



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Greg Minor  
Assistant to the City  
Administrator

**SUBJECT:** Cannabis Regulatory Commission  
2019-2020 Annual Reports

**DATE:** February 3, 2021

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City Administrator Approval 

Date: February 9, 2021

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## **RECOMMENDATION**

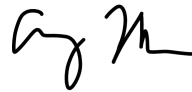
**Staff Recommends That The City Council Receive An Informational Report From The Cannabis Regulatory Commission For The Years 2019-2020.**

## **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 2019-2020 activities for the City Council’s review (**Attachment 1**).

For questions regarding this report, please contact Greg Minor, Assistant to the City Administrator, at (510) 238-6370.

Respectfully submitted,



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GREG MINOR  
Assistant to the City Administrator

Attachment (1):

1: Cannabis Regulatory Commission 2019-2020 Report

**CITY OF OAKLAND CANNABIS REGULATORY COMMISSION  
2019-2020 ANNUAL REPORTS**

**To:** Oakland City Council Community Economic Development Committee  
**From:** Cannabis Regulatory Commission  
**Re:** 2019 and 2020 Annual Reports  
**Date:** January 25, 2021

**Members:** Lanese Martin, Chair, District 1; TiYanna Long, Vice-Chair, City Auditor; Tracey Corder, District 2; Austin Stevenson, District 3; Vacant, District 4; Claudia Mercado, District 5; Vacant, District 6; Frank Tucker, District 7; Chaney Turner, At Large; Stephanie Floyd-Johnson, Mayor; Greg Minor, City Administrator.

**I. EXECUTIVE SUMMARY**

In 2019 and 2020 the Cannabis Regulatory Commission (CRC) continued to engage in policy discussions around the transition of the cannabis industry into the regulated marketplace and the development of the City of Oakland's Equity Program. While the City Administration and City Council adopted several of the CRC's 2019-2020 recommendations (see **Attachment A**), others remain unresolved and require action, including directing the use of cannabis tax revenue towards those communities most impacted by the war on drugs, lowering the cannabis business tax rate, and forming a department of cannabis.

**II. CANNABIS REGULATORY COMMISSION COMPOSITION AND ATTENDANCE**

The CRC's membership has continued to evolve. With five new members, more than half of the CRC's current members are different than the CRC members in January 2019. The CRC lacked quorum at four of its meetings in 2019 and a fifth meeting was cancelled due to the July 4<sup>th</sup> holiday. Since transitioning new members, though, the CRC has not had to cancel a meeting due to lack of quorum.

Public attendance at CRC meetings range from around fifteen to thirty 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 a nascent Equity Program; (b) ongoing competition from the unregulated marketplace; (c)

the COVID-19 pandemic; (d) armed burglaries of cannabis businesses; and (e) prohibition under federal law.

#### **a. Newly Regulated Industry and Nascent 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 three 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. Recent Revenue Management Bureau reports provided to the CRC reveal that the total gross receipts for the regulated cannabis industry have plateaued, even as the City permits additional cannabis businesses (see Attachments B and C).

Similar to the cannabis industry, the Special Activity Permits Division in the City Administrator's Office 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, a workforce development program, and a purchasing property program. The Equity Program has been funded through an initial \$3.4 million in local cannabis tax revenue and most recently through two state grants totaling over \$8 million dollars. Given the impact of COVID-19 on local and state budget shortfalls due to COVID-19, though, there will be less state grant opportunities and zero local funding in the coming year unless action is taken.

#### **b. Unregulated Marketplace**

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.

#### **c. COVID-19 Pandemic**

As compared to industries that have been unable to operate under local and state Health Orders, the cannabis industry has not suffered as much from the COVID-19 pandemic due to its status as an essential business. Furthermore, there have been reports of increased cannabis consumption and increased delivery-sales of cannabis during the COVID-19 pandemic. Nevertheless,

cannabis operators have had to comply with COVID-19 public health requirements, and it remains to be seen what the full impact of COVID-19 has been along the full supply chain of the cannabis industry.

#### **d. Armed Burglaries**

In 2020 cannabis businesses were the targets of armed burglaries, particularly in late May and early June as burglars took advantage of the civil unrest that followed the murder of George Floyd. In May and June 2020 cannabis businesses across the supply chain were burglarized including virtually all dispensaries. While cannabis business have been targeted by burglars before 2020, the scale and intensity of the 2020 burglaries are in sharp contrast with prior years. For example, between 2005-2020 only one successful burglary of a permitted dispensary took place in Oakland. In contrast, the burglaries of Oakland dispensaries in the summer of 2020 have left at least two dispensaries still unable to re-open.

#### **e. Federal Prohibition**

Cannabis' ongoing status as a Schedule One Controlled Substance under federal law continues to impact all facets of the industry. For example, federal prohibition prevents cannabis businesses from deducting their business expenses in the same manner as other industries, exacerbating their tax burden. Similarly, federal restrictions on banking force cannabis businesses to rely on cash, which makes cannabis businesses a target for burglaries. Once burglarized, cannabis businesses often cannot collect from insurance companies who may refuse to reimburse losses associated with federally prohibited activity. Accordingly, federal prohibition continues to hinder the cannabis industry.

### **IV. CRC RECOMMENDATIONS NOT YET IMPLEMENTED**

#### **i. Use of Cannabis Tax Revenue**

The CRC recommends that the City Council apportion a significant portion of cannabis tax revenue received towards helping victims of the war on drugs by (1) continuing the equity program and (2) community reinvestment, including workforce development programs. Implementing this recommendation would address the shortfall in funding for the Equity Program in the coming year and begin to address the impacts of the War on Drugs in Oakland.

Currently, all cannabis tax revenue goes towards the City's general fund, other than the initial \$3 million collected between 2017 and 2018 that the City Council allocated towards the no-interest revolving loan fund for equity operators. Furthermore, the CRC also recommends that no cannabis tax revenue go towards law enforcement.

**ii. Cannabis Tax Rate**

While the City Council did lower the cannabis business tax rates in December 2019, the CRC recommends that the City adopt even lower rates. Specifically, the CRC recommended in 2019 that the City of Oakland tax all cannabis distributors at the same rate as non-cannabis businesses and all other cannabis operations at zero percent if their annual gross receipts are less than \$1 million, 0.75 percent if their annual receipts are between \$1 and \$2 million, and 1.5 percent for annual receipts over \$2 million. Lowering the cannabis tax rate will reduce the financial disadvantage regulated operators face in competition with the unregulated marketplace and support the regulated marketplace as they navigate the various hurdles involved in establishing a compliant cannabis business.

**iii. Quarterly vs. Annual Reporting to City Council**

The CRC is also interested in ensuring the City Council stays informed about discussions taking place at the CRC and has recommended reporting quarterly to the City Council as opposed to annually as prescribed in the underlying Measure Z. More frequent reporting regarding the CRC could assist the City Council in staying abreast to the constant evolution of the regulated cannabis marketplace during the first years of adult use legalization.

**iv. Forming a Department of Cannabis**

In 2020 the CRC formed a subcommittee to explore the creation of a Department of Cannabis to focus on cannabis issues for the City of Oakland. Allocating more resources towards regulating the cannabis industry will improve the City's ability to transition the cannabis industry into a regulated marketplace and ensure the Equity Program accomplishes its goals of promoting equitable ownership and employment opportunities within the cannabis industry. The subcommittee has met with City staff and is still developing its proposal.

Respectfully submitted,

Lanese Martin

Chair  
Cannabis Regulatory Commission

Tiffany Long

Vice-Chair  
Cannabis Regulatory Commission

**Attachments:**

- A: 2019-2020 CRC Recommendations Adopted by City Administration and City Council**
- B. Revenue Management Bureau 2020 Report to CRC**
- C. Supplemental Revenue Management Bureau 2020 Report to CRC**
- D. City of Oakland Cannabis Application and Permit Trends**