

City of Sacramento

Legislation Text

File #: 2019-01283, **Version:** 1

Title:

(Pass for Publication) Ordinance Amending Chapters 17.228 and 5.150 of the Sacramento City Code Relating to Cannabis Manufacturing

File ID: 2019-01283

Location: Citywide

Recommendation:

1) Review an ordinance deleting sections 5.150.830 and 5.150.1320 and amending section 5.150.1100 and various sections of chapter 17.228 of the Sacramento City Code relating to cannabis manufacturing to allow volatile manufacturing in the City; and 2) pass for publication the ordinance title as required by the Sacramento City Code section 32(c) for consideration of adoption on September 24, 2019.

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Presenter: None

Attachments:

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

Description/Analysis

Issue Detail: On February 26, 2019, the Law and Legislation Committee (Committee) approved a policy proposal to expand the City's manufacturing regulations to allow volatile manufacturing facilities in the city. The proposal was a result of the growing interest by the cannabis industry to expand into volatile manufacturing to diversify its product lines.

In approving the proposals, the Committee directed staff to draft an ordinance amending the City Code and also to conduct a survey of manufacturing applicants to ensure that allowing volatile manufacturing will not create an unfair disadvantage against applicants who are already permitted or have an application for non-volatile manufacturing.

Industry research and discussions with other cities show that the use of volatile solvents can be safe when performed in a professional closed-loop extraction system using approved equipment operated in an environment with proper ventilation and with approved building permits and necessary inspections. This finding is supported by the Sacramento Fire Marshal.

Over a dozen cities in California currently issue local licenses or permits for volatile manufacturing including the cities of Oakland, Los Angeles, Long Beach, Davis, West Sacramento, Santa Rosa and Santa Cruz. To date, the California Department of Public Health, the state agency that regulates cannabis manufacturing, has issued 38 annual and 206 provisional Type 7 licenses statewide.

Results of the survey conducted among the City's manufacturing permit holders and applicants show that most respondents welcome the idea of allowing volatile manufacturing and will consider either converting their extraction operations from nonvolatile to volatile or adding volatile manufacturing to their existing operations. Most of the respondents also do not perceive an unfair disadvantage to existing manufacturers, but on the contrary, see it as an opportunity to increase the variety of products they are able to manufacture.

To date, the City has issued 16 Business Operating Permits (BOPs) for manufacturing, four of which are for Type A, or nonvolatile extraction. There are 65 pending manufacturing applications, 44 of which are for Type A. The rest are for Type N and P or infusion, packaging and/or labeling. With the appropriate approval from the Fire Department, permitted manufacturers or applicants in the review process may either transition into or add volatile manufacturing into their operations, giving them the opportunity to expand their product lines and become more competitive in the manufactured cannabis marketplace.

The proposed ordinance would also amend chapter 17.228 of the City Code to delete the "Cannabis manufacturing, nonvolatile" definition and replace it with the following definition:

"Cannabis manufacturing" means the production, preparation, propagation and compounding of cannabis and cannabis products. Cannabis manufacturing includes the extraction process, the infusion for mixture of cannabis into another substance, the preparation of an edible item that contains cannabis, and the packaging and labeling of cannabis or cannabis products.

The ordinance would also add a definition for extraction:

“Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

The proposed amendments to chapter 17.228 would allow volatile manufacturing to take place in the same heavy commercial and industrial zones (C-4, M-2, M2-S, M-4, M-4S, MRD, MIP), where manufacturing without the use of a volatile solvent (formerly known as “nonvolatile manufacturing”) is allowed, but excludes the General Commercial (C-2) zone. Because of the proximity of C2 zones to residential and retail commercial uses, manufacturing in this zone will be limited to manufacturing with a nonvolatile solvent only and will remain limited to 6,400 square feet in area.

The proposed ordinance will also delete sections 5.150.830 and 5.150.1320 from the Sacramento City Code to remove the current restriction on cannabis extraction to nonvolatile extraction processes only for cannabis businesses.

Policy Considerations: As Sacramento’s cannabis industry continues to grow and mature, amendments to the City Code are necessary in order to keep the City’s cannabis regulations equitable, the licensing process efficient, and the industry sustainable.

Economic Impacts: None.

Environmental Considerations: This action is exempt from California Environmental Quality Act (“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 August 8, 2019, the Planning and Design Commission conducted a public hearing and passed a motion with a vote of 11-0-1 to forward to the City Council a recommendation to approve the amendments to Title 17. On September 3, 2019, the Law and Legislation Committee approved with a vote of 4-0 to forward to the City Council a recommendation to approve amendments to Title 17 and 5 to allow volatile manufacturing.

Rationale for Recommendation: The proposed amendment to the City Code related to cannabis manufacturing can potentially bring more manufacturers to the City and/or provide those already in the City an opportunity to expand their operations. When the City first adopted its manufacturing ordinance in April 2017, manufacturing was limited only to the nonvolatile process. This was in part due to safety concerns arising from limited information and lack of regulatory history with what was then a brand-new industry. Since then, the state has released its regulations on cannabis

manufacturing with specific safety requirements and procedures; and technology, equipment, and the industry's track record for safety have also improved tremendously. With proper safety standards in place, cannabis manufacturing with volatile solvents can be just as safe as manufacturing with nonvolatile solvents.

The proposed amendment presents a win-win situation for the City and the industry, as it can strengthen the position of local manufacturers to compete with other brands that are manufactured elsewhere, and also increase the cannabis business operating tax ("BOT") revenues remitted to the City.

Financial Considerations: All cannabis businesses pay a four percent BOT. The proposed amendments allowing manufacturing with volatile will add a new pool of applicants and/or increase the potential revenues of manufacturers already in the City, which would in turn, increase tax revenues to the City's General Fund.

Local Business Enterprise (LBE): Not applicable