

Law and Legislation Committee Report

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Sacramento, CA 95814

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Discussion Item 05

Title: Increasing the Number of City Permits for Cannabis Storefront Dispensaries

Location: Citywide

Recommendation: 1) Discuss and consider the matter of increasing the number of city business operations permits for cannabis storefront dispensaries, specifically, whether to: a) gradually increase the number of permits over a period of time; or b) maintain the city's current number of permits; and 2) provide policy direction to staff.

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Presenter: Joe Devlin, Chief of Cannabis Policy and Enforcement, (916) 808-4772, Office of the City Manager.

Attachments:

1-Description/Analysis

2-Comparison of Dispensaries by Population

3-Cannabis Opportunity Reinvestment and Equity (CORE) Program

Description/Analysis

Issue Detail: The City of Sacramento (“City”) may not issue new cannabis storefront dispensary business operations permits if there are at least 30 valid permits. (Sacramento City Code section 5.150.350.A) Currently, there are 30 valid cannabis storefront dispensary permits in the city. On November 13, 2018, the City Council held an initial discussion on the possibility of increasing this number to allow the City to issue new storefront dispensary business operating permits. The Council referred the item to the Law and Legislation Committee (“Committee”) for further discussion and the development of a policy recommendation to City Council that is data-driven and aimed at decreasing inequities and increasing diversity in the ownership of storefront dispensaries (“dispensaries”) in Sacramento.

Sacramento has a population of roughly half-a-million residents. The 30 permitted dispensaries represent a ratio of one dispensary per 17,000 residents. For comparison purposes, the following list includes the dispensary to population ratio for some cities: one per 16,370 in San Francisco; one per 14,670 in Long Beach; one per 26,575 in Oakland; and one per 13,797 in Davis. It is important to note that besides Davis, which has five dispensaries, no other cities in the region currently allow storefront dispensaries. This makes Sacramento’s dispensary industry the largest and the most accessible to patients and customers in the Sacramento region. Outside of California, the cities of Denver, Colorado and Portland, Oregon, where commercial cannabis became legal in 2012 and 2014, respectively, and are considered to be mature cannabis markets, currently have a ratio of one per 4,000 residents. A table showing a comparison in the number of dispensaries by population is included as Attachment 2.

The City Council has already taken a major step in promoting equity in the cannabis industry since first adopting regulations to allow commercial cannabis in Sacramento in November 2016. On August 9, 2018, Council adopted the Cannabis Opportunity Reinvestment and Equity (CORE) Program, with the goal of providing resources and support to eligible individuals who were impacted by the disproportionate enforcement of cannabis-related crimes. The program was developed based on a Cannabis Equity Study which compared cannabis-related arrests data in the city against certain demographic groups. Details of the CORE program, including eligibility and benefits are attached (Attachment 3).

The CORE Program will create a small business support center and a mentoring program to assist participants with business plan development, cannabis-specific business education, loan readiness assistance, technical and professional education and training, and marketing and social media support, among many other things. Individual participants are also exempt from paying for the initial business operations permit fee and the first renewal fee of the permit. CORE Program participants are eligible to apply for all license types, but the City cannot

consider and issue new permits for storefront dispensaries due to the City's limitation. Lastly, in the event that the number of valid dispensary permits in the city falls below 30, the dispensary permits will be allocated through a lottery. (Sacramento City Code section 5.150.350) Under the guidelines of the CORE program, CORE participants are to receive priority in this lottery process.

Based on the aforementioned and to further Council's goal of addressing inequities and promoting diversity, staff recommends that the Committee discuss and consider whether to increase the minimum number of dispensary permits allowed within the city, and if so, provide policy direction to staff. As to the number of dispensary permits to be added, staff is recommending that the Committee determine the appropriate number, if any, but also proposes that any new storefront dispensary permits be added gradually over a period of time. A gradual increase in the number of dispensary permits will allow staff to manage the land entitlement and permitting process, including effectively addressing any potential neighborhood concerns.

In lieu of a specific number, the Committee can also choose to consider increasing the number of storefront dispensaries by a percentage over a period of time, an example of which is outlined below:

- 30 percent increase over three years = 9 new permits (three permits per year)
- 20 percent increase over three years = 6 permits (two permits per year)
- 10 percent increase over three years = 3 permits (one permit per year)
- Other percentage over a different period time

Policy Considerations: If the Committee provides staff with direction to modify the current number of allowed valid dispensary permits in the city, staff will return with the necessary ordinances or resolutions to effect such policy.

Economic Impacts: None.

Environmental Considerations: This action is exempt from CEQA because it is the adoption of an ordinance, rule, or regulation that requires discretionary review, including environmental review, and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity (CEQA Guidelines § 15061(B)(1), Bus. and Prof. Code § 26055(h)) and because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines §15061(b)(3)).

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: The City Council has stated a goal to decrease inequities and increase diversity in the ownership of the dispensaries in the city. The 30 permitted dispensaries are a self-selected group whose operating permits as collectives and cooperatives were obtained through a ministerial permitting process that started as early as 2010, at least five years before commercial cannabis became legal in the State of California.

The City Code provides that a lottery will be conducted if the number falls below 30. Under the guidelines of the CORE program, one of the benefits to participants under Classifications 1, 2, 3 and 5 is receiving priority in the lottery process should a permit or permits become available. However, under the current policy, a permit will only become available if it is surrendered, revoked, or not renewed.

As such, the only other way to achieve Council's goal is to increase the number of dispensary permits.

Financial Considerations: The addition of new storefront dispensaries will likely result in additional Business Operating Taxes (BOT) payments to the City. At the close of the second quarter of the current fiscal year (December 31, 2018), BOT payments by operating cannabis businesses total \$5.3 million. Of that amount, \$2.1 million was remitted by storefront dispensaries.

Program permit fees for new dispensaries are \$23,610. CORE Program participants are exempt from paying the permit fee during the two-year pilot program.

Local Business Enterprise (LBE): Not applicable.

COMPARISON OF CITIES BY POPULATION PER DISPENSARY				
CITY	POPULATION	NO. OF DISPENSARIES	POP. PER DISPENSARY	CAP
Santa Ana, CA	334,136	30	11,138	30 Adult; 20 Med
Davis, CA	68,986	5	13,797	5
Long Beach, CA	469,450	32	14,670	32
San Francisco, CA	884,363	54	16,377	None, but not currently accepting applications
Sacramento, CA	501,901	30	16,730	30
Los Angeles, CA	3,399,759	166	24,095	No cap
Oakland, CA	425,195	16	26,575	16
San Jose, CA	1,035,317	16	64,707	16
Stockton, CA	310,496	4	77,624	4
Denver, CO	704,621	169	4,169	
Portland, OR	647,805	164	3,950	

CITY OF SACRAMENTO
CANNABIS OPPORTUNITY REINVESTMENT AND EQUITY PROGRAM

The City of Sacramento has determined, based on its 2018 Cannabis Equity Study, that a two-year pilot program dedicated to aiding communities who were subject to criminal law enforcement of cannabis related crimes at a disproportionate rate to their population within the City and, as a result, were negatively impacted is in the best interests of the City. As such, the City has adopted the Cannabis Opportunity Reinvestment and Equity Program (CORE) described herein.

1. **Program Purpose**. The CORE Program seeks to reduce the barriers of entry and participation for communities that have been negatively impacted by the disproportionate law enforcement of cannabis related crimes by providing them access to cannabis business development resources, services, and contracting and shareholder opportunities described herein. The CORE Program is a conscious effort to provide the business plan development, training, mentoring, and support necessary to ensure that the emerging cannabis market is accessible to all, regardless of economic status, gender, racial, cultural background and criminal history. Although City funding for the CORE Program’s cannabis business development resources and services shall expire in two years from the date of adoption (unless such time for these pilot program support services are otherwise reduced or extended by resolution of the City Council), all other program definitions, eligibility, processing, benefits, features and functions shall remain intact as policy.

2. **Definitions**. Except for as provided herein, for purposes of the CORE Program, the words and phrases defined in chapters 1.04 and 5.150 of the Sacramento City Code shall have the same meaning herein. Further, the following words and phrases shall have the meanings respectively ascribed to them by this section:
 - a. “Ancillary business” means support business services (e.g., human resources or payroll and call centers).

 - b. “Applicant” means an individual or business who makes a formal application to be admitted in the CORE Program.

 - c. “Business” means a firm, organization, association, partnership, business trust, corporation, company, or like entity.

- d. “Cannabis Social Enterprise” or “CSE” means a cannabis business in the city that incubates and/or employs Classifications 1 or 2 participants and uses commercial strategies to maximize improvements in financial, social, and environmental well-being of the disadvantaged community the organization sits in. This may include maximizing social impact alongside profits for external shareholders. CSEs can be structured as a for-profit or non-profit organization and may take the form of a co-operative, mutual organization, a disregarded entity, a social business, a benefit corporation, a community interest company, a company limited by guarantee, or a charity organization. They can also take more conventional structures. Social enterprises have both business goals and social goals. As a result, their social goals are embedded in their objective, which differentiates them from other organizations and corporations.

- e. “Classification” means a category of individuals or businesses that meet either Classification 1, 2, 3, or 4 of the CORE Program.

- f. “CORE Incubator” or “Incubator” means a cannabis business which as a condition for receiving priority processing, either:
 - 1. Hosts a participant; 30% of its workforce are Classification 1 or 2 eligible participants, measured by hours worked; and contracts no less than 51% of its cannabis products or services and ancillary business support with eligible participants; or
 - 2. Is a shared manufacturing cannabis business and donates at least 10% of its hours of operation to allow participant(s) to utilize 100% of its business’ floor space and equipment; or
 - 3. Is a cannabis business that sells, gives or otherwise transfers no less than a 33% equity share in the CORE Incubator’s cannabis business to eligible CORE participants or participants; 30% of its workforce be Classification 1 or 2 eligible; and contracts no less than 30% of its cannabis and ancillary business with Classification 1 or 2 eligible participants.

CORE Incubators shall host, donate to, employ, contract with, sell, give, or transfer to participants that reside within the city district in which the Incubator sits. If no such participants exist, Incubators shall utilize participants from other applicable areas.

- g. “CORE Program” or “the program” means the City’s Cannabis Opportunity

Reinvestment and Equity Program.

- h. “CORE Program participant” or “participant” means an individual or a business that has been admitted to participate in the CORE Program.
- i. “Equity share” means an ordinary share, including a fractional or part ownership in which a shareholder, as a fractional owner, undertakes the maximum entrepreneurial risk associated with a business venture. The holders of such shares are members of the company and have voting rights.
- j. “Facilitator” means the organization selected by the city to facilitate this Program on behalf of the city.
- k. “Floor space” means at least 10%, but not less than 800 square feet, of building space.
- l. “Host” means to rent or lease operations-ready building or floor space to a participant that resides in the city district where the cannabis business sits, if any, free of charge for two years, or at a rate of 33% of the market value for four years; and to provide that participant with business or technical assistance (e.g., business plan development, coaching on access to capital, and establishing a lawful business, or use of equipment). If no such participants exist, participants from other applicable areas shall be utilized.
- m. “Immediate family member” means a person in the first, second, or third degree of lineal or collateral kinship as defined in chapter 13 of Part 1 of Division 1 of the California Probate Code.
- n. “Incubate” means to assist one or more participants that reside in the city district where the cannabis business sits, if any, to enter the cannabis industry by hosting, providing training, technical assistance, and general business guidance. If no such participants exist, participants from other applicable areas shall be utilized.
- o. “Individual” means a person.
- p. “Low income household” has the same meaning provided in Sacramento City Code section 17.712.020.
- q. “Operations-ready” means a hosted building or floor space that is in

compliance with the applicable health and safety laws and regulations and has the appropriate equipment and licensure to lawfully run or conduct any type of cannabis business.

- r. “Priority processing” or “priority” means the City will review and approval of cannabis related business or conditional use permit applications or renewals of CORE participants, if any, before any cannabis related business or conditional use application or renewal received by the City that would otherwise be processed on a first come, first served basis.
- s. “Sits” means to be engaged in its cannabis business.

3. **Applicability of Sacramento City Code chapter 5.150.** All CORE Program participants are subject to the provisions of chapter 5.150 of the Sacramento City Code.

4. **Applications for the CORE Program.** An individual or business may apply for the CORE Program by filing an application with the Facilitator. The application shall be on a form approved by the City Manager and may require information or documentation consistent with the provisions of the city code or state law and this program, including the following:

a. Application.

- i. The information provided in city code sections 5.150.210 A.1.b, A.3.a., and A.9.
- ii. Individual.
 - 1. Must be lawfully able to work in the United States;
 - 2. Twenty-one (21) years of age or older;
- iii. Business.
 - 1. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement and fictitious business name statement.
- iv. A statement dated and signed by the applicant, under penalty, affirming that the applicant meets the program eligibility requirements as applicable to the particular applicant.

5. **Review Process**. The Facilitator shall review and approve all CORE program applications that meet the eligibility requirements described herein. If an application is denied, that applicant may appeal to the City for evaluation and a final determination.

6. **Program Eligibility**. To be admitted into the CORE Program, an applicant must provide documentation, as described in section 7 below, that sufficiently demonstrates that the applicant satisfies any one of the following Classifications:

a. **Individuals**. An individual that is eligible to participate in the program is either:

i. **Classification 1**. A current or former resident of the City of Sacramento who previously resided or currently resides in a low-income household and was either: a) arrested or convicted for a cannabis related crime in Sacramento between the years 1980 and 2011; or is b) an immediate family member of an individual described in subsection a of Classification 1 or Classification 2.

ii. **Classification 2**. A current or former resident of the City of Sacramento who has lived in a low-income household for at least five (5) years, between the years of 1980 and 2011 in the following zip codes:

95811, 95815, 95817, 95820, 95823, 95824, 95826, 95828, and 95818.

b. **Businesses**. A cannabis business that is eligible to participate in the program is either:

i. **Classification 3**. A cannabis business with not less than 51% ownership by individuals meeting Classifications 1 or 2 criteria that reside within the city district in which their business sits, if any. If no such individuals exist, individuals meeting Classifications 1 or 2 criteria from other applicable areas may be utilized.

ii. **Classification 4**. A cannabis business that is a CORE Incubator.

iii. **Classification 5.** A Cannabis Social Enterprise with not less than 51% ownership by individuals meeting Classifications 1 or 2 criteria.

7. **Documentation and Review.** An applicant shall provide the following with its application for the Program, in addition to any other documentation that the City deems necessary to determine the applicant's eligibility:
- a. **Proof of Income.** Proof of income shall be supported with federal and state tax returns and at least one of the following documents from the last five (5) years: two months of pay stubs; proof of current eligibility for General Assistance, food stamps, Medi-Cal/CalWORKS, supplemental security income, or social security disability, or similar documentation.
 - b. **Proof of residency.** Proof of residency shall be supported by a minimum of two of the following documents: California driver's or identification card records, property tax billings and payments, signed rental agreement, verified copies of state or federal tax returns with an address in the geographic area of the city of Sacramento, school records, medical records, banking records, Sacramento Housing Authority records, or utility, cable, or internet company billing and payment records.
 - c. **Proof of arrest or conviction of a cannabis related crime.** Proof of an arrest or conviction of a cannabis related crime shall be demonstrated by federal or state court records indicating the disposition of the criminal matter, records expungement documentation, or any other applicable law enforcement record.
8. **Participant Benefits.** General program benefits may include but are not limited to: business plan development, business mentoring, coaching on access to capital, business needs assessment, loan readiness assessment, market assessment, data and research strategies and support, assistance with establishing a legal entity, assistance with criminal records expungement, lease negotiation assistance, small business legal considerations, mentoring, fiscal management, marketing/social media, technical training, employee training, and regulatory compliance.

A CORE Program participant shall be entitled to receive the following benefits based on the applicable Classification:

- a. **Classifications 1, 2, 3 & 5:** Participants shall receive the following:

- i. All support services offered under the program,
- ii. The City will provide priority processing of the participant's cannabis related business and conditional use permits,
- iii. The fee for a participant's cannabis related business permit is waived by the City,
- iv. The City will provide priority to participants for storefront cannabis dispensary permit lotteries procedures as will be adopted by the City Council (Sacramento City Code section 5.150.350), and
- v. Admittance into the program shall be deemed to satisfy the neighborhood responsibility plan requirement under Sacramento City Code section 17.228.920.

b. **Classification 4**: Participants shall receive the following:

- i. Qualified and ready CORE participants to host,
- ii. The City will provide priority processing of the participant's cannabis related business and conditional use permits.

9. **CORE Condition on Cannabis Business Operations Permit**. CORE Classifications 3, 4, and 5 participants are required to continue, maintain, and carry out their respective eligibility requirements through the term of their respective cannabis business operations permit. Compliance with this section 9 shall be a condition of Classifications 3, 4, and 5 participants respective cannabis business operations permit, such that failure to comply with this section 9 shall be grounds to deny, suspend, or revoke such cannabis business operations permit pursuant to Sacramento City Code section 5.150.240(C).

10. **Program Monitoring and Reporting**. The Office of Cannabis Policy and Enforcement shall provide quarterly updates to the City Council on the status of the CORE program, including number of participants, participant success measured by the number of participants either ready to obtain or that have obtained a cannabis business operating permit. The City will reevaluate and update its Equity Study when data becomes available or known to it that may expand the eligibility and benefits of the program; including, but not limited to, an analysis of disproportionate impacts within census tracts. Additionally, the report should include an evaluation of any ongoing barriers to entry and participation, any reevaluations of the Equity Study, and recommend solutions as needed to advance equity and accomplish the City's goals, which includes achieving 50 percent of all cannabis business permits awarded to CORE participants.