

# AGENDA REPORT

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**TO:**  
Honorable  
Mayor and  
members of  
the City  
Council and  
the Public

**FROM:** Councilmember Rebecca  
Kaplan, At-Large Office

**SUBJECT:**  
Ordinance to  
onsite  
consumption

**DATE:** November 7, 2024

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## **RECOMMENDATION**

**Councilmember Rebecca Kaplan recommends that the City Council adopt:**

**ORDINANCE: (1) AMENDING OAKLAND MUNICIPAL CODE CHAPTERS 5.80 AND 8.30 BY: (A) ESTABLISHING THREE DIFFERENT TYPES OF PERMITS FOR CANNABIS CONSUMPTION LOUNGES; AND (B) EXEMPTING CANNABIS CONSUMPTION LOUNGES FROM THE CITY'S EXISTING SMOKING RESTRICTIONS; AND (2) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

### **Executive Summary**

The cannabis industry in Oakland and California has made significant progress in developing and implementing effective policies to support commercial cannabis activity. Embracing the growing momentum of regulated cannabis consumption, the proposed ordinance introduces three unique cannabis consumption permits designed to propel commercial cannabis activity in Oakland.

In an era in which neighboring municipalities are adopting and executing new revenue streams related to commercial cannabis, these permits are designed to drive the growth of cannabis commerce in Oakland and expand the City administrator's regulatory authority to streamline commercial cannabis activity.

The current Oakland regulations delegate the authorization of cannabis permits to the City Administrator. The City Administrator establishes the conditions of approval for each onsite consumption permit, including, but not limited to, a parking plan, ventilation plan, anti-drugged driving plan, and set hours of operation. The proposed ordinance aligns the city administrator's

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oversight authority, ensuring the adoption of the ordinance does not negatively impact or reduce the City Administrator's oversight powers.

Existing law authorizes a cannabis business in Oakland to operate a dispensary and to obtain a separate permit in order for cannabis to be consumed on the premises of the dispensary.

The ordinance is focused on establishing three distinct permits for allowable cannabis consumption: edible/drinks, vaporization only, and smoking/combustion. Additionally, the legislation will amend Oakland's Smoking Ordinance (Chapter 8.30 OMC) to exempt permitted onsite consumption lounges from various "no smoking" rules. Regulating methods of cannabis consumption at cannabis commercial locations is crucial to ensure strict adherence to existing workplace standards, public health, public safety, and zoning. The proposed ordinance is based on successful models of commercial cannabis activities from similar and neighboring municipalities related to revenue opportunities.

Additionally, new statewide regulations in cannabis commercial activity have expanded revenue opportunities for cannabis commerce. By strengthening and adapting existing and proposed cannabis regulations, the city of Oakland can strengthen the cannabis industry within its jurisdiction.

### **Specific Types of Onsite Consumption Permits and Requirements**

- A. Cannabis Consumption – Prepackaged Cannabis Products – No Preparation. A Permittee in possession of this permit type may allow the on-site Consumption of Pre-Packaged Cannabis Products but may not engage in the Preparation of Cannabis Products.
- B. Cannabis Consumption – Limited Preparation of Cannabis Products. A Permittee in possession of this permit type may allow the on-site Consumption of Pre-Packaged Cannabis Products, and may also Prepare and allow the Consumption of Cannabis Products.
- C. Cannabis Smoking. A Permittee in possession of this permit type may allow the on-site Smoking of Cannabis, and may also allow the Consumption of Pre-packaged Cannabis Products, and/or the Consumption of prepared Cannabis Products, subject to approval by the Director.

Cannabis Smoking Permits are subject to the following additional requirements:

1. The Designated Smoking room must have a separate heating, ventilation, and air-conditioning (HVAC) system such that none of the air in the Designated Smoking Room will be recirculated into other parts of the Cannabis Business' Premises.
2. The air from a Designated Smoking Room must be directly exhausted to the outdoors by a filtration system that, at a minimum, eliminates all odor and smoke.
3. Smoke from the Designated Smoking Room must not drift to other portions of the Premises.
4. The Designated Smoking Room must be completely separated from the remainder of the Premises by solid partitions or glazing without openings other than doors, and all doors leading to the Designated Smoking Room must be self-closing. All doors to the Designated Smoking Room must be installed with a gasket to provide a seal where the door meets the stop.
5. A Permittee with a Cannabis Smoking permit may not require employees to enter the Designated Smoking Room as a condition of their employment.

### **BACKGROUND/LEGISLATIVE HISTORY**

The current regulation, drafted in an era with little to no precedent on the legal consumption of cannabis, successfully established a regulated cannabis industry in the City. To build upon the momentum derived from a pioneering vision of commercial cannabis activity.

Medical cannabis dispensary permits have existed as regulated businesses in Oakland since 2016 when the [\*Ord. No. 13464, § 3, adopted November 28, 2017\*](#)<sup>1</sup>, went into effect, and adult use was added to the ordinance, creating a new title, "*Medical and adult-use cannabis dispensary permits.*"

The landscape of cannabis commerce is everchanging. In its current format, the consumption permit details legal consumption in a limited capacity. Still, it does not reflect or, by default, embrace new state regulations or consumer goods rapidly becoming industry staples and methods to revenue streams in commercial cannabis activity.

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[https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT5BUTAPERE\\_CH5.80MEADECADIPE](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT5BUTAPERE_CH5.80MEADECADIPE)

Local, state, and federal regulations have begun to relax or abolish specific cannabis laws. For example, on Tuesday, April 30th, 2024, Attorney General Merrick Garland submitted a proposal to move cannabis out of the government's most restrictive classification under the Controlled Substances Act. As states and the federal government begin to adopt more relaxed and better regulation of commercial cannabis activity, the City should embrace the easement of cannabis regulations. By adopting the proposed ordinance, the city is bringing its regulations in line with modern business practices in the cannabis industry.

### **ANALYSIS AND POLICY ALTERNATIVES**

The current regulations no longer align with the practices and standards of the modern cannabis industry. Neighboring cities like San Francisco have already made similar changes. By maintaining the existing legislation, the City is failing to seize the opportunity to benefit from new standards of commercial cannabis consumption, which could negatively or stagnate Oakland's ability to generate revenue from commercial cannabis activity. Furthermore, potential new commercial cannabis activity may overlook Oakland due to antiquated regulations.

### **FISCAL IMPACT**

Adopting this ordinance would diversify commercial cannabis permitting, encourage the creation or expansion of cannabis commercial activity, and allow Oakland to maximize and expand tax revenue generated from commercial cannabis. Further, by updating Oakland's existing cannabis regulations while simultaneously upholding worker rights and health codes, the opportunity for job growth via new cannabis-related businesses would significantly increase.

### **PUBLIC OUTREACH/INTEREST**

The proposed ordinance is based on input from dispensary operators and research into established concepts, such as cannabis regulations in similar cities like Oakland. The proposed ordinance has also received input and support of the Oakland Cannabis Regulatory Commission.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** By aligning its cannabis regulation to industry standards, the city will increase its opportunity to collect tax revenue generated from the cannabis industry.

***Environmental:*** This ordinance will not impact the environment.

***Social Equity:*** Oakland takes an equitable approach when evaluating permit applications, such as prioritizing communities and individuals impacted by decades of America's War on Drugs.

Adopting this ordinance diversifies the types of cannabis consumption permits in cannabis business activity, resulting in a diversified applicant pool that is not limited to a singular method of cannabis consumption.

Respectfully submitted,



Councilmember Kaplan  
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