Title: Ordinance Amending Section 5.150.350 of the Sacramento City Code Relating to Storefront Cannabis Dispensaries and a Resolution Establishing the City’s Storefront Cannabis Dispensary Lottery Procedures (Majority Vote Required) [In Lieu of Pass for Publication to Be Published in Its Entirety]

Location: Citywide

Recommendation: 1) Pass a Motion by a majority vote suspending Rule 13 of Council Rules of Procedures requiring the Law and Legislation Committee’s action prior to bringing an item before City Council; 2) adopt an Ordinance amending section 5.150.350 of the Sacramento City Code to increase the number of allowed storefront cannabis dispensary permits, to be published in its entirety within ten days of adoption in lieu of pass for publication per City Charter section 32(d); and 3) adopt a Resolution establishing the lottery procedures for available storefront cannabis dispensary permits.

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

Presenter: Davina S. Smith, Cannabis Manager, (916) 808-4772; Office of Cannabis Management, Office of the City Manager

Attachments:
1-Description/Analysis
2-Ordinance Amending Chapter 5.150 (Clean)
3-Ordinance Amending Chapter 5.150 (Redline)
4-Resolution Establishing Lottery Procedures
5- Exhibit A: Lottery Procedures
Description/Analysis

**Issue Detail:** The City of Sacramento (“City”), currently has an allowed limit of 30 permitted storefront cannabis dispensaries (“storefront dispensary” or “dispensary”) under Sacramento City Code (“SCC”) section 5.150.350.

On November 12, 2019, the Mayor proposed the addition of storefront dispensary permits exclusive for participants in the City’s Cannabis Opportunity Reinvestment and Equity (“CORE”) program and directed staff to bring an item to Council for consideration. On January 14, 2020, Council held a workshop and engaged in a robust discussion that included public input and centered on the appropriate number of new dispensary permits that should be added for CORE participants and how long these permits should remain exclusively CORE in order to meet the City’s goal of 50% CORE ownership of all cannabis businesses and provide long-term economic opportunity for CORE members. The Council discussed options ranging from keeping the additional dispensary permits 100% CORE ownership in perpetuity to requiring a dispensary permittee to be majority CORE-ownership only until the permit was issued and then letting the free-market forces decide if the permit remains in CORE ownership. Council also discussed if a CORE majority owner should receive less than majority profit-sharing.

Ultimately, a majority of the Council agreed that in order to best effectuate the twin goals of 50% CORE cannabis business ownership and bringing long-term economic opportunity to CORE participants, the dispensary permits should be majority CORE-owned, with proportional profit-sharing, for a 10-year period of time to allow the businesses to provide economic opportunity for their owners, but not restrict the ownership to CORE in perpetuity. Council provided the following specific direction:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Council Direction</th>
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<tbody>
<tr>
<td>1. Adjustment to the allowed limit on dispensary permits?</td>
<td>Add 10 new dispensary permits (five to be issued in 2020 and five to be issued in 2021).</td>
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<tr>
<td>2. Eligibility for the new permits: CORE and General Public vs. CORE exclusive?</td>
<td>CORE exclusive.</td>
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<td>3. Term and ownership of permits issued to CORE participants?</td>
<td>Permits must maintain at least 51% CORE ownership and at least 51% CORE profit-sharing for 10 years.</td>
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<td>4. Storefront Dispensary Locations?</td>
<td>Add shopping center (SC) zone for storefront dispensary use; and limit Arden Way/Del Paso Special Planning District (SPD) cannabis uses to storefront dispensary only.</td>
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<td>5. Timeline by which new storefront dispensaries must be operational?</td>
<td>Three years after being selected from the lottery.</td>
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Collectively, the direction to provide CORE participants exclusive access to the new permits, the 10-year permit term, the 51% ownership requirement and the three-year timeframe to open a storefront dispensary are all aimed at affording CORE participants selected in the lottery the ability to achieve and sustain a successful cannabis business and meet the City’s goal of 50% CORE-owned cannabis businesses.

On June 30, 2020, the City Council approved ordinances amending SCC Title 17 (issue 4 above) to allow certain cannabis uses in the Shopping Center Zone (SC) and the Del Paso/Arden Way Special Planning District, which addressed the fourth issue above.

If adopted, the proposed Ordinance will amend SCC section 5.150.350 to address the first issue above and increase the number of storefront dispensary permits to a total of 40. The City Manager may then conduct a lottery pursuant to procedures approved by resolution of the Council to award the opportunity to apply for a permit.

The attached Resolution (Attachment 4), if approved by Council, will establish a lottery procedure that reflects Council’s direction for the second, third, and fifth issues above. Specifically, the lottery procedures, among other things, provides:

- Exclusive access to the dispensary permits for CORE participants,
- Requirements to participate in the lottery,
- A certification to maintain 51% CORE ownership and profit-sharing for 10 years, and
- An alternate lottery procedure due to the current COVID-19 social distancing restrictions.

In the six months following the January 14, 2020 Council workshop, five stakeholder meetings were held. During these meetings, questions related to Council direction on storefront dispensaries were discussed and input was received from CORE stakeholders interested in becoming storefront dispensary permit applicants. If Council approves staff’s recommendations, the lottery for the first five permits is anticipated to occur in October 2020.

**Policy Considerations:** The addition of 10 new storefront dispensaries in the city requires amendments to SCC chapter 5.150. The proposed amendment to chapter 5.150 will change the current storefront dispensary allowed limit from 30 to 40. Ordinances amending Title 17 were adopted by the City Council on June 30, 2020 and will provide the new storefront dispensary applicants additional potential locations.

**Economic Impacts:** None.
Environmental Considerations: This action is exempt from the 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 sections 15061(B)(1), California Business and Professions Code section 26055(h)) and because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines section15061(b)(3)).

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: All 30 storefront cannabis permits were initially issued as medical dispensaries, with the last of the 30 dispensary permits issued in May 2015. The number of permits has remained the same for nearly five years as a result of the current allowed limit. With the legalization of retail recreational cannabis on January 1, 2018, the same 30 permittees were afforded the opportunity to expand their operations to add retail adult use cannabis to their medicinal cannabis dispensary permits. As a result, no new businesses have had the opportunity to apply for a retail cannabis storefront permit.

The CORE program was established in August of 2018 to assist individuals and communities impacted by the disproportionate enforcement of cannabis-related crimes by helping eligible applicants start a cannabis business or become otherwise involved in the cannabis business industry (e.g., employees or ancillary businesses). A storefront dispensary is the most sought-after business model among CORE participants. However, with the allowed limit in place, there is no opportunity for CORE participants to open a storefront dispensary, even after completing business training and mentorship through the CORE Program. The addition of 10 new storefront dispensary permits, exclusive to CORE participants, will provide CORE participants the opportunity to be a storefront dispensary owner and is a major step towards achieving the City’s goal of 50% of all cannabis business permits being owned by CORE participants and providing long-term economic opportunity to the permit holder.

Financial Considerations: BOP fees for CORE participants in classifications 1 or 2 are waived pursuant to Council Resolution 2018-0323, so there will be no revenues from program fees from the 10 storefront permits. All cannabis businesses are required to pay a four percent gross receipts tax, so the 10 new storefront permits will generate new Business Operating Tax (“BOT”) revenues for the City. The current annual BOT paid by storefront dispensaries ranges from $81,000 to $650,000 annually.

Local Business Enterprise (LBE): Not applicable.
ORDINANCE NO.
Adopted by the Sacramento City Council

[Date Adopted]

AN ORDINANCE AMENDING SECTION 5.150.350 OF THE SACRAMENTO CITY CODE, RELATING TO STOREFRONT CANNABIS DISPENSARIES

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

SECTION 1.

Section 5.150.350 of the Sacramento City Code is amended to read as follows:

5.150.350 Limit on storefront cannabis dispensary permits.

A. Notwithstanding any contrary provision in this chapter, the city shall not issue a new storefront cannabis dispensary permit if there are 40 or more valid storefront cannabis dispensary permits at the time an application is submitted. Whenever the number of storefront cannabis dispensary permits falls below 40, the city manager may conduct a lottery, in accordance with this section, to determine eligible applicants for the available permit or permits.

B. Prior to conducting a lottery, the city manager shall publish a notice in a newspaper of general circulation in the city pursuant to California Government Code section 6063. The notice must announce a date for the lottery, an invitation to file a lottery application with the city manager, and a date when applications are due. The city manager may give additional public notice of the lottery as the city manager deems appropriate.

C. Lottery applications must be on a form approved by the city manager and may require information or documentation consistent with the provisions of this code, resolution of the city council, and state law, and other assurances that the applicant will be able to successfully apply for and operate a storefront cannabis dispensary if they are selected in the lottery.

D. The city manager shall conduct a lottery among all those filing a complete lottery application, and establish a sequence in which potential applicants will be considered for the available permits. Specific rules and procedures for the lottery shall be established by the city manager and approved by resolution of the city council.

E. If the selected applicant fails to qualify for a storefront cannabis dispensary permit or elects not to proceed with the permit application process, applicants drawn in sequence in the lottery shall be considered until the permit is issued.
ORDINANCE NO.
Adopted by the Sacramento City Council

[Date Adopted]

AN ORDINANCE AMENDING SECTION 5.150.350 OF THE SACRAMENTO CITY CODE, RELATING TO STOREFRONT CANNABIS DISPENSARIES

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

SECTION 1.

Section 5.150.350 of the Sacramento City Code is amended to read as follows:

5.150.350 Limit on storefront cannabis dispensary permits.

A. Notwithstanding any contrary provision in this chapter, the city shall not issue a new storefront cannabis dispensary permit if there are 340 or more valid storefront cannabis dispensary permits at the time an application is submitted. Whenever the number of storefront cannabis dispensary permits falls below 340, the city manager may conduct a lottery, in accordance with this section, to determine eligible applicants for the available permit or permits.

B. Prior to conducting a lottery, the city manager shall publish a notice in a newspaper of general circulation in the city pursuant to California Government Code section 6063. The notice must announce a date for the lottery, an invitation to request that any person wishing to be considered for a storefront cannabis dispensary permit should file a lottery application with the city manager, and a date when applications are due. The city manager may give additional public notice of the lottery as the city manager deems appropriate.

C. Lottery applications must be on a form approved by the city manager and may require information or documentation consistent with the provisions of this code, resolution of the city council, and state law, and other assurances that the applicant will be able to successfully apply for and operate a storefront cannabis dispensary if they are selected in the lottery.

D. The director city manager shall thereafter conduct a lottery among all those filing a complete lottery application, and establish a sequence in which potential applicants will be considered for the available permits. Specific rules and procedures for the lottery shall be established by the director city manager and approved by resolution of the city council.

E. If the selected applicant fails to qualify for a storefront cannabis dispensary permit or
elects not to proceed with the permit application process, applicants drawn in sequence in the lottery shall be considered until the permit is issued.
RESOLUTION NO. 2020-

Adopted by the Sacramento City Council

Establishing Lottery Procedures for
Available Storefront Cannabis Dispensary Permits

BACKGROUND

A. The City of Sacramento may have no more than 40 valid storefront cannabis dispensary permits. (Sacramento City Code section 5.150.350)

B. Whenever the number of storefront dispensary permits falls below 40, the City may conduct a lottery pursuant to rules and procedures approved by resolution of the City Council. (Sacramento City Code section 5.150.350)

C. Lottery rules and procedures entitled “Available Storefront Cannabis Dispensary Permit Lottery Procedures” addressing the qualifications to participate in the lottery, public notice requirements, application process, the drawing, and related items in the lottery process are in Exhibit A.

D. An alternate lottery procedure to accommodate social distancing requirements during COVID-19 is included in the lottery rules and procedures in Exhibit A.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council determines that statements A through D are true.

Section 2. Exhibit A is a part of this Resolution.

Section 3. The Available Storefront Cannabis Dispensary Permit Lottery Procedures are hereby adopted (Exhibit A).

Attachment:
Exhibit A – Lottery Procedures
CITY OF SACRAMENTO
AVAILABLE STOREFRONT CANNABIS DISPENSARY PERMITS
LOTTERY PROCEDURES

The following lottery procedures are authorized by Sacramento Code section 5.150.350, which states: The City of Sacramento may have no more than 40 valid storefront cannabis dispensary permits. Whenever the number of storefront cannabis dispensary permits falls below 40, the City may conduct a lottery in accordance with procedures that are approved by resolution of the City Council. If there are available permits, the City will hold a lottery for no more than 5 available storefront cannabis dispensary permits per year.

A. Definitions.

The following definitions apply in this lottery procedures:

1. “Alternate” means a lottery entrant whose name was added to a list as described in section B.5 of these procedures.
2. “Cannabis dispensary, storefront” has the same meaning as in City Code section 5.150.020.
3. “Classification 1” has the same meaning as described in City Council resolution 2018-0323, as amended or modified.
4. “Classification 2” has the same meaning as described in City Council resolution 2018-0323, as amended or modified.
5. “City” means the City of Sacramento, a municipal corporation of the State of California.
7. “City Manager” means the City Manager or the City Manager’s designee.
8. “CORE program” means the City’s Cannabis Opportunity Reinvestment and Equity program, adopted by City Council resolution 2018-0323, as amended or modified.


11. “Lottery entrant” means an individual who meets the requirements of sections B.1 and B.4 or C.1.b of these procedures.


13. “Ownership interest” has the same meaning as in City Code section 5.150.020.

14. “Permit” means a business operations permit issued by the City to operate a storefront cannabis dispensary pursuant to City Code chapter 5.150.

15. “Permit application process” means the City’s process for an applicant to obtain a storefront cannabis business operating permit in accordance with applicable state law and City Code. It includes, at a minimum, obtaining a certificate of occupancy, conditional use permit, and a business operating permit.

B. Procedures.

1. **Who May Apply?** The lottery is open to all individuals who have been certified as CORE classification 1 or 2.

2. **Public Notice.** When a dispensary permit becomes available, the Office will publish a notice in accordance with California Government Code section 6063. (City Code section 5.150.350.B.) The notice must include, at a minimum, a date for the lottery, a request to file a lottery application with the City Manager, and a date when lottery applications are due.

3. **Lottery Applications.** Lottery entrants must submit a complete lottery application to the Office by the due date indicated in the public notice described in subsection B.2. Lottery entrants may only submit one lottery application per lottery. Lottery
entrants must certify in their lottery application that for a period of 10 years from the issuance of the permit that:

a. At least 51% of the ownership interest in the storefront cannabis dispensary authorized by this permit will be held by one or more CORE program participants in classifications 1 or 2, and

b. CORE owner(s) of the dispensary will receive at least 51% of the dispensary’s profits.

The certification of ownership and profits will be a condition on the permit as described in section 8 below.

4. **Lottery Participation.** Except as provided in section C below, to participate in the lottery, lottery entrants must:

a. Be physically present at the lottery;

b. Provide valid photo identification (e.g., passport, California driver’s license or identification card, or military identification) and proof of current mailing address, if not on the photo identification; and

c. Properly complete and timely submit a lottery application.

5. **Lottery Drawing Process.** Each lottery entrant will be assigned a number upon entering the lottery drawing room. That number will correspond to a numbered lottery ball that will be placed into a lottery drum or similar device. Once all of the lottery entrants have been assigned a number and their corresponding lottery balls have been placed in the lottery drum, the drum will be turned over at least ten times and one lottery ball will be picked for each of the available permits. The number and corresponding lottery entrant’s name will be announced after each lottery ball is picked. The lottery drum will be turned over as described here before each lottery ball is picked. Once all available permits have been assigned, five more
lottery balls will be picked to create a list of lottery entrants who will be alternates for an available storefront dispensary permit.

6. **Permit Process.** A winner of the lottery must complete the City’s storefront cannabis dispensary permit application process within 3 years of the lottery. If an original winner is unable to or does not complete the permit application process, or elects not to proceed with the process, then that winner’s opportunity to apply for a storefront dispensary permit will be forfeited. The City will then notify the first alternate for that lottery that they have been awarded the opportunity to apply for a permit. The first alternate must complete the City’s storefront cannabis dispensary permit application process within 3 years of the City’s notice that they have been awarded the opportunity to apply for a permit or their opportunity will be forfeited as described in this section. This process shall continue until all the permits that were available in that lottery have been issued.

7. **Alternate Lottery List.** The list of alternates may not be modified and shall be effective only for the permit(s) that were available in the same lottery the alternates were chosen. It is the alternate’s responsibility to ensure their contact information is current with the Office. In the event the Office attempts to contact an alternate on the list for an opportunity to apply for a permit and is not able to get a response within 30 days, that alternate will be removed from the list and the next alternate will be contacted. In the event there are no alternates left on the list, a lottery will be held in compliance with these procedures to select a new lottery entrant and alternates for the available permit.

8. **Conditions on Permits Obtained by Lottery Process.** By participating in the lottery, lottery entrants understand and agree that in addition to all other applicable permit conditions, the City will place the following conditions on their permit for 10 years starting from its issuance: at least 51% of the ownership of the permitted
storefront cannabis dispensary must be held by one or more CORE program participants in classifications 1 or 2; and at least 51% of the profits of the dispensary must be allocated to the CORE owner(s).

C. **Alternative Lottery Procedures for Social Distancing due to COVID-19.**

1. In the event orders by the state, county, or City preclude the ability to conduct the lottery in person, the following modifications to the procedures will apply:
   
a. **Lottery Application.** Section B.3 is modified to add that lottery entrants must provide a legible photocopy of a valid photo identification (e.g., passport, California driver’s license or identification card, or military identification) and a current mailing address, if not on the photo identification, with their lottery application.

b. **Lottery Participation.** Section B.4 applies except that subsection B.4.a requiring a lottery entrant to be physically present is deleted in its entirety.

c. **Lottery Drawing Process.** Section B.5 is replaced in its entirety with the following:

1. The lottery will be held virtually. An invitation to attend the lottery virtually will be sent to all lottery entrants in the same manner that the lottery entrant submitted their lottery applications. For example, if the lottery entrant emailed their completed lottery application, the City will email the invitation. If the entrant submitted their application through postal mail, the City will send their invitation through postal mail.

2. The lottery shall be recorded. The recording shall be uploaded to the City’s website after the lottery is concluded.

3. Upon the Office’s receipt of a properly completed and timely submitted lottery application, each lottery entrant will be assigned a numbered lottery ball. This number will be assigned in the order in which the
application was received. The list of lottery entrants and their corresponding numbers shall be posted on the Office’s website and announced at the drawing.

4. The numbered lottery balls will be placed into a lottery drum or similar device. The drum will be turned over at least ten times and one lottery ball will be picked for each of the available permits. The number and corresponding name will be announced after each lottery ball is picked. The lottery drum will be turned over as described here before each lottery ball is picked. Once all of the permits have been assigned, five more lottery balls will be picked and announced to create a list of lottery entrants who will be alternates to apply for a storefront dispensary permit if the original winner does not complete the permit process as described in section B.6.