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When making inquiries relative to  
this matter, please refer to the  
Council File No.: [14-0366-S5](#)

## OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

June 8, 2018

**Council File No.:** [14-0366-S5](#)

**Council Meeting Date:** June 05, 2018

**Agenda Item No.:** 4

**Agenda Description:** RULES, ELECTIONS, AND INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT and ORDINANCES FIRST CONSIDERATION relative to amending various sections of the Los Angeles Municipal Code pertaining to the regulation of commercial cannabis activity, and amending the Rules and Regulations for cannabis procedures.

**Council Action:** RULES, ELECTIONS, AND INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT, ORDINANCES AND AMENDING MOTION (WESSON - HARRIS-DAWSON) - ADOPTED

**Council Vote:**

YES BLUMENFIELD  
YES BONIN  
ABSENT BUSCAINO  
ABSENT CEDILLO  
ABSENT ENGLANDER

YES HARRIS-DAWSON  
YES HUIZAR  
YES KORETZ  
YES KREKORIAN  
YES MARTINEZ

YES O'FARRELL  
YES PRICE  
YES RODRIGUEZ  
YES RYU  
YES WESSON

HOLLY L. WOLCOTT  
CITY CLERK

**Pursuant to Charter/Los Angeles Administrative Code Section(s): 341**

**FILE SENT TO MAYOR:**

06/08/2018

**LAST DAY FOR MAYOR TO ACT:**

06/18/2018



**APPROVED**

**\*DISAPPROVED**

**\*VETO**

Acting Mayor

06/13/2018

**DATE SIGNED**

4 A

## MOTION

I MOVE that the matter of Rules, Elections and Intergovernmental Relations Committee Report and Ordinances First Consideration relative to amending various sections of the Los Angeles Municipal Code (LAMC) pertaining to the regulation of commercial cannabis activity, and amending the Rules and Regulations for cannabis procedures, Item 4 on today's Council Agenda (C.F. 14-0366-S5), BE AMENDED as follows:

1. DELETE Recommendation 3(h) and REPLACE with the following: Increase term of Social Equity Program (SEP) agreements to three years. A Tier 3 Social Equity Applicant shall have right of first refusal to buy out a Tier 1 or Tier 2 Social Equity Applicant if the Tier 1 or Tier 2 Social Equity Applicant chooses to transfer its license to another eligible person.
2. DELETE Recommendation 3(i).
3. DELETE Recommendation 3(k) and REPLACE with the following: Provide a process and allow for the DCR to register incubator projects with multiple licenses for the education, training, etc. for social equity applicants.
4. DELETE Recommendation 3(m) and REPLACE with the following: Allow DCR to begin processing applications of Tier 1 and Tier 2 Social Equity Applicants who have not yet identified a Business Premises at which they will conduct Commercial Cannabis Activity. A Tier 1 or Tier 2 Social Equity Applicant must identify a Business Premises before DCR may finish processing their applications.
5. ADD Recommendation 3(q) as follows: All commercial cannabis businesses that receive temporary approval from DCR must comply with all rules and regulations.
6. ADD Recommendation 3(r) as follows: Change the definition of "California Cannabis Conviction" in LAMC Sec 104.20(b) to the following: "'California Cannabis Conviction" means an arrest or conviction for any crime under the laws of the State of California relating to the sale, possession, use, manufacture, or cultivation of Cannabis that occurred prior to November 8, 2016." An arrest, prosecution or conviction for a violation of Proposition D, as codified in former Article 5.1 of Chapter IV of the Los Angeles Municipal Code, notwithstanding that Proposition D has been repealed, is not a California Cannabis Conviction. A Social Equity Applicant with a California Cannabis Conviction shall be ineligible to apply for a License in any of the circumstances specified in Section 104.03(c) subject to the time restrictions therein."
7. ADD Recommendation 3(s) as follows: Change definition of "Temporary Approval" in LAMC Sec 104.01(a) to the following: "Temporary Approval means a DCR-issued temporary license that authorizes an Applicant to engage for a limited period in

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Commercial Cannabis Activity as would be permitted under the privileges of a non-temporary License of the same type. An Applicant with Temporary Approval shall follow all applicable rules and regulations as would be required if the Applicant held a non-temporary License of the same type. Temporary Approval does not create a vested right in the holder to either an extension of the Temporary Approval or to the issuance of a subsequent non-temporary License. DCR may revoke Temporary Approval without a hearing based upon written findings that an Applicant violated applicable rules and regulations.”

8. ADD Recommendation 3(t) as follows: Amend LAMC Sec 104.16 to state the following: “DCR shall administer the Rules and Regulations as adopted by the City Council. The DCR may promulgate and enforce Rules and Regulations, and issue determinations and interpretations related to this Article and to the Rules and Regulations adopted by the City Council in support of this Article. Any rules and Regulations promulgated by the DCR shall have the force and effect of law, and may be relied upon by Applicants, Licensees, or other parties to determine their rights and responsibilities. The Commission may recommend to the City Council or DCR amendments to the Rules and Regulations.”
9. ADD Recommendation 3(u) as follows: Clarify an applicant may satisfy testing requirements under sec 104.08(a)(8) by providing a written attestation that it will enter into agreement with a testing laboratory for testing of all cannabis and cannabis products.
10. ADD Recommendation 3(v) as follows: Amend 104.06 and all other relevant provisions to revise the requirement of a public hearing conducted by the Commission. In its place, require DCR to conduct a community meeting within the defined geographic area of the Area Planning Commission at which it shall receive written and oral testimony regarding an application. DCR shall conduct a community meeting prior to conducting a pre-licensing inspection, and it shall provide the Commission a written summary of the testimony at the meeting.
11. ADD Recommendation 3(w) as follows: Amend LAMC Section 104.05(b) as follows:
  - Change the notice period from 45 days to 20 business days; Require the DCR to provide notice instead of the Applicant or Licensee; and Make all necessary changes throughout Article IV to reflect these amendments.
12. ADD Recommendation 3(x) as follows: Add the following reasons to deny issuance of a license under LAMC Section 104.06(a)(1): Applicant failed to adhere to the requirements of this Article or the Rules and Regulations; Applicant engaged in unlicensed commercial cannabis activity in violation of LAMC Sec 104.15
13. Add Recommendation 3(y) as follows: Amend reasons for applicant ineligibility in 104.03(c) as follows: Change 104.03(c)(8) to include a violent felony conviction under Penal Code Section 667.5 and a serious felony conviction under Penal Code Section

1192.7; Make a person ineligible to apply for a license if the person has a felony conviction for a crime involving fraud, deceit, or embezzlement.

14. Add Recommendation 3(z) as follows: Clarify LAMC Section 104.20(e) to require Social Equity Tier 3 Applicants to provide capital, leased space, business, licensing and compliance assistance to a Tier 1 Social Equity Applicant, as well as business, licensing and compliance assistance to a Tier 2 Social Equity Applicant.
15. Add Recommendation 3(aa) as follows: Add the following commercial cannabis activity under LAMC Section 104.02(a): (10) OTHER COMMERCIAL CANNABIS ACTIVITY – Any commercial cannabis activity which requires a State of California license as currently defined or amended by the State of California and not identified in LAMC Section 104.02(a)(1) to LAMC Section 104.02(a)(9).
16. Add Recommendation 3(bb) as follows: Add the following commercial cannabis license type under LAMC Section 104.02(a)(7): (v) Type S - Shared-Use Facility.
17. ADD Recommendation 3(cc) as follows: REQUEST the City Attorney to transmit the necessary reports and draft Ordinance as outlined above to the City Clerk's office no later than 2 pm on Friday June 15, 2018.
18. ADD Recommendation 8 as follows: INSTRUCT the CAO and REQUEST the City Attorney, with the assistance of DCR, to report back in 45 days with an analysis of an annual in-lieu fee as proposed under Recommendation 3(l).

PRESENTED BY:

  
HERB J. WESSON, JR.  
Councilmember, 10<sup>th</sup> District

SECONDED BY:





RULES, ELECTIONS, AND INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT and ORDINANCES FIRST CONSIDERATION relative to amending various sections of the Los Angeles Municipal Code (LAMC) pertaining to the regulation of commercial cannabis activity, and amending the Rules and Regulations for cannabis procedures.

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. PRESENT and ADOPT the accompanying ORDINANCE, dated May 9, 2018, amending Article 4 of Chapter X of the Los Angeles Municipal Code (LAMC) to regulate commercial cannabis activities in the City of Los Angeles.
2. PRESENT and ADOPT the accompanying ORDINANCE, dated May 9, 2018, amending Rules and Regulations for Cannabis Procedures, Ordinance No. 185344, established in support of Article 4 of Chapter X of the LAMC to regulate commercial cannabis activities in the City of Los Angeles.
3. REQUEST the City Attorney, with the assistance of the Department of Cannabis Regulation (DCR) and the Chair, Rules, Elections, and Intergovernmental Relations (REIR) Committee, to prepare and present an ordinance to make the following adjustments to Article IV, Chapter X of the LAMC in connection with regulating commercial cannabis activity:
  - a. Add the following definition for management companies that engage in commercial cannabis activity: Management company is defined as any person who participates in the management, direction or control of the operations of a business licensed to conduct commercial cannabis activity, or any person who participates in the management, direction or control of another person who participates in the management, direction or control of the operations of a business licensed to conduct commercial cannabis activity. A management company shall not hold equity ownership in the applicant licensee or have the authority to make major decisions impacting the corporate structure of the applicant or licensee or the license held by the applicant or licensee. Notwithstanding the foregoing, a management company may receive revenue or profit-based compensation, subject to limitations established by the DCR. Nothing herein shall exempt management companies from disclosure requirements as required by the City of Los Angeles.
  - b. Require Social Equity Applicant or Licensee to obtain written approval from the DCR before engaging the services of a management company. The DCR shall not approve the engagement of a management company in the absence of a written agreement or contract.
  - c. Require Applicant or Licensee to disclose to the DCR all written agreements or contracts with a management company and all other documents the DCR requires to identify all persons who will act as the management company for the business premises.
  - d. The DCR may prohibit a person from acting as a management company if the person

would be ineligible for a license pursuant to LAMC Sections 104.06(a) and 104.03(c) or upon a finding that the person has violated State or City law regulating commercial cannabis activity.

- e. An applicant or licensee shall be responsible for all acts or omissions of its management company in connection with compliance with State and City law.
- f. Require all management companies engaged in commercial cannabis activity within the City of Los Angeles to register and maintain appropriate records with the DCR.
- g. Add a provision to require that management companies are limited to entering into management agreements for no more than three percent of commercial cannabis businesses within the City of Los Angeles, by license type. The percentage will increase one percent on July 1st of every year beginning in 2019 until a total of seven percent is reached. Tier 1 and Tier 2 social equity applicants are exempt for the management company license limits.
- h. Increase term of Social Equity Program (SEP) agreements to five years. Allow SEP licensed businesses to terminate their agreement with the Social Equity applicant after five years, with the approval of the DCR. SEP licensed business has right of first refusal to buy out SEP applicant.
- i. Allow SEP licensed businesses to replace a social equity applicant under criteria established by the DCR and with the approval of the DCR.
- j. Clarify LAMC Section 104.20(a) to state that Tier 1 and Tier 2 applicants may apply for retail licenses under the 2:1 ratio. Tier 3 applicants may not apply for retail licenses. Further clarify that Tiers 1 through 3 applicants may apply for non-retail under the 1:1 ratio. Overall, Tier 1 applicants receive priority processing over Tier 2 applicants, and Tier 2 applicants receive priority processing over Tier 3 applicants.
- k. Provide a process and allow for the DCR to license incubator projects with multiple licenses for the education, training, etc. for social equity applicants.
- l. Provide more flexibility to comply for Tier 3 applicants under LAMC Section 104.20 (e) such as an in-lieu fee or comparable amount of commercial cannabis space in an otherwise compliant off-site location.
- m. Allow social equity applicants to apply who do not have local land use authorization. SEP agreements that are approved under this provision will be conditional approvals. Local land use authorization must be obtained prior to completing the licensing process.
- n. Require licensed retail cannabis businesses and their employees engaged in commercial cannabis delivery services to carry a State of California Motor Carrier Permit as required by State law and regulations.
- o. Allow any testing lab to apply for temporary approval if an applicant provides proof of ISO 17025 accreditation or proof that the applicant is in the process of applying or is

preparing to apply for ISO 17025 accreditation, as well as laboratory-employee qualifications as required by the State of California. If the ISO 17025 accreditation is denied, then the temporary approval is immediately revoked and the applicant must discontinue associated commercial cannabis activities.

- p. Remove all references to community benefits agreements due to the potential legal liability under Proposition 218 and Proposition 26.
4. REQUEST the City Attorney, working with the Office of Finance, to prepare and present an Ordinance amending LAMC Section 21.50 et seq. to reflect the repeal of Prop D and the enactment of the new cannabis regulatory scheme, so that a cannabis Business Tax Registration Certificate (BTRC) shall only be issued if the cannabis business has a City of Los Angeles cannabis license. The Office of Finance will notify the DCR when a BTRC is issued/renewed for any business.
5. INSTRUCT the DCR, with the assistance of the Chair, REIR Committee, to contract for the social equity analysis immediately in order to provide further analysis of the San Fernando Valley, the Boyle Heights Community and longstanding residential enclaves in downtown Los Angeles, and to address which zip codes were adversely impacted by the war on drugs within the San Fernando Valley, the Boyle Heights Community and certain areas of downtown Los Angeles for inclusion within the disproportionately impacted areas definition in LAMC Section 104.20(b).
6. TRANSFER the following amounts within the DCR to cover user licenses and systems development costs for the DCR's licensing system:
- | From:          | To:              |                                |
|----------------|------------------|--------------------------------|
| <u>Account</u> | <u>Title</u>     | <u>Amount</u>                  |
| 1010           | Salaries General | Contractual Services \$310,000 |
| 1090           | Overtime         | Contractual Services \$40,000  |
7. AUTHORIZE the City Administrative Officer (CAO), to prepare Controller instructions for any necessary technical adjustments to the above; and, REQUEST the Controller to implement the instructions.

Fiscal Impact Statement: None provided by the City Attorney. Neither the CAO nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted.

Summary:

On May 23, 2018, your Committee considered a May 9, 2018 City Attorney report and two Ordinances dated May 9, 2018 relative to amending various sections of the LAMC pertaining to the regulation of commercial cannabis activity, and amending the Rules and Regulations for cannabis procedures. According to the City Attorney, on February 28, 2018, Council requested draft Ordinances that would amend various sections of Article 4 of Chapter X of the LAMC and

the implementing rules and regulations to: expand the reasons a person may be ineligible to apply for a license; remove the obligation to obtain a delivery license; permit an applicant or licensee to enter into a tax payment plan with the Office of Finance; modify the application period under LAMC Section 104.08; allow the DCR to issue temporary approvals to testing labs; revise the zone requirements for Existing Medical Marijuana Dispensaries after 2022; and change the date by which retail products must be properly tested.

After consideration and having provided an opportunity for public comment, the Committee moved to recommend approval of the two Ordinances along with further amendments as detailed above in Recommendation Nos. 3 through 7. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

RULES, ELECTIONS, AND INTERGOVERNMENTAL RELATIONS COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
WESSON:	YES
HUIZAR:	ABSENT
HARRIS-DAWSON:	YES

ARL  
5/23/18

**-NOT OFFICIAL UNTIL COUNCIL ACTS-**