

Thursday February 2, 2023 6:30 pm  
Teleconference Meeting

## AGENDA

Pursuant to the Governor's Executive Order N-29-20 and AB 361, 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:**

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**Members:**

Javier Armas	District 1	Vacant	District 7
Tracey Corder	District 2	Chaney Turner	At Large
Taib Alaoui	District 3	Vacant	Mayor
Lauren Payne	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 Special Meeting on January 5, 2023
- C. Reports for Discussion and Possible Action
  1. Adopt a Resolution Determining That Conducting In-Person Meetings of The Cannabis Regulatory Commission Would Present Imminent Risks to Attendees’ Health, And Electing to Continue Conducting Meetings Using Teleconferencing in Accordance with California Government Code Section 54953(E), A Provision Of AB-361
  2. Potential Restrictions on Cannabis Cultivation Activities on Parcels Containing Live/Work or Residential Uses
  3. Draft 2023 Cannabis Operator Regulations
  4. 2023 Equity Applicant Survey Responses to Date
  5. Governor’s Office of Business and Economic Development (Go-Biz) Proposed Matching Funds Requirement for Local Jurisdiction
  6. Implementation Update on State Grants
- D. Review of the Pending List and Additions to Next Month’s Agenda
  - *Building and Fire Baseline Permitting Timelines (since January 2022)*
  - *Details on Proposed Legislative Framework for Next Phase of Cannabis Program (since February 2022)*
  - *Finalize Exit Interview Survey for Withdrawn Applications (since July 2022)*
  - *Establishing Department of Cannabis (since September 2022)*
  - *Planning Department Discussion re Zones Eligible for Cannabis Businesses (since October 2022)*
  - *Draft 2022 Cannabis Regulatory Commission Annual Report (since January 2023)*

E. Open Forum / Public Comment

F. Announcements

1. Update on Cannabis Permitting Process

2. Apply to serve on CRC here:

<https://oakland.granicus.com/boards/w/8552f8c4c0e15460/boards/6697>

G. Adjournment

Thursday January 5, 2023 6:30 pm  
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## MINUTES

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## MEETING AGENDA

A. Roll Call and Determination of Quorum

*Present: Armas, Corder, Alaoui, Payne, Turner, Long, Minor*

B. Approval of the Draft Minutes from the CRC Special Meeting on November 10, 2022

*Chair Turner moved to approve the minutes as drafted. Member Payne seconded the motion and it passed with Members Alaoui and Minor abstaining.*

C. Reports for Discussion and Possible Action

1. Adopt a Resolution Determining That Conducting In-Person Meetings of The Cannabis Regulatory Commission Would Present Imminent Risks to Attendees’ Health, And Electing to Continue Conducting Meetings Using Teleconferencing in Accordance with California Government Code Section 54953(E), A Provision Of AB-361

*Member Minor provided background on the item and the upcoming end of the state of California’s COVID-19 state of emergency. Members discussed the benefits of being able to participate in CRC meetings remotely. Member Minor noted that he will share information regarding upcoming meetings and whether they will take place in a different format as soon as that information is available.*

*Chair Turner moved to adopt the Resolution as drafted. Member Payne seconded the motion and it passed by consensus.*

2. Draft 2023 Cannabis Operator Regulations

*Member Minor offered an overview of the proposed updated regulations, including explicit prohibitions on the use of generators and eliminating public hearings for dispensary permit renewals. Public speakers recommended modifying the City's definition of local authorization for an annual state license and inquired about the status of onsite consumption licenses. Chair Turner commended the CRC for elevating the topic of cultivators utilizing generators in 2022 and supported the change to gender neutral language in the draft updated regulations.*

*Vice-Chair Long inquired about the possibility of the City allowing cannabis operators to apply for Conditional Use Permits in areas where cannabis operators are not currently allowed. Member Payne then made a motion for the CRC to agendaize a discussion regarding the zoning of cannabis business in the next two months. Chair Turner seconded the motion and it passed by consensus.*

*Vice-Chair Long also recommended taking more time to consider public feedback on the definition of local authorization. Vice-Chair Long then made a motion for the public to submit their comments in writing to the City to forward to the CRC for review and to continue discussion of this item in February. Chair Turner seconded the motion and it passed by consensus.*

### 3. Draft 2022 Cannabis Regulatory Commission Annual Report

*Member Minor highlighted different sections of the draft report and provided options for the CRC to consider. Member Minor also mentioned upcoming proposal from Governor's Office of Business and Economic Development (Go-Biz) to require local governments to match state grant funding.*

*Members of the public inquired about how they could find more information on the proposed local funding match requirement and how things unfolded in 2022 with the Emerald New Deal proposed ballot measure.*

*Member Minor noted that the current draft does not reference the CRC's 2021 recommendations regarding creating an onsite consumption lounge. Chair Turner recommended taking more time to review the draft report and Member Payne suggested forming a subcommittee to review and update the draft report.*

*Chair Turner then made a motion to continue this item to the February CRC meeting and to form a subcommittee, consisting of Chair Turner and Member Payne, to work on the report in the interim. Vice-Chair Long seconded the motion and it passed by consensus.*

### 4. Resolution in Support of SB 51 Provisional License Extension for Social Equity Operators

*Chair Turner offered background on SB 51 and how current provisional license deadline will make it difficult for existing and new equity operators to participate in the regulated marketplace. Public speakers noted the state needs to do more to support equity operators and to lower barriers of entry into the regulated marketplace.*

*Chair Turner made a motion for the CRC to accept the resolution in support of SB 51 included in the CRC's agenda packet, request that the City Council also adopt this resolution, and for the City's state lobbyist to advocate in support of SB 51. Vice-Chair seconded the motion and then Member Payne made a friendly amendment to advocate for the state to extend the sunset of provisional licenses for equity applicants across all license types. Chair Turner accepted the friendly amendment and it passed by consensus.*

### 5. Implementation Update on State Grants

*Member Minor provided an update on the City's various state grants. Members of the public spoke regarding Go-Biz's proposed upcoming local funding match requirements and getting more equity products in dispensaries.*

*Chair Turner then made a motion to agendaize Go-Biz's proposed matching funds requirement for local jurisdictions in Fiscal Year 2023-2024. Member Payne seconded the motion and it passed by consensus.*

- D. Review of the Pending List and Additions to Next Month's Agenda
- *Building and Fire Baseline Permitting Timelines (since January 2022)*
  - *Details on Proposed Legislative Framework for Next Phase of Cannabis Program (since February 2022)*
  - *Finalize Exit Interview Survey for Withdrawn Applications (since July 2022)*
  - *Establishing Department of Cannabis (since September 2022)*
  - *Planning Department Discussion re Zones Eligible for Cannabis Businesses (since October 2022)*

*Member Minor offered a summary of the pending list items.*

- E. Open Forum / Public Comment

*A member of the public advocated for the City to eliminate matching funds requirements and to hold dispensaries accountable if they are not meeting equity product commitments.*

- F. Announcements

1. Update on Cannabis Permitting Process
2. Apply to serve on CRC here:

<https://oakland.granicus.com/boards/w/8552f8c4c0e15460/boards/6697>

*Member Minor and Member Payne encouraged members of the public to apply to serve on the CRC. Chair Turner asked if it would be possible to review data on the impact of the 2022 equity week as well as the City's tax rebate program for cannabis businesses.*

- G. Adjournment



## Cannabis Regulatory Commission

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**TO:** Cannabis Regulatory Commission

**FROM:** Greg Minor  
Deputy Director, Economic  
and Workforce  
Development Department

**SUBJECT:** February 2023 Agenda Items

**DATE:** January 30, 2023

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ITEM C (1) Adopt a Resolution Determining That Conducting In-Person Meetings Of The Cannabis Regulatory Commission Would Present Imminent Risks To Attendees' Health, And Electing To Continue Conducting Meetings Using Teleconferencing In Accordance With California Government Code Section 54953(E), A Provision Of AB-361

2021 Assembly Bill (AB) 361 requires boards and commission to renew findings that conducting in-person meetings would present imminent health risks and to elect to continue conducting meetings via teleconference. The CRC adopted an initial resolution to this effect at a Special Meeting on October 7, 2021 and attached to this agenda is a Resolution renewing these findings.

On October 17, 2022 Governor Newsom announced that California's COVID-19 State of Emergency will end on February 28, 2023. As a result, staff has learned that adjustments will be made to commission meetings in the coming months, including potential in-person or hybrid meetings, however, staff has not learned of any specific changes as of now. As soon as information becomes available, staff will share with the CRC and public.



### ITEM C (2) Potential Restrictions on Cannabis Cultivation Activities on Parcels Containing Live/Work or Residential Uses

In 2018 the City Council amended the City of Oakland's cannabis permitting ordinances, Oakland Municipal Code (OMC) 5.80 and 5.81, to protect live-work and residential uses by prohibiting the issuance of cannabis permits at "premises"<sup>1</sup> that contained live-work or residential uses at the time of the passage of the amendments.

Enclosed in the agenda packet please find a letter from Mr. Alistair Monroe and the Oakland Cannery Collective requesting that the CRC recommend to the City Council additional amendments restricting cannabis cultivation at parcels containing live-work or residential uses.

### ITEM C (3) Draft 2023 Cannabis Operator Regulations

OMC 5.80 and 5.81, require the City Administrator to develop and implement performance and operating standards for cannabis operators. Attached for the CRC's review are proposed 2023 Cannabis Operator Regulations with additions in underline and deletions in ~~striketrough~~. Proposed additions include explicitly prohibiting the use of diesel generators by cannabis cultivators and proposed deletions include eliminating the public hearing requirement for renewals of dispensary permits. Staff hopes to finalize the 2023 regulations after receiving feedback from the public and CRC.

After discussing this item and receiving public feedback at the January 2023 CRC meeting, Vice-Chair Long recommended taking more time to consider public feedback on the definition of local authorization. Vice-Chair Long then made a motion for the public to submit their comments in writing to the City to forward to the CRC for review and to continue discussion of this item in February. Chair Turner seconded the motion and it passed by consensus.

Enclosed in the agenda packet, please find Attorney Gina Austin's recommended amendments to the City's definition of local authorization for an annual state license.

### ITEM C (4) 2023 Equity Applicant Survey Results to Date

In January the Special Activity Permits Division sent Oakland equity applicants a survey to learn how equity businesses are doing and what policy changes they recommend. Among other questions, the survey asks equity applicants their perspective on whether the City should establish a loan forgiveness program and allow equity applicants to transfer their permits to general applicants, two topics that the CRC has discussed at multiple meetings.

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<sup>1</sup> OMC 5.80 and 5.81 define "premises" as "the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted" but shall be construed to mean the portion of a property or structure where the commercial cannabis activity will be or is conducted.

As of this date, 73 out of 314 unique verified Oakland equity applicants have responded to the survey, representing a 23 percent response rate. Enclosed in the agenda packet, please find a summary of the responses to date. Staff will continue to encourage equity applicants to respond to the survey in February and can provide updated survey responses to the CRC in March.

#### ITEM C (5) Governor's Office of Business and Economic Development (Go-Biz) Proposed Matching Funds Requirement for Local Jurisdictions

Go-Biz has been the primary source of funding for the City's cannabis equity program over the last three years. In its Fiscal Year (FY) 2022-2023 Grant Solicitation, Go-Biz announced the following:

**Note:** Beginning fiscal year 2023-2024 (July 1, 2023 – June 30, 2024) applications for Funding Request Type 2 will be subject to the following funding match requirements:

- Funding Request Type 2 grant awards in excess of five hundred thousand dollars (\$500,000) will require 1:1 matching funds from the local jurisdiction during the grant term for the amount in excess of five hundred thousand dollars (\$500,000).
- Funding Request Type 2 grant awards of up to five hundred thousand dollars (\$500,000) will not require any matching funds from the local jurisdiction during the grant term.
- In-kind contributions may not be counted as matching funds, except for the value of the wages and benefits of local jurisdiction staff performing local equity program services. Wages and benefits of staff must be prorated unless 100 percent of the employee's time is dedicated to the jurisdiction's local equity program.
- Grant funds from GO-Biz, the Department of Cannabis Control, or any other California State Agency or Department may not be counted as matching funds.
- Local jurisdiction matching funds must be expended during the grant term for eligible Funding Request Type 2 activities and be documented in the jurisdiction's approved GO-Biz Budget Spreadsheet.

Examples: In fiscal year 2023-2024 (July 1, 2023 – June 30, 2024), a Funding Request Type 2 grant award of \$900,000 will require \$400,000 in matching funds from the local jurisdiction. A Funding Request Type 2 grant award of \$2,000,000 will require \$1,500,000 in matching funds from the local jurisdiction. A Funding Request Type 2 grant award of \$450,000 will not require any matching funds from the local jurisdiction.

Unfortunately, the City of Oakland is entering the FY 2023-2025 Budget with substantial projected deficits, reportedly the largest the City has faced since the 1980s. The City's current fiscal situation, a product of the COVID-19 pandemic and related economic impacts, will make it extremely challenging to match state funding for the City's cannabis program, which in turn will reduce state funding.

Accordingly, at the January 2023 CRC Meeting, Chair Turner then made a motion to agendize Go-Biz's proposed matching funds requirement for local jurisdictions in Fiscal Year 2023-2024. Member Payne seconded the motion and it passed by consensus.

### ITEM C (6) Implementation Update on State Grants

The City of Oakland received three state grants in 2020-2021 to support its cannabis equity program: in the spring of 2020 the City received a grant of approximately \$1,650,000 from the Bureau of Cannabis Control (BCC); in the summer of 2020 the City received a \$6,576,705 grant from the Governor's Office of Business and Economic Development (Go-Biz) (Go-Biz 1 Grant); then in the summer of 2021 the City received a \$2,434,712.51 from Go-Biz (Go-Biz 2 Grant). The City has disbursed all of the BCC grants funds and all but approximately \$200,000 of the Go-Biz 1 and Go-Biz 2 grants, which consist of second installments of workforce development and shared-use manufacturing grants.

In April 2022 the City of Oakland received a three-year \$9,905,020 Local Jurisdiction Assistance Grant from the Department of Cannabis Control (DCC) to support the transition of cannabis operators from a provisional to an annual state license. In June 2022 the City received the latest one-year grant from Go-Biz to support the City's Equity Program in an amount of \$5,435,140.82 (Go-Biz 3). Finally, this spring the City Council approved adjustments to a three-year grant from the Board of State and Community Corrections (BSCC) to address the impacts of cannabis legalization. Staff is now disbursing these funds as outlined in **Figures 1-3** month and will provide status updates moving forward.

**Figure 1- Local Jurisdiction Assistance Grant Funds**

<b>USES</b>	<b>COST IN ONE YEAR</b>	<b>COST OVER THREE YEARS</b>
Grants to Provisionally Licensed Equity Applicants	\$547,218.50	\$1,722,655.50
Special Activity Permit Technician	\$166,810.00	\$500,430.00
Planning CEQA Review	\$9,237.00	\$27,710.00
Program Analyst for Processing Grants	\$198,640.00	\$595,920.00
Process Coordinator II in Building Bureau	\$175,696.00	\$527,088.00
Overtime for Civil Engineers to Review Plans	\$591,075.00	\$1,773,224.00
Overtime for Code Enforcement	\$78,115.80	\$234,347.00
Hazardous Materials Inspector II	\$193,545.00	\$580,638.00
Overtime for Fire Plan Engineers to Review Plans	\$73,760.00	\$221,280.00
Overtime for Fire Code Enforcement	\$61,824.00	\$185,472.00
Overtime for Municipal Code Enforcement Officers for Security Inspections	\$50,000.00	\$150,000.00
Annual CPTED Training for Municipal Code Enforcement Officers	\$1,200.00	\$3,600.00
Establishing/Maintaining Accela Module for Cannabis Permit Tracking	\$310,000.00	\$430,000.00
Grants to Meet Security Requirements	\$574,218.50	\$1,722,655.50
Consultant TBD to Administer Loan/Grant Programs	\$160,000.00	\$480,000.00
Consultant TBD to Provide Legal Assistance to Equity Applicants	\$125,000.00	\$375,000.00
	\$125,000.00	\$375,000.00
	<b>\$3,441,339.80</b>	<b>\$9,905,020.00</b>

**Figure 2: 2022-2023 Go-Biz (GO-Biz 3) Grant Funds**

	<b>TOTAL FUNDED</b>	<b>DISBURSED</b>	<b>BALANCE</b>
Grants/Loans to Operators for Start Up and Ongoing Costs	\$2,178,953.10	\$1,895,000.00	\$283,953.10
Events	\$250,000.00		\$250,000.00
No Interest Loan to Purchase Property	\$2,250,000.00		\$2,250,000.00
Managing Shared-Use Facilities	\$212,915.36		\$212,915.36
Workforce Development	\$330,357.00		\$330,357.00
Administering of Grant/Loan Programs	\$89,956.36	\$89,956.36	0
<b>STAFFING</b>			
Half of City Administrator Analyst	\$122,959.00		\$122,959.00
<b>TOTALS</b>	<b>\$5,435,140.82</b>	<b>\$1,984,956.36</b>	<b>\$3,450,184.46</b>

**Figure 3- Original and Current Uses of Proposition 64 Grant**

<b>Original and Proposed/New Uses of Proposition 64 (BSCC) Grant Funds</b>				
<b>Purpose</b>	<b>Original Organization</b>	<b>Original Amount</b>	<b>New or Same Organization</b>	<b>New or Same Amount</b>
Preventative and Intervention Activities for Youth	East Oakland Youth Development Center (EOYDC)	\$360,000	Public Health Institute	\$280,000
Develop and Support Youth Awareness Campaign	Public Health Institute	\$133,306	Same	\$163,306
Data Management/Local Evaluation Reports	Cityspan	\$30,000	LMB Creative Group, LLC	\$80,000
Security Workshops and Support for Cannabis Businesses	City of Oakland: 8 Hours Weekly Police Officer Overtime	\$112,329	Same	Same
Public Outreach Campaign to Adults	To Be Determined After Request for Proposals	\$70,000	Make Green Go Selected After RFP	\$75,000
Meeting Supplies and Notification	EOYDC, OUSD, PHI	\$32,000	Youth Uprising, OUSD, PHI	\$27,000
Indirect Costs/Overhead	City of Oakland	\$29,059	Same	Same
Oversee Overall Program	City of Oakland: 0.5 F.T.E. City Administrator Analyst	\$231,000	Same	Same
<b>TOTAL</b>				<b>\$997,694</b>

ITEM F (1) Update on Cannabis Permitting Process

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

**Figure F-1: Application Totals**

<b><i>APPLICATIONS</i></b>	<b>TOTALS</b>	<b>PENDING</b>
Total Complete & Incomplete Applications	1622	135
Total Complete Applications	1622	
Complete General Applications	712	
Equity Applications based on residency	791	
Equity Applications based on conviction	119	
Incubators	366	
Interested in Incubating	24	
Complete Application with property	1085	
Complete Application without property (Equity)	432	
Complete Applicants without property (General)	105	

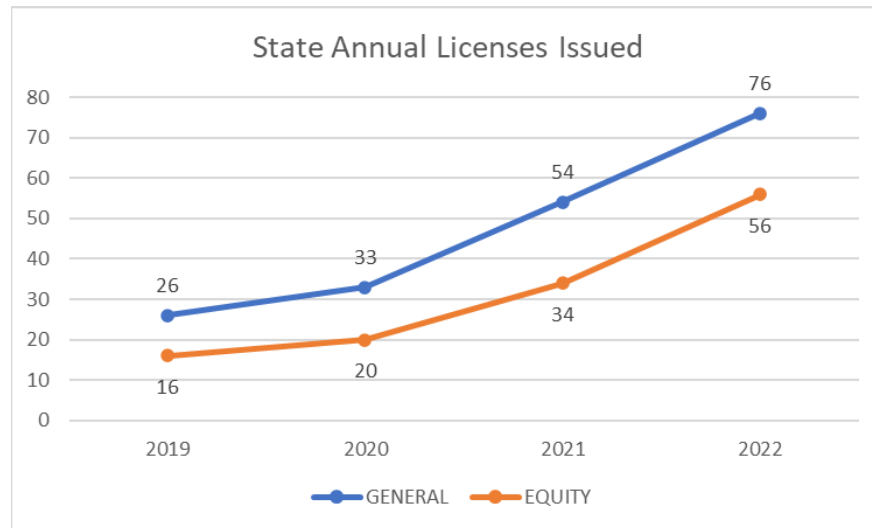
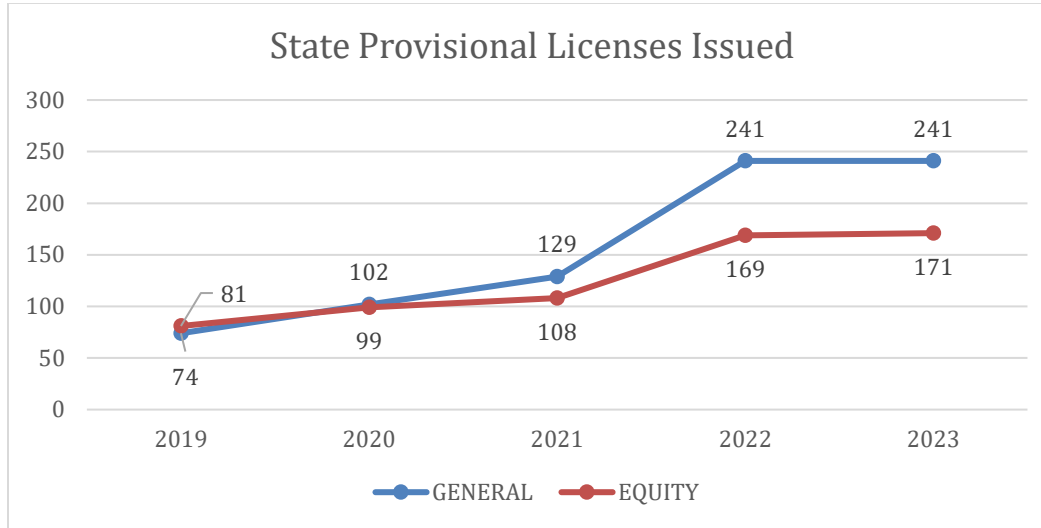
**Figure F-2: Permit Applications by Category**

<b>COMPLETED APPLICATIONS BY BUSINESS TYPE</b>	<b>GENERAL</b>	<b>INCUBATOR*</b>	<b>INTERESTED IN INCUBATING*</b>	<b>EQUITY</b>
Delivery	181	65	4	234
Cultivator (Indoor)	214	122	14	152
Cultivator (Outdoor)	5	3	0	38
Distributor	156	85	4	222
Mfg. Volatile	53	38	0	51
Mfg. Non-Volatile	99	48	2	166
Transporter	3	4	0	37
Lab Testing	1	1	0	10
<b>GRAND TOTALS</b>	<b>712</b>	<b>366</b>	<b>24</b>	<b>910</b>

\*These numbers are part of the General Total



Figure F-3: Operators Issued Provisional and Annual Licenses



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

	<b>GENERAL</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	<b>TOTAL</b>
<b><i>NEW ANNUAL PERMITS BY BUSINESS TYPE</i></b>				
On-site Consumption			2	2
Dispensary	1	1	9	11
Delivery	69	27	81	177
Cultivator (Indoor)	5	6	5	16
Cultivator (Outdoor)	0	0	0	0
Distributor	23	16	78	117
Mfg. Volatile	0	5	0	5
Mfg. Non-Volatile	9	14	39	62
Transporter	1	0	2	3
Lab Testing	0	0	0	0
<b>GRAND TOTALS</b>	<b>108</b>	<b>69</b>	<b>216</b>	<b>393</b>

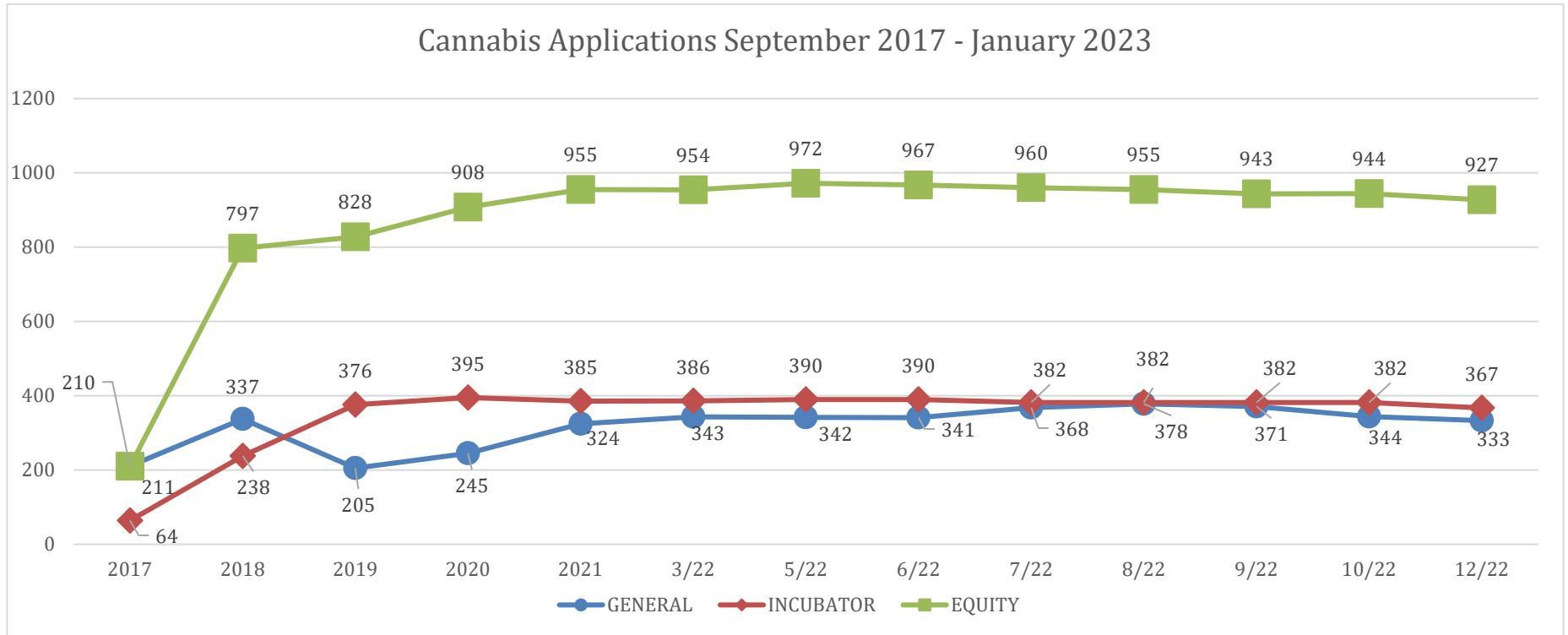
**Figure F-5: Withdrawn Applications**

<b>WITHDRAWN APPLICATIONS</b>	<b>GENERAL</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	<b>TOTALS</b>
Delivery	16	31	78	125
Cultivator (Indoor)	13	19	56	88
Cultivator (Outdoor)	14	13	12	39
Distributor	10	47	63	120
Mfg. Volatile	2	17	23	42
Mfg. Non-Volatile	12	27	48	87
Transporter	6	1	15	22
Lab Testing		3	3	6
<b>TOTALS</b>	<b>73</b>	<b>158</b>	<b>298</b>	<b>529</b>

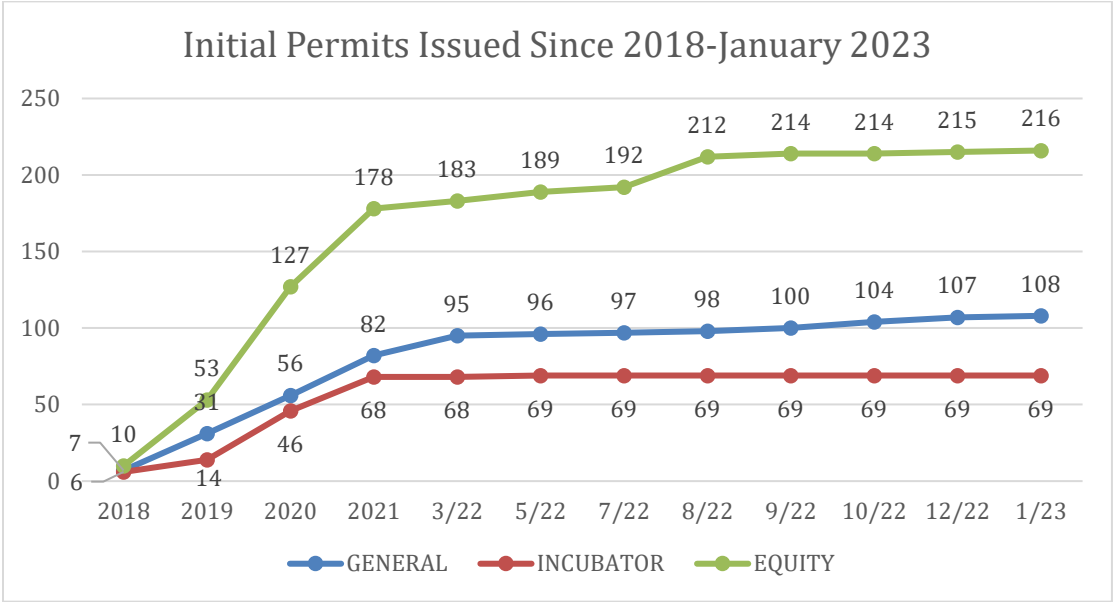
**Figure F-6: Revoked Local Authorization**

<b>REVOKED LOCAL AUTHORIZATION</b>	<b>GENERAL</b>	<b>INCUBATOR</b>	<b>EQUITY</b>	<b>TOTALS</b>
Delivery	1	6	6	13
Cultivator (Indoor)	5	20	6	31
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>7</b>	<b>38</b>	<b>17</b>	<b>62</b>

**Figure F-7: Graph of Cannabis Permit Applications Received Since 2017**



**Figure F-8: Graph of Cannabis Permits Issued since 2018**



# OAKLAND CANNABIS REGULATORY COMMISSION

## RESOLUTION NO. 2023-2

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**ADOPT A RESOLUTION DETERMINING THAT CONDUCTING IN-PERSON MEETINGS OF THE CANNABIS REGULATORY COMMISSION AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB-361.**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. See <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>; and

**WHEREAS**, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

**WHEREAS**, City Council Resolution No. 88075 remains in full force and effect to date; and

**WHEREAS**, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

**WHEREAS**, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. See <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>; and

**WHEREAS**, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. See <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>; and

**WHEREAS**, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19

symptoms stay home. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>; and

**WHEREAS**, persons without symptoms may be able to spread the COVID-19 virus. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

**WHEREAS**, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>; and

**WHEREAS**, the City's public-meeting facilities are indoor facilities that do not ensure circulation of fresh / outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

**WHEREAS**, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

**WHEREAS**, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

**WHEREAS**, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households; and

**WHEREAS**, on October 7, 2021 the Cannabis Regulatory Commission adopted a resolution determining that conducting in-person meetings would present imminent risks to attendees' health, and electing to continue conducting meetings using teleconferencing in accordance with California Government Code Section 54953(e), a provision of AB-361; now therefore be it:

**RESOLVED:** that the Cannabis Regulatory Commission finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this resolution; and be it

**FURTHER RESOLVED:** that, based on these determinations and consistent with federal, state and local health guidance, the Cannabis Regulatory Commission renews its determination that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

**FURTHER RESOLVED:** that the Cannabis Regulatory Commission firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and is committed to balancing the two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and be it

**FURTHER RESOLVED:** that the Cannabis Regulatory Commission will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the Cannabis Regulatory Commission that in-person meetings no longer pose imminent risks to the health of attendees, whichever occurs first.



## MEMORANDUM

To: City of Oakland, Cannabis Regulatory Commission

CC: Greg Minor, City of Oakland, Assistant to the City Administrator, Special Permits Division

From: The Oakland Cannery Collective, Alistair Monroe

Date: January 27, 2023

# OAKLAND CANNABIS REGULATORY COMMISSION

Request to preserve and protect live / work housing and environmental air quality from incompatible land uses, and protect our community from repeat environmental offenders.

## OUR COMMUNITY DESERVES BETTER

**The Oakland Cannery property should remain a thriving mixed-use artists and cannabis community. However, unfortunately we are now faced with another round of landlord threats and evictions.**

After six endless years, we finally removed some of the cancer that haunted over 80,000 residents and artists from the use of nine commercial size diesel generators in East Oakland. But, now more than ever, we must exhaust all efforts to exercise a much stronger protection act for the Oakland Cannery property and save it from the next round of evictions. Yes, we forced our old landlords to default and be foreclosed on and now the Oakland Cannery, once again, hangs by a thread from the loan lender Romspen Investment Partners.

*“The time is always right, to do what is right”*

*-Rev. Dr. Martin Luther King, Jr.*

Based on the above history, and in an effort to improve regulations to ensure the health and safety of our community, we hereby request that the Oakland Cannabis Regulatory Commission consider the following:

- Recommend to the City Council that we work together to strengthen the current City of Oakland Cannabis Ordinance to prohibit cannabis cultivation activities on any parcel that currently, or within the five (5) years prior to application, contained any live/work tenancies or residencies.
- Recommend to the City Council that we further discourage “bad actors” from polluting our communities by prohibiting cannabis cultivation activities on any parcel that current, or within the five (5) years prior to application, was subject to any California Air Quality Board related sanction or litigation.
- Further consider and discuss among the cannabis commission and community whether to further restrict cannabis cultivation activities on any parcel that is immediately adjacent to a parcel containing live/work tenancies or residencies.

Alistair Monroe

Founding President & Representative

The Oakland Cannery & Collective

5733 San Leandro Street

Oakland CA 94621

2023 ADMINISTRATIVE REGULATIONS AND PERFORMANCE STANDARDS  
FOR CITY OF OAKLAND CANNABIS OPERATORS  
Last Updated [insert date upon completion]

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## I. Introduction

Oakland Municipal Code (“OMC”) Sections 5.80.040 and 5.81.070 require the City Administrator to set forth operating and performance standards for cannabis operators.

The definitions set forth in OMC Chapters 5.80 and 5.81 apply to the interpretation and understanding of these Administrative Regulations (“Cannabis Operator Regulations”). Additions from prior Cannabis Operator Regulations are shown in underline and deletions are shown as ~~strikethrough~~.

## II. Compliance with State Law, Municipal Code and Regulations

Cannabis operators must comply with all applicable state and local laws, policies or regulations, including, but not limited to, the Health and Safety Code, the Business and Professions Code, the Medical and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) and any related regulations, the City of Oakland adopted Building Code, Plumbing Code, Electrical Code, Mechanical Code, Fire Code<sup>1</sup>, Bay Area Air Quality Management District regulations, and the Americans with Disabilities Act.

Medical cannabis operators must pay the Cannabis Tax as required pursuant to OMC Section 5.04.480 as may be amended and adult use cannabis operators must pay the Cannabis Tax as required pursuant to OMC Section 5.04.481 as may be amended.

Cannabis operators must comply with any applicable Conditions of Approval and the City Administrator’s Administrative Regulations for Cannabis Operators, including any additions or revisions hereto.

Failure to comply with the Conditions of Approval, the Cannabis Operator Regulations provided in this document, and any applicable local and state laws or regulations may result in the imposition of fines, and suspension or revocation of any permit. Cannabis operators may also be subject to enforcement through the City’s nuisance abatement process and other administrative enforcement mechanism, civil action, and/or criminal prosecution.

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<sup>1</sup> See Title 15 of the Oakland Municipal Code (OMC) for the Building, Plumbing, Electrical, Mechanical, and Fire Codes. [https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT15BUCO](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT15BUCO)

### III. Permitting

#### A. Applications for Permit

The City Administrator shall be responsible for implementing a process for selection of qualified cannabis operators and may set forth criteria to determine an operator's qualifications to meet the requirements of the applicable City's ordinances, regulations and state law. In addition to the standards set forth in the Cannabis Operator Regulations provided herein and OMC Chapters 5.80 and 5.81, the City Administrator or ~~his/her~~ their designee may consider the history of applicant's operating experience in the City of Oakland and/or relevant information from outside jurisdictions during the review of ~~his or her~~ the application for Cannabis Dispensary, Delivery-Only Dispensary, Cultivation, Manufacturing, Distribution, Lab Testing or Transporter permit or the renewal thereof.

In applying for a cannabis permit, ~~the~~ cannabis operators other than equity applicants shall pay the required non-refundable application fee as mandated in OMC Chapter 5.80 and 5.81. When a cannabis permit is issued, the annual regulatory fee is due. Cannabis Permits are valid for one (1) year from the date of issuance. In no event does the Cannabis Permit confer a vested right to operate for beyond the one (1) year term or beyond any successive one (1) year term thereafter.

Cannabis operators shall comply with any specific, additional administrative regulations, procedures and measures imposed as conditions of approval by the City Administrator to ensure that the operation is consistent with protection of the health, safety and welfare of the community and will not adversely affect surrounding uses. Additionally, any approved aspects of the cannabis operator's permit application shall be deemed to be incorporated into the operator's permit; failure to comply with all aspects of the approved permit application may be grounds for revocation of the permit.

#### B. Renewal of Permits

Permits must be renewed annually with the City Administrator's Office. Permit Holders shall contact the City Administrator's Office no later than forty-five (45) days before the expiration of the current permit to begin the renewal process. At that time, the cannabis operator shall submit the renewal application form along with renewal application fees and annual regulatory fees, verification of the current Business Tax Certificate, and any other requested financial documents or information as required by the OMC or the Regulations. If the Oakland cannabis operation is part of a multi-operator business or is included as part of a non-cannabis business for tax reporting purposes, the audited financial statements must be for the cannabis operation part of the business.

As part of the annual renewal process the cannabis operator shall be inspected by the Fire Marshall or their designee, any applicable County agency or their designees and pay any fees required by those agencies. Violations of the OMC shall be corrected within a reasonable time, as determined by the Fire Marshal or ~~his/her~~ their designee. The cannabis operator shall provide proof to the City Administrator's Office that there are no outstanding violations of the OMC.

~~Dispensaries are subject to public hearings as part of their annual renewal.~~

### **C. Prohibited Operations and Nonconforming Uses for Dispensaries**

OMC Section 5.80.80 provides as follows:

1. Operation of a dispensary or delivery-only dispensary in violation of California Health and Safety Code Section 11326.7, et seq., 11362.5, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) and this chapter are expressly prohibited. It is unlawful for any dispensary or delivery only dispensary in the City, or any agent, employee or representative of such dispensary or delivery only dispensary, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the dispensary or during the delivery of cannabis.
2. Except for uses established pursuant to Chapter 8.46, no use which purports to have distributed cannabis prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of the Oakland Planning Code, this Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.
3. Any violations of this chapter, including administrative regulations authorized by this chapter, may be subject to administrative citation, pursuant to Chapters 1.08 and 1.12, and other applicable legal, injunctive or equitable remedies.

### **D. Prohibited Operations and Nonconforming Uses for Cultivators, Manufacturers and other facility permits pursuant to OMC Chapter 5.81**

Oakland Municipal Code Sections 5.81.110 provide as follows:

1. Any cultivating, manufacturing, testing, or transporting—without a permit under this chapter is expressly prohibited. No use that purports to have cultivated, distributed, manufactured, tested or transported cannabis shall be deemed to have been a legally established use under the provisions of the Oakland Planning Code, the Oakland Municipal Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim a vested right, legal nonconforming or other similar status.
2. Any violations of this chapter may be subject to administrative citation, pursuant to Chapters 1.08 and 1.12, and other applicable legal, injunctive or equitable remedies.

### **E. Revocation**

Suspensions and revocations of permits shall follow the procedures set forth in OMC Sections 5.80.070 and 5.81.120.

## **F. Liability and Indemnity**

OMC Sections 5.80.090 and 5.81.91 provide as follows as to the liability of a Cannabis operator that has been issued a permit (hereinafter referred to as “permittee”) by the City of Oakland:

1. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the City.
2. To the maximum extent permitted by law, the permittees under this chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Oakland, the Oakland City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called City) from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "action") against the City to attack, set aside, void or annul, any cannabis-related approvals and actions and comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.
3. Within ten (10) calendar days of the service of the pleadings upon the City of any action as specified in Subsection B. above, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment or invalidation of the cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the City.

## **G. Transfer of Permits**

Permits issued under OMC Sections 5.80 and 5.81 only apply to the premises and the entities or individuals originally specified, except upon written permission of the City Administrator’s Office granted upon written application to the City Administrator’s Office made in the same manner as required in the original application process. All individuals with a direct or indirect interest in the permit not listed on the original application must undergo a live scan background check and inspections of the originally permitted premises by relevant agencies may be required.

## **IV. Performance Standards**

A cannabis operator shall operate in conformance with the following standards, and such standards shall be deemed to be conditions of approval on any permit, to ensure that its operation

complies with California law, the OMC, and mitigates any potential adverse impacts of the cannabis operation.

### **Operations**

1. Only dispensary and delivery-only dispensaries operators may provide cannabis to the public.
2. Only dispensaries are open to the public.
3. Any cannabis provided to other cannabis operators, patients or adults 21 and over shall be properly labeled in strict compliance with state and local laws, regulations and policies.
4. Cannabis operators shall not allow cannabis to be smoked, ingested or otherwise consumed on the premises, except in strict compliance with the terms of an approved onsite consumption permit. The term premises includes the actual building, as well as any accessory structures, parking areas, or other immediately surrounding areas.
5. Cannabis operators shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages at the same location and time as a cannabis operation.
6. Cannabis operators shall post a copy of the City of Oakland Business Tax Certificate issued by the Business Tax Office and a copy of the cannabis permit issued by the City Administrator's Office in a conspicuous place on the premises.
7. Manufacturing of edible cannabis products must be done in compliance with all state and county laws, including health department regulations.

### **Background Checks**

8.
  - A. Prior to employment, but only after a conditional job or appointment offer has been made, Executives, Board Members and Managers of Cannabis operators permitted by the City of Oakland pursuant to OMC Chapter 5.80 or 5.81 must undergo a Live Scan background check. The purpose is to determine whether the individual has been convicted or plead guilty or *nolo contendere* to the following criminal offenses, or their equivalent if arising out of state:
    - a) Penal Code Section 187 (homicide)
    - b) Penal Code Section 207 (kidnapping)
    - c) Penal Code Section 211 (robbery)
    - d) Penal Code Sections 245 (assault with deadly weapon)
    - e) Penal Code Sections 458-464 (burglary)
    - f) Penal Code Sections 470-483.5 (forgery)
    - g) Penal Code Sections 484-502.9 (larceny)
    - h) Penal Code Sections 503-515 (embezzlement)

Proposed Executives, Board Members, and Managers must contact the City Administrator for information related to the processing and cost of the fingerprinting, and any costs must be paid for in advance by the cannabis operation. Background checks shall be limited to the past seven (7) years.

If the background investigation determines a proposed Executive, Board Member or Manager has been convicted of or plead guilty or *nolo contendere* to one of the above offenses in the last seven years, the individual shall be informed of such by the City Administrator's Office and offered an opportunity to submit evidence of mitigation or rehabilitation to the City Administrator's Office before a final decision is made to exclude the proposed board member or manager. The City Administrator retains discretion in determining whether an Executive Director, Board Member or Manager is permitted to participate in the Cannabis Operation permit.

- B. If a Cannabis Operator elects to conduct a background check on other employees the background check must be done in the following manner.
  - i. Background checks may only take place after a conditional job offer has been made.
  - ii. Background checks must be conducted by a reputable third party.
  - iii. Background checks shall not utilize prior cannabis offenses to prohibit employment.
  - iv. Background checks must be in compliance with applicable state and federal laws including, but not limited to, Fair Credit Reporting Act (FCRA) 15 USC §1681 et seq. and Investigative Consumer Reporting Act (ICRAA) CA Civil Code §1786 et seq.

### **Records**

- 9. Cannabis operators shall implement a track and trace program as prescribed by state law that records the movement of cannabis and cannabis products in their custody and make these records available to the City Administrator upon request.
- 10. Cannabis operators shall keep accurate records, follow accepted cash handling practices and maintain a general ledger of cash transactions.
- 11. Cannabis operators shall allow the City Administrator to access the books, records, accounts and all data relevant to its operations for purposes of conducting an audit or examination to determine compliance with the OMC, the Operating Regulations and applicable laws. Books, records, accounts and all relevant data shall be produced no later than twenty-four (24) hours after the date of the City Administrator's written request.

### **Facilities**

- 12. Cannabis operators must be located six hundred feet (600') from any public or private school as measured via path of travel.



13. Cannabis operators shall not permit any breach of peace inside of their facility or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct.

14. Cannabis facilities shall be designed with sufficient sound absorbing insulation so that the noise generated inside is not audible on the premises, or public rights-of-way, or any other building or other separate unit within the same building beyond that of a normal commercial office as determined by the City Administrator.

15. Cannabis facilities shall be designed to provide sufficient odor absorbing ventilation and exhaust system so that any odor generated inside the facility is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the Cannabis operator, if the use only occupies a portion of a building.

16. No cannabis shall be detectable by sight outside of a cannabis facility.

17. Cannabis operators must implement a community beautification plan to reduce illegal dumping, littering, graffiti and blight and promote beautification of the adjacent community within 50 feet of the cannabis facility.

18. All cannabis associated with the cannabis operation must be stored at the site of the permitted facility.

### **Security**

19. Security cameras shall be installed and maintained in good condition. The camera and recording system must be of adequate quality, color rendition and resolution so as to allow the identification of an individual. The minimum camera resolution shall be 1280 x 720 pixels. The cameras shall be in use 24 hours per day, 7 days per week, and shall cover all cannabis dispensing areas, storage areas, all doors and windows into the cannabis facility, parking areas and other areas as determined by the Chief of Police or ~~his/her~~ their designee. The recordings shall be maintained at the property for a period of thirty (30) days. Surveillance cameras must satisfy any state requirements, including Bureau of Cannabis Control Regulation Section 5044.

20. The security cameras must be Internet Protocol (IP) cameras capable of providing real time footage over the internet. Operators must provide the Oakland Police Department with access to this real-time camera footage in case of an emergency.

21. The cannabis facility shall be alarmed with a centrally-monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State of California Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with California Business & Professions Code § 7590 *et seq.* and whose agents are properly licensed and registered under applicable law.

22. Exterior windows and roof hatches at the property shall be secured so as to prevent unauthorized entry and also equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency.
23. Cannabis facilities shall maintain adequate exterior lighting in the parking areas to help provide safety for qualified patients, primary caregivers, customers, and employees.
24. Non-dispensary facilities that are either (a) greater than 10,000 square feet or (b) subject to more than two burglaries, robberies, attempted burglaries, or attempted robberies, in less than six months shall maintain at least one security guard duly licensed by the State of California, Department of Consumer Affairs. Security guards shall possess a "Security Guard Card" at all times.
25. Any crimes or attempted crimes at the cannabis facility, including burglaries, robberies, attempted burglaries, and attempted robberies, must be reported within forty-eight (48) hours to the Oakland Police Department through a police report and to the City Administrator's Office via an email to [cannabisapp@oaklandca.gov](mailto:cannabisapp@oaklandca.gov).
26. Cannabis facilities lacking a security guard must maintain a safe at their facility that either weighs more than seven-hundred (700) lbs. or is bolted to the ground.
27. Exterior entry/exit doors shall be commercial grade with commercial grade locking mechanisms.
28. If an operator is seeking local authorization for a provisional state license to conduct commercial cannabis activity prior to obtaining a City of Oakland cannabis permit, operators must cure any defects identified in the City of Oakland's security inspection within 30 days.

### **Signage**

29. Exterior signage shall be limited to one wall sign not to exceed 10 square feet in area, and one identifying sign not to exceed two square feet in area unless otherwise proscribed by the Planning and Building Department in the zoning clearance issued to the Cannabis operation. Such signs shall not be directly illuminated.

### **Labor & Employment Practices**

30. Cannabis operators must provide compensation and opportunities for continuing education and training to their employees. Cannabis operators shall provide proof of their policy and regulations to the City Administrator or ~~his/her~~ their designee upon request. The City reserves the right to review employee policies and procedures and to audit their employee records to determine how many employees have participated in education and training programs, as well as what programs are being offered and how employees are being compensated to assure that the Cannabis operator is complying with this condition.

31. Cannabis operators must purchase at least 50% of their products, equipment, materials from Oakland businesses and hire only local firms for construction.
32. Cannabis operators must provide a living wage as defined by OMC Section 2.28 to their employees. Wage scale should be provided in writing for all levels of employment at the facility.
33. Cannabis operators must provide Equal Benefits and sign a Declaration of Non-Discrimination as required.

### **Equity Permit Program**

34. In order to receive City benefits under the Equity Assistance Program, such as fee waivers, and technical or financial assistance, Equity applicants must submit income and residency documents to the City Administrator, or ~~his/her~~ their designee, that verify their equity status at the time of applying for a cannabis permit and within ~~four~~ eight years of the initial verification.
35. General Applicants that the City approved as incubators based on their commitment to provide security measures and three years of free real estate or rent for a minimum of 1,000 square feet for an Equity applicant to conduct its business operations must continue to provide this free space and security for the three-year period, regardless of whether the Initial Permitting Phase has expired. This three-year period commences when the equity applicant obtains access to the space for operating its business.
  - a. Incubated Equity Applicants shall have access to camera footage of their cannabis business premises as well as the exterior of the building in which the Equity business resides.
  - b. General Applicant incubators shall provide their Equity Applicants with a safe.
36. To preserve a General Applicant's Equity Incubator status, an Equity applicant receiving equity incubator benefits must operate an active cannabis business.
37. Equity applicant ownership must satisfy the definition of "ownership" under OMC Sections 5.80.010 and 5.81.20 such that the equity qualifying individuals maintain control over at least half of the cannabis operation.

### **Local Authorization for a Provisional or Annual State License**

38. To obtain local authorization for an annual state license to conduct commercial cannabis activity an operator must obtain a cannabis permit from the City of Oakland and obtain approvals from all agencies listed on the cannabis permit inspection card. To maintain local authorization for an annual state license, operators must renew their cannabis permit annually.
39. An operator with a current cannabis permit from the City of Oakland may be locally authorized for a provisional state license in lieu of an annual state license to conduct commercial cannabis activity.

40. To maintain or obtain local authorization for a provisional state license to conduct commercial cannabis activity an operator must obtain receive an environmental determination from the City pursuant to CEQA as described in paragraphs 42-44 and demonstrate good faith progress in obtaining approvals from the Building and Fire Prevention Bureaus, the Oakland Police Department, and if required, Alameda County Health Department and East Bay Municipal Utility District. Good faith progress shall be demonstrated by entering into a 120-Day Local Authorization Building and Fire Permitting Compliance Plan for Cannabis Operators and staying in compliance with the Compliance Plan’s requirements. If an operator has not completed the City’s cannabis permit process within the 120-day compliance plan period, the operator may request another 120 days of local authorization while finishing the permitting process. To do so, the operator shall send an email to [cannabisapp@oaklandca.gov](mailto:cannabisapp@oaklandca.gov) outlining what progress has been made towards the milestones identified in the compliance plan and what steps the operator needs to complete in order to finish the permitting process.

41. In order for a General Applicant incubator to maintain its local authorization for a provisional state license, all Equity Applicants being incubated by them that have not yet obtained a City of Oakland cannabis permit must maintain their local authorization for a provisional state license in accordance with the requirements of Section forty (40) above.

#### **California Environmental Quality Act (“CEQA”)**

42. Each Cannabis Operator must receive an environmental determination pursuant to CEQA (Public Resources Code Section 21000 et seq.) from the City prior to approval of the Cannabis Operation Permit. The City, in its discretion and based on substantial evidence in the record, may determine that either: (1) a CEQA exemption applies and a Notice of Exemption (NOE) is appropriate, or (2) further environmental study, including but not limited to, an Initial Study, Environmental Impact Report (EIR), or other study may be needed depending upon the proposed Cannabis operation. The City will inform the Cannabis operator before granting the Cannabis Operation Permit as to what, if any, further environmental review is needed, or whether an NOE is appropriate.

43. If the City determines that the Cannabis operation should receive an NOE, then the Cannabis operator must then file the NOE with Alameda County Clerk and the state Office of Planning and Research (OPR) within five (5) days from the date of the Cannabis Permit approval. The Cannabis Operator shall furnish proof of the filed NOE to the City Administrator or ~~his/her~~ their designee upon request.

44. If further environmental review is needed, then the City will notify the Cannabis operation applicant, who will be responsible for paying for the environmental consultant. The City will then choose and retain the environmental consultant. The City will follow the same environmental review procedure required for City development projects.

## **Cultivator and Volatile Manufacturing Specific Requirements**

45. Cultivators shall not use internal combustion engine generators to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment.

46. Indoor cultivators must demonstrate that one hundred percent (100%) of their electricity is derived from renewable or carbon free sources. Renewable or carbon free sources include electricity generated by wind, solar, geothermal, and/or hydroelectric. No combustion generated electricity, including use of renewable natural gas (RNG) or biofuels, qualifies under this definition. This can be done by enrolling in East Bay Community Energy's Renewable 100 Option (<https://ebce.org/change-my-plan/>) and providing confirmation annually or more frequently if required by the City Administrator's Office.

47. Cannabis cultivation operations that will use CO2 enrichment shall provide documentation as outlined in Chapter 53, Section 5307.4 of the 2019 California Fire Code to the Oakland Fire Department (OFD) and shall not proceed with this operation until the installation has been approved by OFD.

48. Volatile manufacturing operations shall provide documentation as outlined in Chapter 39 of 2019 California Fire Code to OFD and shall not begin this operation until the installation has been approved by OFD.

## **Dispensary Specific Requirements**

49. Dispensaries shall provide the City Administrator's Office, the Chief of Police, or their respective designees, and all neighbors located within fifty (50) feet of the premises with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the Dispensary. The Dispensary shall make a good faith effort to encourage neighbors to call the community relations staff person to try to solve operating problems, if any, before any calls or complaints are made to the City Administrator or Police Department.

50. Maximum operating hours for a Dispensary shall be as follows: 7:01 am to 9:59 pm daily. The Dispensary is prohibited from operating between the hours of 10:00 p.m. and 7:00 a.m. the next ensuing day, except that patients or customers who have entered the premises prior to closing time may complete their transactions and must be escorted out of premises immediately upon completion of transaction.

51. Dispensary operators must maintain a staff comprised of at least 50% Oakland residents with the goal of 25% of all employees from Oakland census tracts identified by the City Administrator as having high unemployment rates.

52. Dispensaries are encouraged to disclose the percentage level of delta-9 (trans) tetrahydrocannabinol, cannabidiol, and cannabiniol in cannabis to qualified patients and customers prior to purchase.

53. Dispensaries shall maintain records of its medical cannabis patients using only the State of California Medical Marijuana Identification Card number issued by the county or the County's designee, pursuant to California Health and Safety Code Section 11362.7 *et seq.*, or a copy of the written recommendation, as a protection of the confidentiality of the cardholders. Dispensaries shall track when Members' medical cannabis recommendation and/or identification cards expire and enforce conditions of membership by excluding members whose identification card or recommendation are invalid or have expired. Additionally, operators shall exclude members or customers who are caught diverting cannabis.

54. Dispensaries shall, by using the patient or caregiver's identification number, keep an accurate account of the number of members and customers that visit or do business with the Cannabis operator each month, and for the entire permit year.

55. Dispensaries shall maintain a log of patient and customer complaints and shall make the log available to the City Administrator, or ~~his/her~~ their designee, upon request. The log shall contain at a minimum the date of the complaint, the complaining patient's identification number or reference to ~~his/her~~ their written recommendation, the nature of the complaint, and the action taken by the Cannabis operator to address the complaint.

56. Dispensaries must also be six hundred (600) feet via path of travel from any youth center or school as defined by OMC 5.80.

57. Dispensaries shall remove litter on and in front of the premises and, if necessary, on public sidewalks within one hundred feet (100') of the facility two (2) times, in four (4) hour intervals, each operating day.

58. During Business Hours, Dispensaries shall provide a minimum of two (2) security guards duly licensed by the State of California, Department of Consumer Affairs. Each security guard shall possess a "Security Guard Card" at all times.

59. Among other duties, security guards shall be responsible for ensuring compliance with OMC Chapter 8.30, which prohibits smoking within twenty-five feet (25') of any building entrance, exit, window and air intake vent of service buildings.

60. Dispensaries shall direct security guards to monitor the outside of the premises for loitering and unlawful sale of cannabis by members or customers. Further, those security persons shall be directed to report to the Dispensary all unlawful sales of cannabis by members or customers. The Dispensary shall immediately cease providing cannabis to the reported person, and make a report within twenty-four (24) hours to the Alameda County Health Department or the doctor that issued the medical cannabis recommendation for the member, if applicable. If the patient is subsequently re-approved by county health or its agent, the dispensary may resume the providing medical marijuana to the patient and caregiver. The dispensary shall keep a record of all incidents where members unlawfully provide cannabis to non-members. Additionally, the

dispensary shall inform patients and caregivers about this condition and remind them that it is unlawful for them to sell cannabis.

### **Ramifications for Failing to Appear at Community Meetings**

61. Under OMC Section 5.80.020 (E) and OMC Section 5.81.050(E) cannabis applicants proposing to situate within 300 feet of a residential zone must participate in a community meeting before obtaining a cannabis permit or other approvals.

62. City staff will coordinate with cannabis applicants required to participate in a community meeting regarding the scheduling of the community meeting. If the applicant fails to attend the community meeting that has been scheduled and noticed, the applicant must provide a written justification for why they failed to attend in the meeting before City staff will schedule another meeting.

63. If an applicant required to participate in a community meeting fails to attend a community meeting more than once, that applicant is no longer eligible for a permit at that location.

### **Community Beautification**

64. OMC Section 5.80.020(D)(4) and OMC Section 5.81.070(B)(3) require permitted facilities to implement a community beautification plan to reduce illegal dumping, littering, graffiti and blight and promote beautification of the adjacent community within fifty (50) feet of the cannabis facility.

65. Cannabis operators shall satisfy this community beautification requirement by reducing illegal dumping, littering, graffiti and blight on at least a quarterly basis and operators shall maintain records of their compliance for at least one year, such as before and after photos or receipts, and make these records available to the City Administrator's Office upon request.

## **V. Effective Date of Cannabis Operator Regulations and Changes**

Any amendments to these Cannabis Operator Regulations shall take effect immediately, and compliance with current regulations shall be required for all new permit applicants.

***AS YOU KNOW, THE CULTIVATION, POSSESSION, DISTRIBUTION AND SALE OF ANY TYPE OF CANNABIS, INCLUDING MEDICAL CANNABIS, IS PROHIBITED UNDER FEDERAL LAW.***

***A CANNABIS PERMIT ISSUED BY THE CITY OF OAKLAND DOES NOT PROVIDE ANY IMMUNITIES OR DEFENSES TO FEDERAL PROSECUTION OR ENFORCEMENT ACTIONS AGAINST PERMITTEES, THEIR CULTIVATORS, LANDLORDS OR OTHER PARTIES INVOLVED IN CANNABIS ACTIVITY. AS A RESULT,***

**THE PERMIT SHOULD NOT BE RELIED UPON AS PROVIDING ANY IMMUNITIES OR DEFENSES FROM SUCH PROSECUTION OR ENFORCEMENT ACTION.**

***The permittee agrees to indemnify and save harmless the City of Oakland, its officers, agents, employees and volunteers, and each of them, from any suits, claims, or actions brought by an person or persons, corporations, government agencies or other entities on account of any activities associated with this permit such as but not limited to cannabis distribution, cultivation or transportation.***

DRAFT



## Austin, Gina

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**From:** Austin, Gina  
**Sent:** Thursday, January 5, 2023 4:07 PM  
**To:** 'GMinor@oaklandca.gov'  
**Cc:** Brittany; 'Marty Higgins'; 'Steve Sukman'  
**Subject:** Cannabis Regulatory Commission

**Importance:** High

Greg,

As a follow-up to our phone call yesterday, now that the state no longer issues provisional licenses, I am suggesting that the City modify the language within its proposed Draft 2023 Cannabis Operator Regulations (“Draft Regulations”) to allow cannabis business applicants for Retail to obtain an “In Compliance” local authorization for an annual state license application prior to the applicant’s receipt of certificate of occupancy (“COO”).

The California Department of Cannabis Control (“DCC”) is currently taking 4-6 months to process annual state license applications. The DCC refuses to make substantial progress on an annual license application without a local authorization statement of “In Compliance”. The Draft Regulations, as currently written, prevent the City from issuing local authorization for an annual state license application unless the applicant has received COO (among other items (see page 9-10).) This means all City cannabis business applicants who are seeking an annual state license will not operate until at least 4-6 months after completion of the facility build-out. This will cause (i) significant operational delays, (ii) significant delay in generated tax revenue for the City, and (iii) deter interested persons and investors from participating in the City’s local commercial cannabis market.

We propose that the Cannabis Regulatory Commission amend paragraph 38 related to Local Authorization for a Provisional or Annual State License as follows:

38. To obtain local authorization for an annual state license to conduct commercial cannabis activity for all activity other than any cultivation activity, an operator must obtain a cannabis permit from the City of Oakland. To obtain local authorization to conduct commercial cannabis activity for cultivation activity, an operator must obtain a cannabis permit from the City of Oakland and obtain approvals from all agencies listed on the cannabis permit inspection card. To maintain local authorization for an annual state license, operators must renew their cannabis permit annually. No operator may operate any type of commercial cannabis activity until it has received both a license from the Department of Cannabis Control, approvals from all agencies listed on the cannabis permit inspection card, and a certificate of occupancy.

The proposed changes are consistent with state law and many jurisdictions provide local authorization prior to facility build-out specifically to allow for concurrent processing of local and state licenses to minimize operational delays. The City has, and continues to, provide this flexibility for its applicants who seek a provisional state license via the City’s 120-Day Compliance Plan Agreement, and the same opportunity should be provided for annual state license applicants.

Please note that cultivation was carved out because the environmental process for cultivation is generally more arduous. We have no objection to cultivation being included if the Commission so chooses.

Someone from this office will appear remotely at the hearing this evening to provide public comment but I would also appreciate this email being entered into the record.

Gina Austin, Esq.  
Austin Legal Group, APC  
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Cell: 619.368.4800  
Office Fax: 619.881.0045  
[gaustin@austinlegalgroup.com](mailto:gaustin@austinlegalgroup.com)  
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San Diego, California 92110

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# 2023 Oakland Equity Applicant Survey

**73**  
Responses

**218:03**  
Average time to complete

**Active**  
Status

## 1. Are you currently operating?

● Yes	47
● No	26



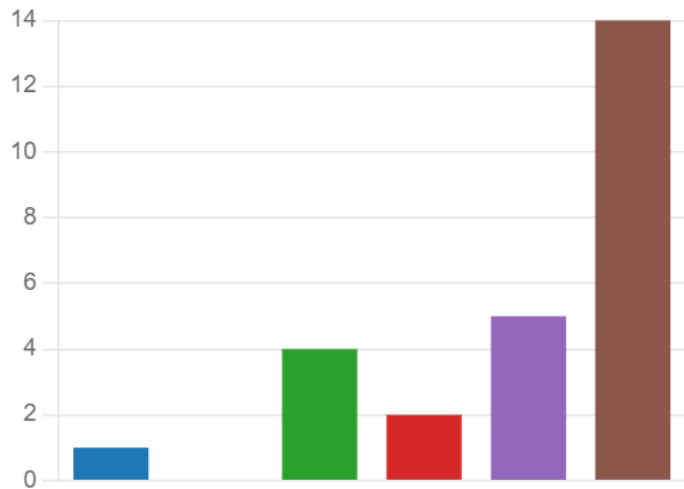
## 2. How long have you been operating?

● 0-6 months	4
● 7-12 months	4
● 1-2 years	7
● More than 2 years	32



3. Please select the top reason why you are not operating. If you select "Other," please explain.

- Incubation period ended and co... 1
- Build-out was too expensive. 0
- It took too long to generate rev... 4
- Burglaries 2
- Negative incubation experience. 5
- Other 14



4. How many individuals do you currently employ? For this question, an employee is someone who works at least 35 hours a week.

- None. I run my business by mys... 46
- 1-2 14
- 3-5 7
- 6-10 2
- More than 10 4



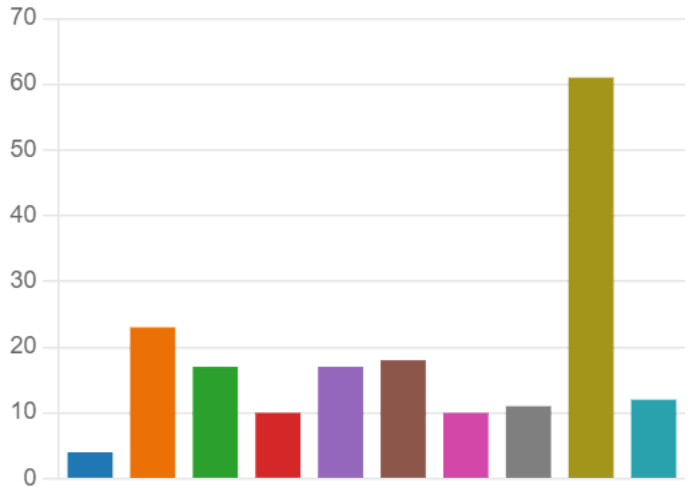
5. Have you added or reduced staff in the last 12 months?

- Added staff. 4
- Reduced staff. 27
- Staffing level has stayed the sa... 42



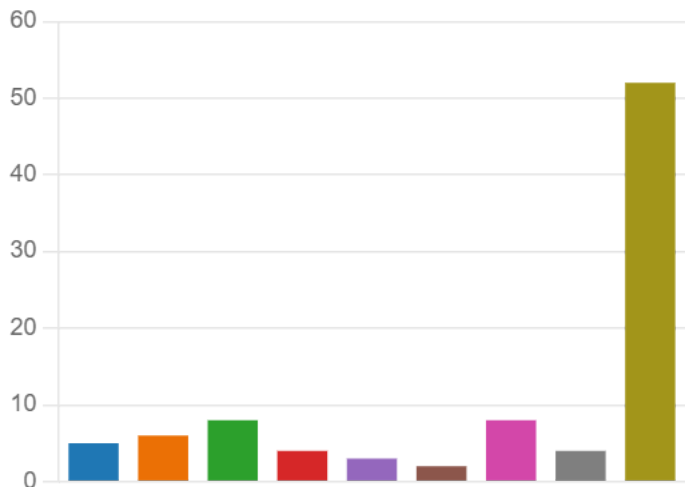
6. What barriers are you encountering as you establish a compliant cannabis business (please select all that apply)? If you select "Other," please explain.

<span style="color: blue;">●</span> None	4
<span style="color: orange;">●</span> Finding a location	23
<span style="color: green;">●</span> Slow buildout	17
<span style="color: red;">●</span> Obtaining insurance	10
<span style="color: purple;">●</span> Hiring and training staff	17
<span style="color: brown;">●</span> State licensing compliance	18
<span style="color: pink;">●</span> Legal disputes	10
<span style="color: gray;">●</span> Tax problems	11
<span style="color: olive;">●</span> Lack of capital	61
<span style="color: cyan;">●</span> Other	12



7. Have you experienced any barriers with the following City departments/outside agencies?

<span style="color: blue;">●</span> Special Activity Permits Division	5
<span style="color: orange;">●</span> Bureau of Planning	6
<span style="color: green;">●</span> Bureau of Building	8
<span style="color: red;">●</span> Fire Prevention Bureau	4
<span style="color: purple;">●</span> Oakland Police Department	3
<span style="color: brown;">●</span> Alameda County Environmental ...	2
<span style="color: pink;">●</span> EBMUD	8
<span style="color: gray;">●</span> PG&E	4
<span style="color: olive;">●</span> No, I have not experienced any ...	52



8. Has your business or staff experienced any burglaries or robberies?

- Yes 33
- No 40



9. After the burglary/robbery, did your business do any of the following? Please select all that apply and please describe if you select "other."

- File a police report 28
- Apply for the City of Oakland's ... 13
- Other 5



10. After the burglary/robbery, did your business file an insurance claim, and if so, did your business receive a payout from your insurance company?

- No, our business did not file an ... 20
- Yes, our business filed a claim a... 0
- Yes, our business filed a claim a... 3
- Our business filed a claim but re... 10



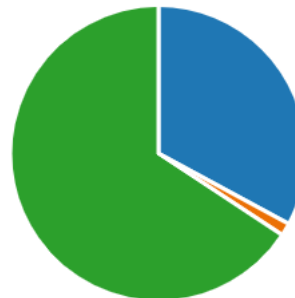
11. Please rate your business' future outlook.

<span style="color: blue;">●</span> Very promising	12
<span style="color: orange;">●</span> Promising	13
<span style="color: green;">●</span> Neutral	29
<span style="color: red;">●</span> Negative	11
<span style="color: purple;">●</span> Very Negative	8



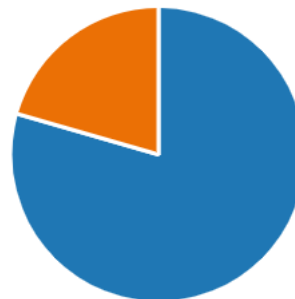
12. How do you recommend that the City provide capital to operators: grants, interest-free revolving loans, or both? Please note that while loans must be repaid, loans are not taxable and loan repayments provide future funds for equity applicants. On the other hand, grants need not be repaid, but they are taxable and provide no future funds to equity applicants.

<span style="color: blue;">●</span> Grants only	24
<span style="color: orange;">●</span> Interest-free revolving loans only	1
<span style="color: green;">●</span> Both grants and interest-free re...	48



13. Should the City Council establish a loan forgiveness program for equity applicants that are behind on loan repayments? Please note, any forgiven loans will be taxable and reduce the amount of funding the City can disperse as new loans to equity applicants.

<span style="color: blue;">●</span> Yes	58
<span style="color: orange;">●</span> No	15



14. Should an equity applicant whose unpaid loan is forgiven be eligible for future City loans or grants? And if yes, should they have to wait a period of time before receiving additional funds?

- No, they should not be eligible f... 3
- Yes, they should be eligible for f... 31
- Yes, they should be eligible for f... 24



15. What is an appropriate period of time for someone who has had their unpaid loan forgiven to have to wait before receiving additional City funds?

- 6-12 months 9
- 1 year 8
- 2-3 years 5
- More than 3 years 2



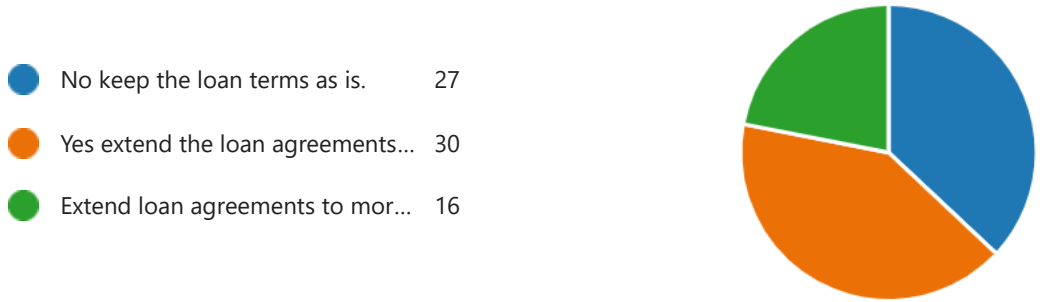
16. Should there be any eligibility criteria before the City forgives an equity applicant's unpaid loan? If you select "Other," please explain.

- Any loan borrower should be eli... 41
- Only loan borrowers that were b... 0
- Only loan borrowers that are no... 6
- Other 11





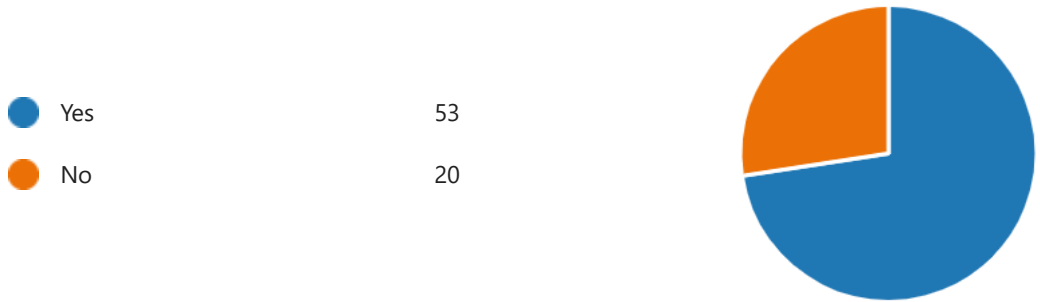
17. To lower monthly loan payments, should the City extend all outstanding loan terms to 10 years? Please note that the longer the loan term, the less repayments that will be available in the short term to distribute to equity applicants via new loans.



18. Should the City remove matching funds requirements for the rental assistance grant? Please note that the matching funds requirement was established to make sure that a business would be self-sustaining over time, thereby avoiding creating false hope for a business that was ultimately going to close.



19. The City of Oakland currently prohibits equity applicants from transferring their permits to general applicants. This includes prohibiting an equity business from taking on investors that control more than fifty percent of the business. Should the City Council change this policy and allow for equity businesses to transfer their permit(s) to general applicants? Please note, if you answer yes, in the next question you can specify under what conditions the City should allow the transfer of permits to general applicants.



20. Under what circumstances should equity applicants be able to transfer their permit(s)?

- Whenever they want. 15
- 1-3 years after they have receive... 25
- More than 3 years after they ha... 13



21. How can the City of Oakland better support your business?

62  
Responses

Latest Responses

*"To allow the legal assistance to also represent equity applicant..."*  
*"Lower taxes to increase margins for operators. "*

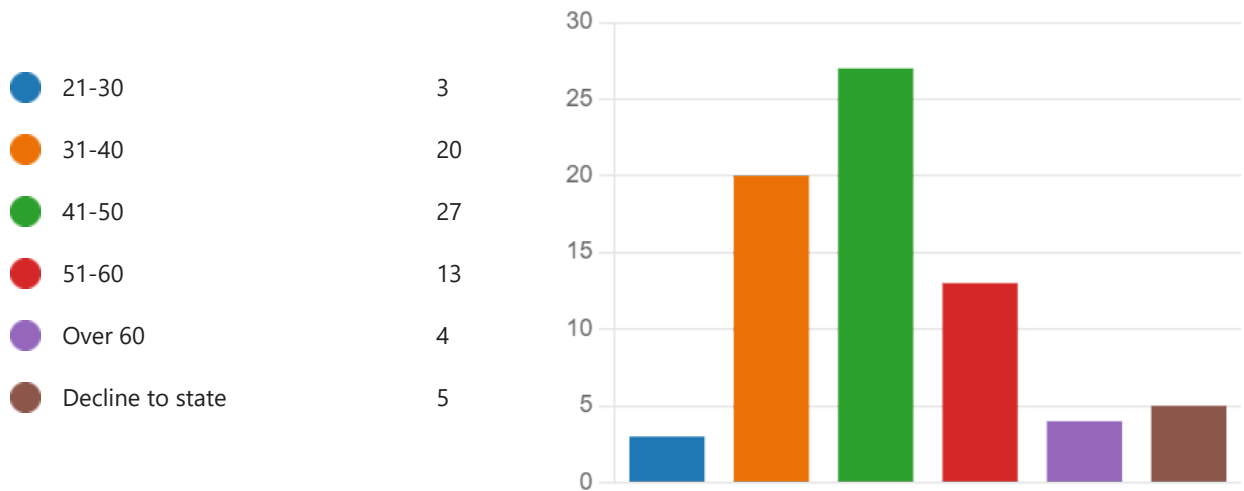
22. What else would you like to say about operating a cannabis business in Oakland?

58  
Responses

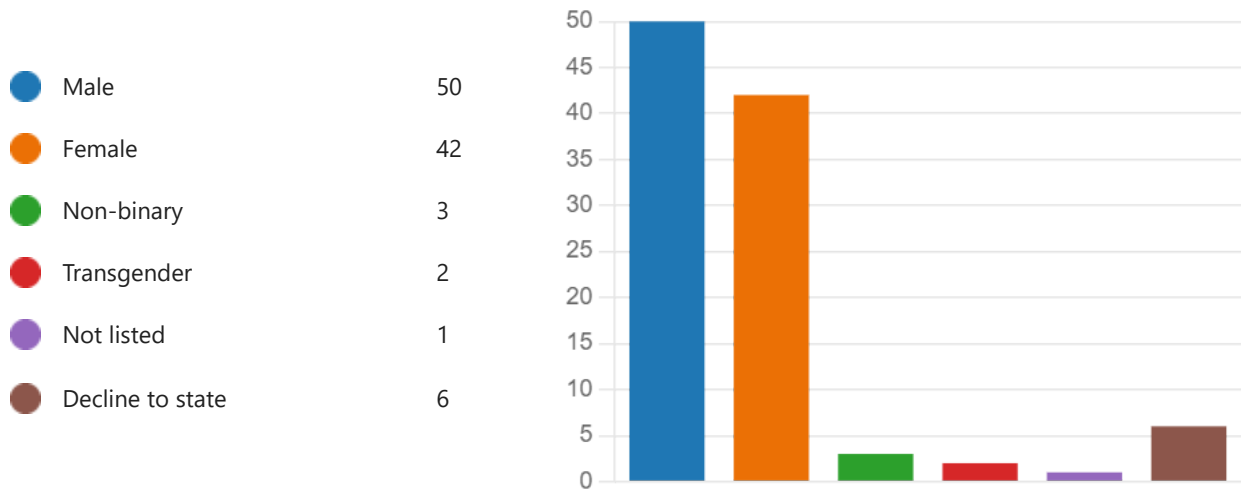
Latest Responses

*"Very challenging."*

23. Please select your age or the average age of your business' partners/owners/board members.



24. Please select all gender options below that represent your business' owners/partners/board members.



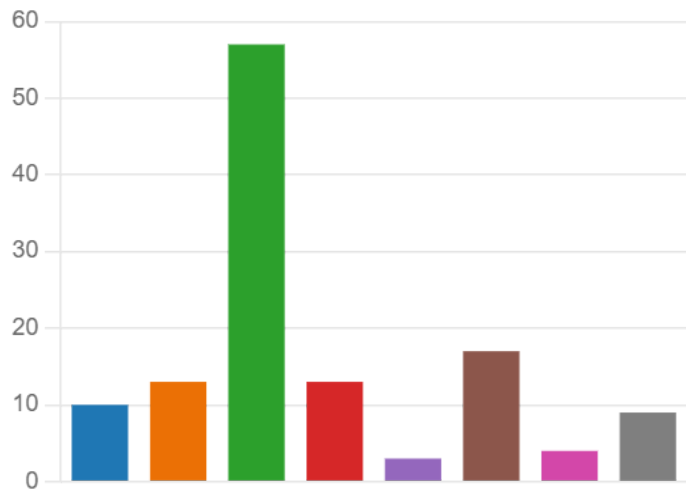
25. Please select all sexual orientation options below that represent your business' owners/partners/board members.

<span style="color: blue;">●</span> Heterosexual/straight	47
<span style="color: orange;">●</span> Homosexual/gay	8
<span style="color: green;">●</span> Bisexual	7
<span style="color: red;">●</span> Not listed	2
<span style="color: purple;">●</span> Decline to state	22

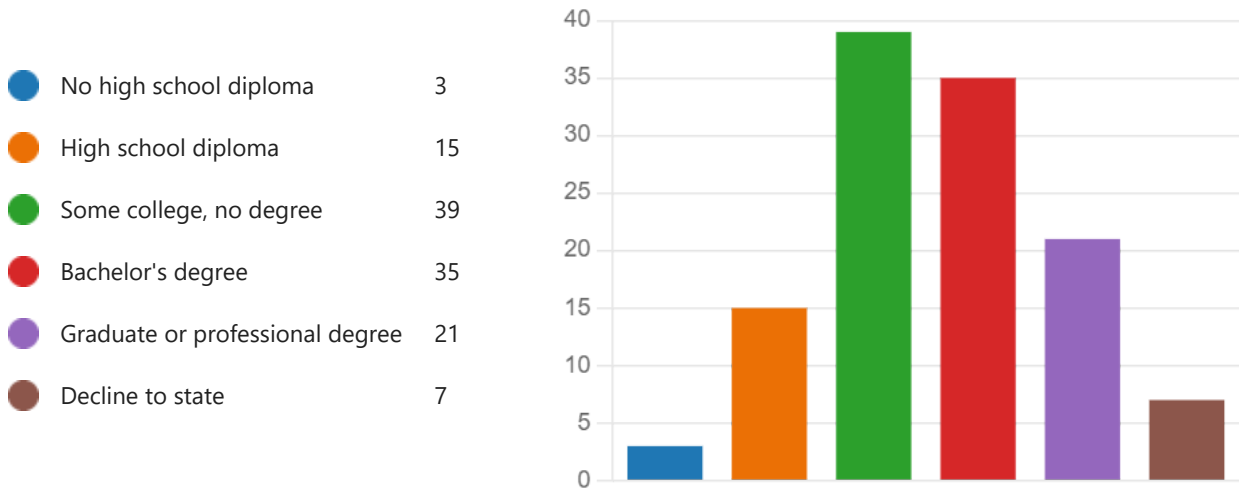


26. Please select all race and ethnicity options below that represent all of your business' owners/partners/board members.

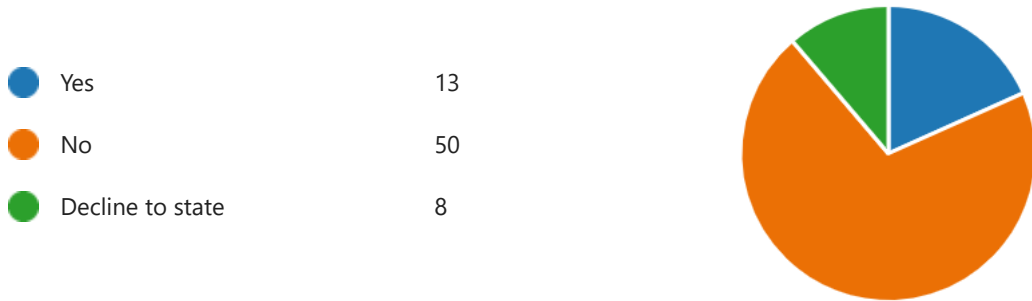
<span style="color: blue;">●</span> American Indian/Native American	10
<span style="color: orange;">●</span> Asian	13
<span style="color: green;">●</span> Black/African-American	57
<span style="color: red;">●</span> Hispanic/Latino	13
<span style="color: purple;">●</span> Native Hawaiian	3
<span style="color: brown;">●</span> White	17
<span style="color: pink;">●</span> Not listed	4
<span style="color: gray;">●</span> Decline to state	9



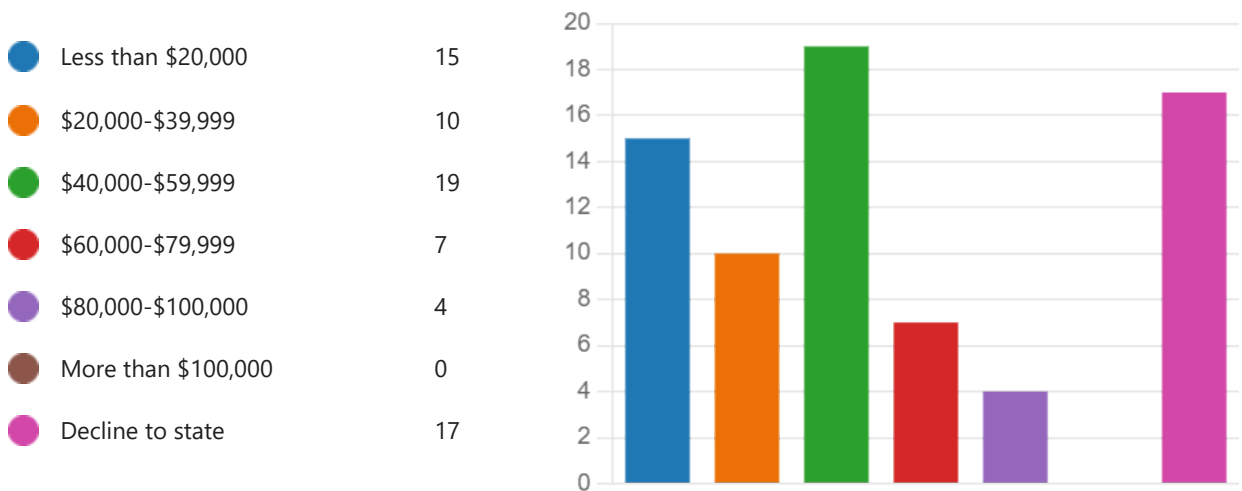
27. Please select the level(s) of education that represent(s) all of your business' owners/partners/board members.



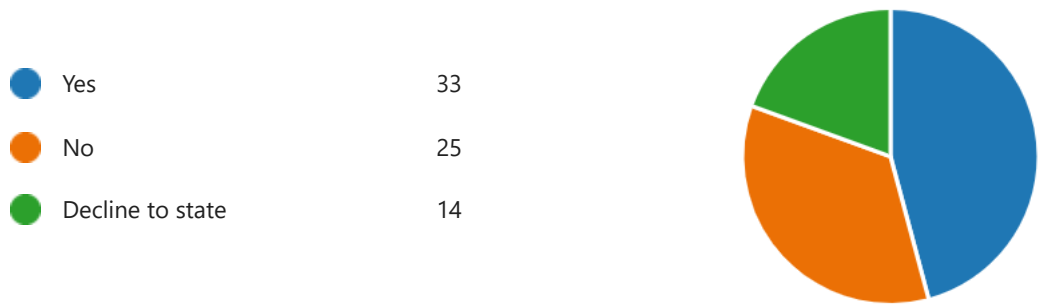
28. Does one or more of your business' owners/partners/board members have a disability?



29. Please select the annual personal income level(s) that represent(s) all of your business' owners/partners/board members.



30. Has any owner/partner/board member of your business or any immediate family members (parent, sibling, spouse, child) been convicted of or incarcerated for any cannabis related charges?



31. Has any of your business owners/partners/board members served or are currently active in the military?

