

Cannabis Regulatory Commission

Regular Meeting

Thursday, September 6, 2018, 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
 1. Appointment of *Chair Pro Tem*
- B. Open Forum / Public Comment
- C. Review of the Pending List and Additions to Next Month's Agenda
 - *Use of cannabis tax revenues (since July 2017)*
 - *Annual report (since September 2017)*
 - *Onsite consumption/lounges (since October 2017)*
 - *OPD updated training bulletin (since March 2018)*
 - *Disposal of cannabis waste (since July 2018)*
- D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of June 2018.
- E. Reports for Discussion and Possible Action
 1. Extending Dispensary Hours of Operation.
 2. Holding Cannabis and Alcohol Licenses.
- F. Announcements
 1. Update on Cannabis Permitting Process.
 2. Annual State Licensing Approval Process.
- G. Adjournment

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.

Cannabis Regulatory Commission

Regular Meeting

Thursday, July 5, 2018, 6:30 p.m.
Council Chambers, City Hall, One Frank H. Ogawa Plaza

MINUTES

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

Present: Martin, Yi, Knox, Shim, Hummel, Johnson, Minor
Absent: Tucker, Parker, Floyd-Johnson

B. Open Forum / Public Comment

No speakers spoke during Open Forum.

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)*
- *Onsite consumption/lounges (since October 2017)*
- *Event permitting (since December 2017)*
- *Dispensary applicant runner-ups (since December 2017)*
- *OPD updated training bulletin (since March 2018)*

D. Approval of the Draft Minutes from the Cannabis Regulatory Commission meeting of June 2018.

Member Knox moved to approve the minutes as drafted, Member Shim seconded the motion and it passed by Consensus with Member Minor abstaining.

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E. Reports for Discussion and Possible Action

1. Oakland Police Department Report on Citations and Arrests for 2017 Cannabis Offenses

Lt. Randy Brandwood provided an overview of the report and emphasized that OPD's focus is now on targeted enforcement as opposed to a broader crime suppression approach utilized in the past, which along with more cannabis training may account for the large drop in cannabis arrests and citations in 2017.

Chair Hummel expressed an interest in the commission working with OPD on updating its cannabis training bulletin. Member Yi highlighted the significant drop in cultivation arrests and asked OPD why beats 20x and 15x were among the highest for cannabis arrests in 2017.

Chair Hummel suggested OPD include data on the ages of those arrested or cited in next year's report. Member Shim questioned at what point OPD should get involved with handing the unregulated cannabis market; Member Yi asked if this could be put on the pending list.

2. Building and Fire Department Cannabis Permit Processes

Acting Building Official Tim Low and Interim Fire Marshall Bill Weisgerber briefly presented on behalf of their departments. Fire Marshall Weisgerber noted there is a backlog with fire review due to the great deal of development taking place citywide and a limited number of plan check engineers, which the fire department is addressing by filling a vacancy and bringing on a contractor to address the backlog.

Public speakers and Members spoke regarding upcoming state deadlines and how City should prioritize cannabis permitting to assist cannabis operators get through the approval process this year and next.

Member Knox made a motion for city to fast track the addition of building and fire staff and in the interim adopt a process in the interim to expedite cannabis approvals. Member Shim seconded the motion and it passed by consensus with Member Minor abstaining.

3. Outstanding Items on Pending List

Members discussed each item and made Member Yi made one motion, seconded by Member Hummel and approved by consensus with Member Minor abstaining, to do the following:

a. Medical Cannabis Permitting Process

- i. Added to pending list in July of 2017 in response to City's initiation of permit process in May 2017 for entire cannabis supply chain. Considering this is an ongoing process, may be more appropriate to move to the Announcements section of the agenda.

Move to Announcements section of the agenda.

b. Use of Cannabis Tax Revenue

- i. Commission discussed issue in January 2018 and expressed interest in playing a role in overseeing use of cannabis tax revenue but commission's actual authority on this issue was not clear. Report from City Attorney's Office can clarify this issue.

Keep on pending list until city attorney's report clarifies issue.

c. Annual Report

- i. Enabling Ordinance 12694 specifies that an annual report will be presented in writing to the City Council, however, the Commission's last report to the City Council Public Safety Committee was in January 2016.

Keep on pending list.

d. Onsite Consumption/Lounges

- i. Topic has been of concern to the Commission for several years, including prior to City Council establishing an onsite consumption permit for permitted dispensaries in 2016 and state law authorizing cannabis consumption via permitted retailers and special events.

Keep on pending list.

e. Event Permitting

- i. Commission discussed topic in December 2017 at which point members concluded more discussion was needed on the topic and to add the topic to the pending list.

Remove from pending list.

f. Dispensary Runner Ups

- i. Topic emerged in December 2017 during a discussion regarding the 2017-2018 dispensary permit process as to how the City may approach those who applied but were not selected to operate a dispensary in 2017 but are interested in applying in the future. Staff is still in the process of implementing and evaluating the 2017-2018 dispensary permit process and has not determined precisely how the next dispensary permit process will unfold. Consequently, it is not clear how the City will approach those 2017-2018 dispensary permit applicant runner ups.

Remove from pending list.

g. OPD Updated Training Bulletin

- i. In its March 2018 presentation, OPD representatives mentioned they are in the process of updating their cannabis training materials and offered to present the materials to the commission once drafted.

Keep on pending list.

4. Two Additional Proposed Clean-Up Amendments to Cannabis Ordinances OMC 5.80 and 5.81 from the Office of the City Administrator:

- a. Allow Ancillary Cannabis Activities, Including but Not Limited to Packaging, Distribution and Infusion, at the Site of a Permitted Dispensary; and
- b. Add a Public Hearing Requirement for Any Cannabis Use Within 300 Feet of a Residential Zone

Member Minor gave an overview of the two additional proposed clean-up amendments. Members expressed security concerns with the public having knowledge of cannabis facilities via public noticing/hearing while acknowledging the benefit of transparency, dispelling stigma and normalizing industry. Members also expressed support for allowing ancillary uses at dispensaries but would like these uses to also be allowed anywhere in a commercial zone.

Member Knox made a motion to accept the extension of ancillary activities if the phrase “site of a permitted dispensary” were modified to “site where a dispensary may be permitted.” Member Yi seconded the motion and it passed by consensus with Member Minor abstaining.

Member Knox then made a motion to adopt the public hearing requirement as written. Member Yi Seconded the motion and it passed with Members Knox, Yi, Hummel and Johnson voting in favor, Members Martin and Shim in opposition and Member Minor abstaining.

F. Announcements

1. Update on Cannabis Permit Process
2. Update on Cannabis Technical and Financial Assistance Consultant(s)

Member Minor provided updated application statistics and an update on the consultant selection process.

G. Adjournment

CANNABIS REGULATORY COMMISSION

ITEM E (1)

(b) The licensed retailer or at least one employee shall be physically present in the retail area at all times when individuals who are not employees of the licensed retailer are in the retail area.

(c) All sales of cannabis goods, with the exception of cannabis goods sold through delivery, must take place within the retail area of the retailer's licensed premises.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26140, Business and Professions Code.

§ 5403. Hours of Operation

A licensed retailer shall sell and deliver cannabis goods only between the hours of 6:00 a.m. Pacific Time and 10:00 p.m. Pacific Time.

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

§ 5403.1 Requirements While Not Open for Business

At any time the licensed premises is not open for retail sales, a licensed retailer shall ensure that:

(a) The licensed premises is securely locked with commercial-grade, nonresidential door locks as defined in section 5046 of this division;

(b) The licensed premises is equipped with an active alarm system pursuant to section 5047 of this division, which shall be activated when the licensed retailer or its employees are not on the licensed premises; and

(c) Only employees of the licensee and other authorized individuals are allowed access to the licensed premises. For the purposes of this section, authorized individuals include individuals employed by the licensee as well as any outside vendors, contractors, or other individuals conducting business that requires access to the licensed premises.

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

§ 5404. Retail Customers

(a) A licensed retailer shall only sell adult-use cannabis goods to individuals who are at least 21 years of age after confirming the customer's age and identity by inspecting a valid form of identification provided by the customer as required by subsection (c) of this section.

(b) A licensed retailer shall only sell medicinal cannabis goods to individuals who are at least 18 years of age and possesses a valid physician's recommendation after confirming the customer's age, identity, and physician's recommendation as required by subsection (c) of this section.

(c) Acceptable forms of identification include the following:

Cultivator Specific Requirements

39. Indoor cultivators must demonstrate that one hundred percent (100%) of their electricity is derived from renewable or carbon free sources. This can be done by enrolling in East Bay Community Energy's Brilliant 100 program (<https://ebce.org/power-mix/>) and providing confirmation annually or more frequently if required by the City Administrator's Office.

Dispensary Specific Requirements

40. 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.

41. Maximum operating hours for a Dispensary shall be as follows: 7:01 am to 7:59 pm daily. The Dispensary is prohibited from operating between the hours of 8:00 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.

42. 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.

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

44. 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. All membership records shall be available for inspection by the City Administrator or his/her designee upon the providing twenty-four (24) hour notice to the Cannabis operator.

CANNABIS REGULATORY COMMISSION

ITEM E (2)



INDUSTRY ADVISORY

Cannabis and Alcoholic Beverages

With the legalization of commercial recreational use of cannabis and cannabis products commencing in 2018, along with the licensed manufacture and sale, a number of questions have arisen about what activities are permissible on or in premises licensed by the Department of Alcoholic Beverage Control to manufacture or sell alcoholic beverages. The following frequently asked questions and responses are intended to offer some guidance. This is not intended to be a comprehensive review of what may be permitted or prohibited. You should obtain independent legal advice before engaging in business involving either alcoholic beverages or cannabis, and you should not act in reliance on any information presented herein.

1. Can I hold both an ABC license and a license to grow, process, or sell cannabis?

Yes. Neither the Alcoholic Beverage Control ("ABC") Act nor the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") prohibit persons from holding licenses to manufacture or sell alcoholic beverages from holding a license authorized under the MAUCRSA. Applicants for ABC licenses will still need to meet all ABC licensing requirements, independently of any other licensing authority under the MAUCRSA.

2. If I hold licenses under both the ABC Act and the MAUCRSA, can I sell alcoholic beverages and cannabis at the same location?

No. The MAUCRSA (Business and Professions Code section 26054) states that the holder of a license issued under the MAUCRSA "shall not sell alcoholic beverages or tobacco products on or at any premises licensed under this division." (Note: Section 26038 provides that any person engaging in commercial cannabis activity without a license is in violation of the MAUCRSA and subject to criminal and civil penalties.)

In addition, Section 5026(c) of the Bureau of Cannabis Control ("BCC") regulations (Title 16, Cal. Code of Regs., section 5026) provides: "A premises shall not be in a location that requires persons to pass through a business that sells alcohol or tobacco to access the licensed premises, or that requires persons to pass through the licensed premises to access a business that sells tobacco or alcohol."

Commercial cannabis may only be cultivated, processed, stored, or sold at premises licensed pursuant to the MAUCRSA. Due to the restrictions on licensing and permissible activities, premises may not be licensed with both an ABC license and a license issued under MAUCRSA, even though a licensee may hold licenses (at separate premises) under both statutory schemes.

3. Although I cannot sell cannabis in my bar or restaurant licensed by ABC, can I allow consumers to bring their own cannabis onto the premises and consume it?

No. Health and Safety Code section 11362.3 prohibits the smoking or ingesting of cannabis or cannabis products in a public place, except as authorized under Business and Professions Code section 26200. Businesses (including premises authorizing the sale or consumption of alcoholic beverages under both retail and non-retail licenses) licensed under the ABC Act are considered “public places” for this purpose (this also includes premises licensed under club licenses, or any other premises to which entry may otherwise be limited). This restriction applies even if the ABC licensee is not exercising the privileges of the license, such as after hours, while closed, or if the ABC license is surrendered or suspended.

Although there are exceptions under Business and Professions Code section 26200 allowing for public consumption of cannabis and cannabis products, the sale or consumption of alcoholic beverages in the same area is expressly prohibited. (See, also, BCC regulations 5602 and 5603 regarding temporary cannabis event sales and consumption—the consumption of alcoholic beverages is prohibited on the premises.)

4. I have seen news articles talking about wine, food, and cannabis pairing events (or similar such activities). Are these types of events allowed?

Not in premises licensed under the ABC Act. As indicated above, public consumption of cannabis and cannabis products is prohibited. Even if one of the exceptions applies, alcoholic beverages are still not allowed to be sold or consumed. “Public consumption” is not limited to smoking; it also includes the consumption of edible cannabis products. As such, it would also be a violation for an ABC licensee to use cannabis or cannabis products in the preparation of food items for consumption on the premises.

5. Can I infuse (or mix) alcoholic beverages with cannabis (either as a manufacturer or retailer)?

No. There are two specific reasons why this is not permitted. First, since cannabis cannot be sold in the same premises as alcoholic beverages, any product that contains both cannabis and beverage alcohol cannot be sold at premises licensed with either an ABC license or a MAUCRSA license. (See FAQ # 2.) Second, regulations issued by the California Department of Public Health prohibit the sale of “edible cannabis products” as alcoholic beverages. (Title 17, Cal. Code of Regs., section 40300.)

5.80.040 - Performance and operating standards.

The City Administrator shall develop and implement performance and operating standards consistent with those set forth in Ordinance No. 12585 in the Office of the City Administrator Guidelines and shall modify such Guidelines from time to time as required by applicable law and consistent with public health, welfare and safety. Noncompliance of such operating standards shall constitute a breach of the permit issued hereunder and may render such permit suspended or revoked based upon the City Administrator's determination.

The following performance standards shall be included in the City Administrative regulations:

- A. No cannabis shall be smoked inside the premises of the dispensary.
- B. The dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
- C. Dispensaries must maintain a staff comprised of at least fifty percent (50%) Oakland residents and twenty-five percent (25%) Oakland residents in census tracts identified by the City Administrator as having high unemployment rates or low household incomes. The City Administrator's guidelines and regulations may provide details of these requirements, including for phasing in this requirement for existing facilities.
- D. Dispensaries and delivery only dispensaries that hire and retain formerly incarcerated current Oakland residents may apply for a tax credit or license fee reduction based on criteria established by the City Administrator.
- E. All dispensary employees and delivery only dispensary employees shall be paid a living wage as defined by OMC Chapter 2.28.
- F. Dispensaries and delivery only dispensaries must 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.
- G. No cannabis odors shall be detectable outside of the permitted facility.
- H. Delivery-Only dispensaries are not open to the public.

(Ord. 13464, § 3, 11-28-2017; Ord. No. 13424, § 3, 3-28-2017; Ord. No. 13370, § 3, 5-17-2016)

CANNABIS REGULATORY COMMISSION

ITEM F (1)

	TOTALS	PENDING	GRAND TOTAL
Total Complete & Incomplete Applications	1028	56	1084
Total Complete Applications	1028		
Complete General Applications	428		
Equity Applications based on residency	514		
Equity Applications based on conviction	86		
Incubators	192		
Interested in Incubating	39		
Complete Application with property	727		
Complete Application without property (Equity)	255		
Complete Applicants without property (General)	46		
	1028		

COMPLETED APPLICATIONS BY BUSINESS TYPE	GENERAL	INCUBATOR*	INTERESTED IN INCUBATING*	EQUITY
Delivery	102	25	7	149
Cultivator (Indoor)	104	47	17	100
Cultivator (Outdoor)	3	2		27
Distributor	93	52	7	148
Mfg. Volatile	49	28	3	41
Mfg. Non-Volatile	69	35	6	94
Transporter	5	2	0	29
Lab Testing	3	1	0	12
GRAND TOTALS	428	192	40	600

*These numbers are part of the General Total

8/30/2018

8/31/2018

TEMPORARY STATE LICENSES APPROVED

	Delivery	Distribution	Cultivation	Lab Testing	Mfg. V	Mfg. NV	
EQUITY	60	50	25	3	4	32	174
INCUBATORS	16	43	33	2	17	33	144
GENERALS	7	0	1	0	0	4	12
TOTALS:	83	93	59	5	21	69	330

8/30/2018