



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Pam Foley
Councilmember Sergio Jimenez
Councilmember Omar Torres
Councilmember David Cohen
Councilmember Peter Ortiz

SUBJECT: SEE BELOW

DATE: June 09, 2023

Approved

Date 06/09/2023

SUBJECT: Amendment to Title 6 (Business Licenses and Regulations) of the San José Municipal Code for the Cannabis Regulatory Program

RECOMMENDATION

Approve staff recommendation with the following adjustments:

1. Implement the proposed modifications to the Annual External Audit Requirement in staff recommendation (a)(1) immediately.
2. Direct staff to conduct a comprehensive review of the Administrative Citation Schedule of Fines related to fines for violations of Chapter 6.88 of Title 6 of the San José Municipal Code.
 - a. Return to Council with an analysis of how San José's Schedule of Fines compares to similar California cities
 - b. Bring recommendations to Council to bring San José Schedule of Fines more in line with comparable California cities.

BACKGROUND

When recreational cannabis first became legal in California, San José responded with very strict regulations to control what was then an entirely novel market. These regulations included expensive external financial audit requirements and exceedingly steep fines related to what

would otherwise be considered minor infractions (e.g., employees not wearing an ID badge). While it may have made sense at the time to impose the strictest version of regulations and oversight due to the uncertainty about a legal cannabis market; today, many of these regulations have proven to be unnecessarily burdensome.

Indeed, many, if not all, of the worst fears around a legal recreational cannabis market have proven to be unfounded. Unfortunately, the incredibly stringent regulations placed on the legal cannabis industry have had some unforeseen consequences. The legal cannabis industry has been struggling. The importance of the survival of San José's legal cannabis industry are twofold. One, the legal market generates significant revenue for the City, allowing us to provide better services to our residents; and two, perhaps most importantly, the legal market discourages the illicit cannabis market which peddles unsafe and untested cannabis product, doesn't age check customers, and results in unsafe transactions

We'd like to thank City Staff for bringing forward these reasonable and commonsense adjustments to our cannabis regulations and zoning requirements. However, further changes are needed to ensure the cannabis industry is not unduly burdened.

The proposed modifications to the Annual External Audit Requirement are good. However, there is no reason to not implement these adjustments immediately. Waiting to modify the External Audit Requirement until the end of the calendar year will result in another set of costly audits for businesses.

Additionally, many of the fines that are imposed on the cannabis industry appear to be excessive. To ensure the health and competitiveness of San José's cannabis industry in comparison to other California cities, a review and potential adjustment should be conducted to bring the City's Schedule of Fines in line with comparable California cities.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.