



City Council Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2018-01518

November 20, 2018

Consent Item 02

Title: (Pass for Publication) Proposed Ordinance Amending Chapter 5.150 of the Sacramento City Code, Relating to Cannabis Microbusinesses

Location: Citywide

Recommendation: 1) Review an ordinance amending section 5.150.020 of, and adding Article X to, Chapter 5.150 of the Sacramento City Code, relating to cannabis microbusinesses; and 2) pass for publication the ordinance title as required by the Sacramento City Code section 32(c) to be adopted on November 27, 2018.

Contact: Joe Devlin, Chief, (916) 808-4772; Zarah Cruz, Program Specialist, (916) 808-8925, Office of Cannabis Policy and Enforcement, Office of the City Manager.

Presenter: None

Attachments:

- 1-Description/Analysis
- 2-Ordinance (Clean)
- 3-Ordinance (Redline)

Description/Analysis

Issue Detail: Under the Medicinal and Adult Use Cannabis Regulations Safety Act (“MAUCRSA”), a cannabis business can be licensed as a microbusiness if they operate at least three of the following cannabis-related activities (“activities”) on the same licensed premises or site: non-volatile manufacturing, retail, and distribution, or cultivation (provided that the cultivation area is less than 10,000 square feet). Additionally, the state allows onsite consumption in retail facilities that are part of a microbusiness operation. Onsite consumption is not part of this proposal.

The City of Sacramento (“City”) currently permits the above cannabis business types under separate Business Operating Permits (“BOPs”). Staff is proposing the addition of a Microbusiness BOP to the City’s cannabis business permitting program. Cannabis retail or dispensary sale activities for microbusinesses would be subject to the City’s current limits for dispensaries. (See Sacramento City Code section 5.150.350 and Article IX.)

Last April, the Law and Legislation Committee (“Committee”) approved the concept of a Microbusiness BOP and directed staff to draft an ordinance establishing a microbusiness permit type. (Attachments 2 and 3). The Committee has reviewed the proposed ordinance and forwarded it to Council for consideration.

Policy Considerations: The attached draft ordinance will amend Title 5 by adding Article X related to microbusiness permits. If adopted, cannabis businesses will be permitted to operate multiple business types on a single premise by applying for a single BOP for microbusinesses. The retail component of a microbusiness will be limited by Sacramento City Code section 5.150.350, storefront dispensary limits, and Article IX, Southeast Industrial Area dispensaries.

There is no amendment proposed for Title 17 of the City Code, which already allows cultivation, manufacturing and distribution uses to take place within one location as part of the Production Conditional Use Permit (CUP) approved by the City Council in November 2018. A second CUP for retail would still be required if the third or fourth activity identified as a component of a microbusiness is a non-storefront dispensary.

A final ordinance will be submitted to Council for adoption on November 27, 2018. The proposed fees for a microbusiness permit will be submitted to the Budget and Audit Committee for review.

Economic Impacts: None.

Environmental Considerations: This action is exempt from CEQA because it is the adoption of an ordinance, rule, or regulation that requires discretionary review, including environmental review, and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity (CEQA Guidelines § 15061(B)(1), Bus. and Prof. Code § 26055(h)) and because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines §15061(b)(3)).

Sustainability: Not applicable.

Commission/Committee Action: On November 13, 2018, the Committee approved the proposed ordinance and forwarded it to Council for consideration.

Rationale for Recommendation: The purpose of a microbusiness permit is to encourage vertical integration, which will allow businesses to be involved in different aspects of the cannabis business with a consolidated application process and combined fees. Without a microbusiness permit in place, a cannabis business in Sacramento desiring a vertically-integrated operation that includes at least three activities would need to apply for three separate BOPs.

With a microbusiness permit, a cannabis operator can consolidate its activities and streamline its business operations under a single permit type. It will also promote economic and administrative efficiencies both from the applicants' and the City's perspective. A microbusiness can also consolidate the required reporting of gross receipts, and therefore pay a consolidated Business Operations Tax ("BOT"), instead of on each of the businesses.

Financial Considerations: There are no direct financial impacts with creating a new microbusiness permit type, as all permit types under a microbusiness operation already exists, therefore making the proposal revenue neutral. However, a microbusiness permit category can encourage a cannabis business owner to expand its operations by becoming vertically integrated. All cannabis businesses are subject to a four percent BOT, which goes into the City's General Fund. Therefore, a larger, fully integrated business operation could translate to increased gross receipts and therefore higher BOT receipt.

Local Business Enterprise (LBE): Not applicable.

ORDINANCE NO.

Adopted by the Sacramento City Council

[Date Adopted]

AN ORDINANCE AMENDING SECTION 5.150.020 OF, AND ADDING ARTICLE X TO, CHAPTER 5.150 OF THE SACRAMENTO CITY CODE, RELATING TO CANNABIS MICROBUSINESSES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

A. Section 5.150.020 of the Sacramento City Code is amended as follows:

1. The definition of "cannabis microbusiness" is added to read as follows:

"Cannabis microbusiness" means a business that engages in activities of three or more of the following cannabis businesses on the same site: manufacturing, distribution, storefront dispensary, delivery-only dispensary, or cultivation (provided that the cultivation area is less than 10,000 square feet).

2. The definition of "cultivation area" is amended to read as follows:

"Cultivation area" means the area in which cannabis is cultivated.

B. Except as provided in subsections A above, section 5.150.020 of the Sacramento City Code remains unchanged and in full effect.

SECTION 2.

Article X is added to chapter 5.150 of the Sacramento City Code to read as follows:

Article X. CANNABIS MICROBUSINESS

5.150.1240 Cannabis microbusiness permit requirements and limitations.

A. No person shall operate a cannabis microbusiness in the city without a valid cannabis microbusiness permit issued pursuant to this article, or in a manner that is inconsistent with the permit issued.

B. All microbusiness permits shall be counted against any applicable limits established by this chapter on the number of cannabis business permits issued, if the microbusiness permit allows for the same cannabis-related activity.

C. A cannabis microbusiness permit applicant that proposes to engage in a

cannabis-related activity under its microbusiness permit that is subject to permit issuance limits pursuant to this chapter is subject to the applicable lottery requirements for that cannabis-related activity.

- D. The city shall not authorize a cannabis microbusiness to engage in a cannabis-related activity for which the applicable cannabis business has permit issuance limits pursuant to this chapter, unless the applicant qualifies for that cannabis business permit in accordance with all applicable requirements including a lottery process.

5.150.1250 Cannabis microbusiness permit program fee.

The cannabis microbusiness permit program fee is established and imposed. The city council shall establish by resolution the amount of the fee and any related penalties.

5.150.1260 Compliance with other cannabis business requirements.

Except as provided in this article, a cannabis microbusiness permittee shall comply with the provisions of this chapter, and state law and regulations applicable to a cannabis microbusiness and the type of cannabis-related activity that it engages in.

5.150.1270 Storefront Cannabis Dispensary and Cultivation allowed.

Notwithstanding section 5.150.450, a cannabis microbusiness that is permitted to engage in the activities of a storefront cannabis dispensary may cultivate cannabis on the same site if it is expressly allowed as a condition of the cannabis microbusiness permit.

5.150.1280 Retail sales permitted.

- A. Notwithstanding sections 5.150.630, 5.150.900, and 5.150.1190, a cannabis microbusiness permittee may sell goods and services on or from a permitted cannabis microbusiness site.
- B. Notwithstanding sections 5.150.610, 5.150.880, and 5.150.1170, a cannabis microbusiness permittee that operates a storefront cannabis dispensary may open its site to the public pursuant to the applicable provisions of this chapter.

5.150.1290 Nonvolatile extraction only.

No cannabis microbusiness permittee shall use a volatile solvent to extract the resin or other substance from any part of a cannabis plant.

5.150.1300 Display of cannabis microbusiness permit.

The cannabis microbusiness permittee shall display its current valid cannabis microbusiness permit issued in accordance with this article inside the lobby of the main entrance to the site. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the site.

5.150.1310 Signs.

- A. Except as provided in subsection B below, a cannabis microbusiness permittee shall post in the lobby of its site signs that state the following:
 - 1. "This site is not open to the public."
 - 2. "Retail sales of any goods and services is prohibited."
 - 3. "Juveniles are prohibited from entering this site."
 - 4. "Smoking, ingesting, or consuming cannabis on or within 20 feet of this site is prohibited."
- B. If a cannabis microbusiness permittee operates a storefront cannabis dispensary, it is not required to post a sign as described in subsections A.1 and A.2 above.
- C. Each sign described in subsection A must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the site.

5.150.1320 Modification of cannabis microbusiness permit activities.

- A. A cannabis microbusiness permittee may request a modification to add or remove a cannabis-related activity from their permit by submitting a request to the city manager. The request to modify shall be on a form approved by the city manager and may require any information or documentation consistent with the provisions of this code and state law, including additional information pursuant to section 5.150.210.
- C. Every request to modify shall be accompanied by a nonrefundable cannabis microbusiness permit modification fee that is hereby established and imposed. The city council shall establish by resolution the amount of the fee and any related penalties.
- D. The city shall not approve a modification if it results in a violation of this chapter.

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