

ORDINANCE NO. 185629

An ordinance amending various sections of Article 4 of Chapter X of the Los Angeles Municipal Code to regulate commercial cannabis activities in the City of Los Angeles.

THE PEOPLE OF THE STATE OF CALIFORNIA
DO ORDAIN AS FOLLOWS:

Section 1. Subdivisions 16 through 27 of Subsection (a) of Section 104.01, Article 4, Chapter X of the Los Angeles Municipal Code are renumbered as 18 through 29, and new Subdivisions 16 and 17 are added to read as follows:

16. **“Manage”** means to participate in the management, direction or control of Commercial Cannabis Activity.

17. **“Management Company”** means a Person who manages Commercial Cannabis Activity on a Licensee’s behalf, or a Person who directs or controls another Person who manages Commercial Cannabis Activity on a Licensee’s behalf. A Management Company does not include: (1) an Employee of a Licensee; (2) an Owner of a License; or (3) a Person with an equity interest in a Licensee who does not manage Commercial Cannabis Activity on the Licensee’s behalf.

Sec. 2. Subdivision 25 of Subsection (a) of Section 104.01, Article 4, Chapter X of the Los Angeles Municipal Code is renumbered as Subdivision 27 and is amended to read as follows:

27. **“Temporary Approval”** means a DCR-issued temporary license that authorizes an Applicant to engage for a limited period of time in 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 this article or applicable rules and regulations.

Sec. 3. A new Paragraph (v) is added to Subdivision 7 of Subsection (a) of Section 104.02, Article 4, Chapter X of the Los Angeles Municipal Code to read as follows:

(v) **Type S** – Shared-use facility

Sec. 4. A new Subdivision 10 is added to Subsection (a) of Section 104.02, Article 4, Chapter X of the Los Angeles Municipal Code to read as follows:

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 which is not identified in this article.

Sec. 5. Subdivision 8 of Subsection (c) of Section 104.03, Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

8. A Person with a violent felony conviction as defined in California Penal Code Section 667.5, a serious felony conviction as defined in California Penal Code Section 1192.7, or a felony conviction for violating any law involving violent crimes, sex trafficking, rape, crimes against children, gun crimes or hate crimes for a period of 20 years from the date of conviction or completion of a term of imprisonment, supervised release or probation imposed as a sentence for the conviction, whichever is later.

Sec. 6. A new Subdivision 9 is added to Subsection (c) of Section 104.03, Article 4, Chapter X of the Los Angeles Municipal Code to read as follows:

9. A Person with a felony conviction for a crime involving fraud, deceit, or embezzlement for a period of five years from the date of conviction.

Sec. 7. Section 104.04 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 104.04. PRE-LICENSING INSPECTION AND COMMUNITY MEETING.

(a) A completed application shall be referred by DCR for pre-licensing inspection as provided in the Rules and Regulations. All Applicants, except EMMDs, must pass pre-licensing inspection before a Temporary Approval or License may be issued

(b) After DCR determines an application is complete and before pre-licensing inspection is complete, DCR shall conduct a community meeting within the defined geographic area of the Area Planning Commission within which the Business Premises is situated. At the meeting, DCR shall accept written and oral testimony regarding the application and then prepare a written report summarizing the testimony in favor and against the application. Notice of the meeting shall be given in a manner consistent with Section 104.05.

Sec. 8. Subsections (a) and (b) of Section 104.05 of Article 4, Chapter X of the Los Angeles Municipal Code are amended to read as follows:

(a) **Notice of Complete Application.** Within ten days of DCR determining that an application is complete, DCR shall provide mailed notice of the application to the owner or owners of the Business Premises, and the owners and occupants of all property within 500 feet of the property line of the lot on which the subject Business Premises is located, using for the purpose of notification of property owners, the last known name and address of owners as shown on the records of the City Engineer or the records of the County Assessor. For occupants, the notice shall be addressed to "occupant" and mailed to all property addresses within the 500-foot radius. Where all property within the 500-foot radius is under the same ownership as the Business Premises, the owners of all property that adjoins that ownership, or is separated from it only by a street, alley, public right-of-way or other easement, shall also be notified as set forth above. Written notice shall also be provided to the closest neighborhood council, the closest business improvement district and the City Council office within which the Business Premises is situated. The Applicant shall provide written evidence to DCR that the Applicant offered to appear before the neighborhood council to address questions about the application. Notice shall also be posted on DCR's website. The Applicant shall immediately post in a conspicuous place on the Business Premises a copy of the notice provided to Applicant by DCR. All notices shall inform interested parties on how to provide DCR with information about the application. Upon written request to DCR, any Person shall be placed on DCR's Interested Party Notification list to receive via email all notices required under this subsection.

(b) **Notice of Hearing.** No less than 20 days prior to the date of any public hearing required under this article, DCR shall provide notice of the hearing in the same manner as specified in Section 104.05(a).

Sec. 9. Subdivision 1 of Subsection (a) of Section 104.06 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

1. DCR may deny, with no hearing and based upon written findings and evidence in the record, the issuance of a License where the Applicant fails to meet any of the requirements of Article 5 of Chapter X of this Code, or for any of the following reasons:

(i) The Applicant's Business Premises is substantially different from the diagram of the Business Premises submitted by the Applicant, in that the size, layout, location of common entryways, doorways, or passage ways, means of public entry or exit, or limited-access areas within the Business Premises are not the same;

(ii) The Applicant denied DCR employees or agents access to the Business Premises;

(iii) The Applicant made a material misrepresentation on the application;

(iv) The Applicant failed timely to provide DCR with additional requested information, including documentation;

(v) The Applicant was denied a license, permit or other authorization to engage in Commercial Cannabis Activity by any state or other local licensing authority due to any illegal act or omission of the Applicant;

(vi) Issuance of a License would create a significant public safety problem as documented by a law enforcement agency;

(vii) The Applicant's Business Premises is located in a geographical area of Undue Concentration, unless the City Council has adopted written findings that approval of the License application would serve public convenience or necessity, supported by evidence in the record;

(viii) The Applicant failed to adhere to the requirements of this article or the Rules and Regulations; or

(ix) The Applicant engaged in unlicensed Commercial Cannabis Activity in violation of Section 104.15.

DCR's decision to deny the issuance of the License is final and effective upon the close of the 15-day appeal period if not timely appealed to the Commission by the Applicant as provided in Section 104.10. There is no further appeal to the City Council.

Sec. 10. The first paragraph of Subdivision 2 of Subsection (a) of Section 104.06 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

2. If the decision by DCR is to recommend approval of the application, then the Commission shall make the determination whether to issue the License after it conducts a public hearing. Notice of the public hearing shall be made pursuant to Section 104.05(b). Prior to making its decision, the Commission shall accept and consider written information submitted and oral testimony. The Commission shall consider the decision by DCR to recommend approval of the application, the written summary of the community meeting prepared by DCR, the record before DCR and any written information and oral testimony timely provided to the Commission.

Sec. 11. Subdivision 2 of Subsection (c) of Section 104.06, Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

2. If DCR recommends approval of the application, then the Commission shall make the determination whether to issue the License after it conducts a public hearing. Notice of the public hearing shall be made pursuant to Section 104.05(b). Prior to making its decision, the Commission shall accept and consider written information submitted and oral testimony. The Commission shall consider the decision by DCR to recommend approval of the application, the written summary of the community meeting prepared by DCR, the record before DCR and any written information and oral testimony timely provided to the Commission. The Commission may approve the issuance of the License based on written findings and evidence in the record to support that the Applicant and Business Premises meet the restrictions of Article 5 of Chapter X of this Code. The Commission may also impose conditions to address public safety concerns. The Commission shall not approve the issuance of a License for an Applicant with a Business Premises located in a geographical area of Undue Concentration without a written finding by the City Council that approval of the application would serve public convenience or necessity, supported by evidence in the record. The Commission's action shall also comply with CEQA and the CEQA Guidelines. The Commission shall not approve the issuance of a License without written findings that any feasible mitigation measure or feasible alternative identified in any CEQA clearance, as necessary to avoid or substantially lessen any significant impact on the environment, has been made enforceable as a condition of the License. The Commission may deny the issuance of the License based on written findings, evidence in the record and for any of the reasons stated in Section 104.06(a)(1) of this article. The Commission's decision to approve or deny the issuance of the License is final and effective upon the close of the 15-day appeal period if not timely appealed to the City Council by the Applicant or any other person aggrieved by the decision, as provided in Section 104.10.

Sec. 12. Subsection (a) of Section 104.08 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

(a) An Applicant who applies for a License for Non-Retailer Commercial Cannabis Activity and who meets the below criteria as determined by DCR shall receive a Temporary Approval, which shall provide the Applicant with limited immunity, as described in Subsection (c), to operate pending the review of its License application: 1) the Applicant was engaged prior to January 1, 2016, in the same Non-Retailer Commercial Cannabis Activity that it now seeks a License for; 2) the Applicant provides evidence and attests under penalty of perjury that it was a supplier to an EMMD prior to January 1, 2017; 3) the Business Premises meets all of the land use and sensitive use requirements of Article 5 of Chapter X of this Code; 4) the Applicant passes a pre-license inspection; 5) there are no fire or life safety violations on the Business Premises; 6) the Applicant paid all outstanding City business tax obligations; 7) the Applicant indemnifies the City from any potential liability on a form approved by DCR; 8) the Applicant provides a written attestation that it will enter into an agreement with a testing laboratory for testing of all Cannabis and Cannabis products and attests to testing all of its Cannabis and Cannabis products in accordance with state standards; 9) the

Applicant is not engaged in Retailer Commercial Cannabis Activity at the Business Premises; 10) the Applicant attests that it will cease all operations if denied a State license or City License; 11) the Applicant qualifies under the Social Equity Program; and 12) the Applicant attests that it will comply with all operating requirements imposed by DCR and that DCR may immediately suspend or revoke the Temporary Approval if the Applicant fails to abide by any City operating requirement. For purposes of this subsection only, an Applicant who has entered into a payment plan with the City's Office of Finance pursuant to LAMC Section 21.18 to pay all outstanding City-owned business taxes is deemed current on all City-owned business taxes and is deemed to have submitted payment for all City-owned business taxes.

Sec. 13. Section 104.09 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

An Applicant seeking a Testing Lab License (Type 8) may submit an application to DCR at any time after DCR first accepts applications for any License. If an Applicant obtains or attests that it has or intends to seek ISO/IEC 17025 accreditation for all testing methods required by Title 16, Div. 42 of the California Code of Regulations and meets all laboratory-employee qualifications required by Title 16, Div. 42 of the California Code of Regulations, DCR may issue a Temporary Approval to the testing lab before completion of a pre-licensing inspection. If an Applicant is denied an ISO/IEC 17025 accreditation, its Temporary Approval shall be immediately revoked and it shall immediately cease all Testing Commercial Cannabis Activity.

Sec. 14. Section 104.16 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

DCR shall administer the Rules and Regulations as adopted by the City Council. DCR may promulgate and enforce Rules and Regulations related to this article, which 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.

Sec. 15. Subsection (a) of Section 104.20 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

(a) Social Equity Applicants shall receive priority processing as provided in this Section. Tier 1 and Tier 2 Social Equity Applicants shall receive priority processing for Retailer Commercial Cannabis Activity Licenses (Types 9 and 10) and for Microbusiness Commercial Cannabis Activity Licenses that include retail (Type 12) on a 2:1 ratio with all non-Social Equity Applicants (including Applicants issued Licenses pursuant to Section 104.07). Tier 3 Social Equity Applicants may not apply for Retailer Commercial Cannabis Activity Licenses or Microbusiness Commercial Cannabis Activity Licenses that include retail. Tiers 1 through 3 Social Equity Applicants shall receive priority processing for all non-retail License types on a 1:1 ratio with all non-Social Equity Applicants (excluding Applicants issued Licenses pursuant to Section 104.08)

based on License type category, provided that Tier 1 Social Equity Applicants shall receive priority over Tier 2 and Tier 3 Social Equity Applicants, and Tier 2 Social Equity Applicants shall receive priority over Tier 3 Social Equity Applicants.

Sec. 16. The second paragraph of Subsection (b) of Section 104.20 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

“California Cannabis Arrest or Conviction” means an arrest or conviction in California for any crime under the laws of the State of California or the United States 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.

Sec. 17. Subsection (e) of Section 104.20 of Article 4, Chapter X of the Los Angeles Municipal Code is amended as follows:

(e) A Tier 3 Social Equity Applicant shall enter into a Social Equity Agreement with the City to provide capital, leased space, business, licensing and compliance assistance for a period of three years to Persons who meet the criteria to be a Tier 1 Social Equity Applicant, and business, licensing and compliance assistance for a period of three years to Persons who meet the criteria to be a Tier 2 Social Equity Applicant. A Tier 3 Social Equity Applicant shall provide Tier 1 Social Equity Applicants access to property with no rent and with prorated utilities for a minimum of three years. The minimum requirements of the property provided to the Tier 1 Social Equity Applicant shall be: 1. Cultivation – minimum 500 square feet or 10 percent of Tier 3 Social Equity Applicant’s Business Premises, whichever is greater; 2. Manufacturing – minimum 800 square feet or 10 percent of Tier 3 Social Equity Applicant’s Business Premises, whichever is greater; 3. Testing – minimum 1,000 square feet or 10 percent of Tier 3 Social Equity Applicant’s Business Premises, whichever is greater; 4. Distributor – minimum 1,000 square feet or 10 percent of Tier 3 Social Equity Applicant’s Business Premises, whichever is greater; 5. Non-storefront retail – minimum 1,000 square feet or 10 percent of Tier 3 Social Equity Applicant’s Business Premises, whichever is greater; 6. Storefront retail – minimum 1,000 square feet or 10 percent of Tier 3 Social Equity Applicant’s Business Premises, whichever is greater; 7. Microbusiness - minimum 800 square feet or 10 percent of Tier 3 Social Equity Applicant’s Business Premises, whichever is greater. A Tier 3 Social Equity Applicant may provide access to property to a Tier 1 Social Equity Applicant who will engage in a different type of Commercial Cannabis Activity than the Tier 3 Social Equity Applicant.

In lieu of providing the minimum property requirements on its Business Premises, a Tier 3 Social Equity Applicant may pay a fee established by ordinance to assist a Tier

1 Social Equity Applicant with establishing an alternative Business Premises; or, a Tier 3 Social Equity Applicant may provide a Tier 1 Social Equity Applicant an equivalent or greater amount of property at a different location in the City if all of the following conditions are met:

1. The Tier 1 Social Equity Applicant can conduct the Commercial Cannabis Activity for its License type at the new location without violating any of the land use or sensitive use requirements in Article 5, Chapter 10 of this Code;

2. The Tier 1 Social Equity Applicant will not incur costs for bringing the new location into compliance with City and State regulations in excess of those it would incur if it occupied property on the Tier 3 Social Equity Applicant's Business Premises;

3. The Tier 1 Social Equity Applicant has the legal right to occupy and use the new location for Commercial Cannabis Activity; and

4. DCR finds that the facilities at the new location are substantially similar to the facilities at the Tier 3 Social Equity Applicant's Business Premises.

Sec. 18. A new Subdivision 9 is added to Subsection (i) of Section 104.20 of Article 4, Chapter X of the Los Angeles Municipal Code to read as follows:

9. During the term of a Social Equity Agreement, a Tier 1 or Tier 2 Social Equity Applicant may only transfer control or ownership of a License after first providing the Tier 3 Social Equity Applicant the right of first refusal to buy, at market-rate, the Tier 1 or Tier 2 Social Equity Applicant's interest in the License and transfer it to a Person who meets the same social equity ownership and local requirements as when the License was issued.

Sec. 19. Subsection (j) of Section 104.20 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

(j) DCR shall establish the following programs and incentives: 1. recruitment and outreach to support the Social Equity Program; 2. business, licensing and compliance assistance; 3. general business assistance; and 4. a registry for incubator projects that offer education and training to Tier 1 and Tier 2 Social Equity Applicants. Based on a Request for Qualifications, DCR shall establish an approved list of private investors to fund start-up costs for approved Tier 1 and Tier 2 Social Equity Applicants.

Sec. 20. A new Section 104.21 is added to Article 4, Chapter X of the Los Angeles Municipal Code to read as follows:

SEC. 104.21. MANAGEMENT COMPANIES.

(a) A Licensee shall provide to DCR a copy of all written agreements and contracts, including all amendments thereto, with every Management Company that manages Commercial Cannabis Activity on its behalf and all other information and documents DCR requires to determine the nature and scope of a Management Company's participation in Commercial Cannabis Activity.

(b) A Tier 1 or Tier 2 Social Equity Applicant, upon issuance of a License, shall not permit a Management Company to manage Commercial Cannabis Activity on the Applicant's behalf without first obtaining written approval from DCR.

(c) A Licensee shall not permit a Management Company to manage Commercial Cannabis Activity on the Licensee's behalf if:

1. Any Owner of the Management Company would be ineligible to apply for a License pursuant to Section 104.03(c) or to receive a License pursuant to Section 104.06(a)(1);

2. DCR or another Cannabis licensing authority has determined that the Management Company has failed to comply with State or City operating requirements while managing Commercial Cannabis Activity; or

3. The Management Company cannot manage Commercial Cannabis Activity on behalf of any additional Licensees pursuant to the restrictions set forth in Section 104.21(g)

(d) Every Management Company shall register with DCR pursuant to procedures established by DCR and provide DCR all requested information and documents regarding its participation in Commercial Cannabis Activity in the City.

(e) A Management Company shall not hold an equity interest in a Licensee on whose behalf it manages Commercial Cannabis Activity. Notwithstanding the foregoing restriction, a Management Company may receive a share of a Licensee's revenues or profits in exchange for management services rendered, subject to limitations established by DCR.

(f) A Management Company shall manage Commercial Cannabis Activity on a Licensee's behalf in adherence to the operational requirements in this article and the Rules and Regulations that apply to the License type. In construing and enforcing this article and the Rules and Regulations, any act, omission, or failure of a Management Company, including its officers, Employees and agents, shall in every case be deemed the act, omission, or failure of the Licensee.

(g) Every Management Company shall be subject to the following restrictions:

1. Through June 30, 2019, a Management Company shall not manage Commercial Cannabis Activity on behalf of more than three percent of the Licensees in the City engaged in the same type of Commercial Cannabis Activity;

2. From July 1, 2019 through June 30, 2020, a Management Company shall not manage Commercial Cannabis Activity on behalf of more than four percent of the Licensees in the City engaged in the same type of Commercial Cannabis Activity;

3. From July 1, 2020 through June 30, 2021, a Management Company shall not manage Commercial Cannabis Activity on behalf of more than five percent of the Licensees in the City engaged in the same type of Commercial Cannabis Activity;

4. From July 1, 2021 through June 30, 2022, a Management Company shall not manage Commercial Cannabis Activity on behalf of more than six percent of the Licensees in the City engaged in the same type of Commercial Cannabis Activity; and

5. On or after July 1, 2022, a Management Company shall not manage Commercial Cannabis Activity on behalf of more than seven percent of the Licensees in the City engaged in the same type of Commercial Cannabis Activity.

If a Management Company manages Commercial Cannabis Activity on behalf of a Licensee who is a Tier 1 or Tier 2 Social Equity Applicant, that License shall not count against the restrictions set forth in this subsection.

Sec. 21. URGENCY CLAUSE. The City finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: As documented by, among other City departments, the City Attorney and the Los Angeles Police Department, unauthorized cannabis activity in the City continues to proliferate, with the attendant crime and negative secondary impacts that pose a current and immediate threat to the public welfare. In addition, most unauthorized cannabis businesses cultivate, manufacture, and sell cannabis that has not been tested in accordance with State standards, which also creates a current and immediate threat to the public welfare. The Department of Cannabis Regulation plays a key role in reducing the threats posed by unauthorized cannabis activity by, in part, issuing licenses to cannabis business that require those businesses to operate under strict regulations that are primarily intended to protect the public welfare. Although the Department of Cannabis Regulation continues its extensive efforts to license cannabis business activity, recent amendments to State cannabis regulations and frequent changes in practices in the cannabis industry require that the amendments to the Los Angeles Municipal Code as reflected in this ordinance must become effective as soon as possible. In particular, the Department of Cannabis Regulation immediately requires

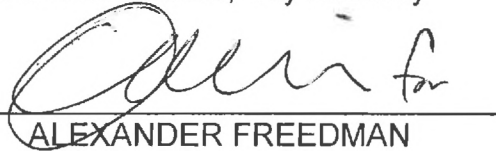
greater authority to regulate cannabis businesses during the licensing process to protect the customers who patronize those businesses; to promote the growth of the cannabis testing industry that is a critical bulwark against the sale of adulterated and unsafe cannabis products to the public; to prevent individuals with serious and violent felony convictions from obtaining licenses; and, to respond to unforeseen and rapid changes in the cannabis industry by promulgating rules and regulations that have the force and effect of law. For all of these reasons, this ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.

Sec. 22. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By


ALEXANDER FREEDMAN
Deputy City Attorney

Date 6-15-18

File No. _____

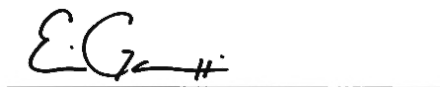
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I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members.

CITY CLERK

MAYOR





Ordinance Passed 06/27/2018

Approved 06/27/2018

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