



Community Health Commission (CHC)

COMMUNITY HEALTH COMMISSION MEETING AGENDA

Thursday, October 24th, 2019 6:30 pm–9 pm
South Berkeley Senior Center
2939 Ellis St, Berkeley, CA 94703

Preliminary Matters

1. Roll Call
2. Announcements & Introductions of any new members
3. Approval of Minutes from the September 26th Meeting (Attachment 1)
4. Confirm note taker
5. Public Comment (*Speakers will have up to 5 minutes each*)

Presentation Items

1. **City of Berkeley, Public Health Division—Dr. Lisa Hernandez:** Health Officer Updates

Discussion and Action Items:

1. Review of Community Health Commission Subcommittee groups
2. Appoint commissioners to speak on behalf of CHC at upcoming City Council meetings [Simpson].
3. Add/remove subcommittee members (Attachment 4) [Simpson].

Subcommittee Break-Out Session

Subcommittee Reports

1. Acute Services Subcommittee
2. Basic Needs Security Subcommittee
3. Cannabis Subcommittee
4. Disease Prevention Subcommittee
5. Health Equity Subcommittee
6. Policy Tracking Subcommittee
7. Strategic Planning Subcommittee

Communication

1. None

Adjournment

A Vibrant and Healthy Berkeley for All

Attachments:

1. Draft minutes of September 26th, 2019 CHC regular meeting
2. Approved minutes of July 25th, 2019 CHC special meeting
3. Community Health Commission Work Plan
4. Community Health Commission Subcommittee Roster 2019
5. Community Health Commission Meeting Calendar 2019
6. City Council and Community Health Commission Timeline 2019
7. CHC Communication on Cannabis Phase II Ordinance Items

The next meeting of the Community Health Commission is scheduled for November 21st, 2019, with a deadline of November 11th, 2019 for the public's submission of agenda items and materials for the agenda packet. Dates are subject to change; please contact the Commission Secretary to confirm.

COMMUNICATION ACCESS INFORMATION



“This meeting is being held in a wheelchair-accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.”

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Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the City of Berkeley Public Health Division located at 1947 Center Street, Second Floor, during regular business hours. The Commission Agenda and Minutes may be viewed on the City of Berkeley website: <http://www.cityofberkeley.info/commissions>.

Please refrain from wearing scented products to this meeting.

Secretary:

Roberto A. Terrones, MPH
Health, Housing & Community Services Department
1947 Center Street, 2nd Floor
(510) 981-5324
E-mail: RTerrones@cityofberkeley.info



Community Health Commission

Community Health Commission

South Berkeley Senior Center,
2939 Ellis St, Berkeley, CA 94703

DRAFT MINUTES

Regular Meeting, Thursday September 26th, 2019

The meeting convened at 6:44 p.m. with Commission Chair Simpson presiding.

ROLL CALL

Present: Commissioners Webber, Speich, Carter, Smart (7:08), Gilman, Spigner, Rojas-Cheatham (6:53), Simpson, Imai, Rosales, Le, Katz (7:06), Narahari

Absent: None

Excused: Commissioners Engelman, Futoran

Staff present: Dr. Lisa Hernandez, Roberto Terrones, Elizabeth Greene

Community Members: Jess Grotensen, Dan Duncan

COMMENTS FROM THE PUBLIC: Jess Grotensen, Dan Duncan

PRESENTATIONS: City of Berkeley, Public Health Division—Dr. Lisa Hernandez: Updates

ACTION ITEM

1. M/S/C (Gilman/Webber): Motion to approve minutes from the July 25th, 2019 Meeting.

Ayes: Commissioners Webber, Speich, Carter, Gilman, Spigner, Rojas-Cheatham, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: None

Abstain: None

Absent from vote: Commissioners Rojas-Cheatham, Smart, Katz

Excused: Commissioners Engelman, Futoran

Motion Passed.

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2. M/S/C (Katz/Smart): Motion to extend Community Health Commission (CHC) meeting to 9:15PM.

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Spigner, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: None

Abstain: Commissioner Rojas-Cheatham

Absent from vote: None

Excused: Commissioners Engelman, Futoran

Motion Passed.

3. M/S/C (Rojas-Cheatham/Webber): Motion to prohibit cannabis products that are attractive to youth. A cannabis product that are, or are manufactured or packaged and designed to be, attractive to individuals under the age of 21, including but not limited to: 1. Cartoon likeness; 2. Any likeness to images, characters, or phrases that are popularly used to advertise to children; 3. Any imitation of candy packaging or labeling; 4. The terms "candy" or "candies". 5. Any cannabis product or packaging the City determines, on a case-by-case basis, is attractive to children.

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Spigner, Rojas-Cheatham, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: None

Abstain: None

Absent from vote: None

Excused: Commissioners Engelman, Rojas-Cheatham, Imai, Rosales

Motion Passed.

4. M/S/C (Smart/Rosales): Motion to recommend that City Council have a quota of 2 candidates for the delivery-only retailer quote, both equity candidates.

Ayes: Commissioners Speich, Carter, Smart, Gilman, Rojas-Cheatham, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: Commissioner Webber

Abstain: Commissioner Spigner

Absent from vote: None

Excused: Commissioners Engelman, Futoran

Motion Passed.

5. M/S/C (Speich/Webber): Motion to recommend the prohibition of signage that includes depiction of cannabis or cannabis products or logos.

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Spigner, Rojas-Cheatham, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: None

Abstain: None

Absent from vote: None

Excused: Commissioners Engelman, Futoran

Motion Passed.

6. M/S/C (Webber/Speich): Motion recommending that retail store fronts may not be located within 1000 feet of a school, junior college, university, daycare center, park, youth center, or library.

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Spigner, Rojas-Cheatham, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: None

Abstain: None

Absent from vote: None

Excused: Commissioners Engelman, Futoran

Motion Passed.

7. M/S/C (Speich/Katz): Motion extending meeting to 9:30PM.

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Spigner, Simpson, Rosales, Le, Katz, Narahari

Noes: None

Abstain: Commissioners Rojas-Cheatham, Imai

Absent from vote: None

Excused: Commissioners Engelman, Futoran

Motion Passed.

8. M/S/C (Speich/Rosales): Motion extending meeting to 9:45PM.

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Spigner, Rojas-Cheatham, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: None

Abstain: Commissioner Rojas-Cheatham

Absent from vote: None

Excused: Commissioners Engelman, Futoran

Motion Passed.

9. M/S/C (Katz/Gilman): Motion to approve the flyer and warning sign requirement which will incorporate the proposed language and authorize the chair to forward to staff and city council the additional comments from Professor Constantine as an appendix. Including the three warning signs: 1) Are you an immigrant? Are you on probation or parole? 3) Are you a medical cannabis customer?

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: None

Abstain: Commissioner Spigner

Absent from vote: Commissioner Rojas-Cheatham

Excused: Commissioners Engelman, Futoran

Motion Passed.

10. M/S/C (Simpson/Katz): Motion to extend meeting to 9:50PM.

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Spigner, Simpson, Imai, Rosales, Le, Katz, Narahari

Noes: None

Abstain: None

Absent from vote: Commissioner Rojas-Cheatham

Excused: Commissioners Engelman, Futoran

Motion Passed.

11. M/S/C (Katz/Webber): Motion to recommend City Council to fund public health campaigns to do cannabis education.

Ayes: Commissioners Webber, Speich, Carter, Smart, Gilman, Spigner, Simpson, Rosales, Katz, Narahari

Noes: None

Abstain: None

Absent from vote: Commissioner Rojas-Cheatham, Imai, Le

Excused: Commissioners Engelman, Futoran

Motion Passed.

12. M/S/C (Katz/Gilman): Motion to approve recommendations as corrected—to substitute or update the word smoking to be replaced with consumption—and to approve recommendations (communication) to the city council regarding cannabis ordinance 2.0.

Ayes: Commissioners Carter, Gilman, Spigner, Simpson, Rosales, Katz, Narahari

Noes: None

Abstain: Commissioners Speich, Webber, Smart

Absent from vote: Commissioner Rojas-Cheatham, Imai, Le

Excused: Commissioners Engelman, Futoran

Motion Passed.

NEXT MEETING

The next regular meeting will be on October 24th, 2019 at 6:30 p.m. at the South Berkeley Senior Center.

This meeting was adjourned at 10:03 p.m.

Respectfully Submitted, Roberto A. Terrones, Secretary.



Community Health Commission

Community Health Commission

South Berkeley Senior Center,
2939 Ellis St, Berkeley, CA 94703

MINUTES

Regular Meeting, Thursday July 25th, 2019

The meeting convened at 6:44 p.m. with Commission Chair Simpson presiding.

ROLL CALL

Present: Commissioners Webber, Futoran, Smart, Gilman, Spigner, Rojas-Cheatham (6:54), Simpson, Rosales, Le, Katz (6:47).

Absent: None.

Excused: Commissioners Engelman, Speich, Carter, Imai.

Staff present: Dr. Jose Ducos, Roberto Terrones, Elizabeth Greene

Community Members: Eva Chrysanthe, Rubin Ramona.

COMMENTS FROM THE PUBLIC: Eva Chrysanthe, Rubin Ramona.

PRESENTATIONS: City of Berkeley, Public Health Division—Dr. Jose Ducos: Updates.

ACTION ITEM

1. M/S/C (Futoran/Gilman): Motion to approve minutes from the July 9th, 2019 Special Meeting.

Ayes: Commissioners Futoran, Smart, Gilman, Spigner, Simpson, Le, Katz.

Noes: None.

Abstain: Commissioners Webber, Rosales.

Absent from vote: Commissioner Rojas-Cheatham.

Excused: Commissioners Engelman, Speich, Carter, Imai.

Motion Passed.

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2. M/S/C (Rojas-Cheatham/Rosales): Motion to support the ban of cannabis consumption lounges and elimination of paragraph 2 (City Council recommendation clause if item were to pass) in the City of Berkeley.

Ayes: Commissioners Speich, Gilman, Rojas-Cheatham, Simpson, Rosales, Le, Katz.

Noes: Commissioners Futoran, Webber.

Abstain: Commissioners Smart, Spigner.

Absent from vote: None.

Excused: Commissioners Engelman, Speich, Carter, Imai.

Motion Passed.

3. M/S/C (Gilman/Rosales): Motion to support the ban of branded cannabis merchandise with recommended amendments (technical edit [678f.supp.2d512](#) after U.S. common law in 4th paragraph) in the City of Berkeley.

Ayes: Commissioners Webber, Futoran, Smart, Gilman, Spigner, Simpson, Rosales, Le, Katz.

Noes: None

Abstain: None

Absent from vote: Commissioner Rojas-Cheatham.

Excused: Commissioners Engelman, Speich, Carter, Imai.

Motion Passed.

4. M/S/C (Simpson/Spigner): Motion to extend the Community Health Commission meeting to 9:10PM.

Ayes: Commissioners Webber, Futoran, Smart, Gilman, Spigner, Simpson, Rosales, Le, Katz.

Noes: None

Abstain: None

Absent from vote: Commissioner Rojas-Cheatham.

Excused: Commissioners Engelman, Speich, Carter, Imai.

Motion Passed.

5. M/S/C (Gilman/Futoran): Motion to support the sales ban of flavored cannabis products for smoking or vaping, and the sales of cannabis infused beverages that mimic alcopops in the City of Berkeley.

Ayes: Commissioners Webber, Futoran, Smart, Gilman, Spigner, Simpson, Rosales, Le.

Noes: None

Abstain: None

Absent from vote: Commissioner Rojas-Cheatham, Katz.

Excused: Commissioners Engelman, Speich, Carter, Imai.

Motion Passed.

6. M/S/C (Rosales/Smart): Motion to ban the expansion of cannabis cultivation outside the M district in the City of Berkeley.

Ayes: Commissioners Webber, Smart, Gilman, Simpson, Rosales, Le.

Noes: None

Abstain: Futoran, Spigner.

Absent from vote: Commissioner Rojas-Cheatham, Katz.

Excused: Commissioners Engelman, Speich, Carter, Imai.

Motion Passed.

7. M/S/C (Futoran/Rosales): Motion to approve revised Community Health Commission work plan for FY 2020.

Ayes: Commissioners Webber, Futoran, Smart, Gilman, Spigner, Simpson, Rosales, Le.

Noes: None

Abstain: None

Absent from vote: Commissioner Rojas-Cheatham, Katz.

Excused: Commissioners Engelman, Speich, Carter, Imai.

Motion Passed.

NEXT MEETING

The next regular meeting will be on September 26th, 2019 at 6:30 p.m. at the South Berkeley Senior Center.

This meeting was adjourned at 9:10 p.m.

Respectfully Submitted, Roberto A. Terrones, Secretary.

Minutes were approved during the September 26th, 2019, Community Health Commission meeting.

Community Health Commission Work Plan FY2019-2020

Guiding Philosophy: To look at health through the lens of equity, and to address, ameliorate, and abolish health inequities in Berkeley through our work while advancing other public health efforts.

Mission/Purpose:

1. Collaborate with the community and the Berkeley Public Health Division, and City of Berkeley to eliminate health inequity by:
 - a. Advocating for good policy to council that has the potential to improve the health of Berkeley residents that can be implemented, monitored, and evaluated.
 - b. Representing the community through the diversity of this commission
 - c. Increasing the public education/social marketing efforts, understanding, and awareness of issues
 - d. Advocating together with the residents of Berkeley most affected by institutional, social, organizational inequities/disparities
 - e. Providing a public forum for all community members to share concerns, ideas
2. Achieve general public health progress by being responsive to community needs and facilitating general health and safety.

Overall goals, issues & priorities: All issues can be addressed through a health equity lens.

- Increase healthy food security
- Advocate for the expansion of affordable housing
- Continue to urge that Alta Bates Berkeley Medical Campus remain open while also helping to suggest actions to address consequences of planned closure
- Be responsive in potential recommendations to help Berkeley residents, and care providers and clinics cope with potential federal disruption in healthcare policy and federal spending cuts
- Further address more social determinants of health
- Continue to be a community advocate to City Council to address structural, institutional, and health inequities impacting all underserved populations
- Work to have community health data measures documented in a timely manner and to promptly evaluate and act on novel data such as the Health Status Report
- Work to support policies and initiatives that advance UHC such as Medicare for all
- Advise the City Council as the Public Health Department develop their strategic plan

General steps and actions needed to meet priorities:

1. Better follow up with council implementations
2. Collaborate with other commissions to share resources and support recommendations
3. Focused/specialized ad-hoc subcommittees
4. Keep track of local, state, and federal policy and data flow

Specific steps and actions needed to meet priorities:

❖ Subcommittees

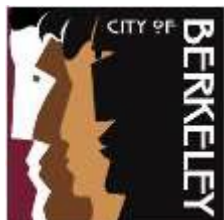
- **Strategic Planning subcommittee**
 - Serve as point of contact with Public Health Division for city's strategic plan and facilitate deliberation between full commission and division
 - Recommend structure of portion of agenda to educate commission on strategic plan development
- **Acute Services for Berkeley**
 - Continue to recommend actions to keep Alta Bates open
 - Consider ways to increase emergency care access in Berkeley
- **Basic Needs Security**

Focus on healthy food security and affordable/accessible housing

 - In terms of healthy food security:
 - Identify food recovery donation systems
 - Connect communities with healthy food resources (awareness)
 - Advocate for policies to mitigate unhealthy food consumption
 - Advocate for affordability and accessibility of healthy foods
 - In supporting programs like the Berkeley Food Institute, etc.,
 - In terms of accessible/affordable housing:
 - Identify areas of stark homelessness
 - Connect homeless communities with resources (awareness)
 - Advocate for affordable housing
 - Advocate for increased rent control
- **Policy tracking**
 - Track City Council minutes, state, and national legislative actions
 - Priority areas:
 - School lunch programs
 - Affordable housing in the Adeline area
- **Health Equity Subcommittee**
 - Engage Stakeholders on LGBT health equity issues to help complement findings of the Health Status Report
 - Follow up on status of the African American Holistic Resource Center
 - Work on cultural competency for health care providers--contact county health care providers and Kaiser
 - Review the Health Status Report- dialogues with staff and community to investigate the data and inequities, and recommend program interventions for the City Public Health Division
 - Implement efforts to improve immigrant access to health care
 - Investigate how health care providers are using technology to improve health
 - Meet with the public health officer to be informed
- **Chronic Disease Prevention**
 - Recommend presenters that can educate the commission on innovative approaches to chronic disease prevention
 - Consider the use of high profile figures in media campaigns to educate the community about chronic disease prevention.

- **Cannabis**
 - Decriminalizing and destigmatizing cannabis use throughout the Berkeley area
 - Advocating for holistic education of cannabis use throughout the community
 - Assessing holistically the risks and benefits of cannabis use in terms of community health
 - Assessing holistically how cannabis should be integrated within the local economy while maintaining the health of the community
 - .i.e. nurseries, dispensaries, etc.
 - Prioritizing community health following the legalization of cannabis with emphasis on holistically understanding the risk and benefits of cannabis
- Ad-hoc subcommittees as needed to quickly address City Council referrals
- Liaisons to other commissions
 - Housing Advisory Commission
 - Homeless Commission
 - Zero Waste Commission
 - Mental Health Commission
 - Human Welfare and Community Action Commission
 - Community Environmental Advisory Commission
 - Sugar Sweetened Beverage Panel

District	Last	First	Community Health Commission Subcommittees 2019						
			Acute Services for Berkeley	Health Equity	Policy Education	Basic Needs Security	Disease Prevention	Strategic Planning	Cannabis
1	Engelman	Alina	X						
1	Webber	Sara			X	X			
2	Vacant	Vacant							
2	Speich	Pamela			X		X		X
3	Futoran	Charles					X		
3	Carter	Donna	X		X				
4	Smart	Karma		X		X			
4	Gilman	John	X						x
5	Spigner	Tora		X	X				
5	Vacant	Vacant							
6	Rojas-Cheatham	Ann						X	X
6	Vacant	Vacant							
7	Simpson	May			X		X		X
7	Imai	Derek				X			
8	Rosales	Ces		X				X	
8	Le	Carolyn						X	
M	Vacant	Vacant							
M	Katz	Andy	X	X				X	
			4	4	5	3	3	4	4



Community Health Commission 2019 Meeting Dates

Community Health Commission (CHC)

Month	Meeting Day and Date	Time
January 2019	Thursday 1/24/19	6:30-9PM
February 2019	Thursday 2/28/19	6:30-9PM
March 2019	Thursday 3/28/19	6:30-9PM
April 2019	Thursday 4/25/19	6:30-9PM
May 2019	Thursday 5/23/19	6:30-9PM
June 2019	Thursday 6/27/19	6:30-9PM
July 2019	Thursday 7/25/19	6:30-9PM
August 2019 THE CHC DOES NOT MEET IN AUGUST		
September 2019	Thursday 9/26/19	6:30-9PM
October 2019	Thursday 10/24/19	6:30-9PM
November 2019	Thursday 11/21/19*	6:30-9PM
*Meeting in November is scheduled on the 3rd Thursday due to the Thanksgiving Holiday		
December 2019 THE CHC DOES NOT MEET IN DECEMBER		

A Vibrant and Healthy Berkeley for All

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<http://www.cityofberkeley.info/health/>

COUNCIL MEETING TIMELINE - COMMISSIONS
HEALTH, HOUSING & COMMUNITY SERVICES DEPARTMENT
Updated October 19, 2018

2019				Thursday 12:00 PM	Thursday 12:00 PM	Monday 2:30 PM	Wednesday 11:00 AM	Thursday 5:00 PM
COUNCIL MEETING DATE	Commission needs to take action by	Reports Due to Dept. Director	Reports Due to CAO	Dept. Reports Due to Clerk Day 33	Agenda Committee Packet to Print Day 19	Agenda Committee Meeting Day 15	Final Agenda Meeting - (Print Agenda on wed.) Day 13	Council Agenda Delivery Day 12
Winter Recess [December 12, 2018 – January 21, 2019]								
22-Jan	11/22	11/29	12/6	12/20	1/3	1/7	1/9	1/10
29-Jan	11/29	12/6	12/13	12/27	1/10	1/14	1/16	1/17
19-Feb	12/20	12/27	1/3	1/17	1/31	2/4	2/6	2/7
26-Feb	12/27	1/3	1/10	1/24	2/7	2/11	2/13	2/14
12-Mar	1/10	1/17	1/24	2/7	2/21	2/25	2/27	2/28
26-Mar	1/24	1/31	2/7	2/21	3/7	3/11	3/13	3/14
2-Apr	2/2	2/9	2/16	2/28	3/14	3/18	3/20	3/21
Spring Recess [April 3 through April 22]								
23-Apr	2/21	2/28	3/7	3/21	4/4	4/8	4/10	4/11
30-Apr	2/28	3/7	3/14	3/28	4/11	4/15	4/17	4/18
14-May	3/14	3/21	3/28	4/11	4/25	4/29	5/1	5/2
28-May	3/28	4/4	4/11	4/25	5/9	5/13	5/15	5/16
11-Jun	4/11	4/18	4/25	5/9	5/23	5/28 - Tue	5/29	5/30
25-Jun	4/25	5/2	5/9	5/23	6/6	6/10	6/12	6/13
9-Jul	5/9	5/16	5/23	6/6	6/20	6/24	6/26	6/27
16-Jul	5/16	5/23	5/30	6/13	6/27	7/1	7/3	7/3 - Wed
23-Jul	5/23	5/30	6/6	6/20	7/3 - Wed	7/8	7/10	7/11
Summer Recess [July 24 through September 9]								
10-Sep	7/11	7/18	7/25	8/8	8/22	8/26	8/28	8/29
24-Sep	7/25	8/1	8/8	8/22	9/5	9/9	9/11	9/12
15-Oct	8/15	8/22	8/29	9/12	9/26	9/30	10/2	10/3
29-Oct	8/29	9/5	9/12	9/26	10/10	10/15 - Tue	10/16	10/17
12-Nov	9/12	9/19	9/26	10/10	10/24	10/28	10/30	10/31
19-Nov	9/19	9/26	10/3	10/17	10/31	11/4	11/6	11/7
3-Dec	10/3	10/10	10/17	10/31	11/14	11/18	11/20	11/21
10-Dec	10/10	10/17	10/24	11/7	11/21	11/25	11/27	11/27 - Wed
Winter Recess [December 11, 2019 – January 21, 2020]								



Community Health
Commission

COMMUNICATION TO COUNCIL

Date: September 26, 2019

To: Mayor and Members of the City Council

From: May Simpson, Chair, Community Health Commission

Subject: A Public Health Approach to Proposed Round 2 Cannabis Ordinances

This letter addresses public health issues related to the Proposed Round 2 Cannabis Ordinance that the City Council is currently considering. Attached to this letter is a copy of a prior letter from the Community Health Commission, entitled “A Public Health Approach to the Proposed Cannabis Ordinances(s)” that was submitted to the Mayor and Members of the City Council, dated September 13, 2018. The concerns raised in that prior letter remain valid. However, the letter submitted at this time will focus on the issues currently before the council.

September 26, 2019 Community Health Commission Regular Meeting:

Action: M/S/C (Katz/Gilman) Motion to approve recommendations as corrected—to substitute or update the word smoking to be replaced with consumption—and to approve recommendations (communication) to the city council regarding cannabis ordinance 2.0.

Vote: **Ayes:** Carter, Gilman, Spigner, Simpson, Rosales, Katz, Narahari; **Noes:** None; **Abstain:** Speich, Webber, Smart; **Absent:** Rojas-Cheatham, Imai, Le; **Excused:** Engelman, Futoran

1. Regarding Proposals for Public Consumption Lounges:

Due to 1) the respiratory consequences of inhaling second hand marijuana smoke and the products of marijuana vaporization, 2) the additional public health concerns of intoxicated individuals leaving proposed cannabis lounges, 3) and the undermining of all the progress on smoke-free air and social denormalization of smoking that has been achieved over the past decades with leadership from cities like Berkeley, the CHC does not recommend consumption lounges. The CHC will also like to highlight that these lounges will not resolve the problems of people smoking on the streets.

Exposure to indoor smoke causes and exacerbates serious health conditions, including asthma and cardiovascular disease. Consideration of proposals for public smoking

lounges should follow the public health policies that inform the California Smoke-Free Workplace law, which only allow smoking in an “owner-operated business,” and many jurisdictions either subsequently prohibited or grandparented only existing uses. Labor Code 6404.5 defines an “owner-operated business” to mean “a business having no employees, independent contractors, or volunteers, in which the owner-operator of the business is the only worker.”

Workers and consumers should not be exposed to second-hand smoke. Even though cannabis smoke may not contain the harmful additives of cigarettes, the City Council should not allow public smoking lounges for the reasons referenced in the attached fact sheet regarding secondhand marijuana smoke published by the Berkeley-based Americans for Nonsmokers’ Rights Foundation.

To summarize:

“Smoke is smoke. Both tobacco and marijuana smoke impair blood vessel function similarly.

People should avoid both, and governments who are protecting people against secondhand smoke exposure should include marijuana in those rules.” -Matthew Springer, cardiovascular researcher and Associate Professor of Medicine, University of California, San Francisco

The American Society for Heating, Refrigeration, and Air Conditioning Engineering (ASHRAE) is the organization that develops engineering standards for building ventilation systems.

ASHRAE now bases its ventilation standard for acceptable indoor air quality on an environment that is completely free from secondhand tobacco smoke, secondhand marijuana smoke, and emissions from electronic smoking devices. No ventilation standard exists that renders indoor air safe from the health effects of secondhand smoke. In fact, the ASHRAE 62.01-2004 standard section 6.2.9, Ventilation in Smoking Areas, was unable to conclude any specific safe level, stating, “Smoking areas shall have more ventilation and/or air cleaning than comparable no-smoking areas. Specific ventilation rate requirements cannot be determined until cognizant authorities determine the concentration of smoke that achieves an acceptable level of risk.”

Research indicates that electronic vaping emits measurable contaminants that would be inhaled by workers and consumers, including propanediol and glycerine, and very high concentrations of PM2.5 (mean 197 $\mu\text{g}/\text{m}^3$; compare with the EPA ambient exposure standard of 35 $\mu\text{g}/\text{m}^3$ and the EU standard of 25 $\mu\text{g}/\text{m}^3$). The CHC is very concerned about health impacts that could be caused by exposure to toxic air contaminants, particularly involuntary exposure to workers, and urges the City Council to consider precautionary approaches to protect public health.

2. Prohibition of Branded Merchandise

The CHC recommends that the sale, distribution or licensing of branded cannabis merchandise as defined in section 5000(b) of the California Code of Regulations Title 16 Division 32 be prohibited in the City of Berkeley.

Branded merchandise such as caps and t-shirts are walking billboards that children are exposed to every day. The existing ban on cannabis advertising to children is meaningless without including a ban on branded merchandise.

According to the American Academy of Pediatrics : In order to fully protect children from marijuana marketing, branded merchandise such as t-shirts and other transportable items must be regulated, as not only are they are not location-specific, but they can also be among the most effective ways to advertise to children and youth.

Such restrictions on branded merchandise exist under federal tobacco law and have been held constitutional by the courts and not a violation of the First Amendment. In *Commonwealth Brands, Inc v. United States*, 678 F. Supp. 2d 512, the court stated:

Moreover, even if such items were distributed to adults only, and retained by adults only, this would not prevent the wearers from becoming walking advertisements that would continue to display the attractive imagery. Because such items penetrate the young persons' world, they are very effective in creating the sense that tobacco use is widely accepted, which is extremely important to children and adolescents.

The court also cited an Institute of Medicine report that found that the "ubiquity of such specialty items conveys the impression that tobacco use is the norm, which in turn fosters experimentation with tobacco and smokeless products by young people."

Accordingly, the Court concluded that the ban on brand-name tobacco product merchandise is not more extensive than necessary to serve Congress' substantial interest in reducing youth tobacco use by reducing youth possession of and exposure to branded merchandise. *Commonwealth Brands, Inc. v. United States*, 678 F. Supp. 2d 512.

The Court's logic applies equally to cannabis related merchandise.

3. Signage

Signage should not include depictions of cannabis or cannabis products. Logos with such depictions are also prohibited on signs, such as delivery vehicles.

4. Flyers and Warning Signs Language:

*Phrasing and content with considerations for revisions have been underlined and supplemented with comments from Dr. Constantine/Dr. Levine. The original flyer drafted by the respective doctors are included at the end of the communication. The language

below are drafted and selected based on research and evidence availability. The original flyer contains language that provides directions on what cannabis users/prospective users should do, which, after some considerations, were avoided due to compelled speech concerns.

*The following draft also only includes language. The CHC would like to emphasize the importance of graphic design and attractiveness of the flyer/warning signs in order to gather the public's attention. The function of flyers/notice is to reach the people and engage in considerations. If notices are created and dispersed without great attention to visual presentation, the public health backbone of advocacy will severely be impeded. Thus it is recommended to emphasis design in the creation of these notices.

Require in-store safety information - Health Advisory Material:

A printed material of at least 8" x 10.5", or equivalent print area (e.g. double-sided half-sheet), and minimum size 16 print should be visible to customers and available for distribution at each dispensing/sales counter. All deliveries, if allowed, should include a copy. The Health Division, in consultation with the Community Health Commission, should review and update the health advisory periodically as needed based on current scientific evidence, or at least every three years. The initial health advisory must state the following language:

Starting cannabis use young or frequent use may lead to problem use and, according to the Centers for Disease Control and Prevention (CDC), may harm the developing teen brain as late as age 25. Up to 10-20 percent of cannabis users develop dependence

Consider including/replacing with: Up to 1 out of 5 regular users of cannabis are likely to develop cannabis-use disorder, defined as a problem-causing pattern of cannabis use leading to significant impairment or distress. Most at risk are those starting at a younger age, and those with greater frequency of use.

Mental health - Cannabis use may be associated with greater risk of developing schizophrenia or other psychoses, and can result in increased mania symptoms in individuals with bipolar disorder. Individuals experiencing mental health symptom should consult with a provider.

Consider including/replacing with: For people with existing susceptibility to developing serious mental illnesses (psychoses), cannabis use can increase the risk that such a mental illness will develop. This is mainly true for (1) adolescents and young adults, (2) users who start cannabis at a younger age, and (3) frequent users.

Pregnancy risk - According to the Centers for Disease Control and Prevention (CDC), cannabis use during pregnancy can be harmful to your baby's health, including causing low birth weight and developmental problems.

Driving while high is a DUI - Cannabis use increases your risk of motor vehicle crashes.

Consider including/replacing with: The consumption of cannabis products impairs your ability to drive and operate machinery, and increases your chance of a motor vehicle crash

Heart disease - Cannabis smoking may increase short-term risk of triggering a heart attack or stroke for individuals at risk of heart disease.

Long-term cannabis smoking worsens respiratory symptoms and the frequency of chronic bronchitis.

Consider including/replacing with: Long-term cannabis smoking might worsen existing breathing problems, and could lead to more frequent chronic bronchitis episodes.

Edibles - When consuming edibles, cannabis levels may vary per serving, and the full effects may be delayed up to 2 hours. Starting with smaller doses may allow you to achieve desired effects and avoid intoxication.

Consider including/replacing with: unlike smoked or vaped cannabis, the full effects of cannabis edibles may be delayed up to two hours.

Consult with physician - Cannabis users are advised to consult with a physician to evaluate potential health risks.

Consider including/replacing with: a health care provider

***Distributing cannabis products** to adolescents under the age 21 is against California State Law.

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REQUIRED IN-STORE SAFETY INFORMATION – WARNING SIGN

A Cannabis Retailer must display a warning sign prominently behind the main dispensing counter. The sign must be at least 3 feet by 3 feet and be displayed at eye height (i.e., with mid-point 5 feet above the floor).

1. Attention pregnant and breastfeeding mothers - According to the U.S. Centers for Disease Control and Prevention (CDC), cannabis use during pregnancy can be harmful to your baby's health, including causing low birth weight and developmental problems

2. Driving while high is a DUI - Cannabis use increases your risk of motor vehicle

Crashes.

3. Teen and Youth Brain Development - Starting marijuana use young or using frequently may lead to problem use and, according to the CDC, may harm the developing brain as late as age 25.

4. Cannabis use may be associated with greater risk of developing schizophrenia or other psychoses. Risk is highest for frequent users.

5. Smoking cannabis long-term may make breathing problems worse.

THIS MESSAGE IS PROVIDED AS A PUBLIC SERVICE BY THE CITY OF BERKELEY

A Cannabis Retailer must display each of the following three warning signs, which are (i) at least 2 feet wide by 1 foot tall; (ii) posted at eye height (i.e., with mid-point 5 feet above the floor); and (iii) posted prominently and conspicuously facing consumers in a location where it will be seen by all customers, such as behind a dispensing counter, check-in or check-out counter, stating in English and Spanish:

ARE YOU AN IMMIGRANT? Using or possessing marijuana or working in the marijuana industry is legally risky for any noncitizen, even in California. This includes lawful permanent residents, undocumented persons, student with visas, and others. Marijuana is illegal under federal law, and federal law controls immigration. If you need to take medical marijuana, see an immigration attorney for advice. THIS MESSAGE IS PROVIDED AS A PUBLIC SERVICE BY THE CITY OF BERKELEY

ARE YOU ON PROBATION OR PAROLE? If you are prohibited from using drugs as a condition of your probation or parole, then possession or use of marijuana could violate your probation or parole. THIS MESSAGE IS PROVIDED AS A PUBLIC SERVICE BY THE CITY OF BERKELEY

ARE YOU A MEDICAL MARIJUANA CUSTOMER 18-20 YEARS OLD? If you are caught possessing marijuana without medical authorization, you could face legal consequences. THIS MESSAGE IS PROVIDED AS A PUBLIC SERVICE BY THE CITY OF BERKELEY

The Department of HHCS shall review and, if necessary, update the text of the required warnings as needed, but no less than once every three years, based on current scientific evidence and legal information.

5. Flavored products:

The CHC recommends Berkeley join Contra Costa County and ban the sale of flavored cannabis products for smoking or vaping, and join Pasadena and Mono County and ban the sale of cannabis infused flavored beverages that mimic “alco-pops.” All of the

members of the council are aware of the devastating ways that flavors have been used to promote tobacco use and addiction by youth, particularly youth of color. The council is already considering a ban on flavored tobacco products, including menthol, similar to that recently adopted in San Francisco. This trend has been exacerbated with the advent of flavored Juul and Juul like products for vaping nicotine. The same company invented Pax, one of the early vaping applications for cannabis. Flavors vaping and smoking products and beverages are now being used intensively by the cannabis industry in exactly the same way to attract youth to initiate consumption. Recent qualitative research with vulnerable California youth through the Oakland based FACES to the Future project confirmed that flavored products were considered the most attractive, and also that high potency products which lack the characteristic marijuana odors such as wax pens and vaping kits that are less easily detected by teachers and parents were being extensively used and widely used at school and at home.

6. Expansion of cultivation uses outside of the M District

Cannabis cultivation is associated with characteristic odors. We do not want kids going to school or growing up in places with cannabis odors. Simply biking through Oakland neighborhoods today you pass blocks saturated with cannabis odors. Cannabis cultivation locations should be at least 1,000 feet from any schools, community centers or residential areas.

7. Delivery

From the September 13th CHC recommendation proposal:

Delivery-only retail establishments should only be allowed for delivery of medicinal marijuana. To reduce youth access, no additional delivery-only businesses should be allowed for adult recreational use. If they are allowed they should only be extended to equity licensees. To monitor the effects of cannabis delivery in order to minimize the negative health outcomes of the residents, we also recommend limiting to only two licensees to properly identify the consequences and plan how to improve the delivery system to cater to better health outcomes.

8. Buffer

From the September 13th CHC recommendation proposal:

Any new retail outlet should have a 1,000 feet buffer from any school providing instruction in kindergarten or grades 1 through 12, Day Care Centers, parks, Youth Centers, libraries, junior colleges, colleges, or universities. The distance shall be measured by a straight line from the nearest point of the property line of the parcel on which the youth-serving facility is located to the nearest point of the property line of the parcel on which the applicant's business is located.

If the recommendation is not favored, CHC urge the council to consider 1,000 feet buffer from middle schools, high schools, youth centers, and parks. As previously discussed in past council meetings, adolescents during grades 7-12 are especially impressionable. Youth centers are also where these populations frequent, and where we would like them to frequent. From the public health standpoint, youth centers are locations which these age groups can build a community and support each other especially for youths who otherwise would spend their time on the streets.

9. Further Health Outreach and Promotion

Currently, much of cannabis health research data and study outcomes is based on the THC levels found few decades ago. Today's THC potency is almost 10 times stronger due to the various types of cannabis processings paved way by legalization and minimum regulations. As a result, what has been brought upon our city is an experiment, and a large component of that experiment involves the health and well-being of the Berkeley residents. Thus, the CHC recommends the city to engage in continuous cannabis health impact assessment (HIA) and for the outcomes to be included in the yearly Berkeley Health Status Report.

The CHC would also like to emphasize the importance of education and outreach. If we are to trust people to make their own decisions, we need to provide them with tools to help them make the best informed decision. This includes standard educational material or programs to better engage people in discussing the health and social impacts of cannabis. Passed with overwhelming majority vote, the CHC recommends the City Council to fund public health campaigns to do cannabis education to promote awareness.

Given what we currently know about recreational use and negative health impacts, there is certainly a subset of the population who are more risk than others. The key is to provide proper, timely aid to prevent further harm, and such intervention will not be possible if these users either cannot identify harm or do not know where to seek help. In a city where we clearly already have a large number of mentally ill, homeless residents, failing to inform youth of these risks, especially those with a family history of schizophrenia, is irresponsible. It is therefore urgent to start including more health into the conversation.

The Community Health Commission thanks you in advance for your direction, management and assistance with our mission.

If you have any questions or comments, please do not hesitate to contact the Community Health Commission Chair, May Simpson through the Commission Secretary, Roberto Terrones at RTerrones@cityofberkeley.info.

Attachment 1: "A Public Health Approach to the Proposed Cannabis Ordinance(s)", September 13, 2018.

Attachment 2: Secondhand Marijuana Smoke, American Nonsmokers' Rights Foundation.



Community Health Commission

ACTION CALENDAR

September 13, 2018

To: Honorable Mayor and Members of the City Council
From: Community Health Commission
Submitted by: Nuha Afzal Khalfay, Chairperson, Community Health Commission
Subject: A Public Health Approach to the Proposed Cannabis Ordinance(s)

RECOMMENDATION

We recommend that the City Council delay the development timeline, approval, and implementation of the proposed cannabis ordinances for the City of Berkeley until the health protection and promotion measures outlined in this document have been fully integrated into the proposed ordinances, and take appropriate measures such as a moratorium to assure that the state does not issue licenses to businesses in Berkeley until such time as local policy is defined.

SUMMARY

California Proposition 64, the Adult Use Marijuana Act, permits local governments to establish regulations for the production, sale, marketing, and cultivation of marijuana for recreational use. On July 25, 2017, Mayor Arreguin and the City Council referred the development of local ordinances of non-medicinal cannabis to the City Manager and the Cannabis Commission, in order to protect public health, safety, and welfare.

Recent study findings indicate that legalization of recreational cannabis should be carried out cautiously, to prevent undue exposure of youth, pregnant women, and the expansion of problem use; that unfettered expansion and diversification of products and of marketing are not prudent; and that, like tobacco and alcohol, cannabis use may pose significant risks to public health, especially when initiated early.

In this document we take the lessons learned from the public health responses to tobacco and alcohol use and recommend limits on cannabis access, cultivation, sales and marketing in the City of Berkeley, as well as methods for investment in addressing problem cannabis usage and promoting the public's health.

FISCAL IMPACTS OF RECOMMENDATION

Limited loss in local tax revenue from the delay in implementing the relevant cannabis ordinances. Long-term savings to the Police, Fire, and Health, Housing & Community Services Departments, as well as the Berkeley Unified School District, from decreases in problem use among youth and pregnant women.

CURRENT SITUATION AND ITS EFFECTS

Based on the most reliable and up-to-date scientific evidence, while legalization can help mitigate the negative social effects of the war on drugs, excessively rapid introduction of newly legalized recreational cannabis (“cannabis”), presents a significant potential threat to the public health, safety, and welfare of the residents of Berkeley, and particularly to youth and pregnant women.

Even before legalization of adult use of cannabis, the perception of risk from cannabis consumption has dropped from 58.3% to 31.1% among youth nationally between 2000 and 2016;¹ and use during pregnancy has risen substantially between 2000 and 2014, increasing the risk of low birth weight.² Between 2009 and 2016 use in Northern California pregnant women increased from 4.2% to 7.1, in teen mothers the increase was from 12.5% to 21.8%, and in young mothers ages 18 to 24 years use rose from 9.8% to 19%.³

In 2013-2015, the prevalence of lifetime marijuana use (7 or more times) among 11th graders in the Berkeley Unified School District (BUSD) was 38%, almost double that of the state as a whole (19.2%) and substantively more than for Alameda county (22.0%),⁴ indicating that Berkeley youth have not had difficulty obtaining marijuana for recreational use. For BUSD 11th graders, 11.4% of boys and 4.4% of girls used marijuana on more than 10 days in the previous month, vs. 8.6% and 4.7% respectively, in Alameda County.⁵

In 2017, the National Academies of Sciences, Engineering and Medicine (NASEM) reviewed the available scientific evidence on the health effects of cannabis and cannabis-derived products, and while noting substantial evidence of therapeutic effectiveness of medicinal cannabis for a limited number of indications, noted evidence

¹ Johnston LD, O'Malley PM, Miech RA, Bachman JG, Schulenberg JE. *Monitoring the Future National Survey Results on Drug Use, 1975-2016: Overview, Key Findings on Adolescent Drug Use*. Ann Arbor: Institute for Social Research, The University of Michigan; 2017.

² Brown QL, Sarvet AL, Shmulewitz D, Martins SS, Wall MM, Hasin DS. Trends in Marijuana Use Among Pregnant and Nonpregnant Reproductive-Aged Women, 2002-2014. *JAMA*. 2017;317(2):207-209. doi:10.1001/jama.2016.17383.

³ Young-Wolff KC, Tucker L, Alexeeff S, et al. Trends in self-reported and biochemically tested marijuana use among pregnant females in California from 2009-2016. *JAMA*, 318(24): 2490-2491.

⁴ Kidsdata.org. *Marijuana use in lifetime, by grade level*. Accessed 12 March 18.

⁵ *Ibid.*

of association of cannabis use with harm in a wide range of areas.⁶ The NASEM study found “substantial evidence”⁷ to support the following conclusions:

- a) Initiation of use at an earlier age or more frequent use is a risk factor for the development of problem cannabis use;
- b) Maternal cannabis smoking during pregnancy is associated with low birth weight in offspring;
- c) Cannabis use is associated with increased risk of motor vehicle crashes;
- d) Cannabis use increases the risk of development of schizophrenia and other psychoses, with the highest risk among the most frequent users;
- e) Long-term cannabis smoking is associated with worse respiratory symptoms and more frequent chronic bronchitis episodes; and
- f) Increases in cannabis use frequency are associated with developing problem cannabis use.

The NASEM study found that less conclusive, but still worrisome, emerging evidence exists for a wide range of other harms, including impaired academic achievement and educational outcomes, development of substance use disorders, suicide completion, high blood pressure and increased unemployment, among others.

An additional concern is that even in states that have legalized adult use of marijuana, Federal immigration authorities are deporting immigrants (documented or undocumented) for cannabis possession, use, or working in the industry. At a time of heightened risk to the immigrant community, alerting immigrants to this additional legal hazard is important.

In light of these issues and other health effects, the Community Health Commission recommends setting a prudent and thoughtful approach to the complex issues surrounding legalization that should include strengthening the protection of youth and informing pregnant women and others on the foreseeable impacts of the legalization of adult use of recreational marijuana.

BACKGROUND

California Proposition 64, the Adult Use Marijuana Act, permits local governments to establish regulations for the production, sale, marketing and cultivation of marijuana for recreational use. On July 25, 2017, Mayor Arreguín and the City Council referred the

⁶ The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research | The National Academies Press. <https://www.nap.edu/catalog/24625/the-health-effects-of-cannabis-and-cannabinoids-the-current-state>. Accessed July 12, 2017.

⁷ ***The Academies defined Substantial Evidence as follows:*** *There is strong evidence to support or refute a statistical association between cannabis or cannabinoid use and the health endpoint of interest.*

development of local ordinances of non-medicinal cannabis to the City Manager and the Cannabis Commission, in order to protect public health, safety, and welfare.

The Community Health Commission wants to assure that the local ordinances put in place to regulate cannabis in Berkeley reflect a public health approach. We propose that the City of Berkeley's cannabis ordinances address the following issues to make sure the public's health is being protected:

RETAIL OUTLETS

- Limit retail outlets to six. Existing regulation for retail sales of medicinal marijuana limit the number of locations to six. As these six have been allowed to sell adult recreational as well as medicinal marijuana, we recommend that the City limit the total number of retail outlets for both medicinal and adult recreational use to six. We also know from tobacco that outlet density is positively correlated with youth cigarette smoking.⁸ Thus, for a city the size of Berkeley, with a population of approximately 121,240, six retail outlets are sufficient to provide a ratio of 1 outlet per 20,206 people.⁹ Los Angeles County is recommending 1 storefront outlet per 52,000 residents and Washington State started with 1:22,000 residents. If even 1-2 new retailers are allowed, they should be limited to "equity applicants."
- Community input is needed on the decision to open any additional outlets and where these should be situated. We recommend a Conditional Use Permit to assure that the community is heard and so that the burden of retail outlets is not concentrated on one area of the City.
- Delivery-only retail establishments should only be allowed for delivery of medicinal marijuana. To reduce youth access, no additional delivery-only businesses should be allowed for adult recreational use. All sales and dispensing of Cannabis and Cannabis Products shall be conducted in-person on the Premises of the Cannabis Retailer. Off-site Delivery to the Consumer of adult use Cannabis or Cannabis Products is not allowed. Cannabis Retailing by means of Internet ordering or telephone ordering and Delivery to the Consumer service is prohibited in Berkeley.
- Any new retail outlet should have a 1,000 feet buffer from any school providing instruction in kindergarten or grades 1 through 12, Day Care Centers, parks, Youth Centers, libraries, junior colleges, colleges, or universities. The distance shall be measured by a straight line from the nearest point of the property line of the parcel on which the youth-serving facility is located to the nearest point of the property line of the parcel on which the applicant's business is located.

⁸ Finan LJ, Lipperman-Kreda S, Abadi M, et al. Tobacco outlet density and adolescents' cigarette smoking: a meta-analysis. *Tobacco Control*. Published Online First: 08 March 2018. doi: 10.1136/tobaccocontrol-2017-054065

⁹ United States Census Bureau. Quickfacts: Berkeley city, California.

www.census.gov/quickfacts/fact/table/berkeleycitycalifornia/PST045216. Accessed 14 March 18.

Public Health Approach to Cannabis Ordinances

- Cannabis Retailers should sell only Cannabis and other Cannabis Products, produced and distributed by persons licensed by the State of California, and Cannabis Accessories. They may not sell other goods, including but not limited to food; tobacco products; alcoholic beverages; non-cannabis medicines or supplements, or items of clothing. The Cannabis Retailer shall not hold or maintain a permit as a food service establishment or cottage food establishment from the City of Berkeley. A Cannabis Retailer may 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. A Cannabis Retailer may not hold or maintain a license to sell tobacco products from the City of Berkeley or the State of California. A permit shall not be issued to authorize Cannabis Retailing in a Pharmacy.
- Lounges and other methods of on-site consumption of recreational marijuana should be prohibited. No Cannabis Product shall be smoked, ingested or otherwise consumed on the premises of a permit holder or in the public right-of-way within twenty-five feet of a Cannabis Retailer. Cannabis Retailers shall post a sign near their entrances and exits providing notice of this policy.

RESTRICTIONS ON ADVERTISING AND MARKETING

- Mirror the current BMC 20.66.030 Tobacco product advertising: No person shall place or maintain, or cause or allow to be placed or maintained any cannabis product advertising in any publicly visible location within one thousand four hundred feet of the perimeter of any school.
- No claims may be made in Advertising or Marketing materials in Berkeley for Cannabis or Cannabis Products or brands that assert such products are safe because they are regulated by the state or local licensing authority (e.g., “state-approved” or “state-licensed”). This restriction does not apply to the display of license or permit numbers where required.
- Advertising and Marketing materials in Berkeley for adult-use Cannabis or Cannabis Products or brands may not include claims of therapeutic or curative effects.
- Products that may not be sold in Berkeley may not be Advertised in Berkeley.
- Advertising and Marketing materials in Berkeley for Cannabis and Cannabis Products or brands may not be Attractive to Children or Youth.
- Advertising and Marketing materials in Berkeley may not depict activities or conditions considered risky when under the influence of Cannabis, such as operating a motorized vehicle or boat, being pregnant, or breastfeeding.

PROHIBITED PRODUCT TYPES

- (a) Cannabis Retailers should not offer for sale, or possess with intent to sell or offer for sale or use:
- i) Any Cannabis or Cannabis Product that is Attractive to Children or Youth.
 - ii) Any Cannabis or Cannabis Product with Packaging or Labeling that is Attractive to Children or Youth.
 - iii) Synthetic cannabinoid containing products.
 - iv) Cannabis flower with potency in excess of 20% THC content.
 - v) Cannabis Products with THC content in excess of 50%.
 - vi) Cannabis flower to which a Characterizing Flavor has been added.
 - vii) Cannabis Products, other than those Edible Cannabis Products noted in (b) below, to which a Characterizing Flavor has been added.
 - viii) Cannabis or Cannabis Products whose Packaging, Labeling, or Marketing materials include claims of health, therapeutic or curative effects, or claims related to “potency” (beyond listing of cannabinoid content), “strength,” “high,” or being “natural.”
 - ix) Cannabis or Cannabis Products that contain any noncannabinoid additive that would increase potency, toxicity or addictive potential, or that would create an unsafe combination with other psychoactive substances. Prohibited additives include, but are not limited to, nicotine, caffeine and alcohol [excepting a minimum of alcohol that is residual from manufacturing or required solvents for the cannabis containing product if the product’s Packaging, Labeling and Marketing make no other reference to alcoholic beverages].
 - x) Any Cannabis Product that would otherwise be classified as a potentially hazardous food (as defined in the Health and Safety Code 113871), including a food that requires time or temperature control to limit pathogenic microorganism growth or toxin formation.
 - xi) Any Cannabis-infused ready-to-drink beverages, powders, gels or other concentrates with instructions for the preparation of Cannabis-infused beverages.
 - xii) Any Cannabis product that the Health, Housing and Community Services Department determines is easily confused with a commercially available food without Cannabis.
- (b) A Cannabis Retailer may sell no more than 10 (ten) product variations (SKUs) of Edible Cannabis Products, with or without Characterizing Flavors, in the form of hard lozenges, or chocolates with no additional flavors, with individually wrapped servings not exceeding 10 mg THC, and packages not exceeding 100 mg per package.

- (c) Tinctures and other non-Edible Cannabis Products may not have Characterizing Flavors, may not exceed 1,000 mg THC per package for adult-use, and must have clear instructions and dispensing mechanism such as a marked dropper or other device for dispensing doses of 10 mg THC or less.
- (d) Cannabis or a Cannabis Product is presumed to have a Characterizing Flavor if a Manufacturer or any of the Manufacturer's agents or employees has:
- i) Made a public statement or claim that the Cannabis or Cannabis Product has or produces a Characterizing Flavor, including, but not limited to, text and/or images on the product's Labeling or Packaging that are used to explicitly or implicitly communicate information about the flavor, taste, texture or aroma of a Cannabis Product; or
 - ii) Taken actions directed to consumers that would reasonably be expected to result in consumers believing that the Cannabis or Cannabis Product imparts a Characterizing Flavor.

Every Cannabis Retailer shall maintain on the Premises the original Labeling and Packaging provided by the Manufacturer for all Cannabis Products that are sold or offered for sale by the establishment separately from the original Packaging designed for retail sale to the consumer. The original Labeling and Packaging from which the contents are sold separately shall be maintained during such time as the contents of the package are offered for sale, and may be disposed of upon the sale of the entire contents of such package.

WARNING LABELS

- The "exit packaging" for cannabis products, including edibles, should have large warning labels.

Any Opaque Exit Package provided by the retailer for Cannabis or Cannabis Product purchased by a customer must carry one of the following warnings in a black-outlined yellow box covering 20% of the front panel of the exit packaging and using at least 12 point font. Each of the warnings should be provided on an equal proportion of exit packaging provided. The Department of HHCS should review and update warnings as needed based on current scientific evidence at least every three years. Stickers are acceptable.

- a. **Are you pregnant or breastfeeding?** According to the Centers for Disease Control and Prevention (CDC), marijuana use during pregnancy can be harmful to your baby's health, including causing low birth weight and developmental problems. **GOVERNMENT HEALTH WARNING.**
- b. **Driving while high is a DUI.** Marijuana use increases your risk of motor vehicle crashes. **GOVERNMENT HEALTH WARNING.**

- c. **Not for Kids or Teens!** Starting marijuana use young or using frequently may lead to problem use and, according to the Centers for Disease Control and Prevention (CDC), may harm the developing teen brain. **GOVERNMENT HEALTH WARNING.**
- d. Marijuana use may be associated with **greater risk of developing schizophrenia** or other psychoses. Risk is highest for frequent users. **GOVERNMENT HEALTH WARNING.**
- e. Smoking marijuana long term may **make breathing problems worse.** **GOVERNMENT HEALTH WARNING.**

PRICING AND DISCOUNTING

- **PROHIBITION ON THE SALE OF CANNABIS FOR LESS THAN THE LISTED PRICE.** No Cannabis Retailer shall: (1) honor or accept a Price Reduction Instrument in any transaction related to the sale of Cannabis or Cannabis Products to a consumer; (2) sell or offer for sale Cannabis or Cannabis Products through any multi-package discount or otherwise provide to a consumer any Cannabis or Cannabis Products for less than the Listed Price in exchange for the purchase of any other Cannabis or Cannabis Product; (3) sell, sell at a discount, offer for sale, or otherwise provide any product other than Cannabis or Cannabis Products in exchange for the purchase of Cannabis or Cannabis Products; or (4) otherwise sell, offer for sale, or provide Cannabis or Cannabis Products for less than the Listed Price. In addition, Cannabis Retailers must sell, offer for sale, or provide Cannabis or Cannabis Products for the same listed price every day of the week in a given week.
- **PRICE FLOOR FOR CANNABIS AND CANNABIS PRODUCTS.** The Department of HHCS is authorized, but not required, after 5 years from the effective date of this measure, to establish minimum prices for Cannabis and Cannabis Products. If such a Price Floor is established, Cannabis Retailers may not sell Cannabis or Cannabis Products below the minimum price; City of Berkeley Department of HHCS must review the appropriateness of the Price Floor at least every two years and may adjust the Price Floors at that time to account for changes in the consumer price index, or other considerations related to reducing illegal commerce. The Department of HHCS may promulgate such rules as may be necessary for the purpose of carrying out this section.

REQUIRED IN-STORE SAFETY INFORMATION

- A Cannabis Retailer must display a warning sign prominently behind the main dispensing counter. The sign must be at least 3 feet by 3 feet and be displayed at eye height (i.e., with mid-point 5 feet above the floor).

WARNING:

1. **Are you pregnant or breastfeeding?** According to the U.S. Centers for Disease Control and Prevention (CDC), marijuana use during pregnancy can be harmful to your baby's health, including causing low birth weight and developmental problems.
2. **Driving while high is a DUI.** Marijuana use increases your risk of motor vehicle crashes.
3. **Not for Kids or Teens!** Starting marijuana use young or using frequently may lead to problem use and, according to the CDC, may harm the developing teen brain.
4. Marijuana use may be associated with **greater risk of developing schizophrenia** or other psychoses. Risk is highest for frequent users.
5. Smoking marijuana long-term may **make breathing problems worse.**

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- A Cannabis Retailer must display each of the following three warning signs, which are (i) at least 2 feet wide by 1 foot tall; (ii) posted at eye height (i.e., with mid-point 5 feet above the floor); and (iii) posted prominently and conspicuously facing consumers in a location where it will be seen by all customers, such as behind a dispensing counter, check-in or check-out counter, stating in English and Spanish:
 - **ARE YOU AN IMMIGRANT? Using or possessing marijuana or working in the marijuana industry is legally risky for any noncitizen, even in California.** This includes lawful permanent residents, undocumented persons, student with visas, and others. Marijuana is illegal under federal law, and federal law controls immigration. If you need to take medical marijuana, see an immigration attorney for advice. THIS MESSAGE IS PROVIDED AS A PUBLIC SERVICE BY THE CITY OF BERKELEY
 - **ARE YOU ON PROBATION OR PAROLE?** If you are prohibited from using drugs as a condition of your probation or parole, then possession or use of marijuana could violate your probation or parole. THIS MESSAGE IS PROVIDED AS A PUBLIC SERVICE BY THE CITY OF BERKELEY
 - **ARE YOU A MEDICAL MARIJUANA CUSTOMER 18-20 YEARS OLD?** If you are caught possessing marijuana without medical authorization, you could face legal consequences. THIS MESSAGE IS PROVIDED AS A PUBLIC SERVICE BY THE CITY OF BERKELEY

- The Department of HHCS shall review and, if necessary, update the text of the required warnings as needed, but no less than once every three years, based on current scientific evidence and legal information.

RESTRICTIONS ON BRANDED MERCHANDISE

- No Cannabis Business or Cannabis or Cannabis Product brand identification, including logos, trademarks or names, may be used or licensed for use on clothing, toys, games, or game equipment, or other items that are typically marketed primarily to or used primarily by persons under the age of 21, or that are Attractive to Children or Youth.

TAX PROPOSALS AND USES FOR SAID TAX

- The City of Berkeley recently reduced the tax on adult use cannabis from 10% to 5%. To be most effective at addressing the harms caused by the past criminalization of marijuana possession and to promote the public's health, we recommend in one year that the City Council raise the tax, with a ceiling of 15% of gross receipts, and an additional tax of up to one percent (1%) of the gross receipts from high potency cannabis and each high potency cannabis product cultivated, manufactured or sold by the taxpayer, multiplied by the percent of tetrahydrocannabinol (THC) content of the product above 17%. Experience from other states has shown a rapid fall in price in the first two years post-legalization, which will be likely to increase youth consumption.
- Building on the success of the Sugar Sweetened Beverage Tax and its board, we recommend that the City Council establish a Cannabis Tax Community Advisory Board of nine residents of the City of Berkeley to recommend use of tax proceeds and priorities for funding, make annual recommendations on the spending of tax proceeds, recommend appropriate efforts to evaluate previous expenditures, and to review the annual report. Spending decisions would remain with the City Council, which may choose not to accept any particular recommendation of the Cannabis Tax Community Advisory Board.
 - The Board shall have at least one public health professional, one expert in addiction or substance use prevention and treatment, one physician, a representative of a community based organization, a representative of community clinics, a school nurse or school-based mental health professional, a representative of a community based organization serving low income people, the city health officer or his or her designee. At least

two members shall be residents of communities disproportionately affected by drug-related incarceration.

- The Board shall advise and make recommendations on how to best to spend funds to the City Council, to:
 1. Prevent cannabis consumption by youth, during pregnancy or in excessive or harmful ways;
 2. Prevent other forms of substance abuse or addiction;
 3. Prevent other leading causes of illness, injury and premature death in the community whether or not arising from cannabis use; and/or
 4. Promote wellness and reduce inequity in health conditions;
 5. Reduce negative social impact of substance abuse;
 6. Reduce drug-related incarceration, including, for example:
 - i. Support to reduce new drug-related incarceration;
 - ii. Programs to assist residents in expungement or reclassification of records of marijuana convictions allowable pursuant to MAUCRSA;
 - iii. Re-entry programs for those released from incarceration to avoid recidivism; and
 - iv. Job training programs and other community-based and educational programs, especially those that will minimize drug-related incarceration.

- Recommended activities may include promoting or implementing policy, systems or environmental changes to create a healthier community or to reduce drug-related incarceration, providing education, or community-based programs serving residents of the City of Berkeley with a focus on low-income communities

RATIONALE FOR RECOMMENDATION

We are making these recommendations as we have learned from the public health experience with tobacco and alcohol that products intended for adults are often marketed and accessible to children and youth. We have also learned from the other states that have recently legalized adult use of marijuana that changes in consumption patterns and pricing may put the public's health at risk. Therefore, the Community Health Commission is making the above recommendations to safeguard the health, safety and welfare of the residents of the City of Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The alternative action is to allow the current discussion to go forward without the input of the Community Health Commission; this is not a viable option.

ENVIRONMENTAL SUSTAINABILITY

These measures are likely to reduce second hand smoke exposures from marijuana, exposure of cannabis business employees to second-hand smoke, and to delay or decrease water and electricity consumption related to cannabis production or sale.

CONTACT PERSON

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Attachments:

- 1: *Monitoring the Future National Survey Results on Drug Use, 1975-2016: Overview, Key Findings on Adolescent Drug Use*. Ann Arbor: Institute for Social Research, The University of Michigan; 2017.
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4. Kidsdata.org. *Marijuana use in lifetime, by grade level*.
5. The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research | The National Academies Press.
<https://www.nap.edu/catalog/24625/the-health-effects-of-cannabis-and-cannabinoids-the-current-state>. Accessed July 12, 2017.
6. The Academies defined Substantial Evidence as follows: There is strong evidence to support or refute a statistical association between cannabis or cannabinoid use and the health endpoint of interest. ¹ Safeway (3), Berkeley Bowl (2), Whole Foods (2), Traders Joes, Berkeley Natural Grocery, Monterey Market, Star Grocery.
7. Tobacco outlet density and adolescents' cigarette smoking: a meta-analysis. *Tobacco Control*. Published Online First: 08 March 2018. doi: 10.1136/tobaccocontrol-2017-054065
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www.census.gov/quickfacts/fact/table/berkeleycitycalifornia/PST045216. Accessed 14 March 18.



Secondhand Marijuana Smoke

“Smoke is smoke. Both tobacco and marijuana smoke impair blood vessel function similarly. People should avoid both, and governments who are protecting people against secondhand smoke exposure should include marijuana in those rules.”

-Matthew Springer, cardiovascular researcher and Associate Professor of Medicine, University of California, San Francisco

Facts about secondhand marijuana smoke:

- Marijuana smoke is created by burning components of plants in the genus Cannabis.
- Secondhand marijuana smoke is a complex chemical mixture of smoke emitted from combusted marijuana and the smoke that is exhaled by the user.
- Secondhand marijuana smoke contains fine particulate matter that can be breathed deeply into the lungs.
- Secondhand marijuana smoke contains many of the same cancer-causing substances and toxic chemicals as secondhand tobacco smoke. Some of the known carcinogens or toxins present in marijuana smoke include: acetaldehyde, ammonia, arsenic, benzene, cadmium, chromium, formaldehyde, hydrogen cyanide, isoprene, lead, mercury, nickel, and quinoline.ⁱ
- Marijuana smoke contains tetrahydrocannabinol (THC), the active chemical in cannabis.

Health risks of exposure to secondhand marijuana smoke:

Since marijuana is illegal under federal law, there have been a limited number of studies examining health risks associated with marijuana use and exposure in the United States. Health risks from primary and secondhand smoke exposure may also be difficult to determine as marijuana is often used in combination with tobacco.

However, peer-reviewed and published studies do indicate that exposure to secondhand marijuana smoke may have health and safety risks for the general public, especially due to its similar composition to secondhand tobacco smoke.

- Secondhand smoke from combusted marijuana contains fine particulate matter that can be breathed deeply into the lungs,ⁱⁱ which can cause lung irritation, asthma attacks, and makes respiratory infections more likely. Exposure to fine particulate matter can exacerbate health problems especially for people with respiratory conditions like asthma, bronchitis, or COPD.ⁱⁱⁱ
- Significant amounts of mercury, cadmium, nickel, lead, hydrogen cyanide, and chromium, as well as 3 times the amount of ammonia, are found in mainstream marijuana smoke than is in tobacco smoke.^{iv}
- In 2009, the California Office of Environmental Health Hazard Assessment added marijuana smoke to its Proposition 65 list of carcinogens and reproductive toxins, also known as the Safe Drinking Water and Toxic Enforcement Act of 1986. It reported that at least 33 individual constituents present in both marijuana smoke and tobacco smoke are Proposition 65 carcinogens.^{v, vi}

- Secondhand smoke from marijuana has many of the same chemicals as smoke from tobacco, including those linked to lung cancer.^{vii}
- Secondhand marijuana exposure impairs blood vessel function. Published studies on rats show that thirty minutes of exposure to secondhand marijuana smoke at levels comparable to those found in restaurants that allow cigarette smoking led to substantial impairment of blood vessel function. Marijuana smoke exposure had a greater and longer-lasting effect on blood vessel function than exposure to secondhand tobacco smoke.^{viii}
- One minute of exposure to marijuana SHS substantially impairs endothelial function in rats for at least 90 minutes, considerably longer than comparable impairment by tobacco SHS. The findings in rats suggest that SHS can exert similar adverse cardiovascular effects regardless of whether it is from tobacco or marijuana.^{ix}
- Secondhand marijuana smoke and secondhand tobacco smoke is similar in many ways. More research is needed, but the current body of science shows that both tobacco and marijuana smoke have similar chemical composition and suggests that they may have harmful cardiovascular health effects, such as atherosclerosis (partially blocked arteries), heart attack, and stroke.^x
- Particle concentrations from dabbing and vaporizing cannabis can create levels of indoor air pollution similar as those seen in extreme air pollution events like wildfires and severe industrial pollution. Exposure at these concentrations can cause cardiovascular and respiratory disease.^{xi}
- People who are exposed to secondhand marijuana smoke can have detectable levels of THC (tetrahydrocannabinol) in their blood and urine.^{xii}
- Marijuana also can be contaminated with mold, insecticides or other chemicals that may be released in secondhand smoke.^{xiii}

Including Marijuana Smoking in Smokefree Public Place and Workplace Laws:

- Everyone has the right to breathe smokefree air. Smokefree policies are designed to protect the public and all workers from exposure to the health hazards caused by exposure to secondhand tobacco smoke. The same should be true for secondhand marijuana smoke.
- The percent of U.S. adults who use marijuana more than doubled from 4.1% to 9.5% between 2001-2002 and 2012-2013,^{xiv} which may also indicate an increase in exposure to secondhand marijuana smoke.
- The American Society for Heating, Refrigeration, and Air Conditioning Engineering (ASHRAE) is the organization that develops engineering standards for building ventilation systems. ASHRAE now bases its ventilation standard for acceptable indoor air quality on an environment that is completely free from secondhand tobacco smoke, secondhand marijuana smoke, and emissions from electronic smoking devices.^{xv}
- In order to protect public health, improve consistency, and aid enforcement, smokefree laws for public places and workplaces should include tobacco as well as marijuana, whether it is smoked or aerosolized. Allowing marijuana smoking in places where smoking is now prohibited could undermine laws that protect the public from exposure to secondhand smoke. The Tobacco Control Legal Consortium issued an informative brief on [Lessons from Tobacco Control for Marijuana Regulation](#).^{xvi}

- Smokefree policies provide incentives to quit smoking, help denormalize smoking behavior, and are particularly effective among youth and young adults who are vulnerable to visual cues and social norms of smoking. It is likely that smokefree policies for marijuana will have a similar effect.
- As of October 2019, 607 localities and 25 states/territories/commonwealths restrict marijuana use in some or all smokefree spaces.

In the interest of public health, the use of combustible or aerosolized marijuana should be prohibited wherever tobacco smoking is prohibited.

ANR Foundation’s Position on Exposure to Secondhand Marijuana Smoke:

Marijuana smoke is a form of indoor air pollution. Therefore, ANR, our lobbying organization, includes marijuana within the definition of smoking, and all of our model laws and policies include a prohibition on smoking marijuana wherever smoking of tobacco products is not allowed. Our organization does not have a position on whether marijuana should be legalized; we are committed to smokefree protections from secondhand smoke from tobacco products, marijuana and aerosol from electronic smoking devices.

Nobody should have to breathe secondhand marijuana smoke at work, in public, or where they live. If we want healthy, smokefree air for workers and the public, then products like marijuana and electronic smoking devices (which can be used to “vape” a wide range of substances, including marijuana and hash oil) must not be used in smokefree environments where others are forced to breathe the secondhand emissions.

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For more information, visit <https://nonsmokersrights.org/marijuana-smoke> or call us at 510-841-3032.

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