



# City of Huntington Beach

**File #:** 22-876

**MEETING DATE:** 11/1/2022

## REQUEST FOR CITY COUNCIL ACTION

**SUBMITTED TO:** Honorable Mayor and City Council Members

**SUBMITTED BY:** Al Zelinka, City Manager

**VIA:** Ursula Luna-Reynosa, Director of Community Development

**PREPARED BY:** Hayden Beckman, Senior Planner

**Subject:**

**Direct staff to draft a Zoning Text Amendment (ZTA) to delete the cannabis prohibition and to allow cannabis activities consistent with the Council's Ad Hoc Committee's recommendations**

**Statement of Issue:**

On July 5, 2022, the City Council voted to place City-sponsored Measure O on the November 8, 2022 General Municipal Election ballot for voter approval. If passed by a simple majority of voters, Measure O would enable the City Council to impose a tax of up to 6% of gross receipts for retail cannabis businesses and up to 1% of gross receipts for other cannabis businesses (i.e., testing labs or distribution), if such uses are permitted in Huntington Beach.

Since December 2021, City Council established a three-member ad-hoc subcommittee consisting of Councilmembers Bolton, Kalmick, and Peterson who have been working to develop a policy framework for a future cannabis program that would be tailored to the needs and interests of the Huntington Beach community. On July 5, 2022, ad-hoc subcommittee recommendations were presented to the entire City Council for discussion. Council directed the issue back to the ad-hoc subcommittee to incorporate their feedback and solicit additional community input. This agenda item includes an update regarding Council feedback and input from City Council and the community.

**Financial Impact:**

Not Applicable.

**Recommended Action:**

Direct the City Manager to draft a Zoning Text Amendment (ZTA) to the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to delete the existing cannabis prohibition and add necessary language to allow cannabis activities consistent with the Council's Ad Hoc Committee's recommendations.

**Alternative Action(s):**

The City Council may choose the following alternative action:

1) Do not direct the City Manager to prepare and return to the City Council for adoption an ordinance amending the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to delete the existing cannabis prohibition and add necessary language to allow cannabis activities consistent with the Council's Ad Hoc Committee's recommendations.

### **Analysis:**

Since the July 5, 2022 City Council meeting, staff consulted with HDL Companies (the "Consultant"), a firm that has significant experience advising cities on municipal finance matters and cannabis regulations. The Consultant advised a bifurcation of the land use policies (uses and locations) and the operator permit/ selection regulations. Up until this point, staff and the ad-hoc subcommittee had been discussing the land use policies and operator permit/ selection regulations under one legislative framework. The ad-hoc committee and staff are in agreement with the Consultant's recommendation of a bifurcated process that includes amending the HBZSO to allow cannabis uses and locational regulations and separate operator permit regulations to be considered via resolution after soliciting additional public input.

### ***Community Outreach***

At City's Council's direction to gather additional public input, the City hosted another cannabis workshop on Saturday, October 15, 2022 from 10:00 a.m. until 2:00 p.m. at the Central Library. Staff organized a Cannabis Conversation Open House style workshop designed to solicit input from the community and interested parties. Stations were set up to provide information and solicit input on Measure O, operational hours, and buffer restrictions. A general station included a sign in sheet, Frequently Asked Questions (FAQ) handout, and comment card box where attendees were able to submit comment cards. In addition, a timeline exhibit illustrated progress to date and proposed next steps under a bifurcated process.

Forty individuals attend the workshop, based on sign-in data. The majority of attendees represent the cannabis industry. Below is a summary of findings and suggestions:

- **Measure O: Taxation of Cannabis Businesses**
  - Majority respondents support a lower tax rate for retail businesses, between 1-2% to promote business growth and higher wages
  - Minority respondents supported a 6% tax rate to cover potential costs of police or code enforcement activity associated with cannabis activities
  - Two respondents support no local taxes on any cannabis business
  - One respondent does not support cannabis businesses in any form
- **Operational Hours for Cannabis Retailers**
  - Majority respondents supported the State's current regulated hours of operation for cannabis businesses, 6 AM - 10 PM daily.
  - Several comments received support no limit to hours of operation, allowing businesses

- flexibility to respond to needs of local market
  - Minority respondents supported 8 AM - 8 PM, or some similar time table.
- Buffer Restrictions
  - Responses were split
    - Approximately half of respondents support the State's current minimum buffer requirement: 600 ft. from schools and sensitive uses
    - Other half of respondents support the Ad-Hoc Committee's recommendation of revised buffer requirement: 1000 ft. from schools (K-12), 600 ft. from all other sensitive uses
  - Several suggestions for alternative buffer requirements
    - 1000 ft. from all (schools and sensitive uses)
    - 1 mile from all (schools and sensitive uses)

### *Land Use Policies*

The feedback received at the workshop is congruent with input received from the Council at the July 5, 2022 meeting and the latest discussions with the ad-hoc committee. As such, the following features are recommended by the ad-hoc committee and staff for inclusion in proposed cannabis land use policies:

1. Delete the existing cannabis prohibitions in the Huntington Beach Zoning and Subdivision Ordinance (HBZSO):
  - a. Chapter 204.18 Prohibited Uses - Medical Marijuana Businesses;
  - b. Chapter 204.20 Prohibited Uses - Commercial Non-Medical Marijuana Businesses and Deliveries; and
  - c. Chapter 204.22 Non-Medical Marijuana Cultivation
2. Allow cannabis activities consistent with the following land use and buffer restrictions:
  - a. Retailers
    - i. Allowed in the Commercial, Specific Plan Areas and Industrial Zone with buffer restrictions
      1. Buffer Distance: 1,000 ft. from all schools (K-12), parks, licensed commercial day care centers, and youth centers.
        - a. No buffer requirement between shops
      2. Buffer Measurement: Buffers are measured from occupied premises of businesses to the property line of sensitive receptors mentioned above.
    - ii. Exclude Downtown (SP5) and the Sunset Beach Specific Plan (SP17) areas
    - iii. Exclude Coastal Overlay Zone
    - iv. Delivery-only retailers can locate only in the Industrial Zone

- v. Permitted in multi-storefront buildings

b. Non-Retailers

- i. Allowed in the Industrial Zone only
1. Exclude Specific Plan industrial properties
- ii. Buffer restrictions will be same as Retailers above.

*Buffer Maps*

To assist the public and decision makers in deliberating on the proposed cannabis regulations, staff has created a citywide land use map that identifies both retail and non-retail cannabis candidate sites that would, if current proposed regulations are adopted, be sites for future cannabis uses (Attachment No. 1). Note that this map is conceptual and is only intended to assist policy development. Future changes in the draft regulations may alter the information presented.

*Next Steps*

Should the City Council direct staff to initiate a ZTA to amend the HBZSO to allow cannabis related uses, as proposed above, staff anticipates bringing such ZTA to the Planning Commission at their November 22, 2022 meeting and to the City Council at their December 20, 2022 meeting for introduction. Should the City Council approve the proposed ZTA, staff would commence community outreach efforts early in 2023 regarding the operator permit/ selection process. Staff anticipates at least two public workshops, meetings with the ad-hoc committee, and at least one check in with the entire City Council. Finally, staff would draft the operator permit regulations to be considered by the City Council via resolution. Zoning regulations would not be in effect until business regulations in Chapter 5 Business Licenses and Regulations of the Huntington Beach Municipal Code are adopted by the City Council. Staff anticipates that such consideration would occur in Spring 2023.

Concurrently with developing the operator permit regulations, staff will research and develop proposed cannabis signage regulations. Staff will bring such proposed regulations to the ad-hoc committee and entire City Council at the same time that operator permit regulations are discussed. As such, staff anticipates that such regulations would be considered by the City Council in Spring of 2023 concurrent with the operator permit regulations. Action by the City Council on this item will not make any cannabis activities legal at this time.

**Environmental Status:**

Development of an ordinance pertaining to the establishment of land use controls for future cannabis businesses is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15306 in that Council direction to staff to prepare a future ordinance for consideration is research and information gathering that would not result in a serious or major disturbance to an environmental resource.

**Strategic Plan Goal:**

Economic Development & Housing

**Attachment(s):**

1. Draft Cannabis Candidate Sites Map October 2022
2. Presentation