

Overview of California Cannabis Equity Programs

Summary

Four California cities have moved to establish equity programs within their cannabis business licensing schemes. The equity programs are the result of studies and reports that analyze in part, the disproportionate impacts of cannabis law enforcement in disadvantaged communities. The cities of Oakland, San Francisco, and Los Angeles published reports that identify barriers to entry into the cannabis industry and set forth recommendations regarding policy options for equity programs. Sacramento is developing a Request for Proposal to hire a consultant to conduct similar analyses.

The reports from the cities of Oakland, San Francisco, and Los Angeles identify common barriers to entry into the cannabis industry including unavailability of real estate within areas eligible for permitting; unavailability of startup capital and banking infrastructure; unavailability of skills training to develop industry-specific knowledge; prior drug-related convictions; and limited awareness of cannabis equity programs among affected communities.

The reports also present recommendations regarding policy options for equity programs including the creation of equity-specific applicant criteria; community reinvestment; workforce development; financial and capital access; technical assistance; stakeholder engagement; public awareness and education; data collection and accountability; and programs that offer community reinvestment, technical assistance, incubator or industry partnering, fee waivers for equity applicants, and assistance with cannabis-related criminal record expungement.

This overview summarizes the key components of equity programs within the cities of Oakland, San Francisco, Los Angeles, and Sacramento. Information for this overview, including the referenced reports, was obtained via each city's cannabis program Internet homepage. A list of Reference & Resources is provided at the end of this overview.

Oakland

The Oakland Equity Permitting Program aims “to promote equitable business ownership and employment opportunities in the cannabis industry in order to decrease disparities in life outcomes for marginalized communities and address the disproportionate impacts of the war on drugs in those communities.” (Oakland Ord. No. 13425, § 2.) Oakland’s regulations consider studies that demonstrate racial and economic disparities, specifically the “Equity Analysis and Proposed Medical Cannabis Ordinance Amendments” prepared by the Department of Race and Equity and the City Administrator’s Office’s Special Activity Permits Division.

The Equity Permitting Program requires a minimum of half of all permits to be issued to Equity Applicants during the initial permitting phase. (Oakland Mun. Code, §§ 5.80.045, subd. (D), and 5.81.060, subd. (D)). An Equity Applicant is an Oakland resident with an annual income at or below 80% of the Oakland Average Medium Income and either has a cannabis conviction received in Oakland or has resided, for ten of the last twenty years, in police beats that experienced a

disproportionately higher amount of cannabis-related law enforcement. (*Id.*) All other applicants are General Applicants.

Under the Equity Incubator Program, a General Applicant provides an Equity Applicant with three years rent-free space to operate their business. This space must be at least 1,000 ft² and may be located either at the General Applicant's place of business or in another location in zones approved for cannabis activity. In turn, the General Applicant receives permitting priority, relative to other General Applicants. (*Id.*) In addition, Oakland facilitates partnering of General and Equity Applicants via an online search program, CannaEquity, through which applicants find potential partners with complementary qualifications.

San Francisco

The San Francisco Equity Program¹ is “designed to foster equitable access to participation in the cannabis industry, including equitable access to promotional and ownership opportunities in the industry. The Equity Program shall provide assistance to communities unfairly burdened by the War on Drugs, and shall be designed to ensure full and equal access to resources and opportunities made available as a result of Proposition 64. In particular, the Cannabis Equity Program shall provide support to individuals who have experienced social indicators that exacerbate inequities, and shall create strategies to uplift communities where those inequities have been concentrated.” (S. F. Police Code, § 1604, subd. (a).)

The Equity Program sets forth equity criteria, half of which both Equity Applicants and Incubators must satisfy. The equity criteria include (1) household income restrictions and an arrest from 1971 to 2016 for a cannabis-related offense; (2) having a parent, sibling or child receive a cannabis-related arrest from 1971 to 2016; (3) losing housing in San Francisco after 1995 through eviction, foreclosure, or subsidy cancellation; (4) attending school in the SFUSD for five years from 1971 to 2016; and (5) for five years from 1971 to 2016, living in San Francisco census tracts where at least 17% of the households had incomes at or below the federal poverty level. (S. F. Police Code, § 1604, subd. (b)).

Under the Equity Program, an Equity Applicant must have assets below the asset limits established by the Director of the Office of Cannabis (Director) and be any of the following: the business owner, the CEO and own at least 40% of the business, own at least 51% of the business, or on the board of a not-for-profit cannabis business where most of the Board also qualify as equity applicants. (S. F. Police Code, § 1604, subd. (b)). An Equity Incubator must provide an Equity Applicant with rent-free commercial space that is at least either 800 ft² or 10% of the Incubator's space and must include use of the Incubator's security services, or submit a written, actionable “Equity Incubator Plan” describing how the Incubator will encourage and support the establishment and growth of Equity Applicants who have been awarded Cannabis Business Permits. (*Id.* at § 1604, subd. (c)(4)). The Incubator must also, within three years of opening its

¹ This program was created in November 2017, in part pursuant to recommendations in the “Cannabis Equity Report” authored by the Office of Cannabis, the Office of the Controller, and the Human Rights Commission. (S.F. Ord. No. 230-17, adding art. XVI, § 1600 to 1639 to S.F. Mun. Code.)

business, hire local residents to perform 30% of all work hours, require its employees to meet most of the equity conditions, and provide a community investment plan with businesses and residents within 500 feet. The Incubator must commit to these obligations in the form of a Cannabis Equity Incubator Agreement submitted to the Director. (*Id.* at § 1604, subd. (c)).

In addition, San Francisco requires all cannabis business applicants to provide a Community Benefits Agreement that describes how the applicant will work to provide employment opportunities to persons that have been disproportionately impacted by the criminalization of cannabis and otherwise work to encourage and support San Francisco's equity goals. (S. F. Police Code, § 1609, subd. (b)(21)). Existing cannabis business operators (cultivators, distributors, manufacturers, testing laboratories, and delivery services) may receive temporary permits provided they registered before 11/30/2017 and were in operation since 9/26/2016. Only Equity Applicants and Incubators may apply for new permits in 2018.

Last, the Director will authorize disbursements from the Community Reinvestment Fund to eligible Equity Applicants and Equity Operators on a case-by-case basis. The Community Reinvestment Fund will provide assistance to entities that address the impact of racially disproportionate arrests and incarceration, generational poverty, community degradation, housing insecurity, loss of educational and employment opportunities, disruption of family structures, and other burdens of the War on Drugs. By April 1, 2018, the Director must adopt a policy for implementing the Community Reinvestment Fund. (S.F. Admin. Code, § 1.100-162.)

Los Angeles

The Los Angeles Cannabis Social Equity Program is “aimed at promoting equitable ownership and employment opportunities in the Cannabis industry” and “intended to decrease disparities in life outcomes for marginalized communities and to address disproportionate impacts of Cannabis prohibition in adversely-impacted and lower income communities.” (L.A. Mun. Code, § 104.00.) In October 2017, the City Council adopted the “Social Equity Analysis Report” as the findings for the Social Equity Program which, among other things, analyzes income data and police enforcement of cannabis laws.

The Cannabis Social Equity Program, pursuant to Los Angeles Municipal Code section 104.20, adopts a three-tier licensing framework and sets forth the following criteria, obligations, and benefits for each tier:

- “Tier 1” applicants must be either low income and have a prior California cannabis conviction or, low income and have resided for at least five years in a disproportionately impacted area and own at least 51% equity share of the business. Tier 1 participants receive business, licensing, and compliance assistance; expedited renewal processing; program site specific conditions; the potential for fee deferrals if the City adopts a fee deferral program; and access to an Industry Investment Fund, if established.
- “Tier 2” applicants must be either low income and have resided for at least five years in a disproportionately impacted area or, have resided for at least ten years in a

disproportionately impacted area. Tier 2 participants must own at least 33 1/3 % equity share of the business and must enter into a Social Equity Agreement with the City to provide business, licensing, and compliance assistance to Tier 1 participants. Tier 2 participants receive business, licensing, and compliance assistance; expedited renewal processing; and program site specific conditions.

- “Tier 3” applicants must enter into a Social Equity Agreement with the City to provide capital, leased space, and business, licensing, and compliance assistance to a Tier 1 or Tier 2 applicant. Tier 3 participants receive expedited renewal processing.

In addition, all Social Equity Applicants must make a good faith effort to employ residents who live within a specified radius of the business premises and employ Social Equity Workers and Transitional Workers. A “Social Equity Worker” is a person who is: low income and has a prior California cannabis conviction or low income and have resided for at least five years in a disproportionately impacted area. (L.A. Mun. Code, § 104.20, subd. (g)). A “Transitional Worker” is a person who resides in an economically disadvantaged area or extremely economically disadvantaged area and faces at least two of the identified barriers to employment including homelessness, lacking a GED or high school diploma, having a criminal record, or being a veteran. (*Id.* at § 104.11, subd. (m)).

Finally, the Department of Cannabis Regulation is required to establish the following programs and incentives to support the Social Equity Program: recruitment and outreach; licensing and compliance assistance; and general business assistance. Social Equity applications are accepted at the same time as other applicants. (*Id.* at § 104.20, subd. (j)).

Sacramento

On November 28, 2017, the Sacramento City Council adopted to establish an Equity Program to create a path for small businesses, women and veteran-owned businesses, and minority communities to enter the cannabis industry. The Equity Program is comprised of three applicant categories as follows:

First, individuals who reside in a zip code of a priority neighborhood for at least seven years, between 1994 and the date of application, or who are from a most negatively-impacted zip code are eligible to receive business support services, expungement of certain criminal convictions, and will be given priority Conditional Use Permit (CUP) and Business Operating Permit (BOP) processing and fee waivers or deferrals.

Second, individuals who are of economically-disadvantaged status, as marked by income below 200% Federal Poverty Level and net worth below \$250,000, or businesses that are women or veteran-owned, are eligible for business support services and priority CUP and BOP processing and fee deferral.

Third, businesses that commit to employ 51% transitional workers, a business with an equity incubator or Cannabis Social Enterprise, or a business that hosts an equity business are eligible for CUP and BOP priority processing.

Lastly, Sacramento is developing a Request for Proposal to hire a consultant to implement a Community Opportunity, Reinvestment, and Equity Program. The two-year pilot program will serve as an incubator program, a small business support center, and a resource to connect program participants and cannabis businesses. A draft ordinance will be presented to the City Council for consideration at a future meeting.

References & Resources

City of Oakland

- Cannabis Permitting: <http://www2.oaklandnet.com/government/o/CityAdministration/cannabis-permits/OAK068455>
- Race and Equity Analysis Report: City of Oakland, Dept. of Race and Equity, Staff Race and Equity Analysis Report (Feb. 23, 2017) at <<http://www2.oaklandnet.com/oakca1/groups/cityadministrator/documents/report/oak063627.pdf>> (as of Feb. 26, 2018)

City and County of San Francisco

- Office of Cannabis: <https://officeofcannabis.sfgov.org/equity>
- Cannabis Equity Report: City and County of San Francisco, Cannabis Equity Report (Nov. 1, 2017) at <https://officeofcannabis.sfgov.org/themes/custom/cannabis/pdf/11.19.2017_Equity_Report.pdf> (as of Feb. 26, 2018)

City of Los Angeles

- Department of Cannabis Regulation: <http://cannabis.lacity.org/resources>
- Cannabis Social Equity Analysis Report: Amec Foster Wheeler Environment & Infrastructure, Inc., Cannabis Social Equity Analysis Report (Oct. 18, 2017) at <http://clkrep.lacity.org/onlinedocs/2017/17-0653_rpt_CLA_10-20-2017.pdf> (as of Feb. 26, 2018).

City of Sacramento

- Office of Cannabis Policy & Enforcement:
<http://www.cityofsacramento.org/Finance/Revenue/Sacramento-Marijuana-Information>
- City Council Report: City of Sacramento, City Council Report, Establishing the Cannabis Equity Program and (Pass for Publication) Ordinances Amending the Sacramento City Code Relating to Cannabis Cultivation, Nonvolatile Manufacturing, and Distribution; Cannabis Manufacturing Businesses; and Interested Parties of a Cannabis Business (Nov. 21, 2017) <http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4095&meta_id=508159> (as of Nov. 26, 2018)