

AGENDA REPORT

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

FROM: Councilmember Rebecca
Kaplan, District 2

Councilmember Carroll
Fife, District 3

SUBJECT: Amendment To Oakland Municipal
Code Chapters 5.80 And 8.30

DATE: 04/22/2025

RECOMMENDATION

Councilmembers Rebecca Kaplan and Carroll Fife recommend that the City Council adopt:

ORDINANCE: (1) AMENDING OAKLAND MUNICIPAL CODE CHAPTERS 5.80 AND 8.30, RESPECTIVELY BY: (A) ESTABLISHING STANDARDS FOR THE APPROVAL OF ONSITE CONSUMPTION PERMITS FOR CANNABIS SMOKING; AND (B) EXEMPTING SUCH ONSITE CONSUMPTION PERMITS FROM THE CITY'S INDOOR 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, this amendment is crafted to increase the growth of commercial cannabis activity in Oakland.

The current Oakland regulations delegate the authority to issue 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 amendment 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 permit for cannabis to be consumed on the premises of the dispensary, including an outdoor consumption lounge, including smoking (provided such smoking is not visible from a public place) and non-smoking. Furthermore, the current and potential new regulations do not solely pertain to indoor cannabis consumption areas of permitted dispensaries. The amendment dictates that the applicant must specify whether consumption will include the Combustion/Smoking of cannabis, which is defined as “inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, or other combustible substance” in OMC Section 8.30.030. Additionally, the legislation will amend Oakland’s Smoking Ordinance (Chapter 8.30 OMC) to exempt permitted onsite consumption lounges from various “no smoking” rules.

Additionally, incorporating smoking into the permitting inspection process would not require further legislative action aside from amending the Smoking Ordinance to exempt smoking at City approved onsite consumption permit locations. Existing Oakland city code authorize the respective departments, tasked with reviewing and inspecting cannabis consumption permits, the authority to approve smoking for onsite consumption permits and shall be evaluated in consultation with the Fire Marshal and the Building Official. If this ordinance is adopted, as noted in OMC Section 5.80.025.B *“An onsite consumption permit may be issued at the discretion of the City Administrator to a permitted dispensary based on the operating history and business practices of the applicant, and/or any other factors that are deemed necessary to promote the peace, order and welfare of the public. An application for an onsite consumption permit may be denied for failure to meet requirements of the City Building Code, City Fire Code, City Planning Code, this Chapter, and/or any violation of State or local law relevant to the operation of dispensaries.”*

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, including those related to revenue opportunities, such as San Francisco.

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.

The proposed amendment to the Onsite Consumption Permit is as follows:

5.80.025 Onsite consumption permit.

- A. A dispensary must obtain a secondary onsite consumption permit in order for cannabis to be consumed on the premises of the dispensary.

B. An onsite consumption permit may be issued at the discretion of the City Administrator to a permitted dispensary based on the operating history and business practices of the applicant, and/or any other factors that are deemed necessary to promote the peace, order and welfare of the public. An application for an onsite consumption permit may be denied for failure to meet requirements of the City Building Code, City Fire Code, City Planning Code, this Chapter, and/or any violation of State or local law relevant to the operation of dispensaries. The application must specify whether or not consumption will include the Combustion/Smoking of cannabis.

C. The City Administrator shall establish 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. Set hours of operation may only be adjusted by submitting a written request to and obtaining approval from the City Administrator's Office.

Additionally, approval of an Onsite Consumption Permit that allows for Combustion/Smoking is subject to the to the following requirements:

1. A 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.

D. The permit shall be subject to suspension or revocation in accordance with Section 5.80.070, and the owner/operator shall be liable for excessive police costs related to enforcement.

E. The application fee and annual fee for the onsite consumption permit shall be specified in the City's Master Fee Schedule.

F. All onsite consumption permits shall be special business permits and shall be issued for a term of one (1) year. No property interest, vested right, or entitlement to receive a future license to operate a cannabis business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the City Administrator subject to Section 5.80.070.

(Ord. No. 13798, § 2, 6-18-2024; Ord. 13464, § 3, 11-28-2017; Ord. No. 13424, § 3, 3-28-2017; Ord. No. 13370, § 3, 5-17-2016)

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 Oakland. 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*](#)¹, 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. Local, state, and federal regulations have begun to relax or abolish specific cannabis laws. For example, on Tuesday, April 30th, 2024, former 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 of Oakland 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 that are already taking shape in neighboring cities like San Francisco

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 of Oakland 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

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https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT5BUTAPERE_CH5.80MEADECADIFE

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 to Oakland. The Oakland Cannabis Regulatory Commission has also provided feedback and support for the proposed ordinance.

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 broadens commercial cannabis consumption permits, resulting in a diversified applicant pool that is not limited to a singular method of cannabis consumption. The proposed amendment does not impact city of Oakland's petitions for state funding such as grants for equity business partners in commercial cannabis.

ACTION REQUESTED OF THE CITY COUNCIL

ORDINANCE: (1) AMENDING OAKLAND MUNICIPAL CODE CHAPTERS 5.80 AND 8.30, RESPECTIVELY BY: (A) ESTABLISHING STANDARDS FOR THE APPROVAL OF ONSITE CONSUMPTION PERMITS FOR CANNABIS SMOKING; AND (B)

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For questions regarding this report, please get in touch with M.B. Alvarenga, Legislative Analyst, at malvarenga@oaklandca.gov

Respectfully submitted,

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At-Large District 2

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Prepared by:
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