



# City of Culver City

Mike Balkman  
Council Chambers  
9770 Culver Blvd.  
Culver City, CA 90232  
(310) 253-5851

## Staff Report

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**CC - Adoption of a Resolution (1) Increasing the Maximum Number of Delivery-only Retail, Manufacturing, Distribution, and Cultivation Commercial Cannabis Business Permits; (2) Changing the Treatment of Distribution and Delivery-only Retail Permits Issued to a Manufacturing Permit Holder; (3) Modifying the Procedures for the Application and Selection Process for Commercial Cannabis Cultivation, Manufacturing, Distribution, Delivery-only Retail, and Testing Businesses; and (4) Rescinding Resolution Nos. 2018-R015 and 2018-R058.**

**Meeting Date:** September 27, 2021

**Contact Person/Dept:** Jesse Mays / City Manager's Office

**Phone Number:** (310) 253-6000

**Fiscal Impact:** Yes ☐ No ☒

**General Fund:** Yes ☐ No ☒

**Public Hearing:** ☐ **Action Item:** ☒ **Attachments:** ☒

**Commission Action Required:** Yes ☐ No ☒ **Date:**

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (09/22/2021); GovDelivery e-mail lists: Cannabis (09/22/2021)

**Department Approval:** John Nachbar, City Manager (09/21/2021)

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### **RECOMMENDATION**

Staff recommends the City Council adopt a resolution increasing the maximum number of delivery-only retail, manufacturing, distribution, and cultivation commercial cannabis business permits; (2) changing the treatment of distribution and delivery-only retail permits issued to a manufacturing permit holder; and (3) modifying the procedures for the application and selection process for commercial cannabis cultivation, manufacturing, distribution, delivery-only retail, and testing businesses; and (4) rescinding Resolution Nos. 2018-R015 and 2018-R058..

### **BACKGROUND**

On December 11, 2017, the City of Culver City adopted an ordinance permitting commercial cannabis businesses to operate in the City with a cannabis business permit, after successfully

completing the City's application process. On February 2, 2018, the City Council adopted Resolution No. 2018-R015, which established the maximum number of permits, permitted hours of operation, and the procedures for the application and selection process for commercial cannabis cultivation, manufacturing, distribution, delivery-only retail, and testing businesses. On July 9, 2018, the City Council adopted Resolution No. 2018-R058, modifying the maximum number of commercial cannabis manufacturing, cultivation, distribution, testing, and delivery-only retail businesses operating in the City at any one time.

It should be noted, the City Council also previously adopted a separate Resolution No. 2018-R014 which established the maximum number of permits, permitted hours of operation, and the procedures for the application and selection process for commercial cannabis storefront retail businesses. Staff does not propose to modify or replace the Resolution related to storefront retail commercial cannabis permits.

The first application period for non-storefront commercial cannabis businesses (manufacturing, distribution, delivery-only retail, indoor cultivation, and testing laboratories) opened on April 9, 2018 and closed on May 9, 2018. Fifteen businesses applied for a cannabis business permit. The City issued its first commercial cannabis business permit in November 2018.

To date, the City has issued permits to five cannabis businesses:

- One delivery-only retailer;
- One distributor;
- One delivery-only retailer that is also permitted to manufacture and distribute; and
- Two distributor/delivery-only retailers.

Five additional businesses remain in the permitting process:

- Four manufacturers; and
- One distributor/delivery-only retailer.

Five applicants who originally applied in 2018 have either dropped-out or been rejected by the City from the permitting process.

As an update on the storefront retail application and permitting process, although not the subject of the proposed Resolution before the City Council, the cannabis retail storefront application process opened in July 2018. The acceptance period for applications closed on September 27, 2018. Twenty-three businesses applied for one of up to three City permits. In March 2019, the top eight applicants, as determined by a multi-disciplinary staff scoring process, were invited to be interviewed. Panel interviews were held in April 2019. The top three applicants, as determined by the staff interview panel, were notified in May 2019 that they were approved to move forward in the process. The three finalist applicants are currently in the Conditional Use Permit (CUP) application process provided for in the City's Zoning Code, administered by the Current Planning Division. The applicant who is furthest along in the process is expected to be able to begin operating in late 2021 or early 2022, conditional on future approval of its CUP by the Planning Commission and its Retail Cannabis Business Permit, which would be approved by City Council.

## DISCUSSION

### *Increasing Maximum Number of Permits*

Culver City's Commercial Cannabis Regulation and Safety Ordinance establishes that the maximum number of each type of commercial cannabis business permitted to operate in the City is established by resolution of the City Council (CCMC 11.17.105). Staff proposes increasing the maximum number of cannabis business permits issued by the City. Since the application period for the first round of applications for a Culver City cannabis business permit closed in May 2018, numerous cannabis businesses have expressed interest to the City in applying for cannabis business permits should additional permit slots become available and the application process re-open. In addition, existing permittees and applicants have expressed interest in obtaining additional permits at their current site, or potentially expanding to a second site. Additionally, the way the City has been treating delivery-only retail and distribution permits awarded to manufacturers for the purposes of the permit cap is confusing and has become a potential roadblock for business operations of some permittees and applicants.

Five existing cannabis business permittees have operated without incident since Culver City approved its first cannabis business permit in November 2018. It is anticipated that cannabis businesses will continue to generate a growing amount of cannabis tax revenue for the City.

### *Ad Hoc Cannabis Subcommittee Meeting in May 2021*

The City Council's Ad Hoc Cannabis Subcommittee (Council Members Eriksson and Vera) met with staff in May 2021. After considering this issue, the Ad Hoc Subcommittee recommended that staff proceed to City Council with a proposal to increase the maximum number of permits available for certain permit types, and to change the treatment of distribution and delivery permits awarded to manufacturers. The Subcommittee also recommended that staff bring forward a resolution to establish penalties and interest for late payment of the cannabis business tax, which is also before the City Council at the September 27, 2021 Council meeting.

### *Distribution and/or Delivery-only Retail Permits Issued to a Manufacturing Permit Holder*

Currently, distribution and/or delivery permits issued to a cannabis manufacturing permit holder (pertaining to its manufacturing business and on the same property) do *not* count towards the maximum number of distribution or delivery-only permits allowed. (The description of the individual permit types below does not distinguish between those permits issued or applied for by manufacturers versus non-manufacturers.) Staff proposes eliminating this methodology, treating all distribution and delivery permits the same, and increasing the maximum total number of permits allowed accordingly. This will simplify the City's ability to track the number of permits issued.

The current two-tiered counting methodology (i.e. delivery-only permit versus delivery-only permit pertaining to onsite manufacturing) was originally put into place to accommodate manufacturers who planned to do distribution and delivery-only retail incidental to their manufacturing onsite. However, it has become clear since this policy was put into place several years ago that part of many cannabis manufacturer's business models has become to distribute and deliver a variety of products in addition to their own products produced on site. These may be made by other manufacturers or at a different

location, similar to how some alcoholic beverage distributors distribute products by multiple manufacturers in partnership. Rather than try to monitor what types of products are being delivered and distributed, or limit the scope of these businesses' activities, staff proposes allowing manufacturers to use the distribution and or delivery permits with the same flexibility as any other distributor or delivery-only retailer. This would require the City to increase the maximum number of delivery-only and distribution permits.

### *Proposed Changes to Number of Permits*

#### Delivery-only Retail

Staff proposes increasing the maximum number of delivery-only retail permits from five (5) to fifteen (15). The City has issued four (4) delivery-only retail permits. Four (4) applicants are currently in the process of completing permitting for a delivery-only retail permit. One (1) current applicant and one (1) current distribution permittee have expressed interest in applying for a delivery-only retail permit should the number of permits increase. So, to accommodate current applicants and permittees, there is a need for ten (10) delivery-only retail permits. Staff proposes to add an additional five (5) permit slots to accommodate potential new applicants over time. This equates to a new maximum of fifteen (15) delivery-only retail permits.

#### Manufacturing

Staff proposes increasing the maximum number of manufacturing permits from seven (7) to ten (10). The City has issued one (1) manufacturing permit. Four (4) applicants are currently in the process of completing permitting for a manufacturing permit. Two (2) permit slots remain unfilled. Staff proposes to add an additional three (3) additional permit slots. This would accommodate a maximum of five (5) potential new applicants over time. This equates to a new maximum of ten (10) manufacturing permits.

#### Distribution

Staff proposes increasing the maximum number of distribution permits from seven (7) to fifteen (15). The City has issued four (4) distribution permits. Five (5) applicants are currently in the process of completing permitting for a distribution permit. Staff proposes to add two (2) permit slots to accommodate all of the current permittees and applicants, (1) additional permit slot to potentially accommodate an existing permittee that may be interested in obtaining a distribution permit should one become available, and five (5) additional permit slots to accommodate potential new applicants over time. This equates to a maximum of fifteen (15) distribution permits.

#### Cultivation (Indoors)

Staff proposes increasing the maximum number of indoor cultivation permits from one (1) to two (2). There were no applicants for the current one (1) permit during the initial application period. However, since that time, there have been some inquiries by potential applicants, including one current permittee. This would be able to accommodate the one current permittee and one potential new permittee.

#### Testing Laboratory

Staff does not propose increasing the maximum number of testing laboratory permits from four (4),

as there were no applicants for a testing laboratory permit during the initial application period.

#### *Additional Application Processing Rules for New and Existing Applicants*

Staff also proposes the City Council adopt via the proposed Resolution new rules related to application processing for new and existing applicants. The proposed rules establish that applications will be accepted on a rolling basis. Furthermore, the rules establish when the queue for applications for a particular permit type will be closed, to prevent acceptance of more applications than allowed for by the maximum number of permits. The rules establish a one-year deadline for new and existing applicants to complete their application to ensure applicants move through the process expeditiously and do not unnecessarily block a permit slot. Finally, the rules make some minor modifications to the application processing procedures to make them more efficient.

#### *Storefront Retail*

Staff does not propose increasing the maximum number of storefront retail permits from three (3). The three top-scoring applicants remain in the process of obtaining up to three storefront retail permits. In accordance with Culver City Municipal Code Section 11.17.025, storefront retail permit holders may also do home delivery, without an additional delivery-only retail permit. The maximum number of permits allowed and the application and selection process for commercial cannabis storefront retail businesses will continue to be governed by Resolution No. 2018-R014.

#### *Rescinding Resolutions 2018-015 and 2018-058*

The Proposed Resolution modifies and replaces the previously adopted Resolutions 2018-015 and 2018-058, discussed above. Thus, rescission of these two resolutions is included in the Proposed Resolution.

### **FISCAL ANALYSIS**

Adoption of the proposed Resolution may result in additional general fund revenue via the cannabis business tax revenue resulting from allowing additional cannabis business permits. The amount of revenue depends on the gross receipts of the cannabis businesses.

### **ATTACHMENTS**

1. 2021-09-27 ATT Summary of Proposed Increase in the Maximum Number of Permits
2. 2021-09-27 ATT Proposed Resolution
3. 2021-09-27 ATT Resolution 2018-R015
4. 2021-09-27 ATT Resolution 2018-R058

**MOTION**

That the City Council:

Adopt a resolution:

- 1) Increasing the maximum number of delivery-only retail, manufacturing, distribution, and cultivation commercial cannabis business permits;
- 2) Changing the treatment of distribution and delivery-only retail permits issued to a manufacturing permit holder previously established by Resolution 2018-R058;
- 3) Modifying the procedures for the application and selection process for commercial cannabis cultivation, manufacturing, distribution, delivery-only retail, and testing businesses previously established by Resolution 2018-R015; and
- 4) Rescinding Resolutions 2018-R015 and 2018-R058.