

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, AMENDING SECTION 9-3316 OF THE
FRESNO MUNICIPAL CODE, RELATING TO INITIAL
APPLICATION PROCESS FOR CANNABIS RETAIL
BUSINESS AND COMMERCIAL CANNABIS BUSINESS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 9-3316 of the Fresno Municipal Code is amended to read:

SECTION 9-3316. – INITIAL APPLICATION PROCESS

(a) The City Manager shall adopt the procedures to issue commercial cannabis business permits, which shall include or require the City Manager to provide detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria. The City Manager or designee(s) shall be authorized to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, and conduct initial evaluations of the applicants.

(b) SOCIAL POLICY.

(1) Employment. Each applicant shall be required to hire individuals for a minimum of one-third (1/3) of the total annual work hours performed at the business who meets one of the following:

(i) Annual family income below 80% AMI;

(ii) Convicted for a cannabis related crime that could

have been prosecuted as a misdemeanor or citation under current

State law;

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Effective Date:

City Attorney Approval: MED

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(iii) Lived in a low to moderate income census tract in the city for a minimum of three (3) years;

(iv) Veteran; or

(v) Former foster home youth who was in foster care as a minor.

(vi) Unemployed; or

(vii) Receiving public assistance.

If selected to receive a commercial cannabis business permit, a condition of approval shall be to provide the city with ongoing proof of compliance of this requirement.

(2) Labor Peace Agreements. A commercial cannabis business or cannabis retail business with ~~ten~~^[five] (~~5~~¹⁰) or more employees shall sign a labor peace agreement allowing employees to ~~unionize~~ [join or form a union] without interference. [At the time of application filing, or w]~~Within sixty~~^[thirty] (~~3~~⁶⁰) days of its ~~tenth~~^[fifth] (~~10~~th) hire, the commercial cannabis business or cannabis retail business shall sign such labor peace agreement [and provide a copy of the executed agreement to the City Manager or designee(s)].~~or [If such agreement is not received, the application shall be denied or]~~ the commercial cannabis business permit shall be revoked in accordance with Section 9-3321 of this Article.

[(i) Union shall mean a bona fide labor organization that is the recognized or certified exclusive bargaining representative of

the employees of an employer. A labor organization is bona fide under this regulation if:

1. It actually represents employees in California as to wages, hours and working conditions;

2. Its officers have been elected by secret ballot or otherwise in a manner consistent with federal law; and

3. It is free of domination or interference by any employer and has received no improper assistance or support from any employer.

(3) Workforce Plan. All applicants shall submit a workforce plan that includes at least the following provisions:

(i) Commitment for 30% of employees to be local hires; this local hires requirement is satisfied when a business shows that it has either hired or made a good faith effort to hire bona fide residents of Fresno who have not established residency after application for employment with the permittee;

(ii) Commitment to offer apprenticeships and/or compensation for continuing education in the field; and

(iii) Commitment to pay a living wage to its employees.

(4) Collective Bargaining Agreement. If applicable, the applicant shall submit a current collective bargaining agreement with a bona fide labor organization that currently represents cannabis workers in the United

States; the applicant shall provide a copy of the agreement to the City Manager or designee(s).]

(3[5]) Social Responsibility. At the time of filing, each applicant shall include a social responsibility element as part of the application. The contents of the social responsibility element are at the discretion of the applicant. The weight of the social responsibility portion of the application will be considered in the overall scoring of the application. Options for the social responsibility element may include, but are not limited to:

(i) Providing funding for or hosting expungement clinics or outreach services.

(ii) Incorporating an environmentally sustainable business model including energy efficient buildings and vehicles.

(iii) Providing a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

(iv) Utilizing vacant buildings, brownfields land, or blighted areas of the city for the business.

(4[6]) Social Equity Applicant.

(i) A minimum of one (1) out of every seven (7) commercial cannabis business permits for cannabis retail businesses shall be awarded to an equity applicant. A maximum of two (2) out of every seven (7) commercial cannabis business

permits for cannabis retail businesses may be awarded to an equity applicant.

(ii) A minimum of one (1) out of every eight (8) commercial cannabis business permits for commercial cannabis businesses shall be awarded to an equity applicant. A maximum of two (2) out of every eight (8) commercial cannabis business permits for commercial cannabis businesses may be awarded to an equity applicant.

(iii) To be considered an equity applicant, the majority ownership interest in the company applying must qualify under at least one of the following criteria:

1. Low income household and either:

a. A past conviction for a cannabis crime,

or

b. Immediate family member with a past conviction for a cannabis crime.

2. Low income household in a zip code identified as at least 60% according to the CalEnviroScreen for five (5) consecutive year period and either:

a. A past conviction for a cannabis crime,

or

b. Immediate family member with a past conviction for a cannabis crime.

3. Low income household and either:
 - a. Five (5) years cumulative residency in a zip code identified as at least 70% according to the CalEnviroScreen, or
 - b. Ten (10) years cumulative residency in a zip code identified by CalEnviroScreen.
4. Business with no less than fifty-one percent (51%) ownership by individuals who meet Criteria 1 and 2 above.
5. Cannabis social enterprise with no less than fifty-one percent (51%) ownership by individuals who meet Criteria 1 and 2 above.
 - a. Cannabis social enterprise shall mean a cannabis business in the city that incubates and/or employs individuals meeting Criteria 1 or 2 above and uses commercial strategies to maximize improvements in financial, social, and environmental well-being of the disadvantaged community the organization sits in. This may include maximizing social impact alongside profits for external shareholders. It can be structured as a for-profit or non-profit organization and may take the form of a cooperative, mutual organization, a disregarded

entity, a social business, a benefit corporation, a community interest company, a company limited by guarantee, or a charity organization. They can also take more conventional structures. Social enterprises have both business goals and social goals. As a result, their social goals are embedded in their objective, which differentiates them from other organizations and corporations.

6. An individual with a membership interest in a cannabis business formed as a cooperative.

(iv) The City Manager shall determine if an applicant meets the above criteria and qualifies as an equity applicant.

(v) If determined to not qualify as an equity applicant, the decision may be appealed in accordance with Section 9-3323 of this Article.

(vi) If qualified as an equity applicant, the equity applicant's fees shall be waived and commercial cannabis business permit application assistance and compliance assistance shall be given. An equity applicant shall also be provided any other assistance as required by state law, as may be amended.

(vii) An Equity Assistance Program shall be established by the City Manager once funding becomes available. The program shall be contingent upon Council approval, and shall include, but not be limited to, the following elements:

1. Assistance in paying state regulatory and licensing fees;

2. Assistance securing business locations prior to or during the application process;

3. Assistance securing capital investments (excluding loans and grants from the city);

4. Assistance in recruiting, training, and retention of a qualified/diverse workforce; and

5. Business loans and/or grants to equity applicants.

[(c) At the time of filing an initial or renewal application, and in accordance with Section 26051.5(11)(A) of the Business and Professions Code, as may be amended, each applicant shall provide a statement that the applicant employs, or will employ within one year of receiving or renewing a commercial cannabis business permit, one supervisor and one employee who have

successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course. This paragraph shall not be construed to alter or amend existing requirements for employers to provide occupational safety and health training to employees.]

(e[d]) At the time of filing, each applicant shall sign a statement, under penalty of perjury, that all information submitted is true and correct. If it is later discovered that any false information was provided by the applicant, the application shall be denied, and if a commercial cannabis business permit was granted, it shall be revoked with no opportunity for an appeal.

(e[e]) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the city in the application process.

(e[f]) All applications must be submitted in a Portable Document Format (PDF), or comparable alternative as approved by the City Manager, and will be posted online on the city's website. All applications submitted are considered public documents for Public Records Act request purposes. Any application forms created by the city shall include this disclaimer.

(f[g]) At the time of filing, no Applicant or Owner shall initiate, engage in, or continue any communication to or with any elected official or Planning Commissioner, and no elected official or Planning Commissioner shall initiate, engage in, or continue any communication to or with any Applicant or Owner,

concerning or touching upon any matter which is the subject of this Article. The application shall be rejected if prohibited communications take place.

(g[h]) At the time of filing a complete application, the City Manager shall notify the Councilmember of the district in which the applicant seeks to be located through electronic mail and confirming that it was received.

(h[i]) After the initial application review and preliminary elimination of applications, the City Manager shall provide notice by First Class mail delivery to all properties and property owners of record within a minimum 1,000-foot radius of the subject property as shown on the latest available assessment role. The City Manager shall also provide notice to the Councilmember whose district the business would be located in.

(i[j]) After the final review, ranking, and scoring of applications, the City Manager or designee(s) shall make a determination in accordance with this Article.

(j[k]) THE CITY'S RESERVATION OF RIGHTS: The city reserves the right to reject any or all applications. Prior to permit issuance, the city may also modify, postpone, or cancel any request for applications, or the entire program under this Article, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California state law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Article, may be cancelled at any time prior to permit issuance. The city further reserves the right to request and obtain additional information from any candidate

submitting an application. In addition to any other justification provided a failure to comply with other requirements in this Article, an application RISKS BEING REJECTED for any of the following reasons:

- (1) Proposal received after designated time and date.
- (2) Proposal not containing the required elements, exhibits, nor organized in the required format.
- (3) Proposal considered not fully responsive to this request for permit application.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2020.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2020
Mayor Approval/No Return: _____, 2020
Mayor Veto: _____, 2020
Council Override Vote: _____, 2020

YVONNE SPENCE, MMC CRM
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Mary Raterman-Doidge Date
Senior Deputy City Attorney