

Date: July 31, 2020

To: Mayor and Members of the City Council

From: Thomas B. Modica, City Manager 

Subject: **Cannabis Shared Use Manufacturing Feasibility Analysis**

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On July 2, 2019, the City Council directed staff to prepare a feasibility analysis on licensing and regulating shared-use cannabis manufacturers in Long Beach, and to refer the findings to the City Council for input and policy direction. This request was part of a larger package of policy proposals from the City Council on ways to expand the tax base of non-retail cannabis businesses in the City. Other policy changes requested by the City Council at that time included adjusting business license tax rates and amending cannabis building design and zoning requirements.

On July 31, 2019, staff provided a memorandum to the City Council stating the requested analyses would need to be completed in phases, due to the significant workload involved. On December 3, 2019, staff presented the fiscal impact analysis for reducing cannabis tax rates for non-retail businesses. On April 14, 2020, staff presented the City Council with proposals to amend cannabis building design and zoning requirements. This memorandum addresses the City Council's third and final request for a feasibility analysis on licensing shared-use manufacturers in Long Beach. The memorandum concludes with next steps for licensing shared-use manufacturing facilities in Long Beach, should the City Council decide to move forward with allowing this license type.

### **Shared-Use Manufacturing Definition**

Cannabis manufacturers are businesses that compound, blend, extract, infuse, or otherwise prepare cannabis. These products include edibles, beverages, vaporizers, lotions, and other types of consumable goods. Cannabis manufacturers are not authorized to sell cannabis goods directly to consumers. Instead, manufacturers must sell cannabis goods at wholesale, for distribution to licensed retailers located anywhere in the state. In this way, cannabis manufacturers are comparable to alcoholic beverage producers, whose products are distributed to other retail businesses.

Currently, the City of Long Beach (City) offers licenses to both medical and adult-use cannabis manufacturers in industrial zones of Long Beach. However, pursuant to Long Beach Municipal Code (LBMC), only one cannabis manufacturer may operate from a single premise.

In 2018, the State of California Department of Public Health (CDHP) created a new manufacturing license type, called "Type S - Shared Use Manufacturing." Type S Manufacturers operate from a shared-use facility, in which multiple businesses can manufacture products from a single space. The shared-use facility is required to post and adhere to an occupancy schedule that defines the dates and times that each Type S business

is designated to use the space, with only one business allowed to use a designated shared-use space at any given time. In comparison to the food industry, shared-use manufacturers are similar to shared-commercial kitchens, whereby any number of businesses can rent a single facility to prepare consumable products, such as brownies, cakes, cookies, or other goods.

Currently, the City does not issue Type S Manufacturing business licenses. Each cannabis manufacturer is required to build and maintain its own separate and distinct premise. For small businesses, the amount of time and capital necessary to design and construct a cannabis facility can be cost prohibitive. Shared-use manufacturing has the potential to reduce this barrier to entry by allowing multiple businesses to share in the cost of building and maintaining a manufacturing facility, or to rent space within an existing manufacturing facility already licensed by the City.

### **CDPH Shared-Use Manufacturing Regulations**

At the state level, the CDPH oversees the regulation of shared-use manufacturers. Pursuant to state regulations, Type S manufacturers are limited to specific activities, which include the following:

- Infusing cannabis concentrates directly into a product;
- Packaging and labeling of cannabis products; and,
- Extracting the essential oils from the cannabis plant, using butter or food-grade oil only.

These activities are considered low-intensity uses, in that they do not utilize any volatile (i.e., flammable) chemical extraction processes. In addition, the CDPH will only issue a shared-use manufacturing license to businesses with an annual operating revenue of less than \$1,000,000. This limitation restricts the availability of shared-use license types to small businesses only.

Each shared-use manufacturing facility is required to have a "Primary Licensee," who is responsible for oversight of the overall shared-use space and liable for any violation found at the facility. The Primary Licensee is required to enter into a written user agreement with each Type S business that utilizes the space. The user agreement outlines the area the Type S licensee is authorized to use, the days and hours the Type S licensee can operate, the types of activities the Type S licensee is eligible to engage in, and other terms restricting use of the facility. The Primary Licensee is also responsible for providing the CDPH with an updated occupancy schedule that identifies which Type S licensee is authorized to use the space at any given time. Finally, the Primary Licensee must provide a separate locked storage area for each Type S licensee operating out of the facility.

### **Other Jurisdictions that Allow Shared-Use Manufacturing**

Currently, only two other jurisdictions in California license and regulate shared-use manufacturing facilities – the City of Sacramento and the County of Santa Cruz. Staff contacted each jurisdiction to learn more about their regulatory program. A general description of each program is provided below:

City of Sacramento – The City of Sacramento has licensed one shared-use manufacturing facility to date. In that facility, there are currently eight Type S businesses that utilize the space, each at different times. All eight of the Type S businesses produce edible cannabis products, by infusing cannabis oil directly into baked goods such as cookies, brownies, cakes, and other types of foods. The Type S businesses package the products themselves, and distribute those products through the Primary Licensee, who also holds a separate distribution license with the city. In addition to distributing the products, the Primary Licensee also supplies the Type S businesses with cannabis oil, produced from a separate wing of the facility, accessible only to the Primary Licensee.

The City of Sacramento follows the same business license application process for Primary Licensees as it does for other cannabis manufacturing business types. This process includes application submittal, plan check, construction, inspection, and license issuance. However, for Type S businesses, the City of Sacramento offers a more expedited process with reduced fees. Type S applicants do not have to go through the plan check or construction process, as the facility has already been approved for shared-use occupancy. Type S applicants are instead required to submit a business license application, which includes a signed agreement with the Primary Licensee to use the space, as well as an updated schedule of the facility, indicating when each Type S business is authorized to use the space. Upon approval of the business license, the Type S licensee may begin operating at the pre-approved shared-use facility.

County of Santa Cruz – The County of Santa Cruz has approved only one shared-use facility. The facility contains two separate commercial kitchens. Each kitchen can be used by a separate Type S licensees at any given time. The Primary Licensee at the site holds a distribution license, and is responsible for purchasing cannabis oil produced offsite, and delivering the oil to Type S licensees for infusion into various types of food products. Unlike the shared-use facility in the City of Sacramento, the Primary Licensee does not produce cannabis oil onsite.

Similar to the City of Sacramento, the County of Santa Cruz follows the same application process for Primary Licensees as it does for other cannabis manufacturing business types. This includes application submittal, plan check, construction, inspection, and license issuance. Type S applicants are not required to go through the plan check, construction or inspection processes. Instead, Type S applicants must submit a business license application that includes a lease agreement with the Primary Licensee, as well as a copy of their food handling certificate. Shared-use facilities are inspected on a quarterly basis to ensure ongoing compliance with state and local regulations.

### **City Departments Responsibilities**

The following sections outline primary department responsibilities for licensing and regulating cannabis manufacturing in Long Beach, and how department processes might change with the allowance of shared-use manufacturing:

### Financial Management

The Department of Financial Management (Financial Management) is responsible for processing, reviewing, and approving all cannabis business licenses in Long Beach. This includes reviewing cannabis business license applications for completeness, forwarding applicants to the plan check and construction phase of the application process, coordinating the billing of applicable fees and taxes, and conducting final inspections before issuance of the cannabis business license.

For the Primary Licensee of a shared-use manufacturing facility, Financial Management will follow standard processes to review and approve cannabis manufacturing businesses in Long Beach, with some minor modifications. Specifically, Financial Management will require the Primary Licensee to self-identify as a shared-use facility in the application, and require the Primary Licensee to acknowledge specific CDPH regulations relating to common-use areas, shared-use equipment, and occupancy schedules. Upon issuance of the Primary shared-use manufacturing business license, Financial Management will also indicate on the license that the facility was approved for shared-use.

For Type S Licensees, Financial Management will implement a much more streamlined process for approving the business license. Specifically, Type S applicants will not be required to go through the plan check and construction phase of the application process, because the facility will already have been approved for shared-use manufacturing through the Primary License. Thus, the Type S business will be eligible for final inspections once the application is deemed complete, and all taxes and fees have been paid. The Type S licensing process will also allow multiple Type S applicants to apply to operate at a single shared-use manufacturing facility, which is not currently allowed under the LBMC.

### Department of Health and Human Services

The Department of Health and Human Services (Health Department) is responsible for plan checking and inspecting cannabis manufacturing facilities in Long Beach, to ensure compliance with health and safety standards. This includes food handling, sanitation, personnel hygiene, materials and equipment quality control, and other cannabis manufacturing standards.

From a plan-check and construction standpoint, shared-use manufacturing facilities are no different than other cannabis manufacturing license types already licensed in Long Beach. As a result, Primary Licensee applications for shared-use manufacturing will follow the same Health Department application review process as other cannabis manufacturing applications. The fee charged to Primary Licensees to receive plan check and inspection services will be the same as for other cannabis manufacturing businesses.

For Type S applicants, the Health Department will require each business to obtain a separate Health permit during the application review process. This will ensure that each Type S licensee has received the necessary training, and understands the standard policies and procedures, to operate safely in the approved space.

In addition, upon receipt of each Type S license application, the Health Department will re-inspect the shared-use facility to ensure that the occupancy schedule is up to date, the facility provides separate storage areas for each Type S operator, and all necessary health and safety standards continue to be followed.

### Other Departments

Other departments responsible for regulating cannabis businesses in Long Beach include the Development Services Department and the Fire Department. These departments are responsible for plan checking and inspecting cannabis facilities in the application process, to ensure compliance with building, electrical, mechanical, plumbing, fire, energy, and other codes. As stated earlier, the construction standards for shared-use manufacturing facilities are no different than other cannabis manufacturing facilities already authorized by the City. The fact that multiple businesses will be utilizing the shared-use space does not impact the processes already in place within these departments to approve and regulate cannabis manufacturing facilities. However, as a precaution, the Fire Department proposes to re-inspect the shared-use cannabis facility with each Type S application that is received by the City. If these re-inspections are later determined to be unnecessary, the Fire Department may instead decide to inspect licensed share-use facilities on an annual basis, as is currently done with other cannabis manufacturing facilities in Long Beach.

### **Conclusion**

Based upon discussions with the departments involved in licensing and regulating cannabis manufacturing activities, staff have concluded that implementation of a shared-use manufacturing program is feasible under existing staffing levels, with some minor modifications to the application process. Staff would also need to work with the City Attorney's Office to modify the LBMC to allow for shared-use manufacturing in Long Beach.

Should the City Council wish to allow for shared-use manufacturing in Long Beach, staff recommends that the City Council direct the City Manager to work with the City Attorney's Office and other departments to amend the LBMC to license and regulate Type S manufacturing in Long Beach.

If you have questions, please contact Kevin Jackson at (562) 570-5028 or vial email at [Kevin.Jackson@longbeach.gov](mailto:Kevin.Jackson@longbeach.gov).

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