



Date: January 15, 2019

To: Mayor and Members of the City Council

From: Patrick H. West, City Manager 

Subject: **Cannabis Regulatory Program 2018 Year-End Report**

This memorandum provides an update on the cannabis regulatory program in the City of Long Beach (City), including a discussion of the following topics:

- Cannabis business licensing
- Dispensary application expiration policy
- Cannabis tax revenues
- Cannabis social equity
- Enforcement of unlicensed cannabis businesses
- Emerging issues in cannabis policy

Cannabis Business Licensing

To receive a license to operate in the City, a cannabis business must complete the following steps in the application process:

1. Initial application review
2. Building plan submittal
3. Building plan review
4. Facility construction and inspection
5. License issuance

The City began accepting medical cannabis applications on January 23, 2017. Since that time, a total of 540 medical cannabis applications have been submitted to the City. This includes applications for medical cannabis dispensaries, cultivators, manufacturers, testing laboratories, and distributors. Of these applications, 26 have been issued a business license, 51 are under construction, 62 are in building plan review, 155 are pending building plan submittal, 41 are undergoing initial application review, and 205 have been abandoned, closed, or deemed ineligible through the dispensary Priority Point Ranking and Public Lottery Process.

Last year, the City Council approved an ordinance to allow commercial adult-use cannabis activity in Long Beach. The City began accepting adult-use cannabis applications on August 13, 2018. To date, a total of 128 adult-use cannabis applications have been submitted to the City. This includes applications for adult-use cannabis dispensaries, cultivators, manufacturers, testing laboratories, and distributors. Of these applications, 13 have been issued a business license, 11 are under construction, 2 are in building plan review, 5 are pending building plan submittal, 97 are undergoing initial application review,

and 0 have been abandoned or closed. The table below provides a summary of cannabis applications submitted to the City:

Summary of Cannabis Business License Applications (as of December 10, 2018)							
Business Type	Total Apps	Licenses Issued	Under Construction	Building Plan Review	Pending Plan Submittal	Initial App Review	Closed or Ineligible
MEDICAL							
Dispensary	212	14	8	2	8	0	180
Cultivator	101	3	11	21	44	11	11
Manufacturer	115	4	17	21	52	15	6
Distributor	103	2	14	17	50	12	8
Lab Testing	9	3	1	1	1	3	0
Subtotal (Medical)	540	26	51	62	155	41	205
ADULT USE							
Dispensary	21	13	0	0	1	7	0
Cultivator	23	0	1	1	1	20	0
Manufacturer	41	0	8	1	1	31	0
Distributor	40	0	2	0	2	36	0
Lab Testing	3	0	0	0	0	3	0
Subtotal (Adult-Use)	128	13	11	2	5	97	0
TOTAL	668	39	62	64	160	138	205

Many of the cannabis applications are for co-located or vertically integrated businesses. Co-location means that a cannabis business is applying for both a medical and an adult-use business license from the same facility. Vertical integration means that a business is applying for multiple license types (e.g., cultivation, manufacturing and distribution) from the same facility. As a result, the total number of proposed cannabis *facilities* in Long Beach is fewer than the total number of *applications* that have been submitted. Accounting for co-location and vertical integration, a total of 230 cannabis facilities are licensed or moving through the application process. Of these proposed facilities, 24 have been issued a business license, 47 are under construction, 49 are in building plan review, 83 are pending building plan submittal, and 27 are pending application review. The table below provides a summary of proposed cannabis facilities in Long Beach:

Summary of Proposed Cannabis Facilities (as of December 10, 2018)	
Facility Status	No. of Facilities
Issued License	24
Under Construction	47
Building Plan Review	49
Pending Plan Submittal	83
Application Review	27
TOTAL	230

Despite the large number of cannabis applications received by the City, staff anticipates that a significant share of these applicants will withdraw or abandon their application prior to obtaining a business license. This assumption is based upon the high cannabis business failure rate observed in other jurisdictions that have licensed commercial cannabis activity in recent years. Specifically, cannabis businesses frequently struggle with the capital-intensive nature of the industry and the challenges involved with designing and building a cannabis facility to be compliant with California Building Codes. For this reason, staff cautions against equating the current number of pending cannabis applications with the future number of licensed cannabis businesses in Long Beach. In general, applicants that have reached the building plan review or construction phase of the licensing process are much more likely to obtain a business license than applicants in the earlier stages of review.

Dispensary Application Expiration Policy

Pursuant to Measure MM, a ballot initiative approved by Long Beach voters in November 2016, the City is authorized to issue a maximum of 32 medical cannabis dispensary business licenses. Measure MM established a process for ranking dispensary applications and mandated that a Public Lottery be held to determine which businesses and locations would be eligible to receive one of the 32 dispensary business licenses (Priority System). Once selected through the Priority System, businesses must complete the plan check, construction and inspection process to be issued a business license.

The Public Lottery concluded on September 28, 2017. Since that time, a total of 14 medical cannabis dispensaries have been issued a business license. An additional 10 medical cannabis dispensaries are actively moving through the building plan check, construction and inspection process. The remaining 8 medical cannabis dispensary applicants have made little to no progress in obtaining their business license since the date of the Public Lottery.

Chapter 5.90 of the Long Beach Municipal Code (LBMC) is silent with respect to a deadline for dispensary applicants to obtain a business license. However, pursuant to Chapter 5.90.270 of the LBMC, the City Manager has the authority to issue reasonable rules and regulations to implement the requirements of the medical cannabis ordinance. To effectuate the intent of the voters by ensuring patients have sufficient access to medical cannabis in Long Beach, the City Manager's Office intends to use this authority to establish a deadline of October 1, 2020 for medical cannabis dispensary applicants to obtain a business license. After the deadline of October 1, 2020, any medical cannabis dispensary application selected through the Priority System that has not obtained a business license will be deemed null and void.

By October 1, 2020, medical cannabis dispensaries applicants selected through the Priority System will have had more than three years to obtain a medical cannabis dispensary business license, which is more than an adequate and reasonable amount of time to build a retail facility in Long Beach. For comparison, the 14 licensed medical cannabis dispensaries took an average of 13 months to build a retail facility and obtain a medical cannabis dispensary license.

Should any of the medical cannabis dispensary applications selected through the Priority System be deemed null and void, the City will refer to the Public Lottery Pending/Ineligible list to determine which replacement applications will be permitted to proceed through the medical dispensary licensing process. Replacement applications will be selected based upon the order of locations on the Pending/Ineligible list and review of the 1,000-foot dispensary buffer requirement. A copy of the current Pending/Ineligible list is included as Attachment A.

Cannabis Tax Revenues

In Fiscal Year 2018 (FY 18), the City collected a total of \$1.6 million in cannabis revenues. The table below summarizes the amount of revenues collected by business type:

General Fund Cannabis Revenues (Fiscal Year 2018)		
<u>Bus. Type</u>	<u>Tax</u>	<u>Revenues</u>
Cultivation	Sq. Ft. Tax	\$ 565,000
Dispensary	Gross Receipts Tax	\$ 512,000
Manufacturing	Gross Receipts Tax	\$ 1,000
Lab Testing	Gross Receipts Tax	\$ 81,000
	SUBTOTAL	\$ 1,159,000
	<i>Fees & Penalties</i>	<i>\$ 461,000</i>
	TOTAL CANNABIS REVENUES	\$ 1,620,000

The FY 18 Adopted Budget assumed that the City would receive \$5.2 million in General Fund cannabis revenues. This projection was based upon the significant number of medical cannabis applications that the City had received prior to the start of the fiscal year. At the time, staff anticipated that a greater share of cannabis businesses would complete all the appropriate steps to operate in FY 18.

Once licensed, cannabis businesses have remitted taxes to the City in amounts consistent with what was projected at the start of FY 18 on a per-business basis. However, the total number of licensed businesses paying taxes to the City has fallen far short of what was expected by this time.

FY 19 cannabis tax revenues are expected to increase from the FY 18 baseline amount as more cannabis businesses open during the year. The scale of the increase will depend primarily upon how many of the 47 cannabis facilities currently under construction receive a license to operate in FY 19.

Staff will continue to monitor the progress of cannabis applicants, and provide updated cannabis business license tax revenue projections to the City Council through the FY 19 Budget Performance Reports. The Department of Financial Management will also begin reviewing cannabis businesses in FY 19 to ensure proper tax payments over the previous fiscal year. Through these reviews, staff will be able to discern more information about the fiscal performance of cannabis businesses in Long Beach.

Cannabis Social Equity

In August 2018, the City Council approved the cannabis Equity Assistance Program (Equity Program). The Equity Program was designed to support equal opportunity in the cannabis industry by making legal business ownership and employment opportunities more accessible to low income individuals and communities most impacted by the federal criminalization of cannabis. Because the Equity Program was only recently approved by the City Council, the program is still in the early stages of development. Despite the preliminary status of the program, staff has prepared the following update to keep the City Council informed of progress made to date.

- **Equity Program Website** – The City created a cannabis social equity website to serve as a centralized source of information on the Equity Program. The website provides instructions on how to open an Equity-owned business and find a job in the cannabis industry. For more information, visit www.longbeach.gov/cannabisequity.
- **Equity Hire Program** – The Equity Program requires adult-use cannabis businesses to hire Equity employees for a minimum 40 percent of total annual work hours performed at the business (40 Percent Equity Hire requirement). The 40 Percent Equity Hire requirement takes effect one year after issuance of an adult-use cannabis business license. The Office of Cannabis Oversight (OCO) and Workforce Development Bureau (WDB) recently adopted administrative rules and regulations for adult-use cannabis employers to follow when satisfying the requirements of the 40 Percent Equity Hire Program. These regulations can be found on the OCO Rules and Regulations webpage at www.longbeach.gov/cannabis. In addition, the WDB created a Cannabis Equity Employment Registry for prospective employees interested in participating in the 40 Percent Equity Hire Program. The registry can be found at www.lbcannabisjobs.com. The WDB has also begun hosting weekly information sessions for prospective Equity employees. Thus far, 37 individuals have attended these sessions and 18 individuals have submitted documentation to qualify for the program. Beginning in 2019, the WDB will host employer orientations to educate adult-use cannabis businesses on program requirements and to facilitate the hiring of Equity employees.

- **Equity Business Ownership** – The Equity Program grants application benefits to Equity-owned businesses. These benefits include application workshops, fee waivers, expedited application review, expedited facility plan checks, tax deferrals, and business incubation support. City staff worked to ensure that these benefits would be made available immediately upon opening of the adult-use cannabis application process on August 13, 2018. Since that time, the City has verified 7 individuals for Equity Ownership status and held 6 application workshops with Equity business owners. Thus far, none of the verified Equity business owners have submitted a cannabis business license application to the City.
- **California Cannabis Equity Act of 2018** – In September 2018, the State of California approved a statewide cannabis social equity program. The program grants \$10 million in one-time funding to cities that have adopted local social equity programs. Currently, these cities include Los Angeles, San Francisco, Sacramento, Oakland, and Long Beach. City staff met with representatives of the State’s Bureau of Cannabis Control (BCC) in early December 2018 to learn more about social equity grant funds. During this meeting, staff learned that the BCC plans to release an RFP in early 2019 to solicit proposals from cities interested in obtaining social equity program resources. After release of the RFP, staff will update the City Council regarding opportunities to secure social equity grant funds from the State.
- **Community Reinvestment** – Adult-use cannabis businesses are required to submit a community reinvestment plan to the City describing how they intend to support adjacent neighborhoods and communities within eligible social equity program census tracts. The Office of Equity will be responsible for reviewing, approving, and tracking the progress of community reinvestment plans submitted by adult-use cannabis businesses. The Office of Equity anticipates that it will begin to accept community reinvestment plans in mid-2019. This timeline will allow the Office of Equity to establish specific requirements for the program, and for a minimum number of adult-use cannabis businesses to receive a business license and begin operating before engaging with the City on community reinvestment goals.

Enforcement of Unlicensed Businesses

Unlicensed cannabis businesses undermine the regulated cannabis marketplace, pose a health and safety risk to the public, and create a nuisance for neighboring businesses and residents. To mitigate these impacts, the City has prioritized the enforcement of unlicensed businesses as a core component of the cannabis regulatory program. Currently, the City utilizes a team-based administrative enforcement model to shut down unlicensed cannabis businesses. The administrative enforcement model was developed in 2016 following the passage of State and local voter-driven ballot initiatives that decriminalized personal and commercial cannabis activity. The team-based enforcement model utilizes educational, administrative and civil enforcement tools to remove unlicensed cannabis activity from the City. Over the last two years, the City has had notable success enforcing against the illegal cannabis market. The following table summarizes the number of enforcement actions taken by the administrative enforcement team:

No. of Commercial Cannabis Enforcement Cases ('17-'18)					
Lic. Status	Case Type	2017	2018	Total	%
<i>Licensed</i>	Dispensary	1	0	1	1%
	Cultivation	0	1	1	1%
<i>Unlicensed</i>	Dispensary	5	14	19	24%
	Cultivation	31	16	47	60%
	Manufacturing	1	1	2	3%
	Distribution	0	4	4	5%
	Consumption Event	1	2	3	4%
	Consumption Lounge	1	0	1	1%
TOTAL		40	38	78	100%

Since 2017, the City has opened 78 investigations into commercial cannabis activity allegedly violating local and/or State cannabis laws. Approximately 85 percent of all cases were related to two types of illegal cannabis activity – unlicensed cultivation and unlicensed dispensaries. Only 2 of the 78 total cases involved licensed cannabis businesses.

In every case, the City was successful at removing the illegal cannabis activity using the administrative enforcement model. Despite this progress, significant challenges remain in the enforcement of illicit cannabis activity. Specifically, the administrative enforcement model is ineffective at dealing with unlicensed delivery services in Long Beach. Unlicensed delivery services pose unique challenges that require a different model of enforcement. As a result, City staff have engaged in efforts to identify new strategies for enhanced enforcement of unlicensed cannabis businesses. Staff will report back to the City Council with updates on the enforcement of unlicensed cannabis activity as additional information becomes available, including fiscal and operational impact of any additional enforcement models.

Emerging Issues in Cannabis Policy

Since staff last updated the City Council, new issues have emerged in cannabis public policy that could impact the City. The remainder of this memorandum will identify some of the more significant developments to keep the City Council informed of new cannabis policies as they arise.

Cannabis Special Events – In September 2018, the State of California approved Assembly Bill 2020 – Temporary Event Licenses (AB 2020). AB 2020 authorizes the State to issue cannabis temporary event licenses in local jurisdictions that explicitly allow such activity. The temporary event license allows a licensed cannabis event organizer to host a temporary cannabis event where the onsite sale and/or consumption of cannabis goods is permitted. Prior to AB 2020, the State restricted temporary cannabis events to county fairs and district agricultural association events. With the passage of AB 2020, the State will allow other types of venues to host cannabis events, beginning January 1, 2019. Because the City Council has not explicitly authorized cannabis temporary event activity anywhere in Long Beach, the City maintains a ban on all cannabis temporary events.

Following the passage of AB 2020, City staff began to receive inquiries from event organizers interested in hosting cannabis temporary events in Long Beach. Proposed temporary event locations have included the Queen Mary, the Convention Center, the Grand, and other local venues. In response, City staff has made it clear to event organizers that the City maintains a ban on all cannabis temporary events in Long Beach. Barring further action from the City Council, staff will continue to enforce a ban on all cannabis temporary events.

Cannabis Business License Tax Rates – On November 8, 2016, Long Beach voters approved ballot initiative “Measure MA.” Measure MA updated current business license tax rates for medical and adult-use cannabis businesses operating in Long Beach, and set forth the maximum tax rates that the City Council can adopt by ordinance without voter approval. A summary of the tax rates authorized by Measure MA is provided below:

City of Long Beach Cannabis Business License Tax Rates				
Business Type	Medical/Adult-Use	Current	Maximum	Minimum⁽¹⁾
Dispensary	Medical	6%	8%	0%
	Adult-Use	8%	12%	0%
Cultivator	Both	\$12/sq ft	\$15/sq ft	\$0/sq ft
Manufacturer	Both	6%	8%	0%
Testing Laboratory	Both	6%	8%	0%
Distributor	Both	6%	8%	0%

(1) Pursuant to Measure MA, Cannabis businesses are required to pay a minimum flat tax of \$1,000 per year.

When Measure MA was first adopted, fewer jurisdictions in California authorized commercial cannabis activity than do so today. As more cities in California begin to license and regulate cannabis businesses, the tax rates imposed by each jurisdiction will begin to play a larger role in determining where cannabis businesses choose to locate. For this reason, staff has prepared the following table comparing Long Beach cannabis tax rates to other large jurisdictions in California.

COMPARABLE CITIES BY REGION											
City	Pop.	Retail		Cultivation		Manufacturing		Distribution		Lab Testing	
		M	A	M	A	M	A	M	A	M	A
Long Beach	478,561	6%	8%	\$12/sq ft		6%		6%		6%	
Los Angeles	4,054,400	5%	10%	2%		2%		1%		1%	
Santa Ana ⁽¹⁾	338,247	6%	8%	6%		6%		6%		5%	
Pasadena	144,388	4%		\$7/sq ft		2.5%		2%		1%	
Costa Mesa	115,296	6%	N/A	6%	N/A	6%	N/A	6%	N/A	6%	N/A
Carson	93,799	18%		\$25/sq ft		18%		18%		18%	

(1) Square footage tax may apply if gross receipts fall below a minimum amount.

COMPARABLE CITIES BY POPULATION											
City	Pop.	Retail		Cultivation		Manufacturing		Distribution		Lab Testing	
		M	A	M	A	M	A	M	A	M	A
Long Beach	478,561	6%	8%	\$12/sq ft		6%		6%		6%	
San Diego	1,419,845	0%	5%	0%	5%	0%	5%	0%	5%	0%	5%
San Jose	1,051,316	10%		10%		10%		10%		10%	
San Francisco	883,963	0%	2.5 - 5%	1 - 1.5%		1 - 1.5%		1 - 1.5%		1 - 1.5%	
Fresno	538,330	10%		\$12/sq ft		10%		10%		10%	
Sacramento	501,344	4%		4%		4%		4%		4%	
Oakland	428,827	5%	10%	5%	10%	5%	10%	5%	10%	5%	10%
San Bernardino	221,130	6%		\$10/sq ft		4%		3%		3%	
Stockton	315,103	5%	10%	5%		5%		5%		5%	
Santa Rosa ⁽¹⁾	178,488	0%	3%	2%		1%		0%		0%	
Salinas	161,784	5%		\$15/sq ft		5%		5%		5%	
Santa Clara ⁽¹⁾	129,604	5%		5%		5%		3%		3%	
Berkeley	121,874	2.5%	5%	2.5%	5%	2.5%	5%	2.5%	5%	2.5%	5%
Richmond	110,967	5%		5%		5%		5%		5%	

(1) Square footage tax may apply if gross receipts fall below a minimum amount.

As seen in the tables above, Long Beach cannabis tax rates remain competitive with most other large jurisdictions in the State. However, one notable exception is the City of Los Angeles, which charges significantly lower tax rates for non-dispensary business types (e.g., manufacturers, distributors, etc.) than most other jurisdictions in Southern California. Thus far, the discrepancy in rates between Los Angeles and other cities in Southern California has had limited impact on the location of non-dispensary cannabis businesses in the region. This is likely due to fact that the City of Los Angeles experienced significant delays during roll out of its cannabis licensing program through most of 2018. Long-term, however, the difference in non-dispensary tax rates between Los Angeles and other cities in Southern California could influence the location of cannabis businesses in the region.

At this time, staff believes that it would be premature to consider amending local cannabis business license tax rates until more business licenses have been issued in Long Beach. Staff will continue to monitor statewide cannabis business license tax rates, and report back to the City Council as more cities authorize commercial cannabis activity over time.

Should you have any questions, please contact Ajay Kolluri at (562) 570-6406 or via email at Ajay.Kolluri@longbeach.gov.

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ATTACHMENT A

Pending/Ineligible List Updated as of 12/18/2018		
Order	Business Name	Address
1	BRUCE HARKNESS COLLECTIVE	2115 E 10TH ST LONG BEACH CA 90804
2	NICOLE WRIGHT COLLECTIVE	
3	DENNIS KORDICH COLLECTIVE	
4	RYAN BURNS COLLECTIVE	
5	ROSEMARY EVANS COLLECTIVE	
6	MANUEL MIGUELES COLLECTIVE	
7	CASEY CROW COLLECTIVE	
8	FRANK ZIMMERMAN COLLECTIVE	
9	GREGORY AHLRICH COLLECTIVE	
10	JULIO AYORA COLLECTIVE	
11	OSWALD CHAVEZ COLLECTIVE	
12	QUALITY DISCOUNTCANNABIS	1325 HARBOR AVE LONG BEACH CA 90813
13	CASEY CROW COLLECTIVE	5959 CHERRY AVE LONG BEACH CA 90805
14	JULIO AYORA COLLECTIVE	
15	RYAN CAMERON RAYBURN COLLECTIVE	
16	BRUCE HARKNESS COLLECTIVE	
17	GREGORY AHLRICH COLLECTIVE	
18	ROSEMARY EVANS COLLECTIVE	
19	DENNIS KORDICH COLLECTIVE	
20	OSWALD CHAVEZ COLLECTIVE	
21	FRANK ZIMMERMAN COLLECTIVE	
22	RYAN BURNS COLLECTIVE	
23	MANUEL MIGUELES COLLECTIVE	
24	NICOLE WRIGHT COLLECTIVE	
25	CARDINAL POINTS COLLECTIVE	3000 WALNUT AVE LONG BEACH CA 90807
26	FULL BLOOM INC	2119 CURRY ST LONG BEACH CA 90805
27	STARGREEN ENTERPRISES LLC	5660 E PACIFIC COAST HWY LONG BEACH CA 90814
28	ELEVATED EXPERIENCE INC	4401 LOS COYOTES DIA LONG BEACH CA 90815
29	CDAC DEL AMO INC	1940 E DEL AMO BLVD LONG BEACH CA 90807
30	TRUE NORTH COLLECTIVE	3020 WALNUT AVE LONG BEACH CA 90807
31	NICOLE WRIGHT COLLECTIVE	2642 E SPRING ST LONG BEACH CA 90806
32	BRUCE HARKNESS COLLECTIVE	
33	CASEY CROW COLLECTIVE	
34	RYAN BURNS COLLECTIVE	
35	RYAN CAMERON RAYBURN COLLECTIVE	
36	FRANK ZIMMERMAN COLLECTIVE	
37	DENNIS KORDICH COLLECTIVE	
38	GREGORY AHLRICH COLLECTIVE	
39	MANUEL MIGUELES COLLECTIVE	
40	OSWALD CHAVEZ COLLECTIVE	
41	JULIO AYORA COLLECTIVE	
42	ROSEMARY EVANS COLLECTIVE	
43	EVOLIFE 3150 INC	