consider the process for non-retail (manufacturing, distribution, and cannabis lab testing facilities) cannabis uses at a later time; and
9. Issue all 14 permits at this time, without an equity set aside and bring information and timeline on equity permits for Council consideration.

Following the Committee's direction, staff reviewed the information directed by the Committee, contacted 12 cities with established cannabis programs (Corona, Costa Mesa, Long Beach, Moreno Valley, Sacramento, San Bernardino, Santa Ana, Stanton, Stockton, Oakland, West Hollywood and Modesto) and reviewed their processes, procedures and guidelines to gather information on key areas for the City of Riverside's process. The purpose of this review is to provide context and information to ensure the City Council can make the most informed decision. The following provides support to the decision points above:

1. Application Period: The City of Riverside will offer a 30-day open application process. This will allow ample time for interested applicants and while maintaining an efficient timeline. This is in the range of the standard timelines used by others and there is the ability to extend if needed.
2. Review Applications and Proposal Concurrently: In our informal review of other agencies, we found review time ranged between 30 and 150 days. Shorter review periods can be attributed to the use of outside reviewers/consultants and shorter submittal requirements. The Committee recommended combining the application clearance and the proposal evaluation to reduce this review period to 45 days. Some support information for this recommendation includes the following:
 - Number of Applications Received: The number of applications will be a factor in the amount of time for the review. Based on the size of the City of Riverside, the location, and the availability of 14 permits, the rough data gathered estimates the City could receive up to 100 applications.
 - Staff time to Review: The size of the application and evaluation criteria are key factors found in determining the time each evaluator will need to complete their review. Limiting the contents of the proposals no more than 50 pages and simplifying the evaluation criteria to 5 core areas reduces the review time to approximately 4 hours for each application.

Based on the changes to the process, criteria and submittal requirements, this 45-day review period is expected to be achievable.

3. Time to Secure Property: The Committee considered various timeframes and has landed on 180 days. There is no standard or best practice for securing properties. All options can present challenges for property owners, applicants and competition in the market. The Committee and staff have considered the benefits and challenges of all options and has found that 180 days provides ample opportunity for zoning verification, negotiations for a lease or purchase and for finding alternative locations should the preferred option fail.

Additionally, there is no penalty for an applicant to secure their preferred sites much sooner than the 180-day limit. This provision is expected to be reasonable and allow for a positive process for the businesses, property owners and the City.

4. Review Panel: The Committee considered various options on the review panel makeup. These options included a panel consisting of staff only, a third-party consultant only, community representatives or a combination thereof. The Committee is recommending the panel consist of staff from the City Manager's Office, Community and Economic Development Department, Finance Department, Fire Department, and a Police Department. A facilitator will coordinate and communicate with the Evaluation panel.
5. Design and Site Tour Criteria Removal: The review of design/quality and site compatibility will be elements to the proposal instead of the evaluation criteria. Incorporating the design and site compatibility is more effective once the site has been secured and allows the final review to be practical, technical and confirmed against the conceptual plan and experience pieces included in the proposal process.
6. City Council Participation: Most agencies surveyed do not have City Council involvement in the cannabis permit process. The Committee's recommendation to remove the City Council from identifying the finalists is consistent with this practice and maintains a process based on objective criteria.
7. Additional Staffing: Staff estimates up to 5 positions will be needed to support developing, launching, and managing the cannabis program. The staffing levels include a Cannabis Project Manager as well as technical staff as follows:
 - **Community & Economic Development (CEDD)**: Total Cost Estimate - \$319,886
 - **Facilitator**: 1.0 FTE, a Project Manager (\$101,539) to develop and implement strategies, policies, and programs in support of the cannabis program.
 - **Planning**: 1.0 FTE, a Senior Planner (\$114,330) to perform entitlements, plan review, design review, signs, tenant improvements, field checks and zoning verifications.
 - **Building and Safety**: 1.0 FTE, a Building Inspector I-II (\$104,017) to perform technical review and field work associated with the implementation and enforcement of municipal codes, regulations, and other related code provisions.
 - **Police Department**: Total Cost Estimate - \$138,809,
 - **Liaison**: 1.0 FTE, a Detective to interface on safety and security, review for compliance with proposals and review of reports and troubleshooting related to enforcement and crime prevention.
 - **Finance Department**: Total Cost Estimate - \$121,170,
 - **Analyst**: 1.0 FTE, a Principal Management Analyst to coordinate and participate in the administration and collection of business tax, financial report review, compliance, community benefit, fees, and audits.

It is expected that the first year will have a significant impact on staff time and capacity. Given the full range of priorities across all departments listed above it is anticipated adding capacity is necessary to ensure the ability to be responsive and effective in this program. Since this is a new program, it is unclear if it will be necessary to maintain the same level of staffing after the first year. A future recommendation to increase or reduce staffing levels may be necessary based on data and information collected during the first year's effort.

Should the Council agree to additional resources, this could be considered a pilot program. With that expectation the staffing costs could be funded with “one-time” funds available with the Cannabis Retail Access Grant. Or to ensure this staffing addition has no impact to the General Fund, these positions could be contracted or limited term (1 year positions). As a pilot, in the first year, staff time, level of experience and qualifications and expertise can be assessed and adjustments can be made if needed to the Cannabis Fee to cover the on-going staff allocation.

8. Non-Retail Qualifications Consideration: No issues have been identified determined with delaying the adoption of standards for non-retail cannabis uses. Several agencies reported this sector of the industry is slow growing and not in high demand at this time. Holding the implementation of the non-retail permits allows the City the ability to stand up the retail component and evaluate if expanding the businesses uses is still desirable.

9. Equity License Set Aside: Of the 12 cities contacted, 7 have established equity programs. These include Costa Mesa, Long Beach, Oakland, Sacramento, Sana Ana, Stockton, and Modesto. Only 3 of these cities set aside licenses for equity applicants. The following is a breakdown of that set aside:
 - Sacramento held 10 of the 40 permits, or 25%.
 - Modesto held 3 of the 10 permits or 30%.
 - Stockton held 2 of the 14 permits or 14%.

The equity program is aimed to assist those individuals convicted of a cannabis offense during the era of prohibition and criminalization policies posing challenges to the entry of the new adult-use cannabis industry due, in part, to a lack of access to capital, business space, technical support, and regulatory compliance assistance.

The average time to perform an equity assessment report and program development for the cities that utilized a consultant was one year and nine months, with much of the time being attributed to community outreach to identify the equity individuals and populations. The timeline for the City of Riverside is shown in the table below.

Cannabis Equity Program Timeline	
Procurement Process	
Issue RFP for cannabis equity consultant	October 2023
Consultant selected	November 2023
Council considers consultant agreement	January 2024
Cannabis Equity Assessment	
Consultant begins equity assessment report	January 2024
Consultant concludes assessment report (earliest)	August 2024
Committee receives update on assessment report	September 2024
Council receives update on assessment report	October 2024
Program Development Framework	
Consultant begins program development framework	October 2024
Consultant finishes program development framework (earliest)	February 2025
Committee and Council consider approval of the program	March 2025

The Consultant will be able to provide updates and information to the Council about the equity assessment report. At the August 2024 update the consultant will be able to provide a recommendation on the number of equity licenses to consider and specific benefits for equity applicants such as, but not limited to the following:

- Location Assistance
- Small business support services
- Tiered fees or fee waivers for cannabis-related permits and licenses
- Assistance in paying state regulatory and licensing fees.
- Assistance with regulatory compliance

Storefront Retail CCB Permit Procedure Guidelines and Application Review Criteria

The following provides an overview of the Guidelines and Criteria following the revisions and direction of the EDPBM Committee.

Phase 1: Application Process

Application Period: Advertised and marketed including posting on the City’s website for at least 14 days prior to the start of the application period. The application period will be open for 30 calendar days.

- **Application Submittal Process:** The applicant will be required to submit:
 - Application Form: basic information about the business and representatives
 - Background Form: authorization for background checks and livescans
 - Defense and Indemnification Form: compliance and acceptance
 - Business Proposal: no more than 50 pages to provide how the operator meets the City’s expectations as outlined in the review criteria. The Business Proposal addresses the following topics:
 - Qualifications of Owners and Operators
 - Business Plan/Financial Investment
 - Operations Plan
 - Safety/Security Plan
 - Labor, Employment, and Local Sourcing Plan
 - Application Fee

Step 1.1 – Application Review Clearance: All applications will be reviewed as they are received to ensure all materials have been provided and all fees have been paid.

Step 1.2: - Merit-Based Evaluation: Immediately after determining the application is complete, each member of the committee will review, evaluate, and rank the proposal based on the criteria (Attachment 1). The Criteria reviews the following:

- Qualifications of Owners and Operators
 - Business Plan/Financial Investment
 - Operations Plan
 - Safety/Security Plan
 - Labor, Employment, and Local Sourcing Plan
- Evaluation Period: Evaluations of applications will run for forty-five (45) calendar days from the date the application period closes. This time can be extended by the City

Manager.

The Proposal Review Panel is responsible for reviewing, evaluating, scoring, and ranking all Storefront Retail CCB Permit applications.

- No Financial Conflicts of Interest: Panel members must not have any type of financial interest in the process.
- Panel Representation: This diversity of representation of the panel is important to ensure that the panel members have a wide range of expertise and perspectives to draw from when evaluating the applications. The committee will be comprised of, at minimum, the following representation:
 - City Manager's Office;
 - Community and Economic Development Department;
 - Finance Department;
 - Fire Department; and
 - Police Department
- Prohibited Participation: No members from the Office of the Mayor or members of the City Council, boards, commissions, or any other decision or policy making body or their aides or staff.
- Independent Facilitator: The review panel's evaluation of the applications and any meetings with review panel members to discuss the applications shall be coordinated and facilitated by a separate facilitator without any review authority.

Phase 2: Application Final Approval: upon the conclusion and subsequent announcement of the ranking of applicants, the following steps must be taken by the top 14 ranked applicants:

Step 2.1: Location Selection: Applicants must identify a preferred location that meets zoning and locational requirements.

Step 2.2: Zoning Verification Letter: The Planning Division prepares written confirmation that the proposed location is properly zoned and meets all minimum distance requirements from sensitive uses.

Step 2.3: Site Submittal and Review:

- The applicant submits detailed site and operational information, including site details, an operational plan, a security plan, and proof of property control.
- The City reviews the site plan, floor plan, design, materials, signage, business operations, security plan, and safety measures.

Step 2.4: Final Permit Approval is granted once all the following have been obtained:

- Commercial Cannabis Operational Agreement (CCOA): Final contract between the City and the permittee for terms and conditions including the permittee's obligations to comply with all applicable laws and regulations, to pay all applicable taxes and fees,

and to operate the business in a safe and responsible manner as well as the form of community benefit contributions.

- State License: The permittee is to meet all state requirements including the obtainment of a state license.
- City Business Tax Certificate: The permittee is to meet all City requirements including the obtainment of a City Business Tax Certificate.
- Building, Fire and Occupancy Permits: Completing all construction and tenant improvements, and obtaining all building, fire and occupancy permits.

Storefront Retail CCB Application Fee

Applicants for a Storefront Retail CCB Permit will be required to submit an Application Fee and subsequent Site Review Fee. Per RMC 5.77, this fee must be established by resolution by the City Council. The City engaged MGT of America Consulting, LLC (MGT), to conduct a fee study and provide a finalized calculation and recommendation for an application fee based on the Procedure Guidelines. As of the preparation date of this report, MGT is finalizing their analysis of the total cost burden on the City for staff time related to City services involved to process and evaluate applications. Their work includes:

- Identifying all direct staff time spent on the fee related activity or service.
- Calculating direct cost of the staff time for each fee using productive hourly rates.
- Determining any other operational costs (i.e., other than personnel costs) that could readily be traced to a specific fee-related service.

MGT solicited time estimates for activities from key staff from various departments which had been identified as playing a role in the application submittal process and evaluation process. These departments consist of the following:

- City Manager's Office
- Community & Economic Development Department
- Finance Department
- Fire Department
- Police Department

It is anticipated that a resolution to adopt the Application and Site Review Fees will be considered by the City Council on October 24, 2023. These fees must be in place prior to accepting applications for a CCB Permit.

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:

Community Trust – The City continues to be transparent in studying and developing the Cannabis Business Permit process.

Equity – The City is committed to ensuring the proposed Guidelines and 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.

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, an operational fee based on gross sales, if approved, would help support the City’s management of the cannabis program.

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.

Sustainability & Resiliency – The implementation of the proposed Guidelines and Criteria will help the City to realize additional business tax that will ensure its sustainability and resiliency.

FISCAL IMPACT:

The total fiscal impact for FY 2023/24 for all positions listed (5 FTEs) is estimated to be \$579,865. On September 5, 2023, the City Council approved acceptance of a grant award in the amount of \$475,000 under the Cannabis Retail Access Grant Program. The grant is expected to fully cover the cost of the positions for FY 2023/24. Future costs are anticipated to be largely recovered through the establishment of full cost recovery fees for the cannabis program which will reflect the services, activities, and efforts associated with staff performing the evaluation and review of applications, technical staff to plan check, and verify zoning and business licenses, and fire and police personal to perform safety and security reviews. Staff recommends that since the City’s storefront retail commercial cannabis program is a brand-new program that after the first year the City reevaluate and reanalyze these positions to consider increases or decreases in cost based on service delivery and demand levels of the program. Any personnel costs for the five positions not recovered through fees will covered by the General Fund.

Prepared by:	Jennifer 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. Storefront Retail CCB Permit Procedure Guidelines and Application Review Criteria
2. Resolution – Adoption of Procedure Guidelines and Application Review Criteria
3. Presentation