



# Administrative Report

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N.1., File # 24-1808

Meeting Date: 11/12/2024

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**To:** MAYOR AND CITY COUNCIL

**From:** ELIZABETH HAUSE, COMMUNITY SERVICES DIRECTOR

## **TITLE**

DISCUSSION AND POSSIBLE ACTION ON THE CITY'S DRAFT CANNABIS REGULATORY ORDINANCE

PROVIDE DIRECTION ON THE APPLICATION SCORING AND SELECTION PROCESS SECTIONS OF THE ORDINANCE

## **EXECUTIVE SUMMARY**

On September 6, 2022, the City Council adopted cannabis regulatory ordinances for both inland and coastal areas of Redondo Beach, permitting no more than two storefront commercial cannabis retailers to operate within the City. The Inland Ordinance became effective 30 days after adoption, while the Coastal Ordinance took effect upon certification by the California Coastal Commission on March 9, 2023.

At its December 19, 2023 meeting, the City Council directed staff to engage Tierra West Advisors, Inc. (TWA) to review the final cannabis regulatory ordinances, draft Commercial Cannabis Business (CCB) permitting guidelines, and assist with application processing. TWA's recommended revisions to the City's regulatory ordinances were presented at the May 14, 2024 and September 17, 2024 Council meetings, at which time the Council provided guidance on several key aspects of the Ordinance. At the September meeting, the Council specifically instructed staff to review the retail permit application scoring and evaluation criteria and determine which items should be evaluated on a pass/fail basis and which should be graded on a range. At the October 8, 2024 City Council meeting, the Council reviewed Sections 1 through 3, and Section 7 of the draft criteria, and provided direction to staff.

Attached to this report is an updated table of evaluation criteria, incorporating Council's September 17 comments, as well as guidance provided by Council at the October 8 meeting. Following Council review and final direction, the revised language will be included in the draft Ordinance.

Since the October 8 meeting, City Council and staff have received communications from cannabis business operators. Included below is an analysis of their feedback.

This item offers the City Council an opportunity to review the draft retail permit application scoring and evaluation criteria, specifically Sections 4 through 6, and direct staff to make additional modifications, as desired.

**BACKGROUND**

The identification of cannabis regulations most appropriate for Redondo Beach began in 2018 with the appointment of a Cannabis Steering Committee. Following Planning Commission consideration and several City Council discussions on the topic, the current Cannabis Regulatory Ordinances were adopted on September 6, 2022. The Ordinances allow no more than two storefront commercial cannabis retailers to operate in the City.

At the December 19, 2023 City Council meeting, portions of the regulatory ordinances and the permit application process were identified as needing further review. At that time, the City Council provided direction to engage TWA to review the City's existing cannabis regulatory Ordinances and assist with development and review of the cannabis permit application process.

At the May 14, 2024 and September 17, 2024 City Council meetings, TWA presented its recommended changes to the Ordinances, and the Council provided direction in several areas, including:

- **Business Types Permitted by Ordinance**
  - The Ordinance will allow only retail storefront and delivery services, excluding all other types of cannabis businesses
- **Business Relocation After Permit Issuance**
  - Business relocation will require City Council approval, contingent upon compliance with location and zoning requirements
- **Permit Selection and Appeals Process**
  - Update current process so that applications are reviewed, and Permittees are selected by an application evaluation committee appointed by the Permit Administrator. Applications will be evaluated on a scoring matrix composed of pass/fail criteria, as well as qualitative criteria scored on a well-defined range. Any appeal to the Committee's selection of Permittee(s) will be made to the City Council
- **Permit Term Length**
  - A 5-year permit term will be established with the option to renew for two additional 2-year terms (done by the Permit Administrator); permits that are extended twice administratively may request an extension of up to five years by application to the City Council
- **Community Benefit Plan in the Application Process**
  - A Community Benefit Plan will not be part of the application process, but applicants will be required to provide a history of Community Benefit Plan compliance in other cities in which they operate
- **Retail Cannabis Sales Tax Rate**
  - The sales tax rate will be changed from 3% to either 4% or 5%
- **Site Selection Requirement**
  - Applicants must secure a property as part of the permit application process

Following the September 17 discussion, staff has focused on refining the retail permit application scoring and evaluation criteria sections of the Ordinance. At the October 8, 2024 City Council meeting, the Council provided guidance to staff on Sections 1 through 3 and Section 7 of the drafted

criteria. This direction has been included in the attached updated evaluation criteria matrix.

Following the October 8 discussion, City Council and staff received communications from cannabis business operators providing feedback on the scoring criteria. Below are the primary themes gathered from the operators that Council may want to discuss when considering the proposed scoring criteria:

### 1. Revenue as a Performance Metric

Feedback: Several operators expressed concerns about using gross revenue as a metric for evaluating operators. The argument is that revenue can be heavily influenced by location dynamics (e.g., market saturation) and may not accurately reflect operational quality.

Possible Amendment: Council may consider adjusting the scoring for revenue metrics to instead more heavily score criteria related to operational sustainability and effective management practices. These criteria could include profitability, inventory management quality, or evidence of stable business practices.

Potential Drawbacks: By moving away from revenue metrics, the City may miss aspects of assessing an applicant's financial viability and business stability. Revenue often serves as a basic indicator of demand and operational success, and removing it entirely may open the door for less financially stable applicants.

Mitigation: Council may keep revenue as a performance metric, and, instead, expand the criteria to a) allow any business operations within the last 5 years, and b) to allow sales information from other operations the Owners are part of, rather than restricting it to a current location owned by the same set of partners applying for a permit in Redondo Beach.

### 2. Audited Financials Requirement

Feedback: Operators indicated that audited financials can be a costly and limiting requirement, especially for smaller operators, and may not be an accessible option for all applicants. They suggested using tax receipts or proof of tax compliance instead.

Possible Amendment: Allow applicants to provide tax receipts or other documentation showing tax compliance history in lieu of full audited financials. This could create a more accessible application process while still allowing applicants to demonstrate financial responsibility.

Potential Drawbacks: Tax receipts provide only limited insight into the applicant's overall financial health, since they lack the comprehensive details typically found in audited financial statements, such as balance sheet information or cash flow stability.

Mitigation: Specify that applicants should provide additional financial documentation alongside tax receipts, such as profit and loss statements, sales reports, or a third-party review, to maintain a robust assessment of financial health.

### 3. Experience Requirements

Feedback: Operators suggested that limiting experience criteria to California operations could exclude capable operators with experience in other regulated markets. Some operators requested recognition for cannabis experience from other states.

Possible Amendment: Expand experience criteria to include regulated cannabis markets outside California, focusing on indicators of successful and compliant operations in these regions.

Potential Drawbacks: Expanding experience to include other states could allow operators unfamiliar with California's specific regulatory environment to apply. Each state has unique requirements, and regulatory familiarity is crucial to compliance and risk management.

Mitigation: Include a requirement for applicants to demonstrate familiarity with California-specific cannabis regulations as part of their application. This could be done through a written explanation of how the applicant would address California's compliance requirements based on their prior experience or by showing a documented track record of adapting to state-specific regulatory standards in their operations.

#### **4. Insurance Requirements**

Feedback: Operators suggested allowing new entities to submit a letter of intent from a licensed broker rather than requiring active insurance policies.

Possible Amendment: Expand insurance criteria to include a commitment letter from a licensed broker.

Potential Drawbacks: Accepting a letter of intent in place of active insurance coverage could risk having applicants who cannot secure full coverage upon obtaining the license, potentially exposing the business and local community to liability.

Mitigation: Require the letter of intent to specify coverage details and an anticipated effective date upon licensing. The City may also request a formal commitment from an insurance broker to ensure applicants have legitimate coverage plans. As a failsafe, applicants awarded a Permit may have their Permit rescinded if they are unable to obtain appropriate insurance.

This report offers the City Council an opportunity to review the draft retail permit application scoring and evaluation criteria, specifically Sections 4 through 6, consider feedback received from cannabis business operators, and identify and provide any desired revisions to the draft Ordinance. Once finalized and approved by Council, staff will work with the City Attorney's Office to incorporate the criteria into the Ordinance using typical formatting.

#### **COORDINATION**

This agenda item was prepared by the Community Services Department in coordination with the City Attorney's Office, City Manager's Office, and the Fire, Police, Finance and Community Development Departments. The Ordinance was drafted by TWA, updated by staff, and will be prepared by the City Attorney's Office in final form for Council consideration.

#### **FISCAL IMPACT**

It is estimated that each licensed site in Redondo Beach could provide \$150,000 to \$300,000 in additional annual General Fund cannabis business tax revenue, provided the City moves forward with the adoption of a regulatory ordinance and a tax rate of 3%. A 4% tax rate could provide \$200,000 to \$400,000 in General Fund revenue per site, and a 5% rate would provide approximately \$250,000 to \$500,000 in General Fund revenue. It is difficult to determine at this time what impact taxing cannabis delivery will have on General Fund revenue.

The fiscal impact to the City for CCB application processing and management is unknown at this time. A fee study to determine these costs will be completed soon. The application fees are expected to provide full City cost recovery for the processing of all license applications, including any related consulting services costs. Preliminary estimates indicate an application fee between \$12,000 and \$16,000 per applicant. An annual regulatory fee is anticipated to be within the same range for each CCB permittee doing business in the City. These estimates are expected to change depending on final staff resource allocation.

**APPROVED BY:**

*Mike Witzansky, City Manager*

**ATTACHMENTS**

- Revised Evaluation Criteria (for comparative purpose, the Red Headings Represent the Existing Criteria and the Green Headings Illustrate the Proposed Updates)
- Cannabis Business Operator Feedback/Communications
- September 17, 2024 - Draft Cannabis Regulatory Ordinance (with the previous retail permit application scoring and evaluation criteria section highlighted)