



TOWN OF FAIRFAX

STAFF REPORT

July 18, 2018

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*
Ben Berto, Planning and Building Director

SUBJECT: Discuss/consider Local Cannabis Regulatory Options and provide direction to the Planning Commission

RECOMMENDATION

Discuss/consider local cannabis regulatory policy options and provide direction to the Planning Commission

BACKGROUND

California is currently operating under the auspices of the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) regulating every aspect of the commercial cannabis industry, both medical and non-medical. MAUCRSA provides broad discretion to local jurisdictions to regulate all commercial cannabis businesses.

Fairfax is currently operating under a moratorium for commercial cannabis businesses (except for medical marijuana dispensaries allowed under the Town Code) that is in effect until October 31 of this year. Please note that the Council can extend the moratorium for an additional year prior to October 31. The current moratorium provides the Council the ability to determine what types of commercial cannabis regulations are desired for Fairfax.

The Council reviewed the context for possible cannabis regulations at their March 7th meeting. At that time, several commercial cannabis regulatory parameters were discussed, preliminarily narrowing the types of commercial cannabis businesses desired in Fairfax.

Specifically, the Council opined that a business involving any of the following as defined under State regulations, did not appear to be a good fit for the Town and that the Council will no longer further discuss or consider these types of businesses:

- manufacturing of cannabis products
- distribution of cannabis and cannabis products
- commercial cannabis cultivation
- cannabis testing laboratories

Staff was given direction to continue to gather more information regarding:

- commercial medical cannabis dispensaries/retailers
- non-medical/adult-use cannabis retail
- cannabis delivery
- microbusinesses
- cannabis temporary events.

On May 30th the Council held a special Town workshop for the express purpose of receiving more detailed information on the above topics for further discussion. David McPherson, Cannabis Compliance Director for HdL Companies, a firm specializing in municipal regulation and taxation of medical and non-medical cannabis businesses, conducted the workshop.

DISCUSSION

The key objective of the workshop was to provide an opportunity for the Council and community to have a Q&A session with an expert in the industry. Those discussions would assist the Council with determining how it wants to regulate and/or prohibit different aspects of commercial cannabis, including deliveries.

The next step in the process is for the Council to provide general policy direction to staff which will allow us to prepare business and/or zoning regulations for consideration by the Planning Commission. Ultimately, the PC will recommend regulations for Town Council consideration.

The issue is complex with regulations and licensing governed by three state agencies. As background, staff has attached fact sheets from these three agencies to provide additional detail regarding a specific license.

This staff report attempts to keep the discussion at a high policy level with the goal of avoiding “getting into the weeds.” We have specifically divided the policy discussion into the following categories:

- Eliminated Categories of Use
- Should We Allow These Type of Uses
- Buffer Zones
- Limit the Number of Retailers
- Personal/Medical Cultivation
- Standards
- Tax Revenues

Under each topic, staff has presented the key “policy considerations” for the Council. The objective is that a Council decision on one “policy consideration” will help narrow the discussion on other issues. Hopefully, this approach will allow the Council to make key policy decisions without getting bogged down in the details.

Eliminated Categories of Use

The Council has previously indicated it does not want to allow for these types of businesses for either medicinal or adult-use:

- 1) Manufacturing of cannabis products- There are two license categories: adult use and medicinal. There are four license categories: cannabis extraction using volatile and non-volatile solvents, cannabis infused products, and packaging and labeling. This is regulated and licensed by the California Department of Public Health (see attached fact sheet).
- 2) Distribution of cannabis products- This includes arranging for testing, checking for appropriate packaging and labeling, collecting taxes, and transporting. This is regulated and licensed by the California Bureau of Cannabis Control (see attached fact sheet).
- 3) Commercial cannabis cultivation- This includes cultivators, nurseries, and processors. This is regulated and licensed by the California Department of Food and Agricultural (see attached fact sheet).
- 4) Cannabis testing laboratories- This includes labs for testing cannabis and cannabis products. This is regulated and licensed by the California Bureau of Cannabis Control (see attached fact sheet).

Policy consideration: Confirm the elimination of these uses for further consideration.

Should We Allow These Uses

Based on the Council's discussion, the uses below are still under consideration. Previously, staff had recommended just adding as permissible uses adult use retail and delivery, along with medicinal retailers/dispensaries. Our recommendation remains the same, although microbusinesses is an intriguing concept to consider.

These uses are all regulated and licensed by the California Bureau of Cannabis Control.

- 1) Commercial medical cannabis dispensaries/retailers- At present, Fairfax Municipal Code, Chapter 17.110, allows up to three medical cannabis dispensaries to operate in the Town in certain commercial zones with a two-year dispensary permit. Chapter 17.110 also imposes a series of operating requirements on medical cannabis dispensaries. Fairfax is currently the only jurisdiction in Marin that allows on-premises sale of medical cannabis.

Policy consideration: Does the Town want to continue to allow medical cannabis dispensaries?

- 2) Non-medical cannabis retail- Currently there is a moratorium on this type of use.

Policy consideration: Does the Town want to allow non-medical cannabis retailers? Does the Town want retail to be restricted to delivery only with no storefront operation? Can a dispensary/retailer sell both medical and non-medical cannabis?

- 3) Cannabis delivery- The Town currently allows the delivery of medical marijuana, but not non-medical. Staff previously reported that the Town Council had requested the Planning Commission (PC) discuss delivery standards for medical cannabis in April 2016. The on-line community forum regarding medical cannabis delivery indicated that over 70% (32 of 44) of the respondents to the forum supported the Town Council's desire to regulate delivery. In addition, a key consideration is the ability of the Town to control cannabis deliveries since vehicles are not marked.

Policy Consideration: Does the Council want to allow non-medical cannabis deliveries? Is it ok if the delivery standards are the same for both medical and non-medical cannabis?

- 4) Microbusinesses- Licensees must engage in at least 3 of the 4 following activities: cultivation (less than 10,000 sf), manufacturing (level 1-Adult use, type 6- non-volatile extraction), distribution, and retail. At the workshop, HdL commented that a microbusiness license may help a business achieve some economies of scale by eliminating the costs of going to a third party for the service/product.

Policy Consideration: Does the Council want to allow microbusinesses? If so, does the Council want to impose additional restrictions such as eliminating the cultivation option?

- 5) Cannabis temporary events- Events must be held at a county fair or district agricultural association (DAA) event. Events allow for cannabis retail sales and consumption to persons 21 and older. This could be a moot point since the county fair and DDA do not have locations within the Town's limits.

Policy considerations: If such events can occur in town, does the Council want to allow them?

Buffer Zones

MAUCRSA contains default prohibitions on any retail licensee, whether medical or adult-use recreational, from locating within 600 feet of a school, daycare, or youth center (as defined in State law), unless the local agency or the State licensing authorities establishes a different buffer radius.

Fairfax could adjust setback buffer distance requirements that are either farther away or closer than 600 feet to the listed uses, and further could modify what youth-oriented uses (e.g., parks) would be subject to buffer setbacks (for example, eliminating buffers for an infant day care center or adding parks/playgrounds). The Town could consider whether to adjust its regulations to adopt the more restrictive standards contained in the State's regulations, stipulate varying setbacks for certain types of sensitive or youth-related uses, or exempt certain types of cannabis businesses from being subject to setback buffer requirements. For reference, attached is a map was showing the commercial locations outside of a 600-foot radius of a school, daycare, or youth center.

Policy Consideration: Does the Town want to modify the buffer zone restrictions (i.e., distance and/or uses)? Does the Town want to modify the existing buffer zone for medical cannabis dispensaries? Can buffer zones for medical and non-medical retailers be different?

Limit the Number of Retailers

At present, Fairfax Municipal Code, Chapter 17.110, allows up to three medical cannabis dispensaries to operate in the Town in certain commercial zones with a two-year dispensary permit. The Council may want to consider a similar limit for non-medical cannabis retailers.

Policy Consideration: Does the Council want to set a limit on the number of non-medical cannabis retailers? Does the Council want to set a combined maximum (e.g., 5 total) of non-medical and medical retail dispensaries? If a business is both a medical and non-medical cannabis retailer does that count as 2 toward the maximum limit?

Personal/Medical Cultivation

Under State law, local governments no longer have the ability to ban all cannabis cultivation for personal adult-use – up to six cannabis plants for personal use can be cultivated indoors within a person's private residence. This includes cultivation in a greenhouse on the same property as the residence as long as it is fully enclosed, secure and not visible by normal unaided vision from a public place. Fairfax Municipal Code, Section 17.138.330 et seq. currently allows for medical purposes outdoor cultivation of up to 18 cannabis plants, and indoor cultivation subject to other restrictions. These Code provisions contains additional standards for such cannabis cultivation.

In passing its 1-year moratorium on most types of cannabis uses, the Town Council exempted medical cannabis cultivation consistent with Town Code Section 17.158.330 et seq., and 6 plants indoors or outdoors for personal adult non-medical use.

Policy considerations: Amend local regulations to clarify that up to 6 cannabis plants may be grown indoors (required by state law) and outdoors for adult, non- medical us? If not, does the Town want to ban outdoor cultivation of cannabis for adult use?

Standards

Staff recommends the Council consider just revising the Town's cannabis regulations to accommodate non-medical cannabis retailers. This has the advantage of possibly only requiring modest changes to the Town's existing regulations on dispensaries. Presumably, some modifications would be required to make it consistent with State law, we would need to add delivery standards, and make some other minor revisions. With general direction on the above issues, staff would draft standards/regulation for the PC's consideration. One base assumption is that the allowed uses would only be allowed in commercial zones.

Policy consideration: Revise the Town's cannabis regulations to accommodate non-medical cannabis retailers.

Tax Revenues

Any taxes generated by Fairfax-based cannabis businesses would create additional revenue for the Town. The Council will need to consider whether it wishes to explore enacting local taxes on cannabis. The amount of revenue is uncertain and would depend on the type, number, size, and success of the cannabis establishments, and whether the Town desires to regulate and tax out-of-town businesses that are delivering cannabis to Fairfax. Any local taxes imposed on cannabis businesses would be subject to Proposition 218 and require approval by two-thirds of local voters. Staff recommends the Council defer this discussion until there is an ordinance prepared for the Council's consideration. This would allow staff to better recommend a fee structure based on the proposed uses.

Policy consideration: Defer this discussion until there is an ordinance prepared for the Council's consideration.

NEXT STEP

Based on the Council's direction, staff, in consultation with the Town Attorney, evaluate the need for an outside firm to assist with the preparation of the regulations. The proposed regulations would be reviewed by the Planning Commission, for their recommendation to the Town Council regarding adoption.

FISCAL IMPACT

None at this time.

ATTACHMENTS

- A. Manufacturing Fact Sheet (CA Dept. of Public Health)
- B. Distribution and Testing - Licenses Fact Sheet (CA Bureau of Cannabis Control)
- C. Cultivation Fact Sheet (CA Dept. of Food and Agriculture)
- D. Event Fact Sheet (Bureau of Cannabis Control)
- E. 600 ft. setback buffer radius map for medical and non-medical cannabis

EMERGENCY REGULATIONS

SUMMARY FOR CANNABIS MANUFACTURING



The California Department of Public Health (CDPH) is one of three state licensing authorities charged with licensing and regulating commercial cannabis activity in California. CDPH is responsible for regulation of the *manufacturing* component of the industry, which it will do through the Manufactured Cannabis Safety Branch.

In November 2017, CDPH released Emergency Regulations that outline the standards and licensing procedures for both medicinal and adult-use commercial cannabis manufacturing and products. These replace the medicinal regulations released in April 2017 developed in response to previous versions of state law.

Key Components of Cannabis Manufacturing Emergency Regulations

Temporary Licenses

CDPH will issue temporary licenses that allow a business to engage in commercial cannabis activity. Once issued, these licenses will be valid for 120 days and may be extended for additional periods of 90 days, if the business has submitted a complete annual license application. The application will be available on the CDPH website and can be submitted by mail or email. City or county authorization to conduct commercial cannabis activity must be submitted with the temporary license application. Once the application is received, CDPH will contact the city or county to verify the local authorization, and the office will have 10 days to respond. There is no fee for the temporary license.

Annual Licenses

Applications for annual licenses will be accepted through an online licensing system that will launch in December 2017. This application will require information on the business, owners and financial interest holders, and operating premises, as well as descriptions of procedures for waste disposal, inventory and quality control, transportation and security. Businesses in operation under the Compassionate Use Act prior to September 1, 2016, will receive priority application review. Applicants must be in compliance with city or county ordinances. During the application review process, CDPH will contact the city or county to verify the local authorization. If the applicant does not provide a copy of their local authorization, the local office will have 60 days to respond. If the applicant includes a copy of their local authorization with their application, the local office will have 10 days to respond.

License Categories & Types

Anyone conducting commercial cannabis manufacturing must obtain a license from CDPH. Each license issued will have one category and one type.

The two license categories are:

A-License

Cannabis products for sale in the adult-use market

M-License

Cannabis products for sale in the medicinal market

A business may hold both M- and A-Licenses at the same premises as long as separate applications are completed.

The four license types are:

Type 7

Extraction using volatile solvents (ex: butane, hexane, pentane)

Type 6

Extraction using a non-volatile solvent or mechanical method (ex: food-grade butter, oil, water, ethanol, or carbon dioxide)

Type N

Infusions (ex: using pre-extracted oils to create edibles, beverages, capsules, vape cartridges, tinctures or topicals)

Type P

Packaging and labeling only

Operational Requirements

Licensees must have written procedures for inventory control, quality control, transportation, security and cannabis waste disposal. Descriptions of these procedures or Standard Operating Procedures (SOPs) must be submitted with the annual license application. Cannabis waste cannot be sold, must be placed in a secured area and be disposed of according to applicable waste management laws.

Good manufacturing practices must be followed to ensure production occurs in a sanitary and hazard-free environment, cannabis products are contaminant free and THC levels are consistent throughout the product and within required limits.

Extractions using CO2 or a volatile solvent must be conducted using a closed-loop system, certified by a California-licensed engineer. Volatile, hydrocarbon-based solvents must have at least 99% purity. Finally, volatile solvent, CO2 and ethanol extractions must be certified by the local fire code official.

Product Standards and Prohibited Products

Products cannot be infused with nicotine or alcohol or have added caffeine. Edible products cannot be shaped like a human, animal, insect, or fruit. Some potentially-hazardous foods, such as meat and seafood, and other products requiring refrigeration, are prohibited for sale as cannabis products. Juice and dried meat made in accordance with requirements are allowed. Perishable ingredients, such as eggs and milk, may be used as long as the final product meets regulatory standards.

THC Limits

Edible products are limited to a maximum of 10 mg of THC per serving and 100 mg of THC per package. Other cannabis products, such as tinctures, capsules and topicals, are limited to a maximum of 1,000 mg per package for the adult-use market and 2,000 mg of THC per package for the medicinal-use market.

Packaging & Labeling

Cannabis product packaging cannot resemble traditionally available food packages, and edibles packaging must be opaque. All manufactured products must be packaged before they are released to a distributor. In addition to these requirements, statute requires that cannabis product packaging not be attractive to children and be tamper-evident, re-sealable if the product includes multiple servings, and child-resistant.

Cannabis product labels must include an ingredient list, some nutritional facts and the CDPH-issued universal symbol. The label may not refer to the product as a candy. In addition to these requirements, statute requires that labels not be attractive to individuals under age 21 and include mandated warning statements and the amount of THC content.

Annual License Fees

Application Fee – Processing fee of \$1,000.00 per license

License Fee – Scaled according to the gross annual revenue of the licensed premises. These fees are intended to cover costs of administering the manufactured cannabis safety program and range from \$2,000 to \$75,000.

Transition Period

The state licensing authorities have established a transition period, from January 1 until July 1, 2018, to support a smooth transition into a newly regulated market. During this period, product will be allowed to move between A- and M-licensees. Products manufactured prior to January 1, 2018, can be packaged in secondary packaging that is child resistant, and stickers may be used for the government warning statement and amount of THC/CBD per serving. All products manufactured on or after January 1, 2018 must meet THC limits and product restrictions.

Shared Manufacturing Facilities

CDPH is currently developing an additional license type, Type S, which will allow businesses to share facility space. This license type will reduce barriers to entry into the legal, regulated market and ensure that cannabis products are manufactured in clean, regulated facilities. This license type should be ready to be issued in early 2018.

Other Laws to Know:

California Business & Professions Code – Includes requirements set forth by MAUCRSA

Emergency Regulations released by the Bureau of Cannabis Control – Includes specific requirements for retailers, distributors, third-party testing laboratories and microbusinesses

Emergency Regulations released by the CalCannabis Cultivation Licensing – Includes specific requirements for cultivators and the track-and-trace system

Your Local City or County Ordinances

California Department of Public Health
Manufactured Cannabis Safety Branch

www.cdph.ca.gov/mcsb mcsb@cdph.ca.gov
www.cannabis.ca.gov





BUREAU OF CANNABIS CONTROL

CALIFORNIA

BUREAU OF CANNABIS CONTROL MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

ALL BUREAU LICENSES

■ Temporary License – Allows for Operations while Annual License Application is Pending

- A temporary license allows a business to engage in commercial cannabis activity for a period of 120 days.
- The Bureau can only issue a temporary license if the applicant has a valid license, permit, or other authorization issued by the local jurisdiction in which the applicant is operating.

■ Annual Licenses

- All commercial cannabis activity shall be conducted between licensees.
- There is no specific number limit to the licenses that may be held by an applicant. There is no restriction on the types of cannabis licenses a person can hold, except a person who holds a testing laboratory license is prohibited from licensure for any other commercial activity.

- An annual license issued by the Bureau is valid for 12 months from the date of issuance and may be renewed annually.

■ Local Compliance Verification

- If the applicant provides a local license, permit, or other authorization, the Bureau will contact the local jurisdiction to verify the information and will allow at least 10 days for the jurisdiction to respond before issuing the license, unless a response is received from the local jurisdiction sooner.
- If an applicant for an annual license does not provide a local license, permit, or other authorization, the Bureau will contact the local jurisdiction to verify that issuing the license would not violate a local ordinance or regulation. After 60 days, if there is no acknowledgement by the local jurisdiction, the Bureau shall presume the applicant is in compliance and may issue a license.

ATTACHMENT B

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

■ License Type Designation

- Licensees must hold an A-license to engage in adult use commercial cannabis activity and an M-license to engage in medicinal commercial cannabis activity. The exception is testing laboratories, which may test cannabis goods for both license types.

■ Ownership

- An owner is a person who: holds at least 20 percent aggregate ownership interest in a commercial cannabis business; is a chief executive officer or member of the board of directors of a non-profit; or will be participating in the direction, control, or management of the entity applying for licensure.
- Owners must submit fingerprints, information regarding any criminal convictions, and disclose whether they have a financial interest in any other commercial cannabis business licensed under MAUCRSA.

■ Priority Licensing

- Priority application review will be provided for annual licenses only.
- To be eligible for priority licensing, an applicant must be able to demonstrate that the business was in operation and in good standing with the local jurisdiction by September 1, 2016.

■ Premises Requirements

- Applicants must identify the designated structure(s) and real property under the control of the applicant or licensee where commercial cannabis activity will take place.
- Each license must have a separate licensed premises, unless all of the following requirements are met:
 - ♦ A licensee holds both an M-license and A-license for the identical type of commercial cannabis activity;
 - ♦ The licensee holding both licenses is identical in name, business formation, and ownership;
 - ♦ The licensee only conducts one type of commercial cannabis activity on the premises;
 - ♦ All cannabis and cannabis products are clearly marked with an “M” or “A”; and
 - ♦ Records are kept separately for each license and clearly indicate the records are related to the M-license or A-license.
- Security measures are required at licensed premises. Measures include:
 - ♦ Employee badges, designated limited-access areas, and security personnel.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- ♦ 24-hour video surveillance for areas containing cannabis and cannabis products as well as all entryways and exits. Retailers must also have video surveillance in point-of-sale areas and security personnel.
- ♦ Alarm systems, commercial grade locks, and secure storage of cannabis and cannabis products.
- All employees of the licensee must be at least 21 years old.

■ Cannabis Waste

- Cannabis waste must be contained in a secured waste receptacle or secured area on the licensed premises.
- Licensees may not sell cannabis waste and must comply with all applicable waste management laws.

■ Labor Peace Agreement

- Applicants for a license with more than 20 employees must either: (1) attest that they have entered into a labor peace agreement and that they will abide by the terms of the agreement, and provide a copy of the agreement to the Bureau, or (2) provide a notarized statement indicating the applicant will enter into and abide by the terms of the labor peace agreement.

ADDITIONAL REQUIREMENTS BY LICENSE TYPE

Distributor License – Arrange for testing, check for appropriate packaging and labeling, collect taxes, transport cannabis and cannabis products, and may act as a wholesaler. All transportation shall be conducted by distributor licensees and their direct employees.

- Cannabis and cannabis products must pass through a distributor prior to being sold to customers at a retail establishment.
- Distributors must arrange for the laboratory testing and quality assurance for cannabis and cannabis products.
- Distributors may package and label cannabis (dried flower) but may not package cannabis products pursuant to the distributor license.

Distributor Transport-Only License – A distributor can choose to be a Transport Only Distributor, which transports only its own cannabis and cannabis products, or transports for other licensees, but does not perform any of the other functions of a distributor. Transportation to retail licensees is prohibited by this type of license, unless the licensees are transporting immature plants and seeds from a nursery to a retailer.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

Additional Transport Requirements for All Distributors

- Cannabis goods may only be transported in a vehicle or trailer, must not be visible from outside of the vehicle, and must be kept in a locked box, container, or cage that is secured to the commercial vehicle or trailer.
- Transport vehicles must be equipped with alarm systems and remain secure at all times.
- Packages or containers holding cannabis goods may not be tampered with, or opened during transport.
- No vehicle or trailer containing cannabis goods shall be left unattended in a residential area or parked overnight in a residential area.
- All transports must have a shipping manifest with specific information about the cannabis and cannabis products being transported. The shipping manifest must identify the licensee shipping, the licensee transporting, and the licensee receiving the shipment.

Retailer License – Sell cannabis and cannabis products to customers, often referred to as dispensaries.

- Retailers are not allowed to package or label cannabis or cannabis products on the premises. All cannabis or cannabis products sold at a retailer must be packaged and labeled before arriving at the retail premises, except during the transition period.

- Retailers may only sell and deliver cannabis goods between the hours of 6 a.m. and 10 p.m.
- Before leaving the retail premises, cannabis purchases must be placed in an opaque exit package.
- Deliveries must be made in person by a direct employee of the licensee to a physical address within the State of California.
- Delivery vehicles may not contain more than \$3,000 of cannabis product at any time. The retailer must be able to immediately locate all delivery vehicles.

Microbusinesses License – Microbusiness licensees must engage in at least three of the following commercial cannabis activities: cultivation (less than 10,000 square feet), manufacturing (Level 1, Type 6), distribution, and retail.

- A holder of a microbusiness license may only engage in the commercial cannabis activity requested in the license application and approved by the Bureau. If a microbusiness licensee wants to engage in additional commercial cannabis activity after the license is issued, the licensee shall submit an application to the Bureau identifying the requested changes and providing all information required for an application for the commercial cannabis activity the licensee wants to conduct.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Licensees will be required to comply with the rules and regulations applicable to the commercial cannabis activities the microbusiness is conducting.

Testing Laboratory License – Test cannabis and cannabis products.

■ **Provisional Testing Laboratory License**

- Testing laboratories that meet all other requirements, but are awaiting ISO (the joint technical committee of the International Organization for Standardization and the International Electrotechnical Commission) 17025 accreditation may obtain a provisional license.
- Provisional licenses expire 12 months after issuance.
- The Bureau may renew the provisional license for an additional 12 months if the laboratory's ISO 17025 accreditation application is still pending.

■ **Sampling**

- Laboratory personnel will take samples from harvest batches and cannabis product batches to be tested. Harvest batches may not exceed 50 pounds. Samples collected from batches weighing more than 50 pounds will be deemed invalid.
- Samplers must follow requirements pertaining to minimum sample sizes, minimum sample increments, transportation and storage of samples, and documentation of all sampling activity.

- Samples received by a laboratory that do not adhere to the requirements will be rejected.

■ **Tests Performed**

- Testing laboratories will be required to perform testing on cannabis goods to measure the following:
 - ♦ Cannabinoids;
 - ♦ Foreign material;
 - ♦ Heavy metals;
 - ♦ Microbial impurities;
 - ♦ Mycotoxins;
 - ♦ Moisture content and water activity;
 - ♦ Residual pesticides;
 - ♦ Residual solvents and processing chemicals; and
 - ♦ Terpenoids.
- Edible cannabis products that contain more than one serving per unit will be tested for homogeneity to ensure consistent concentrations of tetrahydrocannabinol (THC) or cannabidiol (CBD).

■ **Certificate of Analysis**

- After testing is completed, the laboratory will generate a certificate of analysis that contains the results of the testing and whether the tested batch passed or failed.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Batches that pass testing may be sold to customers via retailers.
- Harvest batches or cannabis product batches that fail testing may be additionally processed for remediation, with the exception of edibles. A batch may only be remediated twice. If the batch fails after a second remediation attempt and second retesting, the entire batch shall be destroyed.

■ Quality Assurance and Quality Control

- Testing laboratories are required to develop and implement a quality assurance program that is sufficient to ensure the reliability and validity of the analytical data produced by the laboratory.

■ Phase-In of Required Types of Testing

- The required tests for cannabis will be phased in throughout 2018.
- Cannabis harvested on or after January 1, 2018, and cannabis products manufactured on or after January 1, 2018, will be tested for potency, contaminants with a high public health risk, and contaminants that the industry is largely already testing for.
- Cannabis harvested on or after July 1, 2018, and cannabis products manufactured on or after July 1, 2018, will be tested for moderate relative health risks compared to the group above and contaminants that are currently largely not tested for.

- Cannabis harvested on or after December 31, 2018, and cannabis products manufactured on or after December 31, 2018, minor relative health risks compared to the group above and contaminants that are seldom or not tested for.

TRANSITION PERIOD

- To support a smooth transition of businesses into a newly regulated market, beginning January 1, 2018 and before July 1, 2018, licensees may do the following:
 - Conduct business with other licensees irrespective of the M or A designation on their licenses.
 - Transport cannabis goods that do not meet the labeling requirements (prescribed by MAUCRSA or the California Department of Public Health) if a sticker with the appropriate warning statement is affixed.
 - Sell cannabis goods held in inventory that are not in child-resistant packaging if they are placed into child-resistant packaging by the retailer at the time of sale.
 - Sell cannabis products that do not meet the THC limits per package established by the State Department of Public Health.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Sell and transport cannabis goods that have not undergone laboratory testing if a label stating that they have not been tested is affixed to each package containing the goods prior to transport by a distributor or prior to sale if held by a retailer.
- Individually package and sell dried flower held in inventory by a retailer at the time of licensure.
- Cannabis products held in inventory by a retailer that do not meet the requirements set by the State Department of Public Health for ingredients or appearance may be sold by a retailer.
- Review and copy any materials, books, or records in the licensee's possession.
- Failure to cooperate and participate in the Bureau's investigation may result in a licensing violation subject to discipline.
- Prior notice of investigation, inspection, or audit is not required.

■ Notice to Comply

- The Bureau may issue a written notice to comply to a licensee for minor violations of MAUCRSA or its implementing regulations, observed during an inspection.
- The notice to comply will describe the nature and facts of the violation, including a reference to the statute or regulation violated, and may indicate the manner in which the licensee must correct the violation to achieve compliance.
- Within 15 calendar days, the licensee may sign and return the notice to comply, declaring under penalty of perjury that the violation was corrected and describing how compliance was achieved. Failure to do so may result in a disciplinary action.

- **Beginning January 1, 2018, licensees shall not transport or sell any edible cannabis product that exceeds 10 milligrams per serving. Adult-use products may not exceed 100 milligrams per package; however, medicinal cannabis products may exceed 100 milligrams per package.**

ENFORCEMENT

■ Right of Access

- Licensees shall provide the Bureau's investigators, compliance monitors, agents, or employees full access to enter licensed premises; and inspect cannabis or cannabis products in the licensee's possession.

■ Minor Decoys

- Peace officers may use a person under 21 years of age to attempt to purchase cannabis goods to ensure that licensees and their employees are not selling cannabis goods to minors.



MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

■ Disciplinary Actions

- The Bureau may take disciplinary action against any license by way of revocation, suspension, fine, restrictions upon any licensee, or any combination thereof.
- The assessed penalty shall take into consideration: the nature and severity of the violation; evidence that the violation was willful; history of violations of the same nature; the extent to which the person or entity has cooperated with the Bureau; the extent to which the person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation; and the extent to which the conduct is a public nuisance or danger to public safety.
- Any Bureau accusation recommending disciplinary action will be served on the licensee and a hearing will be conducted to determine if cause exists to take action against the licensee.

- An accusation may be terminated by written stipulation at any time prior to the conclusion of the hearing on the accusation.

■ Citations and Notices to Comply

- The Bureau may issue citations containing orders of abatement and fines to a licensee or unlicensed person in writing.
- The Bureau may issue a notice to comply to a licensee for violations of the act or regulations observed during an inspection. The licensee may within 15 calendar days return the notice indicating the violation was corrected and how compliance was achieved.

Emergency Regulations Summary for Cannabis Cultivators

Licensed Cannabis Cultivation in California

In June 2017, California Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which creates one regulatory system for both medicinal and adult-use (recreational) cannabis. Under MAUCRSA, the California Department of Food and Agriculture (CDFA) was designated as the state agency responsible for issuing licenses to commercial cannabis cultivators in California.

Temporary vs. Annual Licenses

CDFA will be issuing temporary licenses that will go into effect on January 1, 2018. These temporary licenses will be valid for only 120 days, and two 90-day extensions will be available only if the temporary licensee has applied for an annual license. Temporary licenses will not be available as of January 1, 2019. Applications for temporary and annual commercial cannabis cultivation licenses are anticipated to be available in December 2017 via CDFA's CalCannabis Cultivation Licensing website at cannabis.cdfa.ca.gov.

Cannabis Cultivation License Categories

Adult Use (Recreational) OR Medicinal

- 1) **CULTIVATORS:** Numerous license types for commercial cultivators, ranging from specialty cottage to medium-sized grows
- 2) **NURSERIES:** Cultivation of cannabis solely as a nursery, including cloning and seed propagation
- 3) **PROCESSORS:** A site that conducts only trimming, drying, curing, grading, or packaging of cannabis and nonmanufactured cannabis products

ATTACHMENT C

Eligibility

OWNER. “Owner” means any of the following:

- 1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, encumbrance
- 2) The chief executive officer of a nonprofit or other entity
- 3) A member of the board of directors of a nonprofit or other entity
- 4) An individual who will be participating in the direction, control, or management of the person applying for a license

An owner who is an individual participating in the direction, control, or management of the commercial cannabis business includes any of the following:

- 1) A partner of a commercial cannabis business that is organized as a partnership
- 2) A member of a limited liability company of a commercial cannabis business that is organized as a limited liability company
- 3) An officer or director of a commercial cannabis business that is organized as a corporation

CRIMINAL BACKGROUND. Applicants will have to get fingerprinting via the Department of Justice’s Live Scan service and undergo a criminal history check to determine if any convictions are substantially related to their commercial cannabis cultivation license. Substantially related convictions may prevent the issuance of a license.

LOCAL APPROVAL. Applicants may submit, as a part of their application, proof of approval by their local jurisdiction (city or county or other jurisdiction) for commercial cannabis activity. CDFA will be verifying the validity of the authorization with the local jurisdiction identified.

ENVIRONMENTAL PROTECTION. Applicants will be required to demonstrate California Environmental Quality Act (CEQA) compliance. This may be achieved by a local jurisdiction completing a site-specific analysis or the applicant providing a CEQA document to be certified by the lead agency. Applicants will also be required to comply with specific conditions imposed by the State Water Resources Control Board and Department of Fish and Wildlife.

Site Requirements

The location must be at least 600 feet from sensitive sites, such as a school, unless otherwise authorized by local ordinance.

Tobacco and alcohol sales are prohibited at licensed commercial cannabis premises.

Documents to Submit With an Application

The following documents will need to be submitted with a cannabis cultivation licensing application:

- Lease agreement, property title, or deed indicating a right to occupy the property
- Business-formation documents filed with the California Secretary of State's office
- California State Water Resources Control Board permits and verification of the applicant's water source
- California Department of Fish and Wildlife's 1602 Lake or Streambed permit or waiver of needed permit
- California Department of Toxic Substances Control's hazardous-materials record search via the EnviroStor data-management system
- California Department of Tax and Fee Administration seller's permit
- Labor Peace Agreement if there are more than 20 employees
- Surety bond valued at \$5,000
- California Department of Justice fingerprinting via its Live Scan service for each owner
- Proof of local jurisdiction CEQA compliance or additional CEQA site-specific analysis

Local Jurisdictions

CDFA will not issue licenses to applicants in local jurisdictions where cannabis cultivation is banned.

Local Compliance Verification

If the applicant provides a local license, permit, or other authorization, CDFA will contact the local jurisdiction to verify the information and will allow at least 10 days for the jurisdiction to respond before issuing the license.

If an applicant for an annual license does not provide a local license, permit, or other authorization, CDFA will contact the local jurisdiction to verify that issuing the license would not violate a local ordinance or regulation. After 60 days, if there is no acknowledgement by the local jurisdiction, CDFA shall presume the applicant is in compliance and may issue a license.

Priority Application Review

Priority application review will be provided for annual licenses only. To be eligible, an applicant must be able to demonstrate whether his or her business was in operation and in good standing with the local jurisdiction by September 1, 2016.

Compliance After Licensing Approval

TRACK-AND-TRACE SYSTEM. Applicants will have five business days to register for a state-mandated track-and-trace training session after receiving notice that the application for licensure has been received and approved by CDFA. Training will be provided online and may be provided at various locations. Licensees will have 30 business days to move all inventory into the system after receipt of unique identifiers.

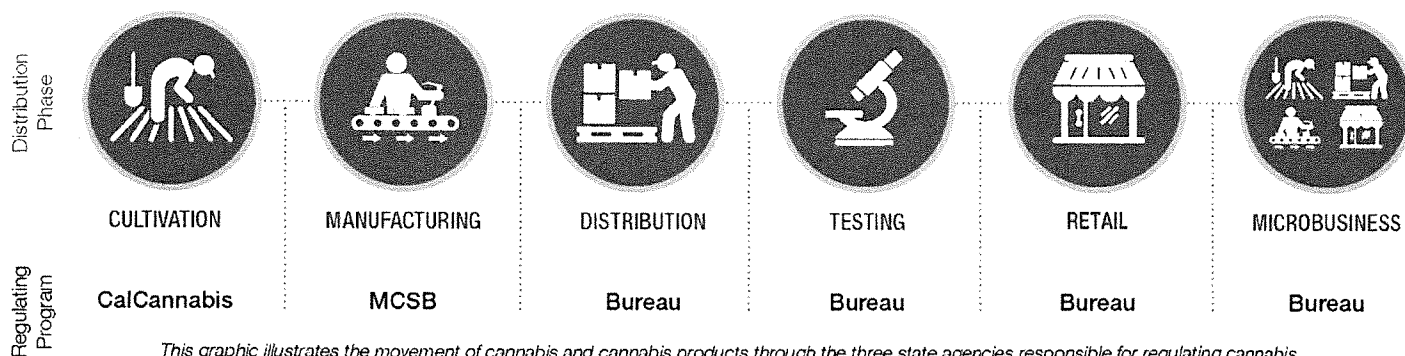
INSPECTIONS. CDFA will conduct audits and inspections of licensees to ensure compliance with license requirements.

Consequences of Noncompliance

If CDFA determines a licensee is operating out of compliance with statutory or regulatory requirements, CDFA may work with the licensee to establish a corrective action plan to correct the documented noncompliance. However, CDFA may also issue a fine or suspend or revoke the license.

License Types Other Than Cultivation

For those interested in becoming licensed for other commercial (non-cultivation) cannabis activities, please contact either the Bureau of Cannabis Control (Bureau) or the Manufactured Cannabis Safety Branch (MCSB)—and what each agency regulates is shown in this diagram:



Additional information on all three of California's licensing authorities—CalCannabis, the Bureau, and MCSB—is available on the California Cannabis Portal at cannabis.ca.gov.

Transition Period

To support a smooth transition of businesses into a newly regulated market, beginning January 1, 2018, and before July 1, 2018, licensees may do the following:

- Conduct business with other licensees regardless of the M (for medicinal) or A (for adult use/recreational) designation on their licenses.
- Transport cannabis and cannabis products that do not meet the labeling requirements (prescribed by MAUCRSA or the California Department of Public Health) if a sticker with the appropriate warning statement is affixed.
- Sell cannabis and cannabis products held in inventory that are not in child-resistant packaging if the retailer places them in child-resistant packaging at the time of sale.
- Sell cannabis products that do not meet the THC limits per package established by the California Department of Public Health.
- Sell and transport cannabis products that have not undergone laboratory testing if a label stating they have not been tested is affixed to each package containing the cannabis products prior to transport by a distributor—or prior to sale if held by a retailer.
- Individually package and sell dried flower held in inventory by a retailer at the time of licensure.
- Cannabis and cannabis products held in inventory by a retailer that do not meet the requirements set by the California Department of Public Health for ingredients or appearance may be sold by a retailer.

Cannabis Waste

Cannabis waste must be contained in a secured waste receptacle or secured area on the licensed premises.

Licensees may not sell cannabis waste and must comply with all applicable waste-management laws.

BUREAU OF CANNABIS CONTROL

CANNABIS EVENT FACT SHEET

Cannabis Event Organizer License

- Cannabis events can only be held by a person who has been issued a cannabis event organizer license by the Bureau.
- This is an annual license, with fees based on the number of events organized by the licensee per year.
- The cannabis event organizer is not authorized to cultivate, distribute, manufacture, or sell cannabis or cannabis products unless the organizer also holds a separate license to engage in such commercial cannabis activities.

State Temporary Cannabis Event License

- To obtain a temporary cannabis event license, the cannabis event organizer licensee must submit an application to the Bureau at least 60 days before the first day of the cannabis event.
- A temporary cannabis event license will not be issued for more than four consecutive days.
- Cannabis events must be held at a county fair or district agricultural association event.
- Each cannabis event must be issued a separate temporary cannabis event license by the Bureau for the specific date(s) and location of the event.
- Written approval from the local jurisdiction authorizing on-site cannabis sales and consumption by persons age 21 and older at the event is required for all temporary cannabis events.
- The organizer will be required to provide to the Bureau a list of all licensees providing on-site sales at the event.

Cannabis Event Sales and Consumption

All temporary cannabis event sales must adhere to the rules and requirements for on-site sales and consumption of cannabis goods:

- All cannabis goods shall be transported to the event site by a licensed distributor.
- All cannabis goods must be tested prior to retail sale.
- Only a licensed retailer or microbusiness licensed to sell cannabis goods to retail customers can sell at a temporary cannabis event.
- All cannabis goods shall adhere to retailer requirements pertaining to displays, exit packaging, customer returns, daily sales limits, and free samples.
- All cannabis goods sales at the event must be limited to persons 21 years of age and older.
- Access to the area where cannabis consumption is allowed shall be restricted to persons 21 years of age and older and shall not be visible from any public place or non-age-restricted area.
- Consumption of alcohol or tobacco shall not be allowed on the cannabis event premises.
- Payment to a cannabis event organizer may not be determined based on, or tied to, the sale of cannabis goods.



Bureau of Cannabis Control
2920 Kilgore Road,
Rancho Cordova, CA 95670
(833) 768-5880

For the latest updates, follow
the Bureau on social media



600 Ft Radius - Dispensaries

- Fairfax Town boundary
- 600 foot buffer
- Fairfax Parcels selection 2
- Building footprint
- Parcel boundaries

