SOUTHERN CALIFORNIA COALITION

July 31, 2017

The Honorable Herb J. Wesson, Jr.
President
The Los Angeles City Council
200 N. Spring Street
Los Angeles, CA 90012

Re: Suggestions for Revisions of the City of Los Angeles Draft Commercial Cannabis Activity Requirements - Council File: 14-0366-S5

Dear President Wesson:

The Southern California Coalition (the Coalition) and the organizations signatory to this document respectfully request that the City of Los Angeles (the City) make the changes proposed below to the draft of the City's proposed cannabis ordinance.

Going forward, we are pleased to be a part of the discussion. The Southern California Coalition and the organizations signatory to this document believe that the suggestions below strike a meaningful balance between the needs of business operators, patients, recreational users, and the general public.

EXECUTIVE SUMMARY

The executive summary below, serves as a guide to the Southern California Coalition's "Suggestions for Revisions of the City of Los Angeles Draft Commercial Cannabis Activity Requirements Memo". Page numbers at the end of each bullet point refer to the pages within the memo where discussions and solutions for each problem can be found.

Amnesty – To avoid self-incrimination applicants should be able to take advantage of an amnesty program. Pages 20-21
Appeals Process – All denials at any time in any application process should allow for an appeals process. Unless a business is creating a public nuisance, it should be allowed to remain open during the appeals process. Pages 15-16, page 19
Application Corrections – Applicants should be given up to a year to correct a faulty application. Pages 11-12
Application Receipts – Receipts should be forgery-proof and posting of the receipt at the business should serve as notice that the entity is entering into an agreement with the City for licensure. Page 11
BTRC (BTRCs) – Businesses who have entered into payment plans with the City have their BTRCs withheld. The ordinance requires physical possession of a BTRC. Pages 17-18
BTRC Freeze During the Application Process – Businesses may have to move involuntarily during the application process and BTRCs should allow for this kind of amendment. Pages 17-18

Canopy Limitation – The 1.5 acre limitation on canopy needs to be removed. The amount of cannabis which can be grown should not have an arbitrary limitation. Pages 21-22
Canopy Size as of a Date Certain – Using canopy size as of a date certain is difficult to prove. Room dimensions should be used instead. Pages 17-18
Community Benefits Agreement – Remove the requirement for a Community Benefits Agreement and use existing cannabis taxes to endow council districts so that they might provide grants to neighborhood groups. Pages 26-27
Complexity of the Application Process and Unnecessary Inspections Mean Licensure is Only Affordable to Large Entities - Pages 41-42
Definitions – Definitions need to be added to the ordinance. Pages 9-10
End Date for On-Site Cultivation – A date certain for ending on-site cultivation is unfair to landowners and those holding long-term leases. Pages17-18
Hearings and Inspections – Hearing and inspections are too numerous and many are unnecessary. The City is creating an application structure that only the large companies can comply with. All hearings should be conducted by the Cannabis Commission and inspections should be limited to health and safety issues. Pages 14-15
Landlord Permissions – In cases of incapacity, the steward of the land, rather than the owner, should be allowed to give permission for use of the land for a cannabis business. Page 23
Licensure is too Limited – The City should allow for the issuance of more than three licenses to one entity. Pages 18-19
Licensure Must Replace Limited Immunity - The Coalition and the entities signatory to the attached memo favor licensure and ask that the City abandon the limited immunity construct in favor of a robust regulatory scheme which offers licenses. Pages 5-9
Multiple Businesses – Businesses on the same parcel should not require separate entrances and immovable barriers. Pages 23-25
Non-Transferability of Businesses – The ordinance should allow for the transfer of a license once suitable vetting has taken place. The ordinance should allow for the temporary emergency transfer of a license in cases of death, incapacity, or inheritance. Page 26
Notice to Neighborhood Councils – Cannabis businesses should not be required to give any more notice than businesses similarly situated. A business similarly situated would be a nutritional supply outlet or a health food store, not a liquor store or a strip club. Pages 27-28
Order of Licensure – Licensees must obtain a local license before a state license, per state law. Page 22
Organizational Charts – Organizational charts are unnecessary and could require repeated amendments to the application, materially slowing processing time. Page 25
Ownership – Mere employees should not be defined as owners. Pages 22-23
Priority Licensing – Priority licensing should extend to all activities conducted at the locations eligible for Measure M priority licensing. Pages 16-19
Priority Registry for Provisional Licenses – To avoid disruptions in the supply chain, and inappropriate enforcement against compliant businesses seeking licensure, the City should establish a priority registry for all categories of licensure. Pages 12-13
Prohibition on Free Sampling – The ordinance should be amended to specifically allow compassion programs, subject to the track and trace program. Free samples to businesses and customers should be allowed, subject to inventory controls. Pages 33-35

Proper Notice – Requiring notification of all residents within a certain radius is expensive, serves no purpose and should be removed as a requirement. Pages 10-11
Proposed Electrical Usage Rules are Unfair – The electrical usage rules as proposed create an environment of unfair competition for indoor cultivators. Pages 35-36
Registration Period – Thirty days is not enough. The ordinance should allow for 120 days and register all categories of licensure at the same time. Page 20
Retail Hours – To allow for disparate neighborhood and client needs, retail businesses should be allowed to establish permanent operating hours consisting of any continuous 15 hours in a 24 hour period. Pages 32-33
Retailer Plan – Disclosure of a Retailer Plan may require disclosure of trade secrets. Inclusion of a retailer plan in an application is inappropriate as it is a marketing plan not an operational one. Retailer plans create an environment of unfair competition. Such plans may also lengthen the application process because of repeated amendments. Pages 28-29
Rule of Law – The State of California has reversed the traditional order of law and allows cities to be sovereign in the area of cannabis regulation. The Coalition urges the City of Los Angeles (the City) to deviate from state law whenever its local ordinance would be better served by doing so. Pages 4-5
Rule of Law – To avoid situations where silence would be construed as defaulting to state law, the Coalition urges the City to state with specificity its rules, rather than relying on silence to convey its intentions (i.e. if non-retail businesses are not subject to the same sensitive uses as retail outlets, the ordinance should explicitly state this). Page 5
Security Plans – To ensure the safety of operators and employees, safety plans should not be released to the press or the public. Pages 25-26
Serious Violations – Appeals should be allowed for violations categorized as serious. When the businesses violation does not rise to the level where it endangers the health and safety of citizens the entity should be allowed to remain open during the appeal. Pages 36-37
Simultaneous Licensure – To preserve priority licensing for veterans and Prop D Eligible businesses as well as avoid disruptions in the supply chain all entities seeking licensure should be allowed to apply in the same time frame. Pages 12-13
Standards for Production of Edibles – The standards are needlessly restrictive, and ban butter even though there is an exception for such use in state law, and does not allow for naturally occurring substances in food products. Page 36
Subletting – The City should remove the prohibition on subletting. Page 31
Surrender of a License Within 30 Days of Closure – This should not be required if circumstances involve involuntary closure absent a nuisance action. Page 37
Testing – The City should require testing of all products, though state law allows a moratorium. Page 31
The Ordinance Does Not Adequately Protect the Rights of Businesses, Employees, Patients and Consumers – Protections need to be put in place to protect applicants from the federal government. To protect employees, characterizing workers as "volunteers" will cease. Businesses will carry workman's compensation insurance. Commercial deliveries meant to replenish inventory will be prohibited after sunset. Pages 37-41
Transitional Worker Quotas – Determining transitional workers would require invasive, inappropriate questioning during the interview process. Businesses should concentrate on hiring within a three mile radius of the business instead. Page 25

Transportation is No Longer a State Category of Licensure – Page 36.
Vendor Sampling – The prohibition on vendor supplied samples stops businesses from making informed decisions about products and should be removed. Pages 31-32
Video Surveillance – Adjustments of camera requirements need to be made. Pages 29-30

Preliminary Considerations:

Rule of Law – SB 94 Now Makes Municipalities Sovereign Over State Law When Regulating Cannabis

The City of Los Angeles, (the City) released its draft cannabis ordinance on June 8, 2017. The ordinance was based primarily on proposed state regulations which had merely been released for public comment, but not codified into law, making them an uncertain basis on which to base local rules

On June 27, 2017, SB 94, popularly known as the "Governor's Trailer Bill" was signed into law, changing so many of the proposed state regulations that the Bureau of Cannabis Control (the BCC) has announced it will release a new set of regulations, making current state regulations an even more uncertain platform to base local regulations on.

SB 94 also abandoned Business and Professions Code Section 19316 (a) which stated that: "... Any standards, requirements, and regulation regarding health and safety, testing, security and worker protections established by the state shall be the minimum standards for all licensees statewide." It replaced the above admonishment with new language stating:

SEC. 102.

Section 26200 of the Business and Professions Code is amended to read:

26200.

(a) (1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements...

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any

provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution. (emphasis added)

Additionally, Business and Professions Code Section 26054 (b) now allows the City to set its own sensitive use radius.

As demonstrated above, the City is no longer bound by state regulations, but can design a local ordinance uniquely suited to the needs of its residents, while avoiding needless over-regulation which would impede business growth and as a result inhibit tax revenues and job creation.

To avoid confusion, and arguments about whether silence triggers a default to state law, our organization suggests that the City's ordinance specifically state its positions, rather than simply rely on silence. For instance, sensitive uses are not imposed on cultivation or manufacturing license categories, but the ordinance omits this information, perhaps giving the impression that the City expects these license categories to default to state law. Specifically stating a sensitive use exemption for cultivation or manufacturing would clearly indicate that the City intends to part company with state law in this area.

The City's proposed regulations also need to be revised to accommodate the changes in state law brought forward by SB 94. For instance, the City currently allows a transportation license and this category of licensure has been erased by SB 94.

Problem:

The City Will Be Better Served by Issuing Licenses Rather than Certificates of Compliance. As Demonstrated Below, Limited Immunity Has Been Problematic for the City, Stakeholders and the General Public.

Discussion:

Before beginning our limited immunity analysis, our organization feels it is important to remind the City that the State of California (the State), per SB 94 now incorporated into the State's Medical and Adult-Use Cannabis Regulation and Safety Act (the MAU) requires, for a temporary state license, "a copy of a valid license, permit or other authorization issued by a local jurisdiction ..." (Business and Professions Code Section 26050. 1 (a) (2)).

Priority licensing, which veterans and Prop D compliant retail businesses in Los Angeles are eligible for, requires "that local jurisdictions identify for the licensing authorities potential applicants for licensure..." (See Business and Professions Code Section 26054.2 (b)).

In order to effectuate state licensing the City of Los Angeles cannot issue mere pieces of paper that state local businesses are currently eligible for a limited immunity defense in court. The State anticipates in its language, a more robust response that will give the State assurances that an applicant has been vetted at the local level and is operating his/her

business in a safe and compliant manner, so that the State does not inadvertently license an entity which has health or safety issues.

This robust assurance only arises out of licensure. Anything less is too malleable a standard, and will only duplicate at the State level, the confusion currently rife in Los Angeles.

As Demonstrated Below, Circumstances Have Changed, Making the Limited Immunity Construct Outdated and Unworkable.

Several months after Proposition D (Prop D) was enacted into law, The United States Justice Department released the Cole Memo setting out guidelines for enforcement of the Controlled Substances Act within states which had cannabis programs. The Cole memo de-prioritizes federal involvement where state and local governments have enacted and implemented "strong and effective regulatory systems" with "robust controls and procedures" both on paper and in practice.

Beginning in 2014, and every year since, the United States Congress has passed an important amendment to the annual Commerce, Justice, Science and Related Agencies Budget. Popularly known as the Rohrabacher-Farr Amendment[1] this piece of legislation bars the Department of Justice from expending any funds to enforce federal laws against state medical marijuana programs or those sheltering legally under them.

This is appropriate, as 88% of the states now have laws recognizing the use of medical marijuana in some form or another.[2] A Quinnipiac University Poll showed an 89% approval rate for allowing the use of medical cannabis by adults who are ill.[3]

In 2016 California voters passed the Adult Use of Marijuana Act (AUMA) via a voter initiative. This is truly the will of the people and the City should not hide behind outdated analysis regarding the federal government's response to marijuana, nor should it use the Federal Government as an excuse to refuse licensure to cannabis businesses.

It should be noted that in the 21 years since the Compassionate Use Act became law in California, not one elected or appointed official has been indicted by the Federal Government for establishing a medical marijuana program or issuing licenses in connection with such a program.

Robust State Law Moots the Need for Limited Immunity

When Proposition D was enacted, there were almost no state laws regulating the medical cannabis industry and no laws at all relating to recreational cannabis businesses. Retail medical cannabis businesses had to be 600 feet from schools, but the rest of the rules

[1] The amendment has been part of the CJS Budget for so long that Representative Farr has now retired. The amendment is currently known as the "Rohrabacher-Blumenauer Amendment"
[2] See: The U.S. Dept. of Justice DEA 2015 National Drug Threat Assessment Summary, Pages 67-68
[3] See: https://www.inc.com/will-yakowicz/quinnipiac-poll-89-percent-voters-support-medical-marijuana.html

followed locally arose from the 2008 Attorney General Guidelines, which are not state law and do not have the same force and effect as a state law. With no body of state law existent, it's understandable that the City would be hesitant to write their own.

The State of California has now enacted a comprehensive body of strict regulations relating to both the medical and the recreational use of marijuana. These laws were first designed by law enforcement and the League of Cities which fashioned the initial Medical Cannabis Regulation and Safety Act (the MCRSA). A more inclusionary process resulted in the Medical and Adult Use Cannabis Regulation and Safety Act (the MAU) passed as part of SB 94 in June of this year and meant to regulate both the medical and recreational cannabis industry.

The MAU incorporates procedures that support the Cole Memo. It provides powerful protections at the state level from diversion, particularly by children, and has over one hundred pages of complex rules which govern every aspect of the cannabis industry. The City can move forward secure in the knowledge that a meaningful body of state law now compliments local regulations.

Limited Immunity Has Caused Expensive Problems for the City and Crippled Stakeholders

Limited immunity has proved to be expensive and time consuming for the City. Every business perceived to be in violation of limited immunity had to be brought into court. Licensure would allow for administrative remedies and an opportunity to cure, which is a more efficient and cost effective way to ensure compliance.

The limited immunity construct has created mass confusion. The City can't designate who is eligible for limited immunity without having the excluded entities sue, which is exactly what happened in 2013 when the City Attorney's Office posted a list of dispensaries which had satisfied the preliminary requirements for limited immunity.

The City was forced to remove the list from the City Attorney's web page to prevent even more litigation than the list initially generated. Had the City been vetting businesses and issuing licenses, the entities disputing the City's list would have already been exposed through the application process as being too defective to license and would have had no legal standing to sue.

In the absence of any guidance, such as a list of licensees, law enforcement had to "guess" who was in compliance and who wasn't. When they guessed wrong it created litigation headaches for the City who had to sort out conflicting claims and risk losing before a judge. A robust regulatory process would have pre-determined who was eligible to operate a cannabis business within the City taking all the guesswork out of the equation.

Judges hearing city cases relating to Prop D haven't always been the best source of clarity. One superior court case resulted in the judge deciding whoever set up shop earliest was

first in time, first in right, even if the earliest arrival was operating illegally. (See: People v. Trinity Holistic Caregivers http://caselaw.findlaw.com/ca-superior-court/1711519.html)

In the Vacuum Created by the Lack of Licensure the City has Suffered Enormous Financial Hardships and Caused Massive Inconvenience to City Residents and Stakeholders.

Below is just a partial list of the expensive, labor intensive problems caused by the lack of licensure:

- Unscrupulous entities applied for Business Tax Registration Certificates, (BTRCs) then claimed they were proof of licensure and sold them. The City had to assume the expense of ending this scam.
- Other bad actors used old BTRCs to effectuate corporate identity theft. The City was then saddled with determining who the true owner of the business was.
- A third group used BTRCs as a basis to establish unauthorized businesses, which the City then had to shut down.
- Proposition D itself has generated litigation as private practice attorneys sought to challenge the document both on its face and as applied.
- In a five year period the City weathered three ballot initiatives partially designed to force the City to engage in licensure (i.e. Measure F, Measure E and Measure N).
- As California cities and counties began offering licensure, reputable stakeholders deserted Los Angeles both as a business location and a market, obviously favoring the security of a license.
- Law enforcement was not always able to identify which actors were eligible for limited immunity, and the City had to shoulder the expense of resolving these cases.
- Investors who would have brought lucrative businesses to Los Angeles were deterred because the limited immunity standard did not provide a license or any other indication of the right of a business to operate; it is merely an affirmative offense when accused of wrongdoing.
- Limited immunity does not provide the opportunity to resolve anomalies administratively, nor does it offer the opportunity to cure. As a result, the City has had to go into court over 800 times in a five year period to determine if the accused was eligible for limited immunity.
- The lack of local licensure and the insistence of the State on local licensure as a requirement for a state license, made it impossible for any stakeholder in Los Angeles to obtain state licensing. The State of California has given no indication as to whether a "certificate of compliance" would allow for state licensure.

As demonstrated above, limited immunity has not only cost the city millions for enforcement, it's created new crimes involving Business Tax Registration Certificates. It has caused massive uncertainty in the marketplace, as stakeholders, investors and lending entities cannot determine who is actually operating legally. It has mired the City in endless litigation and twice forced the City to defend itself against voter initiatives.

The end result of all this is that the City has lost control of cannabis regulation, and if it does not begin to issue licenses all of the problems listed above will continue. Limited immunity in Los Angeles means law enforcement and the prosecutorial arm of the City Attorney's Office control who is allowed to operate in Los Angeles, not the City Council.

It should be noted that the City Attorney's Office never sought to control cannabis policy in the City of Los Angeles. The current City Attorney inherited limited immunity via Proposition D. Despite the numerous and invasive problems Proposition D created for the City Attorney's Office, staff was still able to create an effective enforcement model relating to unauthorized entities and to date has used that model to close over 800 businesses which were not sanctioned by the City.

Solution:

Limited immunity was a legislative response to conditions which have changed. The City needs to adjust its regulatory framework accordingly, abandon the limited immunity construct and establish a robust regulatory scheme which includes licensure.

Problem:
Page 5 - Definitions

The ordinance needs to add definitions for:

- The calculation of Days (If there's a 30 window are the days calculated by business days or all 7 days of the week? Are holidays subtracted?)
- Community Benefits Agreements
- Day Care Centers
- First in Time, First in Right
- Foreign Corporations
- Fully Funded Social Equity Programs
- Micro-Business
- Proper Notice
- Retail Locations – Medical
- Retail Locations – Adult Use
- Retail Locations – Delivery Only Medical
- Retail Locations – Delivery Only Adult Use
- Retail Locations – Walk-in Clients and Delivery Medical
- Retail Locations – Walk- in Clients and Delivery Adult Use
- Retail Locations – Walk-in Clients and Delivery Medical and Adult Use
- Retailer Plan
- Schools
- Social Equity
- Substantial Compliance
- Youth Centers

Problem:
Certain of the Definitions Require Clarification:
Page 5 No. 10 Providing "Proper Notice" is extremely expensive and time consuming while serving no purpose.

The definition does not state if proper notice is a criteria to be fulfilled prior to the opening of the business or at other junctures.

Providing notice to all who reside within a certain number of feet of the proposed business is a remnant of the 2010 ordinance, and was removed from subsequent ordinances. It is problematic to the point where it should be removed from the proposed ordinance as well.

When applicants attempted to comply with the instruction to notify everyone within a certain number of feet of the proposed business, they found to do so was extremely difficult. The cost of acquiring a list of residents, then sending written notice via first class mail was extremely expensive. Some locations would spend more to $10,000.00 to complete the requirement.

There was really no way for the City to verify that the notice requirements had been met, except to require proof of notification, which meant additional expense and time as each piece of mail required a proof of receipt.

City residents, whether they are businesses or individuals, may move in or out of neighborhoods. Failure by an applicant to provide notice may be the result, with the applicant held responsible for defective notice.

Cannabis businesses which do not serve the public, rely on anonymity to ensure the safety of workers. Notifying everyone within 500 feet that a cultivation site is going in, for instance, means anyone bent on robbery now knows the location of the business.

Because the 2010 ordinance was mooted by litigation and subsequent ordinances the notice requirement was never executed. There has been no notice requirement imposed for over half a decade, (seven years) and this does not appear to have affected neighborhoods.

Reinstating an expensive notice that serves no purpose and may endanger workers is a needless bureaucratic tactic which impacts small businesses disproportionately. It is an expensive and time consuming requirement, and redundant, since most cannabis businesses will not be located in commercial zones and are not allowed in residential zones.

Solution:
Remove the notification requirement from the ordinance.

To provide clarity and ensure that descriptions are not so broad that they needlessly foreclose or limit compliant land, The Southern California Coalition and those signatory to this document recommend that definitions for categories of land use which constitute

sensitive uses be specific enough that there could be no speculation about what entities are encompassed in the definition, nor would a default to state law be assumed.

Youth centers, for instance, should require a non-profit status, continuous operation as a location where minors congregate for educational or recreational purposes and for which a certificate of occupancy or variance had been issued.

This kind of specificity ensures that there is not needless speculation as to whether a McDonald's Play Area constitutes a youth center or whether intermittent parties or classes for children by for-profit entities converts such venues into youth centers.

By stating the rules with specificity (i.e. non-retail outlets would have language specifically stating they are not subject to sensitive uses) the City will avoid situations where silence is interpreted as requiring businesses to default to state law.

Problem:
Page 7 – 9 Application Processing
Page 7 - No 1. "Every applicant will be provided a date and time stamp of receipt of each application"

Discussion and Solution:
As this receipt will be the only proof that a business has applied for a license, a formal receipt containing a watermark or other indicia that would make it hard to forge, should be given to the applicant for each application submitted. The applicant should be instructed to post the receipt at the place of business. This lets enforcement and compliance officers know that the business is in the process of seeking licensure and should be considered in a different light than an unauthorized business which has not sought to obtain a license from the City.

Problem:
Page 7 - No 2. Applications: "An applicant has three months from the date of the notice to correct all deficiencies."

Discussion:
Section 5028 of the Bureau of Cannabis Control (the BCC) proposed state regulations, allows an applicant up to a year to correct deficiencies in an application, not the three months allotted by the City.

The City should follow the state's rule, as deficiencies relating to the abrupt cancellation of a lease can result in the applicant needing up to a year to find a new location. This is not the applicant's fault.

The City's restrictions on land use severely limit available land. Often landlords are reluctant to rent to cannabis businesses or demand such high rents that potential tenants cannot afford to lease the property.

There is currently uncertainty in the law, (both the City and the State intend to revise their regulations).

The applications are complex and may require amendments as the applicant's staff or situations change, even though the application was complete and correct at the time of submission. The proposed application process is the first time applicants would have applied for licensure and newcomers to the process may need some extra time.

There is no inconvenience or expense to the City in offering a year to correct deficiencies.

Solution:

Follow the proposed state regulation and allow applicants a year's time to cure a defective application.

Problem:
Page 7 – No. 2 - Paragraph 2 Certificates of Compliance to be Issued in Four Phases The City's Failure to License All Categories Simultaneously Creates Grave Problems for Stakeholders and the City

Discussion:
Licensing Prop D eligible applicants alone and first, means that all of the businesses which provide goods and services to retail outlets are unlicensed and vulnerable to enforcement, despite the fact they may be completely compliant with the City's new ordinance and intend to apply for licensure as soon as it becomes available.

Additionally, failure to provide temporary licenses across all categories means that veterans who are eligible for priority licensing at the state level, will lose this right. (See BCC proposed regulations Section 5006 (4) page 5).

Lastly, the BCC has now announced that it will issue temporary licenses across all categories the City intends to license. (See: http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-california-is-working-to-avoid-shortage-1500492977-htmlstory.html)

Because a local license or authorization is required prior to the issuance of a state license and a state license is required or a business must close, failure to issue local licenses across all categories simultaneously throws the entire cannabis industry into a situation where it must close down, until such time as the City deigns to issue licenses. It's important to remember that if this occurs, dispensaries will have no one they can legally acquire inventory from, and the rest of the industry will have no one they can legally sell to. All safe access by patients to their medicine will end, and patients will be forced to patronize the black market.

All businesses save Prop D eligible entities, will be facing a Hobson's choice: operate without licensure or close down and face involuntary bankruptcy, simply because the City

cannot hire and train staff who could accept and evaluate licensure across all categories simultaneously.

A Priority Registry Would Enable All Categories to Register and Receive a Provisional License.

There is a historical precedent for establishing a priority registry for cannabis businesses, and such a registry has worked well in the past.

In 2007, The City established a registry list of all dispensary operators who came forward and submitted documentation indicating that they were currently operating in the City and wished to be licensed.

Of the approximately 540 dispensaries the LA Weekly found operating in 2009 (See: http://www.laweekly.com/news/las-medical-weed-wars-2162644) 186 or 34% came forward and registered in 2007. The first ordinance applicable to this group was issued in 2010 and the first workable ordinance to survive legal challenges was Proposition D, which was enacted in 2013.

This initial 2007 registry created what is today known as "Prop D Eligible Dispensaries" Members on this list created so few problems for the City, that their right to operate has been carried forward in every ordinance the City has created since that time. It should be noted that these entities were never vetted by the City nor issued licenses. Instead, the City periodically asked for filings which updated information about the dispensaries and verified that they were still operating.

Solution:
Establish A Registry for Temporary, Provisional Licensing.

Given the above, when combined with the urgency created at the State level and the high probability that the City will not meet self-imposed deadlines for licensing much less the priority licensing required for veterans, it makes sense for the City to establish a registry for all categories of business it seeks to license.

Once entities came forward and registered, they would be issued a provisional license strong enough for them to obtain the state provisional licenses. This would not excuse the business from seeking permanent licensure at the local and state level when it became available. It would simply function as a temporary measure to ensure good actors were not targeted by law enforcement as they sought licensure nor are shut out of the process because the City delayed so long that they could not survive economically.

Establishment of a registry would give certainty to the City as to who was seeking licensure, delineate how much land remains for other licensees, and provide certainty for law enforcement and the City Attorney's Office. It is anticipated that those who came forward and qualified would be as well behaved as those who came forward in 2007. When you put your name on a registry, you're also putting your reputation on the line.

Problem:

Page 7 (4) (a) (i) Retailer Commercial Cannabis Activity - Public Hearing Requirement

Discussion:

The City has so overloaded the application process with unnecessary hearings and inspections, that serious bottlenecks are likely to occur, leaving applicants vulnerable to enforcement and materially impeding the ability to obtain state licensure, which is necessary to remain open.

Right now various sections of the regulations propose the following inspections and hearings:

1. Building and Safety inspections.
2. Health Department inspections.
3. Site-Specific land use review by the zoning administrator (see Section 45.19.8.3 of the proposed Ordinance Supplement).
4. Inspection by the cannabis department.
5. Inspection by the police department.
6. Inspection by the fire department.
7. Inspection to determine the accuracy of scales (state requirement).
8. Inspection by the Department of Finance.
9. Public Hearing by the Cannabis Commission and possibly other entities such as Neighborhood Councils and the Zoning Commission).
10. Possible specialized inspections (i.e. agricultural inspections).

As thousands of applicants are expected to apply, the City should determine its inspection capabilities and consider hiring outside companies to perform routine inspections if it determines it cannot conduct inspections in a timely manner.

Section 4 (a) (i) seeks to impose a Cannabis Commission (the Commission) hearing requirement on all applicants, even those who have been operating for ten years with no problems. While building and safety as well as health/fire department inspections are a must for employee and consumer safety, subjecting an applicant to public review by the Cannabis Commission after the applicant has been inspected by all applicable departments, then vetted and approved by staff, is a needless waste of time and money.

The Commission should address applications which are opposed in a meaningful way, not applications that have been vetted and approved by trained staff and which face no opposition.

To stage a hearing for every one of the thousands of applications that have been approved by staff is an unwieldy, time consuming process. The Commission should only hear cases when legitimate entities with standing to oppose the application, have come forward with complaints.

For instance, a neighborhood council that was already experiencing problems with retail parking, might want an applicant for a retail cannabis business to present a parking plan which included a valet service before the commission approved the application (i.e. Studio City has imposed this requirement on cannabis dispensaries.)

Solution:

As staff opens a file for each application, notice would be put on the Commission's website that an application has been received and that the comment period is now open, and stating when the comment period ends. Each application would have a file number assigned to it, used to identify the application for purposes of public comment.

For retail businesses serving walk-in clients an address would be disclosed. To protect the safety of workers and operators at non-retail businesses, notices for non-retail entities would indicate only the type of business proposed and the Neighborhood Council/City Council District in which it would be located.

Those who oppose the licensing of the business would communicate, in writing, their concerns before the end of the comment period. Applicants would be allotted sufficient time to address concerns that arose during the comment period. The Commission would then decide if the comments rose to the level where a hearing should be held. If the determination is that no hearing is required, the application moves forward.

Problem:

Page 8 Section (4) (a) (ii) Page 8 Section (4) (b) (ii) Page 9 (c) (i-iii) Page 10 (5) Department Denial – Confusing and Conflicting language between this section and others regarding notice and an opportunity to be heard once an application is denied and the appeals process begins. Abuse of process by not allowing entities to remain open during appeals.

Discussion:

In addition to the proposed regulations for notice and appeal contained in the Draft Commercial Cannabis Activity Ordinance, there is a supplement released by City Planning which also addresses requirements for appeal in section 45.19.8.3 (G) (2), but attaches these requirements to a rejection by the Zoning Administrator. This is extremely confusing, as it sounds like there's two parallel tracks with different appeals criteria and different departments controlling the process of appeal. Theoretically, rejection by one department could trigger two appeals hearings in two different departments.

Additionally, Page 8 section (b) (i) appears to liberate non-retail operations from the requirement of a hearing, but requires that approved applications be listed on the agenda for the next meeting of the Commission. This would seem to indicate that some sort of official meeting approval of the applications must take place, but again it is unclear and needs to be clarified.

Lastly, Page 10 No. 5 indicates that all businesses must close during their appeals process. This is, quite simply, an abuse of process. A business that is closed is generating no revenue, and revenue is needed to fund the appeals process, which may require retaining an attorney and/or engaging in expensive discovery. By foreclosing the entity's revenue stream the City gains an unfair advantage in the appeals process as it severely limits the financial options of those trying to work their way through an appeal.

Behavior which rises to the level where it creates a public nuisance should be closed using nuisance statutes, not an appeals process. Businesses which are not a threat to the health and safety of the public should not be required to close during an appeals process. Moreover, if similarly situated businesses are allowed to remain open while appealing a licensing decision, the City risks litigation if cannabis businesses are treated differently.

Solution:

Streamline and clarify who is subject to Commission review and how appeals should be handled and by whom. To save money and time, remove the Planning Commission from the equation and allow the Cannabis Commission to handle all appeals. The appeals process, which is essential for fair and balanced regulation, should be available to all, whether they are applying for a provisional license through a registry or in any other situation. Businesses which pose no threat to the health and safety of residents should not be required to close during the appeals process.

Following these suggestions will reduce litigation, provide a uniform structure for all appeals and speed the appeals process.

Problems:

Page 11 (1) (2) (3) Proposition M Priority Licensing – Refusal to recognize other forms of activity besides cultivation as eligible for priority licensing. Canopy size determinations are too restrictive and demand a form of verification difficult to prove. End date for cultivation is problematic for owners or those who possess a long term lease. Business entities involved in payment plans with the City do not receive BTRCs, but are required to possess one to be eligible for licensure. Businesses may be required to change locations involuntarily and should not lose priority licensing as a result. Changes need to be allowed to BTRCs during the application process. The City is needlessly restricting the number of Certificates of Compliance.

Discussion:

Priority Licensing for All Activities Conducted at a Prop D Eligible Shop

Prop D compliant shops eligible for priority licensing are some of the oldest in the City. As such, they began operations over a decade ago. At that time, there were no commercial products such as edibles, if patients were to have choices; collectives had to provide the products. Collective members developed edibles and other products for the collectives

which patients came to rely upon. These products became specialty items unique to the collective and were only available at the dispensary's one location.

Dispensaries should be able to apply for manufacturing or other licenses, relating to this long-time production of edibles or other products. Prop D is cited within section 1 on page 11 as allowing on-site cultivation but it does not specifically restrict retail ancillary activities to cultivation, but instead mandates that all activities take place at one location. (See: Section 45.19.6.3 of Proposition D.)

Canopy Size Limitation

On-site cultivation was required in the now discarded 2010 ordinance, which ordered all businesses to grow at their locations or close within 90 days. No City ordinance has ever required a business to measure the size of its canopy and consequently it's unlikely that anyone did. Additionally, any measurement might be altered at any time, depending on inventory needs and the health of the plants. Fixing a static moment in time to determine grow size, as the ordinance does, doesn't really serve any purpose as a dispensary is only going to grow what it needs for its members. Under the attorney general's 2008 guidelines collectives were a closed loop and could not sell to each other.

Sunset Date for On-Site Cultivation

Some businesses are locked into long term leases or own their locations. Thus, mandating cultivation cease by December 31, 2024 would be problematic for these entities. Businesses only began growing on-site because a City ordinance required them to do so. Obviously, cultivation sites that have been up and running since 2010 and caused no problems for the City are grows that should remain, whatever the zoning.

BTRC Freeze

Section (2) on page 11, requires that an EMMD have received a BTRC in either 2016 or 2017. EMMDs that have entered into payment plans with the Department of Finance, do not receive BTRCs; the Department holds on to them until the payment plan is completed. BTRC's could be retained by the Department of Finance under other circumstances. The ordinance should be amended to allow such entities to retain their EMMD status unaffected by the lack of possession of a BTRC, when the lack of possession was not a failure to pay taxes but rather the result of Finance Department policy.

Typically, dispensaries are locked into leases and have no plans to relocate. However, any time a landlord wishes to re-finance or sell the dispensary location, the dispensary must move. The landlord may make these decisions long after the lease has been established and with little notice of this intent to the tenant. Like all businesses, an act of God such as flood, fire or earthquake, might require that cannabis businesses relocate. Relocation would require a change in the BTRC which is forbidden under the proposed ordinance.

License Number Limitation

The ordinance restricts the number of certificates of compliance to three. The City contemplates that there will be recreational sales in additional to medical and has enacted no residency requirement in relation to either type of sale meaning any of the 44 million tourists who visit each year may purchase marijuana during their stay. Las Vegas, which also entertains 44 million tourists a year, has seen a huge uptick in sales since allowing recreational purchases and it is expected Los Angeles will as well. The City also serves as an acquisition point for adjoining cities and counties.

As Los Angeles is considered the largest market in the state, accounting for approximately 25% of all cannabis sold in the state, the restriction of certificates of compliance could create a situation where experienced operators whose best practices ensured a high level of safety and consistency for patients and the recreational user, were not allowed to expand beyond a certain point.

Solutions:

Historically dispensaries provided products to patients out of necessity and over time patients came to depend on these products, businesses which can show production of these products at their one location, should be allowed to obtain licensing for these activities, as long as their manufacture is inspected and approved by the appropriate agencies.

Because businesses were never previously required to measure or keep track of canopy size, requiring that a business prove a certain canopy size as of a specific date is problematic, as the ordinance requires this proof for licensure. A better solution is to allow the business to claim the maximum canopy the space dedicated to cultivation could contain if the site were fully developed.

The reason this is a better solution is that the cannabis market will expand extremely quickly once recreational sales begin and if a business chooses to do so, they should be able to extend the grow to the limits of the space as part of the lead up to this, to forestall shortages which might end safe access for patients. Obviously, if a business chose to designate a smaller canopy than the space could hold, they should be allowed to do this as well.

In 2010 all cannabis businesses allowed in the City were required to grow cannabis on-site or close within 90 days. In reliance on this, many entities developed grow sites at their locations and for the last seven years have grown on-site. If problems were going to arise, seven years is a good long time for problems to emerge, no matter what the land use of the zone was. If problems have not arisen, businesses locked into long term leases or who own their sites should not be forced to abandon their locations, by a date certain, but rather some sort of variance should be allowed.

The City created the situation by requiring the on-site grows and did not previously require they be in certain zones, so it's only fair that the City create a remedy for businesses affected by this abrupt change of policy.

Restricting the number or type of certificates of compliance an applicant may hold restricts the type of growth required to satisfy the demands of the state's largest market. Rather than limiting the number of certificates, applicants who have proven to be good actors, should be allowed to apply for more than three certificates subject to examination and approval by the Cannabis Commission. This ensures enough product will be available to meet market demands and rewards good actors who follow best practices. All applicants across all licensing categories should be eligible to apply for additional licenses.

Problem:

Page 11 Item No. 3 – There is no appeal process once the Department determines eligibility for Proposition M priority processing.

Discussion:

Historically, under Proposition D, limited immunity required that the parties proceed immediately into court to determine eligibility to assert a limited immunity defense. Though expensive and time consuming, this process did provide an opportunity for all parties to be heard.

The City proposes denying the opportunity for notice and an opportunity to be heard by businesses who consequently would lose priority status both at the local and state level simply because the city refused to review their claims. The application failure might well rest on factors out of the applicant's control (i.e. the inaction of overwhelmed inspectors who could not inspect in a timely manner.)

The City's goal in denying appeal probably arises out of the necessity to prevent actors who would never qualify for Proposition M Priority Processing from simply registering for it, then remaining open while they strung out the appeals process for as long as possible. There is an historical precedent for this concern. Previously the city contemplated a lottery but abandoned it after it litigants pointed out that entities who had no standing to operate could register for the lottery and remain open while waiting for lottery results.

Here the situation differs materially. Candidates for priority processing are defined by statute, and their rejection by the City will rest upon facts which, unlike the lottery, provide no loopholes allowing licensure. Moreover, the failure to provide for an appeals process, allowed for in the proposed supplement to the land use ordinance, when all other types of application rejections do allow for an appeal, could create an opportunity for litigation.

Solution:

Allow all applicants across all licensing categories eligible for Proposition M Priority Licensing to appeal adverse decisions. Allowing entities to do so avoids litigation, as it allows applicants the same rights and remedies all other types of applicants enjoy.

Problem:

Page 12 item No. 1 does not allow enough time for applicants to register – 30 days is not sufficient

Discussion:

While the application requirements for priority registration of retail operations are fairly straightforward, cultivation and manufacturing applications are more complex and require more inspections than retail operations. Retail operators have been submitting detailed applications to the City periodically and are used to doing so (i.e. the NOIR application required in years past) whereas cultivation and manufacturing licensees never have.

An additional problem arises in that the City has no obligation or budget to do outreach letting entities know that they might be eligible for licensure and what the deadlines for application submission are. It will fall to activists and trade organizations to do all the outreach required.

Cultivation and manufacturing applicants will then have to complete an extremely complex application process and submit to multiple inspections before application submission.

Solution:

Extend the period for submitting applications to 120 days. While this may seem like an extended period of time, it would allow for sufficient outreach to potential applicants, as well as enough time to complete lengthy and complex application requirements. Doing so would deter litigation, give the City an accurate count of those seeking licensure and allow for a determination as to how much available land would be available for general applicants. It should be noted that the fastest way to licensure, is to be part of the registry process, thus the majority of applicants will apply in this category and the City should allow enough time for them all to complete applications and inspections.

Problem: Page 12 No. 2 requires that the applicant incriminate themselves to prove operations existent in the City prior to January 1, 2016. Applicants otherwise eligible for priority licensing are excluded if they acquired land within the City but did not establish a business.

Discussion:

The ordinance requires substantial proof that applicants were operating in the City prior to 1/1/16. However, during that time, the City only offered only limited immunity and only offered that limited immunity to dispensaries operational by November 13, 2007. Thus, applicants who come forward and prove they were operational by 1/1/16 are admitting that they were engaging in activities not sanctioned by the City. These entities were not causing any problems for the City or they would have been subject to nuisance abatement. Applicants were merely entities passively waiting for the City to begin licensing, an event materially delayed because the City was burdened with a voter initiative which had to be resolved before the City could move forward with licensure.

A second category of applicants acquired land within the City, but waited to establish a business in Los Angeles until such time as licenses were offered.

Both categories should be able to apply for priority licensing, as compliant land is the determining factor for eligibility in the priority registry. This is the one requirement that cannot be waived, changed or subject to interpretation.

Those who acquired land but did not establish a business in deference to the fact the City did not offer licensure in their business category, are punished. These entities are shut out of the priority registry even though they have the primary requirement for priority registry, compliant land.

Solution:

Entities which would otherwise incriminate themselves by proving their existence prior to City authorization would be eligible for an amnesty. This amnesty would only be extended if the existence of the business did not constitute a public nuisance, as evidenced by a successful action by the City.

Entities who can prove they acquired city land with the intention to operate a business once licensure became available, should be allowed to be part of the priority registry. Such participation would not decrease opportunities for other eligible applicants because land would have already been acquired, thus entities who intended to conduct businesses once licensure became available are not taking anything away from other applicants.

Problem:

Page 15 Item No. 4 (b) Restriction of canopy to 1.5 acres

Discussion:

1.5 acres translates to about five 10,000 foot warehouses, the preferred location for indoor growing. Each warehouse would have to have a separate license. Given the expansion anticipated to accommodate the recreational market, existing operators may need to double or even quadruple their current output.

If they do not, there is a real possibility patients may be unable to acquire their medicine as the recreational market will have exhausted all inventory. Until we can gage what the effect on the medical market recreational sales will have, there should be no restriction on the amount of cannabis that can be cultivated. Market demand should determine how much cannabis is cultivated. Artificial caps are not necessary as cultivators will not grow more cannabis than they can sell.

Cultivation workers are well paid and highly valued by their employers. Restricting the amount of acreage in turn restricts job creation and tax revenue.

Solution:

Remove all restrictions on how much cannabis can be grown.

Problem:

Page 16 Item No 2 – A business cannot engage in commercial cannabis activity for recreational use without a state license

Discussion:

State licenses are not currently available and it is anticipated, because of the complexity of a state license application, that applicants will have a lengthy process for obtaining a state license. Accordingly, since a local "license, permit or other authorization" is required before a state license may issue, a local applicant cannot procure a state license in advance of local licensure.

Solution:

The City should issue local licenses and as part of the application process, require that licensees swear under penalty of perjury that they will actively seek state licenses when they become available. Once the state begins issuing licenses, local applicants would be required to update the City on their efforts and progress in obtaining a state license each time the applicant seeks to obtain or renew a local license.

Problem:

Page 17 Item No. 12 - The requirement to follow the State's definition of ownership means defining mere employees as owners.

The discussion of that state's definition of ownership below comes to us from our coalition partner, Americans for Safe Access. The Southern California Coalition concurs with these remarks and incorporates them by reference.

The City seeks to incorporate the State's definition an owner of a business as an "individual that will be participating in the direction, control, or management of the licensed commercial medical cannabis business." (See: Section 26001 (al) (1-4) of SB 94).

SB 94 further clarifies that participating in direction, management, or control includes certain duties and powers routinely delegated to managers, supervisors, or other personnel in an ordinary business. Theses duties include controlling the operations of the business, hiring and terminating staff, contracting for the acquisition medical cannabis or medical cannabis products, and participating in policy decisions related to operations.

The word "owner" is typically defined as an individual or entity that has legal ownership of the business in the form of proprietorship, shares of stock, partnership, or other legal arrangement whereby he or she expects to earn the profits of the business activity. Some business owners participate in activities described in Section 26001 (al) (1-4). However, it is common practice in businesses and organizations of a certain size to delegate these activities to managers or staff.

An Operations Manager or Officer might control overall operations on behalf of the owner(s). A Human Resources Director or General Manager may make decisions about hiring and terminations. Managers or other professionals with expertise and experience in the field are likely to be involved in purchasing. Finally, many businesses and organizations have both formal and informal procedures for personnel at all levels to participate in decisions about policy related to operations.

Solution:

The City may see a need for applicants to disclose the identity of personnel engaged in certain areas of operation of a licensed business or organization. To that end, it may be better to include Individuals "participating in the direction, control, or management of the licensed commercial medical cannabis business," but who are not actually owners of the business, in a separate list of individuals who must be named on the application. The names on this separate list of individuals should not be used to determine eligibility for licensing related to ownership of multiple licensees.

Problem:

Page 18 Item No. 15 – Requirement that the landowner produce a document indicating awareness of the tenant use of the property for a cannabis business.

Discussion:

As currently written, applicants may only produce a document from a landowner. The problem is that a land owner may have voluntarily or involuntarily surrendered control but not ownership due to incapacity. (i.e. a conservatorship of the person).

Solution:

This section should be amended to reflect cases where a third party has legal stewardship of the land and thus may sign in place of the landowner.

Problem:

Page 18 Item No. 16 and Page 42 Item No. 9– Requirement that multiple businesses on the same parcel each require a separate entrance and immovable barriers between unique premises. Storage of medical inventory and recreational inventories are not allowed on the same premises for Distributorships

Discussion:

The City's ordinance anticipates that retail operators will acquire licenses for retail and medical sales and conduct both types of sales at the same location. Compliant land available for retail sales has been restricted by the City to the point that you could not lease separate locations for two types of sales, there simply isn't enough land. Currently, the MAU says: "a person may apply for and be issued more than one license under this division, provided the

licensed premises are separate and distinct." (See: Business and Professions Code section 26053(c).)

AB 64, which is now the MAU Cleanup bill, strikes this requirement, so that the applicable language is now "... a person may apply for and be issued more than one license under this division. (See: AB 64 section 26053(c).) AB 64 has not passed yet, but it passed the assembly and is currently in Senate Appropriations Committee where it will be heard on August 21st. As discussed above, the city may deviate from state law and fashion its own legislation.

This year's CJS amendment has already passed the assembly and on July 25, 2017 it was introduced and passed by the Senate Appropriations Committee. This would seem to indicate that Congress intends, despite Attorney General's opposition, to keep this invaluable protection for local medical marijuana programs in place.

The original intent of requiring separate and distinct locations was to protect medical marijuana providers should the Attorney General instruct the Drug Enforcement Agency (the DEA) to begin raiding recreational providers. Given the above, it now appears that the CJS amendment would make this caution unnecessary, as per the amendment, federal funds cannot be used to disrupt state medical programs and those who shelter under them, no matter who medical cannabis providers share a location with. Should AB 64 pass (which it appears it will) state law will no longer require separate and distinct locations.

Additionally, it should be noted that cultivators may wish to segment large warehouses so that several tenants share the same space. This is an environmentally viable solution to the lack of space and allows smaller businesses to maximize job creation and generate revenue without paying for more space than they need.

Solution:

Given the above discussion, there is no reason for the City to require multiple entrances and immovable barriers if it wishes to allow medical and recreational sales at the same location. Per state law the City may deviate from state regulations. Instead, the ordinance should require that different business types which share a space at a single location, have the appropriate licenses and tracking software, which would record both types of sales for taxing purposes as well as show adjustments made to accommodate inventory demands.

Cultivators who wish to share a space should be allowed to do so, providing unique identifiers are attached to every plant and there is no commingling of cannabis absent licenses which allow cultivators to also act as their own distributors.

On Page 42, in section No. 9, the ordinance mandates that distributors may not store medical and recreational inventory at the same location. Given the discussion above, this section should be removed, or if the regulation for separate entrances and immovable barriers remains in the ordinance, distributors should be allowed to make these

adjustments rather than being required to acquire additional locations to accommodate the separation of medical and recreational inventories.

Problem:

Page 19 Items No. 18, No. 19 and No. 25 Requirements for Detailed Plans with No Protections Attached.

Discussion:

Transitional Workers Quota

Item No. 18 requires quotas for certain categories of workers. To determine whether or not transitional workers qualified for the quota, the employer would have to ask invasive, personal questions about the applicant's life, questions which are outside the normal inquiries asked in an interview and may skirt state law as a result. This line of questioning may lead to litigation, as an applicant would naturally assume such invasive questions were being asked to eliminate the applicant as a contender for a job.

Organizational Chart

Item No. 19 requires an organizational chart which is not something required at the State level, and is largely meaningless, but could lead to repeated amendments to applications as organizations shifted responsibilities or adjusted for more or fewer supervisors.

Security Plan:

Item No. 25 requires a detailed security plan be submitted to the police department. Such a security plan would allow bad actors in possession of the document to burglarize or rob the business location with ease. Accordingly, this document should not be made available to the public and should not be released to the press.

Solution: Because transitional workers cannot be identified without invasive and possibly illegal inquiries being made to the applicant, the requirement for a percentage of transitional workers should be dropped.

Instead, the employer will make a good faith effort to hire applicants living within a 3 mile radius of the business and submit to the City a plan on how this effort will be executed.

Staffing plans and organizational charts may change often and significantly after an application has been submitted, requiring repeated changes to the application, which would slow down processing of the application significantly. As there is no compelling reason for the submission of staffing plans or organizational charts, this requirement should be dropped.

Security plans submitted to the police for review and approval would create grave risks for operators and employee safety if they were released to the public or the press. Accordingly,

such plans should be considered confidential, and because of compelling safety concerns the ordinance should be amended to prohibit circulation to the public or the press.

Problem:

Page 20 No. 28 - Non-transferability of businesses.

Discussion:

Our organization is not sure where the City gets the authority to restrict the sale or transfer of a business. It would seem more appropriate to require a process for potential buyers or transferees if the certificate of compliance (the COC) needed to be transferred to new owners. Additionally, there may be situations where the holder of the license dies or becomes so incapacitated others must assume the license and the responsibilities that go with it on an emergency basis. The City has provided no mechanism to accommodate such emergencies, nor has the City provided a mechanism for licensing those who acquire the business as the result of an inheritance.

Solution:

The City should re-write this section, allowing for the sale or transfer of a business but imposing reasonable regulations for the transfer of a license or certificate of compliance. The City should develop regulations for the temporary emergency transfer of a license or certificate of compliance. Lastly, those who acquire the business as the result of an inheritance should have the ability to temporarily assume the license, until such time as they qualified for licensure or were rejected by the City.

Problem:

Page 20 Item No. 30 - Requirement for a Community Benefits Agreement

Discussion:
A Community Benefits Agreement (a "CBA") is a contract signed by community groups and a real estate developer that requires the developer to provide specific amenities and/or mitigations to the local community or neighborhood. It is not required under state law for cannabis businesses.

Because cannabis operators are, for the most part, small business owners, it is inappropriate to demand that they bear the same burden a developer of a project would. Such projects have far more impact on a neighborhood than a small business and typically developers have a budget for community improvements which are pre-negotiated before building starts.

A small business locating itself within pre-existing real estate simply does not have the impact on the community that a large development imposes while the development is being built. Nor does it so fundamentally change the nature of the neighborhood that

residents would be affected (i.e. a small business does not impact a neighborhood in the same way a large commercial development does.)

Small business owners should not be asked to bear the burden of community development when their business is not impactful, particularly when other sections of the ordinance demand that cannabis business operators make meaningful efforts to provide local jobs.

Los Angeles has myriad neighborhood groups. Some are part of the Neighborhood Council network others are not. Expecting a small business owner to go out into the community and somehow find the "right" group to negotiate with is, in Los Angeles, like finding a needle in a haystack.

Additionally, many businesses that the city intends to license are not in commercial zones and none are allowed in residential zones. Exactly what amenities a cannabis business should provide, when a zone is devoid of residents because heavy manufacturing takes place, is a bit of a mystery. Also unexplained is why the cannabis business must shoulder this burden when business who manufacture truly dangerous materials like sulfuric acid, do not.

It is insulting in the extreme, to assume that cannabis businesses would have such a negative impact on neighborhoods that they would be required to "mitigate" by providing expensive amenities to compensate for their presence.

Solution:

Remove the requirement from the ordinance. It is an unnecessary burden on a small business owner and requires the owner to "choose" who will benefit from the presence of the business in the community. If the City does not agree with the choice, an applicant's license or COC could be at risk. Retaining the requirement invites litigation as businesses similarly situated are not required to compensate residents in order to establish a business.

Instead, a percentage of city tax revenue attributable to the cannabis community will be divided among council districts. Council field offices will distribute these monies to the appropriate neighborhood groups. Note that this revenue will come from existing taxes; the City will not burden the cannabis industry with additional taxes to fund the program.

Problem:

Page 20 Item No. 32 – Proper notice to neighborhood councils and discussion of the city application with the council.

Discussion:

Notice appears to be required before the business begins operation, which puts the proposed business at the mercy of people who may already be angry over the proliferation of bad actors in their neighborhoods and who may be unwilling or unable to understand

that non-retail operations would not have the same effects on a neighborhood as a rogue dispensary.

Cannabis businesses should not have to make any more effort to contact a neighborhood council than is required of other small businesses similarly situated, particularly when the disclosure of a location would endanger employees who would then be vulnerable to violent robberies.

As written, the applicant bears the burden of ensuring that the council has considered the matter at an agenized meeting. Business operators have no control over what a neighborhood council chooses to address and should not be charged with influencing what a neighborhood council chooses to discuss at their meetings.

Solution:

Remove this requirement from the ordinance. If the City feels strongly about notification, they can send a letter to the Neighborhood Council when the application is approved, letting them know a business has been approved and giving the Council the name of the applicant and a contact number. If the neighborhood council has any questions or concerns, they can contact the applicant and begin a dialog.

Problem:

Page 21 – Requirement that Applicants Across Licensing Categories Provide a Retailer Plan

Discussion:

A retail plan is a marketing plan that details how a business intends to offer its products or services to consumers and how it intends to influence their purchasing decisions. Although the ordinance claims this is a requirement at the state level, as previously discussed, local laws can differ from state regulations.

Retail plans absolutely fall under the umbrella of trade secrets, and it is inappropriate to force a small business to disclose such plans, which are not deemed private and are not subject to redaction.

Currently, the ordinance only extends protection for trade secrets to manufacturing licensees, but applicants across all retail licensing categories should be protected as well.

These multiple demands for extra plans and reports create an environment of unfair competition. Small businesses who cannot afford expensive consultants to help prepare their applications may find that the sheer bloat of multiple demands for specialized plans is beyond their capabilities. This gives larger companies who can afford consultants, a meaningful advantage. The City needs to be careful about creating an environment where only large entities can compete.

New business may have to re-tool or adjust marketing plans abruptly depending on the laws of supply and demand. The application makes this difficult as the application has to be amended any time the retail plan changes.

There is no advantage to the City in requiring a retail plan as part of the application package. Staff would have to be specially trained on how to interpret them. A retail plan is not a document that would indicate to the City "how the applicant intends to meet all the operational requirements as described" the stated goal of the section requiring a retail plan, as the retail plan is a marketing road map, not an operational one.

It should also be noted that the track and trace requirements and inventory control protocols required by the ordinance, would allow regulators to see a "real time" snapshot of what the results of any marketing efforts by the business were. This is much more relevant as it allows auditors to easily grasp what inventory maximizes tax revenue and allows the City to better forecast what tax revenues will be.

Solution:

Remove the requirement of a retail plan from the application. Doing so would meaningfully reduce the burden on staff vetting applications. It would allow trade secrets to remain with the business rather than being disclosed to the world. It would make the completion of an application less complex and enable small business owners to complete the application without assistance.

Problem:

Page 24 Item No. 7 Video Surveillance

Request for adjustment of camera requirements and the establishment of rules relating to the surrender of footage to law enforcement

The section below on camera specifications was provided by our coalition partner, Americans for Safe Access. The Southern California Coalition concurs with the discussion below and incorporates it by reference.

Discussion:

Item No. 7 specifies criteria for video surveillance systems used by licensees. It requires cameras to record "continuously" twenty-four hours each day. It further requires that the recording be stored for up to thirty days.

Many modern video surveillance systems use motion activated cameras, which only record when the sensors detect motion within the range of the camera. Motion-activated cameras do not record empty rooms, facilities that are unoccupied overnight, etc. However, they do automatically begin recording when anyone enters the range of the camera. No physical activity required to be recorded would be missed. Motion-activated cameras dramatically reduce the amount of digital storage required for archived surveillance videos. They also

reduce the amount of footage to be searched by regulators, law enforcement, or any other authorized party.

Subsection (c) requires that all areas record by video surveillance systems have adequate lighting to record images. The regulations should also specifically allow for the use of infrared cameras, which can record images in low light or dark environments. This common feature on modern cameras allows the licensee to turn off lights in areas that must be recorded, when the areas are not in use. However, an infrared camera would still record any activity that occurs when the lights are off. This avoids wasting energy by leaving unnecessary lights on and may prevent someone from using darkness to obscure inappropriate activity.

Solution:

Incorporate the suggestions above. Motion activated and infrared cameras will save energy, and reduce law enforcement workloads.

Discussion:

The Southern California Coalition would ask the City to work out a more nuanced approach than just demanding video footage be handed over to the Department or law enforcement on demand. Law enforcement will only be seeking footage if there is reasonable suspicion that a crime has been committed, either by the business or by someone else unrelated to the business. Each scenario calls for a different set of rules.

If law enforcement is investigating a potential crime committed by the business, traditional rules relating to the acquisition of evidence should apply. Law enforcement seeking footage should present a warrant or a court order.

Cannabis businesses routinely place cameras so that they monitor the entire leasehold and most particularly, surrounding streets. Over the years there have been numerous occasions when footage supplied by cannabis businesses helped solved crimes unrelated to the business.

In one horrific example, during the early morning hours, a hit and run driver ran over a pedestrian than left the injured man to die in the gutter. Footage provided by a nearby dispensary allowed law enforcement to determine the license number of the vehicle and in this manner find the perpetrator of this terrible crime.

When businesses surrender footage unrelated to an investigation of the business, the business may be subject to retaliatory actions by the perpetrator's friends, family or fellow gang members. Rather than require immediate, involuntary surrender of footage, protections should be built in so that the business has enough time to consult with a lawyer and work out some system for protection of the business with law enforcement.

Solution:

Amend the ordinance so that investigations of suspected crimes of the business require a warrant or court order for the surrender of footage. If the footage is required to solve a crime unrelated to the business, the business should be given and a reasonable amount of time to consult with a lawyer and work out with law enforcement how the business will be protected from retaliatory actions.

Problem:

Page 26 Item No. 11 Page 33 Item No. 16 - Cessation of Testing and Labeling

Discussion:

The BCC is allowing a moratorium on testing, which the City's ordinance follows. This is dangerous. The sicker a patient already is, the more likely it is that pesticide residue, mold, fungus and other impurities will cause fatal infections or lead to death in one way or another. The City needs to insist that all products sold in the City of Los Angeles are tested.

Solution:

Amend the ordinance to require that all products and cannabis plant material be tested.

Problem:

Page 26 Item No. 16 - Prohibition on the subletting of premises

Discussion:

Tenants or landlords who have the legal right to do so, should be allowed to sublet a location. A tenant who is going out of business and subject to a long-term lease might find relief by subletting the location. Licensees who find they are not utilizing part of their space should be allowed to sublet. None of these activities pose any risk, but can promote confusion if the proper agencies are not contacted and informed of the re-configuration of the space. Additionally, subletting should be memorialized in writing and the entity subletting the space should find a way to clearly delineate what the sub-let area consists of. Once these precautions are observed, sublets are neither confusing nor pose any risk, and should be allowed.

Solution:

Allow a space to be sublet, but impose reporting requirements to the appropriate agencies and require all of the usual rules that typically attach to such an arrangement (i.e. an agreement in writing).

Problem:

Page 26 Item No. 18 Prohibition on the Acceptance of Vendor Products

Discussion:

As written, the section is a blanket prohibition on the acceptance of products which would mean a business could not acquire any inventory. The section needs to be re-written.

The stated prohibition would have another unintended consequence. As is the case in a number of industries, vendors drop off samples for the dispensary to try. Vendors also have events at dispensaries where they set up a table, talk about the advantages of their product with patients and give away small amounts of free samples which are pre-packaged and then sealed in a bag by the dispensary for patients to take home.

It is an easy and safe way for patients to try new products and modern technology can easily trace these samples as they move through the system. Moreover, all dispensaries would require those offering samples to adhere to the same packaging rules the dispensary follows so the risk of loose lots simply disappearing into pockets would be impossible.

Lastly, no sample may be consumed on-site, as on-site consumption is forbidden by law. These protections ensure that patient sampling small amounts of products do so in the safety and security of their own home.

Dispensary operators rely on samples to gage their efficacy before providing the product to patients. The vendor visits and samples are a key part of how a dispensary discovers new and effective products. Small amounts of a product tracked through the system as a sample is not going to reach such critical mass that it would be at risk for theft or diversion. State law comprehensively regulates the movement and distribution of marijuana in a dispensary. There is no reason why a vendor could not safely share samples with a dispensary operator within such an environment as long as it was subject to the same track and trace rules as any other product.

By destroying the opportunity of a manufacturer to distribute samples you limit the ability of a dispensary to determine, in a low-cost manner, which new products might work best for their patients.

You destroy the ability for patients to sample new products which might be more effective for them than products currently available.

Solution:

Allow vendors to provide samples to dispensaries, both for operators to try and for patients to sample. All products would be part of the track and trace system and subject to the same packaging rules as any other product.

Problem:

Page 31 Item No. 4 – Retail Hours are Inflexible

Discussion:

The City intends to license for both recreational and medical use. It intends to allow dispensaries in zones which are not commercial. It does not allow businesses in residential zones. These legislative decisions argue for a more flexible position on hours. Current proposed operating hours for retail establishments are between 6:00 AM and 9:00 PM Pacific Time.

Decisions about business operating hours are typically made on the local level. For example, the current ordinance in the City of West Hollywood requires dispensaries to close at 8:00 PM. However, the City and County of San Francisco allows for twenty-four-hour operation, in certain cases. The state does allow cities to set their own hours. The City of Los Angeles is 437 square miles and contains numerous neighborhoods with disparate needs. It should allow retail operations to set the hours which work best in the location where the business is located.

Currently, the ordinance follows state law and mandates a fifteen hour window where retail operations may be open. However, the start time is 6:00 AM which in certain areas is unworkable as customers are unlikely to stop by on the way to work as it would mean bringing marijuana on to a work site or storing it in the car. As a result, many locations may wish to open later in the morning, and accommodate patients and recreational users by remaining open later in the evening.

By mandating that a retail operation may remain open for any fifteen continuous hours in a 24 hour period, the City would give retail outlets the flexibility to set operating hours which work best for the neighborhood location and the clients of the business.

Solution:

Allow retail operators a fifteen hour window in each 24 hours in which to set permanent operating hours. Establishments which wished to remain open beyond 10 PM would be required to demonstrate that adequate security and other protocols were in place which ensured the safety of employees and customers. (i.e. the business would not accept deliveries of products after the sun set.)

Problem:

Page 32 Item No. 9 – Prohibition on the Distribution of Free Samples

Discussion:

Across the State, dispensaries have "Compassion Programs" The purpose of these programs is to provide free or low cost cannabis and cannabis products to those in need. It's important to remember that the longer you are ill, the more likely you are to fall into a state of poverty. Item No. 9 is so broad, it may encompass these compassion programs, surely not something intended by the City. Modern technology can easily trace this "compassion medicine" as it moves through the system, both for inventory and tracking

purposes. The Coalition urges the City to allow the compassion programs to continue, by adjusting this section and creating method for the tracking of medicine that is given away or provided at a steep discount to the poor.

It is the norm for manufacturers to give away free samples. Sampling in dispensaries, where a representative brings in sealed samples, subject to the track and trace program, is no more dangerous than any other product sampling.

Sampling is an easy and safe way for patients take new products home and try them. Modern technology can easily trace these samples as they move through the system. Moreover, all dispensaries would require those offering samples to adhere to the same packaging rules the dispensary follows so the risk of loose lots simply disappearing into pockets would be impossible.

Lastly, the distribution of samples in a dispensary means no sample may be consumed on-site, as on-site consumption is forbidden by law. These protections ensure that patient sampling small amounts of products do so in the safety and security of their own home.

Dispensary operators rely on samples to gage their efficacy before providing the product to patients. The vendor visits and samples are a key part of how a dispensary discovers new and effective products. Small amounts of a product tracked through the system as a sample, is not going to reach such critical mass that it would be at risk for theft or diversion. State law comprehensively regulates the movement and distribution of marijuana in a dispensary. There is no reason why a vendor could not safely share samples with a dispensary operator within such an environment as long as it was subject to the same track and trace rules as any other product.

By destroying the opportunity of a manufacturer to distribute samples you limit the ability of a dispensary to determine, in a low-cost manner, which new products work best for clients.

Solution:
The Coalition asks that this section be removed, or re-written to allow compassion programs to continue and to allow sampling under certain, specified conditions. Additionally, the City needs to remove any prohibition on business operators receiving samples.

Sample language: "A cannabis business may operate a compassion program, where cannabis and cannabis products are offered to income challenged clients at a discount or without charge. Such "compassion programs" must be memorialized in writing. All participants must complete a written application and demonstrate financial need. Financial need may consist of, but not be limited to, proof of enrollment in any public assistance program such as CalFresh or Medical. All cannabis and cannabis products provided to compassion program participants shall be part of the company's track and trace program."

"Businesses may receive small amounts of products or cannabis from vendors, for the purpose of sampling new products. All such products must be reflected in the track and trace system of the business and may not be re-sold. Vendors who wish to provide samples at the business to clients of the business, may only do so by first transferring the product into the inventory system of the business where the demonstration of the product will be held. Once the product has been transferred into the inventory of the business, it shall be the responsibility of the business to ensure the products are not consumed on-site and leave the premises in sealed, opaque packaging."

Problem:
Page 37 Item No. 13 – Rules for Electrical Usage Create an Environment of Unfair Competition for Indoor Cultivators

Discussion:
While the goals of this section are admirable, the section inadvertently creates a situation of unfair competition where indoor cultivators in large cities such as Los Angeles (where no outdoor cultivation is contemplated) are competing with areas which don't have the costs associated with indoor cultivation and/or who reside in areas that already meet renewable energy standards.

The section is another example of the ordinance's preference for elaborate, expensive and unnecessary plans, which burden small businesses driving them out of the marketplace while larger entities which can absorb these costs, remain in the marketplace and profit from a reduced amount of competition.

The Coalition asks that the City level the playing field and create regulations which would allow indoor cultivators to participate in environmental programs without being disadvantaged in the marketplace by having to bear economic burdens others do not, because the competitor's geographical area has a grid that already meets the renewable energy standard. Environmental programs should not be used as a mechanism to create unfair competition or drive into insolvency those who cannot cultivate outdoors.

Moreover, cultivators navigating the difficult terrain of indoor power and water usage should have access to incentive programs and other mechanisms which reward them for environmentally friendly policies. The current wording of the section imposes a "one size fits all" approach which simply punishes those who don't comply with the regulations, rather than finding a path where all can participate.

There is a huge disconnect right now between the needs of indoor and outdoor cultivators. Indoor cultivators who are drawing power off a grid which can easily accommodate their needs without affecting the general public should not be penalized for doing so, either by burdening the licensee with needless regulations, or imposing special rate increases.

The Public Utilities Commission has set up a working group in San Francisco composed of

power company representatives and stakeholders, to try and find solutions to the issues above. It might be helpful if Los Angeles power providers and local cultivators created a similar working group to examine these issues as well as create some incentive programs.

Solution:
Rewrite this section to acknowledge that local cultivators must use the existing power grid because the City does not allow for outdoor or mixed light usage. Adjust local rules from the state standard to recognize that Los Angeles power providers have a different percentage of renewable energy than other parts of the state.

As all cultivation is required to be indoors and must take place in environments which are heavily fortified, adjust regulations to account for the fact that such sites may not be amenable to the elaborate environmental adjustments required to create a zero-net renewable energy source (i.e. leased warehouses may not allow nor be configured for solar panels).

Host a task force composed of local stakeholders and power providers to create workable regulations and incentive programs which encourage environmentally friendly practices.

Problem:
Page 38 Item No. 8. The standards for the productions of edibles are needlessly restrictive and do not account for naturally occurring substances in food.

Discussion:
This section forbids the presence of a "non-cannabinoid additive" and specifically sites caffeine as one such substance. The problem is that trace amounts of caffeine are naturally present in chocolate. Chocolate is a frequent ingredient in manufactured cannabis products. The ordinance should allow substances naturally present in ingredients to be exempt from the prohibition on additives.

Additionally, the section bans dairy products. Butter is a key ingredient in the production of edibles. Recognizing this, the MAU now allows butter to be incorporated into products and local regulations should allow the incorporation of butter as well. (See: section 37104 of the Food and Agricultural Code).

Problem:
Page 43-44 Transporting Regulations

Discussion:
The MAU has removed transporting as a category of licensure. Transporting is now a function of the distribution license.

Solution:
Incorporate the ordinance section relating to transport into the distribution section.

Problem:
Page 48 Appeal is not allowed for allegations of a "serious" violation

Discussion:
Despite the fact that serious violations carry the most extreme punishments of all categories there is no mechanism within the ordinance for appeal. While the Southern California Coalition recognizes that serious violations may require that the City take immediate action to safeguard the health and safety of its citizens, this should not foreclose the traditional right of notice and an opportunity to be heard.

Solution:
Re-write the section so that the City can take immediate action to halt actions which endanger the health and safety of citizens, but allow businesses accused of series violations to appeal the accusation.

Problem:
Page 51 Cancellations - Involuntary Surrender of a COC within 30 days of closure

Discussion:
Closure of over 30 days requires the surrender of the license attaching to the property.

Any time a landlord decides to re-finance or sell the building housing a medical cannabis business, the medical cannabis business must move. The number of landlords who will rent to a cannabis business is limited. Often those who will lease to a cannabis business impose rents so high they are de-facto partners in the operation, pricing most would-be tenants out of the market. In Los Angeles, finding a new location can take from six months to two years.

Solution:

The City needs to adopt a policy to accommodate its difficult real estate market. A business owner who has gone to the expense of procuring local and state licenses should not have to surrender the right to operate purely because of an unexpected location change, but rather be allowed to put his license into a City sanctioned abeyance program. This would secure the rights of the business and prevent corporate identity theft of businesses which are dormant while they seek a new location.

Problem: The ordinance does not adequately protect the rights of businesses, employees patients and recreational users

The comments below relating to volunteers and deliveries after dark were submitted by Barry Broad, Legislative Director of the Teamsters Public Affairs Council. The Teamsters are one of the Southern California Coalition's partners, a key part of our organized labor component. The Southern California Coalition concurs with Mr. Broad's discussion and incorporates it by reference.

The overwhelming majority of the cannabis industry workforce is composed of medical marijuana patients. The exploitation of "volunteers" where unscrupulous business operators promise individuals paying jobs if they "volunteer" for a period during which they receive no compensation or other employee protections, has long been a concern of the Southern California Coalition. We would like this nefarious practice to end in the City of Los Angeles and ask that the City very carefully consider Mr. Broad's comments below.

Likewise, the Southern California Coalition believes that the failure of the City's ordinance to require workman's compensation insurance is a material omission which would mean the expense of employee injuries defaults to the taxpayer. More importantly, maintenance of such a policy would materially benefit employees.

Lastly, the Southern California Coalition believes that reciprocity means that deliveries of cannabis and cannabis products will increase dramatically. Our organization urges the City to consider Mr. Broad's well reasoned arguments and limit deliveries to daytime hours.

Employee Requirements—Eliminate Reference to "Volunteers"

Page 42 Item No. 11

The proposed section provides:

A distributor shall not hire an employee or volunteer if the person works or volunteers for another licensee unless the other licensee is a distributor of transporter. [emphasis added].

We would request that the word "or volunteer" and "or volunteers" be deleted from this section. As a general matter, it is illegal (and a criminal violation) under both state and federal law for any employer to employ a worker without paying them the minimum wage. Under California law, this requirement is enshrined in the wage orders of the California Industrial Welfare Commission.[4] Thus under section 4 of Wage Order 4-2001, every employer is required to pay every employee" no less than the state minimum wage. Under sections 2(E) and (F) of Wage Order 4-2001, an employee anyone who is "employed," which is means "any person who is engage[d], suffer[ed], or permit[ted] to work."

Basically, what this means is that there is no such thing as a "volunteer" for a business entity. While, "interns" are permitted to work without compensation, they must be given academic credit from a bona-fide educational institution and can only work for a limited time period.

[4] There are seventeen wage orders of the Industrial Welfare Commission, covering various industries and occupations. All are identical on this issue. We will reference Wage Order 4, which, under MCRSA, covers all cultivation workers in the medical cannabis industry. (See Business and Profession Code section 19333).

The abuse of "volunteers" and "interns" has a long history in labor law and has been the subject decades of enforcement actions.[5]

The use of the word "volunteer" in this section would lead to confusion among cannabis industry employers. We believe this would very likely result in employers in this industry, who have operated for decades in the underground economy, to think they are allowed to let people work for free by calling them "volunteers," when in fact they would be walking right into a major minimum wage violations.

We strongly urge that this reference to volunteers be deleted from the regulation.

Application Requirements—Require Proof of Workers' Compensation Insurance

We would request that a new section, requiring applicants to provide proof of workers' compensation insurance as a condition of licensure, be added as follows:

A current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance in the applicant's or licensee's business name is required. A Certificate of Workers' Compensation Insurance shall be issued and filed, electronically or otherwise, by an insurer duly licensed to write workers' compensation insurance in this state. A Certification of Self-Insurance shall be issued and filed by the Director of Industrial Relations.

This section does not apply to an applicant or licensee who has no employees, provided that he or she files a statement on a form prescribed by the department prior to the issuance, reinstatement, reactivation, or continued maintenance of a license, certifying that he or she does not employ any person in any manner so as to become subject to the workers' compensation laws of California or is not otherwise required to provide for workers' compensation insurance coverage under California law.

There are numerous areas where state law requires licensees provide workers' compensation insurance as a condition of licensure. For example, Business and Professions Code section 712 places this requirement on building contractors licensed by the State Contractor's Licensing Board. Similarly, all commercial motor carriers seeking operating authority must show proof of workers' compensation insurance. (See Vehicle Code section 34640; Public Utilities Code section 460.7).

These code provisions were added in industries where there was a long history of cash pay, underground economy employment, and employee misclassification. Given the underground nature of the cannabis industry and our own anecdotal experience organizing workers in the industry, it is safe to say that a very large percentage of workers in this industry are working for employers who have no workers' compensation insurance.

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[5] See Rubenstein, *Our Nation's Forgotten Workers: The Unprotected Volunteers*, University of Penn. Journal of Labor Law, Vol. 9, p. 147 (2006), https://www.law.upenn.edu/journals/jbl/articles/volume9/issue1/Rubinstein9U.Pa.J.Lab.%26Emp.L.147(2006).pdf

Moreover, this is a dangerous industry, where workers are subjected to risk of robbery, where they work with volatile solvents, pesticides, herbicides, and other dangerous chemicals, and where they operate vehicles as part of their jobs, which subjects them to risk of highway accidents. If a worker is injured and there is no workers' compensation insurance, then those costs are borne by the Workers' Compensation Uninsured Employers Fund, which is funded through a legislative appropriation from the general fund. In other words, the taxpayers bear the cost of workers who are injured while working for employers with no insurance coverage.

We believe it is critical to require that licensee show proof of workers' compensation insurance. This is easily obtained from their workers' compensation insurance carrier and is a simple statement of coverage that can be transmitted electronically.

Hours of Operation—Limit Distributor delivery of Cannabis to Dispensaries to the business hours of the Dispensary

We would request that the following provision be added to the ordinance:

A licensed dispensary may not accept delivery of medical cannabis or medical cannabis products between 9:00 p.m. Pacific Time and 6:00 a.m. Pacific time. A distributor may not deliver medical cannabis or medical cannabis products between 9:00 p.m. Pacific Time and 6:00 a.m. Pacific time.

The plain fact is that delivery of cannabis is dangerous and our members are exposed to robbery and violence on a daily basis. It is one of the major concerns in the industry and poses a significant worker safety issue.

Under the Alcohol Beverage Control Act, delivery o retail licenses from manufacturers, wine growers, and wholesalers is strictly limited to mostly daytime hours.[6] Our members who work in the alcohol have always been concerned about robbery and truck hijacking and this is even more the case in the cannabis industry because of the fact that, in the absence of access to banking, the marijuana industry is a cash business.

Moreover, unlike alcohol, which is a bulky and heavy product, a small amount of marijuana is worth a lot of money and is easily concealable. For these reasons, we do not want our members to be delivering cannabis or cannabis products in the middle of the night to urban areas, where they are exposed to increase risk of robbery or hijacking.

Problem:

The proposed ordinance does not protect business operators from incursion by the federal government

Discussion:

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[6] See Business and Professions Code section 25633, which prohibits delivery of alcohol to retailers on Sundays and between the hours of 3:00 am and 8:00 pm on all other days. While we think that the ban on Sunday delivery is anachronistic, we do support limited delivery hours for worker safety reasons, as described above.

The only information the City acquired about Prop D eligible businesses, was tax information. The ordinance protected business operators by refusing to release tax information to the federal government unless a formal court proceeding resulting in a written order had occurred. It also required that the City notify the target of the inquiry and delay release of the information for ten days, to allow the target to proceed into court to oppose the City's release of the information. (See: section 45.19.6.4. of Proposition D.)

Because the position of the federal government on the cannabis industry is now in the hands of Attorney General Jeff Sessions, an unabashed opponent of marijuana, it is extremely important that the City enlarge its protections of business operators sheltering under the City's cannabis ordinance.

Solution:

The City will add a section to its ordinance which:

- Refuses to release any information in its possession about an cannabis applicant or business, absent a federal, state or county court proceeding resulting in a written order compelling the City to release the requested information.
- The City will instruct all law enforcement agencies under its jurisdiction or control to refuse to release any information in its possession about a cannabis applicant or business, absent a federal, state or county formal court proceeding resulting in a written order compelling the law enforcement entity to release the requested information.
- The City will immediately inform the target of the request that such a request has been made and supply the target with a copy of the request.
- The City will delay release of the requested information for thirty days, to allow the target an opportunity to proceed into court and oppose the request.
- Should AB 1578, which is proposed state legislation, pass in its current form, the City will incorporate its protections into the City's ordinance.

Problem:

The City has made applications so complex and inspections so numerous, that it has inadvertently created an environment where only large, wealthy entities may obtain licensure in the City of Los Angeles.

Discussion:

The combination of an overly elaborate application process, combined with myriad demands for special plans and reports, and the additional requirement of extensive inspections, has inadvertently created a situation where the average small business owner cannot complete the application process without expensive assistance from legal professionals or specialized consultants.

The number of professionals who could assist with an application is finite and given the amount of expected applicants, will not be enough to service the local industry, even if a small business owner could afford such assistance.

Another problem is that the window for submission of applications is too short.

The end result of all this, is that the City has inadvertently shut out small business owners, as only large entities with considerable resources could successfully complete the application process. This was never the intention of the City and will meaningfully deter the entrance of ethnic minorities and women into the cannabis industry.

The City needs to ensure that bad actors are not awarded the right to operate within the City. It also needs to enact health and safety regulations to protect its citizens. But the current application process goes far beyond this, and if maintained at the current level, will foreclose the participation of the small business owner from the cannabis industry in Los Angeles.

Solution:

The City needs to conduct a meaningful revision of the application process. All requirements should be adjusted so that the average small business owner would be able to complete the application without assistance. Additionally, there should be a review of all inspections required, and only inspections relating to health and safety concerns should be maintained (i.e. pre-inspection by the Department of Finance is not related to health and safety concerns and should be dropped.) Lastly, expensive meaningless plans such as a "retail business plan" should be removed from the application requirements.

The Southern California Coalition submits the above suggestions in the spirit of collaboration that it has always enjoyed with the City. Should you have any questions or concerns, our President, Virgil Grant, can be contacted at (310) 493-7651. Our Executive Director, Adam Spiker, can be reached at (714) 654-1930. The e-mail for both gentlemen is: socalcoalition.infor@gmail.com.

The Southern California Coalition is the Southland's largest industry trade association, representing cannabis stakeholders across all licensing categories. It is unique in that it also includes major advocacy groups for minorities, patients and veterans as well as an organized labor component. The Southern California Coalition's mission is to ensure that legislation is fair, balanced, and inclusive.

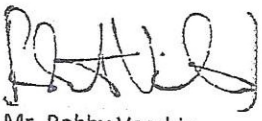
SOUTHERN CALIFORNIA COALITION

Sincerely,

Mr. Virgil Grant
President - Southern California Coalition

Mr. Erik Hultstrom
President – Cultivators Alliance

Mr. N. David Sparer
President - Manufacturers Alliance



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