



## MEMORANDUM

April 13, 2018

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Cannabis Interdepartmental Work Group

MEETING DATE: April 18, 2018

SUBJECT: Consideration of Issues regarding County Ordinances for Cannabis Manufacturers, Distributors, Testing Laboratories, and Microbusinesses

---

### **BACKGROUND**

Recently-adopted County ordinances address cannabis retail sales, delivery, and cultivation, but not manufacturing, distribution, testing laboratories, or microbusinesses. In order to allow these additional uses in the unincorporated area, amendments to the County Ordinance Code, similar to those for retail sales and cultivation, would need to be adopted. At your March 21, 2018 Committee meeting, staff presented information regarding state regulations for cannabis manufacturers, distributors, testing laboratories, and microbusinesses, and discussed issues to be considered in allowing these types of facilities in the unincorporated area.

Since these additional facility types raise many of the same concerns as cannabis retailers and cultivators, it would be appropriate for these new ordinances to include many of the same requirements, for example, security measures, mitigation of potential nuisances such as odors, and buffers from sensitive uses such as schools, parks, and daycare centers to reduce potential conflicts with existing land uses. In order to further minimize potential impacts on existing communities, the Board may also consider limiting the number of each type of facility allowed as the retail sales and cultivation ordinance do.

### **DISCUSSION/SUMMARY**

#### **Facilities Licensed in Cities within Alameda County**

At your March 21, 2018 meeting there was discussion of whether additional cannabis operations need to be allowed in the unincorporated area, taking into consideration the number of operations that are already permitted in the cities within the County. The attached tables provide the number of operations that have received temporary licenses from the state to operate in cities within the County. A total of 61 licenses

have been issued for the four manufacturing license types provided by the state. Fifty-two of these operations are located in Oakland. There are 49 businesses that have received licenses for distribution; two of these are for transport only. Forty-two of the operations are in Oakland. A total of six testing laboratories have received licenses in the County, three in Oakland and three in Berkeley.

### **Appropriate Locations for Additional Facility Types**

Also at your March 21, 2018 meeting, your Committee discussed whether cannabis manufacturing facilities, distributors, and testing laboratories should be allowed in the unincorporated area and, if so, where they should be allowed. Supervisor Haggerty indicated that he does not support allowing additional cannabis operations in District 1.

These additional facility types are similar to other types of industrial uses that are allowed in the County's industrial zoning districts which are located at the western end of Grant Avenue in San Lorenzo. Because this area is located in District 3, your Committee directed staff to contact District 3 staff to determine Supervisor Chan's position regarding allowing cannabis facilities in San Lorenzo. District 3 staff indicated that in response to strong community opposition, Supervisor Chan has consistently opposed the siting of any cannabis-related activities in or around San Lorenzo.

Some of the less intensive types of uses, such as edible production and testing laboratories, may be appropriate to allow in some of the commercial districts in the unincorporated area where they would not conflict with other allowed uses.

### **Shared-Use Manufacturing Facilities**

On March 22, 2018, the State Department of Public Health (CDPH) issued emergency regulations for a Type S manufacturing license which would allow the license holder to conduct manufacturing operations at a shared-use facility. The regulations define shared-use facility as a manufacturing facility operated by a Type 7, Type 6, or Type N licensee in which Type S licensees are authorized to conduct manufacturing operations. To operate a shared-use facility, the Type 7, Type 6, or Type N licensee must register with CDPH.

Type S licensees may conduct the following activities:

- Infusions, as defined in Section 40100(cc);
- Packaging and labeling of cannabis products;
- Extractions with butter or food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the Type S licensee's infused product, and shall not be sold to any other licensee.

The Type S license provides the possibility of allowing commercial kitchens for the manufacture of cannabis products following the model of commissary kitchens for food production. Commissary kitchens are permitted commercial kitchens where foodservice providers, such as food truck operators or small manufacturers of prepared food products, can rent the facility for a period of time to prepare their food products. These facilities can perform an important function in supporting small start-up businesses which could not afford to construct a separate kitchen facility. This type of low-intensity facility could be

considered in some of the commercial corridors in the unincorporated area. The County Environmental Health Department would require that a commissary kitchen for the preparation of cannabis products obtain the same permits as a non-cannabis commercial kitchen, and that no non-cannabis food products be produced in the kitchen to avoid potential contamination of the food products.

### **Proposals from the Stakeholders' Group**

At the Stakeholders' Group meeting on April 5, 2018, one of the stakeholders proposed allowing the use of [FlexMOD](#) portable extraction laboratories for manufacturing at cannabis cultivation sites. These portable laboratories are self-contained modular units that resemble shipping containers. According to the manufacturer, the units meet all required safety standards, and are spark proof and blast proof. The County Ordinance Code currently explicitly prohibits cannabis manufacturing at cultivation sites. Because this type of industrial use is inconsistent with the requirements of the A (Agricultural) Zoning District in which the cultivation sites are located, staff does not recommend allowing manufacturing at the cultivation sites.

Several members of the Stakeholders' Group who have been selected to receive cultivation or retail permits also expressed an interest in obtaining a state distributor license to self-distribute cannabis products to and/or from their facilities. Staff will consider this option more fully, but our initial assessment is that this type of distribution could be permitted through a process similar to the process for permitting cannabis delivery in the current county ordinance code.

### **NEXT STEPS**

Based on direction from your Committee, staff will report on options for the consideration of new ordinances for cannabis manufacturing operations, distributors, testing labs, and microbusinesses at your next Committee meeting.

## Attachment

### State Temporary Licenses Issued to Operations in Alameda County

| Table 1<br>Number of Manufacturing Operations in Alameda County with State Temporary Cannabis Licenses<br>(by license type and jurisdiction) |                |          |           |                |          |           |                |          |          |                |          |          |           |
|--|----------------|----------|-----------|----------------|----------|-----------|----------------|----------|----------|----------------|----------|----------|-----------|
| City   | Type 6 License |          |           | Type 7 License |          |           | Type N License |          |          | Type P License |          |          | Total     |
|  | AU             | Med      | Both      | AU             | Med      | Both      | AU             | Med      | Both     | AU             | Med      | Both     |           |
| Oakland  | -              | 2        | 23        | 2              | 2        | 11        | -              | 1        | 7        | -              | -        | 4        | 52        |
| Berkeley   | -              | -        | 3         | -              | -        | 1         | -              | 1        | 2        | -              | -        | -        | 7         |
| San Leandro  | -              | -        | -         | -              | -        | -         | -              | 1        | -        | -              | -        | -        | 1         |
| Newark   | -              | -        | -         | -              | -        | -         | -              | -        | -        | -              | -        | 1        | 1         |
| <b>Total</b>   | <b>0</b>       | <b>2</b> | <b>26</b> | <b>2</b>       | <b>2</b> | <b>12</b> | <b>0</b>       | <b>3</b> | <b>9</b> | <b>0</b>       | <b>0</b> | <b>5</b> | <b>61</b> |

Notes:  
 Four types of cannabis manufacturing licenses may be obtained from the State Department of Public Health:

- Type 7 for extraction using volatile solvents, such as butane, hexane, or pentane
- Type 6 for extraction using a mechanical method or a non-volatile solvent, such as food-grade butter, oil, water, ethanol, or carbon dioxide
- Type N for manufacturers that use infusion processes, such as using pre-extracted oils to create edibles, beverages, capsules, vape cartridges, tinctures, or topicals
- Type P for manufacturers that only package or repackage cannabis products or label or relabel the cannabis product container.

(AU – operations with adult use license only, Med – operations with medicinal license only, Both – operations with both adult use and medicinal licenses)  
 Source: [California Cannabis Portal, Licensee Holder Search](#)

| Table 2<br>Number of Distributors in Alameda County with State Temporary Cannabis Licenses |                     |          |           |                        |          |          |           |
|--|---------------------|----------|-----------|------------------------|----------|----------|-----------|
| City   | Distributor License |          |           | Transport Only License |          |          | Total     |
|  | AU                  | Med      | Both      | AU                     | Med      | Both     |           |
| Oakland  | 4                   | 5        | 31        | -                      | -        | 2        | 42        |
| Berkeley   | -                   | 2        | 3         | -                      | -        | -        | 5         |
| Emeryville   | -                   | -        | 2         | -                      | -        | -        | 2         |
| <b>Total</b>   | <b>4</b>            | <b>7</b> | <b>36</b> | <b>0</b>               | <b>0</b> | <b>2</b> | <b>49</b> |

(AU – operations with adult use license only, Med – operations with medicinal license only, Both – operations with both adult use and medicinal licenses)  
 Source: [California Cannabis Portal, Licensee Holder Search](#)

| Table 3<br>Number of Testing Laboratories in Alameda County with<br>State Temporary Cannabis Licenses |                 |
|---|-----------------|
| City  | Licenses Issued |
| Berkeley  | 3               |
| Oakland   | 3               |
| <b>Total</b>  | <b>6</b>        |

Source: [California Cannabis Portal, Licensee Holder Search](#)