



SOUTHERN CALIFORNIA COALITION

November 25, 2017

The Honorable Los Angeles City Council
200 N. Spring Street
Los Angeles, CA 90012

RE: "Soft Caps" Resulting in Quotas by Community Plan - Council File No. 14-0366-S4

Dear Honorable Members of the Los Angeles City Council:

On November 20, 2017 The REIR Committee approved a number of amendments to the City's proposed cannabis ordinance. A great deal of land which had been approved for cannabis uses was removed¹ Extensive additions to the sensitive uses were added.²

Perhaps the most damaging motion, in terms of land use, was motion 9A (1) passed on October 31, 2017. This motion used the populations in community plans to impose hard caps on the number of cannabis businesses which would be allowed within each community plan. While the language used to describe this plan was "soft caps" in fact the plan is a hard and immovable barrier to the development of the cannabis industry in Los Angeles.

Previous to this motion, the City had carefully calculated available land based on sensitive use set-offs and zoning, which was traditionally how the City imposed organic caps on the number of cannabis businesses the City would accommodate. The additional of caps per community plan was so hastily incorporated that the Department of City Planning states on its website that its maps depicting the number of businesses available in each community plan area do not reflect the land removed or the additional sensitive uses imposed on November 20th.

What this means, is that the City has an incomplete picture of exactly how much land is available for cannabis use under the proposed caps.

Capping by Population Was Never A Mechanism Intended for a Robust Marketplace

Historically, the concept of capping by population was first proposed when only retail dispensaries serving patients were contemplated. It was a way for small municipalities in isolated areas to ensure there were enough facilities to serve residents. Typically the calculation was one dispensary for every 10,000 residents and the expectation was roughly 10% of that population would actually be patronizing dispensaries.

¹ Zoning for the following was removed or restricted: mixed light cultivation was removed as a category, Alameda District Specific Plan Zone, LAX Specific Plan Zone, Port of Los Angeles Community Plan and Sections of the Paramount Pictures Specific Plan Zone were removed. Nurseries were removed from A1 and A2 zones per Motion 9 I.

² "Alcoholism or Drug Abuse Recovery or Treatment Facility was expanded by Motion 9E to include "Permanent Supportive Housing Developments where services are provided on site", retail businesses serving the public cannot abut a day care center, MR1 and MR2 shall not include retail uses, all cannabis businesses must now be 600 feet from schools, Level 2 Manufacturing must now be 200 feet from residential zones.



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Los Angeles, beginning in 2018, will service not only its medical cannabis population, but the recreational market including tourists (44 million in 2016) as well as surrounding towns and counties (Ventura County which shares a border with Los Angeles is largely dry with only one open dispensary/delivery service in the entire county). You cannot take a plan designed for tiny cities which contemplated only dispensaries and impose it on a City of 4 million which is creating a diverse industry encompassing most licensing categories because large cities concentrate populations in areas where you wouldn't want manufacturing or cultivation to take place.

By imposing population caps, you frustrate manufacturing, cultivation, testing and distribution development because the parts of the City best suited to this activity don't have the population numbers required to designate enough licenses for that area.

Population Caps Are A Mechanism Which Materially Cripples The Social Equity Program

The most meaningful reason for abandoning population caps rests with the Social Equity Program. Population caps, zoning, and sensitive uses are components of land use regulation and cannot be waived for a social equity candidate. These mechanisms are meant to regulate land use and thus to be effective, have to apply to all licensees no matter what their status.

The only possible recourse would be variances that run with the land. The City is reluctant to create vested interests. Even if the City did want to issue a variance to a social equity candidate, the fact no one else could qualify for a variance would, sooner or later, spark a lawsuit.

By layering in a population cap on top of existing zoning and sensitive use regulations the Social Equity Program is effectively hobbled because sooner or later every social equity candidate must have land on which to conduct his or her business. Population caps are deadly in this respect because even with a 1:1 ratio issuance of priority licenses to social equity licenses, the social equity licensee is not just looking for a compliant spot, he or she is racing the clock. At any time the quota in his/her business category may have been reached in the community plan area where a candidate is able to lease, and with it the complete inability to achieve licensure.

Tying Population Density to the Number of Licenses Issued Serves as an Automatic Bar to Business Development

Perhaps the most discouraging aspect of tying all retail and non-retail licensing to population density is that it is an insidious method of limiting businesses development. We don't want manufacturing in high density population areas, because that's where a lot of families live. This is precisely the reason for creating manufacturing zones in the first place.

When you tie the number of businesses licensed to population density quotas then layer on zoning and sensitive uses, the number of businesses allowed per population numbers may look substantial on paper but the number of actual businesses that could find a compliant location is actually much less because of the zoning and sensitive use restrictions in a high population area.

At this time, the City has released no maps or figures which show the actual number of licenses available once sensitive uses and zoning are figured into the hard population caps. This means that the City has no idea exactly how many licenses might be available using hard caps rather than its traditional method of zoning combined with sensitive uses.



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Other factors which argue for the abandonment of population caps include but are not limited to:

- Landlords are often reluctant to rent to cannabis businesses.
- Landlords, once they become aware of the scarcity of land, adjust up their rental prices. Population caps will increase already high rental rates.
- The City Attorney's office is still in the process of closing unauthorized dispensaries. Until this process is finished there is no way to determine how much land would be available in each community plan as the result of these closures.
- If the City does not allow retail outlets to service both medical and recreational clients at the same location, licensees will need to double the number of locations they lease.
- The proposed ordinance bans subletting. In areas where the population supports multiple cannabis businesses, but has a shortage of properly zoned land, licensees cannot sublet to adjust for the shortage.

The City has traditionally used sensitive uses and zoning to control the number of cannabis businesses in the City and this has proved to be an effective strategy. To transition to hard caps based on population numbers is unworkable as demonstrated above. The City has released no data on how zoning and sensitive uses would diminish the number of licenses in high population areas and as a result may be needlessly limiting job creation and tax revenues. Hard caps would cripple the Social Equity Program. Council Districts that wished to encourage cannabis manufacturing and cultivation would automatically be stopped from doing so, if the population in their manufacturing districts did not support licensure. For the reasons stated above, we respectfully request that the City abandon a system of hard caps based on population density and return to its traditional method of regulating land use through the mechanisms of zoning and sensitive uses.

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 cannabis legislation is fair, balanced, and inclusive.

If you have any questions or concerns, please contact our Executive Director, Adam Spiker, at (714) 654-1930.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam Spiker".

Adam Spiker
Executive Director
Southern California Coalition