

Thursday, June 3, 2021, 6:30 pm  
Teleconference Meeting

## AGENDA

Pursuant to the Governor's Executive Order N-29-20, members of the Cannabis Regulatory Commission as well as City staff will participate via phone/video conference and no physical teleconference locations are required.

### **PUBLIC PARTICIPATION INSTRUCTIONS**

#### **TO OBSERVE:**

- To observe the meeting by video conference, please click the link below to join the webinar:  
<https://us02web.zoom.us/j/82527889292>
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**TO PROVIDE PUBLIC COMMENT:** There are three ways to make public comment within the time allotted for public comment on an eligible Agenda item.

- Comment in advance. To send your comment to staff before the meeting starts, please send your comment, along with your full name and agenda item number you are commenting on, to Greg Minor at [gminor@oaklandca.gov](mailto:gminor@oaklandca.gov). All submitted public comment will be provided to the Cannabis Regulatory Commission prior to the meeting.
- By Video Conference. To comment by Zoom video conference, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to "Raise Your Hand" are available at: <https://support.zoom.us/hc/en-us/articles/205566129>, which is a webpage entitled "Raise Hand In Webinar."

Persons may speak on any item appearing on the agenda; however, a Speaker Card must be filled out and given to a representative of the Cannabis Regulatory Commission. Multiple agenda items cannot be listed on one speaker card. If a speaker signs up to speak on multiple items listed on the agenda, the Chairperson may rule that the speaker be given an appropriate allocation of time to address all issues at one time (cumulative) before the items are called. All speakers will be allotted 3 minutes or less – unless the Chairperson allots additional time.

♿ This meeting is wheelchair accessible. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meetings of the Cannabis Regulatory Commission, please contact the Office of the City Clerk (510) 238-3612. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility. In compliance with Oakland's policy for people with chemical sensitivities, please refrain from wearing strongly scented products to events.

Questions or concerns regarding this agenda, or to review any agenda-related materials, please contact the Cannabis Regulatory Commission at (510) 238-6370.

• By Phone. To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing STAR-NINE (“\*9”) to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting.

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***Members:***

Lanese Martin	District 1	Frank Tucker	District 7
Tracey Corder	District 2	Chaney Turner	At Large
Austin Stevenson	District 3	Stephanie Floyd-Johnson	Mayor
Vacant	District 4	TiYanna Long	City Auditor
Vacant	District 5	Greg Minor	City Administrator
Vacant	District 6		

Available on-line at: <https://www.oaklandca.gov/boards-commissions/cannabis-regulatory-commission>

## **MEETING AGENDA**

- A. Roll Call and Determination of Quorum
- B. Approval of the Draft Minutes from the CRC Meeting on May 6, 2021.
- C. Reports for Discussion and Possible Action
  - 1. CRC Process and Procedures and Agenda Management
  - 2. Creation of Additional Cannabis Consumption Lounge License
  - 3. Amendments to Allow the Transfer of Permits from Equity Applicants to Non-Equity Applicants
  - 4. Revenue Management Bureau Report on 2020 Cannabis Tax Revenues
  - 5. Governor’s Revised Budget and Proposed State Cannabis Legislation
  - 6. Implementation Update on Current BCC and Go-Biz Grants
- D. Review of the Pending List and Additions to Next Month’s Agenda
  - *Costing of a Department of Cannabis (since January 2021)*
- E. Open Forum / Public Comment
- F. Announcements
  - 1. Update on Cannabis Permitting Process
  - 2. Update from Subcommittee on Updated Assessment of Equity Program
- G. Adjournment

Thursday, May 6, 2021, 6:30 pm  
Teleconference Meeting

## MINUTES

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Available on-line at: <https://www.oaklandca.gov/boards-commissions/cannabis-regulatory-commission>

## MEETING AGENDA

A. Roll Call and Determination of Quorum

*Present: Stevenson, Tucker, Turner, Floyd-Johnson, Long, and Minor*

*Absent: Martin, Corder*

B. Approval of the Draft Minutes from the April 1, 2021 CRC Meeting.

*Member Stevenson made a motion to approve the minutes as drafted. Member Tucker seconded the motion and it passed by consensus.*

C. Reports for Discussion and Possible Action

1. Oakland Police Department 2020 Report on Enforcement and Resources Assigned to Cannabis

*Captain Sean Fleming presented OPD’s 2020 report. Public speakers asked about what percentage of those arrested for burglarizing cannabis businesses in the summer of 2020 were from Oakland; Officer Romero replied that he was not sure. Member Turner asked what OPD is doing in response to those organizing over social media to burglarize Oakland cannabis businesses; Officer Romero shared that OPD deploys officers to the area of cannabis businesses when they have intelligence in advance of targeted burglaries.*

2. Updated Assessment of Equity Program: Comparative Analysis for Oakland’s Cannabis Industry

*Member Minor introduced Sharon Jan, public policy graduate student, presented her report analyzing industries analogous to the cannabis industry. Members thanked Ms. Jan for the information provided in the report and acknowledged it will take time to fully digest the report and its recommendations.*

3. CRC Process and Procedures and Agenda Management

*Member Minor provided background on the item and Vice-Chair Long emphasized the importance of limiting meetings to two hours. Vice-Chair Long then made a motion to continue this item to next month’s agenda. Member Turner seconded the motion and it passed by consensus.*

#### 4. Creation of Additional Cannabis Consumption Lounge License

*Member Minor provided an update regarding conversations with the San Francisco and Alameda County Public Health Departments. Public speakers encouraged the City to adopt a tiered onsite consumption licensing system, with more intensive HVAC requirements for smoking or infused forms of consumption. Member Stevenson voted to continue this item to next month's agenda and for the City of Oakland to consider a tier based onsite consumption system. Vice-Chair Long seconded the motion and it passed by consensus.*

#### 5. Implementation Update on 2020 BCC and Go-Biz Grants

*Member Minor provided an update on the various loan and grant programs being implemented. Paula Groves of Elevate Impact noted all the work that has taken place and asked for continued support as programs continue to grow.*

#### D. Review of the Pending List and Additions to Next Month's Agenda

- *Amendments to Allow the Transfer of permits from Equity Applicants to Non-Equity Applicants (since January 2021)*
- *Costing of a Department of Cannabis (since January 2021)*

*Member Floyd-Johnson made a motion to refer the topic of allowing the transfer of permits from equity to non-equity applicants to the equity assessment subcommittee and then have the subcommittee make a recommendation on the item for the full CRC's consideration. Vice Chair Long seconded the motion and it passed by consensus.*

#### E. Open Forum / Public Comment

*Members of the public expressed gratitude for the recently adopted compliance plan option for provisional state licenses and for loan and grant programs.*

#### F. Announcements

1. *May 17<sup>th</sup> City Council Community Economic Development (CED) Committee Meeting*
2. *Update on Cannabis Permitting Process*
3. *CRC Vacancies*

*Member Minor highlighted the upcoming CED meeting and state Senate Bill 603 to provide more funding for equity programs and equity applicants.*

#### G. Adjournment



## Cannabis Regulatory Commission

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**TO:** Cannabis Regulatory Commission      **FROM:** Greg Minor  
Assistant to the City  
Administrator

**SUBJECT:** June 2021 Agenda Items      **DATE:** May 28, 2021

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### ITEM C (1) CRC Process and Procedures and Agenda Management

At the March 3, 2021 Planning Session Meeting, the CRC selected process and procedures as well as ensuring the success of the Equity Program as the CRC's top priorities. Then at the April 1, 2021 meeting Chair Martin made a motion to discuss agenda management and Vice-Chair Long seconded the motion and it passed by consensus.

This item was then scheduled to the May 6, 2021 meeting where Vice-Chair Long made a motion to continue this item to the June 2021 meeting and Member Turner seconded the motion and it passed by consensus.

### ITEM C (2) Creation of Additional Cannabis Consumption Lounge License

At the December 2020 CRC meeting the CRC passed a motion to agendize the creation of an additional cannabis consumption lounge where cannabis deliveries take place (The City of Oakland currently offers an onsite-consumption permit but it only applies to

existing dispensaries in good standing). In February staff provided draft language for an onsite consumption lounge and the CRC moved to continue this item to April and to prioritize equity applicants for onsite consumption licenses.

Since February staff has connected with onsite consumption advocate Brent Bell and identified the framework and unresolved issues outlined for the CRC's consideration. At the April 1, 2021 CRC Meeting Member Turner made a motion to agendaize the issue of smoking of cannabis to the next CRC meeting and to remove smoking from the list of unresolved issues. Member Stevenson seconded the motion. Chair Martin made a friendly amendment for staff to engage with public health agencies regarding the public health impact of cannabis vs. tobacco smoke. Member Turner accepted the amendment and it passed by consensus. Chair Martin then made a motion for staff to take the framework for onsite consumption licensing and develop it into legislation for the commission to review. Member Stevenson seconded the motion and it passed by consensus.

Since April staff has spoken with public health officials for both the Counties of Alameda and San Francisco. San Francisco shared the following website with information on their onsite consumption requirements: <https://www.sfdph.org/dph/EH/MCD/default.asp> At this point, staff is still in the process of reviewing this material and gathering input on onsite consumption policies.

This item was heard at the May 6, 2021 CRC meeting where public speakers encouraged the City to adopt a tiered onsite consumption licensing system, with more intensive HVAC requirements for smoking or infused forms of consumption. Member Stevenson voted to continue this item to next month's agenda and for the City of Oakland to consider a tier based onsite consumption system. Vice-Chair Long seconded the motion and it passed by consensus.

#### Framework

- Location for adults to consume cannabis with others
- Allow non-infused food and (non-alcoholic) beverages in addition to cannabis
- Odor mitigation to avoid impacting neighbors
- Fire code compliance to ensure location is safe for assembly
- No purchasing of cannabis onsite, but delivery allowed
- Prioritize equity applicants for onsite consumption licenses
- Same zoning requirements as dispensaries (any commercial or industrial zone)
- 600-foot buffer from schools and youth centers (but no buffer from dispensaries or other onsite consumption lounges)
- Staff trained on CPR/First Aid, have protocols for monitoring over-consumption
- Good neighbor practices: discouraging loitering and littering outside of lounge, identify a community liaison for the lounge
- Denver: cease consumption while first responders are present

- Tiered licensing approach based on form of consumption provided, with more extensive requirements for smoking.
- Unresolved Issues
- Smoking allowed? Or only vaping, infused beverages, and edibles
- What level of security requirements? Cameras, alarms, and licensed guards?
  - Does it depend on whether there is purchasing/delivery of cannabis onsite?
- How do you define an onsite consumption area/permit?
  - What activity is the City prohibiting (intentionally/unintentionally) through this definition?
- Allow mobile lounges (buses)?
- Hours of Operation?

#### ITEM C (3) Amendments to Allow the Transfer of Permits from Equity Applicants to Non-Equity Applicants

The current language around transferring business permit resides in OMC 5.02.20, pasted below for reference:

No permit in this Chapter required shall be transferable, nor apply to any premises other than those originally specified as the location of the thing permitted, except upon written permission of the City Administrator, or other official originally granting such permit, granted upon written application by the transferor, made in the same manner as may be required in the instance of the original application for such permit.

Staff has interpreted this language as allowing general applicants to transfer their permits to general or equity businesses that comply with permitting requirements, but prohibit equity applicants from transferring their permits to general applicants, because the equity applicants' status as an equity applicant was a prerequisite to them obtaining their permit in the first instance. While this avoids the flipping of permits from equity to general applicants and undermining the intent of the equity program of providing business ownership opportunities to equity applicants, it also permanently restricts equity businesses from receiving the financial benefits of selling more than fifty percent of their business to general applicants.

After months of discussion in 2019, the CRC ultimately recommended allowing equity businesses to transfer their permits after three years, the same period as incubation, to provide equity applicants with the choice of keeping or transferring their business at that point. At recent meetings CRC members have discussed whether to require that as part of any transfer the City is repaid any public

funds provided to an equity applicant requesting to transfer their permits to general applicant, such as grants, loans, and fee exemptions.

This item was discussed at the January 2021 CRC meeting where Chair Martin moved to place this item on the pending list, Member Turner seconded the motion and it passed by consensus. Then at the May 6, 2021 Member Floyd-Johnson made a motion to refer this topic to the equity assessment subcommittee and then have the subcommittee make a recommendation on the item for the full CRC's consideration. Vice Chair Long seconded the motion and it passed by consensus.

On May 25<sup>th</sup>, the equity subcommittee discussed whether/how the City should allow equity businesses to transfer their permits to non-equity businesses. After some discussion on this topic, the Committee proposed that the Commission consider the recommendation that allows an Equity business to be sold to a General business provided that the General pay back 80% of the amount of funds given to an Equity business. In addition, the General business agrees to incubate an Equity business.

#### ITEM C (4) Revenue Management Bureau Report on 2020 Cannabis Tax Revenues

Please see the attached report from the Revenue Management Bureau regarding 2020 cannabis tax revenues.

#### ITEM C (5) Governor's Revised Budget and Proposed State Cannabis Legislation

On May 14<sup>th</sup> the Governor released a Revised Budget that proposes funds for local jurisdictions to support the transition of cannabis operators from provisional to annual state licenses. Specifically, the Revised Budget proposes allocating \$9,905,020 to the City of Oakland over a three-year period. While this is just a proposal subject to modifications and adoption by the state legislature, this is a potential opportunity both to support equity businesses and City staffing resources for cannabis permitting and equity programming. The state legislature will adopt the final budget by June 15<sup>th</sup>. More information is available here:

[https://www.dof.ca.gov/Budget/Historical\\_Budget\\_Publications/2021-22/May\\_Revision\\_Finance\\_Letters/documents/Business\\_Consumer\\_Services\\_Housing.pdf](https://www.dof.ca.gov/Budget/Historical_Budget_Publications/2021-22/May_Revision_Finance_Letters/documents/Business_Consumer_Services_Housing.pdf)

Additionally, State Senator Bradford is proposing Senate Bill 603 to require cannabis-licensing agencies to develop a needs based fee waiver and deferral program, upon appropriation in the annual budget or other statute for that purpose, and establishes a state and local cannabis fee tax credit for fees paid by local equity applicants and licensees. More information is available here:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=20210220SB603](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=20210220SB603)

### ITEM C (5) Implementation Update on Current BCC and Go-Biz Grants

In the summer of 2020, the Special Activity Permits Division launched a BCC and Go-Biz funded grant program for equity operators for all eligible expenses that is administered along with the no-interest loan program by 4Front Partners, dba Elevate Impact. At the recommendation of the CRC, staff and Elevate Impact have held monthly meetings with equity operators the Tuesday after the CRC meeting to provide any updates regarding the program and maintain an ongoing feedback loop. Every week staff and Elevate Impact monitor the programs and analyze what adjustments are needed to effectively disburse funds. More information on the loan and grant programs is available at [www.elevateimpactoakland.com](http://www.elevateimpactoakland.com) and the agendas for monthly loan and grant meetings with statistics regarding the loan and grant programs is available here: <https://www.oaklandca.gov/boards-commissions/cannabis-regulatory-commission/meetings>.

In September 2020 staff launched two shared-use manufacturing facilities funded by the BCC grant. The two teams managing the kitchens have selected 15 manufacturers to use the sites and obtained all necessary approvals for the locations. Now operators are utilizing the shared-use facilities. More information is available here: <https://www.oaklandca.gov/services/shared-use-manufacturing-facilities>

Next, in late October 2020 staff launched a workforce development grant program providing equity operators with grants of up to \$50,000 to recruit, train, or retain equity employees. Staff reviewed and approved all 27 applications received in 2020 and is working with the workforce grant applicants to get them under contract in order to disperse funds. To date, nineteen of the workforce grant applicants have received funding, seven are working to obtain required insurance. More information is available here: <https://www.oaklandca.gov/services/workforce-development-grant-program>

Finally, on November 20, 2020 staff released a Request for Proposals (RFP) for the approximately \$2 million that is available to equity operators to purchase property(ies) that support multiple equity operators. The City received 18 applications for Phase One of the RFP. A panel of City staff from the Departments of Race and Equity, Economic and Workforce Development and the City Administrator's Office reviewed and scored the applications, resulting in five applicants moving forward to the last phase of the RFP. The top five applicants submitted their Phase Two responses on March 12th with a letter of intent to purchase a property and a detailed budget. Staff inspected the proposed locations, held follow up meetings with applicants, and on April 30<sup>th</sup> provided the top two applicants a conditional commitment letter for the purchase of a shared-use manufacturing facility that will both support the equity applicants involved in the RFP process and equity applicants that can utilize the space each year. Staff anticipates entering into a loan agreement with this group over the coming weeks. More information is available here: <https://www.oaklandca.gov/services/purchasing-property-program>

ITEM F (1) Update on Cannabis Permitting Process

Below please find updated cannabis permitting statistics for the CRC's review, including additional categories as well as application and permit trend graphs.

**Figure 1: Application Totals**

<b><i>APPLICATIONS</i></b>	<b>TOTALS</b>	<b>PENDING</b>
Total Complete & Incomplete Applications	1596	120
Total Complete Applications	1596	
Complete General Applications	676	
Equity Applications based on residency	786	
Equity Applications based on conviction	134	
Incubators	395	
Interested in Incubating	27	
Complete Application with property	1149	
Complete Application without property (Equity)	364	
Complete Applicants without property (General)	83	

**Figure 2: Permit Applications by Category**

<b>COMPLETED APPLICATIONS BY BUSINESS TYPE</b>	<b>GENERAL</b>	<b>INCUBATOR*</b>	<b>INTERESTED IN INCUBATING*</b>	<b>EQUITY</b>
Delivery	166	66	3	242
Cultivator (Indoor)	193	124	19	158
Cultivator (Outdoor)	7	5	0	38
Distributor	147	94	3	222
Mfg. Volatile	55	43	0	44
Mfg. Non-Volatile	100	58	2	166
Transporter	5	3	0	40
Lab Testing	3	2	0	10
<b>GRAND TOTALS</b>	<b>676</b>	<b>395</b>	<b>27</b>	<b>920</b>

\*These numbers are part of the General Total

**Figure 3: Operators Locally Authorized for Provisional or Annual State License by Category**

<b>LOCALLY AUTHORIZED FOR STATE *ANNUAL/PROVISIONAL LICENSES*</b>	<b>GENERAL</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	
Delivery	32	42	117	
Cultivator	10	69	43	
Distributor	8	70	93	
Mfg. Volatile	5	29	6	
Mfg. Non-Volatile	21	70	100	
Transporter	0	1	5	
Lab Testing	0	2	2	
Retailers	3	1	3	
<b>TOTALS:</b>	<b>79</b>	<b>284</b>	<b>369</b>	<b>732</b>

\*These figures represent those who have actually applied with the state for their provisional/annual license  
There are additional applicants who are locally authorized, but who have not yet applied with the state.

**Figure 4: New Permits Issued to Cannabis Operators Since Spring of 2017 by Category**

	<b>GENERAL NOT INCUBATING</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	<b>TOTAL</b>
<b><i>NEW ANNUAL PERMITS BY BUSINESS TYPE</i></b>				
Dispensary	1	1	4	6
Delivery	78	17	100	195
Cultivator (Indoor)	2	6	6	14
Cultivator (Outdoor)	0	0	0	0
Distributor	17	27	77	121
Mfg. Volatile	0	4	0	4
Mfg. Non-Volatile	6	10	46	62
Transporter	1	0	5	6
Lab Testing	0	0	0	0
<b>GRAND TOTALS</b>	<b>105</b>	<b>65</b>	<b>238</b>	<b>408</b>

**Figure 5: Withdrawn Applications**

<b>WITHDRAWN APPLICATIONS</b>	<b>GENERAL</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	<b>TOTALS</b>
Delivery	10	22	42	74
Cultivator (Indoor)	3	15	32	50
Cultivator (Outdoor)	14	11	10	35
Distributor	3	35	39	77
Mfg. Volatile	2	14	18	34
Mfg. Non-Volatile	6	16	24	46
Transporter	5	1	15	21
Lab Testing		2	3	5
<b>TOTALS</b>	<b>43</b>	<b>116</b>	<b>183</b>	<b>342</b>

**Figure 6: Revoked Local Authorization**

<b>REVOKED LOCAL AUTHORIZATION</b>	<b>GENERAL</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	<b>TOTALS</b>
Delivery	1	6	6	13
Cultivator (Indoor)	1	9	2	12
Cultivator (Outdoor)				0
Distributor	1	5	4	10
Mfg. Volatile		3		3
Mfg. Non-Volatile		3	1	4
Transporter		1		1
Lab Testing				0
<b>TOTALS</b>	<b>3</b>	<b>27</b>	<b>13</b>	<b>43</b>

Figure 7: Graph of Cannabis Permit Applications Received Since 2017

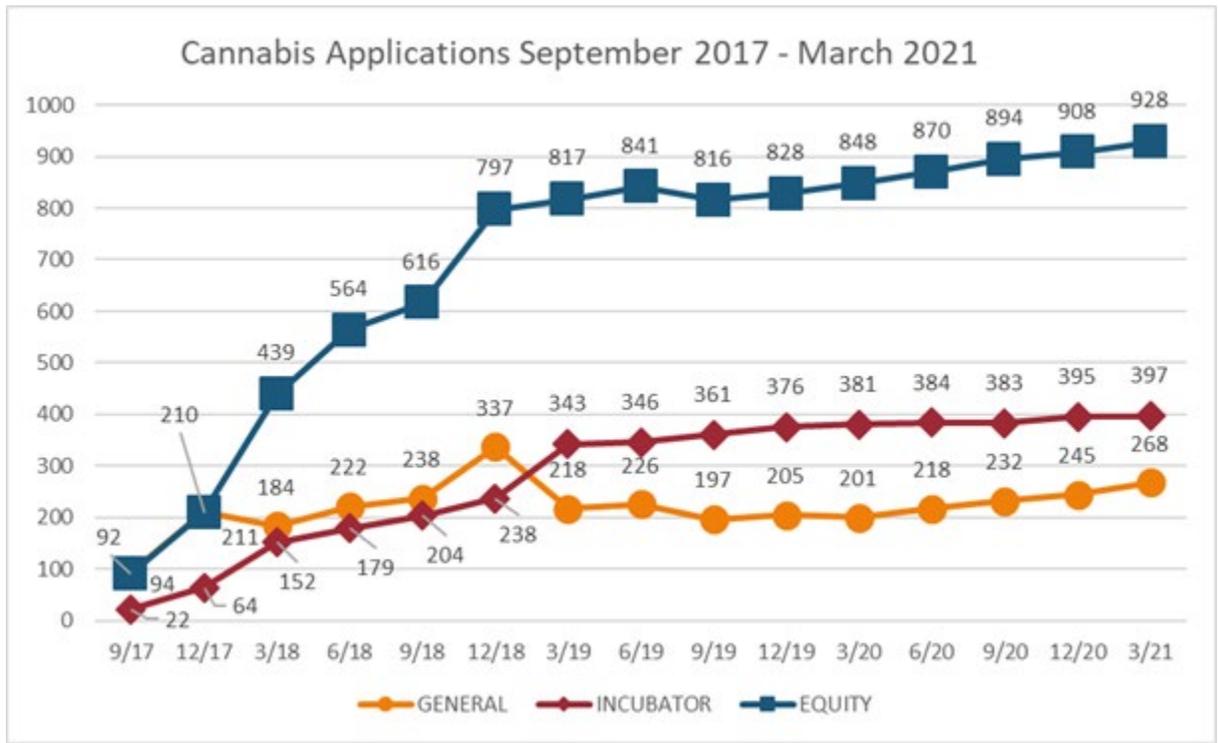
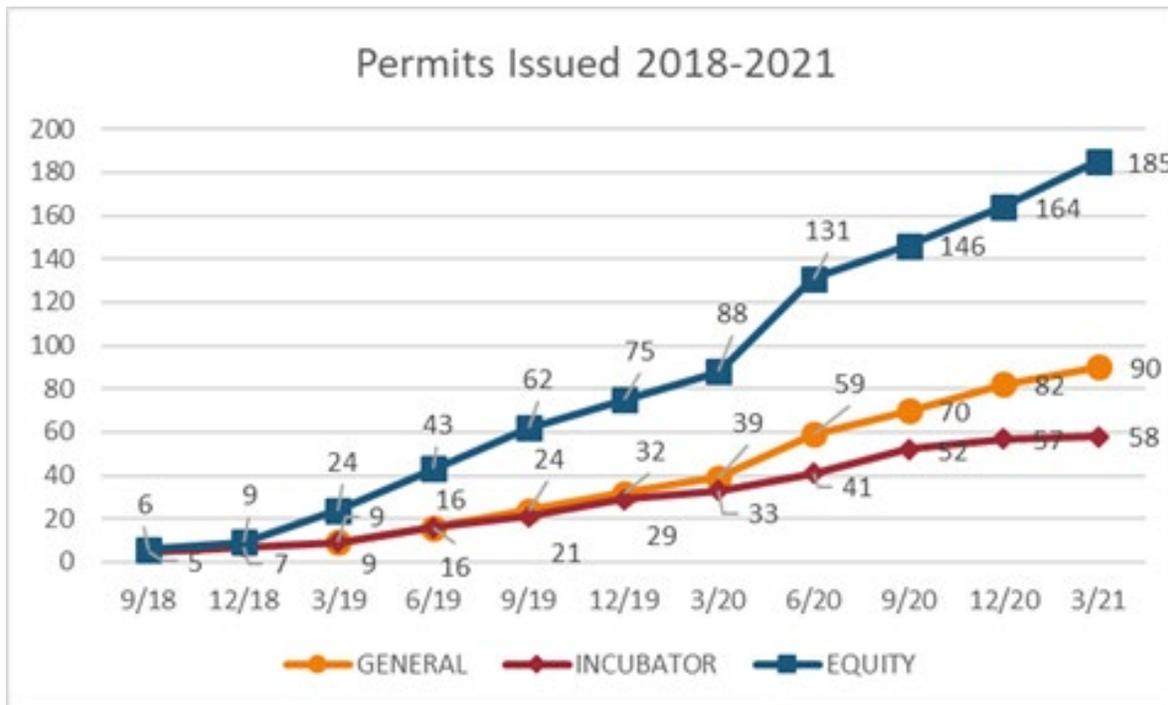


Figure 8: Graph of New Cannabis Permits Issued Since 2017





# MEMORANDUM

<b>TO:</b>	Cannabis Regulatory Commission	<b>FROM:</b>	Margaret O'Brien Revenue & Tax Administrator
<b>SUBJECT:</b>	Cannabis Business Taxes	<b>DATE:</b>	May 27, 2021

## INFOMRATION

This annual report provides the Cannabis Regulatory Commission (“CRC”) the unaudited Business Taxes reported directly to the City of Oakland (“City”) and Sales & Use Taxes reported directly to the California Department of Tax & Fee Administration (“CDTFA”) by individuals and businesses engaging in commercial cannabis activities in Oakland.

## **BACKGROUND / LEGISLATIVE HISTORY**

### *Oakland’s Cannabis Regulatory History*

The City of Oakland has been a leader in regulating cannabis. After California voters legalized medical cannabis in 1996 via Proposition 215, the City established Oakland Cannabis Buyers Club (“OCBC”) as its medical cannabis provider in 1998 under Oakland Municipal Code (“OMC”) 8.46. Following the federal closure of OCBC, the City of Oakland enacted OMC 5.80 in 2004, which established the nation’s first permitting process for medical cannabis dispensaries. In 2011 the City of Oakland expanded the number of available dispensary permits from four to eight and attempted to establish a permitting process for the cultivation of medical cannabis under OMC 5.81; however, threats of federal intervention and the lack of comprehensive state law prevented any implementation of OMC 5.81.

After the passage of the Medical Cannabis Regulation and Safety Act (“MCRSA”) in 2015 and the Adult-Use of Marijuana (“AUMA”) or Proposition 64 in 2016, the City of Oakland adopted the nation’s first equity program through amendments to OMC 5.80 and 5.81 that also legalized the adult-use of cannabis and established a permitting process for the cannabis industry’s entire supply chain in the spring of 2017.

### *Oakland’s Cannabis Taxation History*

In July 2009, Oakland voters approved Measure F making Oakland the first City in the nation to impose a tax on (medical) cannabis businesses. Measure F established a tax rate of \$18 per \$1,000, or 1.8 percent, of gross receipts.

In November 2010, Oakland voters approved the 2010 Measure V increasing the tax rate on medical cannabis businesses from 1.8% to five percent (5%) of annual gross receipts and creating a new tax rate of 10 percent (10%) of gross receipts on non-medical cannabis businesses, referred to as adult-use or recreational. The additional 10 percent adult-use tax rate was put forth in anticipation of Proposition 19, which would have legalized adult use of cannabis in November 2010. Since Proposition 19 failed at the ballot box Oakland did not implement the adult-use tax rate until January 1, 2018 following the passage of Proposition 64 and City Council’s legalization of adult use in 2017.

In November 2018, Oakland voters approved the 2018 Measure V allowing cannabis businesses to pay business taxes quarterly, cannabis manufacturing and/or cultivation businesses to deduct the value of raw materials from gross receipts in calculating business taxes and authorizing the City Council, without returning to voters, to amend medical or non-medical cannabis business taxes in any manner that does not increase the tax rate.

In December 2019, the Oakland City Council adopted Ordinance No. 13573 C.M.S. amending OMC Title 5, Chapter 5.04, Sections 5.04.480 and 5.04.481 to create a tiered and category-based tax structure for cannabis businesses beginning in 2020 and changing each year for 2021 and 2022 calendar years. Thereafter, the tax rate structure is scheduled to remain the same at the 2022 tax structure unless the City Council makes further changes as authorized in the 2018 Measure V.

Table 1: 2021 Tax Rates

2021 Cannabis Business Tax Rates					
	Retail (store-front & delivery)	Indoor Cultivation	Outdoor Cultivation	Manufacturing Packaging & Storage	Distribution
<b>Equity Cannabis Business</b>					
\$0 - \$1.5M	0.12%	0.12%	0.12%	0.12%	0.12%
\$1.5M - \$5M	5.00%	5.00%	5.00%	5.00%	4.50%
Over \$5M	5.00% medical 8.00% Adult-Use (Non-Marginal)	5.00% (Non-Marginal)	5.00%	5.00%	4.50%
<b>General (Non-Equity) Cannabis Business</b>					
\$0 - \$500K	0.12%	0.12%	0.12%	0.12%	0.12%
\$500K+ - \$1.5M	5.00%	5.00%	5.00%	5.00%	4.50%
\$1.5M+ = \$5M	5.00%	5.00%	5.00%	5.00%	4.50%
Over \$5M	5.00% medical 8.00% Adult-Use (Non-Marginal)	5.00% (Non-Marginal)	5.00%	5.00%	4.50%

Table 2: 2022 & After Tax Rates

2022 & After Cannabis Business Tax Rates					
	Retail (store-front & delivery)	Indoor Cultivation	Outdoor Cultivation	Manufacturing Packaging & Storage	Distribution
<b>Equity</b>					
\$0 - \$1.5M	0.12%	0.12%	0.12%	0.12%	0.12%
\$1.5M - \$5M	5.00%	5.00%	4.50%	4.50%	3.00%
Over \$5M	5.00%	5.00%	5.00%	5.00%	4.00%
<b>General (Non-Equity)</b>					
\$0 - \$750K	0.12%	0.12%	0.12%	0.12%	0.12%
\$750K+ - \$1.5M	4.00%	4.00%	3.50%	3.50%	2.50%
\$1.5M+ = \$5M	4.00%	4.00%	4.50%	4.50%	3.00%

2022 & After Cannabis Business Tax Rates					
	Retail (store-front & delivery)	Indoor Cultivation	Outdoor Cultivation	Manufacturing Packaging & Storage	Distribution
Over \$5M	5.00% (Non-Marginal)	5.00% (Non-Marginal)	5.00%	5.00%	4.00%

Oakland's Cannabis Equity Tax Rebate Program

In addition to the new tiered and category-based tax structure for cannabis businesses in December 2019, the City Council also adopted an Equity Tax Rebate Program for cannabis businesses. The program consists of four different tax rebates totaling nine separate and distinct conditions upon which a cannabis business would be entitled to the rebate of a portion of the taxes paid.

Table 3: 2021 Cannabis Tax Rebate Program

2021 Cannabis Business Tax Rebate Program			
Rebate Program	Rebate Conditions	Qualifying Period	Rebate Amount
Local Hiring Rebate (5.04.481.B.2.a.)	I. 30% of workforce consists of "Equity Employees"	182 Days	0.50%
	II. 25% of workforce consists of Equity Employees in "Essential Roles"	182 Days	0.50%
	III. 20% of workforce consists of Equity Employees in "Managerial Roles"	182 Days	0.50%
Equity Supply Chain (5.04.481.B.2.b.)	I. 30% of value of cannabis products delivered to the business were delivered by an Equity Business	365 Days	0.50%
	II. 25% of value of cannabis products delivered to the business were originally cultivated or manufactured by an Equity Business	365 Days	0.50%
Workforce Quality of Life (5.04.481.B.2.c.)	I. \$20/hr. with health benefits <u>or</u> \$25/hr. without health benefits for all employees employed	365 Days	0.50%
	II. 80% of total employees are full-time employees	365 Days	0.25%
Incubation (5.04.481.B.2.d.)	I. Provide free rent to Equity Business beyond the initial three-year period	Year 4th	1.50%
	II. Provide free rent to Equity Business in the tax year but does not seek "permitting priority"	365 Days	1.50%
<b>IMPORTANT NOTE:</b> In no case will a business be entitled to any rebates that would reduce the overall tax rate of less than 3.5% for 2021 Tax Year; In other words, a cannabis business would be subject to pay the floor/minimum tax rate of 3.5% regardless of the number or the amount of the tax rebates.			

California Sales & Use Tax

Sales and Use Tax applies to the retail sale or use of "tangible personal property." The total sales tax percentage in the City of Oakland is 9.25% meaning on a \$1 taxable purchase, the sales tax paid is 9.25 cents. The City receives 1% of the total sales, meaning the City receives 1 cent on a \$1 purchase. The remaining 8.25% is allocated to the state and local taxing districts.

California Cannabis Excise Taxes

The passage of Proposition 64 created two new State cannabis taxes<sup>1</sup>:

1. A 15 percent excise tax imposed upon the purchasers of cannabis and cannabis products.
2. A cultivation tax imposed upon cannabis cultivators on all harvested cannabis that enters the commercial market. The cultivation tax is:
  - \$9.25 per dry-weight ounce of cannabis flowers that enter the commercial market,
  - \$2.75 per dry-weight ounce of cannabis leaves that enter the commercial market, and
  - \$1.29 per ounce of fresh cannabis plant<sup>2</sup>.

**CANNABIS BUSINESS TAX REVENUE & STATISTICS**

Table 4 summarizes the reported cannabis business tax revenue for the calendar years 2015-2020 and the latest reported revenue for the current calendar year 2021.

Table 4: Cannabis Business Tax Revenue

Tax Year	Number of Business	Revenue
2021 <sup>3</sup>	187	\$13.47 million
2020	252	\$8.89 million
2019	195	\$12.85 million
2018	139	\$8.07 million
2017	85	\$7.48 million
2016	77	\$4.64 million
2015	70	\$3.61 million

General Statistics:

The following general statistics are intended to provide the CRC a snapshot of key information as of the date of this report. Certain statistics for prior years, such as the number of retailers vs. non-retailers, equity vs. non-equity businesses, are not available because the tax rates were fixed prior to 2019 tax year regardless of the type of operation or activity. The breakdown of revenue by individual activity or segment of the cannabis industry (store front, delivery, cultivation, manufacturing, distribution, etc.) cannot be separated because many cannabis businesses engage in multiple segments of the industry. Furthermore, the applicable tax is the tax rate that produces the highest amount of the taxes owed based on the total gross receipts generated by the business without respect to the portion of gross receipts generated from any particular taxable activity (Oakland Municipal Code § 5.04.480.C).

Table 5: Retail vs. Non-Retail Operation

Tax Year	Retail	Non-Retail	Total
2021	93	94	187
2020	112	140	252
2019	73	122	195

<sup>1</sup> Taxes will be adjusted for inflation starting in 2020.

<sup>2</sup> To qualify for the “fresh plant” category, the unprocessed cannabis must be weighed within two hours of harvesting.

<sup>3</sup> Through May 26, 2021: Total \$13.47M (Paid = \$5.83million; Outstanding Balance = \$7.67 million)

Table 6: Equity vs. Non-Equity Operation

Tax Year	Equity	Non-Equity	Total
2021	54	133	187
2020	78	174	252
2019	Not Tracking		

Table 7: Payment Plan vs. Non-Payment Plan

Tax Year	Payment Plan	Non-Payment Plan	Total
2021	30	157	187
2020	42	210	252
2019	57	138	195

Table 8: Business by Gross Receipts and Percentage of Reported Revenue

Gross Receipts	2021		2020		2019	
	No. of Business	Percentage of Revenue	No. of Business	Percentage of Revenue	No. of Business	Percentage of Revenue
Up to \$500K	115	6.72%	195	8.94%	151	7.75%
\$500K+ - \$1.5M	35	13.26%	27	8.88%	19	15.40%
\$1.5M+ - \$5M	26	\$29.01%	26	39.46%	18	29.92%
Over \$5M	11	\$51.01%	4	42.72%	7	46.93%
<b>Total</b>	<b>187</b>	<b>100%</b>	<b>252</b>	<b>100%</b>	<b>195</b>	<b>100%</b>

## SALES & USE TAX REVENUE

Table 9: Adjusted Sales Tax reported to the CDTFA

Calendar Year	Number of Business	Revenue
2021 <sup>4</sup>	n/a	n/a
2020	103	\$1.56 million
2019	121	\$1.30 million
2018	79	\$1.16 million

Staff will be available to speak to the information provided herein at the June 3, 2021 CRC meeting. For questions regarding this report, please contact Rogers Agaba, Assistant Revenue & Tax Administrator, (510) 238-7009.

Respectfully submitted,

*Margaret L. O'Brien*

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Margaret L. O'Brien  
Revenue and Tax Administrator  
Finance Department

<sup>4</sup> There is an interval of time lag of approximately 2 – 2 ½ months from the close of the quarter to the date the City receives the Sales & Use Tax data. For example, the City expects to receive the sales tax data for the first quarter 2021 (Jan-Mar 2021) in June 2021. The time lag represents the interval needed for filers to prepare their returns and remit their payments to the CDTFA, and for the CDTFA to process returns and prepare the data for the City.