



Administrative Report

N.2., File # 22-3837

Meeting Date: 5/10/2022

To: MAYOR AND CITY COUNCIL
From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

TITLE

DISCUSSION AND POSSIBLE ACTION REGARDING DRAFT ORDINANCES AMENDING TITLE 6 BUSINESSES, PROFESSIONS, AND TRADES, TITLE 10, CHAPTER 2, ZONING AND LAND USE AND TITLE 10, CHAPTER 5 COASTAL LAND USE PERTAINING TO CANNABIS REGULATIONS AND RECOMMENDING THAT THE CITY COUNCIL ADOPT CATEGORICAL EXEMPTIONS FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR THE AMENDMENTS

CONSIDERATION OF THE RECOMMENDATIONS MADE BY THE PLANNING COMMISSION REGARDING THE DRAFT CANNABIS ORDINANCES AND ADDITIONAL INPUT PROVIDED BY THE PUBLIC

EXECUTIVE SUMMARY

When the Medical Marijuana Regulation and Safety Act (MMRSA), regulating the use of marijuana for medical purposes, took effect January 1, 2016 the City of Redondo Beach adopted Ordinance 3152 to implement local MMRSA regulations. On November 8, 2016, Proposition 64, known as the Adult Use of Marijuana Act (AUMA), was approved by state voters. The AUMA regulates, among other items, the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age.

Proposition 64 stipulated that if a city did not enact local commercial licensing restrictions or a ban by January 1, 2018, a valid state license would be the only thing needed to open and operate a commercial marijuana business in any commercial zone in the city. Therefore, out of caution and until local regulations and interests could be analyzed and identified for implementation, the City of Redondo Beach adopted ordinances to regulate the personal use and cultivation of cannabis and restrict commercial cannabis activities in the City.

In order to analyze and identify the cannabis regulations appropriate for Redondo Beach, a steering committee was appointed by the previous City Manager comprised of representatives from the law enforcement community, RBUSD, BCHD, and other outside interest groups familiar with common best practices for commercial use regulations of cannabis including storefront siting, taxation, delivery, and development agreement options.

The Steering Committee met multiple times over several years, and on October 5, 2021 presented their work and recommendations to the City Council. After considering the presentation, the City Council asked staff to prepare an ordinance based on the recommendations of the CSC, directed that the Galleria site be included as a permitted location, and that the taxation level or developer agreement fee rate be set at 5%. Additionally, Council asked staff to return with maps that identified

the storefront siting parameters recommended by the CSC, and additional options that would include buffers for alcohol sales sites and “safe routes to schools” pathways.

Staff returned with the maps for Council discussion at the January 18, 2022 meeting. At the meeting, City Council reviewed the potential buffer maps, and decided to move forward with the CSC recommended map and have the Planning Commission review the residential buffering options. Additionally, Council directed that the Planning Commission review the draft ordinances and that staff conduct a community outreach process to gather further input.

The draft ordinances were prepared by the Community Development Department and the City Attorney’s Office and presented to the Planning Commission on March 3, 2022, at a public hearing. After much deliberation, the Planning Commission recommended the City Council approve the draft ordinances, with 23 specific recommendations, which are included in the attached resolution (see Section 6).

Separately, a community survey was issued to the public regarding potential cannabis regulations. The survey was opened on Thursday, April 21, 2022 and made available for two weeks through May 5, 2022. The results of the survey will be provided for discussion at the meeting, via Blue Folder.

One of the Planning Commission recommendations is to engage an industry-expert consultant to review the ordinance in its entirety and assist in the development of the business permit solicitation and selection process. To help consider this recommendation, staff contacted HdL, a firm that has expertise in preparing and reviewing cannabis regulations and related procedures for numerous cities, to determine the cost and scope of possible support services. HdL personnel agreed to prepare a proposal for the City for services related to the following: 1) reviewing and providing input on the City’s draft ordinance, 2) preparing a separate tax ballot measure for the City, 3) establishing a solicitation and selection process for cannabis business permits, and 4) other related services. The proposal will be provided for discussion at the meeting, via Blue Folder.

This item provides the City Council an opportunity to review the draft ordinances, consider the recommendations made by the Planning Commission, receive input from the community through a review of the community survey results and additional comments provided by the public at the meeting, evaluate the merits of hiring a consultant to help finalize the City’s ordinance and assist with follow-up cannabis tax and permit activities, and provide direction to staff on next steps.

BACKGROUND

California’s history of cannabis law spans nearly 25 years of propositions and regulatory actions (see attached). More recently, the Medical Marijuana Regulation and Safety Act (MMRSA) that took effect January 1, 2016 regulated the use of marijuana for medical purposes. The City of Redondo Beach adopted Ordinance 3152 which promulgated local regulations in accordance with MMRSA, effective May 5, 2016.

On November 8, 2016, Proposition 64 was adopted by CA voters, titled the Adult Use of Marijuana Act (AUMA). The AUMA regulates the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age, thus expanding the permissions provided by MMRSA. The AUMA permits cities to “reasonably regulate” without completely prohibiting cultivation of marijuana inside a private residence or inside an accessory structure to a private residence, within the limits allowed by the State for personal cultivation.

In Redondo Beach, 65% of the voters were in favor of Proposition 64. Although Proposition 64 represented the interest of whether to allow the Adult Use of Marijuana Act, it did not specify how an individual municipality would regulate the commercial aspects of marijuana sales. The State's commercial provisions of AUMA were to take effect on January 1, 2018, requiring a city to disallow commercial marijuana activities in order to ensure that local regulations are promulgated and local control maintained. If a local governing body did not enact such a commercial ban by January 1, 2018, a valid State license would be the only requirement to open and operate a commercial marijuana business in any commercial zone in that city. Therefore, out of caution, and until local regulations and interests could be analyzed, the City of Redondo Beach adopted ordinances to regulate the personal use and cultivation of cannabis, as well as restrict commercial cannabis activities in the City of Redondo Beach. This was an interim measure to prohibit cannabis businesses until the City could better evaluate what types of businesses and regulations to put in place.

One of the prior objectives included in the City Council's adopted Strategic Plan included the previous City Manager's appointment of a Cannabis Steering Committee (CSC) comprised of law enforcement, RBUSD, BCHD, and outside interest groups to review best practices for commercial use regulations of cannabis, including storefront siting, taxation, delivery, and development agreement options, and to prepare a report for Planning Commission and City Council consideration. Members of the Redondo Beach Police Department, Fire Department, Community Development Department, and the City Treasurer's Office met jointly in support of the work of the CSC.

The CSC met a total of 12 times from November 2018 through October 2021, with their final recommendations presented to City Council on October 5, 2021. After discussion of the CSC's work and recommendations, City Council directed staff to draft an ordinance based on the recommendations of the CSC for regulating cannabis licenses in Redondo Beach. Additionally, the Council directed that the Galleria site be included as a permitted location and the taxation or ultimate development agreement fee rate be set at 5%. The Council also directed staff to prepare maps with the siting parameters recommended by the CSC, and that the maps include buffers for alcohol sales sites and safe routes to schools.

The Council asked that the ordinance, maps, and commercial licensee selection process, once drafted, be reviewed by the Planning Commission for recommendations to the City Council and that a community outreach process also be conducted.

The draft ordinances were prepared by the Community Development Department and City Attorney's Office, and were reviewed by the Planning Commission for recommendation to City Council. The key provisions incorporated in the draft ordinances, including the recommendations from the CSC that City Council agreed to, are as follows:

- **Personal Cultivation.** Continue to allow for outdoor personal cultivation as currently regulated for a maximum of 6 plants allowed indoors and in yard area if secured and not visible from surrounding sites.
- **Allow Licensed Activity.** Permit licensed cannabis businesses with recommended restrictions (see remaining items in the list below).
- **License Types.** Allow only storefront retailer licenses (Type 10) and non-storefront retailer delivery licenses (Type 9) or a combination of the two on one site. Prohibit delivery services

that originate from other cities if a non-storefront delivery license is issued in Redondo Beach.

- **Zoning Provisions.** Limit cannabis license sites to commercial and industrial zones. Prohibit licenses in coastal commercial, residential, and public/institutional zones. (CSC had initially recommended prohibiting in regional commercial zone where Galleria is located, but City Council directed staff to add that as an acceptable zone). Require discretionary Conditional Use Permit (CUP) approval.
- **Buffers.** Maintain a 600-foot radius from elementary schools, day cares, and youth centers (per State's mandate). Increase the buffer zone to a 1500-foot radius from high schools and middle schools. School buffers to include private schools. City Council requested that Planning Commission consider implications of buffer around residential (see Planning Commission recommendations noted below).
- **Number and Location of Licenses.** Allow up to two (2) sites within the City, with a maximum of one site per district. Establish a 1000-foot buffer between cannabis licensed sites.
- **Hours of Operation.** The State allows retail activities between the hours of 6 a.m. and 10 p.m. Local jurisdictions can be more restrictive. Limit hours to the following:
 - Storefront Retail Sales - 9 a.m. to 10 p.m.
 - Non-storefront Delivery - 6 a.m. to 10 p.m.
- **Security.** In addition to State security requirements, include the following security measures:
 - All security personnel to be vetted through the Redondo Beach Police Department (RBPD) or a certified 3rd party.
 - Regarding surveillance, the licensee must provide real time direct access to all surveillance.
 - Alarm systems to be set to send real time immediate messages to RBPD.
 - Regarding safety, requirements to better define "secure storage of cannabis and cannabis products" as well as onsite revenue.
 - The licensee to provide measures to ensure a minor doesn't enter, requiring ID checks and providing appropriate signage.
 - For delivery, licensee to provide a signature for receipt and that those records be maintained on file for auditing purposes.
- **Enforcement.** The CSC recommends the City implement the Cannabis Compliance and Enforcement Program. The Los Angeles County Department of Public Health has created a relatively new program entitled the Cannabis Compliance and Enforcement Program, where the County contracts with cities that allow for cannabis activities. The program aims to further protect public health but has the additional benefit of being an effective enforcement tool against illegal operators who are unable to apply for the permit and subsequently violate Public Health Department Codes.
- **Tax or Fees.** Establish a Developer Agreement with developer fees and consider sunseting it with an eventual tax measure.
- **Tax or Fee Rate.** Set fee at 5%. (CSC had initially recommended reviewing neighboring jurisdictions, which the City Council did and selected 5%).
- **Tax or Fee Revenue Location.** General Fund.
- **Property Requirement.** Do not require applicant to secure property prior to the application process.
- **Selection Process.** City Council to determine the licensee solicitation and selection process at a future date separate from the Ordinance. This may come back to Planning Commission for input if City Council continues with that direction.

- **Transfer of Ownership.** Limit transferability of a developer agreement and/or license for a set period of time.
- **Adoption of Regulations.** Adopt ordinances to effectuate decisions.

On March 3, 2022, the Planning Commission considered the draft ordinances at a public hearing. After much deliberation, the Planning Commission recommended the draft ordinances, with 23 specific recommendations included in their resolution (attached - see Section 6) for City Council to consider when reviewing the ordinances. Those recommendations are as follows:

1. Correct numbering and reference in 10-2 and 10-5.1626(c)(2) references the “prohibitions of subsection (a)”. That should reference subsection (c)(1) immediately above it. ***[This has been addressed in the draft ordinances attached]***
2. Add definitions for the following terms:
 - a. Hearing Officer ***[This definition was added in the draft ordinances attached]***
 - b. Tax Administrator ***[This was corrected to say “Finance Director”]***
 - c. Finance Director ***[This seemed straightforward without needing to be defined, since this is a designated position within the City of Redondo Beach]***
 - d. Permit Administrator ***[This definition was added in the draft ordinances attached]***
 - e. Premises ***[This definition was added in the draft ordinances attached]***
3. Correct discrepancy between calendar days referenced in 6-2.16(b)(3) and (b)(4) so that materials would not have to be submitted in advance of the appeal itself.
[This has been addressed in the draft ordinances attached]
4. In 6-2.05(c)(14) add clarification that employees would be permitted to consume food on site not in the customer area.
[This has been addressed in the draft ordinances attached]
5. By limiting to two licenses, it is a duopoly. Under Subsection 6-2.06 remove the reference to the “...minimum period of three (3) years from the start of operation.” And remove the language, “Permittee may only transfer ownership after the initial period of time and with prior discretionary approval of the City Council. Before approving any such request, City may require the purchaser, assignee, or transferee to provide the same information and materials that are required of an initial applicant, including the payment of associated fees.”
6. Require a Conditional Use Permit condition that authorizes that CUP only while there is an operator that has a commercial cannabis retailer permit per Title 6.
7. Consider engaging a thoroughly vetted and referenced consultant with experience evaluating the cannabis industry to evaluate the ordinance in its entirety.
[City staff have reached out to HdL, who will provide a quote for services at the meeting, as explained above]
8. Institute a mechanism to vet all owners. Specifically, if a certain percentage is proposed to be assigned to new owners or partners, permittee is to notify the City and must obtain prior City Council approval. A restriction should be added to prohibit a permittee to be a C Corporation.

9. Prohibit the two permits from having the same or common ownership.
10. Require that the developer agreement set a timeframe from when a permit is issued to when it is required to be in operation.
11. Revise 6-2.02 to read, "No person may operate a commercial cannabis business or engage in commercial cannabis activity within the City of Redondo Beach including cultivation, processing, manufacturing, testing, sale, delivery, distribution, or transportation of cannabis or a cannabis product unless the person (1) has a valid commercial cannabis retailer permit from the City of Redondo Beach; (2) has any and all valid state or local permits; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activity, including holding the necessary state licenses to engage in commercial cannabis activity." Where the language is specifying that only a cannabis retailer permit allowed.
[This has been addressed in the draft ordinances attached]
12. Require in the developer agreement that the permittee have a community relations contact available to businesses and residents within 600' of the site and quarterly meetings required between community relations contact and City Manager for first year and at request of City Manager thereafter.
13. Revise Section 6-2.05(c)(5) to address and not inadvertently prohibit delivery. The language currently states, "All commercial cannabis business shall be operated within the specific part of the premises specified in the Development Agreement and/or conditional use permit. No commercial cannabis activities shall take place in an area exceeding the square footage authorized in the controlling Development Agreement, conditional use permit, or the licensee's license; whichever is most restrictive."
14. Developer agreement should restrict permitted local cannabis retail businesses from advertising on billboards in the City of Redondo Beach.
15. If there is no requirement under the law for personal information to be collected for cannabis retail storefront licensees, prohibit the business from requiring that the personal information be collected in order to be a customer.
16. Concern with real time surveillance being an invasion of privacy. Return the video surveillance requirements to be limited to the State requirements, police not surveilling the cannabis site, or if police have surveillance access, not recording it. If police have recordings of surveillance at the discretion of the permittee, should delete surveillance recordings within 90 days unless part of an active investigation.
17. Regarding buffering residential zones:
 - a. Prohibit entrances and exits and driveways associated with cannabis retailers on streets where adjacent to residential zone where residential shares that road within the same block.

18. Add restriction that no more than cannabis retail site per street.
19. Consider requiring a bond for liability.
20. Consider requiring in the development agreement an audit of operations in addition to the financial auditing requirement to be paid for by the permittee.
21. Recommend that Council add supplemental appearance requirements per 6-2.05(c)(9) in the development agreement.
22. Remove the CR zone that includes the Galleria site as an allowed zone for cannabis retailer permits.
23. Considering that Beach Cities Transit Route 102 is a main bus line for Redondo Beach High School students to take to school, with two bus stops on Artesia Boulevard between Ridge Lane and Hawthorne Boulevard, recommend removing the commercial sites along Artesia Boulevard between Ridge Lane and Hawthorne Boulevard from consideration for cannabis retailer permits.

Some of the minor recommendations regarding editing/numbering cleanup have been addressed in the draft ordinances attached to this Administrative Report and are noted above in brackets under the description of those particular minor recommendations. However, there are several substantive recommendations that the City Council may want to discuss and consider incorporating into the ordinance.

In addition to the Planning Commission recommendations, in response to City Council direction at the January 18th meeting, a community survey was issued regarding potential regulations regarding cannabis. The survey was opened on Thursday, April 21, 2022 and made available to the public for two weeks (through May 5, 2022). The results of the survey will be made available at the meeting, via Blue Folder, for consideration and discussion.

In anticipation of the discussion on Planning Commission recommendation #7, staff initiated discussions with HdL, a firm that has expertise in preparing and reviewing cannabis regulations and related procedures. HdL is developing a proposal for services related to 1) reviewing the City's draft ordinance, 2) preparing a separate tax ballot measure, 3) establishing a business permit solicitation and selection process, and 4) other related services. With most of these services, (the exception being the preparation of a cannabis tax ballot measure), the City is expected to be able to recover costs for the consulting work through future permit fees. The proposal from HdL is in development and will be made available for discussion at the meeting, via Blue Folder.

COORDINATION

This agenda item was prepared by the Community Development Department in coordination with the City Manager's Office and the City Attorney's Office. The draft ordinances were prepared by the City Attorney's Office and the Community Development Department.

FISCAL IMPACT

The fiscal impact to the City for regulating cannabis sales and delivery in Redondo Beach is unknown at this point. There are many variables to consider including 1) the number and types of licenses to

be approved, 2) the volume of business and sales from future local cannabis operations, 3) the specific franchise fee or tax rate charged for cannabis sales in Redondo Beach, 4) the amount of staff time allocated to regulatory and enforcement activities, and 5) the potential for legal challenge to the City's licensing activities.

Notwithstanding the above variables, staff's initial estimate is that each licensed site in Redondo Beach could provide \$500,000 to \$1,000,000 in additional annual General Fund revenue, provided the City moves forward with the adoption of a regulatory ordinance and the proposed tax and/or developer agreement fees.

The preparation of the ordinances, staff report, and community input survey are within the workplan and annual budgets of the Community Development Department, City Manager's Office, and the City Attorney's Office.

APPROVED BY:

Mike Witzansky, City Manager

ATTACHMENTS

- Draft Ordinance Amending Title 6 (businesses, professions, and trades)
- Draft Ordinance Amending Title 10 Chapter 2 (inland zoning)
- Draft Ordinance Amending Title 10 Chapter 5 (coastal zoning)
- Planning Commission Resolution on Cannabis Code Amendments 2022-03-03
- Cannabis Map Final Buffers 2022-01-12
- City Council Administrative Report on Cannabis Steering Committee Update 2021-10-05
- City Council Presentation on Cannabis Steering Committee Update 2022-10-05
- Summary of Cannabis Laws and Updates