

**DEPARTMENT OF  
CANNABIS REGULATION**

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COMMISSION EXECUTIVE ASSISTANT  
(213) 978-0738

**CITY OF LOS ANGELES**  
CALIFORNIA



ERIC GARCETTI  
MAYOR

**EXECUTIVE OFFICES**  
221 N. FIGUEROA STREET, SUITE 1245  
LOS ANGELES, CA 90012

CAT PACKER  
EXECUTIVE DIRECTOR  
(213) 978-0738

MICHELLE GARAKIAN  
ASSISTANT EXECUTIVE DIRECTOR

JASON KILLEEN  
ASSISTANT EXECUTIVE DIRECTOR

<http://cannabis.lacity.org>

September 17, 2018

Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee  
City Clerk  
City Hall, Room 395

**DEPARTMENT OF CANNABIS REGULATION - REQUEST FOR AMENDMENTS TO THE  
CITY'S CANNABIS PROCEDURES (C.F. 14-0366-S5)**

Dear Honorable Members:

Over the course of this year, the Department of Cannabis Regulation (DCR) has been working to implement the commercial cannabis regulatory program that the City Council established in 2017 through the Cannabis Procedures ordinance (LAMC Sec. 104 *et seq.*). DCR has completed the first phase of licensing, priority processing for Existing Medical Marijuana Dispensaries, and just closed the application window for the second phase of licensing, processing for certain Non-Retailer applicants, on September 13, 2018. As DCR plans for the third phase of licensing and the further development and implementation of our commercial cannabis regulatory program over the coming year, it would like to propose several amendments to the City's licensing system that will allow DCR to operate with greater efficiency. These amendments, as described in detail below, would clarify (i) the requirements for community meetings DCR conducts, (ii) the requirements for notice to the public regarding license applications, (iii) DCR's authority to take administrative action to enforce the City's cannabis license laws, (iv) the rules and procedures for administrative hearings, (v) the scope of a Phase 2 inspection, and (vi) minor inconsistent use of terms in the ordinance. Lastly, DCR also recommends that the City join the County of Los Angeles' Retailer Emblem Program to ensure that the public has a simple way to identify licensed Retailers in the City.

**Amendment to Community Meeting Requirement**

On June 27, 2018, the City Council passed Ordinance No. 185629, which, in part, requires that DCR hold a community meeting within the defined geographic area of the Area Planning Commission within which a proposed commercial cannabis business premises would be situated. The amendment replaced the requirement in LAMC Sec. 104.06 that the Cannabis Regulation Commission hold a public hearing within the defined geographic area of the Area Planning Commission within which a proposed Retailer, Microbusiness or Non-Retailer in a Business Premises 30,000 square feet or larger would be situated.

Although the City Council clearly intended for the community meeting to replace the public hearing for Retailers, Microbusinesses and Non-Retailers in a Business Premises 30,000 square feet or larger, LAMC Sec. 104.04, as amended, could be interpreted to also require a community meeting for Non-Retailers in Business Premises less than 30,000 square feet. DCR believes it would be prudent to clarify that a community meeting is not required for applications for Non-Retailers in a Business Premises less than 30,000 square feet.

#### Amendments to Notice Requirements

An important feature of the City's licensing system is that it requires DCR to provide notice to the public as an application for a cannabis license reaches key stages. Currently, the Cannabis Procedures ordinance requires DCR to provide mailed notice to certain members of the public when an application is deemed complete, when a community meeting is scheduled, and when the Commission will hold a public hearing before making a licensing decision. DCR must provide notice to the owners of an applicant's business premises, owners and occupants of property within 500 feet of the business premises, the Neighborhood Council and Business Improvement District closest to the business premises, and the City Council office within which the business premises is situated.

Although the City Council's intent on who should receive notice is apparent, DCR believes its administration of the licensing process would be aided by technical amendments that more clearly delineate the exact notice requirements for each of the events described above as well as hearings regarding DCR's decisions on applications for priority processing. DCR also suggests further specification of the notice requirements for public hearings before the City Council concerning licensing decisions. The exact technical amendments are described in the Recommendation section below.

#### Amendments to Administrative Enforcement Authority

One of DCR's most important responsibilities is to ensure that licensees comply with the City's commercial cannabis regulations. To that end, the City Council has empowered DCR to investigate violations and issue Notices of Violation to impose administrative penalties, including license suspension or revocation, more restrictive license conditions, corrective action, and monetary fines. DCR has made significant progress in building out its administrative enforcement capabilities, but it believes that several technical amendments are necessary to further specify the scope of DCR's authority. The necessary amendments include: clarifying the manner in which DCR may impose administrative penalties; establishing factors for DCR to consider before imposing an administrative penalty; and, allowing DCR to enter into stipulated agreements to resolve a Notice of Violation. The exact technical amendments are described in the Recommendation section below.

#### Amendments to Administrative Hearing Process

A licensee may appeal a Notice of Violation to an administrative hearing officer, who will conduct an evidentiary hearing and then issue a written decision on the appeal. A licensee may appeal the hearing officer's decisions to the Cannabis Regulation Commission, which must hold a public hearing on the appeal before issuing a written decision of its own. Although the

administrative hearing process as currently designed satisfies the City's obligation to provide a licensee a fair hearing and due process, DCR believes additional technical amendments would enhance the integrity of the hearing process. In short, the recommended amendments would establish additional rules for the conduct of administrative hearings, set the standard of review to be applied at each level of appellate review, and define the scope of the hearing officer's and Commission's authority. The exact technical amendments are described in the Recommendation section below.

#### Amendments to Phase 2 Business Premises Inspection

Under LAMC Sec. 104.08, among other criteria, an applicant must pass a pre-license inspection to be eligible for Phase 2 processing. Before that applicant receives an annual license, it must also pass a more comprehensive inspection as required under Regulation No. 5 of the Rules and Regulations. DCR recommends amending the Rules and Regulation to clarify the requirements for the Phase 2 inspection, namely that that inspection consists of approval of the premises diagram, on-site inspection of business premises, correction of health and safety hazards, and submission of security plan and fire safety plan (if applicable).

#### Amendments to Address Inconsistent Terminology

DCR recommends several minor technical amendments to make consistent use of language and terms throughout the Cannabis Procedures ordinance; namely, using "California Cannabis Arrest or Conviction" in all appropriate places, clarifying that eligible Phase 2 applicants will proceed pursuant to LAMC Section 104.06, and providing that DCR "may" prohibit a Licensee from engaging a Management Company for any of the reasons specified in LAMC Sec. 104.21.

#### Cannabis Corporate Responsibility Report

On August 1, 2018, the City Council requested the City Attorney to prepare and present an ordinance to implement a requirement that all licensees submit an annual corporate responsibility report to DCR, which will then publish a ranking of the reports on its website. DCR fully supports this proposed ordinance, but it only suggests that the City Council extend the reporting requirements to all applicants with Temporary Approval.

#### Participation in the County Emblem Program

The County of Los Angeles has established an Emblem Program for Authorized Cannabis Stores (Emblem Program), which will require every licensed Storefront Retailer (Type 10) in a participating jurisdiction to prominently display on its business premises an emblem signifying that it is a duly licensed cannabis business. Modeled after the County's restaurant rating system, the Emblem Program will allow members of the public to easily identify legal cannabis businesses, which may only sell cannabis goods that satisfy the state's strict testing and labelling requirements. The County has asked that a participating jurisdiction adopt a short ordinance that is substantially similar to a model ordinance developed by the County (See Attachment 1). DCR anticipates that the Emblem Program will be of great value in protecting consumer health and safety and it highly recommends that the City Council adopt an ordinance to require all licensed Storefront Retailers (Type 10) in the City to display an emblem.

## **Recommendation**

It is recommended that the City Council:

1. Request the City Attorney, with the assistance of the Department of Cannabis Regulation, to prepare and present an ordinance to amend Section 104 of Article 4 of Chapter X of the Los Angeles Municipal Code and the Rules and Regulations as necessary to:

A. Clarify that the Department of Cannabis Regulation shall not be required to hold a community meeting for an application for Non-Retailer Commercial Cannabis Activity in Business Premises less than 30,000 square feet.

B. Clarify that once an application is deemed complete and an applicant has offered to appear before the closest neighborhood council to address questions about its application, an applicant is not required to offer to appear again during any subsequent phase of the licensing process.

C. Clarify that at least 20 business days before a community meeting or any public hearing before the Cannabis Regulation Commission as authorized by LAMC Sec. 104.06, DCR shall provide:

i. Mailed notice to the applicant's agent for service of process, the owner or owners of the Business Premises, and the owners and occupants of all property within 500 feet of the property line of the lot on which the subject business premises is located;

ii. Written notice to the closest neighborhood council, the closest business improvement district and the City Council office within which the business premises is situated;

iii. Email notice to all persons on DCR's Interested Party Notification List.

D. Clarify that at least 20 days before a public hearing before the Cannabis Regulation Commission concerning a DCR determination that an applicant is not eligible for application processing under LAMC Sec. 104.07 or 104.08, DCR shall provide mailed notice of the hearing to the applicant's agent for service of process.

E. Add a provision that at least 5 business days before a hearing before the City Council as authorized by LAMC Sec. 104.06, the City shall provide email notice of the hearing to an applicant's agent for service of process and to all persons on DCR's Interested Party Notification List.

F. Clarify DCR's enforcement authority in the following manner:

i. In addition to imposing administrative fines, DCR may suspend or revoke a license, impose stricter license conditions and order corrective action through a Notice of Violation (NOV);

ii. Allow DCR, at its discretion, to reduce administrative fines after considering the following factors: 1) the extent of harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) the

history of past violations; 5) any action taken to mitigate the violation; and 6) the financial resources of the licensee.

iii. Require DCR to consider the following factors before suspending or revoking a license or imposing stricter license conditions: 1) the extent of harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) the history of past violations; 5) any action taken to mitigate the violation.

iv. Remove references to the Administrative Citation Enforcement Program

v. Allow DCR to enter into stipulated agreement with a licensee whereby a licensee acknowledges committing a violation(s) in the NOV in exchange for a negotiated penalty;

vi. Allow DCR to suspend or revoke a license or impose stricter license conditions if, after all administrative appeals have been exhausted, a licensee fails to comply with a NOV.

G. Clarify the administrative hearing process in the following manner:

i. DCR shall select the hearing officer and schedule a hearing within 45 calendar days of receipt of an appeal; DCR and a licensee may mutually agree to extend the time for a hearing; DCR shall give notice of a hearing at least 15 calendar days prior to the date of the hearing; seven calendar days before a hearing, DCR and a licensee shall make pre-hearing submissions to the hearing officer that identify the issues to be determined and the witnesses and other evidence to be offered;

ii. In hearings before an administrative hearing officer, DCR has the burden of proof by the preponderance of the evidence; the hearing officer may accept evidence on which persons would commonly rely in the conduct of their business affairs; the hearing officer may not issue any rulings prior to a hearing; the hearing shall be recorded by audio device; the hearing officer may continue the hearing and request additional relevant information from DCR or the licensee prior to issuing a written decision.

iii. The administrative hearing officer shall use a de novo standard of review; the hearing officer may uphold or reject the violations referenced in the NOV, in whole or in part, and may waive or reduce the administrative penalties in the NOV, after considering the same penalty factors as DCR.

iv. If an appeal is filed, the Commission shall review the hearing officer's decision under a de novo standard of review; it may uphold or reject the hearing officer's findings that a violation occurred and may waive or reduce the administrative penalties in the hearing officer's decisions after considering the same penalty factors as DCR; it may only consider evidence in the record before the hearing officer.

H. Make consistent use of term California Cannabis Arrest or Conviction.

I. Revise the first sentence of Sec. 104.21(c) to read: "DCR may prohibit a Licensee from permitting a Management Company to manage Commercial Cannabis Activity on the Licensee's behalf if:".

J. Require all applicants with Temporary Approval to submit a Cannabis Corporate Responsibility Report.

K. Revise Section 104.08(b) to provide that a completed application accepted by DCR as eligible for Phase 2 processing shall be processed and reviewed pursuant to Section 104.06.

L. Clarify that a business premises inspection for Phase 2 eligibility consists of, but is not limited to, approval of premises diagram, correction of health and safety hazards, and submission of security plan and fire safety plan (if applicable).

2. Request the City Attorney, with the assistance of the Department of Cannabis Regulation, to prepare and present an ordinance that is substantially similar to the model ordinance in Attachment 1 to require all Retailer (Type 10) Licensees and Temporary Approval holders to participate in Los Angeles County's Cannabis Business Emblem Program.

If there are any questions, please contact Michelle Garakian, Assistant Executive Director of the Department of Cannabis Regulation, at 213-978-0738 or by e-mail at [michelle.garakian@lacity.org](mailto:michelle.garakian@lacity.org).

Sincerely,

A handwritten signature in black ink that reads "Cat Packer" with a stylized flourish at the end.

CAT PACKER  
Executive Director & General Manager  
Department of Cannabis Regulation

# ATTACHMENT 1

## MODEL ORDINANCE

### EMBLEM PROGRAM FOR AUTHORIZED CANNABIS STORES

#### A. Findings.

1. Unlicensed and unregulated cannabis stores threaten the health and safety of cannabis consumers by selling products that are cultivated, manufactured, prepared, and processed outside of the regulated cannabis marketplace. These products may be tainted, contaminated, mislabeled, unlabeled, or misbranded, and may cause injury or illness if consumed.

2. Unlicensed and unregulated cannabis stores harm the peace, comfort, and welfare of people who live and work nearby. These stores are more likely to operate outside of proscribed hours of operation, without meeting minimum locational and operational standards, such as parking, lighting, landscaping, and other standards, and may be more likely to sell cannabis in quantities that exceed legal limits and sell cannabis to minors in violation of applicable law.

3. Cannabis consumers should be able to tell whether a cannabis store is unlicensed and unregulated without having to enter the premises and should understand the risks and consequences of shopping at an unlicensed and unregulated cannabis store. This knowledge and understanding will empower consumers to make smart choices to protect their health and safety. Communities will also benefit from a reduction in the number of unlicensed cannabis stores.

#### B. Purpose and Intent.

1. The Emblem Program for Authorized Cannabis Stores (Program) is administered by the County of Los Angeles in partnership with the *[INSERT CITY NAME]* and other participating agencies as a collaborative, cross-jurisdictional effort to deter the operation of unregulated cannabis stores in incorporated and unincorporated areas of Los Angeles County and elsewhere in California. The Program is intended to protect consumers and stop harmful effects caused by unlicensed and unregulated cannabis stores on local neighborhoods and communities by requiring cannabis stores that have received all appropriate licenses, permits, or authorizations from the State of California and participating agencies to display a unique emblem on the store's premises so that it is highly visible to the public from the exterior of the store.

2. The Program is not intended to promote the use, possession, distribution, manufacturing, or cultivation of cannabis or cannabis products, or to engage in any actions that conflict with any applicable local, state, or federal laws.

#### C. Definitions.

1. “Authorized Cannabis Store.” A retailer engaged in the commercial sale of medical or adult-use cannabis to customers at a physical location, provided:

a. The retailer has obtained a Type-10 (Retailer) or Type 12 (Microbusiness) license from the State of California, or a temporary authorization from the State Bureau of Cannabis Control to operate an onsite cannabis retail location or microbusiness with an onsite retail component;

b. The retailer has obtained all licenses, permits, or authorizations required by the [INSERT CITY NAME] and any other local agencies sufficient to allow the store to engage in the sale of medical or adult-use cannabis; and

c. The retailer keeps all applicable licenses, permits, or authorizations current and valid, and remains in good standing to engage in the sale of medical or adult-use cannabis in the [INSERT CITY NAME].

2. “Emblem.” An emblem that conforms to the design requirements specified in subdivision D and issued to an Authorized Cannabis Store by the Program Administrator as part of the Program.

3. “Emblem Placard.” A placard displaying the Emblem and other required information, that conforms to the design requirements specified in subdivision D and issued to an Authorized Cannabis Store by the Program Administrator as part of the Program that notifies the public that the store has received all required state and local licenses, permits, or other authorizations to become an Authorized Cannabis Store.

3. “Memorandum of Understanding.” The Memorandum of Understanding entered into by and between the County of Los Angeles and the [INSERT CITY NAME], among other participating agencies, effective as to the [INSERT CITY NAME] as of the date this ordinance is effective. The Memorandum of Understanding sets forth the rights, duties, and obligations of the County of Los Angeles, the [INSERT CITY NAME], and other participating agencies with respect to the Program.

4. “Program.” The Emblem Program for Authorized Cannabis Stores.

5. “Program Administrator.” [INSERT CITY OFFICIAL], or designee.

D. Emblem—Significance. The Emblem, when displayed on the Emblem Placard in accordance with the provisions of this ordinance, shall serve as notice to the public that the store to which the Emblem Placard was issued is an Authorized Cannabis Store at the time of issuance. The Emblem and Emblem Placard shall not grant any rights or remedies, and shall not be construed as granting any rights or remedies, to any person or entity in possession of the Emblem or Emblem Placard. The Emblem and Emblem Placard may not be sold, assigned, or otherwise transferred, and shall not be removed from the premises of the Authorized Cannabis Store to which the Emblem Placard was issued, except as specified in this ordinance.

E. Emblem Placard—Procedure for Issuance, Posting, Inspection, and Revocation.

1. Issuance. The Program Administrator shall cause an Emblem Placard to be issued to all Authorized Cannabis Stores.

2. Posting.

a. The Program Administrator shall cause the Emblem Placard to be posted at the store's premises so as to be clearly visible to the general public and to patrons entering the store's premises. For this purposes of this section, "clearly visible to the general public and to patrons entering the store's premises" means:

i. Posted in the front window of the store within five (5) feet of the front door or posted in a display case mounted to the outside front wall of the store within five (5) feet of the front door; or

ii. Posted in a location as directed and determined in the discretion of the Program Administrator to ensure proper notice to the general public and to patrons.

b. An Authorized Cannabis Store shall, at its sole cost, make any reasonable modifications to the exterior or interior of its premises that the Program Administrator determines are necessary to accommodate the posting of the Emblem Placard, including but not limited to modifications to lighting, window treatments, coverings, tinting, glazing, and painting, and the mounting of a display case on the exterior of the premises.

c. An Authorized Cannabis Store shall not alter, move, remove, or otherwise modify an Emblem Placard posted at its premises pursuant to this section unless ordered or authorized to do so in writing by the Program Administrator.

4. Inspection. Not less than once per year, the Program Administrator shall cause an inspection to take place at the premises of an Authorized Cannabis Store to ensure the Emblem Placard is displayed in compliance with the provisions of this ordinance. Inspections shall take place during ordinary business hours and may be unannounced. The Program Administrator may conduct an inspection more than once per year if the Program Administrator determines more frequent inspections are necessary to ensure compliance with this ordinance. Inspections may be conducted in conjunction with or separately from other regular inspections.

5. Revocation. Upon a determination by the Program Administrator that a store ceases to be an Authorized Cannabis Store for any reason, the Program Administrator shall immediately issue an order in writing to the store to remove the Emblem Placard from public view and return the Emblem Placard to the Program Administrator, or provide other evidence satisfactory to the Program Administrator that the Emblem Placard has been destroyed. The Program Administrator's determination shall be final and not subject to appeal.

F. Violations.

1. Commencing 90 days from the date this ordinance becomes effective, it shall be unlawful for any person to engage in the sale of medical or adult-use cannabis or cannabis products in the [INSERT

*CITY NAME*] unless it is an Authorized Cannabis Store and displays an Emblem Placard in compliance with the provisions of this ordinance.

2. It shall be a misdemeanor and an unfair business practice subject to criminal and civil enforcement to display or use the Emblem or Emblem Placard, or any placard, symbol, or rendering that is substantially or confusingly similar to the Emblem or Emblem Placard, in connection with any commercial cannabis activity for the purpose of falsely holding oneself out as an Authorized Cannabis Store.

3. [INSERT CITY NAME] and the County of Los Angeles may conduct inspections of any store displaying the Emblem or Emblem Placard, or a substantially or confusingly similar Emblem or Emblem Placard, on its premises, for the purposes of determining whether the store is an authorized cannabis store. The inspections shall be during regular business hours and may be unannounced.

G. Termination of Memorandum of Understanding.

In the event the Memorandum of Understanding is terminated as to the [INSERT CITY NAME], or if the [INSERT CITY NAME] withdraws from the Program, the Program Administrator shall notify all Authorized Cannabis Stores in writing of the effective date of such termination or withdrawal. Not more than 90 days after the effective date of termination or withdrawal, all Authorized Cannabis Stores, and any other person displaying an Emblem Placard, must immediately remove the Emblem Placard from public view and return the Emblem Placard to the Program Administrator, or provide other evidence satisfactory to the Program Administrator that the Emblem Placard has been destroyed.

H. Fees.

[PLACEHOLDER FOR COUNTY/CITY FEE PROVISIONS]