



# BRENTWOOD Community Council

149 S. Barrington Ave., Box 194, Los Angeles, CA 90049

[www.brentwoodcommunitycouncil.org](http://www.brentwoodcommunitycouncil.org)

August 3, 2017

## VIA EMAIL & U.S. MAIL

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Director of Planning, Vince Bertoni 200 North Spring Street Los Angeles, California 90012-2601 <a href="mailto:vince.bertoni@lacity.org">vince.bertoni@lacity.org</a>	

## **RE: Draft Commercial Cannabis Location Restriction Ordinance/Case No. CPC-2017-2260-CA, and Draft Commercial Cannabis Activity Requirements**

Ladies and Gentlemen:

The Brentwood Community Council (“BCC”) is the broadest based Brentwood community organization, representing approximately 50,000 stakeholders of the 90049 community. BCC includes 13 homeowners associations, multi-family residential dwellers, business organizations, schools, religious groups, volunteer service groups, public safety and environmental organizations.

The BCC has reviewed and reflected upon the City’s proposed Commercial Cannabis Location Restriction Ordinance (the “Ordinance”). The BCC has also reviewed the map showing the impact of the current version of the Ordinance on the 90049 community. While the map is difficult to read at its most granular level, the map does indicate that the Ordinance, as drafted, would allow for the establishing of dispensaries/retail establishments along both San Vicente and Wilshire Boulevards. The BCC has also reviewed the draft “Proposed Requirements for Commercial Cannabis Activity in the City of Los Angeles” (the “Proposed Requirements”) as it relates to the Ordinance and its impacts on the Brentwood community. The BCC

understands the delicate process the City is undertaking to balance the competing needs and interests of numerous stakeholders.

The BCC has also reviewed the Westside Regional Alliance of Council's ("WRAC") proposed resolution regarding the Ordinance and the Proposed Regulations and also adopts WRAC's resolution (as noted below, there is one aspect of the WRAC resolution where the BCC believes an even more restrictive change would be appropriate).

We ask that you consider the following as you review and revise the proposed Ordinance:

**Sections A.1.B and A.2.B:** These sections set up a radius so that dispensaries and retail commercial cannabis activity must occur outside of that radius vis-à-vis certain "protected" uses. Please consider adding R-1 zones to those protected uses. Also please consider whether the "Alcoholism or Drug Abuse Recovery or Treatment Facility" definition being employed appropriately captures those facilities providing services to persons in recovery, who would benefit from such a retail activity occurring in such close proximity to their recovery program. For example, the definition being utilized only applies to residential treatment centers for adults. Treatment centers for teens are not included, and day treatment centers, whether for adults or teens are not included. There are teen services being provided currently in space at the Brentwood Village, for example. These services are not 24-hour residential services. While the physical area is technically protected because of the many neighboring schools that will have protection from the Ordinance, the situation does illuminate several related business categories worthy of a radius protection. Finally, we would ask you consider whether the 800 foot restriction is adequate, given the wide variety of configurations of city blocks within the City of Los Angeles. Certainly San Vicente Boulevard is an example of long blocks. Other municipalities, including those in Colorado, have chosen to implement a 1,000 foot radius restriction in similar efforts to preserve public safety.

We agree that there should be limits as to the number of dispensaries in an area, and believe that your restrictions in the foregoing Sections are appropriate and well-intended to include other dispensaries and retailers of cannabis as part of the radius restriction, so that multiple dispensaries will not be in the same 800 (or other) square foot radius. We do question how the implementation of this particular restriction will work in practice, which was unclear from a review of the Ordinance. We would expect most businesses would lease commercial or retail space from a landlord. Does that landlord similarly have to undergo a licensing process? Will the timing of approval of a landlord's license determine which

dispensary was there first? There may be a plan in place in order to make this determination simple for those wanting to comply, but it was unclear to us how this aspect of the limitations will work in practice, and therefore we encourage the Commission to ensure that there is a bright line for businesses to follow so that accidental approvals of two businesses within the restriction radius do not occur.

**Section B:** This section would need to be revised consistent with any revisions this Commission deems appropriate to Sections A.1B and A.2.B.

**Section C:** We appreciate the intent of this section to assist in a determination of who is “first in time,” in determining whether a protected use has the right to have a cannabis dispensary or retailer be blocked. We ask that you reconsider what you have laid out as the measuring instrument for making a determination of who is “first in time.” For example, a new private School must wait until it has received a building permit in order to be considered a use that needs protection. Given the time and resources, monetary and otherwise, that go into the process of securing a location until the time when a building permit is pulled, this does not seem to be the appropriate measure. That private School would have already spent significant sums acquiring a fee or leasehold interest in the subject property, and would likely be enduring a multi-year entitlements process before it could pull a building permit. Conversely, it is anticipated that virtually all retail commercial cannabis activity will be pursuant to leases, and such activity is capable of moving/being relocated, whether at lease termination or prior thereto. The equities seem to balance in favor of commencing the protected status for a private School once a location is acquired and the process has commenced to obtain a CUP. Another example to consider in determining the appropriate benchmarks to utilize is the following: a private boys’ middle school was in discussions with Brentwood Presbyterian Church to lease space from them for a boys’ private middle school. There would be no building permit issued or sought for that school – the facilities all already exist. The lease would be signed well in advance of the school commencing business – perhaps a year in advance. When would that new private School be recognized in terms of first in time? Never, because it did not pull a building permit, not until it opened its doors, or as soon a lease is signed? It seems the wrong result for a dispensary to move in once a legal, binding commitment is made to occupy space. We appreciate your consideration to these complexities and coming up with solutions that would afford protection to all involved in these situations.

We ask you to consider the following as you review and revise the Proposed Requirements:

**Definition of “Proper Notice”:** we believe that the radius for determining those who should receive notice should be commensurate with the radius established in Sections A.1.B and A.2.B of the Ordinance. We believe this is necessary so that any protected user will have the opportunity to make their presence and protected use known before approvals are issued. Presently, the distance in the Proposed Requirements is 500 feet, while the radius in the Ordinance is 800 feet.

**Recommended Approval** – Section 4.a.i. requires the Commission public hearing to be within 30 days of Proper Notice. We would request that such hearing be within 60 days of Proper Notice so that impacted property owners, Neighborhood Councils, Community Councils, Alliances and other similar organizations can review the situation and offer relevant input and feedback to such process. It would be particularly appreciated if Section 4.a.i. also specifically mention that the City Departments will also consider written recommendations from the relevant Neighborhood Council or Community Council prior to making a determination (in addition to members of the public generally). Neighborhood Councils and Community Councils provide a vital means of conveying the concerns of the impacted area to the proposed business.

**Signage** – we would request that, in addition to recognizing City requirements on signage, that the Proposed Requirements specifically acknowledge other groups with authority over signage, including Design Review Boards. The San Vicente Design Review Board in Brentwood has promulgated rules regarding signage, and it would be very helpful for the City’s Proposed Requirements to acknowledge (and remind potential retailers) of these additional voices that should be listened to.

**Hours of retail operation:** permitted hours of retail operation are proposed to be from 6 am to 9 pm. Given the concerns of an all cash business, we would suggest you consider limiting retail hours to 9 am to 7 pm, so as to minimize the conduct of retail business during any hours after sunset and prior to the opening of most businesses and commercial activities.

**WRAC motion:** Finally, the BCC has considered the motion developed by WRAC, and adopts their motion as well, as delineated below, with the one provision that the BCC believes that the hours of retail operation should be even further restricted as described above.

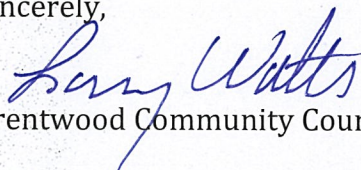
1. “To conform with State law, create a stable and legitimate business environment, and avoid the kind of exploitable ‘grey areas’ created by Prop. D, the City must implement an unambiguous licensing system for commercial cannabis activities and include those activities as enumerated uses in the City’s municipal code.”

2. Complaints about specific cannabis businesses collected by City staff, LAPD, Council offices, Neighborhood and Community Councils, and the City's MyLA311 app should be included and considered in the licensing approval and renewal process.
3. Hearing dates and non-sensitive application information should be posted upon receipt on the Cannabis Dept.'s website, and notice sent to affected NCs/CCs.
4. The standard application process should include an assessment from the Planning Dept. on land use considerations, and should not be split into a separate land use approval and appeals process.
5. Retail cannabis storefronts should be limited to operating hours of 7 am to 9 pm. Deliveries should extend no later than 11 pm (note that the BCC has suggested limitation of operation of retail hours to 9 am to 7 pm).
6. In the interest of eliminating black market sales, the City should conduct a market-sizing study by January 1, 2019 (and every five years thereafter) to assess how well the City is addressing demand and to inform regulatory adjustments."

We understand that this is a significant undertaking for the City and appreciate your time and attention to an important topic that impacts the lives of our City's residents, including the residents in the 90049 zip code.

Thank you for your consideration.

Sincerely,

  
Brentwood Community Council

cc: Individual Council Offices  
WRAC, Doug Fitzsimmons, President