

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Policy

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COMMERCIAL CANNABIS ACTIVITIES

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Purpose:

On November 8, 2016, the voters of California adopted Proposition 64 which legalized the use of cannabis for adult use and established a maximum cultivation allowance of 6 plants for personal use. Proposition 64 allows for local control of adult use cannabis land uses, and reasonable regulation of personal cultivation of up to six (6) cannabis plants per residence. In Riverside County, approximately 53% of the voters countywide voted in favor of Proposition 64. 57% of voters statewide approved Proposition 64.

In recognition of the will of the voters, the Board of Supervisors has evaluated its options with regard to commercial cannabis activities in the unincorporated areas and has developed a comprehensive, regulatory framework for commercial cannabis activities.

That said, the County remains concerned that there has not been enough time to evaluate and determine the impacts and best practices for commercial cannabis activities on a large-scale or the long term impacts of such commercial cannabis activities on surrounding communities given that this is a new land use. For example, children are particularly vulnerable to the effects of cannabis use, and the presence of cannabis plants or cannabis products is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children including schools, parks, and other similar locations. Unregulated commercial cannabis activities in the unincorporated area of Riverside County adversely affect the health, safety, and welfare of the County, its residents and environment in such ways as greater risks of criminal activity, degradation of the natural environment, malodorous smells, and fire hazards. Regulated commercial cannabis activities may also adversely affect the health, safety and welfare of the County, its residents and environment if not regulated properly with specific and enforceable conditions of approval or if multiple commercial cannabis activities are concentrated in one place.

The Board recognizes that the voters of Riverside County support commercial cannabis activities. However, the benefits of commercial cannabis activities occur mainly to the cannabis owner or property owner on where the commercial cannabis activity occurs. The County wants to conditionally permit commercial cannabis activities in the unincorporated area but not at the expense of the surrounding residents and communities.

Permitting of commercial cannabis activities shall be done in a manner to avoid putting the fundamental values of the County, as expressed in its General Plan, in jeopardy. These fundamental values include “sustainability”, pursuant to which the County has an expectation that its future residents will inherit communities offering them a reasonable

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range of choices (General Plan pg. V-7); “safety”, pursuant to which the County acknowledge security of person and property as one of the most basic community needs and commit to designing our communities so that vulnerability to natural and manmade hazards, as well as criminal activities, is anticipated and kept to a minimum (General Plan pg. V-6), the “natural environment”, pursuant to which the County is committed to maintaining sufficient areas of natural open space and sustaining the permanent viability of unique landforms and ecosystems (General Plan pg. V-6).

Additionally, the following General Plan Policies may be affected by the large number of conditionally permitted commercial cannabis activities:

- Land Use Element Policy LU 2.1.c. - the County shall provide a broad range of land uses, including a range of residential, commercial, business, industry, open space, recreation and public facility uses (General Plan pg. LU-19).
- Land Use Element Policy LU 5.1- the County shall ensure that development does not exceed the ability to adequately provide supporting infrastructure and services (General Plan LU-24).
- Land Use Element Policy LU 7.1 – the County require land uses to develop in accordance with the General Plan and area plans to ensure compatibility and minimize impacts (General Plan LU-26).
- Land Use Element Policy LU 8.1 - the County shall accommodate the development of a balance of land uses that maintain and enhance Riverside County’s fiscal viability, economic diversity and environmental integrity (General Plan LU-27).
- Land Use Element Policy LU 9.1 - the County shall provide for the permanent preservation of open space lands that contain important natural resources, cultural resources, hazards, water features, watercourses including arroyos and canyons, and scenic and recreational values (General Plan LU-28).
- Land Use Element Policy LU 10.1 – the County shall require that new development contribute their fair share to fund infrastructure and public facilities such as police and fire facilities (General Plan LU-30).
- Land Use Element Policy LU 14.1 - the County shall preserve and protect outstanding scenic vistas and visual features for the enjoyment of the traveling public (General Plan LU-33).

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The purposes of this Board policy are to implement these and other General Plan provisions, to ensure that the County does not disproportionately bear the burden of commercial cannabis activities throughout the County, to ensure the County receives public benefits for the commercial cannabis activities, to ensure there are adequate resources available for enforcement of permitted and unpermitted commercial cannabis activities, and to give cannabis owners and property owners certainty as to the County's requirements.

Policy:

To secure public health, safety and welfare, a commercial cannabis activity permit shall be subject to the requirements of this policy as well as the requirements of any applicable ordinance, state or federal law.

No approval required by Ordinance No. 348, or any other zoning ordinance subsequently adopted by the Board of Supervisors, shall be given for a commercial cannabis activity unless the Board of Supervisors first approves a development agreement for the commercial cannabis activity, setting forth the terms and conditions under which the commercial cannabis activity will operate in addition to the requirements of the County's zoning ordinance, all other local ordinances and regulations, state law and the development agreement is effective.

Each development agreement shall include provisions consistent with the following requirements:

Public Benefits. Cannabis owners and property owners shall pay the County a public benefit fee. The public benefit fee shall consist of two components:

1. An annual baseline public benefit fee established by the County based upon square footage and State license type to be in addition to any application and permit fees applicable to the conditional use permits, which can be used for essential services supplied by the County, including but not limited to ordinance enforcement. The baseline public benefit fees are:

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License Type	Baseline Public Benefit Fee (\$ Per Square Foot)
CULTIVATION	
Mixed-Light, 2,500 square feet (sf) or less	\$2.00
Mixed-Light, greater than 2,500 sf to 5,000 sf	\$2.50
Mixed-Light, greater than 5,000 sf to 10,000 sf	\$3.00
Mixed-Light, greater than 10,000 sf to 43,560 sf	\$3.50
Indoor, 2,500 sf or less	\$4.00
Indoor, greater than 2,500 sf to 5,000 sf	\$4.50
Indoor, greater than 5,000 sf to 10,000 sf	\$5.00
Indoor, greater than 10,000 sf to 43,560 sf	\$5.50
RETAIL	
Small, 2,500 sf or less	\$16.00
Medium, greater than 2,500 sf to 6,000 sf	\$18.00
Large, greater than 6,000 sf	\$20.00
MANUFACTURING (6,7)	
Small, 3,000 sf or less	\$4.00
Large, greater than 3,000 sf	\$4.50
MANUFACTURING (N, S, P)	
Small, 3,000 sf or less	\$3.00
Large, greater than 3,000 sf	\$3.50
OTHERS	
Nursery	\$0.50
Distribution (all sizes)	\$3.00
Testing	\$2.00

2. An additional public benefit as proposed by each Cannabis owner and property owner and to be negotiated with the County. Each development agreement shall describe the benefits that the commercial cannabis activity will provide to the local community, such as, but not limited to, quantifiable employment for residents of the County, community contributions, funding for infrastructure, funding for additional Sheriff patrols, community clean-up or beautification programs, or economic incentives to the County. Said additional public benefit shall be in addition to any mitigation or development impact fees required to be paid for the commercial cannabis activity under state law and County ordinances.

Annual Increase. The baseline public benefit fee shall be subject to annual increases by two percent from and after 2019.

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Sales and Use Taxes. In addition to any provisions of the development agreement, cannabis owners and property owners shall be responsible for timely and accurate submittal of state and local taxes, including but not limited to any sales and use taxes and excise taxes required under the MAURSA. Nothing in the development agreements or this Board policy shall relieve the cannabis owner or property owner from prompt and proper payment of state and local taxes.

Term. The development agreement and conditional use permit for any commercial cannabis activity shall have a ten (10) year term. Such term may be extended for an additional five years pursuant to the provisions of the development agreement and the conditions of approval for the conditional use permit and only in accordance with applicable County ordinance.

Implementation Plan. In addition to the provisions of this policy, there shall be a framework for an implementation process of an initial, first-year, ramp-up for processing for conditional use permits for Commercial Cannabis Cultivation and Retail Sales. The phased Implementation Process consists of an initial limit of fifty (50) conditional use permits issued for cannabis cultivation and nineteen (19) conditional use permits issued for cannabis retailers in the unincorporated areas of the County. The Implementation Process was approved by the Board of Supervisors on October 23, 2018 in Agenda Item 19.1 (Attachment F). Except for activities that include cannabis cultivation or cannabis retail sales, all other applicants considering commercial cannabis activities may submit conditional use permit applications to the Planning Department and process these for conditional use permits, concurrently with a Development Agreement once Ordinance No. 348.4898 is in effect (60 days after the Board's adoption). The Implementation Process shall be followed for the processing of land use applications for cannabis cultivation or retail sales.

Exception. A property owner or Cannabis owner may make a written request to be excepted from this policy at the time the property owner or cannabis owner files an application for a conditional use permit for a commercial cannabis activity or at any time thereafter, prior to approval of the conditional use permit. The Board of Supervisors may grant the exception request upon a finding of special circumstances. Special circumstances shall include, but not be limited to, a determination that the commercial cannabis activity has a substantial benefit to the County above and beyond the payment of required taxes or the implementation of any mitigation measures identified in any applicable environmental document. Special circumstances shall not include financial or economic hardship.

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Definitions:

As used in this policy, the following terms shall have the following meanings:

CANNABIS OWNER is any of the following:

1. A person with an aggregate ownership interest of 20 percent or more in the Commercial Cannabis Activity for which a license or permit is being sought, unless the interest is solely a security, lien, or encumbrance.
2. The chief executive officer of a nonprofit or other entity.
3. A member of the board of directors of a nonprofit.
4. An individual who will be participating in the direction, control, or management of the person applying for a Commercial Cannabis Activity Conditional Use Permit or State license.

COMMERCIAL CANNABIS ACTIVITY. The cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of Cannabis and cannabis products as provided for in Ordinance No. 348, as amended through Ordinance No. 348.4898, and any other subsequently adopted zoning ordinance amendment or subsequently adopted zoning ordinance.

PROPERTY OWNER. All owners to all or any portion of the property that is subject to the development agreement for the commercial cannabis activity. Also, any person having legal or equitable interest in such real property who is reasonably necessary to ensure the full implementation and performance of the development agreement throughout its term shall be considered a property owner for purposes of this policy and the development agreement.

Integration:

Board of Supervisors Policy No. B-9, as adopted on January 29, 2019 is approved as part of a comprehensive, integrated legislative program which also includes the adoption of Ordinance No. 348.4898. The Board of Supervisors declares that it would not have adopted Board of Supervisors Policy No. B-9 unless Ordinance No. 348.4898 was also adopted and effective. In the event that any provision of Board of Supervisors Policy No. B-9 or Ordinance No. 348.4898 is determined to be invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, then Board of Supervisors Policy No. B-9 and Ordinance No. 348.4898 shall be deemed invalid in their entirety and shall have no further force or effect.

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Reference:

- Minute Order 6.16 of 12/07/82
- Minute Order 3.19 of 09/03/85
- Minute Order 3.35 of 03/01/88
- Minute Order 3.15 of 07/25/89
- Minute Order 3.68 of 09/23/97 (Rescinded)
- Minute Order 3.52 of 01/29/19