



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** January 10, 2022

FROM: Matthew Bronson, City Manager

PREPARED BY: John Peters, Chief of Police
Bruce Buckingham, Community Development Director
A. Rafael Castillo, AICP, Senior Planner

SUBJECT: Cannabis Lounges Policy Direction

RECOMMENDATION

Provide policy direction to staff on allowing and regulating existing commercial cannabis retailers to operate cannabis lounges for onsite consumption of cannabis products.

BACKGROUND

In May 2021, the Council received an update on several policy issues related to the commercial cannabis industry including onsite consumption following requests from existing retailers for the City to consider allowing this. The Council expressed interest in allowing existing cannabis retailers to operate onsite cannabis consumption lounges (cannabis lounges) and directed staff to return with additional information. In response to this interest, staff has identified several policy and regulatory issues for Council consideration and is requesting Council policy direction on allowing and regulating this use. Pending Council direction, staff would return to the Council for review and consideration of an ordinance that would allow such cannabis lounges through amending the cannabis regulatory ordinance (GBMC Article III Chapter 18) and potentially the cannabis land use ordinance (GBMC Article IX Chapter 4) depending on direction provided regarding the permit review process.

Overview of Cannabis Lounges

California law prohibits the consumption of cannabis in public, which includes parks, sidewalks, in vehicles and in most businesses. In California, a property owner who rents residential space can prohibit the use of cannabis in their residential units. These restrictions, in addition to the law prohibitions, do not allow many options for a cannabis user to legally consume cannabis products. However, the rapidly growing and diversifying cannabis industry has created an emergence of cannabis lounges across the state creating a space where cannabis products can be legally consumed by both recreational and medicinal users.

Metropolitan areas such as San Francisco and Los Angeles have several cannabis lounges already operating in multiple jurisdictions, and other smaller jurisdictions such as Lompoc, Lemoore, and Coalinga have recently opened consumption lounges. There are no cannabis lounges currently within San Luis Obispo County, which creates an economic opportunity for Grover Beach to allow this use in a safe and responsible way similar to other cannabis uses. The following page includes pictures from existing lounges in San Francisco and Lemoore for the Council's reference.

Picture of Cannabis Lounge in San Francisco



Picture of Cannabis Lounge in Lemoore



California Business and Professions Code Section 26200(g) allows a local jurisdiction to authorize the smoking, vaporizing and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed by the State Department of Cannabis Control (DCC). DCC regulations allow such onsite consumption if all the following conditions are met:

- Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older.
- Cannabis consumption is not visible from any public place or nonage-restricted area.
- Sale or consumption of alcohol or tobacco is not allowed on the premises.

A cannabis lounge is a licensed retailer that has a lounge area located adjacent to the retail or microbusiness location that allows the customer to purchase cannabis products and then enter a separate area where the purchased items can be used. In order to operate a cannabis lounge the applicant must obtain a Type 10 license (Retailer) or Type 12 license (Microbusiness) from the DCC and receive approval from the local jurisdiction.

Consideration of Allowing Cannabis Lounges in Grover Beach

The current Municipal Code allows up to four retailers within the city and there are three currently operating and one under construction as follows:

- 805 Beach Breaks – 1053 Highland Way
- Natural Healing Center – 998 Huston Street
- Urbn Leaf – 239 South 3rd Street
- Jushi – 923 Huber Street (under construction)

Staff has contacted the four retailers and all of them have expressed interest in adding or considering adding a cannabis lounge to expand their customer base and provide additional sales opportunities. Representatives from the four retailers were provided a copy of this agenda item if they wished to contact the Council or provide comments at the meeting.

The City's existing land use and regulatory ordinances for retailers require the following operational standards:

- Hours of operation are 9:00 a.m. to 7:00 p.m. and may be extended to 7:00 a.m. to 9:00 p.m. if the retailer provides enhanced security.
- Secured delivery areas for all cannabis products.
- Odor control systems that prevent cannabis odors from being detected outside of the building.
- An operations and security plan to ensure best practices are in place at all times.

If the Council provided direction to allow and regulating cannabis lounges, staff would draft an ordinance with all of the above requirements in place unless the Council directed staff to make revisions. Revisions such as extending operating hours beyond the City's current ordinances would involve a Development Code and Local Coastal Program Amendment requiring approval from the Coastal Commission.

Potential Policy and Regulatory Requirements

If Council wished to move forward in allowing and regulating cannabis lounges, staff has identified a number of topics for the Council to consider in providing direction for the framework of a draft ordinance for this regulation.

Entitlement Process

The existing retailers have a Use Permit (land use permit) approved by the Council and a Commercial Cannabis Permit (regulatory permit) issued by the City Manager prior to opening. This two-step permitting process ensures all permitting requirements are met before opening and continue during operations. This allows staff to suspend or revoke the Commercial Cannabis Permit at any time for failure to comply with the conditions.

A retailer wanting to add a lounge would not expand the retail sales area but would provide adjacent space to add the ancillary use of allowing purchasers to consume products in a safe and regulated space. Since the Council has previously authorized retail use, there are three options identified by staff for allowing the retailers to add a cannabis lounge as discussed below.

- *Require a Commercial Cannabis Permit.* This would require the regulatory ordinance be amended to expand the definition of a retailer to also allow a cannabis lounge. Staff would review the cannabis lounge application to ensure all ordinance requirements are met as specified by the Council and the City Manager would issue a separate Commercial Cannabis Permit for the lounge. This would result in the retailer and cannabis lounge operating under two separate permits. This process would not require an amendment to the Development Code or Local Coastal Program Amendment approval by the Coastal Commission. Staff estimates the ordinance process could be completed in 90 days (April) allowing applicants to then apply for a permit. The permit review process would be expedited in this approach and would take approximately 90 days for staff to approve and issue a building permit.
- *Require an Administrative Development Permit.* This would require both the land use and regulatory ordinances be amended. An Administrative Development Permit (ADP) is approved by the Community Development Director and does not require a public hearing but the Director's decision can be appealed to the Planning Commission. Following the approval of the ADP, the City Manager would issue a separate Commercial Cannabis Permit for the lounge prior to operating identical to above permit process. This process would require an amendment to the Development Code and require a Local Coastal Program Amendment approval by the Coastal Commission for the retailer located in the Coastal Zone. Staff estimates the ordinance process could be completed in 150 days (June) allowing applicants not in the Coastal Zone to apply for a permit by June and the retailer in the Coastal Zone to apply by September. The permit review process would take approximately 120 days for staff to approve and issue a building permit.
- *Require a Use Permit Amendment.* This would require both the land use and regulatory ordinances be amended. A Use Permit amendment must be approved by the Council and requires a public hearing. Following the approval of the Use Permit, the City Manager would issue a separate Commercial Cannabis Permit for the lounge prior to operating identical to both the above permit processes. This process would also require an amendment to the Development Code and require a Local Coastal Program Amendment approval by the Coastal Commission for the retailer located in the Coastal Zone. Staff estimates the ordinance process could be completed in 150 days (June) allowing applicants not in the Coastal Zone to apply for a permit by June and the retailer in the Coastal Zone to apply by September. The permit review process would take approximately 150 days for Council to approve the Use Permit and staff to approve and issue a building permit.

Indoor and/or Outdoor Cannabis Lounges

State law prohibits cannabis lounges being visible from any public place or non-age restricted area, but does not dictate that lounges be indoors or outdoors. Some jurisdictions have allowed cannabis lounges outdoors to reduce potential health effects on employees from secondhand smoke. If allowed outdoors odor control and ventilation system must be installed to prevent odors from being detected from adjacent properties and the public right-of-way. Although staff is unaware that any of the four retailers in the city would want to have an outdoor lounge, staff would recommend this option be provided in addition to allowing indoors to provide additional opportunities for lounge spaces.

On-Site Food

The State law currently does not allow “non-cannabis products” from being sold or consumed in a lounge area; however, there has been legislation introduced to amend the restriction of providing food service within the lounge. As discussed below, staff believes food and non-alcoholic beverages should be provided to reduce dehydration and prevent medical emergencies. Many jurisdictions have circumvented the current law by allowing food to be delivered by food delivery services such as Uber Eats or even having an “off-site” restaurant that is adjacent to the lounge and “hand-delivers” food on a separate bill. Staff recommends that the Council adopt an ordinance that would allow food and non-alcoholic drink consumption to occur in the lounge to the extent allowed by current State law, which would also provide flexibility if and when the State adopts legislation that provides more flexibility to provide food and non-alcoholic beverages.

Public Safety Concerns

The biggest public safety concern with cannabis lounges is the prevention of impaired driving which is also a concern with regards to establishments that serve alcohol. Cannabis consumption, as with alcohol consumption, affects a person’s decision making, cognitive thinking and driving abilities. If Council provides direction for an ordinance revision to allow cannabis lounges, the Police Department will work with the cannabis lounge operators as it does with alcohol establishments to reduce the potential of impaired driving. The Police Department will help ensure the cannabis lounge operators and their employees are trained to recognize impairment in customers. There will be training and enforcement of regulations that prevent the over-serving of cannabis to consumers. Staff has met with and discussed this concern with the cannabis retailers who are interested in operating lounges. The discussions have included how the industry could utilize ride sharing programs, designated driver programs and possibly a shared shuttle bus program for customers of both cannabis and alcohol establishments.

Additional safety concerns such as exposure periods to smoke and vapors for employees, customers and visitors can be mediated through proper ventilation systems and work environment policies that would be required in a revised ordinance and in accordance with state regulations. Cannabis lounges, by proxy, are retail establishments and will be required to follow the existing state and local regulations for such businesses. Both Community Development and the Police Department will work with lounge operators as they do with all cannabis businesses to help design a safe environment that will be responsibly operated by the business.

FISCAL IMPACT

There is no fiscal impact to adopt an ordinance amendment to allow cannabis lounges. Once operational, cannabis lounges could generate an increase in tax revenue from cannabis businesses.

ALTERNATIVES

The Council has the following alternatives to consider:

1. Provide policy direction to staff on allowing and regulating existing commercial cannabis retailers to operate cannabis lounges for onsite consumption of cannabis products; or
2. Provide alternative direction.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.