



AGENDA REPORT

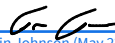
TO: Jestin D. Johnson
City Administrator

FROM: Ashleigh Kanat
Director, Economic and
Workforce Development
Department

SUBJECT: Cannabis Regulatory Commission
2022 and 2023 Annual Reports

DATE: May 6, 2024

City Administrator Approval


Jestin Johnson (May 23, 2024 16:29 PDT)

Date: May 23, 2024

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report From The Cannabis Regulatory Commission For The Years 2022 And 2023

EXECUTIVE SUMMARY

In 2004 Oakland voters passed ballot Measure Z, a voter initiative entitled “Oakland Cannabis Regulation and Revenue Ordinance.” In accordance with [Ordinance No. 12694 C.M.S.](#), which established the advisory committee’s procedures, staff hereby presents a report on the Cannabis Regulatory Commission’s activities during 2022 and 2023 for the City Council’s review (**Attachment A**).

For questions regarding this report, please contact Greg Minor, Deputy Director, Economic and Workforce Development Department, at (510) 238-6370.

Respectfully submitted,



ASHLEIGH KANAT
Director, Economic and Workforce
Development Department

Attachment:

A. *Cannabis Regulatory Commission’s 2022 and 2023 Annual Reports*

ATTACHMENT A

**CITY OF OAKLAND CANNABIS REGULATORY COMMISSION
2022-2023 ANNUAL REPORT**

To: Oakland City Council Community Economic Development Committee
From: Cannabis Regulatory Commission
Re: 2022-2023 Annual Report
Date: April 30, 2024

Members: Chaney Turner, Chair, At Large; TiYanna Long, Vice-Chair, City Auditor; Javier Armas, District 1; Vacant, District 2; Taib Alaoui, District 3; Tariq Ikharo, District 4; Vacant, District 5; Vacant, District 6; Hellen Harvey, District 7; Yulie Padmore, Mayor; Greg Minor, City Administrator.

I. EXECUTIVE SUMMARY

The Cannabis Regulatory Commission (CRC) struggled to meet at times in 2022-2023 due to lack of quorum, but when the CRC did meet it shaped the City of Oakland's (City's) cannabis policies. 2022 discussions ranged from how to improve the security of cannabis businesses, to examining financial data for trends in the regulated marketplace, to how to utilize state grants, and whether to support the proposed Emerald New Deal ballot measure. Likewise, in 2023 the CRC advocated to limit cannabis operations on properties with live-work uses, allow cannabis operators to qualify for state licenses while obtaining local approvals, and authorize equity applicants to convert loans into grants and have the option of transferring permits to general applicants.

CRC meetings provide an essential forum for the public to guide the City's cannabis program, however, in order for this public forum to remain available, it is critical that the City Council fill CRC vacancies and that existing CRC members improve their attendance. In turn the CRC can continue to engage in policy discussions around the transition of the cannabis industry into the regulated marketplace and the evolution of the City of Oakland's Equity Program (Equity Program).

II. CANNABIS REGULATORY COMMISSION COMPOSITION AND ATTENDANCE

In 2023 the City filled three of four vacancies then existing on the CRC, leaving just the District Five representative vacant. However, in 2023 delays in appointing new CRC members combined with inconsistent member attendance and the requirement that boards return to meeting in person contributed to the CRC only having quorum for meetings in January, February, October, and November 2023. At present the CRC has vacancies for representatives of Districts Five and Six.

In terms of public engagement, public attendance at CRC meetings ranges from around ten to twenty individuals depending on the agenda topics. Attendees typically represent cannabis businesses across the supply chain, including both equity and general applicants.

III. OVERVIEW OF CURRENT OAKLAND CANNABIS LANDSCAPE

The following factors have shaped the cannabis landscape in Oakland over the last two years: (a) a newly regulated and highly taxed industry with an evolving Equity Program; (b) state grants that vary depending on local contributions; and (c) armed burglaries of cannabis businesses.

a. Newly Regulated Industry and Evolving Equity Program

After changes in state law and a race and equity analysis of the cannabis industry, in 2017 the City of Oakland adopted a permitting process for the cannabis industry's entire supply chain and an Equity Program to promote equitable ownership opportunities in the regulated cannabis marketplace. Over the last seven years, cannabis businesses seeking to operate legally have gone from operating without any regulation to operating in a dual-licensed regulatory system with multiple layers of taxation.

The challenges of operating within the regulated marketplace are compounded by the fact that an unregulated cannabis marketplace operates in parallel to the regulated market. The unregulated cannabis market can offer cannabis at a lower price than the regulated market as unregulated operators do not have to account for taxes, fees, or the cost of compliance, such as laboratory testing of cannabis for potency and pesticides, bringing a building into compliance with building and fire codes, and security requirements.

Similar to the cannabis industry, the Special Activity Permits Division, now in the Economic and Workforce Development Department (EWDD) has transitioned from monitoring eight dispensaries in 2017 to processing thousands of cannabis permit applications and directing the nation's first Equity Program equity program. The Equity Program has evolved from permitting prioritization to technical and legal assistance, revolving loan and grant programs, shared-use manufacturing facilities, workforce development programs, and purchasing property programs.

b. State Grant Funding Based on Local Contributions

Although the City of Oakland has received millions of dollars in state grants in recent years, Oakland's competitiveness for state funding depends on its willingness to continue investing City funds in its Equity Program. In 2017 the City made an impressive financial commitment to promote equitable business

ownership opportunities in the regulated cannabis industry by directing the initial \$3.4 million of new cannabis tax revenue towards a revolving loan program and technical and legal assistance for cannabis equity applicants. While the City has continued to support the Equity Program by exempting equity applicants from City application and permitting fees, the City has only made an additional direct investments in the Fiscal Year 2022-2023 midcycle budget.

Since 2020 the City has been able to continue and grow its Equity Program through state grants from Go-Biz, however, GO-Biz's available funding has fluctuated and its funding criteria weighs heavily in favor of local jurisdictions who invest their own funds in their equity programs. Go-Biz's criteria has helped Oakland "outpunch its weight" and at times receive more funding that even Los Angeles, a jurisdiction with ten times the population of Oakland, but Oakland needs ongoing local investment to remain competitive in the future.

c. Armed Burglaries

Cannabis businesses in Oakland and beyond are increasingly becoming targets of burglars and robbers, including by caravans of armed burglars, such as in the summer of 2020 and in November 2021. This is despite the fact that most cannabis business locations are not open to the public and feature security measures, such as cameras, alarms, and safes.

The burglaries usually take place at night and often on the weekends when there are either fewer officers on duty (due to only patrol staff being on duty) or officers are handling other calls for service, such as shootings, robberies, domestic violence and other non-property crimes where someone is injured or could be injured. Burglars and robbers are motivated by the prospect of obtaining cannabis products for sale on the unregulated market as well as any cash onsite due to cannabis operators' limited access to the banking system.

Furthermore, the lack of quick response time from law enforcement likely emboldens burglars and robbers to take advantage of cannabis businesses in Oakland. Delayed response time is due to a combination of factors, including the prioritization of crimes threatening lives over property crimes, huge volume of calls for service, shortage of officers, and time-intensive documentation requirements.

In terms of who is committing the burglaries and robberies, and how they are taking place, those committing the burglaries and robberies are often from outside of Oakland and they are employing increasingly aggressive measures. For example, of the eight arrested on November 21, 2021, only two were from Oakland. This presents a challenge to violence prevention strategies limited to within Oakland's borders. Burglars and robbers have also escalated from unarmed theft to armed caravans, and from utilizing ladders to access cannabis facilities to driving vehicles through structures and using blowtorches.

IV. 2022 CRC POLICY DISCUSSIONS

i. Improving the Security of Oakland’s Cannabis Businesses

As noted above, several cannabis businesses have suffered from burglaries and robberies since 2020. Improving the safety of cannabis businesses in Oakland is paramount to preserving Oakland’s cannabis industry, which provides wealth-building and employment opportunities in addition to City tax revenues.

Accordingly, in 2022 CRC recommended that the City explore any local and state resources available to prevent ongoing burglaries of cannabis facilities. Specifically, the CRC recommended that staff request funding from the Board of State and Community Corrections Proposition 64 Cohort 3 Grant Program to fortify cannabis operators’ business locations.

ii. Trends in Oakland’s Regulated Cannabis Marketplace

In 2022 the CRC received two reports from the Finance Department, which provide information on both the amount of taxes received from cannabis businesses as well as information on cannabis businesses themselves. The initial finance report revealed a decrease in tax revenue received in 2022 compared to 2021 as a result of the decreased tax rates approved by City Council in 2019. The supplemental finance report showed that the total gross receipts of Oakland’s cannabis industry has grown from approximately \$156 million in 2017 to over \$244 million in 2022; however 2022 gross receipts represented a decrease from Oakland cannabis businesses total gross receipts in 2021 which totaled over \$271 million. This trend continued into 2023 as noted in **Table One** below. **Table Two** outlines the number of regulated cannabis businesses in Oakland and the amount of tax revenue received by the City between 2015-2023, which has been impacted by the lower cannabis tax rates and new tax structure adopted by the City Council in December 2019.

Table 1: Annual Gross Receipts Tax Years (2018 – 2023)

Year	2018	2019	2020	2021	2022	2023
Equity	N/A	N/A	\$21,141,465.27	\$35,974,745.13	\$37,803,609.10	\$37,609,413.12
General	N/A	N/A	\$152,193,969.69	\$235,610,581.28	\$207,113,784.78	\$163,441,215.46
Total Gross Receipts	\$171,546,992.15	\$165,351,380.15	\$173,335,434.96	\$271,585,326.41	\$244,917,393.88	\$201,050,628.58

Table 2: Cannabis Business Tax Revenue

Tax Year	Number of Business	Revenue
2023	266	\$5.64 million
2022	259	\$7.92 million
2021	187	\$13.47 million
2020	252	\$8.89 million
2019	195	\$12.85 million
2018	139	\$8.07 million
2017	85	\$7.48 million
2016	77	\$4.64 million
2015	70	\$3.61 million

Table 3: Equity vs. Non-Equity Businesses

Tax Year	Equity	Non-Equity	Total
2023	106	160	266
2022	107	152	259
2021	54	133	187
2020	78	174	252
2019		Not Tracking	

These financial reports suggest that Oakland's regulated cannabis industry has grown over the last five years, however, it hit its peak during the 2021 tax year/calendar year of 2020 and Oakland's equity businesses are generally much smaller than general applicant businesses.

iii. How Best to Utilize State Grants

In addition to monitoring the implementation of state grants already received, in 2022 the CRC offered recommendations on how to allocate the second grant received from the Go-Biz and what to request funding for as part of the City's Proposition 64 Cohort 3 Grant application. Specifically, the CRC approved utilizing Go-Biz funding to support the purchase of a property that support multiple equity applicants, grants for equity applicants' start-up and ongoing costs, workforce development and shared-use manufacturing programs. Likewise, the CRC recommended that the City request Proposition 64 Cohort 3 funds to improve the security of cannabis operators' business locations.

iv. Discouraging the Use of Diesel Generators

In 2022 the CRC also received public comment on the use of diesel generators by cannabis cultivators, particularly at two large warehouses referred to as the Oakland Cannery and Tinnery. These discussions paralleled enforcement efforts by the Bay Area Air Quality Management District, the Environmental Democracy

Project, and the Oakland Fire Department that led to the abatement of diesel generators at these and other properties.

v. Emerald New Deal Proposed Ballot Measure

During the first half of 2022 the CRC hosted three different presentations by proponents of the Emerald New Deal (END) proposed ballot measure. After the first presentation the CRC recommended that END work with stakeholders, particularly the cannabis industry and equity applicants. After the second presentation the CRC issued a qualified endorsement provided that the END provide information on how the END will support the Equity Program and work to lower cannabis tax rates. Ultimately, the City Council elected to not place on the END on the ballot for Oakland voters in November 2022.

V. 2023 CRC POLICY DISCUSSIONS

Below is an overview of topics the CRC discussed in 2023.

i. Preserving Live-Work Uses

In February 2023 the CRC adopted a motion to support the Oakland Cannery and other live-work properties at risk of displacement by cannabis uses. Subsequently, in July 2023 the City Council approved amending Oakland Municipal Code (OMC) 5.81 to prohibit the approval and/or permitting of commercial cannabis cultivation at properties with live-work uses.

ii. Lowering Barriers to State Licenses

In light of the sunset of provisional licensing at the state level, the CRC advocated for both local and state action. For instance, in January 2023 the CRC adopted a motion to support state Senate Bill (SB) 51, which extends the provisional licensing period for equity retailers. Subsequently, the Legislature passed and Governor Newsom signed SB 51 into law. Likewise, in February 2023 the CRC passed a motion for staff to amend the City's Cannabis Operator Regulations to allow operators to qualify for an annual license prior to obtaining final approvals from all City agencies, provided operators have entered into and are in compliance with a compliance plan. Afterwards, staff amended the City's Cannabis Operator Regulations to align with the CRC's vision.

iii. How Best to Utilize State Grants

Also in February 2023, the CRC reviewed and approved staff's proposed use of the latest grant from the Governor's Office of Business and Economic Development (Go-Biz) to support the City's Equity Program. Specifically, the CRC approved focusing funds on providing capital support to cannabis operators via grants and no-interest loans to cover start-up and ongoing costs.

iv. Next Phase of Equity Program

Later in 2023 the CRC weighed in on two topics that had been debated for multiple years at the CRC: whether and how to allow the City to forgive equity applicants' unpaid loans and transfer permits to general applicants. These topics required consideration of the Equity Program's intent as well as how to shape the program going forward. Ultimately, in October 2023 the CRC approved providing equity applicants with the options of transferring their permits to general applicants and converting unpaid loans into grants. Then in December 2023 the City Council approved the CRC's recommendations.

v. Encouraging Special Events

In October 2023 the CRC also passed a motion to increase the number of cannabis special event permits and approved the creation of cannabis cafes, cannabis retailers that sell non-alcoholic beverages and food. While Governor Newsom vetoed state legislation to allow cannabis cafes, in December 2023 the City Council approved removing the cap on the number of cannabis special event permits for a one-year pilot period.

vi. Upcoming Discussions

In addition to discussing the above topics, in 2023 the CRC agendaized future discussion regarding establishing a Department of Cannabis and reexamining what new zones cannabis businesses can potentially locate in.

VI. Conclusion and Next Steps

The CRC is grateful for the opportunity to share with the City Council its 2022-2023 annual reports. The above recommendations and information will assist the City's cannabis program in continuing to evolve in an equitable and responsible manner.

Respectfully submitted,

Chaney Turner

Chair
Cannabis Regulatory Commission

Tiffany L. Smith
Tiffany L. Smith (May 1, 2024 12:31 PDT)

Vice-Chair
Cannabis Regulatory Commission

Signature:

Chaney Turner

Email: