



## Law and Legislation Committee Report

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**File #:** 2016-01218

**Discussion Item 04**

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**Title: Permitting and Regulation of Marijuana Manufacturing Facilities and Testing Laboratories**

**Recommendation:** Review the proposed regulations for permitting marijuana manufacturing facilities and testing laboratories and provide feedback for the drafting of ordinances for both operating permits and land use permits.

**Location:** Citywide

**Contact:** Randi L. Knott, Director of Government Affairs, (916) 808-5771, Office of the City Manager; Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance

**Presenter:** Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance,

**Department:** Office of the City Manager and Department of Finance

## Description/Analysis

**Issue Detail:** Since September 2015, Governor Brown has signed several bills, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA), affecting state and local government licensing/permitting of medical marijuana businesses. MCRSA is intended to protect local control of the medical marijuana industry and create a framework for additional oversight of industry practices. MCRSA establishes a dual licensing framework for medical cannabis operators, meaning if a local license is available, then the operator must secure both a state license as well as a local license to operate. State licensure is not required however until such time that the state licenses become available which is projected to be in January 2018.

As originally drafted, the MCRSA clearly contemplated that local jurisdictions would eventually license and regulate cannabis extraction and manufacturing using both volatile and non-volatile solvents and methods. However, the legislation left gaps in the state statutory scheme for protection of cannabis manufacturers operating during the interim period pending full regulatory implementation of MCRSA and issuance of state licenses. AB 2679, passed by the California Assembly on August 31, 2016 and recently signed into law by the Governor, closes this significant gap by creating new public safety standards for extraction and providing protection from prosecution under state law to collectives and cooperatives that meet a detailed set of statutory criteria. Manufacturers of medical cannabis who possess a local license or permit, and who satisfy the AB 2679 criteria now have explicit protection from criminal prosecution under punitive state laws otherwise applicable.

The intent of the future ordinance is to ensure public health and safety while avoiding negative impacts on surrounding communities. After a thorough review of marijuana manufacturing ordinances from several California cities as well as those in the states of Washington, Oregon and Colorado, tours of manufacturing businesses and research into best practices, staff is recommending that the following requirements be codified in an upcoming ordinance for approval by the City Council:

1. Interested parties: Applicants shall be required to have background checks for all interested parties (persons with a 10% interest in the business, managers, and staff of a marijuana manufacturing or testing facility) that will consist of a Live Scan fingerprinting and full background check. Anyone convicted of a felony, convicted of participating in a criminal street gang, or on probation or parole for a misdemeanor relating to the sale or distribution of a controlled substance may not be an interested party in the business.

2. **Odor Control Plan:** Applicants shall submit an odor control plan providing a description of the air treatment systems or other methods that will be implemented to control or eliminate external odors.
3. **Cash Handling Procedures:** Applicants shall submit a description of proposed cash handling procedures.
4. **Transportation Plan:** Applicants shall submit a plan describing the procedures for safely and securely transporting marijuana, products and currency.
5. **Insurance/City Liability:** Applicants shall include proof of insurance and a statement indemnifying the City from any claims, damages, injuries or other liabilities associated with the operation of a marijuana manufacturing facility or testing lab.
6. **Non-Volatile Extraction Plan:** Marijuana extraction facilities shall provide a plan indicating the types of solvents proposed to be used in the manufacturing process and shall certify that the process will meet all state and local building and fire code requirements.
7. **Health Permits:** Applicants will acquire all required state and County health permits.

As for land use requirements, staff recommends, and Council has directed, that a Conditional Use Permit (CUP) be required for all marijuana businesses. Staff recommends that manufacturing and testing labs be permitted at the Zoning Administrator (ZA) level with appeals to be heard by the Planning and Design Commission. This will generally allow for the location of these businesses in the following zones:

M-1, M-1(S), M-2, M-2(s), MIP, MRD, C-2 and C-4.

In any zone, staff recommends the following:

1. Fully enclosed building
2. Not within 600 ft of a school (State Law)
3. No more than one sign
4. Must comply with all applicable state and local laws
5. Multiple marijuana uses only if authorized by state and local law

In C-2 Zone, not to exceed 6,400 square feet which is an existing zoning requirement for all manufacturing businesses in the commercial zone.

**Policy Considerations:** This evening, the City Council will be reviewing the proposed ordinances for the permitting and regulation of medical marijuana cultivation and delivery to qualified patients. In August, 2016, the Law & Legislation Committee requested that once the ordinances for cultivation and delivery were completed, that staff return to the Committee with similarly appropriate recommendations for non-volatile marijuana manufacturing and lab testing facilities.

As the State implements its requirements on the medical marijuana industry, the City will need to review its local ordinances for consistency with the State requirements.

**Economic Impacts:** Not Applicable.

**Environmental Considerations:** This action is not a project subject to the California Environmental Quality Act (CEQA) because it involves only general policy and procedure making and does not have the potential for resulting in either a direct or indirect physical change in the environment. (CEQA Guidelines, §§ 15002(d), 15378, 15061(b)(3).)

**Sustainability:** Not applicable

**Commission/Committee Action:**

**Rationale for Recommendation:** Several California cities have recognized that the impact of not regulating manufacturing activities can include damage to buildings such as improper and dangerous electrical alterations and use, fire safety issues, increased frequency of home-invasion robberies and similar crimes, and that many of these impacts have fallen disproportionately on residential neighborhoods. These impacts have also created an increase in response costs, including code enforcement, building, fire, and police staff time and expenses.

**Financial Considerations:** Not applicable.

**Local Business Enterprise (LBE):** Not applicable.