

CITY OF OAKLAND



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September 22, 2016

To: Chairperson Brooks and Members of the Public Safety Committee.

From: President Pro Tem Larry Reid, Councilpersons Desley Brook and Noel Gallo.

RE: Motion Amending Ordinances 5.80 and 5.81.

Chairperson Brooks and Members of the Public Safety Committee:

We have listened to the comments and concerns about the initial draft amendments we submitted on September 6, 2016. We have addressed those concerns and submit these revised amendments to you for consideration.

The City has approved important legislation to regulate a burgeoning industry both locally and nationally; the Cannabis industry. It is important as this industry moves from being illegal to a legal status that we, as legislators, ensure there is equity and fairness in the process. Our failure to do so will set-up a two-tiered system that advantages those who were given a head start, and disadvantages those who were shut out. In an effort to ensure that Oakland establishes regulations that provides a meaningful opportunity for all to compete we move the following amendments to Ordinances 5.80 and 5.81:

1. Have the City Attorney’s office draft appropriate findings for all Cannabis legislation.

2. Reduce the Equity Ownership requirement from 50% to 49%.

3. Add the following Definitions:

- I. **“Applicant,”** for purposes Ordinance, means the following:
 - (1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.

(2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.

(3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

- II. **"Permit"** means an official document granted by the City that specifically authorizes a person to conduct commercial cannabis activity/activities in the City of Oakland.
- III. **"Person"** means an individual, firm, partnership, joint venture, trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- IV. **"Commercial Cannabis Activity"** means cannabis activity that includes cultivation, possession, manufacturer, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product.
- V. **"Fund"** means the Cannabis Equity Fund established pursuant to Section
- VI. **"Distributions"** means payments from business entity, fund or profit. May include monies from earnings, dividends, capital gains from sale of portfolio holdings and return of capital.

4. Add the following new Sections:

Pre-Existing Manufacturing and/or Cultivating Commercial Cannabis Activities

Any Applicant, who at any time prior to June 30, 2016 did any of the following:

- a) Engaged in Cannabis Cultivation; or
- b) Engaged in Manufacturing Cannabis and/or Cannabis products; or
- c) Owned or leased a physical location where cannabis cultivation or manufacturing of cannabis derived products were produced;

Is expressly prohibited from conducting business in the City of Oakland unless and until they secure a Certificate of Compliance.

Certificate of Compliance issuance.

- 1. All pre-existing Manufacturing and Cultivation Cannabis Activities mentioned in Section 1 (a), (b), and (c) above must obtain a certificated of compliance.
- 2. Prior to the issuance of a Certificate of Compliance, Applicant must Execute a Contract with the following terms: Designate, in perpetuity, to the City of Oakland 25% of the Applicant's profit; and a minimum of one (1) seat on the Board of Directors of said Commercial Cannabis Activity and its affiliates; Agree to provide Audited financial accountings for said Commercial Cannabis Activity and

its affiliates; and agree that Distributions to the City of Oakland shall be made on a quarterly basis. Failure to disclose the Commercial Cannabis Activity's affiliates shall result in automatic revocation of any Certificate of Compliance and automatic revocation of any permit issued pursuant to Ordinances 5.80 and 5.81 regardless of when the affiliate information is discovered;

3. Is prohibited from commencing any Commercial Cannabis Activity in the same location; and shall not own, or have an ownership interest in any commercial cannabis activity at the same location. Certificate of Compliance will be issued upon inspection of the old and new locations.
4. Failure of the Applicant to disclose on the Certificate of Compliance application the existence of the prior Commercial Cannabis Activity shall result in the applicant automatically being barred from applying for, or receiving, any permit issued pursuant to O.M.C. 5.80 and/or 5.81 for a period of 5 years.
5. Certificates of Compliance must be submitted as part of Applicant's permit application.

The Cannabis Equity Fund annual allocations shall be as follows:

1. The revenues received pursuant to section _____ above shall be deposited into the Cannabis Equity Fund.
2. Thirty-Three percent (33%) to establish and fund three (3) training programs. Each program will annually receive 11% of the funds allocated to this category. The designated Training programs shall be One Fam/Bikes 4 Life, the Private Industry Council, and Hispanic Engineers, Builders & Contractors of California.
3. Forty-two percent (42%) to establish a revolving loan fund for Equity Permit applicants. Said fund shall be used to provide no and low interest loans.
4. Fifteen percent (15%) to establish a Council District Grant and Activities Fund. Said fund shall annually be distributed equally to each Council office.
5. Ten percent (10%) to establish a Community Beautification fund to promote clean-ups, reduce illegal dumping and graffiti, general blight and promote beautification of the community. Said funds shall annually be distributed equally to each Council District.

Residency Requirement and Proof of Residency.

- I. There shall be a five (5) year Oakland residency requirement for all persons applying for a permit for Commercial Cannabis Activities issued under Ordinances 5.80 and 5.81. Additionally, Equity applicants must reside for 2 years in the specified Police Beats as set forth in Section _____.
- II. One of the following types of documents must be submitted to establish that a person's residence is in Oakland as required by Section 1 above.

- a) Duly authenticated copies of the following documents may be taken into account to establish Oakland residency: A current driver's license with address, property tax receipts, copies of income tax returns where an Oakland address is listed as the primary address, motor vehicle or vessel registrations, and other public records evidencing place of residence.

Limitation on Number of Permits.

A Commercial Cannabis Activity Permittee may only hold an Oakland permit in up to two separate permit categories consistent with California State law Section 19328.

Operating without A License

- I. A person engaging in commercial cannabis activity without a license required by this Ordinance shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the court may order the destruction of medical cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the Equity Fund Account established pursuant to Section _____.
- II. If an action for civil penalties is brought against a licensee pursuant to this Ordinance by the city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city for deposit to the Equity Fund.
- III. Notwithstanding foregoing (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial cannabis activity in violation of this Ordinance.

Applicants Must Provide Accurate Information

1. An Applicant must provide accurate information to the City during the entire Application process.
2. If an Applicant provides inaccurate information to the City, the Applicant's application shall be denied.

Thank you for your consideration.

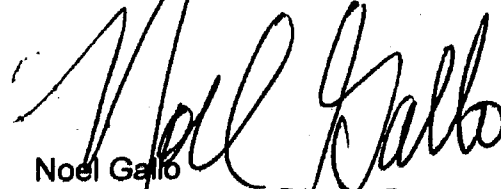
Respectfully submitted,



**Desley Brooks
Council Member, District 6**



**Larry Reid
Council Member & President Pro Tem**



**Noel Gallo
Council Member, District 5**