

Cannabis Regulatory Commission

Regular Meeting

Thursday, January 18th, 6:30 p.m.
Council Chambers, City Hall, One Frank H. Ogawa Plaza

AGENDA

Members:

Lanese Martin	District 1	Frank Tucker	District 7
Chang Yi	District 2	A. Kathryn Parker	At Large
Zach Knox	District 3	Stephanie Floyd- Johnson	Mayor
Jin Jack Shim	District 4	Vacant	City Auditor
Matt Hummel	District 5	Greg Minor	City Administrator
Derreck Johnson	District 6		

Available on-line at: <http://www.oaklandnet.com/measurez>

MEETING AGENDA

- A. Roll Call and Determination of Quorum
- B. Open Forum / Public Comment
- C. Review of the Pending List and Additions to Next Month's Agenda
 - *Medical cannabis permitting process (since July 2017)*
 - *Use of cannabis tax revenues (since July 2017)*
 - *Annual report (since September 2017)*
 - *Cannabis advertising (since September 2017)*
 - *Additional 2016 enforcement data (since September 2017)*
 - *Onsite consumption/lounges (since October 2017)*
 - *Microbusinesses (since October 2017)*
 - *Cannabis tax rates (since November 2017)*
 - *Event permitting (since December 2017)*
 - *Dispensary applicant runner-ups (since December 2017)*
- D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of November 2017.
- E. Reports for Discussion and Possible Action
 1. Expenditure of Cannabis Tax Revenues in Oakland
 2. Guidelines for Shared Space for Edible Manufacturing
 3. Cannabis Donation Programs

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) 238-3301.

F. Announcements

G. Adjournment

Cannabis Regulatory Commission

Special Meeting

Thursday, December 14th, 6:30 p.m.
Hearing Room Two, City Hall, One Frank H. Ogawa Plaza

MINUTES

Members:

Vacant	District 1	Vacant	District 7
Chang Yi	District 2	A. Kathryn Parker	At Large
Zach Knox	District 3	Stephanie Floyd- Johnson	Mayor
Jin Jack Shim	District 4	Vacant	City Auditor
Matt Hummel	District 5	Greg Minor	City Administrator
Derreck Johnson	District 6		

Available on-line at: <http://www.oaklandnet.com/measurez>

MEETING AGENDA

A. Roll Call and Determination of Quorum

Members Present: Yi, Shim, Hummel, Johnson, Floyd-Johnson, Minor
Members Not Present: Knox, Parker

B. Open Forum / Public Comment

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

- *Medical cannabis permitting process (since July 2017)*
- *Use of cannabis tax revenues (since July 2017)*
- *Annual report (since September 2017)*
- *Cannabis advertising (since September 2017)*
- *Additional 2016 enforcement data (since September 2017)*
- *Onsite consumption/lounges (since October 2017)*
- *Microbusinesses (since October 2017)*
- *Cannabis tax rates (since November 2017)*

D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of November 2017.

Member Yi made a motion to approve; Member Johnson seconded and it passed by consensus.

E. Reports for Discussion and Possible Action

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1. New State Cannabis Regulations
 - a. Cannabis Event Permitting

Staff and members shared their thoughts and questions regarding this issue and concluded more discussion was needed on this topic and that it should be added to the pending list.

- b. Shared Space for Edible Manufacturing

Staff provided background re lobbying state agencies to allow for shared manufacturing spaces and how state is looking to local jurisdictions to provide details on this approach. Member Floyd-Johnson commented that there are existing models of shared space in non-cannabis contexts that could be used. Chair Hummel mentioned wine as a possible comparison and asked for this issue to be continued to January 2018 meeting.

2. Cannabis Consumption Regulations

Staff, members and members of the public discussed current and past consumption policies at event spaces. Chair Hummel asked for this topic to remain on the pending list.

3. Update on Dispensary Permitting Process

Staff relayed that the City received 116 application for 8 available permits; 47 general applications and 69 equity applications. Staff shared that it anticipates selection of top 8 applicants to take place in late January/early February.

Members discussed issue of how to address runner-ups in the dispensary application process and whether they should get priority of some sort in future dispensary selection processes. Member Yi requested this issue be added to pending list.

F. Announcements

G. Adjournment

c) To advocate for changes in state law (and at other levels as necessary) to authorize the taxation and regulation of cannabis and eliminate criminal penalties for private, adult cannabis use.

Section 5: REGULATION

The City of Oakland shall establish a system to license, tax and regulate cannabis for adult use as soon as possible under California law. At that time, the City Council shall promulgate regulations that include, but are not limited to, the following provisions consistent with California law:

- a) The sale and distribution to minors will be strictly prohibited;
- b) The city shall establish a licensing system for cannabis businesses, with regulations to assure good business practices, compliance with health and safety standards, access for persons with disabilities, and nuisance abatement;
- c) Minors shall not be permitted in areas where cannabis is sold, nor shall minors be employed by licensed cannabis businesses;
- d) No business licensed to sell cannabis will be located within 600 feet of a school;
- e) Cannabis businesses shall be required to pay taxes and licensing fees;
- f) The public advertising of cannabis through television, radio or billboards will be prohibited; and
- g) Onsite consumption shall be licensed so as to keep cannabis off the streets and away from children, subject to reasonable air quality standards.

Section 6: LOWEST LAW ENFORCEMENT PRIORITY

- a) The Oakland Police Department shall make investigation, citation, and arrest for private adult cannabis offenses Oakland's lowest law enforcement priority.
- b) This "lowest law enforcement priority" policy shall *not* apply to distribution of cannabis to minors, distribution or consumption of cannabis on streets or other public places, or motor vehicle violations.

Section 7: COMMUNITY OVERSIGHT COMMITTEE

A Community Oversight Committee shall be appointed to oversee the implementation of the Oakland Cannabis Regulation and Revenue Ordinance. The Committee will be composed of:

- 1 community member appointed by each member of the Oakland City Council,
- 1 community member appointed by the Mayor of Oakland,
- 1 representative of the Oakland City Auditor,
- 1 representative of the Oakland City Manager.

Responsibilities of the Committee shall include:

- a) Ensure timely implementation of this ordinance
- b) Oversee the implementation of the Lowest Law Enforcement Priority policy;
- c) Make recommendations to the Oakland City Council regarding appropriate regulations, in accordance with Section 5 above;
- d) Oversee the disbursement of revenues generated through the sale of cannabis by licensed cannabis businesses to ensure that funds go to vital city services such as schools, libraries and youth programs; and
- e) Report annually to the Council on implementation of this ordinance.

FILED
REVISED AT COUNCIL 3-7-17
OFFICE OF THE CITY CLERK
OAKLAND

2017 APR -4 PM 1:50

APPROVED AS TO FORM AND LEGALITY

Rocio V. Rivera
City Attorney's Office

OAKLAND CITY COUNCIL
RESOLUTION No. 86633 C.M.S.

Introduced by Councilmember Kaplan

**RESOLUTION ESTABLISHING BUDGET PRIORITIES FOR
EXPENDITURE OF CANNABIS BUSINESS TAXES COLLECTED BY
THE CITY PURSUANT TO OAKLAND MUNICIPAL CODE SECTION
5.04.480 AND 5.04.481**

WHEREAS, through the passage of Proposition 215, the voters of California authorized the use of cannabis for medical purposes in 1996; and

WHEREAS, by a 79% vote in favor of the proposition, the voters of Oakland overwhelmingly approved Proposition 215; and

WHEREAS, the City Council of the City of Oakland has adopted medical cannabis permitting ordinances to prevent nuisance, provide for effective controls, enable medical cannabis patients to obtain cannabis from safe sources, and provide appropriate licensing in a manner consistent with state law, as codified at Chapters 5.80 and 5.81 of the Oakland Municipal Code (hereinafter, "OMC"); and

WHEREAS, in November 2010, the City's electorate approved a 5% business license tax for medical cannabis businesses and a 10% business license tax for adult use cannabis businesses, both of which are respectively codified in OMC Section 5.04.480 and OMC Section 5.04.481; and

WHEREAS, a cannabis business' obligation to pay taxes pursuant to Chapter 5.04 of the Oakland Municipal Code is wholly independent of the business' right to operate the business under federal, state or city law, and the imposition and collection of such taxes do not confer any regulatory right to operate. (*See OMC Section 5.04.050- "the taxes prescribed by the provisions of this chapter constitute a tax for revenue purposes, and are not regulatory permit fees.*); and

WHEREAS, the payment of a business tax required by this chapter, and its acceptance by the City, and the issuance of a business certificate to any person shall not entitle the holder thereof (1) to carry on any business unless he or she has complied with all of the requirements of this chapter and all other applicable laws, nor (2) to carry on any business activity in any building or on any premises designated in such business tax certificate in the event that such business activity in the building or premises violates of any law; and

WHEREAS, certain low-income communities and communities of color have been negatively and disproportionately impacted by disparate enforcement of cannabis laws, and police arrest data reflect disproportionately higher arrests for cannabis offenses in certain police

beats; and

WHEREAS, individuals arrested and previously convicted for cannabis related offenses face significant barriers to obtaining employment, financial aid, housing, and other economic opportunities; and

WHEREAS, at the November 14, 2016 special council meeting, the City Council adopted the racial equity outcome goal of promoting equitable ownership and employment opportunities in the cannabis industry in order to decrease disparities in life outcomes for marginalized communities of color and to address the disproportionate impacts of the war on drugs in those communities; and

WHEREAS, at the November 14, 2016 special council meeting, the City Council directed the City Administrator to perform a race and equity analysis of medical cannabis regulations and return to the council with revised versions of Oakland Municipal Code Sections 5.80 and 5.81; and

WHEREAS, the City Administrator's March 7, 2017 race and equity analysis identified access to capital and real estate as well as the need for technical assistance as key barriers to achieving equity within the medical cannabis industry; and

WHEREAS, the City of Oakland seeks to address these barriers to equity in business ownership in the cannabis industry through the incorporation of an Equity Assistance Program that will provide financial and technical assistance to Equity Applicants under Oakland Municipal Code Sections 5.80 and 5.81; and

WHEREAS, said financial assistance shall include zero interest loans for business start-up, operations costs, equipment, technology and system upgrades, and preparation of business plans and compliance with all applicable laws; and

WHEREAS, to serve around thirty to thirty-five cannabis businesses annually, the City Administrator anticipates the Equity Assistance Program requiring an initial one-time seed fund of approximately \$3 million for the revolving no-interest loan program, and one-time funding in the amount of approximately \$400,000 to fund an outside entity to operate the program at the cost of up to \$200,000 annually; and

WHEREAS, the City Administrator and City Council desire to evaluate the Equity Assistance Program after two years to ensure it is achieving its intended goals of reducing equity barriers and promoting a more equitable cannabis industry; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES RESOLVE AS FOLLOWS:

Section 1. Budget Priorities.

A. In the first year of the Equity Assistance Program, the City will appropriate \$200,000 from the general fund to pay for a consultant to administer zero interest loans and provide technical assistance, preparation of business plans, and compliance with all applicable law. The general fund will be reimbursed from incoming business taxes collected pursuant to Sections 5.04.480 and 5.04.481 of the Oakland Municipal Code from cannabis operations.

B. The City Administrator shall allocate the first \$3.4 million of incoming business taxes collected from cannabis operations (other than the initial eight licensed medical cannabis dispensaries) pursuant to OMC Sections 5.04.480 and 5.04.481 for the Cannabis Equity Assistance Program consisting of the following services:

1. \$3 million of one-time funds towards financial assistance for cannabis equity applicants in the form of zero interest loans for business start-up, operations costs, equipment, technology and system upgrades; and
2. \$400,000 of one-time funds towards a consultant to administer the financial assistance described above for the first two years (\$200,000 per year), and provide technical assistance, in the community through trusted advocates, to cannabis equity applicants; including preparation of business plans and compliance with all applicable laws. Part of these funds will be used to reimburse the general fund, as provided in Section A, above. Ongoing funding will be determined by the City Administrator and City Council in conjunction with the evaluation of the Equity Assistance Program's performance after two years.
3. The initial \$3.4 million of business taxes collected from cannabis operations (other than the City's initial eight licensed medical cannabis dispensaries) will be deposited in the General Purpose Fund (1010), Treasury: Operations Org (08721), Local Taxes: Business Tax Account (41511), DP080 Administrative Project (1000007), Financial Management Program (IP59), and upon receipt of these revenues the City Administrator is authorized to appropriate this one-time funding in the City Administrator's Organization (02111) for the Cannabis Equity Assistance Program described above.

C. After the initial \$3.4 million allocation, the City Administrator shall allocate and budget for the expenditure of 20% of the taxes collected pursuant to OMC Section 5.04.480 for the purposes listed below. The City Council will determine the specific services and programs selected at a future date.

1. One third for job training and other job-preparation and placement services.
2. One third for blight abatement, prevention and cleanup of illegal dumping, graffiti abatement, and services for homeless persons.
3. One third to fund loans for lower-income, under-served persons or entities who seek to open, or to continue operating, medical marijuana dispensaries or cultivation facilities in the City's jurisdiction, in compliance with OMC Chapters 5.80 and/or 5.81.

Section 2. Severability. The provisions of this Resolution are severable. If a court of competent jurisdiction determines that any word, phrase, clause, sentence, paragraph, subsection, section, chapter or other provision (collectively called "Part") is invalid, or that the application of any Part of this Resolution to any person or circumstance is invalid, such decision shall not affect the validity of the remaining Parts of this Resolution. The City Council declares that it would have adopted this Resolution irrespective of the invalidity of any Part of this Resolution or its application to such persons or circumstances have expressly excluded from its coverage.

Section 3. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation" Public Resources Code section 21065, CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 07 2017

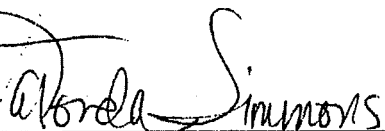
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY,
~~OKUN~~, KALB, KAPLAN AND PRESIDENT REID- 7

NOES- *Guillen*- 1

ABSENT- 0

ABSTENTION- 0

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

2072533v4

PROPOSED REGULATIONS FOR SHARED MANUFACTURING FACILITIES

Multiple licensees can share a manufacturing premises under the following conditions:

1. Each licensee's inventory is stored in separate and secured areas controlled exclusively by the licensee.
2. The workstations utilized by a licensee and the day and time a licensee occupies the shared premises shall be explicitly noted on its application for state license and any required lease or sub-lease agreements.
3. If there are grounds for recalling cannabis product produced at a shared premises, cannabis product produced by other licensees at the shared space may be subject to recall should the Department of Public Health determine the grounds for recall stems from an issue common to the shared facility and not an issue unique to one licensee using the shared facility.
 - a. For example, asbestos falling from a ceiling fan in a shared premises may be grounds for recalling multiple licensees' product, whereas one licensee's usage of tainted flowers to make an edible product would not be grounds for recalling the product of other operators using the same premises.
4. Each shared facility shall designate one person to be ultimately responsible for use of the shared space, including tracking what portions of the premises are used by whom and when.

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(2) If a valid physician's recommendation contains a different amount than the limits listed in this section, the medicinal cannabis customer may purchase an amount of medicinal cannabis consistent with the patient's needs as recommended by a physician.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26010 and 26012, Business and Professions Code; Sections 11362.1 and 11362.77, Health and Safety Code.

§ 5410. Customer Return of Cannabis Goods

(a) For the purposes of this section, "customer return" means a customer's return of cannabis goods that were purchased from a retailer, back to the retailer the cannabis goods were purchased from.

(b) A retailer may accept customer returns of cannabis goods that were previously sold to a customer.

(c) A retailer shall not resell cannabis goods that have been returned.

(d) A retailer shall treat any cannabis goods abandoned on the retailer premises as a customer return.

(e) A retailer shall destroy all cannabis goods that have been returned to the retailer by a customer, in accordance with sections 5054 and 5055 of this division.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001 and 26012, Business and Professions Code.

§ 5411. Free Cannabis Goods

(a) A retailer shall not provide free cannabis goods to any person. A retailer shall not allow individuals that are not employed by the retailer to provide free cannabis goods to any person on the licensed premises.

(b) Notwithstanding subsection (a) of this section, in order to provide access to medicinal cannabis patients who have difficulty accessing medicinal cannabis goods, a licensee who holds a Type 10-Retailer M-license, a Type 9-Retailer Non-storefront-M license, or a microbusiness M-license which allows for retail sales, may provide free medicinal cannabis goods if all of the following criteria are met:

(1) Free cannabis goods are provided only to a medicinal cannabis patient or primary caregiver for the patient in possession of a valid identification card issued under Section 11362.71 of the Health and Safety Code.

(2) The cannabis goods comply with all applicable laboratory testing requirements under this division.

(3) Prior to being provided to the patient or primary caregiver, the cannabis goods have been properly recorded in the track and trace system as belonging to the retailer.

(4) The cannabis goods shall not leave the licensed premises unless placed in an opaque package as required for purchased cannabis goods under Business and Professions Code section 26070.1.

(5) The cannabis goods shall be applied toward the daily limit purchased by a medicinal cannabis customer pursuant to section 5409 of this division.

(6) The transaction shall be properly recorded in the retailer's inventory records and the track and trace system.

(c) In addition to the provision of free cannabis goods in subdivision (b) of this section, a licensee may donate cannabis goods and the use of equipment in compliance with any compassionate use, equality, or other similar program administered by a local jurisdiction.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26067, 26070.1, 26153 and 26160, Business and Professions Code.

§ 5412. Packaging and Labeling

(a) A retailer shall not accept, possess, or sell cannabis goods that are not packaged as they will be sold at final sale, in compliance with this division.

(b) A retailer shall not package or label cannabis goods.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26010 and 26120, Business and Professions Code.

§ 5413. Exit Packaging

Cannabis goods purchased by a customer shall not leave the retailer's premises unless the goods are placed in an opaque exit package.

Authority: Section 26013, Business and Professions Code. Reference: Section 26120, Business and Professions Code.

§5414. Type 9- Non-Storefront Retailer

(a) A Type 9-Non-Storefront Retailer licensee shall be authorized to conduct retail cannabis sales exclusively by delivery as defined in Business and Professions Code section 26001(p).

(b) A complete application for a Type 9-Non-Storefront Retailer license shall include all the information required in an application for a Type 10-Retailer license.

(c) A Type 9-Non-Storefront Retailer licensee shall comply with all the requirements applicable to Type 10-Retailer licensees, except for those provisions related to public access to the premises.

(d) The licensed premises of a Type 9-Non-Storefront Retailer licensee shall be closed to the public.

Authority: Section 26013, Business and Professions Code. Reference: Section 26070, Business and Professions Code.