



Date: February 6, 2020

To: Mayor and Members of the City Council

From: Thomas Modica, Acting City Manager 

Subject: **Update on City Council Request for an Ordinance to Allow for Temporary Cannabis Special Events**

At its December 10, 2019 meeting, the City Council approved the following actions:

1. Request the City Attorney to draft an ordinance and return to the City Council within 60 days to authorize the City Manager to issue local temporary cannabis special event permits, provided that all appropriate criteria for special events are met and that at least 75 percent of the retailers at the event are Long Beach-based at the Queen Mary Events Park; and,
2. Allow the Convention Center to host Cannabis and CBD related trade shows, business to business, that involves the sale of such productions, without consumption.

This memorandum provides a status update for each City Council request.

Request for Ordinance to Allow Temporary Cannabis Special Events

After approval of the City Council motion, staff from the City Manager and City Attorney's Offices began working directly with City departments responsible for permitting and regulating special events in Long Beach to develop a cannabis temporary events ordinance. These departments include:

- Fire – *Fire Prevention Bureau*
- Police – *Patrol Bureau*
- Health and Human Services – *Environmental Health Bureau*
- Financial Management – *Business Services Bureau*
- Development Services – *Building and Safety Bureau*
- Human Resources – *Labor Relations Bureau*

Through this process, staff have identified a number of operational and policy issues, specific to cannabis consumption, which must be addressed before an ordinance can be presented to the City Council. These issues include, but are not limited to:

- **Staff exposure to secondhand cannabis smoke** – Special consideration must be given to the risk of staff exposure to secondhand smoke in and around cannabis consumption areas at special events. While various policies and procedures may be developed to limit this exposure, certain situations may arise where secondhand smoke is unavoidable, such as during emergency situations that require Police and/or Fire Department response in designated cannabis consumption areas.

- **Meet and confer process** – Based upon initial discussions with the Human Resources Department, an ordinance to permit cannabis special events in Long Beach would have an impact on City employee working conditions, due to potential staff exposure to secondhand cannabis smoke. As such, the City has an obligation to notice all impacted employee associations *prior* to approval and implementation of a cannabis special events ordinance, in accordance with Section 3505 of the California Government Code. The City would be further required to meet promptly, and in good faith, upon the request of any employee association, to discuss foreseeable impacts from a cannabis special events ordinance.

Despite this determination, City staff will continue to work diligently toward presenting the City Council with a draft ordinance to allow for cannabis special events in Long Beach. Upon receipt of the draft ordinance, should the City Council decide to move forward with a policy to allow cannabis special events, the Human Resources Department will promptly notice all impacted employee associations and commence the meet and confer process.

The meet and confer process timeline is unknown, and would likely take a minimum of several months to complete. In the event of a stalemate with impacted employee associations during the meet and confer process, additional time would be necessary to conduct the impasse process. These steps must be completed prior to adoption and implementation of a cannabis special events ordinance.

- **State visibility requirements** – The State of California, Bureau of Cannabis Control (BCC) prohibits the designated cannabis consumption area(s) of special events from being visible from any public place or non-age-restricted area. Multiple areas adjacent to the Queen Mary Events Park (identified by the City Council as a preferred venue for hosting cannabis special events) have a direct vantage point into the proposed venue. Because the visibility requirement is enforced by the State, staff have contacted representatives from the BCC to better understand the visibility requirement, and how the regulation may apply to events at the Queen Mary Events Park.
- **Alcohol sales** – The BCC allows for the sale and consumption of alcohol at cannabis temporary events, provided the designated alcohol consumption area is on separate “premises” from the designated cannabis consumption area. While the consumption of alcohol is allowable by the State, the City has the authority to place additional restrictions on the sale and consumption of alcohol at cannabis temporary events, beyond the minimum requirements established by the BCC. Additional regulations may be necessary to minimize the risk of overconsumption at temporary cannabis special events, resulting from the combination of cannabis and alcohol.
- **Types of cannabis consumption** – Unlike alcohol, cannabis may be consumed using different means, including smoking, vaporizing, eating, drinking, and dabbing, which involves heating and inhaling small quantities of concentrated cannabis. Each type of cannabis consumption has a different effect on the consumer, particularly as it relates

to the intensity and length of intoxication. The City Council may wish to prohibit certain types of consumption, such as dabbing, due to the elevated risk of overconsumption by using this method. Additional research will be needed for staff to make an educated recommendation in this area.

- **Cannabis business license tax** – Pursuant to Measure MA, now Section 3.80.261 of the Long Beach Municipal Code, all sales generated from retail cannabis businesses are taxed as a percentage of gross receipts. Licensed retailers in Long Beach are required to remit taxes to the City on a quarterly basis, calculated as a percentage of sales generated over the previous quarter. Financial Management staff will study the feasibility of collecting taxes from cannabis sales at temporary events.
- **Event security** – For most cannabis businesses, securing and maintaining access to banking remains an ongoing challenge due to federal classification of cannabis as a Schedule I controlled substance. As a result, many cannabis businesses continue to rely primarily on cash-based transactions to conduct cannabis sales, which increases the risk of robbery due to the amount of cash on-hand within the business at any given time. To address this problem, the City requires licensed brick-and-mortar cannabis facilities to install safes, security alarm systems, security cameras, and take other necessary precautions to limit the risk of robbery or theft. It is unclear whether similar requirements can be applied to cannabis special events, or if additional regulations will be necessary to minimize the likelihood of theft or robbery.
- **Driving under the influence of cannabis** – Staff is considering rules and regulations to discourage attendees from driving under the influence when leaving cannabis special events. Requirements being considered include warning signs, educational materials, public shuttles, dedicated ridesharing pickup and drop-off locations, and other best practices that are similarly used at special events allowing for the sale and consumption of alcohol. For cannabis, additional requirements may be necessary to minimize the risk of driving under the influence. For example, the intoxicating effects of cannabis can be more delayed, and last longer than alcohol, particularly when consumed as an edible. As a result, the City Council may consider requiring cannabis sales to cease sooner than the one-hour “last call,” which is standard for alcohol events.
- **Special event staffing** – The recent increase in the size and number of special events in Long Beach has placed a significant burden on City departments, in particular the Long Beach Police Department. The authorization of cannabis special events in Long Beach will create new challenges for the Police Department, given current staffing levels and the ongoing reliance on overtime to support these events. Additional Police Department resources will be necessary to provide adequate oversight of cannabis special events.

City staff have begun to develop policy recommendations to address these issues. It is important to note, however, that staff recommendations are intended to minimize risks associated with cannabis special events, not eliminate them. As with special events that involve the sale and consumption of alcohol, some risks (e.g. overconsumption, driving under the influence, etc.) will remain, despite best efforts by City staff to develop regulations to mitigate them.

In addition to soliciting department input, staff from the City Manager's Office have contacted other jurisdictions throughout California that authorize and regulate cannabis special events, including the Cities San Francisco, Oakland, Santa Rosa, and Sacramento, and Counties of Humboldt and San Francisco. Through these discussions, staff have identified best practices adopted by these jurisdictions to address some of the issues identified above. A summary of jurisdictions contacted, and information provided, is included as an Attachment to this memorandum.

As part of its motion, the City Council requested staff to prepare an ordinance for the City Council within 60 days. Unfortunately, due to the complexity of this issue and the significant number of departments involved, staff will not be able to meet the 60-day deadline. At this time, staff anticipates being able to present an ordinance to the City Council within 120 days of the original motion. The additional time will allow staff to fully explore all policy options to regulate temporary cannabis events, in the interest of protecting the health and safety of Long Beach residents, visitors, and City employees.

The 120-day estimate does not include the time necessary to complete the meet and confer process with employee associations. Staff intends to seek input from the City Council on whether to proceed with a meet and confer process upon release of the draft ordinance. Preparing the draft ordinance will allow City staff to identify all potential impacts from cannabis special events that will need to be addressed with employee associations during the meet and confer process.

Request to allow the Convention Center to host Cannabis- and CBD-related trade shows

Pursuant to City Council direction, the City will allow the Convention Center to host Cannabis- and CBD-related trade shows, business-to-business, that involves the sale of CBD products, without consumption. However, it is important to note that state and federal regulations involving industrial hemp and products derived therefrom, including CBD, are currently under development. Until state and federal regulations are clearly established, the City will not be issuing licenses to any business or special events venue specifically for the purpose of manufacturing, distributing, marketing, or selling industrial hemp derived CBD products, including topicals, lotions, etc. It should also be noted that CBD derived from industrial hemp is not permitted in any retail food items, including beverages. Businesses selling these products at the current time do so at their own risk.

Update Request for an Ordinance to Allow for Temporary Cannabis Special Events
February 6, 2020
Page 5

If you have questions, please contact Kevin Jackson, Deputy City Manager, at (562) 570-5028 or via email at kevin.jackson@longbeach.gov.

ATTACHMENT

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ATTACHMENT - California Temporary Cannabis Special Event Comparison Chart

POLICY AREA	CITY AND COUNTY OF SAN FRANCISCO	CITY OF OAKLAND	CITY OF SANTA ROSA	CITY OF SACRAMENTO (CAL EXPO STATE AGENCY)*	HUMBOLDT COUNTY
Number of cannabis special events	<ul style="list-style-type: none"> - One event hosted on public property, Outside Lands in 2019 - Street cannabis consumption event planned downtown in early May 2020 	<ul style="list-style-type: none"> - No events hosted to date - Small scale events planned in February/March 2020 - Two day cannabis consumption event planned in City Hall Plaza in April 2020 	<ul style="list-style-type: none"> - Multiple events hosted on Sonoma County fairgrounds through Temporary Use Permit, including Emerald Cup in 2018 - No events hosted to date on city property through Special Event Permit 	<ul style="list-style-type: none"> - Multiple events hosted at Cal Expo, including Cannabis Cup in 2018 - At least 5 more cannabis events planned at Cal Expo in 2020 	<ul style="list-style-type: none"> - Multiple special events with onsite consumption hosted on private property, including Humboldt County Cup in 2019
Authorization to host cannabis special events	<ul style="list-style-type: none"> - San Francisco Board of Supervisors passed ordinance in March 2019 - Established one year pilot program with option to extend pilot program for additional 2 years - Pilot program only allows 7-8 events per year - Events require Temporary Cannabis Special Event Permit - Adopted separate permit rules and regulations - Later adopted amendment to require local vendors only 	<ul style="list-style-type: none"> - Oakland CC passed ordinance in October 2018 - No more than 12 permits may be issued for the same location or same individual or entity per calendar year - Events require Special Event Permit for Temporary Cannabis Events - Permit regulations unique to each event 	<ul style="list-style-type: none"> - Santa Rosa CC passed ordinance in January 2018 - Events on city property require Special Event Permit - Events on non-city property (including Sonoma County fairgrounds) require Temporary Use Permit - Permit regulations unique to each event 	<ul style="list-style-type: none"> - Sacramento CC passed resolution to authorize one cannabis special event at Cal Expo in May 2018 (Cannabis Cup) - Cal Expo Board of Directors approved policies and guidelines for hosting cannabis special events at Cal Expo in October 2018 - Sacramento CC passed ordinance and resolution to require City authorization to host events at Cal Expo in January 2019 	<ul style="list-style-type: none"> - Humboldt County Board of Supervisors passed ordinance in May 2018 - History of special events in Humboldt County with onsite consumption prior to ordinance approval - Number of events allowed per year and/or location are subject to discretionary permit process
Location of cannabis special events	<ul style="list-style-type: none"> - Events only allowed on public property - Does not prohibit indoor or outdoor events, but pilot program only allows for outdoor events - Cannabis special events temporarily exempt from City smoking ordinance 	<ul style="list-style-type: none"> - Events allowed on public and private property - Events allowed outdoors - Prohibits smoking in places of employment and unenclosed recreational areas 	<ul style="list-style-type: none"> - Events allowed on county fairgrounds, private property and public property - To date, have only hosted events on Sonoma County fairgrounds - Does not prohibit indoor or outdoor events, but prohibits consumption (including vaping) where smoking is prohibited 	<ul style="list-style-type: none"> - Events only allowed at Cal Expo - Events only allowed outdoors, no smoking allowed in any State buildings on Cal Expo grounds - Smoking has been allowed in tented areas 	<ul style="list-style-type: none"> - Events allowed at county fairgrounds, private property and public property - Both indoor and outdoor events permitted
City staff onsite at cannabis special events	<ul style="list-style-type: none"> - City staff onsite at events, including inside consumption areas - Fire staff conducts onsite inspections prior to event, and monitors from observation areas during event - Police patrol transportation areas from outside event - Police do not staff consumption areas, but will enter in the event of an emergency 	<ul style="list-style-type: none"> - Staff perform vendor inspections in consumption area prior to event - No City staff inside of consumption areas during event - Oakland Police Department (OPD) will remain on perimeter during event 	<ul style="list-style-type: none"> - No City staff inside of consumption areas - Police and Fire will enter consumption area in the event of an emergency 	<ul style="list-style-type: none"> - Cal Expo staff onsite at events, but do not enter designated consumption areas - State will request additional staffing from City Police and County Sherriff Department (overtime) - Police will enter consumption area in the event of an emergency 	<ul style="list-style-type: none"> - County staff onsite at events, but do not enter designated consumption areas
State visibility requirements	<ul style="list-style-type: none"> - Must obscure visibility into the consumption area of at least 8 feet - Gated fence or fenced-in buffer area must surround the consumption space to limit overlap with publicly-accessible areas 	<ul style="list-style-type: none"> - Prohibits visibility of consumption area from public right of way 	<ul style="list-style-type: none"> - Consumption areas must be screened off from public 	<ul style="list-style-type: none"> - Consumption area must be located a minimum 600 feet from any simultaneous event at Cal Expo not related to the cannabis special event - Must fence and screen off designated consumption areas to prohibit visibility from outside consumption areas 	<ul style="list-style-type: none"> - Consumption areas cannot be seen from a public place

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POLICY AREA	CITY AND COUNTY OF SAN FRANCISCO	CITY OF OAKLAND	CITY OF SANTA ROSA	CITY OF SACRAMENTO (CAL EXPO STATE AGENCY)*	HUMBOLDT COUNTY
Alcohol sales and/or consumption allowed on separate "premises" at cannabis special events	- Does not prohibit alcohol sales and/or consumption	- Does not prohibit alcohol sales and/or consumption - No applications have yet been submitted that propose alcohol and cannabis consumption at single event	- Does not prohibit alcohol sales and/or consumption if separated by fencing or wall	- Prohibits alcohol sales and/or consumption at events	- Does not prohibit alcohol sales and/or consumption
Types of cannabis consumption prohibited	- Only prohibits dabbing at events	- Does not prohibit any type of consumption	- Does not prohibit any types of consumption	- Does not prohibit any types of consumption	- Does not prohibit any types of consumption
Cannabis business license tax at cannabis special events	- Cannabis sales will be subject to local cannabis tax - Prop D, local cannabis tax, to take effect on Jan 1, 2021	- Cannabis sales subject to local cannabis tax	- Cannabis sales subject to local cannabis tax	- Cannabis sales subject to local cannabis tax	- N/A
Event security	- Event organizer must hire or contract private security personnel and EMS services to be onsite at event	- Event organizer must hire or contract private security personnel and third-party services to be onsite at event	- Event organizer must hire or contract private security personnel to be onsite at event	- Event organizer must hire or contract private security personnel and EMS services to be onsite at event	- Event organizer must hire or contract private security personnel to be onsite at event
Cannabis special events hosted	- Outside Lands in August 2019 - Event on public property, at Golden Gate Park - Office of Cannabis staff onsite at event in 3-4 hour shifts, entered consumption area for maximum of 30 mins, had N-95 masks in possession - Public Health staff onsite at event, but not in consumption area - Police patrolled entrances, exits, and parking areas outside event - Event Organizer had volunteers + private security - Provided shuttle buses for event attendees and monitored traffic of rideshares - Had no service calls during event	- N/A	- Emerald Cup in December 2018 - Event at Sonoma County Fairgrounds - 10,000 event attendees - Event Organizer used parking garages downtown to shuttle event attendees to fairgrounds - Had no service calls during event	- Hosted several events at Cal Expo, State-owned property - Events range from small to large scale events - Had no service calls during event	- Humboldt County Cup & Music Festivals in 2019 - Events on private property - Updated existing special event permits to allow for consumption - Events had limited onsite consumption area - City staff onsite before and during event, but did not stay entire time - Had no service calls during event

**Cannabis special events at Cal Expo require local authorization from the City of Sacramento, but are permitted and regulated by the California Exposition & State Fair (State Agency).*