



SOUTHERN CALIFORNIA COALITION

September 12, 2017

Mr. Vincent P. Bertoni,
Director of Planning
Department of City Planning
Code Studies Division – Room 701
200 N. Spring Street
Los Angeles, CA 90012

RE: Case No. CPC-2017-2260-CA Council File: 14-0366-S4
Commentary Relating to the Revised Commercial Cannabis Location Restriction Ordinance and Supplement

Dear Mr. Bertoni:

The Southern California Coalition (the Coalition) commends your department, particularly the efforts of Niall Huffman, on the CEQA Analysis. We concur with Mr. Huffman's CEQA findings.

Additionally, our organization supports the finding that affirmative regulation would be preferable to limited immunity.

We were pleased to see that our organization's request for additional language which would clarify that the City of Los Angeles (the City) has chosen to diverge from state law has been added.

The inclusion of additional license types is also encouraging, as we did request that the Department of City Planning (Planning) consider adding these licenses.

It is our understanding, that at the request of the City Attorney's office, all reference to priority licensing for Prop D Eligible Dispensaries, as well as the retention of a 600 foot radius for these entities has been removed from the current land use draft and will be included in the City's general ordinance.

Our organization supports priority licensing for Prop D Eligible businesses and the retention of a 600 foot sensitive use radius for these entities.

Lastly, we agree with your department's assessment that the ordinance supplement is unnecessary at this time.

While important progress has occurred in the Department's latest land use draft, our organization still has some concerns. They are as follows:

Additional Clarification That The City Intends to Diverge From State Law Is Required.

If it is the City's intent to omit youth and day care centers from the retail sensitive use restrictions, a decision our organization supports, we would ask that the City Attorney's office take a look at Business and Professions Code 26054 (b). Our concern arises from the fact that the law appears to specifically state that mere silence as to the omission of a state sensitive use in a local ordinance is not enough.

The applicable section of section 26054 states:

“(b) A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center **that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius...**” (emphasis added).

The above would seem to indicate that if the City's ordinance intends to omit day care and youth centers as a sensitive use, it must specify a sensitive use radius for these entities even if it is zero.

Our organization would ask that the City review all areas where it has chosen to part company with state law, to ensure that specific language is inserted to make this intention clear and that any divergence contains the language required by the State to effect such change.



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The Coalition would like to thank attorney Steve Lubell, for bringing the above concern to our attention.

The Current Draft Removes Available Land And Does Not Allow Enough Land To Accommodate The Licensing It Contemplates.

The revised ordinance removes available land¹ but does not replace it with equivalent zoning. We believe that the City has been forced to draw conclusions because it did not have adequate information about current land use by cannabis businesses and did not have a thorough enough understanding of the manufacturing processes involved in the cannabis industry.

Some examples include:

Research done by one of our members indicates a 1 ½% vacancy rate for warehouses in the City. As the City contemplates mostly indoor cannabis cultivation, the low percentage of available space would indicate a need to expand the zones in which such cultivation could take place.

The manufacturing of cannabis products is often so benign that it could take place in additional zones. A manufacturer baking infused brownies may simply be adding cannabis oil which they've purchased rather than manufactured themselves.

In such a situation, allowing this type of manufacturing in any zones where bakeries are allowed would be appropriate. The reason for this is the commercial cannabis oil would be subject to track and trace state and local laws and thus it could not be resold even if it were an attractive item for theft, which it isn't because it has no retail value.

Our organization respectfully asks the City to investigate the manufacturing process used in the cannabis industry more carefully and enlarge the zones where cultivation and manufacturing might occur.

The Omission of a Cottage License Category Discourages Small Start-Ups and May Meaningfully Impact the City's Social Equity Program.

At the state level, the specialty cottage license was intended to allow entrepreneurs who were just beginning their businesses to obtain licensure for a modest amount of cultivation.

The analysis provided by the City indicates an assumption that this license category is designed for growing marijuana in private residences.

The City is under no obligation to allow marijuana cultivation in private homes. A cottage license can easily be maintained in a small manufacturing bay of which there are many in the City.

The Southern California Coalition is deeply committed to the idea of social equity. But, in order to effectuate a meaningful program of this type, the City must make room for modest businesses which are supportable with a small amount of start-up capital.

To require a new business to maintain a license it cannot support is to doom the entity from the start rather than nourish it. The impact of such a policy would be most naturally felt in underserved areas of the community where people simply did not have the capital to engage in elaborate start-ups but still wished to participate in the industry.

We would ask the City to reconsider their decision and allow cottage licenses.

The Imposition of an 800 Foot Sensitive Use Radius Is Overbroad And Would Not Allow For A Sufficient Number of Retail Businesses.

The City intends to offer recreational sales, allow tourists to purchase for recreational use and allow citizens in adjoining counties/cities to purchase cannabis or medical cannabis in Los Angeles. Additionally, the City intends to create a social equity program, and certainly retail sales would be a part of that program.

¹ i.e. the CR Limited Commercial Zone and the Convention & Event Center Specific Plan Zone has been removed from the Retailer Commercial Cannabis Activity



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Our analysis indicates that the current number of Prop D Eligible shops for this kind of activity is less than the City's number of Business Tax Registration Certificates issued. The reason for this is that any time a landlord decides to refinance or sell the leasehold, retail cannabis businesses have to move. Thus, there is always a pool of businesses remaining statutorily open while they search for new locations but who are not serving patients much during this process.

Additionally, the City's report indicates that 156 locations constituting 27% of the land occupied by unauthorized retailers would be on compliant land. Landlords who have just undergone an expensive and lengthy process to evict or have the City evict unauthorized entities are unlikely to rent to another retail cannabis business, particularly if their settlement agreement with the City mandates that they cannot do so. Remember, the City involves the landlord meaningfully in the process of bringing the dispensaries into court. While this is necessary to eradicate unauthorized actors, it does have a chilling effect.

At this time, which is the peak period for obtaining land in expectation of imminent licensure, the City is not issuing licenses nor giving landlords any indication of who would be eligible for a license so this would serve as another barrier.

The City also needs to be mindful of the fact that landlords frequently don't want to rent to cannabis businesses, whether they're licensed or not. It's not unusual for even Prop D Eligible businesses to contact over a hundred landlords before they can find one who will even agree to show them the property, much less rent it to them. These businesses often search for six months to a year for a new location at 600 feet, 800 feet would be unsupportable.

The imposition of an 800 foot sensitive use barrier means that even Prop D eligible dispensaries will be subject to this restriction once they were forced to move, and because most of them are locked into leases for as long a term as they could convince the landlord to tolerate, by the time they are forced to move ALL available land will already be occupied by newer arrivals. This means that the oldest and most venerable of the dispensaries, places Chief Beck once described as "being safer than banks" would be forced into involuntary closure.

Because the City has refused to engage in provisional licensing, those holding or currently occupying compliant land have not been factored into the equation. With the vacancy rate in warehouses at 1 ½ percent, and no explanation of an industry that would account for this vacancy rate save cultivation, it's safe to assume that these warehouses have been secured by cultivation interests to service what they know will be a huge uptick in retail sales, once licensing for recreational use takes place by the City. This kind of occupancy is a sort of "canary in the coal mine" indication that the City is going to need a lot more retail outlets than now exist.

The City's report also maintains that cash sales are a meaningful reason for the expanded sensitive use radius. A Department of Finance employee testified before a California Treasury hearing, that only 20% of the cannabis businesses currently paying city taxes do so in cash. This means that 80% of the current retail outlets are not cash businesses or at least have managed to maintain serial bank accounts. Additionally, the City anticipates establishing a bank which would accept cannabis business accounts, and there's increasing evidence that credit unions are already accepting such accounts.

The City contemplates recreational sales, including sales to non-residents and tourists. Las Vegas, which recently began allowing recreational sales in its medical cannabis dispensaries had the same number of tourists as Los Angeles last year, 44 million. Even more striking, is the fact that Las Vegas, like Los Angeles, has most of its tourism concentrated in specific areas. Just as Vegas tourists are mostly concentrated in the strip and downtown, rather than outlying suburban areas, Los Angeles has a similar concentration in places like historic Hollywood.

If you examine the news footage of Las Vegas dispensaries when recreational sales began, there were lines of patrons stretching down long city blocks. This wasn't a problem there, because the areas where the dispensaries were located were not commercial strips with housing just behind them, as is the case in Los Angeles.

We simply aren't going to be able to handle the increased sales resulting from recreational consumers unless the number of dispensaries increases from the small amount currently allowed. Because the land allocated by the City for retail sales is so limited, existing dispensaries are going to have to "double up" and offer both kinds of sales even if the sensitive use radius decreases.

Failure to license more retail establishments will result in long disruptive lines, and an increase in the nuisance factor and parking problems. Most of the current dispensaries are small storefronts. Their ability to serve the public is limited by their small size.



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Patients may find there's no medicine left for them, and since the whole reason for allowing the sale of medical cannabis in the first place was to provide the sick with medical cannabis, this is an unacceptable result.

We also find the idea that retail outlets need to be more than a block away from unsupervised minors is unnecessary. All compliant dispensaries have guard staff patrolling the perimeters of these shops, who chase away anyone who loiters. Whether there's one dispensary per block or more, children are never allowed to congregate or enter the premises and the guards are ever on the alert for anyone who would seek to smoke on or near the location.

Our organization differs from some in that two of our founders and our policy chair have extensive experience with Prop D eligible dispensaries. We've accredited them, run them and been part of the nation's oldest trade association for compliant shops before forming the Coalition. We know from direct experience, that compliant shops following best practices are more akin to health food stores or nutritional centers than strip clubs or liquor stores. They do not generate police calls, are not robbery targets and do not create or allow nuisances to exist on or around their property.

The City's licensure will only allow retail businesses that are as compliant and committed to best practices as the current Prop D eligible dispensaries are. Thus, any future retail establishments contemplated are legally obligated to behave as discreetly, honorably and carefully as the current shops allowed by the City.

Whether there's one compliant shop on a block or two, the City will not be impacted in the way it currently is by unauthorized actors who misbehave and allow the misbehavior of their patrons.

Suggesting that medical cannabis patients or adult use patrons will somehow create havoc if they can walk from one store to another is absurd, because comparison shopping is not an option at compliant dispensaries. You're allowed one visit per day, a rule that can easily be incorporated into the new ordinance. Once you enter the retail outlet you may not return for 24 hours. Most patients simply go on-line, visit Weedmaps or the dispensary's website and decide what they will buy and where they will buy it before they even leave their homes. Comparison shopping on your computer is so much easier than walking for several blocks in the summer heat that we can't imagine anyone, particularly patients, would do anything else.

Our suggestion, that sensitive uses (excepting schools) be 300 feet (half a city block) is, we realize, revolutionary. And given the mess and bother unauthorized entities have caused the City, we understand that the Council might be reluctant to even consider such a thing. But in reality, 300 feet means that the most retail establishments on each block would be two. This is far less than the current concentration of rogue entities existent and these new entities would be licensed compliant locations that would not be indulging in the kind of behaviors that unauthorized entities continue to exhibit.

If you don't open up land for retail sales, once recreational sales begin, existing entities will quickly become over-burdened, with lines out the door and the attendant parking and nuisance problems which always accompany overflow crowds. Existing land for these retail stores is, as discussed above, far less than the City thinks is available. Taken altogether, the risk of a reduced sensitive radius is small and the rewards great.

The Southern California Coalition (the SCC) is the Southland's largest industry trade association, representing cannabis stakeholders across all licensing categories. It is unique in that it also includes major advocacy groups for minorities, patients and veterans as well as an organized labor component. The Southern California Coalition's mission is to ensure that cannabis legislation is fair, balanced and inclusive. If you have any questions I can be reached at (805) 279-8229.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sarah Armstrong".

Sarah Armstrong
Policy Chair
The Southern California Coalition