



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edgardo Garcia
Lee Wilcox

SUBJECT: SEE BELOW

DATE: March 15, 2019

Approved

D. DSL

Date

3/15/19

SUBJECT: COUNCIL POLICY PRIORITY #13: CANNABIS EQUITY URGENCY ORDINANCE

RECOMMENDATION

- (a) Approve an ordinance amending Part 2 and adding Part 3.5 to Chapter 6.88 of Title 6 of the San José Municipal Code to add definitions and set forth criteria for a Cannabis Equity Assistance Program.
- (b) Adopt an Urgency Ordinance amending Part 2 and adding Part 3.5 to Chapter 6.88 of Title 6 of the San José Municipal Code to add definitions and set forth criteria for a Cannabis Equity Assistance Program.

OUTCOME

Passage of the ordinance and the urgency ordinance will allow staff to develop a program to assist cannabis equity applicants, as outlined in Council Policy Priority #13. An urgency ordinance is required so staff can submit an application for funding under the State of California's Local Equity Grant Program by the April 1, 2019 deadline.

BACKGROUND

Cannabis equity programs seek to provide opportunities for those disproportionately likely to have been arrested/incarcerated or otherwise impacted by previous cannabis policies to have access to employment and entrepreneurship in the new cannabis industry. On March 5, 2019, the City Council voted to place creation of a Cannabis Equity Applicant Program on the Council Policy Priority list and ranked it Number 13.

The California Cannabis Equity Act of 2018 established by Senate Bill 1294 (Bradford 2018), became effective January 1, 2019, and authorized the California Bureau of Cannabis Control to develop an equity grant program to disperse grant funding to local jurisdictions to assist local

equity applicants or local equity licensees to gain entry to, and successfully operate in, the State's regulated market. The State of California has allocated \$10 million for local jurisdictions that have commercial cannabis equity programs providing direct assistance to local equity applicants or local equity licensees. The State released its Notice of Funding Availability, program guidelines, and grant application on March 1, 2019. Grant applications are due on April 1, 2019.

To be eligible to apply for a grant, a local jurisdiction must attach its cannabis equity ordinance to the grant application. San José does not yet have an ordinance in place.

ANALYSIS

Approving the Cannabis Equity Ordinance would allow staff to apply for State funding to implement a cannabis equity program.

Since the Council meeting of January 15, 2019, when Council approved expanding the cannabis program to allow cannabis manufacturing, distribution, and testing, staff has met with the San José Cannabis Equity Working Group to explore best practices around cannabis equity and unique needs of San José equity applicants.

The proposed ordinance:

- 1) Defines an "equity employee" and an "equity business owner"; and
- 2) Sets eligibility criteria for equity assistance.

The Administration acknowledges the proposed ordinance is a preliminary step in developing a cannabis equity program. While it incorporates the hard work of the San José Cannabis Equity Working Group and other stakeholders, it is only a first step and is driven by the short timeline the State has allowed for applications.

Staff's grant application for SB 1294 would include asking for state funds to cover the costs of services to equity employees and business owners, such as technical assistance, financial assistance, job training and employment assistance, and other services.

Staff will further develop the program and regulations will be added to the existing City Manager Regulations for Medical and Non-medical Cannabis.

Equity Applicant Qualifications

Under the proposed ordinance, an equity employee or equity business owner (“equity applicant”) would be an individual who has an annual family income at or below 80 percent (80%) of the Area Median Income (AMI) for Santa Clara County¹.

In addition, an equity applicant must meet one of the following criteria:

- a) Has lived in San José for at least four years in a census tract where at least 51 percent (51%) of current residents have a household income at or below 80% of the AMI for Santa Clara County; or
- b) Has attended a San José public school (or schools) for at least four years located in a census tract where at least 51% of current residents have a household income at or below 80% of the AMI for Santa Clara County; or
- c) Was arrested or convicted for a crime relating to the sale, possession, use, or cultivation of cannabis (excluding those offenses which would be disqualifying for cannabis licensure under State law); or
- d) Had a parent, guardian, child, or sibling convicted of a crime relating to the sale, possession, use, or cultivation of cannabis in the City of San José (excluding those offenses which would be disqualifying for cannabis licensure under State law).

Under the proposed ordinance, an equity business owner would meet the criteria outlined above and would additionally hold a minimum of 51% ownership of the entity applying for Registration as a cannabis business in San José.

Currently, the City is accepting applications for cannabis manufacturing, distribution, and testing businesses. Additionally, it is possible for an existing registered retail cannabis business to sell or transfer its business, pending the qualification of the new owners for a City registration and State license. Under Council Policy Priority #11, the Administration will be evaluating land use for cannabis retail businesses, including the possibility of expanding and/or reopening registration to new applicants. This is expected to occur in 2020.

Program Application

The proposed ordinance outlines the types of documents an equity applicant will need to provide to determine eligibility for participation in the equity program. These will include tax returns, pay stubs, proof of eligibility for General Assistance, food stamps, MediCAL/CALWORKS, or

¹ The 80% of AMI income level matches the U.S. Department of Housing and Urban Development definition of “Low Income” for housing assistance eligibility and is adjusted for family size. Currently, 80% of AMI for a 2-person household is \$75,600. See <https://www.scchousingauthority.org/section-8-housing-programs/waiting-lists-applicants/income-limits/> for further information.

Supplemental Security Income or Social Security Disability. The ordinance also includes various ways an applicant can verify past residency, school attendance, and drug arrests/convictions.

Program Benefits

Equity program benefits may include: providing technical assistance for equity applicants, training for prospective employees, and other services dependent on funding.

Need for Urgency

City Council placed the creation of a Cannabis Equity Applicant Program on the Council Policy Priority list. Council is committed to providing opportunities of employment and entrepreneurship in the new cannabis industry to those disproportionately likely to have been arrested/incarcerated or otherwise impacted by previous cannabis policies. As discussed above, the State of California requires a cannabis equity ordinance be included with a grant application for state funding allocated under SB 1294, The California Cannabis Equity Act of 2018. The State announced grant criteria on March 1, 2019 with an application deadline of April 1, 2019. This short timeline does not allow for the City to meet its usual timeline for ordinance adoption, which requires a first and second reading. Funding is needed in order to be able to provide the services contemplated by a cannabis equity program.

EVALUATION AND FOLLOW-UP

This proposed ordinance would allow the City to submit an application to the State's Local Equity Grant Program. This is a critical first step in implementing Council Policy Priority #13 Cannabis Equity Applicant Program. The Administration will report the results of the grant application to Council via Informational Memorandum.

PUBLIC OUTREACH

Since Council first proposed creation of a cannabis equity program on January 15, 2019, staff has met with stakeholders from the San José Cannabis Equity Working Group three times, including reviewing the proposed urgency ordinance.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission input was required for this item.

FISCAL/POLICY ALIGNMENT

The cannabis industry is a significant and growing contributor to the San José General Fund and is projected to bring in an estimated \$13.5 million in Marijuana Business Tax in the 2018-2019 fiscal year.

CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/
EDGARDO GARCIA
Chief of Police

/s/
LEE WILCOX
Chief of Staff, City Manager's Office

For questions, please contact Wendy Sollazzi, Division Manager, Division of Cannabis Regulation, San José Police Department, at (408) 537-9890.