

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending 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 CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. The second paragraph of Subsection (a) of Section 104.03 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

If the Applicant's Business Premises is located in a geographical area of Undue Concentration, then DCR shall not process the application and the Applicant shall file with the City Clerk, on a form provided by DCR, a request that the City Council find that approval of the License application would serve public convenience or necessity, supported by evidence in the record. Notice of the Applicant's request shall be provided in the same manner as a Notice of Complete Application under Section 104.05(a). If the City Council does not act on the Applicant's request within 90 days, then the City Council shall be deemed to have made the necessary findings to support the public convenience and necessity.

Sec. 2. Subsection (b) of Section 104.04 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

(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 provided as specified in Section 104.05(b). This subsection shall not apply to an application for Non-Retailer Activity in a Business Premises less than 30,000 square feet.

Sec. 3. Section 104.05 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**SEC. 104.05. NOTICE.**

(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. DCR shall also provide written notice to the closest neighborhood council, the closest business improvement district, and the City Council office within which the Business Premises is situated. DCR shall also post the notice on its website. The Applicant shall immediately post in a conspicuous place on the Business Premises a copy of the notice DCR provided to the Applicant. All notices shall inform interested parties on how to provide DCR with information about the application. The Applicant shall provide written evidence to DCR that the Applicant offered to appear before the neighborhood council to address questions about the application.

(b) **Notice of Community Meeting or Public Hearing.** Except where a different notice requirement is provided, no less than 20 days prior to the date of any community meeting or public hearing required under this article, DCR shall provide mailed notice of the meeting or hearing to the Applicant's agent for service of process, 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 Business Premises is situated, in the same manner as specified in Section 104.05(a). DCR shall also provide written notice of the meeting or hearing to the closest neighborhood council, the closest business improvement district and the City Council office within which the Business Premises is situated. DCR shall also post notice on its website. The Applicant shall immediately post in a conspicuous place on the Business Premises a copy of the notice DCR provided to the Applicant. The Applicant is not required to offer to appear before the neighborhood council to address questions about the community meeting or hearing.

(c) **Interested Party Notification.** 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 section.

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

(a) **Retailer Commercial Cannabis Activity.** With respect to an application for a License for Retailer Commercial Cannabis Activity or for Microbusiness Commercial Cannabis Activity, DCR shall either deny the issuance of the License with no hearing at any time during application processing or, within 60 days of the date DCR deems the application and pre-licensing inspection complete, make a recommendation to the Commission to issue the License.

Sec. 5. Paragraph (vii) of 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:

(vii) The Applicant's Business Premises is located in a geographical area of Undue Concentration, unless the City Council has

found or has been deemed to have found that approval of the License application would serve public convenience or necessity;

Sec. 6. The third 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:

The Commission may approve the issuance of the License with 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 impose conditions to address public safety concerns based on findings and evidence in the record. 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 unless the City Council has found or has been deemed to have found that approval of the application would serve public convenience or necessity.

Sec. 7. Subsection (b) of Section 104.06 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

**(b) Non-Retailer Commercial Cannabis Activity in a Business Premises Less than 30,000 Square Feet.** With respect to an application for a License for Non-Retailer Commercial Cannabis Activity where the Business Premises is less than 30,000 square feet, DCR shall either deny the issuance of the License with no hearing at any time during application processing or, within 60 days of the date DCR deems the application and pre-licensing inspection complete, approve the issuance of the License with no hearing. Prior to making its decision, DCR shall consider written information submitted by the public and other interested parties. DCR's decision shall be 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. DCR may approve the issuance of the License with the imposition of conditions to address public safety concerns. DCR's action shall also comply with the CEQA and the CEQA Guidelines. DCR 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. DCR may deny the issuance of the License for any of the reasons listed in Section 104.06(a)1. The DCR shall not approve the issuance of a License for an Applicant with a Business Premises located in a geographical area of Undue Concentration unless the City Council has found or has been deemed to have found that approval of the application would serve public convenience or necessity. DCR'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 Commission by the Applicant or any other person aggrieved by the decision, as provided in Section 104.10.

Sec. 8. Subsection (c) of Section 104.06 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

(c) **Non-Retailer Commercial Cannabis Activity in a Business Premises 30,000 Square Feet or Larger.** With respect to an application for a License for a Non-Retailer Commercial Cannabis Activity in a Business Premises 30,000 square feet or larger, DCR shall either deny the issuance of the License with no hearing at any time during application processing or, within 60 days of the date DCR deems the application and pre-licensing inspection complete, make a recommendation to the Commission to issue the License.

1. DCR may deny the issuance of the License based on written findings, evidence in the record and for any of the reasons listed in Section 104.06(a)1. 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.

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 unless the City Council has found or has been deemed to have found that approval of the application would serve public convenience or necessity. 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. 9. Subsection (c) of Section 104.07 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

(c) DCR's determination of whether an EMMD Applicant is eligible for Proposition M Priority Processing shall be made with no hearing and shall be final and effective upon the close of the 15-day appeal period if the EMMD Applicant does not timely request an administrative hearing, as provided in Section 104.10. In making its determination, DCR may request additional information from the EMMD Applicant. In making its determination, DCR shall make written findings regarding whether the EMMD Applicant complies with the requirements for priority processing for EMMDs. In determining whether an EMMD Applicant meets the requirements for priority processing, DCR shall consider whether the EMMD Applicant cured any non-substantive administrative violations in C through F, and M under LAMC Section 45.19.6.3.

Sec. 10. Subsections (a), (b) and (c) of Section 104.08 of Article 4, Chapter X of the Los Angeles Municipal Code are 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. Prior to determining that an Applicant is eligible for processing under this section, DCR, at its discretion, may provide an Applicant with local authorization to apply for a temporary license from the Bureau of Cannabis Control, the California Department of Food and Agriculture or the

California Department of Public Health. This local authorization shall not permit an Applicant to engage in commercial cannabis activities unless DCR grants the Applicant a Temporary Approval.

(b) DCR's determination of whether an Applicant is eligible for processing under this section shall be made with no hearing and shall be final and effective upon the close of the 15-day appeal period if the Applicant does not timely request an administrative hearing, as provided in Section 104.10. DCR may request additional information from the Applicant. In making its determination, DCR shall make written findings regarding whether the Applicant complies with the requirements for processing under this Section. A completed Application accepted by DCR as eligible for a processing under this Section shall be processed and reviewed pursuant to Section 104.06. A final denial of a License and exhaustion of all administrative appeals shall terminate the Temporary Approval and the limited immunity.

(c) An Applicant that submitted an Application pursuant to this Section by September 13, 2018, paid all fees required under Section 104.19, and received from DCR local authorization under this section shall not be subject to the remedies set forth in Los Angeles Municipal Code Sections 11.00 or 12.27.1 solely on the basis of Non-Retailer Commercial Cannabis Activity; provided, however, that, as authorized by California Health and Safety Code Section 11362.83, this limited immunity is available and may be asserted as an affirmative defense only so long as the requirements of this Section are adhered to by the Applicant and only by an Applicant at the one Business Premises identified in its application. This limited immunity shall terminate on the date DCR makes written findings regarding whether the Applicant meets the requirements for processing under this Section, although the limited immunity shall be extended through any appeal of DCR's findings. This limited immunity shall not be available to and shall not be asserted as an affirmative defense to any violation of law except as expressly set forth in this Section. Further, nothing contained in this limited immunity is intended to provide or shall be asserted as a defense to a claim for violation of law brought by any county, state or federal governmental authority.

Sec. 11. Section 104.10 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

#### **SEC. 104.10. LICENSE APPEAL PROCEDURE.**

(a) **Appeals.**

1. An appeal as authorized in Section 104.06, 104.07 or 104.08 must be filed with DCR within 15 days of the date of the mailing of the written decision by DCR or the Commission (lower level decision maker). The appeal shall set forth the specific basis upon which the appellant claims there was an error or abuse of discretion by the lower level decision maker. Any appeal not filed within the 15-day period shall be rejected as untimely. The lower level decision maker

shall transmit to the appellate body the appeal, the file of the matter, along with any report if one was prepared responding to the allegations made in the appeal.

2. The Commission shall hold a public hearing to consider an appeal as authorized in Section 104.06 within 60 days of the Commission's receipt of the appeal. DCR shall provide notice of a Commission public hearing under this subsection pursuant to Section 104.05(b). The City Council shall hold a public hearing to consider an appeal of a Commission decision as authorized in Section 104.06 within 15 City Council meeting days of City Council's receipt of the appeal. Notwithstanding the notice requirements in Section 104.05(b), no later than 5 days prior to any City Council hearing under this subsection, DCR shall provide notice of the hearing via email to the appellant's agent for service of process and all Persons on DCR's Interested Party Notification list.

3. An administrative hearing officer shall hold a hearing to consider an appeal as authorized in Section 104.07 or 104.08 within 60 days of the date DCR receives the request for an administrative hearing. An administrative hearing under this subsection shall be conducted in the manner specified in Section 104.14.

4. The time for holding a hearing under this section may be extended by mutual agreement between the appellate body and the appellant. Failure of the appellate body to act within the time period allowed shall be deemed a denial of the appeal.

5. The appellate body may consider the decision and record before the lower level decision maker and any new written information and oral testimony timely provided to the appellate body. The appellate body shall, however, rule on the record and evidence de novo, substituting its own judgment for that of the lower level decision maker without deferring to the lower level decision maker's findings and determinations. The appellate body may reverse or modify, in whole or in part, any decision of the lower level decision maker. The appellate body shall make the same written findings required to be made by the lower level decision maker, supported by evidence in the record.

6. The appellate body shall issue its decision within 30 days of the closure of the hearing on the appeal. Failure of the appellate body to issue its decision timely shall be deemed a denial of the appeal.

Sec. 12. Subsection (h) of Section 104.11 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

(h) For purposes of any notice to an Applicant or Licensee required pursuant to this article, DCR shall provide such notice to the Applicant's or Licensee's agent for service of process as updated by the Applicant or Licensee.

Sec. 13. A new subsection (p) is added to Section 104.11 of Article 4, Chapter X of the Los Angeles Municipal Code to read as follows:

(p) An Applicant with Temporary Approval or a Licensee engaged in Storefront Retail Activity (Type 10) shall display an authorized cannabis business emblem placard as required by this Article. If the County of Los Angeles establishes a cannabis business emblem placard program, DCR may require an Applicant with Temporary Approval or a Licensee engaged in Storefront Retail Activity to participate in the program.

Sec. 14. Section 104.13 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

#### **SEC. 104.13. ADMINISTRATIVE VIOLATIONS AND PENALTIES.**

(a) **Violations of this Article.** Within five years of discovering a Licensee or owner of Business Premises has violated this article, the Rules and Regulations, or a License condition (violation), DCR may issue a Notice of Violation (NOV) and impose any administrative penalties or order corrective actions as provided in Section 104.13(b). Any action of DCR does not preclude any enforcement agency from taking its own enforcement action for violation of any local, state or federal law or regulation.

(b) **Administrative Penalties and Corrective Actions.**

1. Administrative fines: In addition to any of the remedies and penalties set forth in this article or any other law, DCR may impose administrative fines on a Licensee or owner of a Business Premises using the violation classes and fine amounts specified below. The types of violations associated with each class shall be delineated in the Rules and Regulations.

(i) "Minor" violation – amount equal to 50% of the current Cannabis License fee for each and every violation;

(ii) "Moderate" violation – amount equal to 150% of the current Cannabis License fee for each and every violation; and

(iii) "Serious" violation – amount equal to 300% of the current Cannabis License fee for each and every violation.

Repeat Minor or Moderate violations that occur within a two-year period and result in an administrative fine may result in escalation to a higher class of violation.

DCR, at its discretion, may impose a reduced administrative fine after considering factors, including: 1) the extent of harm or potential harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time

over which the violation occurs; 4) the history of past violations; 5) any mitigating evidence; and 6) the Licensee's or owner of the Business Premises' financial resources.

2. License Suspension or Revocation or More Restrictive License Conditions: In addition to any of the remedies and penalties set forth in this article or any other law, DCR may suspend or revoke a License or impose more restrictive License conditions after considering factors, including: 1) the extent of harm or potential harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) the history of past violations; and 5) any mitigating evidence.

3. Corrective Action: In addition to any of the remedies and penalties set forth in this article or any other law, DCR may order a Licensee or Business Premises owner to undertake corrective action to remedy the violation or prevent future violations.

**(c) Notice of Violation.**

1. DCR shall issue a NOV by mail to the Licensee's agent for service of process or the owner of the Business Premises as shown on the records of the City Engineer or the records of the County Assessor. The NOV shall contain all of the following:

- (i) a brief description of the violation;
- (ii) a brief description of and rationale for the administrative penalties and corrective action, if any, imposed; and
- (iii) a timeframe in which the Licensee or owner of the Business Premises shall take corrective action, if any, and comply with the administrative penalties, if any, which shall not be sooner than 15 days from the date of mailing of the NOV. .

The NOV shall also inform the Licensee or owner of the Business Premises that they may request an administrative hearing, pursuant to Section 104.14, within 15 days of the date DCR mailed the NOV. The Licensee or the Business Premises owner's right to an administrative hearing shall be deemed waived if he or she fails to file a timely request for an administrative hearing.

2. The NOV shall be final and effective 15 days after the date of its mailing if no hearing was timely requested. If a Licensee or owner of a Business Premises timely requests a hearing, any portion of the NOV upheld or modified by an appellate body shall be final and effective 15 days after the date the appellate body's decision is deemed final under Section 104.14.



3. If after a NOV becomes final and effective, a Licensee or owner of a Business Premises fails to comply with the administrative penalties and corrective action, if any, in the NOV, DCR may take one or more of the following actions: 1) denial of a License renewal; 2) revocation or suspension of a License; or 3) imposition of more restrictive License conditions.

4. **Stipulated Agreements.** Prior to or after issuing an NOV, DCR, at its discretion, may enter into a written agreement with a Licensee or owner of a Business Premises whereby the Licensee or owner of a Business Premises stipulates to committing a violation in exchange for a negotiated administrative penalty or corrective action, if any. If a Licensee or owner of a Business Premises violates a stipulated agreement, DCR may issue or re-issue an NOV and impose any administrative penalties authorized under Section 104.13(b).

(d) **Administrative Hold.** To prevent destruction of evidence, illegal diversion of Cannabis or a Cannabis product, or to address a potential threat to the environment or public safety, DCR may order an administrative hold of Cannabis or a Cannabis product. DCR shall give written notice, by mail, of the administrative hold to the Licensee and shall provide a description of the Cannabis and/or Cannabis product subject to the administrative hold, along with a statement for the basis of issuing the administrative hold. Within 24 hours of receipt of the notice of administrative hold, the Licensee shall physically segregate all applicable Cannabis and/or Cannabis products subject to the hold and shall safeguard and preserve the subject property as required in the notice and the Rules and Regulations. Following the issuance of a notice of administrative hold to the Licensee, DCR shall identify the Cannabis and/or Cannabis product subject to the administrative hold in DCR's track-and-trace system. While the administrative hold is in effect, the Licensee is restricted from selling, donating, transferring, transporting, or destroying the administratively held property. Nothing herein shall prevent a Licensee from the continued possession, cultivation, or harvesting of Cannabis subject to the administrative hold. During the hold period, all Cannabis and/or Cannabis products subject to an administrative hold shall be put into separate batches. Nothing herein shall prevent a Licensee from voluntarily surrendering Cannabis and/or a Cannabis product that is subject to an administrative hold. The Licensee shall identify the Cannabis and/or Cannabis product being voluntarily surrendered in DCR's track-and-trace system. Voluntary surrender does not waive the right to an administrative hearing pursuant to Section 104.14 within 15 days of the date of mailing of the written notice by DCR.

Sec. 15. Section 104.14 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

#### **SEC. 104.14. ADMINISTRATIVE HEARING PROCEDURE.**

(a) A request for an administrative hearing may be filed for the following DCR actions:

1. Issuance of a NOV by DCR.
2. Denial of an application for License renewal by DCR.
3. Notice of an administrative hold by DCR.
4. Determination by DCR that an Applicant is not eligible for processing pursuant to Section 104.07 or 104.08.

(b) A request for an administrative hearing shall be filed with DCR within 15 days of the date of mailing of the notice of DCR's action, unless a later date is provided in the notice. Failure to timely request an administrative hearing shall constitute a failure to exhaust administrative remedies. If DCR places an administrative hold on Cannabis and/or a Cannabis product, the hold shall remain in effect pending the outcome of the administrative hearing.

(c) DCR shall select a hearing officer and schedule an administrative hearing within 45 calendar days from the date DCR received the appeal, except that hearings as authorized in Section 104.07 or 104.08 shall be scheduled within 60 days of the date DCR received the appeal. DCR shall mail the notice of the hearing to the appellant's agent for service of process no later than 20 calendar days prior to the date of the hearing. The time for holding a hearing may be extended by mutual agreement between DCR and the appellant.

(d) **Pre-Hearing Disclosures.** No later than seven calendar days prior to an administrative hearing, DCR and the appellant shall make the following pre-hearing disclosures to the hearing officer, with simultaneous email service upon the other party: (i) a brief statement of the facts and issues relating to the appeal; (ii) a copy of all documentary evidence to be offered at the hearing; and (iii) a list of all witnesses to be presented at the hearing. The hearing officer shall not issue any decision relating to the appeal before the hearing.

(e) Administrative hearings shall be conducted as follows:

1. The hearing shall be recorded by an audio device provided by DCR. Any party to the hearing may, at its own expense, cause the hearing to be audio recorded and transcribed by a certified court reporter;
2. DCR shall have the burden of proof by the preponderance of the evidence;
3. The hearing officer may accept evidence on which persons would commonly rely in the conduct of their business affairs;
4. The hearing officer may continue the hearing and request additional relevant information from any party; and

5. Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written decision that includes a statement of the factual and legal basis of the decision. The hearing officer shall use a de novo standard of review and may uphold or reject, in whole or in part, DCR's action. The hearing officer may waive or reduce the administrative penalties in an NOV after considering the factors specified in 104.13(b).

The hearing officer's decision shall be sent by mail to the appellant and shall become final within 15 days of the mailing date, unless the appellant files a timely appeal to the Commission, except that a hearing officer's decision on an appeal as authorized in Section 104.07 or 104.08 is final and shall not be appealable to the Commission.

The Commission shall hold a public hearing on an appeal by the appellant from a hearing officer's decision within 60 days of the date of filing the appeal to the Commission. DCR shall provide notice of the public hearing as specified by Section 104.05(b). The Commission shall consider de novo the record before the hearing officer and uphold, modify or reject, in whole or in part, the hearing officer's written decision. The Commission may waive or reduce the administrative penalties in the hearing officer's decision after considering the factors specified in 104.13(b). The Commission shall not consider evidence outside of the record before the hearing officer. The Commission shall issue a decision within 30 days of the conclusion of the hearing and mail it to the appellant. The Commission's decision is final.

Sec. 16. Subsection (d) of Section 104.15 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

(d) Any Person violating this section shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment. Each day that a violation continues is deemed to be a new and separate offense. A violation of this section by an Employee, contractor, agent or volunteer, who has no financial interest in the Unlawful Establishment, may be punishable by means of a citation issued under the City's Administrative Citation Enforcement Program.

Sec. 17. Section 104.19 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

The following fees and fines shall be payable according to the following schedule:

	<b>Fee</b>
Cannabis LAMC Section 104.07 EMMD Retail License Fee	\$9,360
Cannabis LAMC Section 104.08 License Fee	\$11,806

Cannabis License Fee	\$8,059
Cannabis LAFD Inspection Fee	\$918*
Cannabis Appeal Fee for Applicant	\$4,687
Cannabis Appeal Fee for a Non-Applicant	\$100
Cannabis License Modification Fee	\$1,700
Cannabis License Annual Renewal Fee	\$4,030
Cannabis License Ownership Change Fee – Simple	\$2,015
Cannabis License Ownership Change Fee – Regular	\$4,030
Cannabis License Ownership Change Fee - Complex	\$8,059
Cannabis LAMC Section 104.03 Public Convenience or Necessity Application Fee	\$1,499
Cannabis Social Equity Applicant Determination Fee	\$1,249
Cannabis Tier 3 Social Equity Applicant Technical Assistance Fee	\$19,866
Cannabis License Violation Fine - Minor Violation	Amount equal to 50% of the Cannabis License Fee
Cannabis License Violation Fine - Moderate Violation	Amount equal to 150% of the Cannabis License Fee
Cannabis License Violation Fine - Major Violation	Amount equal to 300% of the Cannabis License Fee

\*LAFD Inspector rate is an additional \$216 per hour for inspections exceeding 4 hours.

Sec. 18. Subsection (b) of Section 104.20 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read as follows:

(b) The following definitions shall be applicable in this Section:

**"Low Income"** means 80 percent or below of Area Median Income for the City based on the 2016 American Community Survey and updated with each decennial census.

**"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 Arrest or Cannabis Conviction. A Social Equity Applicant with a California Cannabis Arrest or 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.

**"Disproportionately Impacted Area"** means eligible zip codes based on the "More Inclusive Option" as described on page 23 of the "Cannabis Social Equity Analysis Report" commissioned by the City in 2017, and referenced in Regulation No. 13 of the Rules and Regulations, or as established using similar criteria in an analysis provided by an Applicant for an area outside of the City.

**"Equity Share"** means a share of all of the following:

- (i) a business's profits, including dividends, distributions or other payments;
- (ii) the proceeds of a sale of a business's assets, liquidation of a business, merger of a business into another business, or another transaction that would constitute the end of an original business; and
- (iii) the voting rights on fundamental decisions relating to the business.

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

(c) A Tier 1 Social Equity Applicant shall meet the following criteria at time of applying for a License: 1. Low Income and prior California Cannabis Arrest or Conviction; or 2. Low Income and a minimum of five years cumulative residency in a Disproportionately Impacted Area. A Tier 1 Social Equity Applicant shall own no less than a 51 percent Equity Share of the business that would benefit from the issuance of the License. A Tier 1 Social Equity Applicant shall receive the following benefits: 1. business, licensing and compliance assistance; 2. expedited renewal processing; 3. program site specific conditions; 4. the potential for fee deferrals if the City Council adopts a fee deferral program; and 5. access to an Industry Investment Fund if established.

Sec. 20. Subsection (d) of Section 104.20 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

(d) A Tier 2 Social Equity Applicant shall meet the following criteria at time of applying for a License: 1. Low Income and a minimum of five years cumulative residency in a Disproportionately Impacted Area; or 2. a minimum of 10 years cumulative residency in a Disproportionately Impacted Area. A Tier 2 Social Equity Applicant shall own no less than a 33 1/3 percent equity share of the business that would benefit from issuance of the License. A Tier 2 Social Equity Applicant shall enter into a Social Equity Agreement with the City to provide business, licensing and compliance assistance to Tier 1 Social Equity Program participants. A Tier 2 Social Equity Applicant shall receive the following benefits: 1. business, licensing and compliance assistance; 2. expedited renewal processing; and 3. program site specific conditions.



Sec. 21. Subsection (e) of Section 104.20 of Article 4, Chapter X of the Los Angeles Municipal Code is amended in its entirety to read 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 pursuant to this subsection, a Tier 3 Social Equity Applicant may do one of the following:

1. Pay a property support fee that shall be equal to the greater of the following:
  - i. The actual monthly cost per square foot of leased space at the Tier 3 Social Equity Applicant's Business Premises multiplied by the required amount of space pursuant to this subsection multiplied by 36 months;
  - ii. The arithmetic mean of the cost per square foot of leased space for the 10 closest commercial cannabis businesses authorized by DCR for the same commercial cannabis activity to the Tier 3 Social Equity Applicant's Business Premises multiplied by the required amount of space pursuant to this subsection multiplied by 36 months; or
  - iii. The highest cost per square foot for a) commercial, b) industrial, or c) manufacturing space within the City adjusted annually based on the

US Commercial Real Estate Index multiplied by the required amount of space pursuant to this subsection multiplied by 36 months.

DCR shall determine the manner in which the property support fee is paid. A Tier 3 Social Equity Applicant shall pay the fee in full upon the first effective day of the Social Equity Agreement, in three equal payments on dates determined by DCR within the first 24 months of the term of the Social Equity Agreement, or in 36 equal monthly payments during the term of the Social Equity Agreement. DCR shall determine the distribution of property support fees to Tier 1 Social Equity Applicants after considering factors including but not limited to: the order of applications received; an applicant's financial resources; an applicant's readiness to proceed through the application process; and, any other factor that would enable a fair and efficient distribution of fees. A Tier 1 Social Equity Applicant shall use a property support fee only for rent, utilities, facilities improvements, or construction at the Business Premises identified in its application.

2. 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:

i. 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 X of this Code;

ii. 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;

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

iv. 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. 22. 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; 4. a registry for incubator projects that offer education and training to Tier 1 and Tier 2 Social Equity Applicants; and 5. a fee deferral for 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. 23. The first sentence of Subsection (c) of Section 104.21 of Article 4, Chapter X of the Los Angeles Municipal Code is amended to read as follows:

(c) DCR may prohibit a Licensee from permitting a Management Company to manage Commercial Cannabis Activity on the Licensee's behalf if:

Sec. 24. A new Section 104.22 is added to Article 4, Chapter X of the Los Angeles Municipal Code to read as follows:

**SEC. 104.22. CANNABIS CORPORATE RESPONSIBILITY REPORT.**

(a) No later than February 1 of every year, a Licensee shall submit to DCR a written Cannabis Corporate Responsibility Report (Report) that describes the Licensee's community engagement, corporate philanthropy, relationship with the neighborhood surrounding the Licensee's Business Premises, and compliance with applicable City and state Cannabis laws and regulations within the previous calendar year. A Licensee shall prepare its Report in a format consistent with guidelines established by DCR. If a Licensee fails to timely submit a Report to DCR, DCR may impose any administrative penalties or order corrective action as provided in Section 104.13(b).

(b) If a Licensee holds Licenses for multiple Business Premises, the Licensee shall submit a separate Report for each Business Premises.

(c) DCR shall develop criteria to score each Report based upon License type. DCR shall post the criteria on its website no later than January 1, 2019, and it may amend the criteria provided that it posts the amendments on its website no later than January 1 of the year in which the amended criteria will be used to score Reports.

(d) An Applicant with Temporary Approval shall meet the requirements of this section.

Sec. 25. A new Section 104.23 is added to Article 4, Chapter X of the Los Angeles Municipal Code to read as follows:

**SEC 104.23. STOREFRONT RETAILER EMBLEM PROGRAM**

(a) **Emblem Program Purpose.**

1. A Licensee engaged in Storefront Retail Activity shall prominently display an Emblem Placard upon receipt from DCR, which shall serve as notice to the public that the Licensee is authorized by the City to engage in Storefront Retail Activity at its Business Premises. The Emblem Placard shall not create,

confer or convey any vested or nonconforming right or benefit, including the right to engage in Commercial Cannabis Activity, to any Person in possession of the Emblem Placard. The Emblem Placard may not be sold, assigned, or otherwise transferred, and shall not be removed from the Licensee's Business Premises without written authorization from DCR.

(b) **Procedure for Issuance, Posting, Inspection, and Revocation of Emblem Placard.**

1. **Issuance.** DCR shall design and issue an Emblem Placard to all Licensees engaged in Storefront Retail Activity. A Licensee shall not, in any manner, copy, duplicate or reproduce an Emblem Placard provided by DCR.

2. **Posting.** Immediately upon receipt of an Emblem Placard, a Licensee shall post the Emblem Placard in a location where it is clearly visible from the exterior of the Business Premises at all times and that is within 5 feet of the door used for patron access. If DCR, at its discretion, determines that the Emblem Placard would be more visible to the general public and patrons in another location on the Business Premises, the Licensee shall immediately move the Emblem Placard to that location.

A Licensee shall ensure that at all times the Emblem Placard is sufficiently illuminated, free from obstructions, and protected from damage, theft and tampering. A Licensee shall notify DCR within 24 hours after an Emblem Placard is damaged, stolen, or otherwise lost.

3. **Inspection.** Not less than once per year, DCR shall inspect every Licensee's Business Premises to determine whether the Emblem Placard is posted in compliance with the provisions of this regulation.

4. **Revocation.** If a Business Premises' License is revoked, not renewed, or cancelled, the Licensee shall immediately remove the Emblem Placard from public view and return the Emblem Placard to DCR.

Sec. 26. **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 the Los Angeles Police Department, the City Attorney and City Departments, 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 more efficiently license cannabis business to combat the proliferation of unauthorized cannabis businesses that threaten public peace, health and safety; to take stronger enforcement actions against licensed cannabis businesses that engage in commercial cannabis activity in a manner harmful to the public welfare; to ensure that the public can readily distinguish authorized businesses from unauthorized businesses, thus steering consumers to businesses selling cannabis products that meet the state's health and safety standard and reducing the revenues of unauthorized businesses; and to provide non-retailer applicants an opportunity to obtain state temporary licenses before those licenses become unavailable at the end of 2018. For all of these reasons, this ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.



Sec. 27. 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 J. FREEDMAN  
Deputy City Attorney

Date 11/1/18

File No. \_\_\_\_\_

m:\muni counsel\calls\lmc 104 amendments to commercial cannabis activity regulations - 11.9.18.docx

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 \_\_\_\_\_

Approved \_\_\_\_\_