



# AGENDA REPORT

Community Development

<b>DATE:</b>	November 7, 2023
<b>TO:</b>	Mayor Martinez and Members of the City Council
<b>FROM:</b>	Lina Velasco, Director of Community Development Nannette Beachman, Director of Economic Development
<b>Subject:</b>	Cannabis Ordinance Amendments
<b>FINANCIAL IMPACT:</b>	The Economic Development Department received a cannabis equity grant from California Go-Biz to aid local equity program efforts to support equity applicants and equity licensees. Through this grant, the City's Economic Development Department is able to offer technical support, regulatory compliance assistance, and assistance with securing the capital necessary to begin a business which are often barriers to entry into the regulated cannabis industry.
<b>PREVIOUS COUNCIL ACTION:</b>	December 20, 2022
<b>STATEMENT OF THE ISSUE:</b>	During the past year, City staff has collaborated with the Economic Development Commission and SCI Consulting Group to implement the City's Cannabis Equity Program, which includes evaluating increasing the maximum number of cannabis retailer permits available in the City. City staff has prepared amendments to Richmond Municipal Code (RMC) Section 15.04.610.270 that include increasing the number of storefront retail permits and adding new non-storefront retail (delivery only) permits, with a certain amount of the new retailer permits to be reserved for equity applicants. Additional amendments proposed include updating definitions, clarifying requirements around Cannabis Business Permits, and related amendments to clarify regulations.

<b>RECOMMENDED ACTION:</b>	HOLD a Public Hearing; and INTRODUCE (first reading) an ordinance making certain amendments to Richmond Municipal Code (RMC) Section 15.04.610.270 Marijuana/Cannabis Commercial Uses, that includes, but is not limited to, increasing the number of storefront retail permits and adding new non-storefront retail (delivery only) permits, with a certain amount of the new retailer licenses to be reserved for equity applicants – Community Development Department (Lina Velasco 510-620-6841).
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**DISCUSSION:**

**Background**

On December 20, 2022, the City Attorney's Office and staff brought forth an item to the City Council regarding a former cannabis dispensary license holder's request to amend the City's Cannabis Ordinance (Richmond Municipal Code Section 15.04.610.270). The requestor sought City action to issue an additional cannabis retailer license within the City of Richmond. In response, the City Council passed a motion, instructing staff to collaborate with the Economic Development Commission to conduct research on expanding the number of cannabis retail locations in the City.

Furthermore, the City Council had previously worked with staff to develop a Cannabis Equity Program (CEP) that prioritizes granting new cannabis retailer licenses to equity candidates. The City secured state grant funding to establish the CEP, aimed at assisting individuals impacted by past cannabis criminalization in owning and operating cannabis businesses. However, to fully implement the CEP, the City Council needs to determine and set the maximum number of retailer licenses allowed in the City.

As per the Council's directive, staff members have been working on updating the City's regulations pertaining to medicinal and adult-use commercial cannabis activities, with the goal of increasing the total number of cannabis retailers. On April 12, 2023, staff presented their findings to the Economic Development Commission, gathering feedback and recommendations on expanding the number of cannabis retail establishments in the City. Additionally, staff is proposing further amendments to enhance and clarify the City's permitting process.

**Retail Expansion Options:**

On April 12, 2023, staff presented research findings to the Economic Development Commission, exploring the feasibility of adding more retail cannabis stores. The analysis involved studying comparable and neighboring jurisdictions while assessing the current state of the retail cannabis industry within the City.

Determining the precise number of cannabis retail locations that a jurisdiction can support is challenging due to varying factors between different areas. There is no one-size-fits-all metric for determining the optimal number of cannabis retail locations a jurisdiction can sustain. Nevertheless, the staff examined the following three potential metrics as a starting point:

1. The City's population size or density;
2. Competition from surrounding cities and counties; and
3. Consumer demand for cannabis products in the area.

Population Density:

Population density is a common way to estimate the number of cannabis retail locations that a jurisdiction can sustain. The standard metric commonly used is to have one retail location for every 15,000 to 20,000 people. In the case of the City of Richmond, it currently has three retail locations serving a population of approximately 116,000 people, which translates to about 38,000 people per retailer. Based on this calculation, Richmond can support an additional 3-5 retail locations, for a total of 6-8 retailers.

The following table compares the capacity of nearby communities to support cannabis retailers based on their population, using a standard market density of one retailer per 20,000 residents. The City of Richmond ranks second, closely following the City of Hayward, with a combined population per retailer of 38,000 people and an unmet capacity for three retail businesses. Alameda, Concord, and Martinez align closely with the standard metric, whereas Oakland, El Cerrito, and the remaining cities all exceed the standard market density.

City/County	Population	Total Retailers	Population per Retailer	Capacity at 1 per 20,000	Unmet Capacity
Hayward	159,827	4	39,957	8	4
Richmond	115,639	3	38,546	6	3
Fairfield	119,705	4	29,926	6	2
San Leandro	88,868	3	29,623	4	1
Berkeley	117,145	4	29,286	6	2
Alameda	76,362	3	25,454	4	1
Concord	124,074	5	24,815	6	1
Martinez	36,819	2	18,410	2	0
Oakland*	433,823	27	16,068	22	0
El Cerrito	25,845	2	12,923	1	0
Vallejo	124,886	11	11,353	6	0
El Sobrante	14,779	2	7,390	1	0
Emeryville	12,870	2	6,435	1	0
Pacheco	4,775	2	2,388	0	0

\* An additional 11 retailers are conditionally approved, but not yet open; 27 permitted delivery-only businesses

## Competition and Consumer Demand:

The number of additional cannabis retailers that the City can accommodate depends on both nearby competition and consumer demand for cannabis products. If there is already a significant concentration of cannabis retail locations in close proximity, it becomes more challenging for new stores to establish themselves. A saturated market can lead to intense competition, resulting in lower profit margins for individual retailers. Additionally, the level of consumer demand for cannabis products plays a crucial role in determining the City's capacity for supporting additional retailers. Strong demand can create opportunities for new businesses, while weak demand may limit the feasibility of establishing more retailers.

To assess the level of demand for cannabis products in the City, staff analyzed historical sales data from the three existing retailers. The analysis revealed a consistent upward trend in sales from 2016 to 2021. However, in 2022, there was a significant drop in retail sales, and projections for 2023 suggest a continuing downward trend. These findings indicate that the demand for cannabis products may be reaching a saturation point, both in the City and surrounding areas.

Despite the potential market saturation and the decline in overall sales, the current average sales per retailer remain healthy. This suggests that existing retailers are still generating significant revenue per store, even in the face of increased competition. As a result, there may still be financial viability for potential entrepreneurs interested in entering the market by establishing new retail cannabis stores.

<b>Fiscal Year</b>	<b>Gross Receipts</b>	<b>Average per Retailer</b>	<b>+ / -</b>
<b>2016-17</b>	\$12,603,620	\$4,201,207	
<b>2017-18</b>	\$13,240,940	\$4,413,647	5%
<b>2018-19</b>	\$17,897,660	\$5,965,887	35%
<b>2019-20</b>	\$23,401,040	\$7,800,347	31%
<b>2020-21</b>	\$34,315,740	\$11,438,580	47%
<b>2021-22</b>	\$21,618,520	\$7,206,173	-37%
<b>2022-23*</b>	\$14,480,100	\$4,826,700	

\* Tax revenue reported through three quarters

In summary, the analysis conducted by staff on the cannabis retail market in the City indicates that the area can accommodate an additional 3-5 retail businesses. This estimation is based on considerations of the current population density and the level of nearby competition.

## Expansion Scenarios:

During the presentation to the Economic Development Commission, staff outlined three distinct expansion scenarios for consideration. These scenarios encompassed conservative, moderate, and aggressive approaches as described below:

- Conservative:
  - Two (2) additional Storefront retail locations (One for equity applicant & One for a non-equity applicant)
- Moderate:
  - Three (3) additional Storefront retail locations (Two for equity applicants & One for non-equity applicant)
  - Two (2) non-storefront (delivery-only) retail locations (Both for equity applicants)
- Aggressive:
  - Four (4) additional Storefront retail locations (Three equity applicants & One for non-equity applicant)
  - Two (2) non-storefront (delivery-only) retail locations (Both for equity applicants)

The Economic Development Commission recommended moving forward with the moderate scenario. These scenarios were also presented to the Planning Commission on October 5, 2023, and they also recommended the moderate scenario to City Council. The proposed Zoning Text Changes reflect this scenario.

### **Summary of Proposed Ordinance Amendments**

The following summarizes the key amendments proposed to RMC Section 15.04.610.270 as specified in Exhibit A to the Resolution in Attachment 1:

#### **1. Definitions (Section 15.04.610.270(B)):**

- Add definitions for “Cannabis Equity Program”, “Canopy”, “Cultivator”, “Equity Applicant”, “Equity Business”, “Retailers”, “Storefront Retail Facility”, and “Testers”.

#### **2. Promulgation of Regulations, Standards and Other Legal Duties (Section 15.04.610.270(E)):**

- Removed outdated language regarding existing Medicinal Cannabis Businesses
- Added language to empower the Director of Community Development to make certain administrative decisions to support the proper functioning of the local cannabis industry and regulatory oversight.

#### **3. Number of Commercial Cannabis Businesses (Section 15.04.610.270 F(4)):**

- Increase the number of cannabis storefront retail permits from three (3) to six (6).
- Add two (2) new non-storefront retail (delivery only) permits.
- Designate two (2) storefront retail permits and two (2) new non-storefront retail (delivery only) permits for equity applicants.

- 4. Background Investigation of Owners and Managers (Section 15.04.610.270(H)(1)(a)(ii):**
  - Establish criteria for examining whether the results of the background investigations (LiveScan) can be grounds for denial.
- 5. Denial, Revocation or Suspension, and Renewal of Conditional Use Permit. (Section 15.04.610.270(H)(5):**
  - Language added to specify grounds for denial, revocation, suspension, and renewal of Conditional Use Permit (CUP) for cannabis businesses.
- 6. Cannabis Business Permit (CBP) Application Process (Section 15.04.610.270 (I)(1)):**
  - Add section requiring businesses to satisfy compliance with the terms and conditions of their CUP prior to the City issuing the Cannabis Business Permit (CBP).
- 7. Issuance of Cannabis Business Permit (Section 15.04.610.270 (I)(2)):**
  - Add section that requires approval and signatures from all relevant City departments prior to the City issuing the CBP.
- 8. Denial of Cannabis Business Permit (Section 15.04.610.270 (I)(4)):**
  - In order to provide additional enforcement tools, add a section giving the Zoning Administrator discretionary authority for the denial of a CBP.
  - Establish circumstances that would result in the denial of a CBP.
- 9. Cannabis Business Permit Annual Renewal. (Section 15.04.610.270 (I)(5)):**
  - Add section detailing what a cannabis business must submit with their CBP renewal application.
  - Add section requiring City inspection 60 days prior to renewal to confirm compliance with local and state regulations and CUP terms and conditions.
  - Add Section detailing the grounds for rejecting a CBP renewal.
- 10. Competitive Selection Process. (Section 15.04.610.270 (J)(1)):**
  - Add language to clarify application procedures and requirements for the Competitive Selection Process.
- 11. Consent to Inspection. (Section 15.04.610.270 (K)(1)(j)):**
  - Strengthen language in this section to authorize City inspections.

## **RECOMMENDATION BY PLANNING COMMISSION**

The proposed zoning text changes were considered by the Planning Commission at a public hearing held on October 5, 2023. The Planning Commission adopted Resolution No. 23-08 recommending adoption of the proposed amendments to the City Council.

## **FINDINGS FOR ZONING TEXT CHANGES:**

The Richmond Municipal Code requires the City Council to make certain findings as specified in Section 15.04.814.050 when adopting amendments to the Zoning Ordinance. The Ordinance in Attachment 1 provides the required findings with a supporting statement of fact for City Council's consideration.

## **GENERAL PLAN CONSISTENCY:**

The proposed amendments will assist the City in achieving certain Economic Development and Community Health and Wellness goals, policies, and actions identified in the General Plan. Specifically, a cannabis equity program will support people and communities harmed by cannabis criminalization. These efforts lower barriers to the cannabis industry for those hit hardest by the War on Drugs (see General Plan 2030 Policy ED2.1, Local Employment Base and Policy HW6.6 Local Small Businesses). The City received a cannabis equity grant from California Co-Biz to support equity applicants in providing equity applicants direct grants, direct loans, technical assistance to prepare business plan development, business mentoring, assistance securing capital, business needs assessment, direct loans, loan readiness assessment, market assessment, data and research strategies and support, assistance with establishing a legal entity, assistance with criminal records expungement, lease negotiation assistance, small business legal considerations, mentoring, and assistance with general business operations, cannabis-specific regulatory operations, fiscal management, marketing/social media, technical training, employee training, and regulatory compliance.

## **ENVIRONMENTAL REVIEW:**

Pursuant to California Environmental Quality Act ("CEQA") Guidelines § 15378 and California Public Resources Code § 21065, the proposed ordinance is not a "project" because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, the proposed ordinance is not subject to CEQA. Even if the proposed ordinance qualified as a "project" subject to CEQA, and pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment. This proposed ordinance merely amends the Richmond Municipal Code to regulate the future deployment of wireless communications facilities. The proposed ordinance does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new cannabis business or change to an existing cannabis business would be subject to additional environmental review on a case-by-case basis. Accordingly, the proposed ordinance is exempt from CEQA under the general rule.

## **DOCUMENTS ATTACHED:**

Attachment 1 – Draft CC Ordinance

Exhibit A: Proposed Amendments (Redline)  
Exhibit A: Proposed Amendments (Clean)