



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Paul Joseph

SUBJECT: SEE BELOW

DATE: June 6, 2024

Approved

Date

6/7/24

SUBJECT: AMENDMENT TO CHAPTER 6.88 OF TITLE 6 (BUSINESS LICENSES AND REGULATION) OF THE SAN JOSÉ MUNICIPAL CODE FOR THE CANNABIS REGULATORY PROGRAM

RECOMMENDATION

- (a) Approve an ordinance amending Chapter 6.88 of Title 6 (Business Licenses and Regulation) of the San José Municipal Code for the Cannabis Regulatory Program to:
 - (1) Remove the delivery zone restriction;
 - (2) Increase the registration allowance from five retail storefronts/dispensaries to 10 for equity business owners;
 - (3) Approve other changes to update the San José Municipal Code to better align with State regulations; and
 - (4) Make other technical, non-substantive, or formatting changes.
- (b) Adopt a resolution amending the Administrative Citation Schedule of Fines for violations of Chapter 6.88 of Title 6 (Business Licenses and Regulation) of the San José Municipal Code related to the City's Cannabis Regulatory Program, and repealing Resolution No. RES2024-24-169.

SUMMARY AND OUTCOME

Adopting the recommended actions allows registered cannabis businesses to deliver from certain commercial zoning districts, in addition to other previously approved zoning districts. The potential registration of equity owned retail storefront/dispensary businesses would increase from five to 10. The updates will better align City regulations with state regulations. Adopting the above resolution will update fine references for medical and non-medical cannabis violations of Chapter 6.88 of the San José Municipal Code. Additionally, if these updates are approved by City Council, staff will update the City Manager Regulations for Medical and Non-Medical Cannabis.

BACKGROUND

On February 15, 2022,¹ City Council approved an ordinance amending Title 20 of the San José Municipal Code allowing cannabis retail storefronts/dispensaries in the Commercial Zoning districts, disallowing new cannabis storefronts/dispensaries in Industrial Zoning districts, and changing distance requirements from cannabis businesses to sensitive uses with special consideration for the Downtown and Urban Village areas. Additionally, City Council approved an ordinance amending Chapter 6.88 of Title 6 (Business Licenses and Regulations) of the San José Municipal Code allowing delivery-only, allowing up to 10 new cannabis retail businesses with equity business owners to register (only five of which may be storefront dispensaries), and allowing currently registered cannabis dispensary businesses to dispense cannabis from a total of two locations.

Due to difficulty in finding viable retail storefront locations, on June 13, 2023,² City Council approved modifying distance requirements from cannabis retail businesses to schools, daycare centers, youth centers, community and recreation centers, and parks, eliminating the distance requirement between storefronts, adding standards to address the concentration of cannabis retail businesses and removing the police beat restriction.

Additionally, on March 19, 2024,³ when discussing cannabis annual operating fee comparisons, City Council directed staff to evaluate duplicative and burdensome regulations.

ANALYSIS

San José Municipal Code Updates – Recommendation (a)(1)

Title 20 (Zoning Code) allows for cannabis delivery from other zones including Commercial Retail Zoning districts. Staff proposes removing the delivery from industrial zone only restriction in the location table in Title 6 to match what is allowed in the Zoning Code. This change will allow greater flexibility for finding business locations for current and future cannabis businesses.

San José Municipal Code Updates – Recommendation (a)(2)

On February 15, 2022, the City Council approved the Cannabis Equity Assessment, program parameters, and updated eligibility requirements for the program. The City Council also approved allocating 10 cannabis retail (storefront or delivery-only) registrations to equity-owned businesses, restricting up to five of the 10 as storefront locations. (Note: San José does not restrict the number of registrations for cannabis manufacturing, distribution, or testing facilities; the City does not permit new cannabis cultivation facilities.)

¹ February 15, 2022, City Council meeting, Item 10.2. CC 22-152 [City of San José - File #: 22-152 \(legistar.com\)](#)

² June 13, 2023, City Council meeting, Item 10.3. CC 23-880 [City of San José - File #: 23-880 \(legistar.com\)](#)

³ March 19, 2024, City Council meeting, Item 4.1 CC 24-73508 [City of San José - Meeting of City Council on 3/19/2024 at 1:30 PM \(legistar.com\)](#)

A total of 89 residents completed the initial applications/pre-screening and 29 completed applications to enter the Cannabis Equity Business Academy. The City's Cannabis Equity Business Academy opened on April 1, 2023. All 29 potential equity owners successfully completed the Cannabis Equity Business Academy and met the qualifications to proceed in the cannabis equity business registration process. With the City Council authorizing 10 new retail registrations for equity owners, the program's goal is to set equity owners up for success in an industry that already has 15 businesses with over nine years of experience as regulated operators.

In order for these equity-owned businesses to be more successful, staff proposes removing the restriction of only allowing five of the 10 to be retail storefront. Rather, staff recommends allowing the equity owners to determine what type of retail opportunity best matches their business plans and funding strategies to have long-term success. This approach allows equity businesses to have the same opportunities as the existing registered businesses and removes the competitive disadvantage equity business owners face when entering San José's established marketplace with less opportunity than their peers.

San José Municipal Code and Regulation Updates – Recommendations (a)(3) and (a)(4)

Per City Council direction on March 19, 2024, staff updated the ordinance and regulations to remove some duplicative and burdensome regulations. The draft ordinance contains updates to align some of the City's regulations with state regulations.

Proposed changes include:

- Removing the Police Department's background investigation process for owners, managers, and individuals working at cannabis business locations;
- Removing the Police Department issued identification badge requirement;
- Clarifying enforcement of underage presence at cannabis business locations;
- Updating payment installment options;
- Revising property maintenance requirements from 300 feet to 20 feet of cannabis business premises and location; and,
- Updating burglar alarm, fire alarm, and security personnel requirements.

Additionally, there are a number of language changes/technical changes to update and clarify the San José Municipal Code with respect to the definitions, general provisions, operating regulations and conditions, records, and other administrative changes.

Administrative Citation Schedule of Fines Updates – Recommendation (b)

On November 14, 2023, City Council approved updates to the Schedule of Fines related to cannabis violations. The updates staff is proposing are section references related to the proposed changes to Chapter 6.88 of Title 6 (Business Licenses and Regulation) of the San José Municipal Code for the Cannabis Regulatory Program in this memorandum.

EVALUATION AND FOLLOW-UP

Staff has consistently provided City Council with updates via informational memoranda regarding the progress of the City's cannabis regulatory program, changes in state law, and other developments potentially impacting the regulatory landscape.

Approval of this recommendation will be the first reading of the ordinance. The ordinance will return to City Council for its second reading and approval on August 6, 2024. If City Council approves these changes, the Police Department's Division of Cannabis Regulation will suspend the enforcement of the Police Department issued identification badge requirements effective July 1, 2024.

COST SUMMARY/IMPLICATIONS

The recommended ordinance changes are not anticipated to have a significant budgetary impact.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the City Manager's Budget Office, the City Manager's Office of Economic Development and Cultural Affairs, and the Planning, Building, and Code Enforcement Department.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 18, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

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

HONORABLE MAYOR AND CITY COUNCIL

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PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.



PAUL JOSEPH
Acting Chief of Police

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