

Attachment C
Health Considerations related to
Potential Cannabis Regulations for Contra Costa County,
Including Recommendations for a Cannabis Health Ordinance

Prepared by Contra Costa Health Services

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In consideration of the newness of regulating the commercial cannabis industry and the evolving landscape of cannabis regulation, Contra Costa Health Services (CCHS) recommends a cautionary approach to local regulation that emphasizes protections for consumers, the public and at-risk groups such as youth and individuals challenged with drug use addiction and misuse.

Given the myriad of regulatory issues associated with retail sales of cannabis products and the manufacturing of those same products CCHS recommends a separate Health Ordinance be developed to address some or all of these issues.

It will also be important to highlight upfront the two or three principal reasons we need to consider a Health Ordinance.

1. If we do not adopt local regulations before January 1st, 2018 we will lose the ability to regulate and control this emerging industry based on our local preferences, needs and concerns. Retaining primacy over our local concerns is better assured in this fashion.
2. Adopting a local Ordinance will provide our CCHS Environmental Health team with the authority to inspect and regulate in a manner they State law currently does not. Also as a practical matter the State has plans to hire fewer than 35 staff -State wide- to campus the entire regulatory and inspection needs for the entire State. Hence, we would have concerns over the ability of the state to respond to concerns in a timely manner or to know if a local operator is conducting their business Accordance with laws and regulations.
3. Complaints about local cannabis growers, manufacturers and retailers are likely to end up in our offices, and having the regulatory authority conveyed by local Ordinance would allow us to enforce these regulations.

A number of the regulatory inherent to the above principals are outlined below:

Commercial Cultivation

- Most of the regulatory considerations, such as size of growth, security, odor control, the use, owner and employee issues will likely be addressed by policy related land use and or agriculture. However there are several issues specific to Public Health concerns as follows:
- **Location/Siting Issues**
 - Proximity to neighborhoods and youth sensitive areas such as schools, playgrounds, parks, libraries, homeless shelters, health care facilities and **drug treatment facilities**. This is consistent with concepts recommended in the Tobacco Retailing Business Ordinance 2017-10 **Recommendation:** Minimum (1000) foot distance from such areas
- Indoor vs. Outdoor
 - Indoor only grows may offer the advantage of being a less visible influence on youth, as well as less chance of theft/diversion helping to reduce exposure to youth.
- **Prohibit On-site use** of cannabis in any form (vaping, smoking or edibles, oils, lotions, tinctures).
- **Pesticide and Herbicide Use:**
 - **Recommendation:** Compliance with how the Dept. of Agriculture regulates the use of pesticides and herbicides and required annual training for all personnel on occupational exposure and post exposure protocols.
- **Mold:**
 - Appropriate ventilation and filtration systems should be required to limit humidity and hence address conditions that are favorable to mold.
- **Data or reports to public health**
 - **Health Considerations:** Reports on tonnage grown and specificity on use of pesticide and herbicides.
 - **Require proprietors to submit** reports on associated work-related poisonings and injuries.

Manufacturing & Testing

- Again, many of the regulatory considerations, such as security, siting, owner and employee issues will likely be addressed by land use regulations. However there are several issues specific to Public Health concerns as follows:

- **Need to distinguish between “Extraction of cannabis” and “Manufacturing”** of products that contain cannabis.
- **Licensing/Permitting:**
 - **Recommendation:** Require a DEH Operators/Inspection Permit with annual renewal for **manufacturing** of products that contain cannabis.
 - Require annual Certified Unified Program Agencies (CUPA) permit for the hazardous programs.
- **Location/Siting Issues**
 - **Health Considerations:**
Proximity to neighborhoods and youth sensitive areas such as schools, playgrounds, activity centers, etc. and health care facilities, including drug treatment facilities:
Recommendation: Minimum (1000) foot distance from such areas.
This is consistent with concepts recommended in Tobacco Retailing Ordinance 2017-10. (Zoning Rules)
- **Cannabinoid Extraction Methods – THC, CBD :: (over 100 sub types)**
 - **Health Considerations:**
 - Some extraction methods may be “safer” than others in terms of HazMat.
 - Manufacturing Level 1 – use of nonvolatile solvents or no solvents. – **Recommend that this be only method allowed**
 - Manufacturing Level 2 – use of volatile solvents.
Assure that appropriate features of County Industrial Safety Ordinance apply.
- **Safety Requirements & Considerations**
 - **Health Considerations:**
 - Occupational exposure.
 - Fire and explosive materials.
- **Hazardous Materials Considerations**
 - **Health Considerations:**
 - Use & storage of chemicals and process/products used in various Cannabinoid extraction methods.
 - Hazardous waste handling and disposal

- **Regulatory Inspections: (DEH/ Haz Mat)**
 - **Health Considerations:**
 - If On-site Manufacturing is permitted then DEH may have a regulatory role in inspecting.
 - Labeling and storage of cannabis oils that are extracted or prepared for post extraction manufacturing
 - Appropriate labeling and packaging and warnings on products manufactured for consumption.
 - Appropriate storage and use of chemicals used in extraction.
 - Sanitation requirements for those who manufacture consumer food and beverage products.
 - Manufacturing requirements should be substantially similar to the Sherman Food and Drug Act and FDA requirements.
 - All personnel who handle or prepare or package edible products should have to successfully complete an accredited food handler course.
 - Strictly limit the manufacture of products to only shelf-stable, non-potentially hazardous foods.

- **Lab Testing for THC, Pesticides, Etc.**
 - **Health Considerations:**
 - Vetting of Lab Standards being done by California Department of Public Health – Richmond Lab.
 - Reports of overdose and poisonings may be selectively reported to local Public Health.

Retail Sales

There are a number of public health concerns related to the regulation of retail sales, especially related to edible products

- **Licensing/Permitting**
 - **Recommendation:**
 - Require Annual DEH Operator/Inspection Permit
 - Require a Cannabis Retail License issued by Public Health
 - Similar to Tobacco Retail requirements. Renewed annually.

- **Location & Siting Issues: Health Considerations:**

- **Health Considerations:**
 - **Proximity to neighborhoods and youth sensitive areas** such as schools, playgrounds, parks, libraries, homeless shelters, health care facilities **and drug treatment facilities**, **Recommendation:** Minimum (1000) foot distance from such areas. Consistent with Tobacco Retailers Ordinance 2017-10 (Zoning Code)
 - **Density/proximity limits** – recommend 500 foot min. distance between retailers – **Consistent with Tobacco Zoning Ordinance 2017-10.**
- **Limits on Number of Retail Permits**
 - **Health Considerations:**
 - The more retailers you have the more prolific use maybe. **Recommend** – Limit number of retailers per Supervisorial District via. Competitive Application and/or lottery. **Alternatively:** Limit number of retail establishments to a density of no more than 1 retailer to 10,000-15,000 residents in the applicable jurisdiction or district. As a comparison there is 1 Tobacco Retailer per ~ 2,000 residents (1,850)
 - **Public Benefit Requirements**
 - **Recommendation:** If an RFP process is used to select vendors, applicants must provide a statement of the public benefit of their proposed establishment.
- **Dispensing, Product Limits and Types**
 - **Health Considerations:**
 - Standardized dosage of cannabinoids may not exceed 10 milligrams of THC per serving. – Per Prop 64. (Chapter 13)
 - **Recommendation:** Generally follow dispensing limits set in Prop. 64.
 - Sales limited to 28.5 grams of cannabis (bud/leaf) or
 - 8.0 grams of concentrated cannabis.
 - Need to apply a limit on number of edibles that can be dispensed per customer, per day.
 - Sales limit of 8oz per day for Medical Cannabis proposed under MCRSA is believed to be far too permissive by a number of health professionals. A 1-2oz daily limit is more in line with other States.

For example New Mexico imposes an 8oz limit over a three month period.

- **Recommendation: Prohibit sale of flavored leaf/bud and flavored e-juices.** – Consistent with Tobacco Product and Retail Sales Control Ordinance 2017-01 to restrict availability of youth sensitive products. Consider that vaping products be restricted to lead free glass vile vs. plastic due to off-gassing that occurs as product is heated by the electronic device.
- **Recommendation: Prohibit all self- service vending sales** of any and all marijuana and related products. – Similar to current Tobacco policy. Prohibition recommended to include self-service vending of cannabis, oils, tinctures, and products infused with cannabis and all marijuana related paraphernalia.
- **Product Packaging and Labeling:**
 - **As directed in Prop 64 and subsequent legislation. Track AB 350 (Salas)** – places tighter restrictions on youth friendly packaging, labeling. **AB 663** – deals with and defines youth attractive labeling.
 - **Support requirements for exit and child resistant packaging.**
- **Restrictions on site and Public Use:**
 - **Health Considerations:** - Consistent with Secondhand smoke and Tobacco Product Control Ordinance Division 445.
 - **Recommendation:** Prohibit any on-site use due to concerns of being “under the influence” and to be consistent with current prohibition on use on smoking or vaping in public or places of business.(Prop 64 allows locals to permit or prohibit on site use),
 - **Recommendation:**
 - No use, including electronic-vaping devices in or on the grounds of any public facility, park, library, or side-walk.
 - No use in public buildings or building accessible to the public.
 - No use in enclosed places of employment.
 - No use in service areas or in service lines.
 - No use within 20 feet of doors, windows, air ducts, ventilation systems of enclosed places of employment or public places.
 - No use in common areas of Hotels, Motels, Event Centers.
 - No use in the following outdoor areas

- Outdoor dining areas at bars and restaurants.
 - Outdoor lounges and outdoor dining areas of places of employment.
 - Public parks and trails.
 - Public side-walks.
 - Public event venues.
 - No use in Multi-unit residence common areas, indoors within the residence, and all outdoor balconies, porches, decks, patios and carports. A designated smoking area could be allowed.
- Advertising/signage.
 - **Track AB 1143** – adds further restrictions on advertising.
 - **Health Considerations:**
 - **Recommend – Prohibit** storefront product advertising. Signage for place of business only. No visibility of products through storefront windows
 - **Barbara Lee Law** – restricts storefront advertising to 33% for establishments that sell alcohol or tobacco.
 - Prop 64 prohibits advertising within 1000 feet of a day care, K-12 school, or youth center.
 - Youth appealing advertising is prohibited.
- **Security Requirements**
 - Require security cameras to prevent vandalism and theft of product.
 - No one under the age of 21 allowed on site.
 - ID Checks required for all sales, regardless of appearance of age.
 - No Guard Dogs or Firearms permitted on site.
 - One sales representative to one customer: Limits number of customers being serviced at any one time.
 - Require a separate waiting area for next customer(s)
 - Prohibit on-site use or on-site testing or sampling of product.
 - Require retention of all sales records.
 - Hours of Operation
 - Recommend limit to 9:00am – 8:00pm
- Restrictions on sales of other products or paraphernalia.
 - **Health Considerations:**
 - **Recommend:** Restrict product sales to Marijuana related products only. Hence no other food, beverage or sundries, clothing, etc. We may need explicit language to ensure Marijuana Dispensaries may not operate as

food vendors, coffee shops if this prohibition is not added to the State regulations as requested by CHEAC and CCLHO.

- **CCHS Division. of Environmental Health Regulatory/Inspection Issues**
 - **Health Considerations – Multiple.**
 - Cannabinoid containing products including edibles inspection.
 - Product Labeling.
 - Product placement.
 - Limits on number of consumers being serviced at a time:
 - Recommend: **Limit one customer to one sales associate.**
 - Product Storage
 - Consumer Warnings/Information:
 - Require special warnings for pregnant women and women who are nursing.
 - Require special warnings, similar to tobacco regarding health impacts of product use.
 - Sanitation and product storage issues, especially related to Cannabinoid containing products including edibles
 - Weights & Measures?
 - Pesticide Use/Warnings
 - Inspection Fee Schedule.
- **Owner/Employee Considerations**
 - Background Checks.
 - All Employees 21 and Over – Required by Prop 64 (Chapter 14)
 - Employee Training
- **Possible Impacts on Medical Marijuana ID Program.**
 - **Health Considerations:**
 - Anticipate an uptick in the number of individuals seeking medical Marijuana ID Cards, due to advantage in avoiding some of the associated sales tax. – Currently we process approximately 200 per year in Contra Costa County.
 - Prop 64 established a \$100 max limit on fees to process and issue the ID Cards. 50% reduction for MediCal Patients. Free for Medically Indigent patients. Recovery of cost is allowed by submitting a claim to the state.

- The State Department of Public Health had considered disbanding the State ID Card program but the recent trailer bill SB 94 calls for the program to be maintained.
- **Consumer/Public Information:**
 - Health Considerations and Consumer/Public Education
 - AOD and Public Health Professionals warn that “normalization” of marijuana use will likely result in more youth experimenting and or using marijuana. Hence, ongoing public information, with messaging tailored to educators, parents and susceptible youth would be prudent.
 - Some requirement for this should be placed on the commercial cannabis industry in the form of funding, messaging and/or requirements built into contracting agreements.
- Taxation – Track AB 1135

Mobile and Mail Order Delivery:

- Local Requirements on Mobile Delivery
 - Security
 - Track & Trace
 - Limits on amounts (if even possible)
 - Require ID and age verification at point of product delivery.
 - Require that a physical location be identified for purposes of inspection. No on-line only businesses.
- Consider limits/restrictions/prohibition on mail order delivery.

Microbusiness:

- This category of commercial activity allows the business to simultaneously engage in four market segments: cultivation, manufacturing using non-volatile solvents, distribution and retail sales. Unlike other license types, a micro business would only require a license from the Bureau of Cannabis Control.
- As an integrated business model this form of commercial activity would have the same regulatory health concerns as for each of the four market segments noted above.
- Recommendations:
 - Consider restricting the number or prohibiting this type commercial enterprise.
 - If permitted, restrict the sale of product to the same physical location on which the product is grown, i.e. – the Farm Stand idea.

Special Events Permits

- **Recommendation:** If allowed at all, require event sponsor(s) to obtain a limited duration special event permit from DEH.
- **Single event “permitted” use.**
 - With specific date duration.
 - Compliance with all other “mass gathering” rules.
 - Inclusive of Sanitation, Security, Traffic flow and EMS requirements

Personal Use:

- **Health Considerations:**
 - **Recommendation:** Adopt same restrictions on public and facility use as with current tobacco policy. Hence prohibit indoor smoking or vaping, prohibit smoking or vaping in public places. Current Secondhand Smoke Ordinance prohibits smoking or vaping in any business open to the public, and within 20 feet of doorways, dining areas, service areas, and parks but does not cover the entire outdoor area and **does not prohibit use** on sidewalks or commercial areas.
 - **Anticipate:** Increase in need for AOD and Behavioral Health services related to drug misuse, dependency.
 - **Anticipate:** Increase in need for EMS and Emergency Department use due to overdose, toxicity and related health sequela.

Other Considerations:

- **Cannabis Trailer Bill: (SB 94).** The legislatively approved FY17-18 State budget package includes trailer bill language creating a unified state regulatory system for both medicinal and adult-use. Broadly speaking, the trailer bill incorporated many of the provisions from the Medical Cannabis Regulation and Safety Act (MCRSA), including not limiting the authority of cities or counties to regulate the industry at the local level, enhanced public safety and consumer protection provisions, clarified tax and cash payment provisions, and expanded various environmental protections. Of specific interest to local health departments, the trailer bill does the following:
 - **Maintains the State operated system of issuing medicinal marijuana identification cards** with local health departments processing applications for the program at the local level. Preserves provisions that require a qualified patient, in order to qualify for a sales tax exemption, to have both a state-issued identification card and valid government-issued identification card.

- Requires all cannabis and cannabis products purchased from retailers be placed in opaque packaging.
- **Licensees are strictly prohibited from selling alcoholic beverages or tobacco products on or at any licensed premise.**
- Adds language that CDPH has the authority to not only develop standards for the labeling of cannabis products, but also for the production and packaging of cannabis products.
- Clarified provisions for cannabis and cannabis products that not only must they be placed in a reseal-able child-resistant package, these packages must also be tamper-evident and must include a unique identifier in order to identify and track the product.
- Establishes a Driving Under the Influence of Drugs Task Force to make recommendations on preventing impaired driving.
- **Allows for non-storefront deliveries. These licensed retailers must maintain brick and mortar premises in order to operate.**
- **Allows for the co-location of medicinal and adult use cannabis businesses**, but requires each licensee obtain separate licenses for each type of business.
- Exempts qualified patients, as defined under the Compassionate Use Act, from all licensing rules if they cultivate, possess, store, manufacture, or transport cannabis for their own personal use.
- Creates quality assurance compliance monitors, employed by the Bureau of Cannabis Control (Bureau), and tasked with random quality assurance inspections of licensees to verify compliance with packaging and labeling standards.
- Establishes a local verification process by requiring local jurisdictions to provide to the Bureau of Cannabis Control, copies of any ordinance or regulation related to commercial cannabis activity and a contact to serve as the liaison between the locality and the Bureau.
- **Allows for a temporary event license** to be issued by the Bureau to county fairs or district agricultural associations **only issued in local jurisdictions that authorize such events.**
- Adds provisions to statute that the protection of the public shall be the highest priority for all state licensing authorities.

