



City Council Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2021-00396

May 4, 2021

Consent Item 26

Title: Ordinance Deleting Article IX from, and Adding Article IX to, Chapter 5.150 of the Sacramento City Code, Relating to Southeast Industrial Area Dispensaries to Limit on Cannabis Delivery Operations in the Southeast Industrial Area (in lieu of Pass for Publication to be published in its entirety) [Continued from 04/20/2021]

Location: District 6

Recommendation: Adopt an Ordinance deleting Article IX from, and Adding Article IX to, Chapter 5.150 of the Sacramento City Code, relating to Southeast Industrial Area Dispensaries limiting the number of Southeast Industrial Area cannabis delivery businesses to 50, which will expire on November 21, 2021 to be published in its entirety in lieu of pass for publication per City Charter section 32(d).

Contact: Davina Smith, Cannabis Manager, (916) 808-4772; Zarah Cruz, Program Specialist, (916) 808-8925, Office of Cannabis Management, Office of the City Manager.

Presenter: None

Attachments:

- 1-Description/Analysis
- 2-Ordinance (Clean)
- 3-Ordinance (Redline)
- 4-Map of Southeast Industrial Area

Description/Analysis

Issue Detail: On October 2, 2018, the Council adopted Ordinance 2018-0047 (the ordinance) establishing a one-year limit of 50 business operating permits (BOPs) for cannabis dispensaries in the Southeast Industrial Area (SIA). The ordinance covered both storefront dispensaries and delivery-only dispensaries (cannabis delivery operations). In adopting the original ordinance, Council directed City staff to conduct a study of the crime and traffic impacts of cannabis delivery operations in the SIA.

The study was to include crime data and an analysis of the traffic issues that might occur in the area due to the additional commercial activity resulting from the cannabis delivery operations. The results from the study were intended to assist Council in determining the appropriate number of cannabis delivery operations for the SIA. The limit was originally scheduled to sunset on October 1, 2019. Subsequently, the limit was extended for another year under Ordinance 2019-0030 and for a period of 120 days, expiring on March 31, 2021 under Ordinance 2020-0039 while a traffic analysis was completed.

On February 16, 2021, staff recommended that Law and Legislation Committee (Committee) lift the limit on the number of delivery businesses in the area. Staff's recommendation was based on crime statistics and the results of the traffic study commissioned by the City. Crime statistics showed that cannabis-related crimes for 2019 and 2020 were insignificant compared to the overall crime statistics in the SIA. The traffic study, which was completed on January 31, 2021, showed that traffic impacts resulting from the vehicle trips from cannabis delivery businesses were minimal and within the range of normal day-to-day fluctuations in peak hour traffic volumes. The study further suggested that there is capacity for additional (more than 50) cannabis delivery businesses to operate without resulting in a degradation of traffic operations.

During discussion at the Committee, concerns were raised with regard to overconcentration and potential displacement of non-cannabis businesses as a result of cannabis operations in the SIA. Due to the City's zoning regulations around cannabis, the district's industrial character, and the availability of warehouse spaces with affordable rent prices, District 6 has been a preferred location for many cannabis operators. Nearly one in two applications for cannabis businesses are in D6, which is one of five districts that have cannabis businesses. The Committee therefore directed staff to take an ordinance to the City Council that would extend the limit on the number of cannabis delivery businesses for six months. During this time, a comprehensive study will be conducted on the economic impacts of cannabis in the City, which will examine displacement, real estate, overconcentration, taxes, jobs, equity and a review of the City's zoning regulations surrounding cannabis. The proposed ordinance will establish a new 50 cannabis delivery business limit which, if adopted, will expire on November 21, 2021.

As of April 21, 2021, there are 35 BOPs -- 32 stand-alone delivery-only dispensaries and three storefront dispensaries with delivery -- for delivery operations in the SIA. There are currently 24 pending applications for 15 available permits. Twelve of the 24 pending applications were submitted by participants of the Cannabis Opportunity Reinvestment and Equity (CORE) program. All 24 are in various stages of tenant improvements and more than half are expected to receive their Certificate of Occupancy, which is the last required approval prior to the issuance of the BOP, in the next 12 months.

Policy Considerations: The City's CORE Program Guidelines call for a goal of 50% of the cannabis businesses in Sacramento to be owned by CORE participants. Twelve of the 24 pending BOP applications were submitted by participants of the CORE Program. With a limit of 50 delivery businesses in the SIA, the Office of Cannabis Management (OCM) could only issue 15 permits and will have to deny the remaining ones, which may include CORE applications.

Economic Impacts: None.

Environmental Considerations: This action is exempt from California Environmental Quality Act ("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: On February 16, 2021, the Committee directed staff to draft an ordinance extending the limit for an additional six months. The Committee opted to waive review of the proposed ordinance and directed staff to bring it forward directly to the City Council for consideration.

Rationale for Recommendation: The SIA currently contains 35 cannabis delivery businesses. While crime statistics and the results of a traffic study conducted in the area refute previous concerns over crime and traffic, new concerns have been expressed over displacement and overconcentration of cannabis businesses in the area. The City will commission a study of these cannabis impacts over the coming months. Depending on the results of the study, the limit of 50 may be lifted or may become permanent. However, until the results become available, it is proposed that the limit remain in place to preserve the status quo.

Financial Considerations: The 35 permitted delivery-only dispensaries in the Southeast Industrial Area each pay a monthly Business Operating Tax (BOT) of \$3,000 to \$26,000.

Local Business Enterprise (LBE): Not applicable

ORDINANCE NO.

Adopted by the Sacramento City Council

[Date Adopted]

AN ORDINANCE DELETING ARTICLE IX FROM, AND ADDING ARTICLE IX TO, CHAPTER 5.150 OF THE SACRAMENTO CITY CODE, RELATING TO SOUTHEAST INDUSTRIAL AREA DISPENSARIES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Article IX is hereby added to chapter 5.150 of the Sacramento City Code to read as follows:

Article IX. Southeast Industrial Area Dispensaries Authorized to Deliver

5.150.1240 Definitions.

As used in this article, the following definitions apply:

“Dispensary” means a storefront cannabis dispensary or a delivery-only cannabis dispensary.

“Dispensary authorized to deliver” means a dispensary that is expressly authorized to deliver cannabis pursuant to this chapter.

“Southeast industrial area” means the area in the city bounded by Power Inn Road to the west, Folsom Boulevard to the north, and the city limits to the east and south.

5.150.1250 Limit on southeast industrial area dispensaries authorized to deliver.

- A. Notwithstanding any contrary provision in this chapter, the city shall not authorize a dispensary to deliver cannabis if the dispensary is located or is proposed to be located in the southeast industrial area and there are 50 or more dispensaries authorized to deliver that are located in the area.
- B. Whenever the number of valid permits for dispensaries authorized to deliver is less than 50, the city manager may issue another available permit through a process that is established by city council resolution. The process must, at a minimum, be consistent with this code and may:
 - 1. Evaluate whether applicants will be able to successfully submit a complete application for a permit for a dispensary authorized to deliver;

2. Evaluate whether applicants will be able to successfully operate a dispensary; and
3. Utilize criteria reasonably necessary to protect the public health, safety, and welfare.

5.150.1260 Sunset provision.

This article shall remain in effect until November 21, 2021.

ORDINANCE NO.

Adopted by the Sacramento City Council

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BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Article IX is hereby deleted from chapter 5.150 of the Sacramento City Code.

~~**Article IX. Southeast Industrial Area Dispensaries Authorized to Deliver**~~

~~**5.150.1100 Definitions.**~~

~~As used in this article, the following definitions apply:~~

~~“Dispensary” means a storefront cannabis dispensary or a delivery only cannabis dispensary.~~

~~“Dispensary authorized to deliver” means a dispensary that is expressly authorized to deliver cannabis pursuant to this chapter.~~

~~“Southeast industrial area” means the area in the city bounded by Power Inn Road to the west, Folsom Boulevard to the north, and the city limits to the east and south.~~

~~**5.150.1110 Limit on southeast industrial area dispensaries authorized to deliver.**~~

- ~~A. Notwithstanding any contrary provision in this chapter, the city shall not authorize a dispensary to deliver cannabis if the dispensary is located or is proposed to be located in the southeast industrial area and there are 50 or more dispensaries authorized to deliver located in that area.~~
- ~~B. Whenever the number of valid permits for dispensaries authorized to deliver is less than 50, the city manager may issue an available permit through a process that is established by city council resolution. The process must, at a minimum, be consistent with this code and may:~~
- ~~1. Evaluate whether applicants will be able to successfully submit a complete application for a permit for a dispensary authorized to deliver;~~
 - ~~2. Evaluate whether applicants will be able to successfully operate a dispensary; and~~

~~3. Utilize criteria reasonably necessary to protect the public health, safety, and welfare.~~

~~**5.150.1260 Sunset provision.**~~

~~This article shall remain in effect until March 31, 2021.~~

SECTION 2.

Article IX is hereby added to chapter 5.150 of the Sacramento City Code to read as follows:

Article IX. Southeast Industrial Area Dispensaries Authorized to Deliver

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“Dispensary” means a storefront cannabis dispensary or a delivery-only cannabis dispensary.

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 - 1. Evaluate whether applicants will be able to successfully submit a complete application for a permit for a dispensary authorized to deliver;

2. Evaluate whether applicants will be able to successfully operate a dispensary; and
3. Utilize criteria reasonably necessary to protect the public health, safety, and welfare.

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This article shall remain in effect until November 21, 2021.

