



*The following information comprises the minutes for a regular meeting of the City Council, a joint meeting of the Banning City Council and Banning Utility Authority and a joint meeting of the Banning City Council and the Banning City Council sitting in its capacity as the Successor Agency Board.*

**MINUTES  
CITY COUNCIL**

**2/22/2022**

**REGULAR MEETING**

**COUNCIL MEMBERS PRESENT:**

Council Member Mary Hamlin  
Council Member David Happe  
Council Member Alberto Sanchez  
Mayor Pro Tem Colleen Wallace  
Mayor Kyle Pingree

**COUNCIL MEMBERS ABSENT:** None

**OTHERS PRESENT:**

Doug Schulze, City Manager  
Serita Young, Assistant City Attorney\*  
Caroline Patton, Deputy City Clerk  
Art Vela, Public Works Director\*  
Adam Rush, Community Development Director  
Thomas Miller, Electric Utility Director  
Suzanne Cook, Finance Director\*  
Ralph Wright, Parks and Recreation Director\*  
Matthew Hamner, Police Chief\*  
James Wurtz, Economic Development Manager\*  
Nicole Jews, Purchasing Manager\*  
Laurie Sampson, Executive Assistant

\*Participated via Zoom.

**1. CALL TO ORDER**

Mayor Pingree called the regular meeting to order at 5:04 p.m.

- 1.1. Invocation – Chief Hamner gave the invocation.
- 1.2. Pledge of Allegiance – Mayor Pingree led the Pledge of Allegiance.
- 1.3. Roll Call

| COUNCIL MEMBER   | PRESENT | ABSENT |
|------------------|---------|--------|
| Hamlin, Mary     | ×       |        |
| Happe, David     | ×       |        |
| Pingree, Kyle    | ×       |        |
| Sanchez, Alberto | ×       |        |
| Wallace, Colleen | ×       |        |

## **2. AGENDA APPROVAL**

### 2.1. Approve Agenda

#### **Motion to approve the agenda.**

Motion by Council Member Happe  
Seconded by Council Member Sanchez

| COUNCIL MEMBER   | YES | NO | ABSTAIN | RECUSE | ABSENT |
|------------------|-----|----|---------|--------|--------|
| Hamlin, Mary     | ✗   |    |         |        |        |
| Happe, David     | ✗   |    |         |        |        |
| Pingree, Kyle    | ✗   |    |         |        |        |
| Sanchez, Alberto | ✗   |    |         |        |        |
| Wallace, Colleen | ✗   |    |         |        |        |

Motion approved by a vote of 5-0.

## **3. PRESENTATION(S)**

None

## **4. REPORT ON CLOSED SESSION**

Assistant City Attorney Young reported on the closed session that began at 4:46 p.m. On agenda item 3.1 there was no final or reportable action.

## **5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, CITY COUNCIL COMMITTEE REPORTS, CITY MANAGER REPORT, AND CITY ATTORNEY REPORT**

### 5.1. PUBLIC COMMENTS

**Harry Sullivan** provided the Council with a report from the Federal Aviation Administration (FAA).

**Diego Rose** said he was ashamed of Council for removing Marco Santana from the City's Planning Commission.

### 5.2. CORRESPONDENCE

None

### 5.3. APPOINTMENTS

None

### 5.4. CITY COUNCIL COMMITTEE REPORTS

Council Member Hamlin reported on a Riverside County Transportation Commission (RCTC) meeting where they discussed beginning to plan an I-10 bypass.

Mayor Pro Tem Wallace reported on Southern California Association of Governments (SCAG) meeting where the future LA to Coachella Valley rail line was considered.

Mayor Pingree reported on two ribbon-cuttings, at CryoDen and Jitterz Coffee.

**5.5. CITY MANAGER REPORT**

City Manager Schulze reported that he had been contacted by a real estate agent for the property owners at 450 E Williams Street, one of the parcels occupied by the homeless encampment behind the Riverside County Courthouse. He said the city will be removing the occupants pursuant to trespass authority granted by the owners and work on relocating them before cleaning up the property.

**5.6. CITY ATTORNEY REPORT**

None

**6. CONSENT ITEMS**

- 6.1. Approval of Minutes of the February 8, 2022 City Council Meetings
- 6.2. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of January 2022
- 6.3. Receive and File Cash, Investments and Reserve Report for the Month of January 2022
- 6.4. Receive and File Fire Department Statistics for the Month of December 2021 and 2021 Report
- 6.5. Receive and File Fire Department Statistics for the Month of January 2022
- 6.6. Receive and File Police Department Statistics for the Month of January 2022
- 6.7. Public Works Capital Improvement Project Tracking List
- 6.8. Bulky Item Collection Event Update
- 6.9. Consideration of Resolution 2022-16 Accepting the 2022 Supplemental Law Enforcement Services Allocation (SLESA) in the amount of \$100,000
- 6.10. Resolution 2022-15, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2022/2023
- 6.11. City Council Authorization to Purchase Tax Defaulted Properties from the County of Riverside Treasurer – Tax Collector, and adoption of Resolution 2022-18 to Confirm and Authorize the Purchase of those Properties

**Public Comments**

**Frank Connolly** asked the location of parcels included in agenda item 6.11.

**Motion to approve the consent agenda items 6.1 to 6.6 and 6.8 to 6.11.**

Motion by Council Member Happe  
Seconded by Council Member Sanchez

| COUNCIL MEMBER   | YES | NO | ABSTAIN | RECUSE | ABSENT |
|------------------|-----|----|---------|--------|--------|
| Hamlin, Mary     | X   |    |         |        |        |
| Happe, David     | X   |    |         |        |        |
| Pingree, Kyle    | X   |    |         |        |        |
| Sanchez, Alberto | X   |    |         |        |        |
| Wallace, Colleen | X   |    |         |        |        |

Motion approved by a vote of 5-0.

#### 6.7. Public Works Capital Improvement Project Tracking List

Mayor Pro Tem Wallace asked the scope of planned Hargrave Street improvements.

##### Public Comment

None

##### **Motion to approve consent agenda item 6.7.**

Motion by Mayor Pro Tem Wallace  
Seconded by Council Member Happe

| COUNCIL MEMBER   | YES | NO | ABSTAIN | RECUSE | ABSENT |
|------------------|-----|----|---------|--------|--------|
| Hamlin, Mary     | X   |    |         |        |        |
| Happe, David     | X   |    |         |        |        |
| Pingree, Kyle    | X   |    |         |        |        |
| Sanchez, Alberto | X   |    |         |        |        |
| Wallace, Colleen | X   |    |         |        |        |

Motion approved by a vote of 5-0.

#### 7. **PUBLIC HEARING(S):**

*Agenda Item 7.1, the Fourth Public Hearing on Decennial Redistricting, was held following agenda item 8.2 in accordance with Government Code §21507.1 (d).*

#### 8. **REPORT OF OFFICERS**

##### 8.1. Resolution 2022-17, Establishing the Banning Beautification Award Program

City Manager Schulze presented the staff report.

##### Public Comments

**Frank Connolly** said that the local business community was still hurting from COVID-19 and suggested Council allocate some of the American Rescue Plan Act (ARPA) funds back to businesses.

**Motion to amend Resolution 2022-17 to include award money to businesses recognized under the program.**

Motion by Council Member Happe  
Seconded by Mayor Pro Tem Wallace

| COUNCIL MEMBER   | YES | NO | ABSTAIN | RECUSE | ABSENT |
|------------------|-----|----|---------|--------|--------|
| Hamlin, Mary     | ✗   |    |         |        |        |
| Happe, David     | ✗   |    |         |        |        |
| Pingree, Kyle    | ✗   |    |         |        |        |
| Sanchez, Alberto | ✗   |    |         |        |        |
| Wallace, Colleen | ✗   |    |         |        |        |

Motion approved by a vote of 5-0.

**Motion to approve Resolution 2022-17 as amended.**

Motion by Mayor Pro Tem Wallace  
Seconded by Mayor Pingree

| COUNCIL MEMBER   | YES | NO | ABSTAIN | RECUSE | ABSENT |
|------------------|-----|----|---------|--------|--------|
| Hamlin, Mary     | ✗   |    |         |        |        |
| Happe, David     | ✗   |    |         |        |        |
| Pingree, Kyle    | ✗   |    |         |        |        |
| Sanchez, Alberto | ✗   |    |         |        |        |
| Wallace, Colleen | ✗   |    |         |        |        |

Motion approved by a vote of 5-0.

8.2. Discuss Ordinance 1580 Approving Zone Text Amendment 21-97503, amending Chapters 5.33, 17.12, and 17.54 of the Banning Municipal Code, Eliminating the numeric cap on the number of cannabis retailers permitted in the City, allowing for the operation of cannabis retailers in the General Commercial Zone, allowing cannabis distribution and manufacturing in the Business Park Zone, making additional conforming amendments to regulations pertaining to cannabis retailers, and making a determination that the Zone Text Amendment is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061 (b)(3)

Community Development Director Adam Rush presented the staff report.

Public Comments

**Umberto Bagnara** said he had opened three successful cannabis businesses since Banning allowed cannabis and he would like to open one in the city. He said the city should ensure those who are chosen for retail cannabis permits have secure financials.

**Laura Leindecker** said she did not want dispensaries in Banning but supported microbusiness and cultivation facilities. She said she is working on the third retail dispensary in Banning and plans to request an extension to the current building permit, which expires on March 5th.

**Jeff Mao** spoke on behalf of **Harvest Corner**, a retail cannabis facility in Banning. He said the market is not free and open because of all the restrictions on cannabis businesses and they have not made a profit since opening over a year ago. He said that lifting the cap on retail dispensaries now would undermine the current retail cannabis facilities and not bring additional tax revenue to the city.

**Chasom Brown** spoke on behalf of **Culture Cannabis Club**, a retail cannabis facility in Banning. He agreed with the points made by the previous dispensary owner and said they are the City Council's best resource for information regarding costs and taxes in the retail cannabis industry. For additional tax revenues, he suggested the city attract more cultivation facilities.

**Motion to create an Ad Hoc Committee on Retail Cannabis and appoint Council Members Happe and Sanchez to said committee.**

Motion by Council Member Happe  
Seconded by Council Member Hamlin

| COUNCIL MEMBER   | YES | NO | ABSTAIN | RECUSE | ABSENT |
|------------------|-----|----|---------|--------|--------|
| Hamlin, Mary     | ✗   |    |         |        |        |
| Happe, David     | ✗   |    |         |        |        |
| Pingree, Kyle    | ✗   |    |         |        |        |
| Sanchez, Alberto | ✗   |    |         |        |        |
| Wallace, Colleen |     | ✗  |         |        |        |

Motion approved by a vote of 4-1.

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**Agenda Item 7.1, the Fourth Public Hearing on Decennial Redistricting, began at 6:51 p.m. in accordance with Government Code §21507.1 (d).**

- 7.1. Fourth Public Hearing to Receive Public Comments on City Council Redistricting Process and Proposed City Council's Preferred New Council District Boundary Map

Executive Assistant Laurie Sampson presented the staff report.

Public Comments

**Marco Santana** spoke on behalf of the group **A Better Banning**. He said the group had met with other area community groups to develop an alternative draft map. He said he hopes the city will consider the group's map.

**Jacob Potter** said he was a supporter of **A Better Banning** and asked that the city extend the redistricting deadlines to accommodate their new map. He also requested an advisory board be created on the subject.

**Shane Arch** asked the City Council to extend the deadline to consider the newly submitted map. He noted community resources were not evenly distributed across districts.

**Joaquin Castillejos** said he was a community organizer with CCAJ advocating on behalf of **A Better Banning**. He asked that the city extend the redistricting deadlines to accommodate their new map.

**Maribel Nunez** said she was from **The Brown and Black Redistricting Alliance**, working in concert with **A Better Banning**. She said the new map helped to create majority minority districts and reviewed city demographics.

**Chris Castorena** spoke on behalf of the group **A Better Banning**. He asked that the City Council extend the redistricting process to allow them to consider their group's new map. Further, he requested that the City Council form an advisory board to be created.

**Motion to direct staff to prepare an ordinance to amend Title 2, Section 2.04.035, Election of members of the city council and mayor, and present at a Public Hearing on March 8, 2022.**

Motion by Mayor Pro Tem Wallace  
Seconded by Mayor Pingree

| COUNCIL MEMBER   | YES | NO | ABSTAIN | RECUSE | ABSENT |
|------------------|-----|----|---------|--------|--------|
| Hamlin, Mary     | X   |    |         |        |        |
| Happe, David     | X   |    |         |        |        |
| Pingree, Kyle    | X   |    |         |        |        |
| Sanchez, Alberto | X   |    |         |        |        |
| Wallace, Colleen | X   |    |         |        |        |

Motion approved by a vote of 5-0.

8.3. Overview and Potential Uses of Funds of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA)

City Manager Schulze presented the staff report.

*Mayor Pingree called a recess at 8:23 p.m. The meeting was reconvened at 8:29 p.m.*

**Public Comments**

**Frank Connolly** encouraged the Council to allocate more to local businesses that were hurt by COVID-19 and said that improving the city's accounting system would improve all other services.

**Diego Rose** commented on federal policies and suggested Council tell the federal government they don't want the money.

**Juanita Diaz** said that if city employees got money from the ARPA funding, then small business in the community should as well.

Council provided direction to bring back a plan for a small business grant program to disburse funds. They voiced support for a program up to \$300,000, with a cap of \$10,000 per business.

**9. DISCUSSION ITEMS**

None

**10. ITEMS FOR FUTURE AGENDAS**

10.1. New Items:

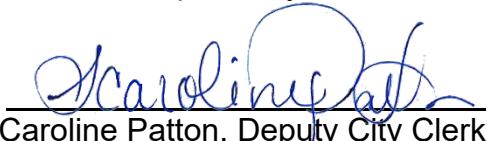
10.2. Pending Items:

1. Permanent Homeless Solution
2. Shopping Cart Ordinance Update
3. Golf Cart/EV Ordinance (On hold)
4. Airport Advisory Commission
5. Business-Friendly Zoning (Wallace)

**11. ADJOURNMENT**

Mayor Pingree adjourned the meeting at 9:06 p.m.

Minutes Prepared by:



Caroline Patton, Deputy City Clerk

This entire meeting may be viewed here:

<https://banninglive.viebit.com/index.php?folder=City+Council+Meetings>

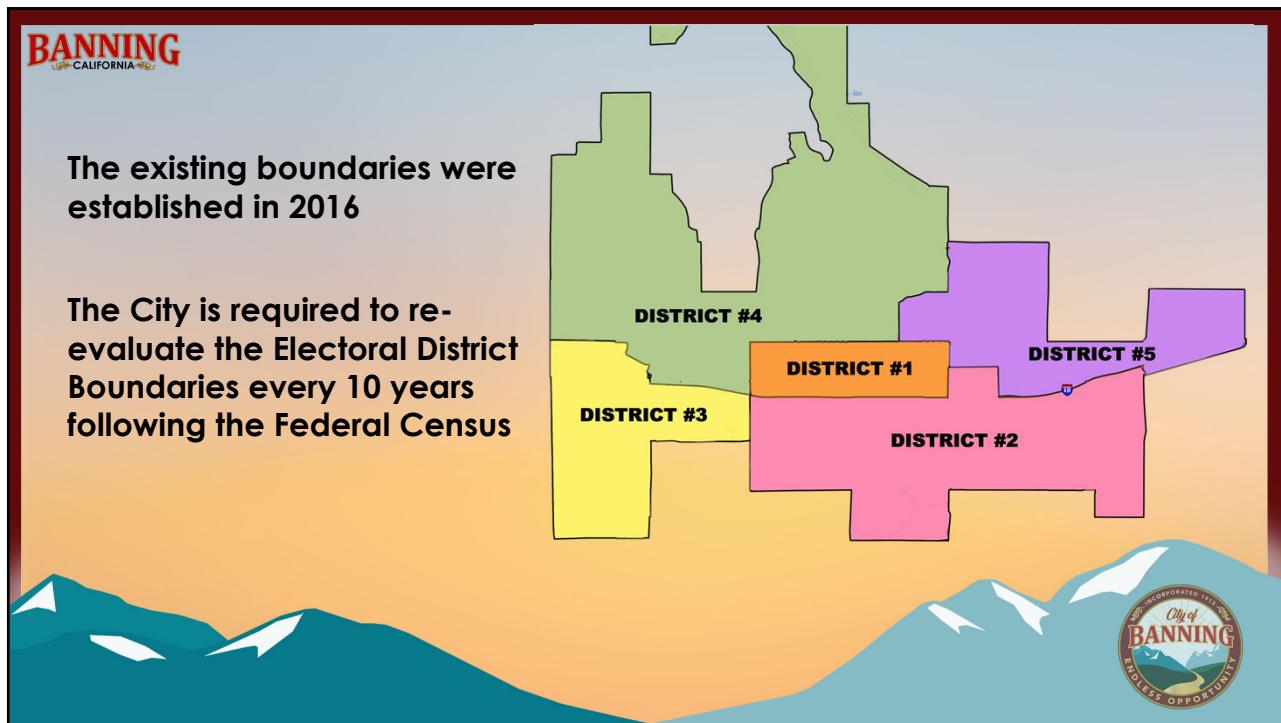
All documents related to this meeting are available here:

<http://banning.ca.us/Archive.aspx?ADID=2600>

**Exhibit A - Agenda Item 7.1**

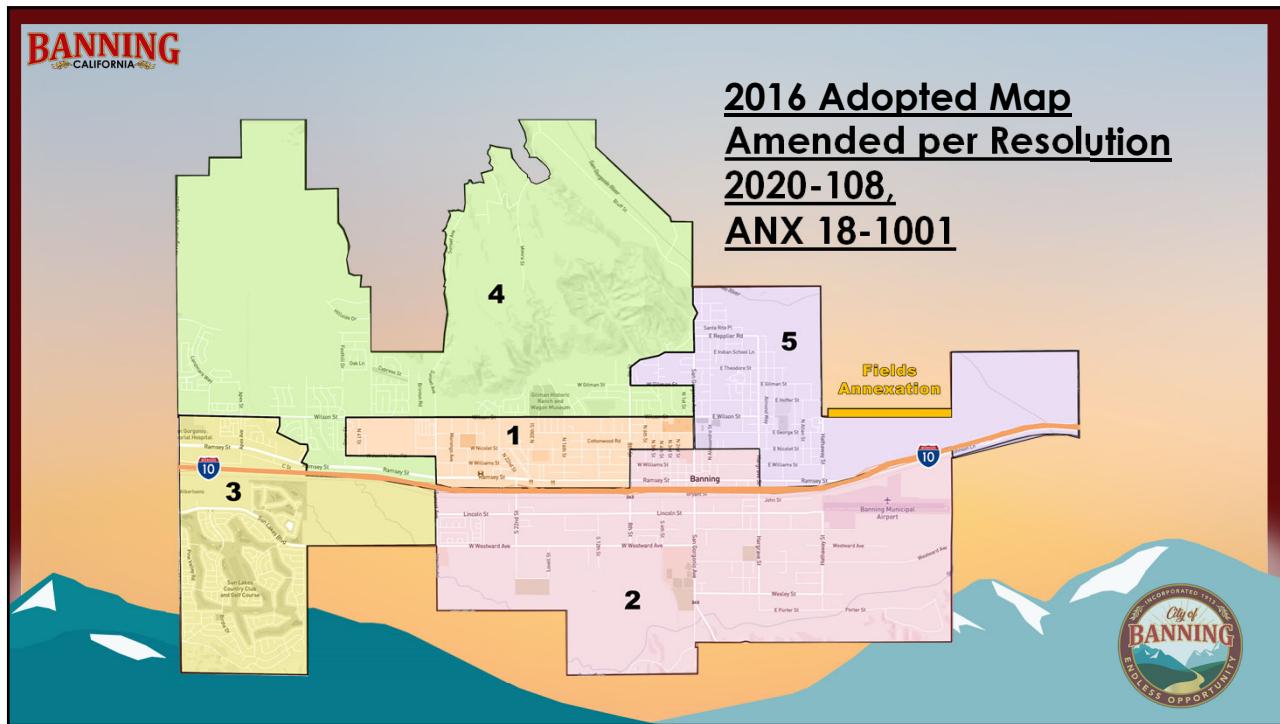


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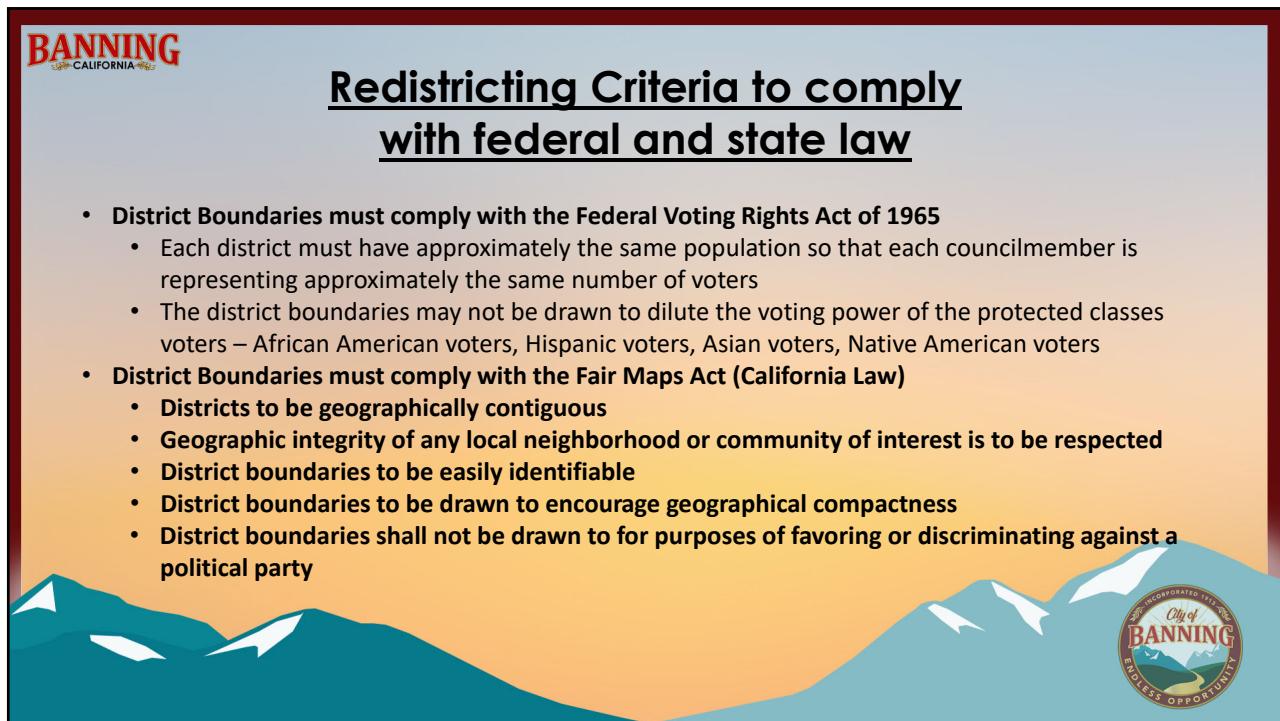


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## Exhibit A - Agenda Item 7.1

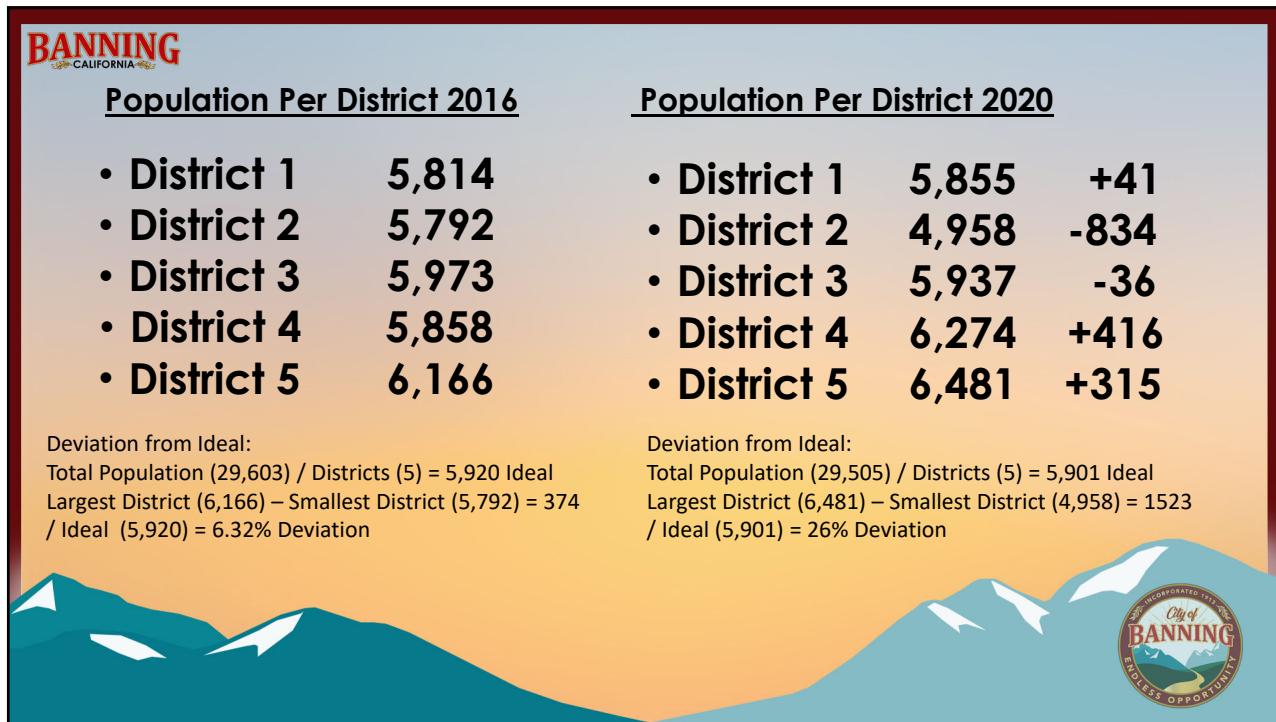


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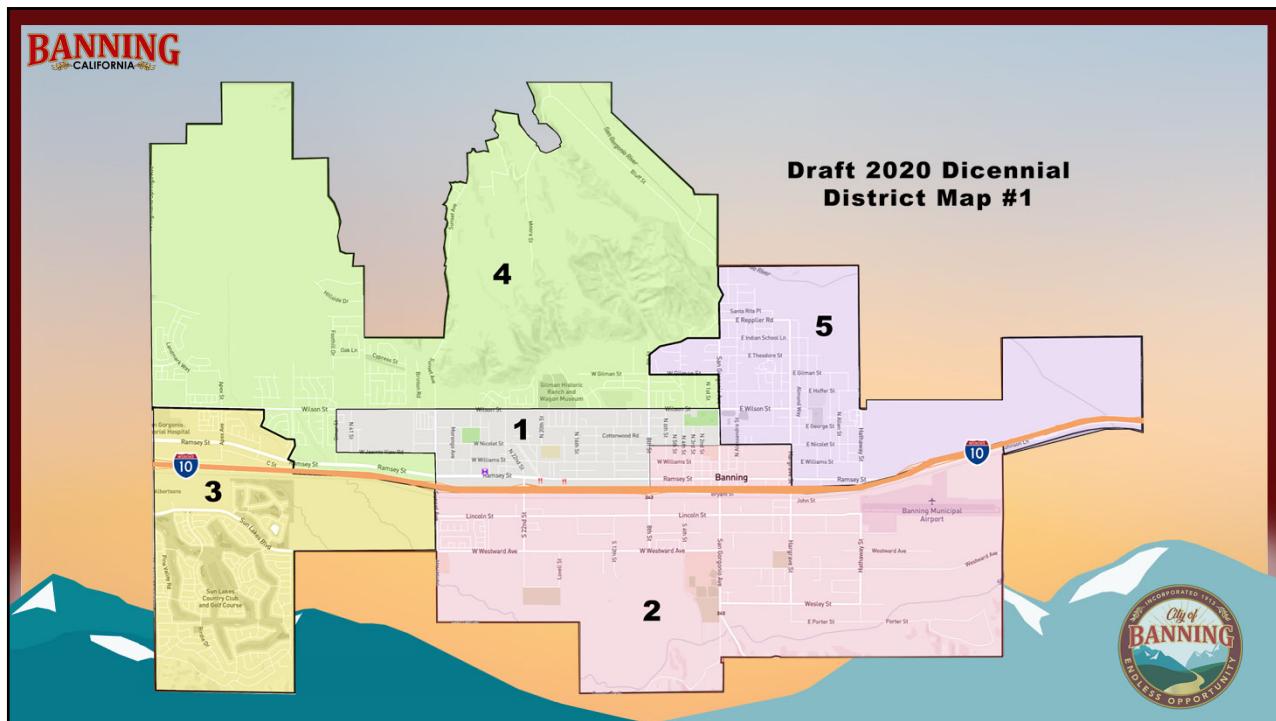


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## Exhibit A - Agenda Item 7.1

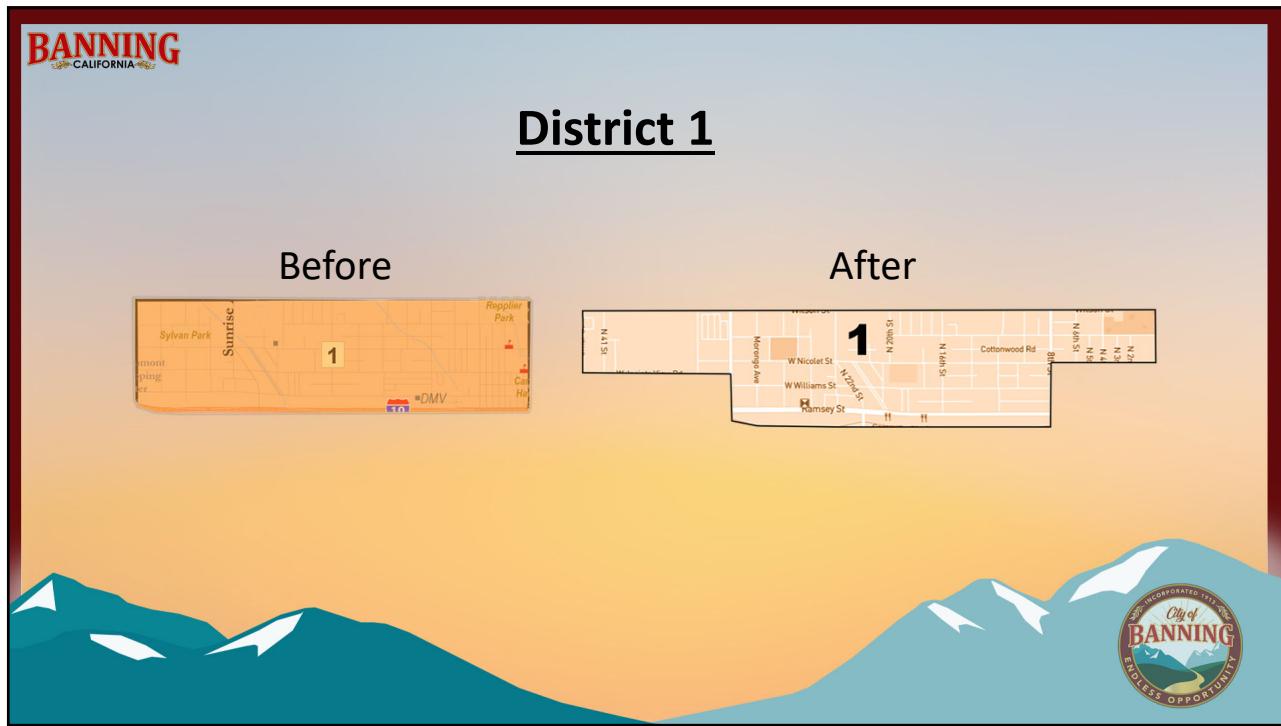


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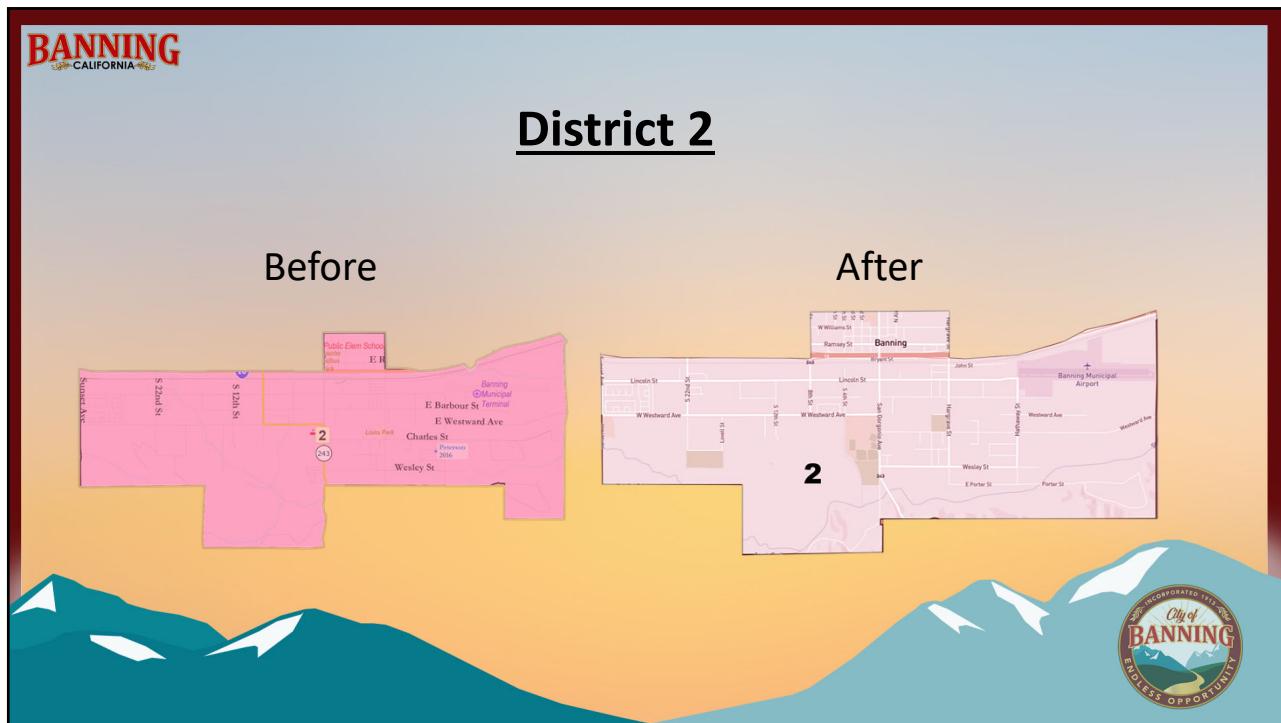


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## Exhibit A - Agenda Item 7.1

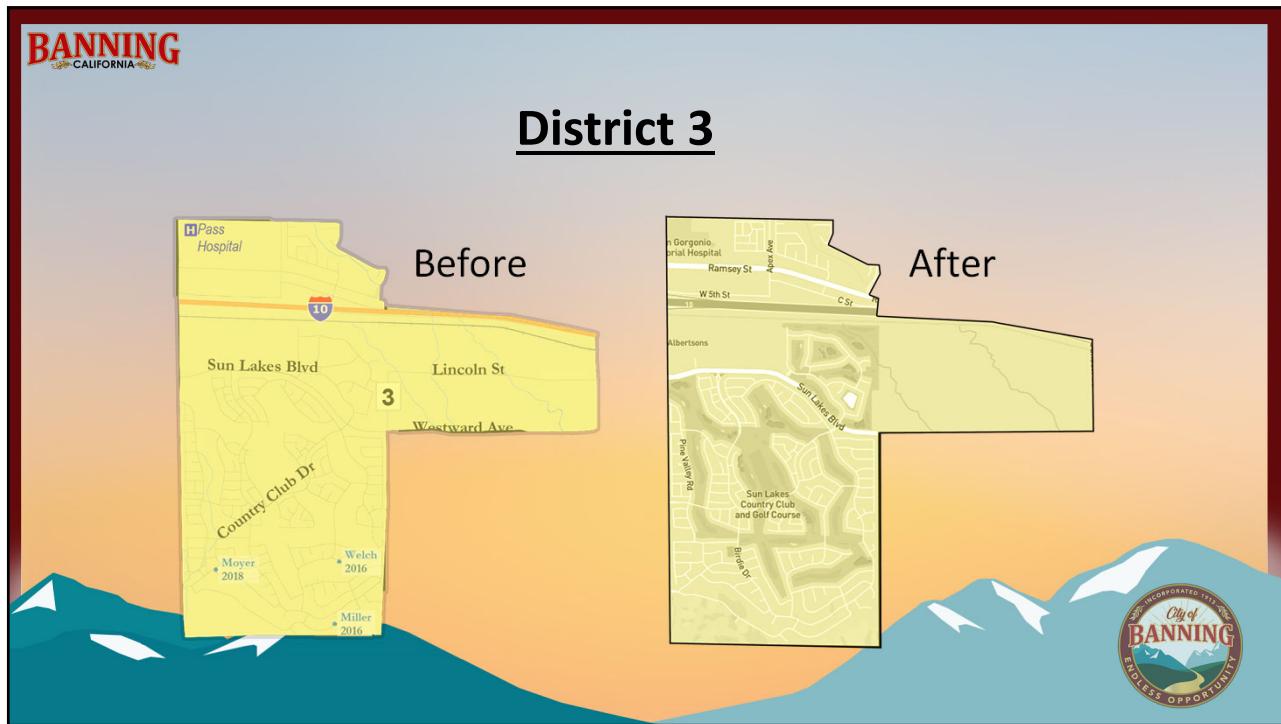


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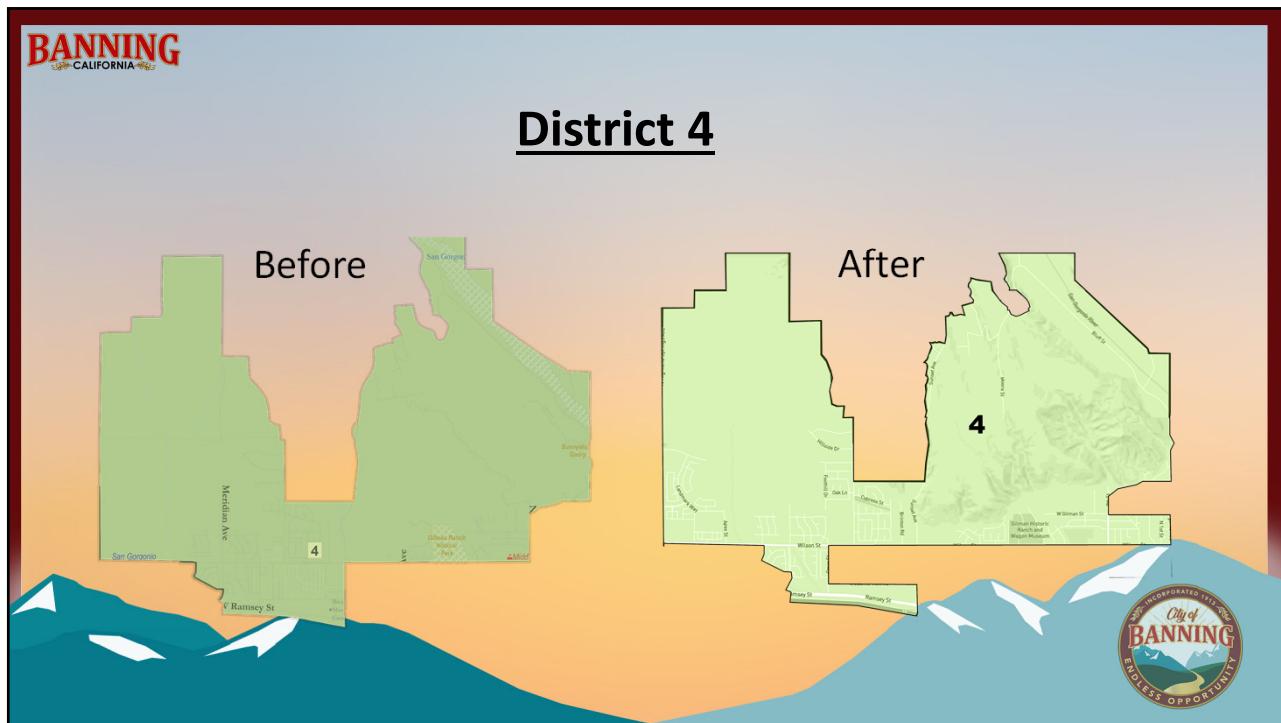


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## **Exhibit A - Agenda Item 7.1**

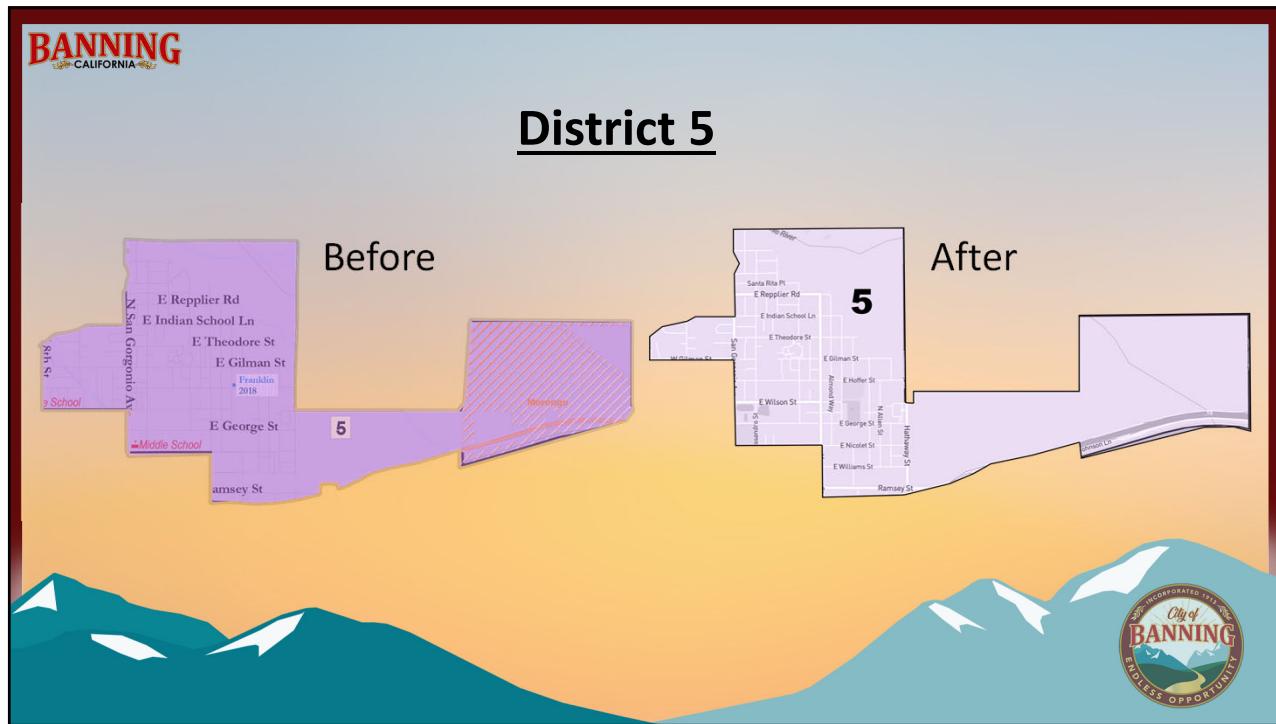


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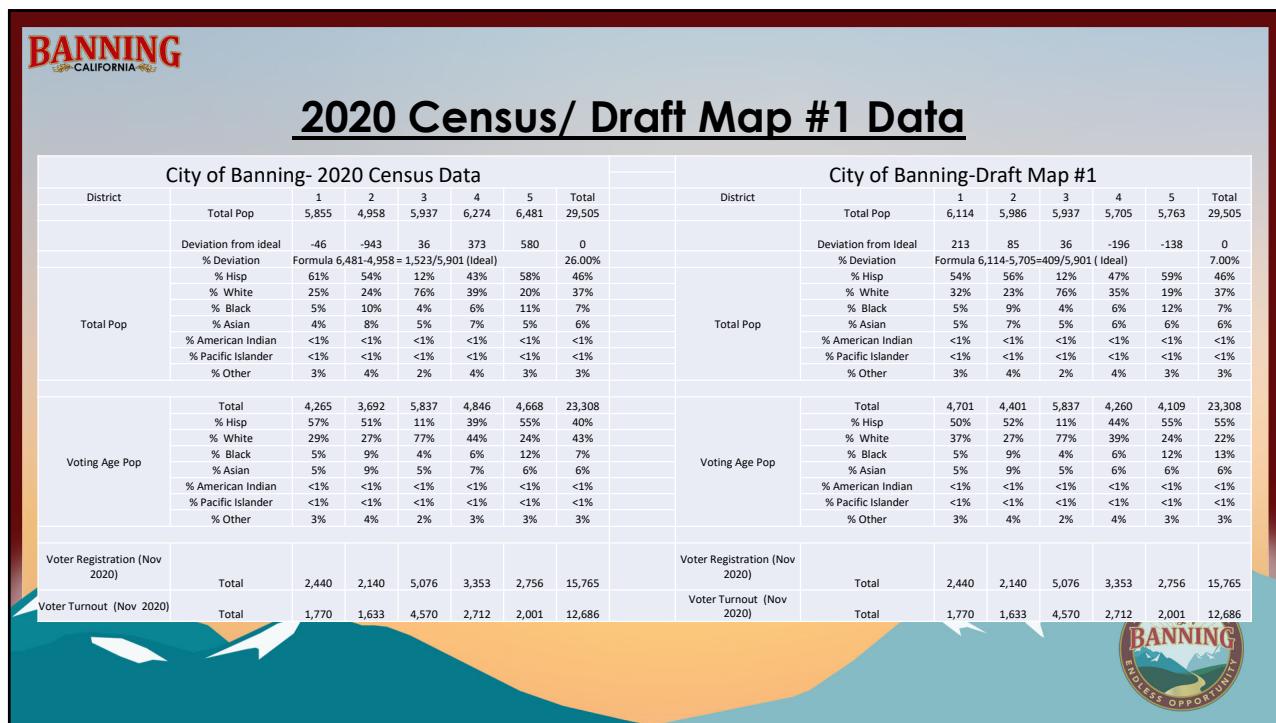


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## Exhibit A - Agenda Item 7.1

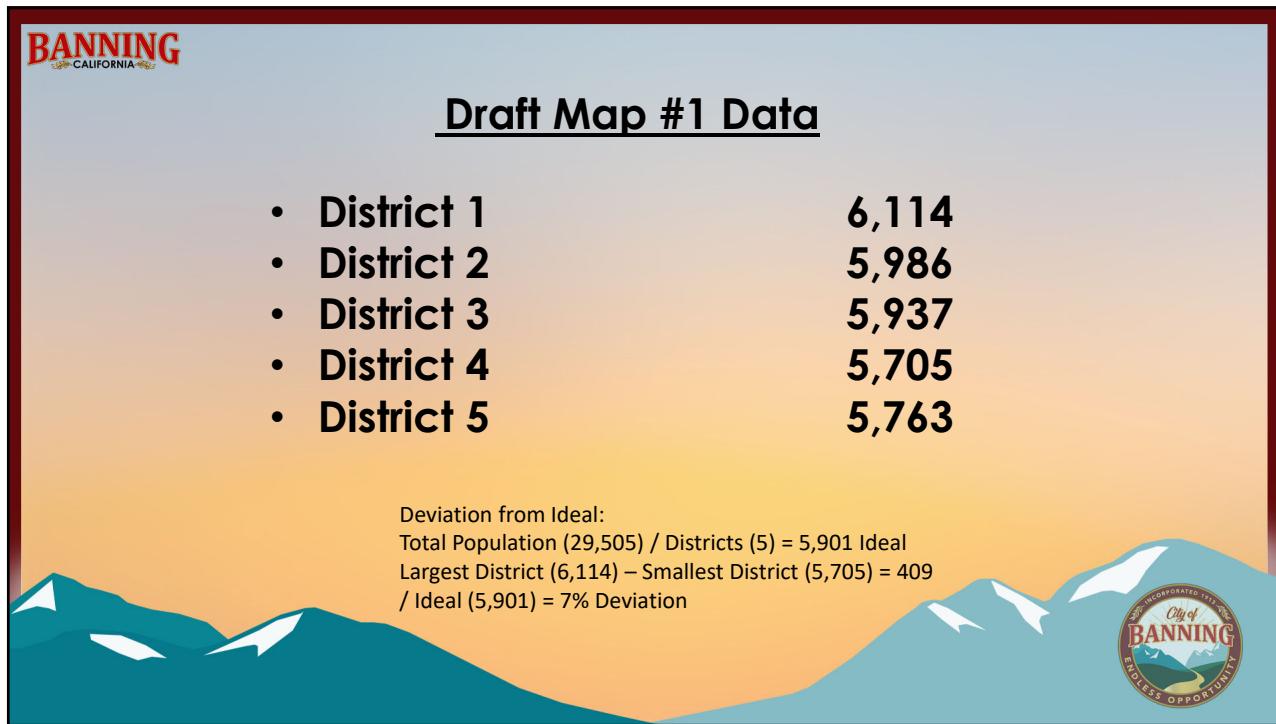


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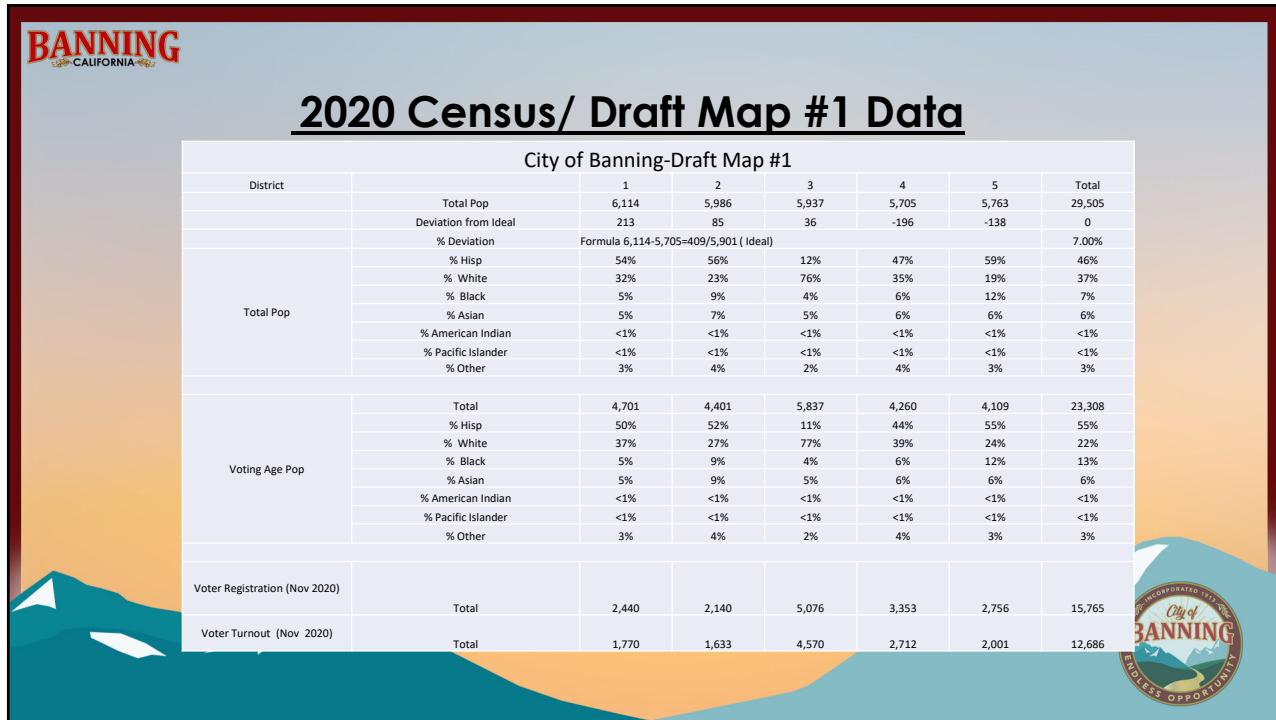


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## Exhibit A - Agenda Item 7.1



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## Exhibit A - Agenda Item 7.1

**BANNING**  
CALIFORNIA

### Public Outreach

- Notice of Public Hearings to be noticed in the local newspaper, English & Spanish
- 2020 Decennial Redistricting Webpage: <http://banning.ca.us/708/2020-Decennial-Redistricting>
- Procedures for how to participate posted online in English and Spanish
- Live interpretation available with 72 hours prior notice
- Outreach to local communities of interest
- Agendas including Staff Reports published online 5 days prior to public hearings
- Minutes from public hearings published online within 2 weeks
- All submitted comments and proposed maps published online 7 days prior to public hearings
- Links to all recorded meetings published online



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**BANNING**  
CALIFORNIA

### Future Public Hearings

- Tuesday, March 8, 2022 at 6:00 PM
- Introduce Ordinance 1581



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## Exhibit B - Agenda Item 8.2



**CITY COUNCIL AGENDA  
ITEM 8.2  
PUBLIC HEARING  
FEBRUARY 22, 2022**

**Ordinance 1580 amending Chapters 5.33, 17.12, & 17.54 of the BMC, eliminating the numeric cap on the number of cannabis retailers permitted in the City, allowing for the operation of cannabis retailers in the GC Zone, allowing distribution and manufacturing in the Business Park Zone, making additional conforming amendments to the regulations pertaining to cannabis retailers, and making a CEQA determination of exempt.**

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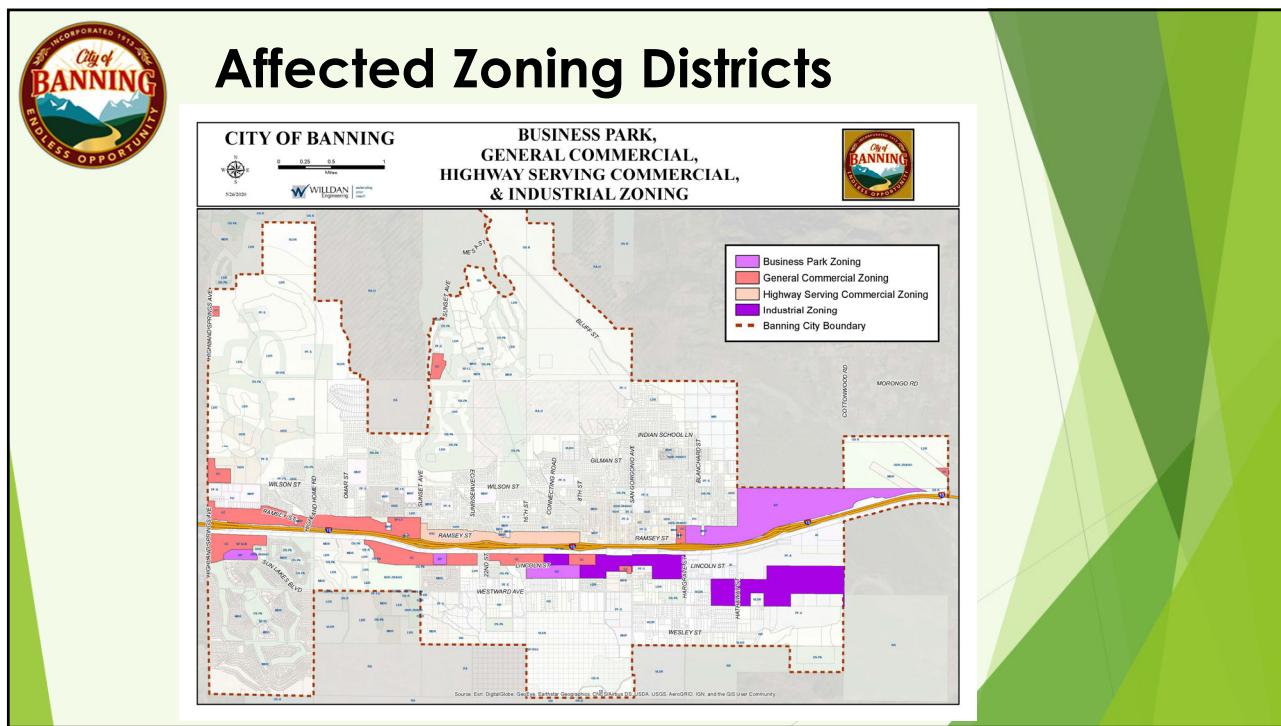


## Cannabis Program Background

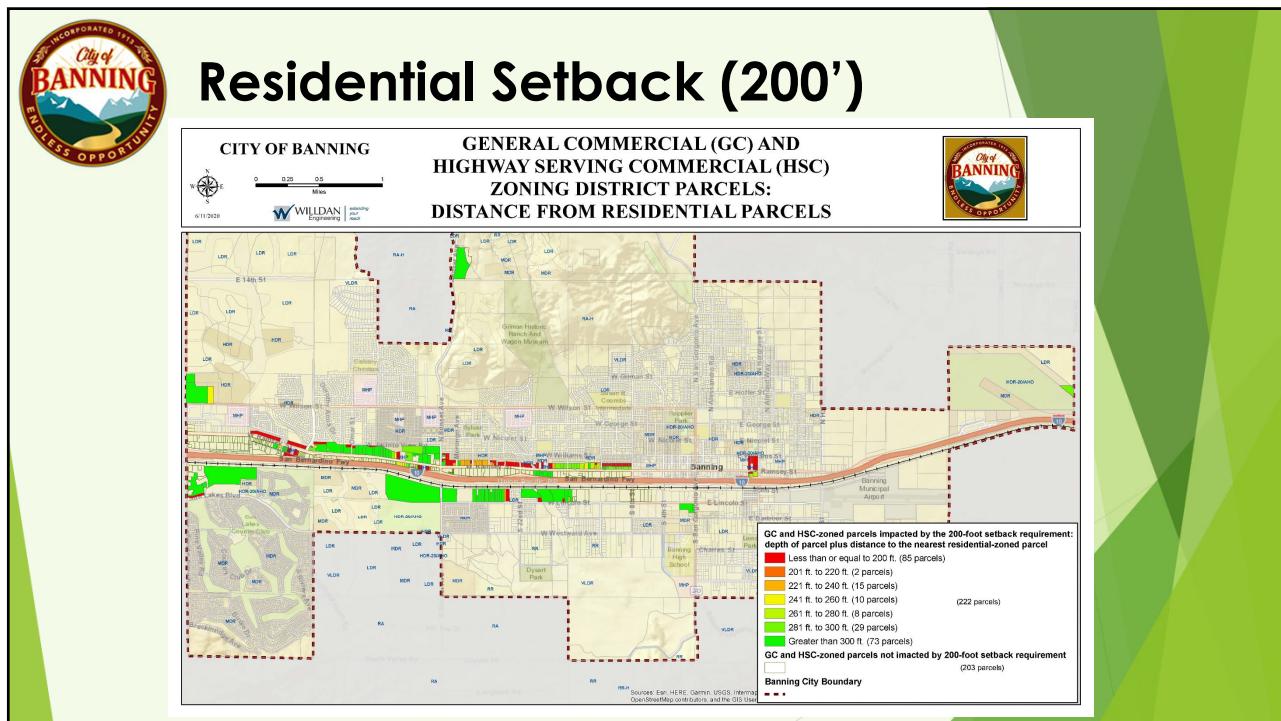
- ▶ Microbusiness Ordinance 1577 – approved by Council on September 28<sup>th</sup>.
- ▶ The Council then directed staff to prepare a separate Ordinance Amendment to potentially increase the number of Retail Cannabis Dispensaries.
- ▶ The Council initiated an Ordinance to make the following changes:
  - ▶ Eliminate the May 2019 “Lottery List” that chose the first three Cannabis Retailers
  - ▶ Remove the “CAP”, or the municipal code limitation on Retail Cannabis Dispensaries, from 1 dispensary for every 10,000 residents, to a market-based approach.
  - ▶ Expand the Zoning Capacity, for Retail Cannabis Dispensaries only, by adding the General Commercial (GC) Zoning District in addition to the Highway – Serving Commercial (HSC) Zoning District.
  - ▶ Authorize Distribution and Manufacturing, into the Business Park Zoning District. Previously, such uses were only authorized in the Industrial Zoning District, with CUP approval.

2

## Exhibit B - Agenda Item 8.2



3



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## Exhibit B - Agenda Item 8.2



# Proposed Manufacturing, Distribution and Retail Zones

| ZONING DISTRICT                   | TOTAL NUMBER OF PARCELS | TOTAL ACREAGE | Cannabis Type Allowed  | Cannabis Type Proposed       |
|-----------------------------------|-------------------------|---------------|--|------------------------------|
| General Commercial (GC)           | 269                     | 728.47        | N/A  | Retail                       |
| Highway-Serving Commercial (H-SC) | 154                     | 87.63         | Retail*  | Retail                       |
| Business Park (BP)                | 121                     | 357.87        | Cultivation/<br><i>Mic-business</i>                                      | Manufacturing & Distribution |
| Industrial (I)                    | 180                     | 306.63        | Cultivation,<br>Manufacturing,<br>Distribution,<br><i>Micro-business</i> | N/A                          |

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# Background

- 2018 – CUP and Lottery procedures established for Retail Cannabis Businesses
- In late 2018, a limited number of cannabis retailer hopefuls were allowed to develop within the City, subject to a CUP.
- Late 2021, the Council authorized Cannabis Microbusinesses within the Business Park and Industrial Zoning Districts, subject to a CUP.
- At the same meeting, the Council requested an update to the maximum number of Cannabis Retailers allowed to operate in the City.
- City staff prepared an amendment and presented the update to the Planning Commission for their review and recommendations.
- The Commission only recommended removing the cap on Cannabis Retailers
- At the December 2021 City Council Meeting, staff presented the Ordinance Amendment to the Council and conveyed the Commission's recommendations.
- The December meeting was continued to allow City staff to investigate various methods of permitting future Cannabis Retailers, if the “cap” of 1 retailer per 10,000 persons in population.

As such, staff researched and identified the following examples:

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## Merit-Based Options

- **City of Corona** – The City of Corona adopted a merit-based approach to select the 17 retail cannabis permittees. The selection process is divided into five (5) main categories:

- (1) Qualification of Owners/Operators
- (2) Business Plan/Financial Investment
- (3) Operations Plan
- (4) Security Plan
- (5) Community Benefit

*How this review process differs from the City of Banning's current regulatory application process is in the operators' qualifications, their financial investments (which includes proof of adequate capital) and in the community benefit review, which includes a direct and tangible impact to the local programs and/or hiring practices within the City. The City of Corona's merit-based application process is included as an attachment to this report.*

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## Merit-Based Options (cont'd)

- **City of Lake Elsinore** – A maximum of five (5) retail dispensary applications were initially permitted in the City; however, this initial "cap" may be increased based on request for a finding of public convenience that an additional permit should be issued in excess of the maximum number, provided certain criteria are met:

- (1) A statement, by the applicant, demonstrating how the public convenience will be served through the issuance of an additional retail cannabis permit.
- (2) Identification of the special and unusual circumstances present to justify a new cannabis business, when similar businesses exist nearby, or how the business will provide an unmet need within the community.
- (3) The retail business applicant shall provide and demonstrate how the economic benefit of the cannabis business outweighs potential negative impacts to the Community as a whole.
- (4) Demonstrate reasonable efforts to seek community input on the proposed cannabis business.

*Upon a request being made, and application submitted for an additional retail cannabis dispensary, the Community Development Director ("Director") shall review and may request additional information in order to justify a finding of public convenience.*

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## Merit-Based Options (cont'd)

- ▶ Upon a request being made, and application submitted for an additional retail cannabis dispensary, the Community Development Director ("Director") shall review and may request additional information in order to justify a finding of public convenience.
- ▶ Furthermore, the Director may deny this request if any one of the following instances occur:
  - (A) The proposed use is to be located in an existing target law enforcement area as documented by specific and abnormally high general health and safety indicators that have some nexus with alcohol use or substance abuse.
  - (B) The proposed use is within a crime reporting area that exhibits an excess amount of alcohol or substance abuse related crimes, greater than a 20% increase of the reported crimes from the previous year.
  - (C) The proposed use is inconsistent with the direction and policies set forth by the Council.



## Merit-Based Options (cont'd)

- ▶ **The City of San Jacinto** – A unique approach to the permitting and establishment of retail cannabis dispensaries is utilized within the City where the sale of recreational cannabis is only permissible through the licensing and permitting of a "fully operational" Cultivation or Manufacturing Cannabis Oriented Business.

*Since this concept is antithetical to the City of Banning's Cannabis Program, further evaluation seems irrelevant. However, it is important to note that the City of San Jacinto originally established permits and procedures for stand-alone retail cannabis dispensaries but initiated a substantial re-write of their cannabis ordinance in 2019.*

## Exhibit B - Agenda Item 8.2



### Proposed Amended Code Sections

Staff proposes the following amendments to the zoning code:

- ▶ Chapter 17.12, Commercial and Industrial Districts; amending Table 17.12.020 to add cannabis manufacturing and distribution as conditionally permitted uses in the Business Park Zoning District; and
- ▶ Add cannabis retail as a conditionally permitted use in the General Commercial Zoning District.
- ▶ Chapter 17.54, Cannabis Retail Conditional Use Permits; amending Section 17.54.080, Separation requirements and other limitations; removing Sub-Section "A" and replacing it with Sub-Section "B".
- ▶ Other proposed amendments:
  - ▶ The draft ordinance also amends Chapter 5.33, removing the cap on retailers, allowing them in the General Commercial zone and removing the lottery system.

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### Environmental Determination

California Environmental Quality Act (CEQA)

- ▶ The Planning Commission finds and determines that this Resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. Adoption of this Resolution is covered by the commonsense exemption in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
- ▶ The Community Development Department determined this Resolution to be exempt from review under CEQA pursuant to CEQA Guidelines Section 15061(b)(3). The Planning Commission, through an exercise of its independent judgment, concurs with this determination and, as such, the Planning Commission recommends the City Council adopt a categorical exemption for this Resolution and City Council Ordinance and directs staff to file a Notice of Exemption.

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## Exhibit B - Agenda Item 8.2



### Recommendation

That the City Council take the following actions:

- ▶ Make a determination, pursuant to Sections 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines that the project is exempt from CEQA.
- ▶ Introduce for first reading City Council Ordinance 1580, approving Zoning Text Amendment 21-97503, amending Chapters 5.33, 17.12, and 17.54 of the Banning Municipal Code, and making additional conforming amendments to regulations pertaining to cannabis retailers.

13



**Thank You & Questions?**

14

# Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) - Overview and Potential Uses of Funds

- ▶ Funded by the American Rescue Plan Act (ARPA)

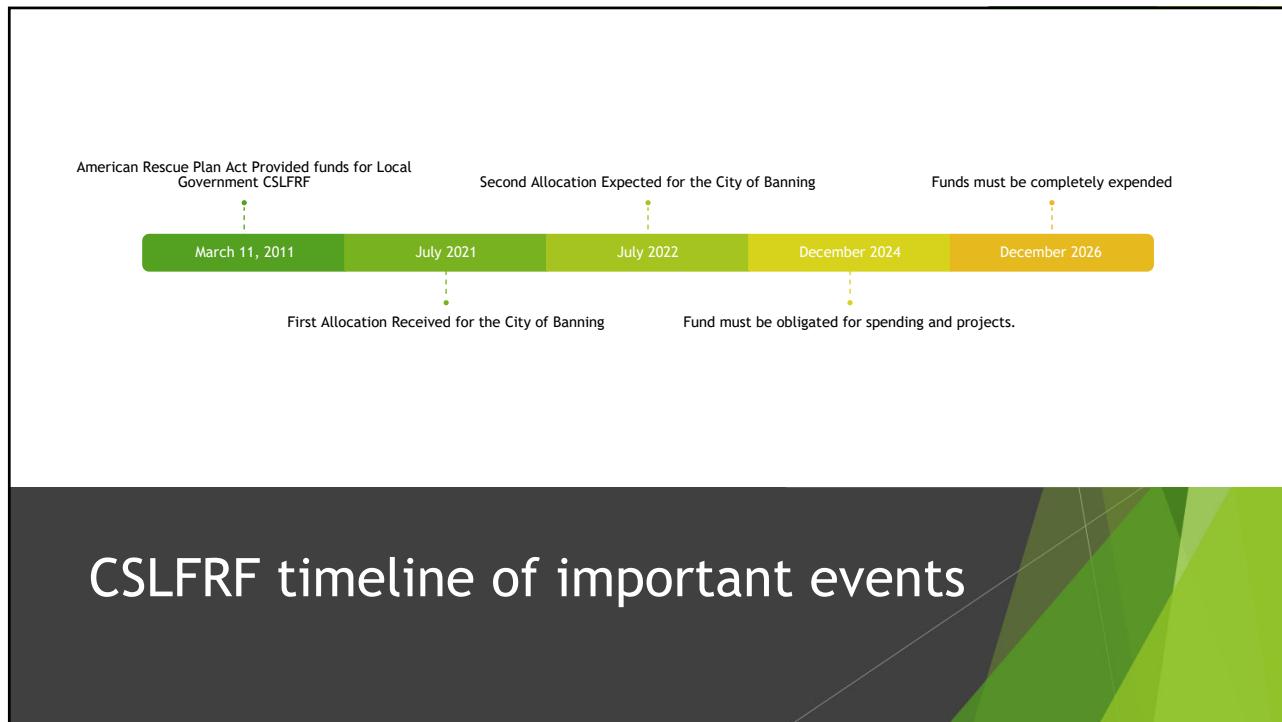
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## Overview

- ▶ March 11, 2021, ARPA was signed into law and provided \$350 billion of funding to states, territories, tribal and local governments to respond to the COVID-19 public health emergency and its economic impacts.
- ▶ The City of Banning was allocated \$7,468,726 of these funds to be disbursed in two equal installments.
- ▶ The City's first installment was received in July 2021, \$3,734,363, the second installment is expected to be received in July 2022.
- ▶ A separate fund was created to track the funds received and uses, Fund 222
- ▶ On January 6, 2022 the Treasury issued the Final Rule clarifying prior guidance and enumerated additional allowable expenditures

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## Exhibit C - Agenda Item 8.3



3

## Eligible Uses of the Funds

- ▶ Public Sector Revenue Loss
- ▶ Public Health and Responding to Negative Economic Impacts
- ▶ Premium Pay for Essential Workers
- ▶ Water, Sewer and Broadband Infrastructure

4

# PUBLIC SECTOR REVENUE LOSS

5

## Revenue Loss - Use of funds

- ▶ MAJOR Revenue loss change: The Final Rule allows recipients to elect a standard allowance of \$10 million revenue loss instead of using the calculation
  - ▶ Allowance covers entire period of performance
  - ▶ Allowance is not dependent on the “size” of the entitlement
- ▶ These expenditures do not have to qualify under one of the other ARPA categories but do have the same time frame for when the costs must be obligated or expended.
- ▶ Provided for streamlined reporting, however, must still report on projects and use of funds in general.
- ▶ Used for spending on Government Services with the following restrictions:
  - ▶ Cannot be used to offset a reduction in net tax revenue
  - ▶ Cannot be deposited into pension funds
  - ▶ Cannot be used for debt service and replenishing reserves, settlements and judgements

6

## Exhibit C - Agenda Item 8.3

### Revenue loss (Government Services)

- ▶ Government services include, but are not limited to:
  - ▶ Maintenance or pay-go funded building of infrastructure, including roads;
  - ▶ Modernization of cybersecurity, including hardware, software, and protection of critical infrastructure;
  - ▶ Health services;
  - ▶ Environmental remediation;
  - ▶ School or educational services;
  - ▶ And the provision of police, fire, and other public safety services
  - ▶ Construction of schools and hospitals
  - ▶ Road building and maintenance, and other infrastructure
  - ▶ General government administration, staff and administrative facilities
  - ▶ Provision of public safety services includes purchase of fire trucks and police vehicles

7

## PUBLIC HEALTH AND RESPONDING TO NEGATIVE ECONOMIC IMPACTS

8

## Exhibit C - Agenda Item 8.3

### PUBLIC HEALTH

- ▶ COVID-19 Mitigation and prevention
- ▶ Medical Expenses
- ▶ Behavioral healthcare, such as mental health treatment, substance use treatment, and other behavioral health services
- ▶ Preventing and responding to violence (Public Safety)
  - ▶ Referrals to trauma recovery services for victims of crime
  - ▶ Community violence intervention program
  - ▶ Law enforcement officers focused on advancing community policing
  - ▶ Enforcement efforts to reduce gun violence, including prosecution
  - ▶ Technology & equipment to support law enforcement response

9

### Responding to Negative Economic Impacts

- ▶ Assistance to Households
  - ▶ Impacted Households/Communities
  - ▶ Disproportionately Impacted Households/Communities
- ▶ Assistance to Small Businesses
  - ▶ Definition: no more than 500 employees and are a small business concern as defined in section 3 of the Small Business Act (independently owned and operated and not dominant in field of operation)
  - ▶ Impacted Small Businesses and Disproportionately Impacted Small Businesses
    - ▶ Impacted Small Businesses Examples of projects: Loans or grants to mitigate financial hardship; or technical assistance or other business planning services
    - ▶ Disproportionately Impacted Small Businesses Examples of projects: Rehab of commercial property, storefront improvements and façade improvements
    - ▶ Technical assistance, business incubators & grants for start up or expansion
    - ▶ Support for microbusinesses

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## Exhibit C - Agenda Item 8.3

### Negative Impacts continued

- ▶ Assistance to Nonprofits
  - ▶ Examples of projects: Loans or grants to mitigate financial hardship; Technical or in-kind assistance to mitigate negative economic impacts of pandemic
- ▶ Aid to Impacted Industries
  - ▶ 1. Designate an impacted industry
    - ▶ Travel, tourism or hospitality sector
    - ▶ OR: at least 8% employment loss from pre-pandemic levels or industry experience comparable or worse economic impacts as the national travel/tourism/hospitality sectors
  - ▶ 2. Provide eligible aid to impacted industry
    - ▶ Aid to mitigate financial hardship
    - ▶ Technical assistance, counseling or business planning services
    - ▶ COVID-19 mitigations and infection prevention measures

11

### Negative Impacts continued

- ▶ Public Sector Rehiring and Employment Uses
  - ▶ Public Safety, Public Health and Human Services Staff
    - ▶ Identify eligible employees
    - ▶ Determine time spent on COVID-19 response and use funds for payroll and covered benefits for eligible COVID-19 time
  - ▶ Government employment and rehiring public sector staff
    - ▶ Pre-pandemic employment
    - ▶ Supporting and retaining government workers (including worker retention incentives)
    - ▶ Cover admin costs for administering hiring, support and retention programs
  - ▶ Effective service deliver
    - ▶ Program evaluation, data and outreach and administrative needs

12

## PREMIUM PAY FOR ESSENTIAL WORKERS

13

### Premium Pay for Essential Workers

- ▶ ARPA funds may be used to provide premium pay to eligible workers performing essential work during the pandemic, who maintain the continuity of operations of essential critical infrastructure sectors. Premium pay may be awarded to eligible workers up to \$13 per hours. Premium pay must be in addition to wages or compensation the eligible worker otherwise receives.
  - ▶ Premium pay may not exceed \$25,000 for any single worker during the program
  - ▶ Premium pay may be awarded in installments or lump sums and may be awarded to hourly, part-time or salaried or non-hourly workers
  - ▶ Premium pay may be paid retrospectively.
  - ▶ ARPA funds cannot be used to reimburse itself for premium pay or hazard pay already received by the workers
  - ▶ Premium pay may not be paid to volunteers

14

# WATER, SEWER AND BROADBAND INFRASTRUCTURE

15

## Water and Sewer Infrastructure

- ▶ Clean Water State Revolving Fund Project
- ▶ Drinking Water State Revolving Fund Projects
- ▶ Other “Necessary” projects
  - ▶ Responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise,
  - ▶ A cost-effective means for meeting that need, taking into account available alternatives, and
  - ▶ For investments in infrastructure that supply drinking water in order to meet projected population growth, projected to be sustainable over its estimate useful life.

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## Exhibit C - Agenda Item 8.3

### Broadband Infrastructure

- ▶ Eligible area
  - ▶ Encouraged to prioritize locations without access to 100/20 Mbps
  - ▶ Lack of access to reliable high-speed broadband connection
  - ▶ Lack of affordable broadband
  - ▶ Lack of reliable service
- ▶ Meet high-speed technical standards
  - ▶ 100 Mbps download and upload speeds unless not practicable
  - ▶ 100/20 Mbps minimum scalable to 100 Mbps download and upload speeds
- ▶ Low-income subsidy program
  - ▶ Requires the service provider to either participate in the FCC's Affordable Connectivity Programs (ACP) or provides access to low-income program commensurate to ACP
- ▶ Cybersecurity
  - ▶ Eligible use for cybersecurity for existing and new broadband infrastructure
  - ▶ Includes modernization of hardware and software

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### POTENTIAL USE OF FUNDS

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## Exhibit C - Agenda Item 8.3

### Public Health and Negative Economic Impacts

| Project Name                            | Project Description   | Allocated Amount |
|---|---|------------------|
| Public Safety                           | To help keep the community safe, hire additional police officers (5), increase salary and pay for overtime - (Council Approved 5-11-2021) | \$1,317,350      |
| ZenCity                                 | Community engagement platform (approved by Council Nov 9. 2021)   | \$24,000         |
| Business grants/<br>Façade improvements | Provide grants of \$5,000 (20) for active small businesses and allocate funds to help with façade improvements                            | \$200,000        |
|   | Total Public Health and Economic Impacts  | \$1,541,350      |

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### Water, Sewer and Broadband Infrastructure - Broadband Projects:

| Project Name               | Project Description   | Allocated Amount |
|----------------------------|---|------------------|
| PD Interview Room Solution | In car video with Blackbox recording, interview room microphone, w/ cloud plan, installation services for three (3) rooms | \$26,100         |
| PD Upgrades                | Upgrade technology in briefing room, conference room and community room   | \$117,000        |
| Banning PD 30 ICV-30 BWC-3 | In car cameras and body worn cameras - quantity (30)  | \$380,100        |

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## Exhibit C - Agenda Item 8.3

### Water, Sewer and Broadband Infrastructure - Broadband Projects continued:

| Project Name               | Project Description   | Allocated Amount |
|----------------------------|---|------------------|
| Cameras at Police Station  | Security cameras for the police station   | \$138,500        |
| Network Upgrade - Citywide | Network and server upgrades including Blade center, Nimble, VMware, WAPS Installation and labor (City, PD, Electric, Water, Community Center) | \$568,500        |
| New ERP System - Citywide  | Current city ERP is antiquated with 1990's technology, needs to be upgraded to current technology and protection for cybersecurity            | \$1,000,000      |
| Electronic Messaging Board | Electronic messaging boards to help communicate to the community city services and messages to the community                                  | \$117,176        |
|                            | Total Broadband Projects  | \$2,377,376      |

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### Water, Sewer and Broadband Infrastructure - Water & Sewer Projects:

| Project Name                    | Project Description  | Allocated Amount |
|---------------------------------|--|------------------|
| Ramsey Street Water Line        | A water line currently does not exist along Ramsey Street from Sunset Avenue to Highland Home Road, which will prevent the commercial zoned properties fronting Ramsey Street from being developed without a condition of approval to construct the waterline. | \$1,000,000      |
| Replace 4" Waterline on Barbour | An existing 4" waterline on Barbour Street from Hargrave to Juarez must be replaced in order to provide needed fire flow for the development of industrial zoned properties on the south side of town, west of Hargrave Street                                 | \$550,000        |

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## Exhibit C - Agenda Item 8.3

### Water, Sewer and Broadband Infrastructure - Water & Sewer Projects continued:

| Project Name                      | Project Description  | Allocated Amount |
|-----------------------------------|--|------------------|
| Sewer Line under I-10 at Hathaway | The existing 8" line, which stretches from Ramsey Street to the Lincoln Street is at or near maximum capacity. The sewer line is needing replacement in order to accommodate the future development of projects north of the I-10 and east of Hathaway and also to reduce the likelihood of sewer system overflows (SSOs). | \$700,000        |
|                                   | Total Water & Sewer Projects   | \$2,250,000      |
|                                   | Total Water, Sewer & Broadband Projects  | \$4,627,376      |

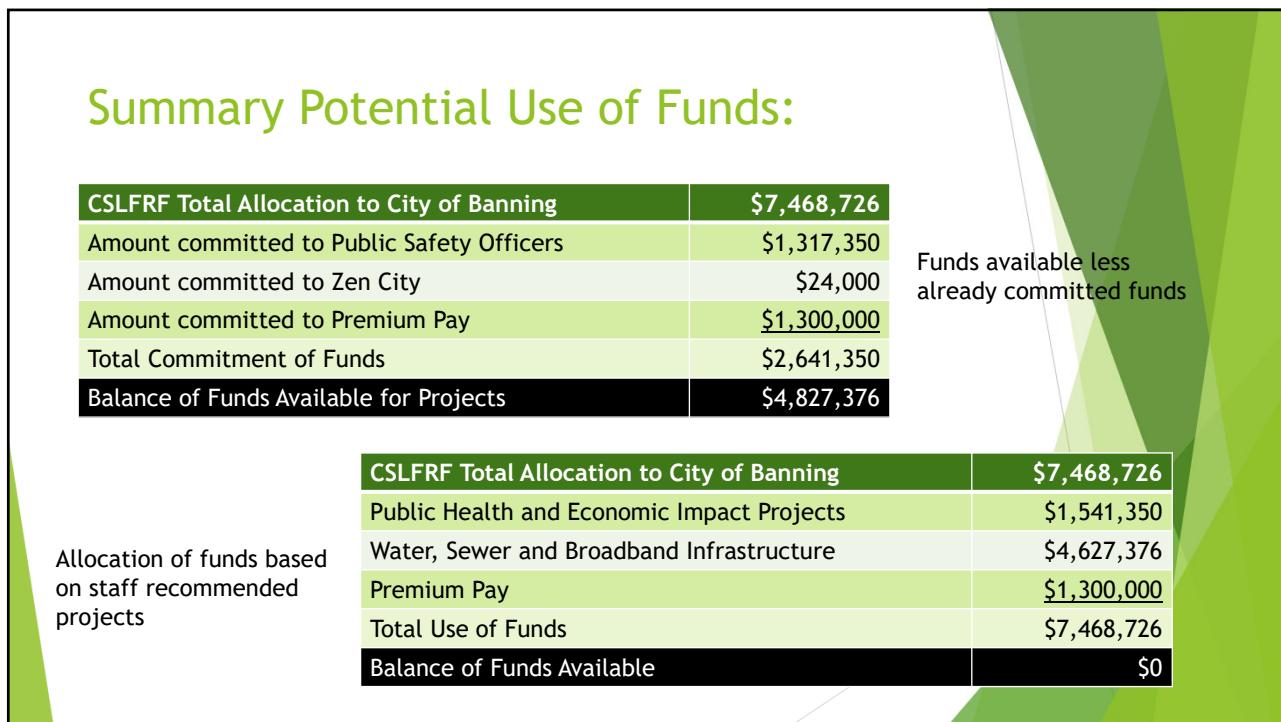
23

### Premium Pay

| Project Name | Project Description  | Allocated Amount |
|--------------|--|------------------|
| Premium Pay  | Premium pay for essential workers for the continuity of operations during COVID-19 public health emergency (including employer PR taxes) - (Council Approved 1/25/2022 - Resolution 2022-07) | \$1,300,000      |
|              | Total Premium Pay  | \$1,300,000      |

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## Exhibit C - Agenda Item 8.3



### Summary Potential Use of Funds:

|  |                    |
|--|--------------------|
| CSLRF Total Allocation to City of Banning  | \$7,468,726        |
| Amount committed to Public Safety Officers | \$1,317,350        |
| Amount committed to Zen City               | \$24,000           |
| Amount committed to Premium Pay            | <u>\$1,300,000</u> |
| Total Commitment of Funds                  | \$2,641,350        |
| Balance of Funds Available for Projects    | \$4,827,376        |

Allocation of funds based on staff recommended projects

|  |                    |
|--|--------------------|
| CSLRF Total Allocation to City of Banning  | \$7,468,726        |
| Public Health and Economic Impact Projects | \$1,541,350        |
| Water, Sewer and Broadband Infrastructure  | \$4,627,376        |
| Premium Pay                                | <u>\$1,300,000</u> |
| Total Use of Funds                         | \$7,468,726        |
| Balance of Funds Available                 | \$0                |

Funds available less already committed funds

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## **Exhibit D - Public Comment**

[Non-Agenda Items]

Banning City Council

February 22, 2022

City of Banning: City Clerk

Banning Municipal is a federally obligated airport, in that it accepted federal grant funding under the Airport Improvement Program (AIP) from the FAA for the construction, repair and improvement of airport facilities. Before providing federal assistance for airport development, the FAA must receive certain assurances from the airport sponsor. Upon acceptance of an AIP grant by an airport sponsor, these Grant Assurances become a binding contractual obligation between the airport sponsor and the federal government. These assurances define the scope of the FAA's jurisdiction with respect to airport-related matters.

To Whom it May Concern,

The reason I'm sumitting this attachment ( 81 FR 38906-38911) to you is because I believe that you may have been given false and / or misleading information on the reality of the FAA approving the Grandave project purposed to being built on the Banning Municipal Airport property.

As you will see in these document the emphasis on the use of Airport property is for Aeronautical use with very few exceptions for non-Aeronautical use. Banning Municipal Airport has very limited available land for future Aeronautical development and the chance that the FAA will approve Grandave's Non-Aeronautical use is about zero. This Grandave project would also put an existing Airport Business " Skydive West " out of Business. This business, Skydive West, is a major income factor as far as lessee and fuel sales, as well as the hundreds of people they bring to town that patronize our local Businesses.

I've discussed this with the FAA and there question was, why do they, Grandave, need to build on Airport property when there's lots of vacant land in Banning. Well I couldn't answer that question. For an example, one of the exceptions of Non-Aeronautical use, that's has had easy FAA approval, would be a Restaurant, other exception would be that the Airport property was so large, like a section of land ( one square mile ) in a remote area of the country, and there's so much vacant Airport land far from the major Airport environment, this area could get Non-Aeronautical approval for development from the FAA.

This belief by the City Manager that if the FAA rejects this Grandave project on Airport property that he will proceed forward with Resolution 2017-44, and this is the reason for

keeping it (Resolution 2017-44) in full force and effect. Well again the FAA will not approve the decommission of Banning Municipal Airport whereas it has been listed as an essential Airport because of its time in service and location and no legitimate reason to close said Airport. The argument that the land has a better use or value than an Airport is not justification for closer. ( whereas the City has lots of vacant land available for development.) and the City has a Contractual agreement with the FAA.

If I may digress, because this attachment is about land and hanger use. I would like to remind you that the Resolution 2017-44 continues to damage the airport, whereas staff is limiting in applying for available grant money that would help develop the Airport to become as self-sufficient as practical, with its own Department ( and also a competent Airport Advisory Commission) that would handle all Airport operations as opposed to the Public Works Department handling Airport operations which I believe is beyond their expertise, and that includes, the past and current City Manager /s. It also discourages Airport use, such as renting hangers or other Aviation related business coming to the Airport, the pass area is growing gang busters and the Aviation industry is growing dramatically with new FAA approval of Light Sport Aircraft ( kit planes) and a large demand for Experimental Aircraft kits as well as production Aircraft, as of today there are 88 aircraft manufactures in the US. Banning is in competition with Redlands and Hemet for business, Banning need to get on the ball to meet the needs of the aviation community with needed development of the Airport with bigger hangers and Buildings / hangers large enough for an FBO, also most prosperous Airports have a restaurant on the field, with the commercial development and a increase of personal in the area as well as housing in the area a restaurant may be able to make it now finically. There is grant money available for Airport development, but Staff can't be shackled by a out of touch City Manager and Resolution 2017-44. You as a City Council have the power to change the last Five Years of Airport mismanagement. Remember the City Manager works under your direction not the opposite.

Submitted: February 22, 2022

Respectfully,

Harry Sullivan

in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(m) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014-0255, dated November 25, 2014, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-7524.

**(n) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on July 20, 2016.

(i) Saab Service Bulletin 2000-38-011, dated October 22, 2014.

(ii) Reserved.

(4) The following service information was approved for IBR on September 9, 2014 (79 FR 45337, August 5, 2014).

(i) Saab Service Bulletin 2000-38-010, dated July 12, 2013.

(ii) Saab Service Newsletter SN 2000-1304, Revision 01, dated September 10, 2013, including Attachment 1 Engineering Statement to Operator 2000PBS034334, Issue A, dated September 9, 2013.

(5) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE-581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email [saab340techsupport@sabgroup.com](mailto:saab340techsupport@sabgroup.com); Internet <http://www.saabgroup.com>.

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/cfr/ibr-locations.html](http://www.archives.gov/federal_register/cfr/ibr-locations.html).

Issued in Renton, Washington, on May 31, 2016.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016-13740 Filed 6-14-16; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Chapter I**

**[Docket No. FAA 2014-0463]**

**Policy on the Non-Aeronautical Use of Airport Hangars**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of final policy.

**SUMMARY:** This action clarifies the FAA's policy regarding storage of non-aeronautical items in airport facilities designated for aeronautical use. Under Federal law, airport operators that have accepted federal grants and/or those that have obligations contained in property deeds for property transferred under various Federal laws such as the Surplus Property Act generally may use airport property only for aviation-related purposes unless otherwise approved by the FAA. In some cases, airports have allowed non-aeronautical storage or uses in some hangars intended for aeronautical use, which the FAA has found to interfere with or entirely displace aeronautical use of the hangar. At the same time, the FAA recognizes that storage of some items in a hangar that is otherwise used for aircraft storage will have no effect on the aeronautical utility of the hangar. This action also amends the definition of aeronautical use to include construction of amateur-built aircraft and provides additional guidance on permissible non-aeronautical use of a hangar."

**DATES:** The policy described herein is effective July 1, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Kevin C. Willis, Manager, Airport Compliance Division, ACO-100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3085; facsimile: (202) 267-4629.

**ADDRESSES:** You can get an electronic copy of this Policy and all other documents in this docket using the Internet by:

(1) Searching the Federal eRulemaking portal (<http://www.faa.gov/regulations/search>);

(2) Visiting FAA's Regulations and Policies Web page at ([http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies)); or

(3) Accessing the Government Printing Office's Web page at (<http://www.gpoaccess.gov/index.html>).

You can also get a copy by sending a request to the Federal Aviation

Administration, Office of Airport Compliance and Management Analysis, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3085. Make sure to identify the docket number, notice number, or amendment number of this proceeding.

**SUPPLEMENTARY INFORMATION:**

**Authority for the Policy:** This document is published under the authority described in Title 49 of the United States Code, Subtitle VII, part B, chapter 471, section 47122(a).

**Background**

*Airport Sponsor Obligations*

In July 2014, the FAA issued a proposed statement of policy on use of airport hangars to clarify compliance requirements for airport sponsors, airport managers, airport tenants, state aviation officials, and FAA compliance staff. (79 *Federal Register* (FR) 42483, July 22, 2014).

Airport sponsors that have accepted grants under the Airport Improvement Program (AIP) have agreed to comply with certain Federal policies included in each AIP grant agreement as sponsor assurances. The Airport and Airway Improvement Act of 1982 (AAIA) (Pub. L. 97-248), as amended and recodified at 49 United States Codes (U.S.C.) 47107(a)(1), and the contractual sponsor assurances require that the airport sponsor make the airport available for aviation use. Grant Assurance 22, *Economic Nondiscrimination*, requires the sponsor to make the airport available on reasonable terms without unjust discrimination for aeronautical activities, including aviation services. Grant Assurance 19, *Operation and Maintenance*, prohibits an airport sponsor from causing or permitting any activity that would interfere with use of airport property for airport purposes. In some cases, sponsors who have received property transfers through surplus property and nonsurplus property agreements have similar federal obligations.

The sponsor may designate some areas of the airport for non-aviation use,<sup>1</sup> with FAA approval, but aeronautical facilities of the airport must be dedicated to use for aviation purposes. Limiting use of aeronautical facilities to aeronautical purposes ensures that airport facilities are available to meet aviation demand at the airport. Aviation tenants and aircraft owners should not be displaced by non-

<sup>1</sup> The terms "non-aviation" and "non-aeronautical" are used interchangeably in this Notice.

aviation commercial uses that could be conducted off airport property.

It is the longstanding policy of the FAA that airport property be available for aeronautical use and not be available for non-aeronautical purposes unless that non-aeronautical use is approved by the FAA. Use of a designated aeronautical facility for a non-aeronautical purpose, even on a temporary basis, requires FAA approval. See FAA Order 5190.6B, *Airport Compliance Manual*, paragraph 22.6, September 30, 2009. The identification of non-aeronautical use of aeronautical areas receives special attention in FAA airport land use compliance inspections. See Order 5190.6B, paragraphs 21.6(f)(5).

Areas of the airport designated for non-aeronautical use must be shown on an airport's Airport Layout Plan (ALP). The AAIA, at 49 U.S.C. 47107(a)(16), requires that AIP grant agreements include an assurance by the sponsor to maintain an ALP in a manner prescribed by the FAA. Sponsor assurance 29, *Airport Layout Plan*, implements § 47107(a)(16) and provides that an ALP must designate non-aviation areas of the airport. The sponsor may not allow an alteration of the airport in a manner inconsistent with the ALP unless approved by the FAA. See Order 5190.6B, paragraph 7.18, and Advisory Circular 150/5070-6B, *Airport Master Plans*, Chapter 10.

Clearly identifying non-aeronautical facilities not only keeps aeronautical facilities available for aviation use, but also assures that the airport sponsor receives at least Fair Market Value (FMV) revenue from non-aviation uses of the airport. The AAIA requires that airport revenues be used for airport purposes, and that the airport maintain a fee structure that makes the airport as self-sustaining as possible. 49 U.S.C. 47107(a)(13)(A) and (b)(1). The FAA and the Department of Transportation Office of the Inspector General have interpreted these statutory provisions to require that non-aviation activities on an airport be charged a fair market rate for use of airport facilities rather than the aeronautical rate. See *FAA Policies and Procedures Concerning the Use of Airport Revenue*, (64 FR 7696, 7721, February 16, 1999) (FAA Revenue Use Policy).

If an airport tenant pays an aeronautical rate for a hangar and then uses the hangar for a non-aeronautical purpose, the tenant may be paying a below-market rate in violation of the sponsor's obligation for a self-sustaining rate structure and FAA's Revenue Use Policy. Confining non-aeronautical activity to designated non-aviation areas

of the airport helps to ensure that the non-aeronautical use of airport property is monitored and allows the airport sponsor to clearly identify non-aeronautical fair market value lease rates, in order to meet their federal obligations. Identifying non-aeronautical uses and charging appropriate rates for these uses prevents the sponsor from subsidizing non-aviation activities with aviation revenues.

#### *FAA Oversight*

A sponsor's Grant Assurance obligations require that its aeronautical facilities be used or be available for use for aeronautical activities. If the presence of non-aeronautical items in a hangar does not interfere with these obligations, then the FAA will generally not consider the presence of those items to constitute a violation of the sponsor's obligations. When an airport has unused hangars and low aviation demand, a sponsor can request the FAA approval for interim non-aeronautical use of a hangar, until demand exists for those hangars for an aeronautical purpose. Aeronautical use must take priority and be accommodated over non-aeronautical use, even if the rental rate would be higher for the non-aeronautical use. The sponsor is required to charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes. (64 FR 7721).

The FAA conducts land use inspections at 18 selected airports each year, at least two in each of the nine FAA regions. See Order 5190.6B, paragraph 21.1. The inspection includes consideration of whether the airport sponsor is using designated aeronautical areas of the airport exclusively for aeronautical purposes, unless otherwise approved by the FAA. See Order 5190.6B, paragraph 21.6.

#### *The Notice of Proposed Policy*

In July 2014, the FAA issued a notice of proposed policy on use of hangars and related facilities at federally obligated airports, to provide a clear and standardized guide for airport sponsors and FAA compliance staff. (79 FR 42483, July 22, 2014). The FAA received more than 2,400 comments on the proposed policy statement, the majority from persons who have built or are in the process of building an amateur-built aircraft. The FAA also received comments from aircraft owners, tenants and owners of hangars, and airport operators. The Aircraft Owners and Pilots Association (AOPA) and the Experimental Aircraft Association (EAA) also provided comments on behalf of their membership. Most of the

comments objected to some aspect of the proposed policy statement. Comments objecting to the proposal tended to fall into two general categories:

- The FAA should not regulate the use of hangars at all, especially if the hangar is privately owned.
- While the FAA should have a policy limiting use of hangars on federally obligated airports to aviation uses, the proposed policy is too restrictive in defining what activities should be allowed.

#### *Discussion of Comments and Final Policy*

The following summary of comments reflects the major issues raised and does not restate each comment received. The FAA considered all comments received even if not specifically identified and responded to in this notice. The FAA discusses revisions to the policy based on comments received. In addition, the FAA will post frequently asked Questions and Answers regarding the Hangar Use Policy on [www.faa.gov/airport\\_compliance](http://www.faa.gov/airport_compliance). These Questions and Answers will be periodically updated until FAA Order 5190.6B is revised to reflect the changes in this notice.

1. *Comment: Commenters stated that the FAA should defer to local government and leave all regulation of hangar use to the airport operator.*

*Response:* The FAA has a contract with the sponsor of an obligated airport, either through AIP grant agreements or a surplus property deed, to limit the use of airport property to certain aviation purposes. Each sponsor of an obligated airport has agreed to these terms. The FAA relies on each airport sponsor to comply with its obligations under this contract. To maintain a standardized national airport system and standardized practices in each of the FAA's nine regional offices, the agency issues guidance on its interpretation of the requirements of the AIP and surplus property agreements. It falls to the local airport sponsor to implement these requirements. The FAA allows airport sponsors some flexibility to adapt compliance to local conditions at each airport.

However, some airport sponsors have adopted hangar use practices that led to airport users to complain to the FAA. Some airport users have complained that sponsors are too restrictive, and fail to allow reasonable aviation-related uses of airport hangars. More commonly, aircraft owners have complained that hangar facilities are not available for aircraft storage because airport sponsors have allowed the use of hangars for purposes that are unrelated to aviation,

such as operating a non-aviation business or storing multiple vehicles. By issuing the July 2014 notice, the FAA intended to resolve both kinds of complaints by providing guidance on appropriate management of hangar use. The agency continues to believe that FAA policy guidance is appropriate and necessary to preserve reasonable access to aeronautical facilities on federally obligated airports. However, the final policy has been revised in response to comments received on the proposal.

**2. Comment: Commenters, including AOPA, stated that the FAA lacks the authority to regulate the use of privately owned hangars.**

**Response:** The FAA has a statutory obligation to assure that facilities on aeronautically designated land at federally obligated airports are reasonably available for aviation use. Designated aeronautical land on a federally obligated airport is a necessary part of a national system of aviation facilities. Land designated for aeronautical use offers access to the local airfield taxiway and runway system. Land designated for aeronautical use is also subject to certain conditions, including FAA policies concerning rates and charges (including rental rates) which were designed to preserve access for aeronautical users and to support aeronautical uses. A person who leases aeronautical land on the airport to build a hangar accepts conditions that come with that land in return for the special benefits of the location. The fact that the tenant pays the sponsor for use of the hangar or the land does not affect the agreement between the FAA and the sponsor that the land be used for aeronautical purposes. (In fact, most hangar owners do not have fee ownership of the property; typically airport structures revert to ownership of the airport sponsor upon expiration of the lease term). An airport sponsor may choose to apply different rules to hangars owned by the sponsor than it does to privately constructed hangars, but the obligations of the sponsor Grant Assurances and therefore the basic policies on aeronautical use stated in this notice, will apply to both.

**3. Comment: Commenters believe that a policy applying the same rules to all kinds of aeronautical structures, and to privately owned hangars as well as sponsor-owned hangars, is too general. The policy should acknowledge the differences between categories of airport facilities.**

**Response:** A number of commenters thought that rules for use of privately constructed and owned hangars should be less restrictive than rules for hangars

leased from the airport sponsor. The Leesburg Airport Commission commented that there are different kinds of structures on the airport, with variations in rental and ownership interests, and that the FAA's policy should reflect those differences. The FAA acknowledges that ownership or lease rights and the uses made of various aeronautical facilities at airports will vary. The agency expects that airport sponsors' agreements with tenants would reflect those differences. The form of property interest, be it a leasehold or ownership of a hangar, does not affect the obligations of the airport sponsor under the Grant Assurances. All facilities on designated aeronautical land on an obligated airport are subject to the requirement that the facilities be available for aeronautical use.

**4. Comment: Commenters agree that hangars should be used to store aircraft and not for non-aviation uses, but, they argue the proposed policy is too restrictive on the storage of non-aviation related items in a hangar along with an aircraft. A hangar with an aircraft in it still has a large amount of room for storage and other incidental uses, and that space can be used with no adverse effect on the use and storage of the aircraft.**

**Response:** In response to the comments, the final policy deletes the criteria of "incidental" or "de minimis" use and simply requires that non-aviation storage in a hangar not interfere with movement of aircraft in or out of the hangar, or impede access to other aeronautical contents of the hangar. The policy lists specific conditions that would be considered to interfere with aeronautical use. Stored non-aeronautical items would be considered to interfere with aviation use if they:

- Impede the movement of the aircraft in and out of the hangar;
- Displace the aeronautical contents of the hangar. (A vehicle parked at the hangar while the vehicle owner is using the aircraft will not be considered to displace the aircraft);
- Impede access to aircraft or other aeronautical contents of the hangar;
- Are used for the conduct of a non-aeronautical business or municipal agency function from the hangar (including storage of inventory); or
- Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.

**Note:** Storage of equipment associated with an aeronautical activity (e.g., skydiving, ballooning, gliding) would be considered an aeronautical use of a hangar.

**5. Comment: Commenters stated the policy should apply different rules to situations where there is no aviation demand for hangars, especially when hangars are vacant and producing no income for the sponsor.**

**Response:** At some airports, at some times, there will be more hangar capacity than needed to meet aeronautical demand, and as a result there will be vacant hangars. The FAA agrees that in such cases it is preferable to make use of the hangars to generate revenue for the airport, as long as the hangar capacity can be recovered on relatively short notice for aeronautical use when needed. See Order 5190.6B, paragraph 22.6. The final policy adopts a provision modeled on a leasing policy of the Los Angeles County Airport Commission, which allows month-to-month leases of vacant hangars for any purpose until a request for aeronautical use is received. The final policy requires that a sponsor request FAA approval before implementing a similar leasing plan:

- The airport sponsor may request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis.
- The plan may be implemented only when there is no current aviation demand for the vacant hangars.
- Leases must require the non-aeronautical tenant to vacate the hangar on 30 days' notice, to allow aeronautical use when a request is received.
- Once the plan is approved, the sponsor may lease vacant hangars on a 30 days' notice without further FAA approval.

The agency believes this will allow airports to obtain some financial benefit from vacant hangars no, while allowing the hangars to be quickly returned to aeronautical use when needed. FAA pre-approval of a month-to-month leasing plan will minimize the burden on airport sponsors and FAA staff since it is consistent with existing interim use guidance.

**6. Comment: Commenter indicates that the terms "incidental use" and "insignificant amount of space" are too vague and restrictive.**

**Response:** The FAA has not used these terms in the final policy. Instead, the policy lists specific prohibited conditions that would be considered to interfere with aeronautical use of a hangar.

**7. Comment: Commenter states Glider operations require storage of items at the airport other than aircraft, such as tow vehicles and towing equipment. This should be an approved use of hangars.**

**Response:** Tow bars and glider tow equipment have been added to the list of examples of aeronautical equipment. Whether a vehicle is dedicated to use for glider towing is a particular fact that can be determined by the airport sponsor in each case. Otherwise the general rules for parking a vehicle in a hangar would apply.

**8. Comment:** *Commenter states it should be clear that it is acceptable to park a vehicle in the hangar while the aircraft is out of the hangar being used.*

**Response:** The final policy states that a vehicle parked in the hangar, while the vehicle owner is using the aircraft will not be considered to displace the aircraft, and therefore is not prohibited.

**9. Comment:** *Commenters, including Experimental Aircraft Association (EAA), stated that aviation museums and non-profit organizations that promote aviation should not be excluded from hangars.*

**Response:** Aviation museums and other non-profit aviation-related organizations may have access to airport property at less than fair market rent, under section VII.E of the FAA Policy and Procedures Concerning the Use of Airport Revenue. (64 FR 7710, February 16, 1999). However, there is no special reason for such activities to displace aircraft owners seeking hangar space for storage of operating aircraft, unless the activity itself involves use and storage of aircraft. Accordingly, aviation museums and non-profit organizations will continue to have the same access to vacant hangar space as other activities that do not actually require a hangar for aviation use, that is, when there is no aviation demand (aircraft storage) for those hangars and subject to the discretion of the airport operator.

**10. Comment:** *Commenters suggest that the policy should allow a 'grace period' for maintaining possession of an empty hangar for a reasonable time from the sale of an aircraft to the purchase or lease of a new aircraft to be stored in the hangar.*

**Response:** The FAA assumes that airport lease terms would include reasonable accommodation for this purpose and other reasons a hangar might be empty for some period of time, including the aircraft being in use or at another location for maintenance. The reasons for temporary hangar vacancy and appropriate "grace periods" for various events depend on local needs and lease policies, and the FAA has not included any special provision for grace periods in the final policy.

**11. Comment:** *Commenters believe that the policy should allow some leisure spaces in a hangar, such as a lounge or seating area and kitchen, in*

*recognition of the time many aircraft owners spend at the airport, and the benefits of an airport community.*

**Response:** The final policy does not include any special provision for lounge areas or kitchens, either specifically permitting or prohibiting these areas. The policy requires only that any non-aviation related items in a hangar not interfere in any way with the primary use of the hangar for aircraft storage and movement. The airport sponsor is expected to have lease provisions and regulations in place to assure that items located in hangars do not interfere with this primary purpose.

**12. Comment:** *Commenters, including EAA, stated that all construction of an aircraft should be considered aeronautical for the purpose of hangar use, because building an aircraft is an inherently aeronautical activity. The policy should at least allow for use of a hangar at a much earlier stage of construction than final assembly.*

**Response:** The FAA has consistently held that the need for an airport hangar in manufacturing or building aircraft arises at the time the components of the aircraft are assembled into a completed aircraft. Prior to that stage, components can be assembled off-airport in smaller spaces. This determination has been applied to both commercial aircraft manufacturing as well as homebuilding of experimental aircraft.

A large majority of the more than 2,400 public comments received on the notice argued that aircraft construction at any stage is an aeronautical activity. The FAA recognizes that the construction of amateur-built aircraft differs from large-scale, commercial aircraft manufacturing. It may be more difficult for those constructing amateur-built or kit-built aircraft to find alternative space for construction or a means to ultimately transport completed large aircraft components to the airport for final assembly, and ultimately for access to taxiways for operation.

Commenters stated that in many cases an airport hangar may be the only viable location for amateur-built or kit-built aircraft construction. Also, as noted in the July 2014 notice, many airports have vacant hangars where a lease for construction of an aircraft, even for several years, would not prevent owners of operating aircraft from having access to hangar storage.

Accordingly, the FAA will consider the construction of amateur-built or kit-built aircraft as an aeronautical activity. Airport sponsors must provide reasonable access to this class of users, subject to local ordinances and building codes. Reasonable access applies to currently available facilities; there is no

requirement for sponsors to construct special facilities or to upgrade existing facilities for aircraft construction use.

Airport sponsors are urged to consider the appropriate safety measures to accommodate aircraft construction. Airport sponsors leasing a vacant hangar for aircraft construction also are urged to incorporate progress benchmarks in the lease to ensure the construction project proceeds to completion in a reasonable time. The FAA's policy with respect to commercial aircraft manufacturing remains unchanged.

**13. Comment:** *Commenter suggests that the time that an inoperable aircraft can be stored in a hangar should be clarified, because repairs can sometimes involve periods of inactivity.*

**Response:** The term "operational aircraft" in the final policy does not necessarily mean an aircraft fueled and ready to fly. All operating aircraft experience downtime for maintenance and repair, and for other routine and exceptional reasons. The final policy does not include an arbitrary time period beyond which an aircraft is no longer considered operational. An airport operator should be able to determine whether a particular aircraft is likely to become operational in a reasonable time or not, and incorporate provisions in the hangar lease to provide for either possibility.

**14. Comment:** *Commenter suggests that the FAA should limit use of hangars on an obligated airport as proposed in the July 2014 notice. Airport sponsors frequently allow non-aeronautical use of hangars now, denying the availability of hangar space to aircraft owners.*

**Response:** Some commenters supported the relatively strict policies in the July 2014 notice, citing their experience with being denied access to hangars that were being used for non-aviation purposes. The FAA believes that the final policy adopted will allow hangar tenants greater flexibility than the proposed policy in the use of their hangars, but only to the extent that there is no impact on the primary purpose of the hangar. The intent of the final policy is to minimize the regulatory burden on hangar tenants and to simplify enforcement responsibilities for airport sponsors and the FAA, but only as is consistent with the statutory requirements for use of federally obligated airport property.

#### Final Policy

In accordance with the above, the FAA is adopting the following policy statement on use of hangars at federally obligated airports:

**Use of Aeronautical Land and Facilities****Applicability**

This policy applies to all aircraft storage areas or facilities on a federally obligated airport unless designated for non-aeronautical use on an approved Airport Layout Plan or otherwise approved for non-aviation use by the FAA. This policy generally refers to the use of hangars since they are the type of aeronautical facility most often involved in issues of non-aviation use, but the policy also applies to other structures on areas of an airport designated for aeronautical use. This policy applies to all users of aircraft hangars, including airport sponsors, municipalities, and other public entities, regardless of whether a user is an owner or lessee of the hangar.

**I. General**

The intent of this policy is to ensure that the federal investment in federally obligated airports is protected by making aeronautical facilities available to aeronautical users, and by ensuring that airport sponsors receive fair market value for use of airport property for non-aeronautical purposes. The policy implements several Grant Assurances, including Grant Assurance 5, *Preserving Rights and Powers*; Grant Assurance 22, *Economic Nondiscrimination*; Grant Assurance 24, *Fee and Rental Structure*; and Grant Assurance 25, *Airport Revenues*.

**II. Standards for Aeronautical Use of Hangars**

a. Hangars located on airport property must be used for an aeronautical purpose, or be available for use for an aeronautical purpose, unless otherwise approved by the FAA Office of Airports as described in Section III.

b. Aeronautical uses for hangars include:

1. Storage of active aircraft.
2. Final assembly of aircraft under construction.
3. Non-commercial construction of amateur-built or kit-built aircraft.
4. Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
5. Storage of aircraft handling equipment, e.g., towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.

c. Provided the hangar is used primarily for aeronautical purposes, an airport sponsor may permit non-aeronautical items to be stored in hangars provided the items do not

interfere with the aeronautical use of the hangar.

d. While sponsors may adopt more restrictive rules for use of hangars, the FAA will generally not consider items to interfere with the aeronautical use of the hangar unless the items:

1. Impede the movement of the aircraft in and out of the hangar or impede access to aircraft or other aeronautical contents of the hangar.

2. Displace the aeronautical contents of the hangar. A vehicle parked at the hangar while the vehicle owner is using the aircraft will not be considered to displace the aircraft.

3. Impede access to aircraft or other aeronautical contents of the hangar.

4. Are used for the conduct of a non-aeronautical business or municipal agency function from the hangar (including storage of inventory).

5. Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.

e. Hangars may not be used as a residence, with a limited exception for sponsors providing an on-airport residence for a full-time airport manager, watchman, or airport operations staff for remotely located airports. The FAA differentiates between a typical pilot resting facility or aircrew quarters versus a hangar residence or hangar home. The former are designed to be used for overnight and/or resting periods for aircrew, and not as a permanent or even temporary residence. See FAA Order 5190.6B paragraph 20.5(b)

f. This policy applies regardless of whether the hangar occupant leases the hangar from the airport sponsor or developer, or the hangar occupant constructed the hangar at the occupant's own expense while holding a ground lease. When land designated for aeronautical use is made available for construction of hangars, the hangars built on the land are subject to the sponsor's obligations to use aeronautical facilities for aeronautical use.

**III. Approval for Non-Aeronautical Use of Hangars**

A sponsor will be considered to have FAA approval for non-aeronautical use of a hangar in each of the following cases:

a. *FAA advance approval of an interim use:* Where hangars are unoccupied and there is no current aviation demand for hangar space, the airport sponsor may request that FAA Office of Airports approve an interim use of a hangar for non-aeronautical purposes for a period of 3 to 5 years. The FAA will review the request in accordance with Order 5190.6B

paragraph 22.6. Interim leases of unused hangars can generate revenue for the airport and prevent deterioration of facilities. Approved interim or concurrent revenue-production uses must not interfere with safe and efficient airport operations and sponsors should only agree to lease terms that allow the hangars to be recovered on a 30 days' notice for aeronautical purposes. In each of the above cases, the airport sponsor is required to charge non-aeronautical fair market rental fees for the non-aeronautical use of airport property, even on an interim basis. (64 FR 7721).

b. *FAA approval of a month-to-month leasing plan:* An airport sponsor may obtain advance written approval month-to-month leasing plan for non-aeronautical use of vacant facilities from the local FAA Office of Airports. When there is no current aviation demand for vacant hangars, the airport sponsor may request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis. The plan must provide for leases that include an enforceable provision that the tenant will vacate the hangar on a 30-day notice. Once the plan is approved, the sponsor may lease vacant hangars on a 30-day notice basis without further FAA approval. If the airport sponsor receives a request for aeronautical use of the hangar and no other suitable hangar space is available, the sponsor will notify the month-to-month tenant that it must vacate.

A sponsor's request for approval of an interim use or a month-to-month leasing plan should include or provide for (1) an inventory of aeronautical and non-aeronautical land/uses, (2) information on vacancy rates; (3) the sponsor's procedures for accepting new requests for aeronautical use; and (4) assurance that facilities can be returned to aeronautical use when there is renewed aeronautical demand for hangar space. In each of the above cases, the airport sponsor is required to charge non-aeronautical fair market rental fees for the non-aeronautical use of airport property, even on an interim basis. (64 FR 7721).

c. *Other cases:* Advance written release by the FAA for all other non-aeronautical uses of designated aeronautical facilities. Any other non-aeronautical use of a designated aeronautical facility or parcel of airport land requires advance written approval from the FAA Office of Airports in accordance with Order 5190.6B chapter 22.

#### IV. Use of Hangars for Construction of an Aircraft

Non-commercial construction of amateur-built or kit-built aircraft is considered an aeronautical activity. As with any aeronautical activity, an airport sponsor may lease or approve the lease of hangar space for this activity without FAA approval. Airport sponsors are not required to construct special facilities or upgrade existing facilities for construction activities. Airport sponsors are urged to consider the appropriate safety measures to accommodate these users.

Airport sponsors also should consider incorporating construction progress targets in the lease to ensure that the hangar will be used for final assembly and storage of an operational aircraft within a reasonable term after project start.

#### V. No Right to Non-Aeronautical Use

In the context of enforcement of the Grant Assurances, this policy allows some incidental storage of non-aeronautical items in hangars that do not interfere with aeronautical use. However, the policy neither creates nor constitutes a right to store non-aeronautical items in hangars. Airport sponsors may restrict or prohibit storage of non-aeronautical items. Sponsors should consider factors such as emergency access, fire codes, security, insurance, and the impact of vehicular traffic on their surface areas when enacting rules regarding hangar storage. In some cases, permitting certain incidental non-aeronautical items in hangars could inhibit the sponsor's ability to meet obligations associated with Grant Assurance 19, *Operations and Maintenance*. To avoid claims of discrimination, sponsors should impose consistent rules for incidental storage in all similar facilities at the airport. Sponsors should ensure that taxiways and runways are not used for the vehicular transport of such items to or from the hangars.

#### VI. Sponsor Compliance Actions

a. It is expected that aeronautical facilities on an airport will be available and used for aeronautical purposes in the normal course of airport business, and that non-aeronautical uses will be the exception.

b. Sponsors should have a program to routinely monitor use of hangars and take measures to eliminate and prevent unapproved non-aeronautical use of hangars.

c. Sponsors should ensure that length of time on a waiting list of those in need of a hangar for aircraft storage is minimized.

d. Sponsors should also consider including a provision in airport leases, including aeronautical leases, to adjust rental rates to FMV for any non- incidental non-aeronautical use of the leased facilities. In other words, if a tenant uses a hangar for a non- aeronautical purpose in violation of this policy, the rental payments due to the sponsor would automatically increase to a FMV level.

e. FAA personnel conducting a land use or compliance inspection of an airport may request a copy of the sponsor's hangar use program and evidence that the sponsor has limited hangars to aeronautical use.

The FAA may disapprove an AIP grant for hangar construction if there are existing hangars at the airport being used for non-aeronautical purposes.

Issued in Washington, DC, on the 9th of June 2016.

Robin K. Hunt,

*Acting Director, Office of Airport Compliance and Management Analysis.*

[FR Doc. 2016-14133 Filed 6-14-16; 8:45 am]

BILLING CODE 4910-13-P

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Food and Drug Administration

#### 21 CFR Parts 660, 801, and 809

[Docket No. FDA-2013-N-0125]

RIN 0910-AG74

#### Use of Symbols in Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is issuing this final rule revising its medical device and certain biological product labeling regulations to explicitly allow for the optional inclusion of graphical representations of information, or symbols, in labeling (including labels) without adjacent explanatory text (referred to in this document as "stand-alone symbols") if certain requirements are met. The final rule also specifies that the use of symbols, accompanied by adjacent explanatory text continues to be permitted. FDA is also revising its prescription device labeling regulations to allow the use of the symbol statement "Rx only" or "R only" in the labeling for prescription devices.

**DATES:** This rule is effective September 13, 2016.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the final rule as it relates to devices regulated by the Center for Devices and Radiological Health (CDRH): Antoinette (Tosia) Hazlett, Center for Devices and Radiological Health, Food and Drug Administration, Bldg. 66, Rm. 5424, 10903 New Hampshire Ave., Silver Spring, MD 20993-0002, 301-796-6119, email: [Tosia.Hazlett@fda.hhs.gov](mailto:Tosia.Hazlett@fda.hhs.gov).

For information concerning the final rule as it relates to devices regulated by the Center for Biologics Evaluation and Research: Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

#### SUPPLEMENTARY INFORMATION:

##### Executive Summary

##### Purpose of the Regulatory Action

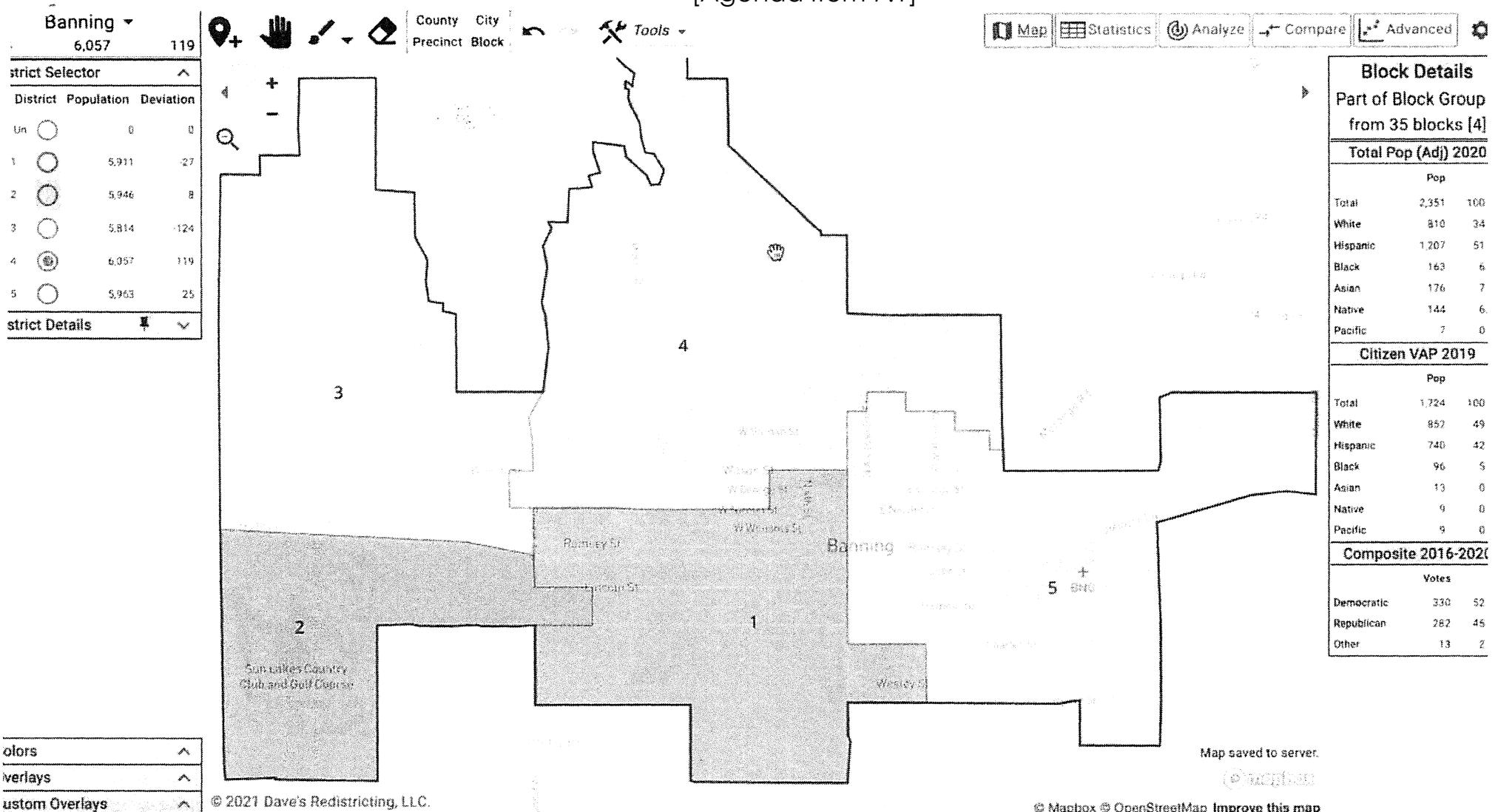
The final rule explicitly permits the use of symbols in medical device labeling without adjacent explanatory text if certain requirements are met. The medical device industry has requested the ability to use stand-alone symbols on domestic device labeling, consistent with their current use on devices manufactured for European and other foreign markets. The final rule seeks to harmonize the U.S. device labeling requirements for symbols with international regulatory requirements, such as the Medical Device Directive 93/42/EEC of the European Union (EU) (the European Medical Device Directive) and global adoption of International Electrotechnical Commission (IEC) standard IEC 60417 and International Organization for Standardization (ISO) standard ISO 7000-DB that govern the use of device symbols in numerous foreign markets.

##### Summary of the Major Provisions of the Regulatory Action in Question

FDA has generally interpreted existing regulations not to allow the use of symbols in medical device labeling, except with adjacent English-language explanatory text and/or on in vitro diagnostic (IVD) devices intended for professional use. Under the final rule, symbols established in a standard developed by a standards development organization (SDO) may be used in medical device labeling without adjacent explanatory text as long as: (1) The standard is recognized by FDA under its authority under section 514(c) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360d(c)) and the symbol is used according to the specifications for use of the symbol set

## Exhibit D - Public Comment [Agenda Item 7.1]

<https://mail.google.com/mail/u/0/?hl=en>



| Banning CC - Community Map |              |              |        |  |               |               |              |                     |               |               |               |              |              | Map          | Statistics   | Analyze | Compare | Advanced | Help |
|----------------------------|--------------|--------------|--------|--|---------------|---------------|--------------|---------------------|---------------|---------------|---------------|--------------|--------------|--------------|--------------|---------|---------|----------|------|
| ID                         | Population   |              | Shapes |  | Partisan Lean |               |              | Demographics (CVAP) |               |               |               |              |              | DOWNLOAD     |              |         |         |          |      |
|                            | Total        | +/-          |        |  | Dem           | Rep           | Oth          | Total               | White         | Minority      | Hispanic      | Black        | Asian        | Native       | Pacific      |         |         |          |      |
| Un                         | 0            |              |        |  | 0.00%         | 0.00%         | 0.00%        | 0                   | 0.00%         | 0.00%         | 0.00%         | 0.00%        | 0.00%        | 0.00%        | 0.00%        |         |         |          |      |
| 1                          | 5,911        | -0.46%       |        |  | 56.69%        | 40.74%        | 2.57%        | 4,613               | 33.21%        | 66.79%        | 47.08%        | 8.02%        | 5.16%        | 6.18%        | 0.00%        |         |         |          |      |
| 2                          | 5,946        | 0.13%        |        |  | 38.50%        | 60.61%        | 0.89%        | 6,430               | 77.23%        | 22.77%        | 13.89%        | 4.34%        | 4.42%        | 0.23%        | 0.00%        |         |         |          |      |
| 3                          | 5,814        | -2.09%       |        |  | 45.75%        | 52.09%        | 2.17%        | 3,815               | 53.26%        | 46.74%        | 32.03%        | 8.15%        | 5.19%        | 1.23%        | 0.08%        |         |         |          |      |
| 4                          | 6,057        | 2.00%        |        |  | 54.91%        | 43.31%        | 1.78%        | 4,019               | 43.19%        | 56.81%        | 40.96%        | 9.38%        | 2.39%        | 3.71%        | 0.25%        |         |         |          |      |
| 5                          | 5,963        | 0.42%        |        |  | 60.08%        | 36.89%        | 3.03%        | 3,475               | 25.50%        | 74.50%        | 46.42%        | 16.58%       | 4.29%        | 7.05%        | 0.00%        |         |         |          |      |
|                            | <b>5,938</b> | <b>4.09%</b> |        |  | <b>47.53%</b> | <b>50.72%</b> | <b>1.75%</b> | <b>4,470</b>        | <b>49.89%</b> | <b>50.11%</b> | <b>33.76%</b> | <b>8.56%</b> | <b>4.32%</b> | <b>3.32%</b> | <b>0.06%</b> |         |         |          |      |

#### Notes

- The 4.09% population deviation is within the 10% threshold tolerated by the courts.
- One district leans Republican, three lean Democratic, and one falls in the 45–55% competitive range.
- There are three majority-minority districts.

Date: 2/22/22

## **A Better Banning Community Map Narrative**

A Better Banning Collaborative in partnership with Brown and Black Redistricting Alliance and in consultation with Mexican American Legal Defense and Educational Fund (MALDEF)

- The Fair Maps Act is the first significant reform of California local redistricting law since the 1940s. Modeled off the requirements already in place for State redistricting, this bill creates standardized, fair redistricting criteria that keeps communities together and prohibits partisan gerrymandering. It also requires local governments to engage communities in the redistricting process by holding public hearings. This bill would also better align the local redistricting timeline to allow for more opportunities for public participation in the map drawing process.

### **District 1**

Narrative template:

Gives our latino population greater oversight over education and business areas of interest along transit corridor (route 10) while also having them oversee BHS, MSJC, our two elementary schools - Central and Hemmerling-, and Banning public Library. In addition, District 1 will also be able to directly oversee and hopefully stifle the school-to-prison pipeline with Sanders Correctional Facility included. Recreationally, this new boundary would include the Banning Community Center and Banning's historic Repplier Park. Economically, District 1 would gain the historic and coveted Banning Downtown area long with key business territory to the North and South of route 10 as discussed earlier.

Citizen voting age population:

- Majority Minority district 66.79% (Hispanic/Black/Asian/Native/Pacific=Minority)
- Latino/Hispanic CVAP 47.08% Black CVAP 8.02%
- Historic Downtown Area
- Banning High School
- Hemmerling Elementary School
- Mount San Jacinto Community College
- Sanders Correctional Facility
- Central Elementary School
- Banning Public Library
- Repplier Park
- Banning Community Center

- Fire Department
- City Hall
- Police Station
- Riverside County Court
- Dysart Equestrian Park

## **Exhibit D** - Public Comment [Agenda Item 7.1]

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**From:** Jesse Valenzuela <jessevalenzuela1951@gmail.com>  
**Sent:** Tuesday, February 22, 2022 6:46 PM  
**To:** Caroline Patton  
**Subject:** City of Banning Redistricting

Dear Ms. Patton, City Clerk, City of Banning:

To Mayor and Banning City Council:]

My name is Jesse Valenzuela and my home address is 2643 West William's Street, Banning, VA 92220.

I am writing this short note in full support of the recommended redistricting maps that MALDEF and community coalition entitled A Better Banning Community Coalition Redistricting.

Thank you for your time and consideration.

Jesse Valenzuela  
909-561-1093  
[jessevalenzuela1951@gmail.com](mailto:jessevalenzuela1951@gmail.com)