

Law and Legislation Committee Report

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Sacramento, CA 95814

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October 13, 2020

Discussion Item 04

Title: Limit on the Number of Southeast Industrial Area Cannabis Delivery Business Operating Permits

Location: Citywide

Recommendation: Discuss the existing limits on the number of Business Operating Permits (BOPs) for delivery-only dispensaries in the Southeast Industrial Area (Area) and upon conclusion, provide direction.

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: Davina Smith, Cannabis Manager, (916) 808-4772, Office of Cannabis Manager, Office of the City Manager

Attachments:

1-Description/Analysis

2-Map of District 6 and Southeast Industrial Area

Description/Analysis

Issue Detail:

On October 2, 2018, Council adopted Ordinance 2018-0047 (the ordinance) establishing a one-year limit of 50 on the number of BOPs for cannabis dispensaries authorized to deliver in the Area. 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 impacts of cannabis delivery operations in the Area. 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 Area. The limit was scheduled to sunset on October 1, 2019.

On September 24, 2019, the City Council adopted Ordinance 2019-0030 extending the permit limit for an additional year and scheduled to sunset on October 1, 2020. At the time, only 10 percent of the 50 cannabis delivery BOPs had been issued in the Area, making it premature to formulate a data-driven conclusion regarding any crime or traffic-related impacts from cannabis delivery operations. In extending the limit on delivery permits, Council directed staff to conduct an analysis of impacts of cannabis delivery operation-related crime and traffic issues when half of the 50 BOPs had been issued. The 50 percent BOP threshold was reached in July 2020.

As indicated in the table below, data obtained from the Sacramento Police Department shows that crimes related to cannabis delivery are insignificant compared to the overall crime statistics in the Area.

	2019			2020		
	Total	All Cannabis	Delivery-only	Total	All Cannabis	Delivery-only
Burglaries	98	17	4	85	9	0
Robberies	21	1	0	14	1*	1*

**robbery outside the boundary as it occurred at the delivery address*

However, obtaining reliable data for a traffic analysis was found to be difficult for the following reasons: 1) the impact of COVID-19 resulting in an atypical number of vehicles on the roads; and 2) difficulties in tracking cannabis-related traffic as cannabis delivery vehicles are required under state law to have no specific markings to make them indiscernable from other vehicles. While cannabis delivery businesses could potentially provide their average number of daily trips to get an estimate of the volume of trips each cannabis delivery dispensary business contributes to the traffic in the area, traditional traffic analysis activities, such as counting the number of vehicles going through an intersection, would not provide useful data on how many cannabis delivery vehicles are going through the same intersection.

Currently, there are 31 permitted delivery businesses (29 delivery-only dispensaries and two storefront dispensaries with delivery) operating out of 16 buildings in the Area. Except for two businesses with over a dozen drivers on their roster who work only on an as-needed basis, the other 29 businesses each have a fleet of no more than three vehicles. If all cannabis delivery vehicles are on the road and making deliveries at the same time, this would add approximately 200 vehicles to the Area.

It should be noted that per Chapter 5.150.525, cannabis delivery vehicles may carry up to \$3,000 worth of products and per State regulations, can deliver throughout the State. Consequently, these vehicles do not travel back and forth to their business location for each individual delivery order. In addition, only 30 of these vehicles are parked onsite at the business location while the rest of the vehicles are driver-owned and parked offsite.

To date, there are also 21 pending applications, including five submitted by members of the Cannabis Opportunity Reinvestment and Equity (CORE) program. These applications are in various stages of the tenant improvement process and more than half are expected to receive their Certificate of Occupancy in less than 12 months. In addition to the 21 pending, there are six other CORE applications for delivery that are not currently included in the count due to unresolved CUP issues but will be included when the CUP issues are resolved. With a limit of 50, the Office of Cannabis Management can only issue 19 permits and will have to deny the remaining applications, which may include those submitted by CORE applicants.

Given the cannabis delivery dispensary crime data and the limitations identified for conducting an analysis of traffic issues, the Law and Legislation Committee is asked to discuss and provide a recommendation on first, whether a limit of 50, or a different number, is still necessary. Second, whether an analysis of traffic impacts remains necessary given the potential number of additional trips added with existing delivery dispensaries. Because a traditional traffic analysis is not possible, this would involve asking businesses to provide a count at the door (i.e. how many cars leave and arrive) to estimate the volume of car trips each cannabis delivery dispensary business contributes to the traffic in the Area. It is important to note that we do not currently monitor or limit any other delivery services within the city (i.e. Postmates, Door Dash, Amazon) or cannabis delivery businesses in any other area of the city.

Policy Considerations: The ordinance limiting the delivery dispensaries in the southeast industrial area to 50 expired on October 1, 2020, allowing more delivery dispensaries in the Area as of October 2, 2020. If the Committee recommends re-instating limits, a proposed ordinance will be forwarded to the City Council for adoption at a future meeting date.

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: Not applicable.

Rationale for Recommendation: Given the length of time the limit on delivery dispensary permits has been in place, the crime data, and the identified challenges in conducting an analysis of traffic issues attributable to this permit type, it is appropriate for the Committee to consider whether the limit should be extended, adjusted, or eliminated and whether a traffic analysis is warranted.

Financial Considerations: The 31 permitted delivery-only dispensaries in the Southeast Industrial Area pay a monthly Business Operating Tax (BOT) of \$3,000 to \$23,000.

Local Business Enterprise (LBE): Not applicable.

