

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

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Council District: All

To: Rules, Elections, Intergovernmental Relations, and Neighborhoods Committee

From: Miguel A. Santana, City Administrative Officer 

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Subject: **MARIJUANA REPORT BACK #2 – ANALYSIS OF BEST PRACTICES REGARDING OPERATING, LAND USE, AND INSPECTION REQUIREMENTS (C.F. 14-0366-S5)**

During its consideration of a joint report from the City Administrative Officer (CAO) and the Chief Legislative Analyst (CLA) dated August 18, 2016 regarding options to regulate marijuana-related businesses within the City (C.F. 14-0366-S5), your Committee requested the CAO and CLA to report on best practices regarding operating, land use, and inspection requirements for marijuana-related businesses (MRBs).

The City could adopt ordinances to enact a comprehensive regulatory framework which could cover the entire supply chain for medical and recreational marijuana businesses – from the cultivation, production, and processing of marijuana plants/products to point-of-sale distribution and marketing. Policy goals of the Council will direct the organization of the regulatory framework, including subject matters such as taxation and finance; public health and safety; and governance and administration of regulations and the enforcement thereof.

#### Entitlement/Permitting Process

The City may choose to regulate marijuana businesses through a process similar to the existing Conditional Use Permit (CUP) process, administered by the Planning Department, much like the sale and distribution of alcohol for on- or off-site expanded to include the regulation of cannabis businesses. Code amendments would be required to establish land use regulations and the specific entitlement process.

#### Planning Department & Conditional Use Process Staff Costs

An inspection program for MRBs would require adequate staff resources, inasmuch as existing Planning Department resources would be inadequate to address demand likely generated Citywide. A designated *special unit* within the Department would be needed to process entitlement requests, conduct discretionary review, and issue determinations. Special unit staffing would rely on the full range of Planning Department staff as well as Area Planning Commissions, City Attorney, and Council support.

The challenges associated with the CUP process include a lengthy review process, including potential for a high percentage of appeals due to controversy, as well as the potential for costly and uncertain litigation. Therefore, Planning Department staff provided a rough cost estimate indicating that approximately \$900,000 would be needed in funding for additional staff resources to conduct work assessing whether applicants can seek zoning variances or other land use discretionary relief from Code provisions which Proposition D currently prohibits. This is a preliminary calculation inasmuch as further analysis is needed to quantify the total costs to set up a *special unit* within the Planning Department, in addition to any additional resources that may be needed if staff from other departments are required to fully staff the requested unit.

The Adult Use of Marijuana Act (AUMA) contains a provision preserving local control and states that nothing in AUMA shall limit or supersede the authority of local jurisdictions "to completely prohibit the establishment or operation of one or more types of businesses licensed under" the AUMA.

The City could rely on permissive zoning to prohibit medical marijuana uses if it so chooses. However, marijuana establishments may argue that they fall within various land use categories and descriptions, such as pharmacies, retail sales, nurseries, and agriculture.

The City may consider adopting expressed prohibitions or creating new zones allowing for marijuana-related uses that:

1. Impose locational restrictions, including zoning designation and separation requirements to avoid clustering of medical marijuana businesses.
2. Limit or prohibit cultivation within certain zones, locations of the City.
3. Allow for deliveries to encourage opportunities for socioeconomic and geographic equity.

### **Alternative Permitting Process outside of the Planning Department**

The City may consider an alternative permit/entitlement approach that does not rely on the Planning Department Conditional Use Permit process by creating a separate City entity. This entity would focus on the permitting of marijuana-related uses and include: 1) a review process that addresses concentration issues, including a public review process; 2) full-cost recovery, with conditions and findings tailored to the specific characteristics of marijuana-related uses; 3) potential for reduced resource costs; and, 4) more expeditious review of permit requests.

### **BEST PRACTICES**

Electronic Tracking Systems: Colorado requires every plant in every cultivation facility to have a barcode-tagging system that is computerized and accessible to regulators. Barcodes can remain separate or be batched, so that marijuana products can be tracked from seed to sale. These systems are used to track and monitor supply and prevent diversion

Temporary Barriers to New Entry: Colorado reduced the complexity of their market by constructing initial barriers to entry for new MRBs. For a period of time, all MRBs must have come from or been part of an existing medical marijuana dispensary (MMD). This ensured that as implementation began state regulators would only deal with enterprises and owners with whom they were familiar.

Video Surveillance Requirements: Colorado regulators required that cultivation, processing and retail facilities be extensively monitored with video surveillance. Video surveillance prevents diversion and helps police investigate theft. Additionally, MRBs tend to be cash-only businesses and surveillance may reduce the incentives for illegal activity by increasing the odds of detection.

Revenue and Funding Distribution: Taxes should be consistent across all MRBs which allows for more regulatory stability. Taxes and fees should establish a self-funded system which supports all administrative agencies.

First Responders: Local governments should expand training and information about marijuana use and marijuana-related businesses.