MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, May 5, 2016
2:00 PM

AGENDA

I. Call to Order
A. Roll Call and Ex Parte Communication Disclosures
B. Changes to Order of Agenda

II. Public Comment

III. Approval of Minutes
A. April 7, 2016 Draft Action Minutes (Attachment)

IV. Planning Staff Report

V. Chairperson's Report

VI. Subcommittee Report

VII. Discussion and Action Items
A. Discuss action taken at March 15, 2015 Council meeting regarding BMC changes regarding cultivation and vote on possible action.
B. Work Program: Discuss and vote on draft work plan. One attachment:
   1. 2016-2017 Draft Work Plan
C. Discuss AB 2516 regarding Cottage Industry cultivation. One attachment:
   1. AB 2516 (Wood)
D. Vote on MCC representatives for May 10, 2016 Council meeting (Dispensary selection process) and May 18, 2016 Planning Commission meeting (Expansion of cultivation beyond the M District).

VIII. Information Items (*In compliance with the Brown Act, no action may be taken on these items. However, they may be discussed and placed on a subsequent agenda for action.)*
A. Letter sent by MCC to Mayor Bates regarding appointments
B. Berkeley Energy Commission: Flyer re Community Choice Energy Public Workshop, May 14, 2016
C. 3-30-16 East Bay Express article: Emeryville and San Leandro to Legalize Medical Marijuana
D. 3-30-16 East Bay Express article: Locked out of Legal Weed
E. State rulemaking flowchart from 4-18-16 Bureau of Medical Marijuana Regulation (BMMR) stakeholder meeting
F. Contact information for BMMR

IX. Correspondence
None.

X. Adjournment

Berkeley Medical Cannabis Commission website: http://www.cityofberkeley.info/medicalcannabis/)
Medical Cannabis Commission Secretary: Elizabeth Greene, 2120 Milvia Street, 2nd Floor, Berkeley CA 94704.
Phone: 510-981-7484 EGreene@cityofberkeley.info

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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 Planning and Development Department located at 2120 Milvia Street, Berkeley CA. Please contact the Commission Secretary for further information.

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MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, April 7, 2016
2:00 PM

DRAFT ACTION MINUTES

I. Call to Order – 2:10

A. Roll Call and Ex Parte Communications Disclosures

Commissioners present: Carlisle, Cooper, Ferguson-Riffe, Pappas (arrived 2:12), Rice, Tims.

Ex Parte Communications: None

Absent: Lampach (not excused) and Jones (not excused).

Staff present: Secretary Elizabeth Greene

B. Changes to Order of Agenda

None.

II. Public Comment

None.

III. Approval of March 3, 2016 Action Minutes

Staff gave clarification regarding how the minutes reflect the excused status of Commissioners.
Motion/second to approve the minutes as amended (Ferguson-Riffe/Tims). The motion carried 5-0-0-3. (Ayes: Carlisle, Cooper, Ferguson-Riffe, Rice, Tims. Noes: None. Abstain: None. Absent: Jones, Lampach, Pappas.)

(Pappas arrived at 2:12.)

IV. Planning Staff Report

Secretary Greene made the following announcements:

- Introduced Commissioner Keith Carlisle, Councilmember Worthington's new appointment. (Commissioner Rush was automatically terminated for attendance.)
- Quorum: There are no excused absences; Commissioners Lampach and Jones are unexcused. There is still one open seat (the Mayor's appointee). People interested in filling those positions should fill out a form with the City Clerk, and can also contact the Mayor's office to express interest.
- With the open seat and the two unexcused absences, the number of appointed members of the MCC is 8. The quorum for action is 5 votes.
- Update on dispensary application process: The tentative date for the Council meeting to consider the dispensary applicants is May 10, 2016. The format of the meeting is to be determined by the Council agenda subcommittee.

- One late item. (NOTE: Two more late items were handed out during the meeting.)

V. Chairperson's Report

Chair Pappas mentioned a state bill that would enact a 15% tax on medical cannabis, the status of the federal government's case against Harborside dispensary, and changes to Emeryville's medical cannabis regulations.

VI. Subcommittee Reports

The subcommittee had its first meeting on April 6, 2016. Had 4-5 members of the public present. Chair Pappas was elected chair of the subcommittee. Discussed the proposed state bill that would treat growing cannabis and making edibles at home like a cottage industry (AB 2516). Also discussed approaching the Mayor to determine what information he needs prior to Council meetings. Finally, discussed energy offsets and whether the fee considered the size of cultivation businesses.

VII. Discussion and Action Items

A. Vote on a third member of the Cultivation Subcommittee.

Public Comment: None.

Motion/second to elect Keith Carlisle as the third member (Cooper/Pappas). The scope of the subcommittee was discussed. Expanding cultivation into South Berkeley and other parts of Berkeley and creating a selection process for cultivation businesses were mentioned. Chair Pappas asked that a discussion of cottage industry be added to the May MCC agenda. The motion carried 6-0-0-2. (Ayes: Carlisle, Cooper, Ferguson-Riffe, Pappas, Rice, Tim. Noes: None. Abstain: None. Absent: Jones, Lampach.)

B. Discuss action taken at March 15, 2016 Council meeting regarding BMC changes regarding cultivation and vote on possible action.

Public Comment: One public comment, describing the fine tuning of MMSRA that is happening at the state level.

Commissioner Cooper described that the item was removed from the action calendar and sent to the Council's Agenda subcommittee, at Councilmember Moore's recommendation, until there is a better understanding of what the actions the state might take. It is unknown what state action the Councilmember was referring to and if there is any possible conflict with the ordinances proposed by the MCC. Commissioner Cooper offered to draft a letter to the Council for the MCC to discuss at the May meeting. It was suggested that the MCC talk to their respective Councilmember to see if the specific state regulation of concern can be identified – this will make it easier to address the Council's concerns.

C. Discuss and vote on possible action related to Commission vacancies.

Public Comment: None.

Commissioner Cooper suggested changes to the letter; and there were no objections to the changes. Discussion followed about who the letter should be sent to. It was suggested that the letter, as modified by Commissioner Cooper, be sent only to the Mayor. If staff determines that the letter must be sent to the Council and not only to the

Mayor, then the letter will not be sent until there is further discussion at the May meeting. The MCC voted in favor of the sending the letter only to the Mayor 6-0-0-2. (Ayes: Carlisle, Cooper, Ferguson-Riffe, Pappas, Rice, Tims. Noes: None. Abstain: None. Absent: Jones, Lampach.)

D. Discuss actions that could be taken to show support for protections for patients who live in apartments and/or federally subsidized housing.
Public Comment: None.

Discussion: Medical cannabis possession and use is still a federal crime and therefore prohibited in federal housing. Berkeley laws cannot change that. The question was raised about veteran use of medical cannabis to treat PTSD – is an exception made for veterans in federal housing? Berkeley does allow for consumption (except smoking) in dispensaries for this reason.

Chair Pappas offered to research how San Francisco addresses this issue. He will also contact Congresswoman Barbara Lee's office for advice and ask whether removing cannabis from Schedule 1 would change the housing regulations.

This item will be continued to the May meeting.

E. Work Program: Discuss past achievements and possible items to add to 2016-2017 work plan. Discuss Council actions at February 23, 2016 meeting and vote on MCC representative for March 15, 2016 Council meeting re. Berkeley Municipal Code changes.
Public Comment: None.

Discussion: Keep the items that have not been completed from the 2014-2015 list:

- Cultivation regulations (selection process and expansion). In particular, make strong arguments for expansion: document benefits of medical cannabis, collect information about the safety of cultivation sites, and call out that this is a growing field and that Berkeley will be passed by if the City does not take action.
- Annotated bibliography of medical cannabis research
- Delivery services

Other issues that were mentioned were creating different categories of growing to match the state's categories, making sure that the cultivation ordinance is passed by Council, the need to have a racially inclusive ordinance, and federal housing issues.

X. Adjournment
Motion to adjourn at 4:00.

Three late items were distributed at the meeting:

a. Pappas: Revised version of Attachment VII.C.1.
b. Pappas: Revised version of Attachment VII.E.2.
c. Michael Allaire: Letter re AB 2516 to add Specialty Cottage as a cultivation license category

Commissioners in attendance: 6
Members of the public in attendance: Approximately 10
Public speakers: 1

Length of meeting: 1 hour, 50 minutes

APPROVED: _____
Elizabeth Greene
Medical Cannabis Commission Secretary

TO: **Medical Cannabis Commission**

FROM: **Elizabeth Greene, Secretary**

SUBJECT: **Draft 2016-2017 Work Program**

DATE: **May 5, 2016**

In accordance with Chapter V.A of the City of Berkeley Commissioners' Manual, the Commission voted __-__ at the _____, 2016 meeting to adopt the following work plan:

1. **Cultivation regulations**
   a. Develop a selection process, as needed, for cultivation businesses.
   b. Advocate for passage of BMC Chapter 12.25 and related changes to the medical cannabis ordinances in the BMC
   c. Advocate for expanding the areas where cultivation is permitted.

   Products:
   - Draft a selection process for Council consideration (if deemed necessary)
   - Develop information for Planning Commission and Council as necessary.

   Timing: On-going (June 2016 – June 2017)

2. **Delivery services**
   a. Research how delivery services are regulated in other cities
   b. Discuss options with City Attorney

   Product:
   - Draft recommendations to staff for incorporation into an ordinance

   Timing: Moderate (September – January)

3. **Annotated bibliography of medical cannabis research and/or impacts of cultivation**
   a. To inform the Council and the public about the medical benefits of medical cannabis and the expected consequences of medical cannabis cultivation in industrial areas of Berkeley.

   Product:
   - Written bibliography for submission to Council

   Timing: Moderate (November 2014 - February 2015)

4. **Consider ways to support patients in Federal housing**
   a. Research how whether other states have raised this issue with the Federal government
   b. Determine the best way to communicate about this issue with the federal government

   Product:
   - Letter to federal representative?

   Timing: Long range (May – July 2015)

California LEGISLATIVE INFORMATION

AB-2516 Medical marijuana: state cultivator license types: specialty cottage type. (2015-2016)

AMENDED IN ASSEMBLY APRIL 06, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL No. 2516

Introduced by Assembly Member Wood

February 19, 2016

An act to amend Section 19332 of the Business and Professions Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 2516, as amended, Wood. Medical marijuana: state cultivator license types: specialty cottage type.

The Medical Marijuana Regulation and Safety Act provides for the licensure and regulation of commercial activities relating to medical marijuana, and establishes various types of state cultivator licenses to be issued to qualified applicants by the Department of Food and Agriculture.

This bill would also provide for the issuance of a Type 1C, or "specialty cottage," state cultivator license, as specified, by the Department of Food and Agriculture.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 19332 of the Business and Professions Code, as added by Section 1 of Chapter 688 of the Statutes of 2015, is amended to read:

19332. (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor cultivation sites.

(b) The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

(c) The State Department of Public Health shall develop standards for the production and labeling of all edible medical cannabis products.

(d) The Department of Food and Agriculture, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. Nothing in this chapter, and no regulation adopted by the Department of Food and Agriculture, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).

(f) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(g) State cultivator license types issued by the Department of Food and Agriculture include:

(1) Type 1, or "specialty outdoor," for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or "specialty indoor," for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or "specialty mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.

(4) Type 1C, or "specialty cottage," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for ~~outdoor~~ *mixed-light* cultivation, *up to 25 plants for outdoor cultivation,* or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

(5) Type 2, or "small outdoor," for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2A, or "small indoor," for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 2B, or "small mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(8) Type 3, or "outdoor," for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3A, or "indoor," for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 3B, or "mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(11) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

SEC. 2. Section 19332 of the Business and Professions Code, as added by Section 13 of Chapter 719 of the Statutes of 2015, is amended to read:

19332. (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor cultivation sites.

(b) The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

(c) The State Department of Public Health shall develop standards for the production and labeling of all edible medical cannabis products.

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(11) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

Mayor Tom Bates
Berkeley City Hall
2120 Milvia Street, 5th Floor
Berkeley, CA 94704

Dear Mayor Bates,

Our commission was pleased earlier this year when Councilmember Moore appointed David Lampach to fill a several-month-long vacancy after the earlier appointee (and our previous commission chairman) Richard Pfrommer resigned before last summer. Just this month, Councilmember Worthington's appointee, absent since that time as well, has been replaced by a new appointee, Keith Carlisle.

Your appointee, Sbeydeh Viveros-Banderas, also left before our summer recess and has not been replaced.

Our commission functions more efficiently when we have a full component of nine members. We are better able to share our workload and concerns, including staffing subcommittees, attending other commission meetings (planning), city council presentations, and observing local, statewide, national medical cannabis practices.

It will be an easier task to fulfill our commission mandate: "to ensure that medical cannabis provision in Berkeley is conducted in a safe and orderly manner to protect the welfare of Qualified Patients and the community," with a full complement of commissioners possessing varying perspectives, insights, and energies.

Thank you for your attention and consideration.

Sincerely,

Charles Pappas
Chair, Medical Cannabis Commission

Share Your Thoughts on Community Choice Energy
Come learn about Community Choice Energy and its potential for Berkeley. The Energy Commission in conjunction with the Office of Energy and Sustainable Development will conduct a public workshop on Community Choice Energy. Please share the attached flyer with your network.

Add your voice to the dialogue at this free public workshop:
When: Saturday May 14, 2016
Time: 10:00 a.m. to 1:00 p.m. Library doors open at 10:00 a.m.
Location: Berkeley Public Library Main Branch Community Room, 2090 Kittredge Street (1 block from Downtown Berkeley BART station)

The goal of the workshop is to provide community members with an overview of Community Choice Energy and to solicit public comments to inform the Berkeley Energy Commission's recommendation to City Council. Let the Energy Commission know your priorities, whether they be energy costs, local job creation, transparency in governance, or greening the grid. The Energy Commission will in turn be providing City Council with its recommendations on joining Alameda County's Community Choice Energy program.

For more information about Community Choice Energy, see: www.cityofberkeley.info/CommunityChoice.

Community Choice Energy

Public Workshop

*Saturday May 14, 2016

10AM – 1PM (library doors open at 10am)

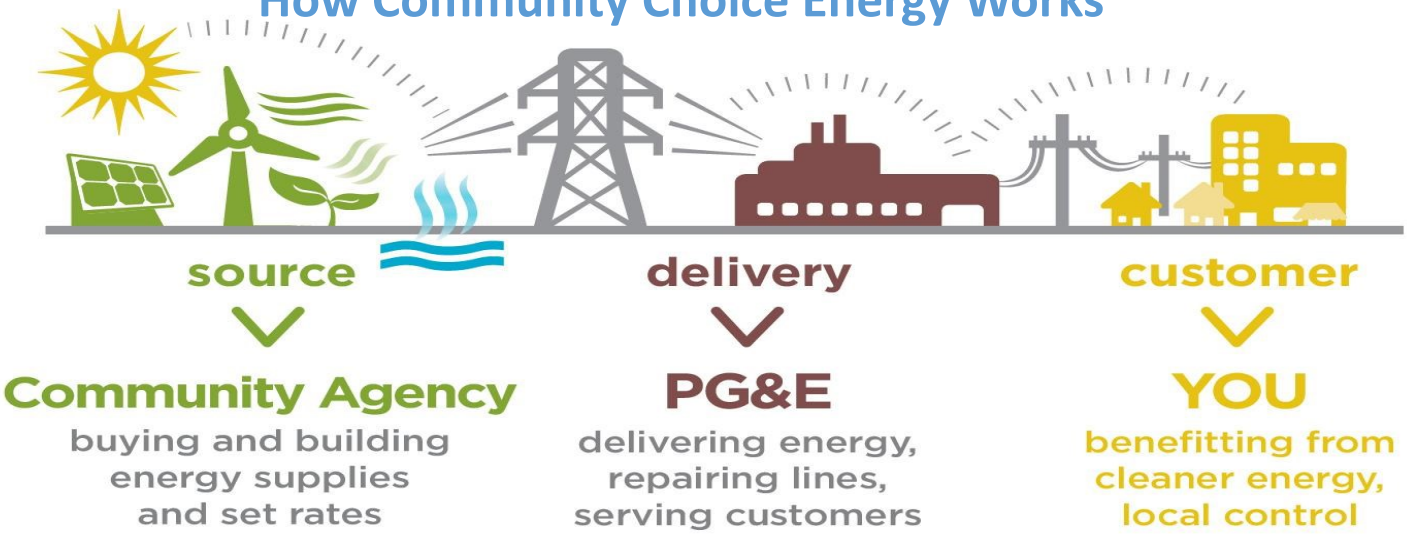
Berkeley Public Library, Main Branch Community Room

2090 Kittredge Street, Berkeley CA 94704 (1 block from the Downtown Berkeley BART Station)

Get energized! Learn about Community Choice Energy (CCE) at this public workshop hosted by the Berkeley Energy Commission. Provide input on priorities, governance structure, portfolio of renewable energy sources, economic and sustainability benefits, and costs. Free and welcome to all. Light snacks will be provided.

For more information: www.cityofberkeley.info/communitychoice/

How Community Choice Energy Works



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SEARCH:

Emeryville and San Leandro to Legalize Medical Marijuana

Both East Bay cities are ending their long-standing prohibitions on medical pot and embracing the fast growing industry.

By *David Downs*

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During a special study session on March 15, Emeryville city councilmembers called for an urgency ordinance to immediately legalize the delivery of medical marijuana into Emeryville by existing regional providers. "I have heard from people who are in pain," said Councilmember Nora Davis, referring to Emeryville patients who have had trouble obtaining cannabis because of the city's twenty-year ban on medical marijuana. Emeryville's leaders also want to eventually permit at least one medical marijuana dispensary to serve its 10,000-person population, and they could go so far as to deem Emeryville a cannabis laboratory hub, analogous to its thriving biotech industry, where pot entrepreneurs would be encouraged to develop and test marijuana medicines. In San Leandro, Harborside Health Center is expected to begin construction on the city's first dispensary in the next few weeks. San Leandro officials believe Harborside will generate tax revenue for the city, one of many benefits. The shift in both cities' approach to medical marijuana is a sign that new state laws are helping spur growth of the legal cannabis industry at the local level.

The Emeryville city council's study session marked a new chapter in the tiny, strategically located city's history. Ever since enactment of Proposition 215 in 1996, which allowed for the use of medical marijuana, Emeryville has maintained a total ban on all commercial pot activity including cultivation, transportation, and retail. Emeryville's shift on pot policy is one of the clearest examples so far that new statewide pro-medical cannabis regulations are incubating local progress.

Last year, the California state legislature passed a comprehensive medical marijuana law called the Medical Marijuana Regulation and Safety Act (MMRSA). MMRSA's dual licensing structure requires

medical marijuana businesses to obtain both local and state permits. The law also forces local jurisdictions to either craft local rules or eventually cede regulatory authority to the state. Most cities initially went the easiest regulatory route and implemented total bans. But now more cities are beginning to allow marijuana deliveries, dispensaries, and sometimes even cultivation.

Emeryville is one of many cities that have been spurred by the MMRSA to rethink their ban. At their recent study session, Emeryville Mayor Dianne Martinez and councilmembers Nora Davis, Ruth Atkin, and Jac Asher asked city staffers and experts in the audience about the nuts and bolts of the medical marijuana industry, including how to get medical marijuana cards and how much a growing pot plant might stink.

By the end of the meeting, Davis called for an immediate urgency ordinance to legalize medical pot deliveries. She said that for years, providers have refused to deliver pot in Emeryville due to the city's ban. Many are worried that they could be arrested or charged with a crime, and that patients are suffering as a result. The idea was approved unanimously by the council. The urgency ordinance could come back at the next council meeting in early April. If passed, it will take effect immediately.

Over the long term, Emeryville's city councilmembers said they want details on where to put a single medical pot dispensary that could be converted into a recreational shop if state voters eventually decide to fully legalized marijuana. One aspect of the pot business that Emeryville councilmembers said they would not permit, however, is cannabis farming, due mainly to space constraints. Emeryville is just 640 acres in size, and the city has a policy of approving permits based on the "highest, best use" for the space. Currently Emeryville is focusing on building more housing, parks, and retail.

"Let's leave [farming] to Humboldt," said council member Atkin.

Instead, Emeryville's leaders want more detailed options for cannabis distributor permits and cannabis labs, they told staff. Emeryville could end up generating a substantial amount of local tax revenue from the industry. Staff noted that San Leandro's soon-to-open dispensary alone could generate about $61,000 in local taxes in 2016, and around $110,000 in 2017. Emeryville's leaders hope to emulate San Leandro's rules in some form.

"I think this could be very important in setting the table [...] so that we will be well-poised to take advantage of medical marijuana as an industry," said Martinez.

Atkins said permitting vape lounges for patients who could not consume marijuana in multi-unit apartment and condo buildings would be another important consideration. Representatives from the Emeryville Police Department had only one comment during the entire study session; they called for adequate security among any pot providers who are allowed to operate in Emeryville so that marijuana businesses don't become nuisances or targets of crime.

Emeryville is part of a quirky patchwork of East Bay local government medical pot regimes, running from total prohibitions in Albany and Alameda to robust industries in Oakland and Berkeley. But councilmember Jac Asher said that San Leandro's developing cannabis regulations are a good model to follow. And because of its long-standing total ban, Emeryville has a blank slate upon which to craft its new

cannabis regulations. It can capitalize on the MMRSA in specific ways that cities with legacy medical pot laws cannot, staff attorneys for the city said.

San Leandro could have its first and only legal medical marijuana dispensary open by August of this year. In 2015, San Leandro's city council approved Harborside Health Center's plan to run a single permitted dispensary. Harborside is currently seeking building permits to alter 1965 Marina Boulevard, a commercial building just off Interstate 880, and down the street from Kaiser Permanente's San Leandro Medical Center. Harborside founder Stephen DeAngelo expects to begin construction in the next three to six weeks, he said in an interview.

Finding the right location for the dispensary has been the main challenge. DeAngelo said that it is difficult to find landlords who are willing to lease to any cannabis business. Cannabis is still illegal under federal law, and in the last five years US Attorneys in California have threatened to seize the property of hundreds of commercial landlords up and down the state for renting to pot enterprises. And while the US Congress zeroed out funding for this property seizure program in December 2014, many commercial and industrial landlords still worry about having their property seized if it's knowingly leased to a cannabis business that becomes the target of a federal enforcement action.

Another challenge for Harborside in San Leandro was space. Harborside needed a place big enough to handle hundreds of patients per day, with lots of parking for Tri-Valley commuters who will likely drive over the hill and access medical marijuana there because it's closer to Livermore, Dublin, and Pleasanton than existing dispensaries in Oakland and Berkeley. "We're all about convenience for people going about their daily routine," said DeAngelo.

Harborside's San Leandro location will look and function much like Harborside's Oakland and San Jose dispensaries — with the clean, well-lit, friendly and secure vibe of a groovy bank. The San Leandro location will also include a beefed up center for cannabis cultivators. Harborside has partnered with Dark Heart Nursery to run a super-sized clone section that will "really be able to give growers the time and attention they need," said DeAngelo. Clones are small, starter pot plants that gardeners purchase and grow out at their home, or another location.

San Leandro's large Latino and Mandarin-speaking populations are also spurring Harborside to hire multilingual staff in order to offer educational materials and better service. "Shame on us," said DeAngelo. "We have not done enough outreach into immigrant communities and speakers of foreign languages."

Deliveries in Emeryville and a dispensary in San Leandro are the latest signs of a historic thaw in relations between small towns and the medical cannabis industry, DeAngelo said. The Alameda County Board of Supervisors is also rethinking the county ban on medical pot. "I think what you're seeing is that the message of MMRSA has been both some comfort to local jurisdictions to move ahead with regulations, and it also gives them a bit of a prod to do that under MMRSA," said DeAngelo.

While hundreds of cities continue to ban medical cannabis access, "it's their loss," said DeAngelo. Harborside has also volunteered a percentage of their gross revenue to the City of San Leandro as a kind of

development impact fee that can be used to offset any increased need for police and fire services, or transportation infrastructure that will be associated with the growth of the medical marijuana industry.

"We're not creating a new industry, but a new kind of industry model all businesses should embrace," DeAngelo said. "The day is going to come when the vast majority of cities and towns in California are going to embrace cannabis, and there will be a few little islands of folks who do not. When you look at the number of jobs, the tax revenue, and public safety benefits that the cannabis industry brings, there's no doubt in my mind we will start seeing competition among cities soon, rather than bans."

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Will Oakland's Legal Weed Industry Leave People of Color Behind?

In the wake of the War on Drugs, state laws and industry culture are preventing Black and Latino folks from entering Oakland's burgeoning, hugely profitable cannabis market.

By *Nastia Voynovskaya* *@nananastia*

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On a Tuesday evening in January, people gathered at SoleSpace in downtown Oakland for a panel titled, "Shades of Green: The State of Cannabis in California for People of Color." Supernova Women — a recently formed organization led by female entrepreneurs of color working in cannabis — organized the event, and it brought out an avid, intergenerational crowd of mostly Black and brown folks with varying levels of interest and experience working in the industry.

The impetus behind the gathering was the fact that currently, Oakland finds itself at a critical juncture in the roll out of its regulatory policies regarding medical marijuana. While there are only eight licenses for cannabis dispensaries in the city at present, on April 26 the city council is scheduled to vote on whether to approve eight more licenses per year, starting this year, creating additional opportunities for entrepreneurs who have been operating in the underground market to go legit. The city is also considering implementing other cannabis licenses that would legitimize grow operations, delivery services, edibles and topicals companies, testing labs, and other marijuana-related businesses that are currently operating in a legal gray area.

The women behind Supernova are Sunshine Lencho, an attorney who offers legal services to cannabis businesses; Amber Senter, chief operations officer at Magnolia Wellness, one of Oakland's eight existing dispensaries; and Nina Parks, who owns Mirage Medicinal, a cannabis delivery service based in San Francisco. The three women formed an alliance after crossing paths at various networking events for cannabis entrepreneurs, where they said they often found themselves to be the only women of color in the room. Concerned with social justice and the welfare of their communities, they founded Supernova as a way to advocate for people of color in the industry at a time when the legal

weed market's major players — both in Oakland and nationally — are overwhelmingly white and male.

But they face serious challenges in their goal of integrating the medical cannabis industry. Advocates note that Blacks and Latinos have been and continue to be disproportionately criminalized in all aspects of the US criminal justice system, from racial profiling in arrests to harsher sentencing in the court system. As a result, people of color who operate underground marijuana businesses are understandably wary about coming out of the shadows. While many white cannabis entrepreneurs pride themselves in being outlaws, for many people of color, blatantly breaking the law is not an option. "I would never be able to say to my brother or sister to be an outlaw with the police, when I know the experience of what an interaction with police can lead to," said one of the speakers, Lanese Martin, who is Black and is the founder of CannaBizWatch, a watchdog organization advocating for a progressive cannabis policy. The audience met her statement with knowing nods.

Despite recent reforms, law enforcement statistics show that police and prosecutors continue to target people of color for drug crimes in hugely disproportionate numbers. Blacks and Latinos are convicted for marijuana-related felonies — such as possession with intent to sell, which is still a felony in the state — at much higher rates than their white counterparts, even though studies show that Black and white people use marijuana at about the same rates. According to the report "Crime in California," which was released by the state attorney general's office in July 2015, 18 percent of arrestees for marijuana-related felonies in 2014 in the state were Black even though, according to the 2010 census, only about 6 percent of California's population is Black. Meanwhile, white people constituted 31 percent of arrestees even though they made up more than 40 percent of the state population in 2010.

The costs associated with launching a legal cannabis business also present disproportionate challenges for people of color. Depending on the type of marijuana business one wants to start, the total costs needed to pay for product, branding, operations, and licensing fees can range from several thousand to several hundred thousand dollars. And because marijuana is still federally illegal, taking out a small business loan is not an option — which presents a significant barrier to entry for those who don't have disposable income or cash savings.

Another major factor that could prevent many cannabis entrepreneurs of color from going legit is Senate Bill 643, one of the bills that make up California's new Medical Marijuana Regulation and Safety Act (MMRSA). SB 643 allows state and local licensing boards to deny cannabis business licenses to people with felony records, including those with drug felony convictions. As a result, a large number of folks who were ensnared by the War on Drugs are at risk being systematically excluded from a burgeoning, hugely profitable new market.

According to the BuzzFeed report "How Black People Are Being Shut Out of America's Weed Boom," published last month, only about 1 percent of cannabis club owners nationwide are Black. In Colorado, where the weed industry has produced a huge tax revenue surplus for the state, galvanized its tourism industry, and earned an estimated $700 million in profits in the first year of legalization — 2014 — there is only one pot shop owned by a Black woman among hundreds that have opened.

In short, white men, who are the least likely to be targeted by the US criminal justice system for drug crimes, despite the fact that they use drugs as much as people of color, and who are the most likely to have access to personal savings and private investors, have effectively cornered the lawful marijuana market in states that have legalized it. And the people of color who have been instrumental in supplying the nation's underground marijuana market for decades remain marginalized.

Nonetheless, Lencho, Senter, and Parks remain hopeful about Oakland and their prospects for increasing the number of people of color in the local medical weed industry. They note that cannabis regulation in Oakland is still in its nascent stages, and the legal marijuana industry here is still being established. They created Supernova to galvanize people of color interested in joining the legal cannabis industry, and to help the people who have historically been growing and selling cannabis or making topicals and edibles underground.

But advocates say that if the institutional barriers prohibiting the very people most heavily affected by the War on Drugs are not addressed, and people of color who have historically earned income in the marijuana trade in the underground market are not able to legitimize their businesses, then a similar fate to that of the tech industry will befall the cannabis industry. The enormous profits that cannabis will generate in California in coming years will mostly enrich our society's most privileged group.

"We decided that it was important that we form an organization that filled what was clearly a need to bridge the gap between women of color who are active in the industry and our communities," said Lencho, in a separate interview following the panel. "It's hard for us to focus on the business case for cannabis when, at the same time, people who look like us are still going to jail in the hundreds here in Oakland. The public perception is that cannabis is this thing that is about to be regulated, and it's a free-for-all here in California, and Oakland is like the Amsterdam of the West. But the reality is very different depending on what you look like. It was important for us to bring a voice to that and also create a space where that can be discussed."

According to the 2013 ACLU study, "The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests," the War on Drugs was a major factor in causing the US prison population to increase by 52 percent between 1990 and 2010. In addition, the number of people arrested for marijuana offenses during that time period soared by 188 percent.

But arrests and incarceration for marijuana impacted some communities more than others. In 2010, Black people were 3.72 times more likely to be arrested for marijuana possession than their white counterparts — a disparity that increased by 32.7 percent between 2001 and 2010.

Of course, all those drug arrests failed to curb the use of recreational marijuana. According to the 2010 National Survey on Drug Use and Health, 39.3 percent of Americans reported having used marijuana in their lifetimes, and 17.4 percent of them had used it the past month. And, as the ACLU found in its study, Blacks and whites use cannabis at roughly the same rates. Yet despite the similarities in marijuana consumption rates, the disparities in arrests remain pronounced on a

national scale. In the American West, according to the ACLU, the disparity is not as wide, though it is still substantial: Blacks are twice as likely to be arrested for marijuana possession than whites.

Although Proposition 47, approved by California voters in 2014, downgraded six nonviolent offenses from felonies to misdemeanors, selling any amount of marijuana remains a felony. Marijuana cultivation is also still a felony for people who are not cannabis patients, and even those who have doctors' recommendations are only allowed to grow for personal use and are prohibited from distributing the plant to others. The reason that some of California's weed delivery services and grow operations are legal is because state law allows exceptions for licensed, non-profit cannabis patients' collectives to provide marijuana-related services to their members. And because state laws are vague about how those collectives should operate, a wide variety of cannabis businesses have popped up that are technically in compliance with the state law, though often unregulated by local governments, as is the case in Oakland.

Endria Richardson, one of the speakers from the Supernova panel and a staff attorney at the nonprofit Legal Services for Prisoners with Children, argues that California's new medical marijuana regulations will block large numbers of Blacks and Latinos from prospering from the state's rapidly expanding medi-weed industry. SB 643, which Governor Jerry Brown signed into law last October as part of MMRSA, states that individuals with felony convictions for the sale, possession for sale, manufacture, transportation, or cultivation of a controlled substance can be denied licenses by the state to distribute medical pot. Richardson said that state officials could use MMRSA, which takes effect in 2018, to shut people out of the medical pot industry simply because they engaged in growing or selling marijuana before it was legalized and were caught and convicted.

Under MMRSA, individuals who want to open cannabis businesses will be required to obtain licenses from the state as well as the city in which they're operating. Traditionally, the City of Oakland has only prohibited people from obtaining medical cannabis dispensary licenses if they have been convicted of serious or violent crimes — but not marijuana-related offenses. But when the state sets up its licensing regime by 2018, even if the City of Oakland doesn't use drug-related felonies to deny people licenses, the State of California could still do so — prohibiting those individuals from operating even if the city government approves. These state regulations could feasibly override Oakland's more progressive policies, which could erect a significant barrier to entry for people who have been criminalized by the War on Drugs.

The state's more conservative stance on felony drug convictions reflects the US Department of Justice's eight guidelines for state regulation of medical marijuana. These official guidelines stipulate that states are responsible for preventing state-authorized marijuana activity from being used a pretext for trafficking other drugs, as well as preventing revenue from state-regulated marijuana sales from going to criminal enterprises. But when applied on a practical level, this policy is contradictory because it denies people the right to sell marijuana legally simply because they've sold marijuana before it was legalized. And this policy implies that people who have been involved in marijuana sales are involved in other criminal activity, which is not always the case.

If state licensing agencies fail to take into consideration the details of the felony conviction, how long ago it was, and what the person has

done since then to rehabilitate him or herself, then the implementation of MMRSA could bar a significant number of people who were unfairly targeted during the War on Drugs — many of them Black and Latino — from operating cannabis businesses legally, according to advocates. If that were to happen, the distribution of wealth from Oakland's cannabis industry would not be equitable. "You basically will see communities that haven't been as impacted by prohibition gaining the most from legalization," Richardson said.

Because landlords and employers can still use felony convictions to discriminate against people for jobs and housing and, until recently, drug-related felonies barred many Californians from receiving food stamps and cash assistance, Prop 47 represented a crucial step in helping perpetrators of victimless crimes move on from their pasts. But in terms of making the medical marijuana industry more equitable, Richardson said it hasn't gone far enough.

"There are still a lot of drug-related crimes that are still felonies," said Richardson. "Possession with intent to sell is still a felony, and that can be charged just based on the amount of drugs you had, whether you had paraphernalia on you, or whether the drugs you had were separated into separate baggies rather than having one baggy, or if the officer just felt like you were gonna sell them."

Richardson added that the state's medical cannabis industry will continue to remain segregated until there are no barriers to licensing for people with felony convictions. "I think that's the most important thing that can even the playing field a little bit more."

Felicia Shaw, who owns the topicals company Mystic Herbal Body Care and is an instructor of topical applications at Oaksterdam University, echoed Richardson's sentiments in a recent phone interview. Shaw, who is Black, began as an underground marijuana grower before transitioning into making cannabis-infused topicals for pain relief, which she now sells at dozens of cannabis clubs throughout the Bay Area. Though her business complies with state and local laws, she said that, given the history of criminalization of Black and Latino people for drug possession, she understands why cannabis entrepreneurs of color would not feel comfortable coming forward to apply for licenses, let alone lobbying local and state governments for more equitable policies.

"I'm sure you know Black people and Mexican people have been the ones being arrested and have served the most harsh time for selling weed over the years," she said. "So you would think, 'Wow, this is an opportunity we would all jump on.' But it's actually the opposite because we get targeted [by the police] a lot more for pull-overs and stuff like that."

Shaw also said that many Black and Latino marijuana business operators are afraid to expose themselves to local and state licensing authorities because of the drug war's impact on their communities. "Why would we want to come out of the darkness and into the light where we can get even more picked on?"

She continued, "Because people of color are usually targeted by police, I keep [my business] low-key. I make enough money so that I can pay my bills and enjoy my life and still be free."

Claudia Mercado, an Oakland entrepreneur who was born in Mexico and raised in Oakland's Fruitvale district, said in an interview that

many Latinos with working-class backgrounds similar to hers have justifiable fears about entering the legal cannabis business.

"If you think about the black market in East Oakland, it's going to be hard for people to come out because there's a cost to going legit," she said. "And if you've been making decent money to get by on the black market, why do you wanna go legit, what's the incentive? If you've been persecuted for so long, what is going to give you the confidence to step out? Who's going to guarantee you're not going to get busted, and that you're gonna be okay if you've lived your life in fight or flight mode?"

Mercado has an MBA degree from Mills College and has built her business acumen working in corporate America. She said this has helped her navigate the legal gray areas of the medical marijuana business. She now works in marketing and business development for the topicals company Sweet Releaf, and she recently incorporated a patients' collective with another colleague in San Francisco to help her legitimize her grow operation.

The purpose of the Supernova panel was to educate the public about the legal issues at play surrounding cannabis regulations and the options available for people to enter the industry. But it also turned into an informal networking event, with people volunteering different skillsets related to their work in the cannabis industry. One woman asked if anyone wanted to pool resources to rent a commercial kitchen for making edibles and topicals. People offered resources for legal advice and leads on warehouse spaces for cultivation. Though the networking portion of the event was unplanned, organizers Senter, Lencho, and Parks welcomed it.

According to the founders of Supernova, networking is a vital part of running a cannabis business. Entrepreneurs often help one another by sharing information on upcoming legislation and city council meetings, business advice, and safety precautions for dealing with large amounts of cash and lucrative product.

"You can't Google how to run a dispensary," said Andrea Unsworth, who owns the cannabis delivery company StashTwist and is also the chairwoman of the Bay Area chapter of the cannabis entrepreneurship organization Women Grow. Unsworth, who is Black, said that opening a delivery service was one way for her to operate legally, given Oakland's current cap of eight storefront dispensary licenses. But running her business has not been easy, as she often fears for the safety of her drivers and questions whether law enforcement would be on her side if something bad were to happen.

But attending networking events can be costly. While the Supernova panel was free, according to Lencho, the admission price to attend a mainstream cannabis conference is typically in the hundreds of dollars. As a result, the attendees at cannabis networking events tend to be overwhelmingly wealthy and white. Those who don't have the time or money to attend them are essentially missing out on vital sources of information.

"I've been going to local hearings in Berkeley and Oakland," said Lencho, "and the only reason you know they're happening is because you're tapped into the industry and people are reminding you about the schedule of events, and you have people who are telling you about the upcoming conferences. If you have no idea that this is happening, which I think is the case with the vast majority of people living in this area,

you're going to wake up in 2018, you're going to hear about these licensing applications, and you're going to be like, 'Wait, what? I didn't even know this was going on.'"

Cannabis networking events also provide entrepreneurs with the chance to make business connections: Topicals makers and growers can meet dispensary owners, for instance, which would improve their chances of getting their products in clubs. If networking events are structured in such a way that is not accessible to low-income folks, many people of color will effectively be barred from the industry.

"I'm not assuming that all people of color are low-income, or living check-to-check, but if you've been around weed [on the underground market], chances are you're not very affluent," said Claudia Mercado. "And finding the time to attend those meetings is very time-consuming."

While felony convictions likely will prohibit many people from becoming licensed to start their own cannabis businesses, one would think that a way for them to still profit from the cannabis industry would be through getting a job at a local dispensary. According to Andrew Silva, a San Francisco attorney who works with local cannabis businesses to make sure they're in compliance with state and local laws, dispensaries typically pay above the minimum wage.

"People with felonies are currently being employed by dispensaries, and it's a really good resource for them, because they pay well," said Silva, who used to make a living working at cannabis dispensaries before starting his law practice.

However, the cannabis entrepreneurs of color interviewed for this story echoed the sentiment that most of the cannabis clubs in Oakland — with the exception of places like Purple Heart, which is Black-owned, and Magnolia Wellness, which has a reputation for having a diverse staff — and around the Bay Area tend to have majority-white staff, even in entry-level positions.

Shaw, owner of Mystic Herbal Body Care, said that since she began selling her product at local dispensaries in 2009, she has seldom encountered people of color in managerial positions at dispensaries — a trend she often sees reflected in the racial makeup of the rest of the staff. Shaw said that she has applied to numerous dispensary jobs that she considered herself obviously qualified for — since she is an experienced grower, topicals maker, and business owner — but she has frequently been rejected. She has often wondered whether racially biased hiring practices were the reason.

"It's very disturbing, and it bothers me a lot, because Black and Mexican people might not be able to start the business, but we sure need jobs," she said. "And it would be great to do something in the cannabis industry, where you don't have to get drug tested and you get to deal with something that's so fun and be part of this whole movement. It kind of breaks my heart. ... Unless it's a Black-owned club, you usually don't see any Black people working there, not even budtenders."

Debby Goldsberry, executive director of Magnolia Wellness, said in an interview that she prides herself in the fact that her staff at Magnolia, including its six-person leadership team, is diverse in terms of ethnicity, age, and gender. Because West Oakland, where Magnolia Wellness is

located, has a large population of people of color, Goldsberry said that many of her employees started out as patients, which is a central reason why her staff reflects the community Magnolia serves. "If you're hiring right and you're job-posting right, you're creating jobs that match your community — that's the fix," she said.

However, Goldsberry has run into roadblocks when attempting to reach unemployed people from Oakland's most vulnerable communities. Many nonprofits that help people find employment are prohibited from advertising dispensary jobs because those nonprofits receive federal funding, and cannabis is illegal under federal law. But Goldsberry said she's working with the City of Oakland to develop solutions to make sure her job postings reach Oakland's economically marginalized communities.

"We'd like to see the medical marijuana program employ previously unemployed Oaklanders," she said. "I think it'd be incredible if we looked at the unemployment metrics of Oakland in a year or two years and found that the numbers have gone significantly down because we've employed people into the medical marijuana industry."

As for the City of Oakland, it requires that at least 50 percent of a dispensary's staff be Oakland residents, and that half of those residents come from census tracts with high unemployment rates. However, the city can't legally hold private businesses accountable for racially diverse hiring.

What needs to change, then, is the cannabis industry's culture, advocates say. According to Claudia Mercado, because of the insular nature of cannabis networking events and the lack of outreach from white-owned cannabis businesses to local communities, implicit biases go unchecked when it comes to hiring.

"If you think about the tech industry, it's a good ol' boys club," said Mercado. "The weed industry is the same. If you're not besties with the dispensary owners, or you don't fit the profile of the budtenders who buy the weed, they could easily discriminate [against] you."

The Oakland City Council is scheduled to determine on April 26 whether to approve eight more dispensary permits per year, as well as new license types that would help regulate cannabis delivery services, edibles kitchens, testing labs, and commercial grow operations, creating potential opportunities for entrepreneurs of color to enter the local market. But with venture capitalists and tech moguls interested in cannabis' profitability (billionaire and early Facebook investor Sean Parker is a central backer of California's recreational, adult-use 2016 ballot initiative, the Control, Regulate and Tax Adult Use of Marijuana Act), there will likely be well-connected, moneyed individuals vying for Oakland's limited number of storefront dispensary licenses. According to a study by Arcview Market Research, the nationwide legal cannabis industry grew in 2014 from $1.5 billion to $2.7 billion — a figure that has certainly piqued the interest of wealthy investors.

But City of Oakland officials are currently pursuing different options for making sure that the city's cannabis industry is as equitable as possible under the current laws. "As of last quarter, 2015, 50 percent of all dispensary employees are Oakland residents," said Gregory Minor, one of Oakland's Assistant City Administrators who handle cannabis policy. "But it's part of a broader conversation of providing equity, employment opportunities for Oakland residents, and then, also,

specifically for victims of the War on Drugs. And to make sure they're not left out of this growing industry, we're looking at a variety of measures, whether it's mandates for local hiring or incentive-based tax relief if you hire former parolees or probationers."

One option the city is pursuing to increase equity in the cannabis industry is to create pathways for formerly incarcerated individuals to get medical marijuana jobs. "We'd like to create a pipeline for those who were incarcerated by the drug war to have opportunities — career opportunities — in this industry, to the best of our ability, so that we can repair the damage done by the misguided federal War on Drugs," said Assistant City Administrator Joe DeVries, who is also helping craft Oakland's marijuana regulations.

Under Measure Y, which passed in 2004 (and was renewed in 2014 as Measure Z), a portion of Oakland taxpayer money goes to social programs intended to prevent recidivism in formerly incarcerated people, and the city already has a pool of former inmates to work with through employment organizations such as Oakland Unite. "If we can take this industry that's offering well-paid jobs to workers who don't necessarily have to have college degrees, we can take these folks who were sent to jail as part of the drug war and help — you know, since we already work with this population in the city and the city taxpayers pay for that work," said DeVries. "We're going to be meeting with the people who do that work to see if we can plug them directly into jobs with these new businesses by giving these businesses tax credits to hire [formerly incarcerated individuals]."

DeVries and Minor are also pushing to create a policy to give tax incentives or licensing fee reductions to cannabis businesses that employ formerly incarcerated individuals, especially those who have been imprisoned for cannabis offenses. They said the value of these incentives would be determined by how long the formerly incarcerated individual stays employed at the business — a stipulation meant to encourage businesses to invest in training.

But while, as Minor pointed out, these policies look good on paper, the city must be adequately staffed to track cannabis industry hiring practices, and to make sure specific companies are in compliance with city regulations and incentives. This is a major challenge in Oakland, a city with limited resources.

If the city council approves policies to regulate cannabis businesses that are not dispensaries — such as grow operations, delivery services, testing labs, and edibles and topicals manufacturers — there will be considerably more opportunities for entrepreneurs of color, especially if there is no limit on licenses for marijuana businesses that are not brick-and-mortar storefronts. Richardson, the attorney working with Legal Services for Prisoners with Children, suggested that the city should look into adopting policies that would encourage people to start cannabis businesses with alternative ownership models, such as worker-owned cooperatives. "Those can decrease the barriers to ownership for people who have less capital to start with and open up their own shops," she explained.

But above all else, the biggest factor that could limit the same people the War on Drugs preyed upon from entering the legal cannabis business is the potential ban on people with drug-related felonies from obtaining state licenses. If folks from low-income areas who have traditionally supplemented their incomes with marijuana sales aren't

able to enter the industry legitimately, then once marijuana is fully legalized for adult recreational use, there will be major, widespread job loss in the underground economy as the burgeoning mainstream marijuana industry, dominated by whites, takes over the market.

And according to Columbia University professor Sudhir Venkatesh, a scholar on gang activity who was quoted in the April 2015 article "The Racist End to the War on Drugs" on Salon.com, people who are displaced from the underground cannabis industry may be pushed into more dangerous sectors of the economy, resulting in an uptick of other illegal activity, which would further fuel the prison industrial complex.

But not all of Oakland's policies on cannabis have been written, and the city is examining marijuana regulations with what Karen Boyd, spokesperson for the City Administrator's Office, described as a "lens of equity."

When SB 643 takes effect in two years, it will empower the state to deny licenses to people with felony drug convictions. But in the meantime, DeVries and Minor said that they do not recommend that the City of Oakland deny licenses based on marijuana-related felonies. However, it will ultimately be up to the Oakland City Council to determine the specifics of Oakland's new licensing requirements when it meets on April 26. Minor and DeVries also said that they plan to further review the city's background check requirements for cannabis licenses to address policies that could disproportionately affect communities of color, which they believe were unfairly criminalized during the War on Drugs.

Because MMRSA won't be fully implemented until 2018, local regulations will take precedence until the state rolls out its own licensing process. And because Oakland has historically been a leader in medical marijuana policy, DeVries and Minor said that they are confident that if the City of Oakland approves enough cannabis licenses under its more progressive policies before 2018, it is possible that Oakland will influence the way state policy is implemented in regards to felony drug convictions. "If we have a robust licensing system in place, then the state should honor that," said DeVries.

Andrea Unsworth of StashTwist said that it is also helpful that Oakland has a culture of conscious consumers who understand the value of supporting businesses owned and staffed by people of color and women. And according to the organizers of Supernova, it is a vital time for cannabis entrepreneurs of color to join forces and advocate for their interests to change the industry's culture, and lobby for more equitable state and local regulations. Since I met Lencho, Senter, and Parks at their first panel at SoleSpace in January, Supernova has hosted several other educational panels that are free and open to the public in order to better educate local communities of color about their rights, job opportunities, and upcoming legislation.

"Once the regs come out, we're going to read them, we're going to analyze them, we're going to report them to our constituents," said Lencho. "And we're going to do the feedback to the people writing the regulations so they can understand, and they can have a record of how these things are impacting us. So five years from now we're not going to turn around and be like, 'How did that happen?'"

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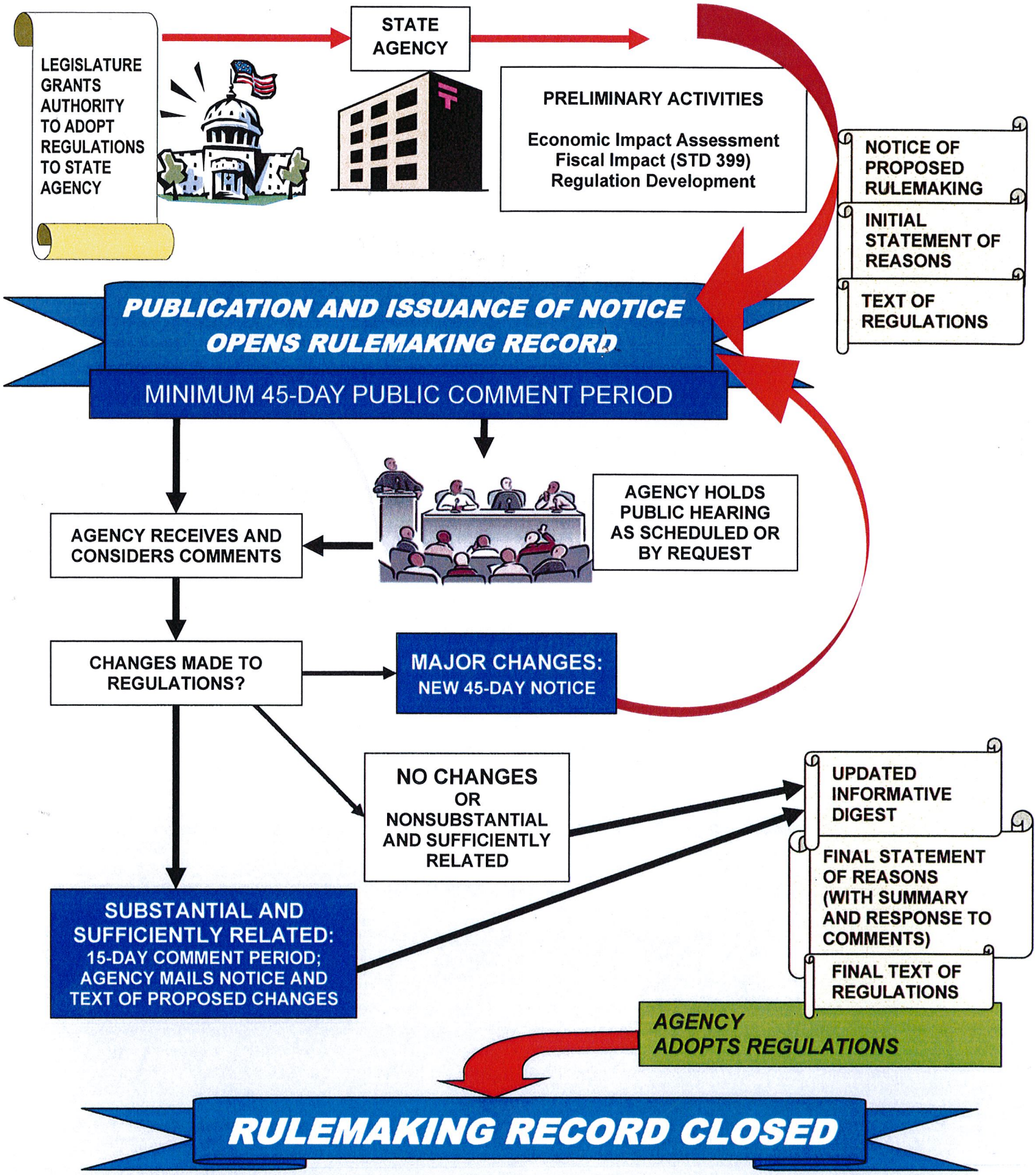
REGULAR RULEMAKING



Bureau of Medical Marijuana Regulation

In 2015, the Legislature passed and the Governor signed into law three bills (Assembly Bills 243 and 266, and Senate Bill 643) that create a licensing and regulatory framework for medical marijuana. It is anticipated that the regulations will be developed by January 1, 2018.

The Department of Consumer Affairs (DCA) is in the early stages of establishing the Bureau of Medical Marijuana Regulation and is not issuing licenses at this time. DCA recommends interested parties continue to work with their city or county governments to procure the local licenses and permits required to establish a medical marijuana business.

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Other contacts/resources:

For questions about cultivation:

The California Department of Food and Agriculture (CDFA) has been designated the agency responsible for licensing cultivation. The Medical Marijuana Regulation and Safety Act establishes the Medical Cannabis Cultivation Program within CDFA to license cultivators in the state, establish conditions under which indoor and outdoor cultivation may occur, establish an electronic database to track marijuana from seed to sale, and assist other state agencies in protecting the environment and public health and safety.

www.cdfa.ca.gov

Email: CDFA.MCCP@cdfa.ca.gov

(916) 654-0466

For questions about recreational marijuana:

To learn more about pending initiatives to legalize recreational marijuana, visit www.sos.ca.gov/elections/ballot-measures/attorney-general-information.

To learn more about the initiative process (when and how they become effective), visit http://elections.cdn.sos.ca.gov/ballot-measures/pdf/statewide-initiative-guide.pdf.

California Office of the Attorney General

Initiative Coordinator: (916) 445-4752

For questions about manufacturing, testing and testing facilities:

The California Department of Public Health (CDPH) has been deemed the agency responsible for licensing manufacturers and testing labs, and testing labs will have to register with CDPH.

http://www.cdph.ca.gov/Pages/DEFAULT.aspx

(916) 558-1784

For questions about pesticide regulation:

The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

http://www.cdpr.ca.gov/

(916) 445-4300

Seller's permits, tax issues:

For these and other related topics, visit the California Board of Equalization at https://www.boe.ca.gov/news/marijuana.htm

http://www.boe.ca.gov/

(800) 400-7115

Small Business/DVBE Advocate

Small Business Liaison

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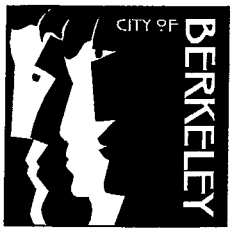


Medical Cannabis Commission

Mayor Tom Bates
Berkeley City Hall
2120 Milvia Street, 5th Floor
Berkeley, CA 94704

Dear Mayor Bates,

Our commission was pleased earlier this year when Councilmember Moore appointed David Lampach to fill a several-month-long vacancy after the earlier appointee (and our previous commission chairman) Richard Pfrommer resigned before last summer. Just this month, Councilmember Worthington's appointee, absent since that time as well, has been replaced by a new appointee, Keith Carlisle.

Your appointee, Sbeydeh Viveros-Banderas, also left before our summer recess and has not been replaced.

Our commission functions more efficiently when we have a full component of nine members. We are better able to share our workload and concerns, including staffing subcommittees, attending other commission meetings (planning), city council presentations, and observing local, statewide, national medical cannabis practices.

It will be an easier task to fulfill our commission mandate: "to ensure that medical cannabis provision in Berkeley is conducted in a safe and orderly manner to protect the welfare of Qualified Patients and the community," with a full complement of commissioners possessing varying perspectives, insights, and energies.

Thank you for your attention and consideration.

Sincerely,

Charles A. Pappas

Charles Pappas
Chair, Medical Cannabis Commission

Greene, Elizabeth

From: Charles Pappas <nberkhills@sbcglobal.net>
Sent: Thursday, May 05, 2016 12:11 AM
To: rickauerbach@webaic.org
Cc: david@steephill.com; taragives@gmail.com; Greene, Elizabeth
Subject: M-Zone expansion rationale (MCC 2014) attached
Attachments: M-ZONEINTRO.pdf; 2015-11-18_Item 9-Medical Cannabis Cultivation-23,25,26,29.pdf

Hi Rick,

I have attached the MC Commission expansion rationale. Since I have not heard from anyone, perhaps the M-Zone tour after meeting tomorrow or Sunday or next week (busy for me)? I will see what happens at the meeting and let you know, or feel free to come early and public comment. Also, indeed we would welcome your input any time you could arrive between 2-4pm, 6th floor, Redwood Room, City Hall, Thursday, May 5.

Best,
Charley
510-486-2686

--- On Mon, 5/2/16, Charles Pappas wrote:

> From: Charles Pappas
> Subject: Next possible M zone visit times
> To: "David Lampach", "Rick A.", "Bianca"
> Date: Monday, May 2, 2016

> David,
> Rick, Bianca- I didn't hear from you, and I have been somewhat "pinned
> down" at home as well. My next suggested best times in order of
> preference would be this- Thursday 4pm after BMCC meeting, Saturday 2
> or 3 pm, or perhaps Tuesday (tomorrow) 3pm, possibly this Wednesday
> afternoon...
> Tonight I will be looking for previous commission M zone analysis, and
> will forward it to you all. While there is no rush
> deciding/implementing on expanding the M zone, the Planning Commission
> will revisit this issue May 18. Keep in touch. Best wishes Charley
> 510-486-2686
>
> On Friday, April 29, 2016
> Charles Pappas wrote:
>
>
> Next
> Saturday, Sunday or Tuesday afternoons (3:00pm or perhaps 1 or 2 hours
> earlier), I can be available. I am leaning towards Sunday or Tuesday
> (perhaps more activity this day), but let me know your preferences, if
> any or not.

Best,
> Charley 510-486-2686
>
>
>

BMCC M-ZONE STUDY 2015 – CULTIVATION SITES + PROJECTED TAXES

(extracted from BMCC memo to BCC: "Expansion of Medical Cannabis Cultivation Beyond the M-District", 11-18-2014)

Shortage of M District Space: per Cannabis Community
For three years, public at Medical Cannabis Commission (MCC) meetings have been reporting that there are extremely limited rental opportunities in the M District. Several members of the MCC have walked the M District and, as a result, understand this concern. One MCC commissioner has personally experienced the frustration of unsuccessfully searching for a viable space for medical cannabis cultivation in the M District.

"Soon after Measure T was written and passed, there was excitement in the cannabis community about large-scale cultivation. People were optimistic that the city had permitted space for such an endeavor. However, once I was able to explore the M District by foot and vehicle, I quickly learned that space was not only ridiculously limited, but with a lot of building owner flexibility in rental agreements and lease contracts - which added extra expenses. This was during the economic downturn when real estate was at an all-time low, and it was still very hard to find a space that was feasible for large-scale cultivation or worth the investment. If the city expanded beyond the M District for cultivation, more opportunities would be created for viable space options to accommodate serious large-scale cultivation."

From a slightly different perspective, as recent as the MCC November 2013 meeting, a three-year small-scale manufacturer of non-psychoactive cannabis products for pain (e.g., infused medicine into topicals, tinctures) reported his inability to find space in the M District.

"In trying to relocate to expand our operations, we encountered scarcity of suitable space in the M District, compounded by apprehension from Berkeley landlords to lease to cannabis related businesses. We hope the City will approve increased options for rental space for such businesses. Such action will allow us to expand and thereby provide increased employment opportunities and revenue for the City of Berkeley, and ensure that Berkeley remains a welcome home for safe, pain relieving, healing medicines and products from the cannabis plant."

Shortage of M District Space:
Confirmed from Broader Perspective The MCC investigated from yet a different perspective leasing opportunities in the M District, by conferring with people knowledgeable of the M District who were not affiliated with the medical cannabis business.

- A lumber business owner noted that, unlike many other districts in Berkeley, one rarely sees a For Rent sign in the M District. And if there is a For Rent sign, it is invariably for very small, restricted sections of very large spaces.
- A realtor reported that there are a lot of owner-users and it is unusually difficult to find a vacancy in the M District. He pointed out that because of very low turnover, there has been so far no benefit from the 2009 West Berkeley Project zoning amendment that allows large spaces to be demised into smaller tenant spaces (BMC Section 23E.72.050.C).
- "Very limited M District space, period" is this realtor's statement that was echoed in other interviews.
- Another realtor reported in December 2013, there is a "tight market" in the M District, and "at the moment, there are not any vacancies."

- In January 2014, an Economic Development Office city official said, "I agree, very little space" when told what realtors had reported regarding the shortage of leasing opportunities in the M District. In addition, this research also confirmed that many landlords are understandably apprehensive to rent to cannabis businesses because of the federal government's stance against medical and 3 recreational cannabis. Realtor opinions on the advantages of expanding beyond the M District for medical cannabis cultivation varied widely.
- Importantly, we were given very specific examples of landlords in other manufacturing districts open to leasing for cannabis cultivation.
- Quite the opposite, however, we were also told by some realtors there is universal landlord refusal to consider medical cannabis businesses. Significantly, MCC research with sources outside the cannabis community, and our independent observation of the M District, confirmed statements already heard from within the cannabis community; the complete scarcity of available leasing space in the M District for any kind of business.

Cannabis Cultivation/Farming the Only Use Solely Restricted to the M District

In addition, it must be noted that while medical cannabis cultivation is currently limited solely to the M District, all other categories of businesses that have uses permitted in the M District (City of Berkeley 23E.72.030 Uses Permitted) also have the possibility of finding leasing space in one or, in most cases, several of the city's other three manufacturing districts.3 (See Attachment A for this comparative analysis.) A good example is the Light Manufacturing category. This category includes large-scale indoor farming (e.g., broccoli, orchids), per planning staff. Indoor farming is allowed in all four manufacturing districts (M, MM, MULI, MU-R) and the West Berkeley Commercial (CW) District – indoor farming, that is, except for the cannabis plant. The current zoning restriction on the cultivation/farming of medical cannabis, therefore, means that if there is in fact no adequate leasing space available in the M District, the cultivation/farming of medical cannabis is not possible within the city of Berkeley.

Characteristics of the M District

The M District represents less than one percent (0.77%) of the city size.4 This district is 17-square blocks, although a railroad right-of-way runs through the district for six blocks and reduces the overall area by approximately two square blocks. The M District has long-time, established businesses, several of which utilize entire blocks (e.g., Pacific Steel Casting, PS Public Storage, Extra Space Storage, Berkeley Forge and Tool, City of Berkeley Transfer Station, Hertz Equipment Rental, All Import Auto Salvage). It also includes huge, hulking buildings that historically present extremely difficult environmental concerns and therefore economic challenges to cultivating/farming in this area. Perhaps the best symbol of the M District is the formidable string of silos from Crystal Amber Industrial. The M District borders the Berkeley Skate Park, Gabe Catalfo Fields, and Harrison Homeless Shelter that includes children; while Berkeley does not have buffers around parks and schools, the federal government does have buffers and that fact may discourage potential landlords. All of these impediments contribute to severely limited rental opportunities for cultivation.

More Leasing Opportunities Needed to Ensure Cultivation

The MCC recommends that the City maintain the 180,000 square feet limit for city space allowed for medical cannabis cultivation. The MCC is convinced, however, based upon public testimony and a survey of a variety of non-cannabis parties knowledgeable with the M District, that the city cannot establish a thriving medical cannabis cultivation community without expansion beyond the M District.

The MCC recommends that the City expand space allowed for cultivation of medical cannabis beyond the M District to parts of the MM District and the MU-LI District, as a block-by-block Overlay Multiple Zoning designation. The 180,000 square feet that Berkeley has set aside for medical cannabis cultivation represents less than one-tenth of one percent (0.034%) of total City land area.8 An expansion of City land area allowed for cannabis cultivation to parts of the MM District and the MU-LI District will not increase the 180,000 square-foot zoning restriction. Opening parts of the MM and the MU-LI will allow expanded opportunities for Cultivators to find space, strengthen the City's potential to be a leader in medical cannabis science and farming, improve patient access to quality and affordable medicine, and maximize the City's potential to increase city revenue.

1 Undoubtedly, many cultivators will have operations much smaller than 30,000 square feet.
2 Approximately two-thirds of a cultivator's space is devoted to growing plants, representing the first two phases of cultivation – vegetation and flowering. The final and third phase of cultivating is devoted to harvesting and processing – researching, trimming, drying, sorting, packaging, office management.
3 Automobile sales are not allowed in the other three manufacturing zones; auto sale are allowed, however, in other non-manufacturing zones.
4 94-acre M District (West Berkeley City Plan, 1993) divided by 12,161-acre City of Berkeley (Quick Index to Origin of Berkeley Names, Berkeley Historical Society) equals 0.0077

Attachment A: All M-Zone Permitted Uses Are Allowed In *At Least* One Other Manufacturing Zone *Except* Cultivation/Farming of Medical Cannabis[1]

(Source: City of Berkeley 23.E.##.030)

All Uses Permitted in the M Zone (often permits required)		Same Use also Allowed in		
	M (##=72)	MM (##= 76)	MULI (##=80)	MU-R (##=84)
1. Construction Products Manufacturing	☒	Yes	Yes	Yes
2. Light Manufacturing (incl. large-scale indoor farming)*	☒	Yes	Yes	Yes
3. Pharmaceuticals	☒	Yes	Yes	No
4. Primary Production Manufacturing	☒	Yes	No	No
5. Semiconductors	☒	Yes	No	No
6. Warehouses (other than Mini-storage)	☒	Yes	Yes	Yes
7. Warehouse-Based Non-Store Retailers	☒	Yes	Yes	No
8. Wholesale Trade Establishments	☒	Yes	Yes	Yes
9. Art/Craft Studio	☒	Yes	Yes	Yes
10. Bus, cab, truck and public utility	☒	Yes	Yes	Yes
11. Commercial Excavation	☒	Yes	Yes	No
12. Contractors	☒	Yes	Yes	Yes
13. Dry Cleaning and Laundry Plants	☒	Yes	Yes	Yes
14. Media Production	☒	Yes	Yes	Yes
15. Recycled Materials Processing	☒	Yes	Yes	No
16. Repair Service (other than auto repair)	☒	Yes	Yes	No
17. Services to Buildings and Dwellings	☒	Yes	Yes	No
18. Alternate Fuel/Change Stations	☒	Yes	Yes	No
19. Automobile Wrecking Establishments	☒	Yes	Yes	No
20. Automobile Sales	☒	No	No	No
21. Automobile Repair and Service	☒	Yes	Yes	Yes
22. Activities/Storage Outside of a Bldg. not ancillary to use	☒	Yes	Yes	Yes
23. Automatic Teller Machines	☒	Yes	Yes	Yes
24. Outdoor Farms & other Agricultural Uses	☒	Yes	No	No
25. Parking Lots	☒	Yes	Yes	Yes
26. Recycling Redemption Centers	☒	Yes	No	Yes
27. Food Service Establishment	☒	Yes/No	Yes	Yes
28. Incidental Retail Sales of goods manufactured on site	☒	Yes	Yes	Yes
29. Cafeterias for employees only	☒	Yes	Yes	Yes
30. Industrial and mining products	☒	Yes	Yes	No
31. Clubs, lodges (often for persons working in the district)	☒	Yes	Yes	Yes
32. Public Safety and Emergency Services	☒	Yes	Yes	Yes
33. Public Utilities Substations, Buildings and Tanks	☒	Yes	Yes	No
34. Municipal Animal Shelter	☒	Yes	Yes	No
35. Wireless Telecommunications located on site	☒	Yes	Yes	Yes

*A Senior Planner at the Zoning Counter told a Commissioner that large-scale indoor farming businesses (e.g., broccoli, orchids) are included in the Light Manufacturing category, and allowed in all four manufacturing districts and the West Berkeley Commercial (CW) Zone. He gave her the corresponding 23E.## documents.

Prepared by Karen Marie Rice, updated 3/10/14

[1] One other exception: automobile sales, which are allowed in other non-manufacturing zones.

Attachment B: Estimated Berkeley Business Taxes from Medical Cannabis Cultivation per Measure S

City of Berkeley Business Tax Calculations per BMC 9.04.136 (Based on gross receipts)

Note- Total cannabis cultivation square footage will almost certainly combine flowering, clone production and also possibly topical and edible production facilities. Two separate calculations of estimated gross receipts are provided: one set for flower production and one set for clone production)

Proposed Cultivation square footage:	180,000
Less 1/3 office, processing etc	-60000
Total sq ft under cultivation	120,000

A. FLOWER CYCLE CALCULATIONS

Assumptions -

1) Four 13-week cycles per year (3 week veg + 10 weeks flower)
2) Two 1000 watt HID lights per standard 4x8 flood tray yields an average of 2 lbs finished product (1 lb\ light)
3) Each 4x8 tray requires a 6x10 area for plant maintenance (60 sq ft)

Total square footage	120,000
divided by area for one tray	60
# 4x8 trays in total cultivation square foot	2000
# lbs per tray	2
Total lbs finished cannabis flowers\cycle	4000
# cycles per year	4
# lbs per year	16,000

Gross Revenue Calculation:	Price per lb	Gross Revenue	**Business Taxes @ $25/1000**
Low Range	$1,500	$24,000,000	$600,000
High Range	$3,300	$52,800,000	$1,320,000
Average	$2,400	$38,400,000	$960,000

Prepared by Terri Carver
2/17/14

B. CLONE PRODUCTION CALCULATIONS :

Total cultivation square footage (2/3 total	120,000
Square footage devoted to clones - 20%	
Square footage devoted to immature moms (30%)	
Total square footage for moms (50%)	60,000
# 4x8 flood trays possible (60 sq ft each)	1000
# mature moms per tray	8
Total # moms	8000
# cuttings per mom per week	20
Total # cuttings per week	160,000
Total number cuttings per year	8,320,000
Viable clones @ 80% success rate	6,656,000

Clones Gross Revenue Calculation:	Price per stem	Gross Revenue	**Business Taxes @ $25/1000**
Low Range	$5.00	$33,280,000	$832,000
High Range	$8.00	$53,248,000	$1,331,200
Average	$6.50	$43,264,000	$1,081,600

C .BUSINESS TAX CALCULATION BASED ON A COMBINATION OF 75% FLOWERING AND 25% CLONE PRODUCTION FOR TOTAL CULTIVATION SQUARE FOOTAGE

	Flowers Total	Clones Total	75/25 Ratio (Flowers + Clones)
Low Estimate	$600,000	$832,000	$658,000
High Estimate	$1,320,000	$1,331,200	$1,322,800
Average Combined Business Taxes			**$990,400**

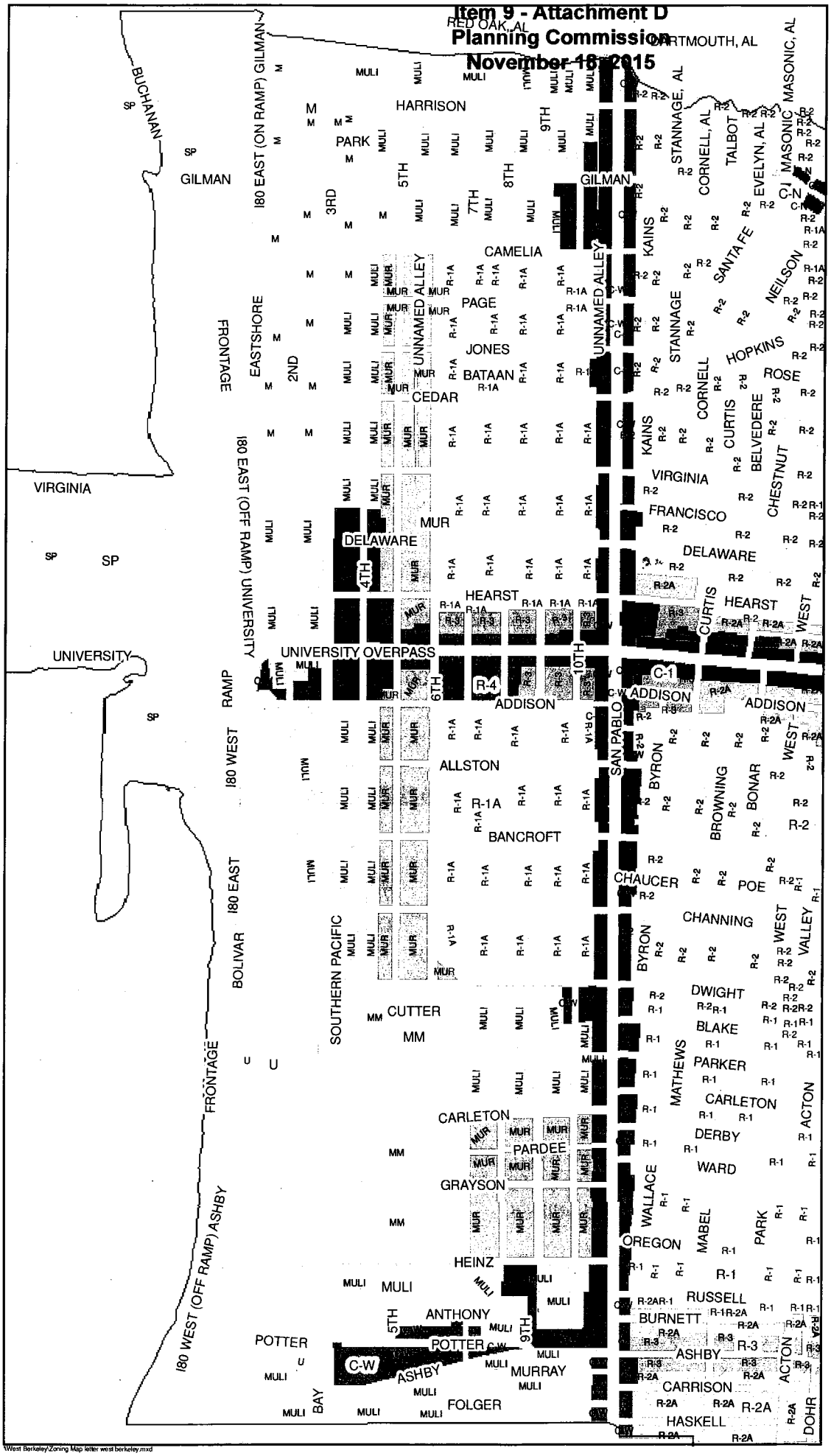
D. SUMMARY

We estimate that the City of Berkeley will collect between $650,000 and $1,300,000 in revenue from Medical Cannabis cultivation (average of about $1,000,000) if the total allowable cultivation space under Measure S is available and utilized.

Each 1000 square feet of cultivation space that is not utilized will cost the City approximately $5500 in potential lost revenue. ($990,400 avg annual business taxes ÷ 180,000 total cultivation sq ft x 1000 sq ft)

Prepared by Terri Carver
2/17/14

Item 9 - Attachment D
Planning Commission
November 18, 2015



WEST BERKELEY ZONING DISTRICTS

ZONING DISTRICTS

- R-1 Single Family Residential
- R-1A Limited Two-family Residential
- R-2 Restricted Two-family Residential
- Restricted Multiple-family Residential
- Multiple-family Residential
- Multi-family Residential
- High Density Residential
- Environmental Safety-Residential
- General Commercial
- Central Commercial
- Elmwood Commercial
- Neighborhood Commercial
- North Shattuck Commercial
- South Area Commercial
- Solano Avenue Commercial
- Telegraph Avenue Commercial
- West Berkeley Commercial
- M Manufacturing
- MM Mixed Manufacturing
- MULI Mixed Use-Light Industrial
- MUR Mixed Use-Residential
- SP Specific Plan
- U Unclassified

ZONING OVERLAYS

- Hillside Overlay/Boundary
- Arts District Overlay

University Ave Strategic Plan

- Avenue Mixed Use
- UASP Node

N

0 375 750 1,500 Feet

CITY OF BERKELEY
Planning & Development Department
2120 Milvia Street, Berkeley CA 94704
(510) 981-7400

\West Berkeley\Zoning Map letter west berkeley.mxd