



Planning & Community Development Memorandum

Release Notes – June 20, 2018

Santa Monica Cannabis Ordinance Rules & Regulations

In accordance with the authority granted under Santa Monica Municipal Code Section 6.200.030, the Santa Monica Cannabis Ordinance Rules and Regulations were re-issued by the Director of Planning and Community Development on June 18, 2018. The newly issued rules are effective June 20, 2018 and supersede the rules issued on December 21, 2017.

The following update was made to Section II (e) (iii) related to Evaluation and Ratings:

- iii. The Facilitator shall prepare a staff report for all applications on the Qualified Application List for the Committee that will accompany each application ~~outlining the 1) summarizing the prior experiences and history of the owners/officers listed in Section B of the Medicinal Cannabis Retailer Selection Application in other jurisdictions where it has operated, 2) information on all persons identified as “responsible” for the activities and owners of the retailer, 3) information on suppliers and testing facilities listed in the application, 4) status of existing operating permits held by the applicant in other jurisdictions, 5) location proposed in the application including verification of any lease arrangements and/or ownership, and 6) photos and summary of observations from any on-site visits that may have been conducted of existing facilities operated by applicant.~~

The section now reads:

- iii. The Facilitator shall prepare a staff report for all applications on the Qualified Application List for the Committee that will accompany each application summarizing the prior experience and history of the owners/officers listed in Section B of the Medicinal Cannabis Retailer Selection Application.



CITY OF SANTA MONICA CANNABIS ORDINANCE RULES AND REGULATIONS

v2.0 Effective: December 21, 2017 (Updated June 20, 2018)

SCOPE AND INTENT

These rules and regulations (“Rules”) established pursuant to Santa Monica Municipal Code Section 6.200.030 shall be followed by commercial cannabis applicants and permittees, and evaluation committee members as applicable. All staff responsible for the administration and/or enforcement of the Cannabis Ordinance must implement and enforce the program in keeping with these rules. These Rules are not intended to be duplicative.

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MEDICINAL CANNABIS RETAILERS

I) Evaluation Committee

- a) The Assistant Director of Planning and Community Development shall serve as the “Facilitator” for the committee, including selecting and assembling the Evaluation Committee (“Committee”). The primary responsibility of the Facilitator is to ensure that the Rules governing the selection process are carried out in a fair manner.
- b) The Facilitator shall not be a voting member of the committee, but may be in attendance to advise and observe during deliberations and interviews with applicants.
- c) The Committee shall consist of a minimum of five (5) members but no more than seven (7), and shall include a mix of individuals, each of which meets at least one of the following criteria, background and/or experience:
 - i. Santa Monica Resident
 - ii. Environmental Sustainability Expertise
 - iii. Retail Business Experience
 - iv. Prior Experience with Cannabis Related Commercial Activities or Municipal Cannabis Regulations and/or Retailer Selection
- d) Committee members must be impartial and be free from any perceived or actual conflict of interest. Impartial shall mean the absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as the maintenance of an open mind in considering issues that one may review. Conflict of interest means one having a financial or personal interest in the proceeding or in a party to the proceeding.

Committee members must complete a Conflicts of Interest form provided by the City.

The Facilitator shall review each potential committee member’s Conflict of Interest Form and may, in his or her sole discretion, disqualify potential

committee members for impartiality or a perceived or actual conflict of interest. After such review and exercise of disqualification authority, the Facilitator shall publish the names of Committee members to each Qualified Applicant.

- e) Any Qualified Applicant shall have 5 business days, from the date of publication pursuant to subsection (e) of this section, to challenge any Committee member, based on impartiality or perceived or actual conflict of interest. The Facilitator shall evaluate any challenge and issue a determination on whether the committee member may continue to serve or be disqualified. If a member is disqualified, the Facilitator may nominate another person to serve in the disqualified person's place if the minimum number of committee members is not met in accordance with subsection (c) of this Section. The Facilitator shall publish a revised list of Committee members to the Qualified Applicants, who shall have 5 business days to challenge the newly nominated member only.
- f) Once all members of the Committee have been confirmed by the Facilitator as described in subsection (f) of this section, the Facilitator shall issue notice to all applicants, the City Manager, and the Director of Planning and Community Development ("Director") that the Committee has been assembled. The Facilitator shall then proceed with implementation of the Competitive Evaluation process.
- g) Upon being selected as a committee member, such member shall have no ex parte communication with any applicant until such time the Competitive Evaluation Process has been finalized. For the purpose of this section, the Competitive Evaluation Process is finalized when two medicinal cannabis retailers have been issued a Preliminary Approval Letter and any appeals have been completed.

II) Competitive Evaluation Process

- a) The Facilitator shall prepare and issue the request for applications, schedule and facilitate all Committee meetings, maintain all minutes of the meetings, prepare the committees report for the Director, and serve as the primary contact for all applicants.

b) Request for Applications

- i. A request for applications shall be issued by the City that requests all information required by SMMC Section 6.201.020, these Regulations, any additional selection criteria or clarifications of selection criteria promulgated by the City, and the City's official application forms.
- ii. The request for applications shall include a form outlining the insurance requirements determined by the City's Risk Manager.
- iii. The request for applications shall be advertised on the City's web site, in a local publication, and at least one cannabis industry publication.
- iv. The application period shall be a minimum of 60 calendar days from the date the request for applications was issued.
- v. The Facilitator shall extend the application deadline by at least 30 calendar days if the City receives fewer than 6 applications at the end of the original application deadline. The Facilitator shall publish the new deadline in the same manner as the original request for applications was issued.
- vi. Applicants shall be required to provide a physical copy of the application for each committee member and the Facilitator, and one electronic copy of the application.
- vii. Applications that are not received by the published deadline shall not be considered, without exception. To be considered "received on time", the application must be hand delivered to the City by 12:00 noon on the posted deadline, or if submitted by the United States Post Office, Common Carrier, or Overnight Delivery Service, with a date that is on or prior to the posted deadline.
- viii. Applications that are "received on time" by the City and are fully complete shall be designated as the "Received Applications".

c) Application Format

Applications shall include, but not be limited to, the following sections:

- i. Company Information - Section shall include, but may not be limited to, information required by Sections 6.201.020 (c) (6), (7), (8), (9), (11), and (12). An Executive Summary must be included with this section that

includes a statement of eligibility detailing how the business satisfies the eligibility and selection criteria. This section must also include a description of:

- 1) Applicant's familiarity with and capability of operating in the City of Santa Monica;
- 2) A description from the applicant on its training curriculum for safe cannabis use;
- 3) Any prior enforcement actions taken by any licensing jurisdiction against the applicant, applicant's parent company, or any principals of the applicant company; and
- 4) Any prior enforcement actions taken against any owner or director for operating without approval from the local jurisdiction.

For the purpose of the application, familiarity with and capability of operating in the City of Santa Monica is defined as one who has actively participated in retail operations in Santa Monica, or has at least 3 years of experience within the last 5 years in one of the following two areas in Santa Monica: 1) operating a business or non-profit; or 2) paid or unpaid experience working with a business or non-profit.

- ii. Ownership Information – Section shall include, but may not be limited to, information required by Section 6.201.020 (c) (1). Each person listed must also be required to include a resume and provide answers to all questions in the City's application concerning each owner.
- iii. Responsible Persons – Section shall include, but may not be limited to, information required by Section 6.201.020 (c) (3). Information must include specific and detailed description of each listed person's relationship with and responsibilities within the proposed retailer.
- iv. Existing and Prior Permits – Section shall include, but may not be limited to, information required by Sections 6.201.020 (c) (4) and (11). Such information must include a list of all current and prior locations, permit numbers or copies of permits associated to those locations. A permit includes business licenses, regulatory permits, health permits, tax certificates, and similar governmental authorizations.

- v. Parent / Subsidiary Information – Section shall include, but may not be limited to, information required by Section 6.201.020 (c) (2). Such information must include the company name, its owners and directors, and locations where the business is organized and licensed.
- vi. Financials – This section shall include, but may not be limited to, information required by Section 6.201.020 (c) (5). Financial statements are defined as income statements, balance sheets, and cash flow statements for the prior two fiscal years of the business. Information must include details on funds proposed to be used to capitalize the business and to fund the new location.
- vii. Background Checks – This section shall include, but may not be limited to, information required by Section 6.201.020 (c) (10). Each person who is required to complete a background check must have completed LiveScan fingerprinting with the City prior to submission of the application and before the application deadline.

d) Selection Criteria

Applications will be reviewed and ranked according to how well the applicant demonstrates his or her effectiveness in meeting the requirements outlined below, consistent with SMMC Section 6.201.010. Greater weight shall be given in the ratings for financial viability and professional experience of the owners and directors outlined in criteria i, ii, and vi below. Each criteria shall be rated on a score of 1 to 10, 1 being extremely unqualified and 10 being extremely qualified.

- i. Experience operating a retail establishment.
- ii. Experience operating a medicinal cannabis retail establishment (i.e. dispensary).
- iii. Experience in cultivation practices, if cultivation is proposed, including sustainability practices.
- iv. Experience operating in a regulated environment.

- v. Prior compliance record with permitting, business licensing, tax/fee payments in other jurisdictions where the applicant currently operates or has ever operated in within the past 10 years.
- vi. Financial viability.
- vii. Proposed community benefits.

e) Evaluation and Ratings

- i. The Facilitator shall prepare a report of all “Received Applications” for the Director outlining the results of the review to determine if applicants are Qualified as defined in SMMC Section 6.201.030.
- ii. All applicants deemed not Qualified shall be issued a notice from the Director informing them of their application status and their appeal rights; those deemed Qualified shall be designated and placed on the “Qualified Applications List”.
- iii. The Facilitator shall prepare a staff report for all applications on the Qualified Application List for the Committee that will accompany each application summarizing the prior experience and history of the owners/officers listed in Section B of the Medicinal Cannabis Retailer Selection Application.
- iv. The Facilitator shall distribute all applications on the Qualified Applications List to Committee members, and assemble the Committee to conduct a “Table Review” evaluation for the applications based solely on the written materials submitted by the applicant and the Staff Report.
- v. The Committee shall rank all applications during the Table Review based on the categories and maximum points established in the request for applications as outlined in these Rules.
- vi. Based on the rankings of the Table Review, the Committee may recommend, by unanimous agreement, that the top ranking applicants be invited for an in-person presentation. If the Committee recommends to the Director an in-person presentation, the Committee

shall unanimously agree to recommend up to three specific topics that each applicant would be required to answer. The responses to each topic shall be rated on a score of 1 to 10, 1 being extremely unqualified and 10 being extremely qualified. The questions may only be used as a means to obtain more details to assist with evaluating the applicants consistent with the selection criteria set forth in these regulations.

The following steps shall also be taken if the committee recommends in-person presentations:

- 1) The Facilitator shall submit the Table Review rankings with recommended questions to the Director for approval. The Director shall review the Committee's rankings, the Staff Report, and the Applications and modify the rankings consistent with his or her review. If the Director determines that the results of the Table Review are sufficient to make a selection, the Director may deny the Committee's request for in-person presentations and move immediately to the Selection Process set forth in these Regulations.
 - 2) Should the Director determine that in-person presentations would assist in the selection process, the four applicants receiving the highest Table Review scores shall be invited for an in-person interview with the Committee. The Director may include more than four applicants to be interviewed, if the Director finds that the scores of any lower ranked applicants are not materially different from the fourth ranked applicant.
 - 3) The Facilitator shall be responsible for scheduling, arranging, and preparing all materials for any in-person interviews.
 - 4) At the conclusion of the in-person interviews, the Committee shall award points based on the approved questions.
- vii. The Facilitator shall compile all ratings of each Committee member for the Table Review and any in-person presentations and prepare a staff report for the Director outlining the results of the evaluation process,

and the feedback from the Committee members concerning the qualifications and rankings of the Qualified Applicants.

III) Selection Process

- a) The Director may request additional information from the Committee as part of the review of the staff report, and may change the rankings based on his or her independent review of the entire application record.
- b) At the direction of the Director, the Facilitator shall prepare the final rankings for approval and publishing.
- c) The Director shall certify and publish the final rankings.
- d) The Facilitator shall provide each Qualified Applicant with the results of the certified rankings.
- e) Upon completion of the appeal period or final administrative ruling on any appeals, the Director shall select the top two ranked applicants. If there is a tie for one or both of the top two spots, the final decision shall be made by lottery.
- f) In the event of a lottery as described in paragraph e, above, the Facilitator shall serve as the Lottery Proctor. The applicants who are part of the lottery shall be notified of the date and time the lottery will take place and must attend the lottery. The Facilitator shall place the names of each applicant on a 3 x 5 card ("Lottery Card"). The Lottery Cards will then be shown to each of the applicants participating in the lottery. At no time may any person other than the Facilitator have control of the container or the Lottery Cards. The Facilitator shall fold the cards in half and place them in the container. The Director shall then draw the card from the container for any slot that is subject to the lottery. The name shall be read aloud. The results of the lottery are final.
- g) The Facilitator shall document the results of the lottery by amending the certified rankings to account for the results of the lottery.

- h) Based on the final rankings, the Director shall certify and publish the selection of the top two ranking applicants, and issue Preliminary Approval Letters.

IV) Business License and Permit Application Requirements

A business license shall not be issued to any medicinal cannabis retailer until such time they have provided the following documentation to the City.

- a) Completed statement on a form approved by the City stating that there are no changes to the facts presented in the applicants application; or if there are changes, a statement outlining each specific change and how each such change meets the City's requirements.
- b) Proof of California State M Type 10 Retailer or M Type 12 Microbusiness Permit
- c) Proof of California State M Type 2 Cultivation Indoor-Small Permit if the Retailer will Include Onsite Cultivation
- d) Proof of Valid County Health Permit (if Required)
- e) Proof of Valid Seller's Permit
- f) Approved Compliance Report Issued by Code Enforcement
- g) Proof of Insurance Endorsement
- h) Copy of the final version of the security procedures accepted by the state.
- i) Completed Acknowledgement form from Building Owner
- j) Any other documents required by law or regulation

V) Background Check Standards

- a) For the purpose of the background review, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere ("No Contest").
- b) An applicant shall be fingerprinted and undergo a background check by the Santa Monica Police Department who will provide the results of the findings to the committee Facilitator.

- c) The city may deny, suspend, or revoke a permit for any of the following:
- i. Any person associated with the application has made one or more false or misleading statements, or omissions on the application or during the application process.
 - ii. Failure to provide information required by the City.
 - iii. The applicant, owner, officer, director, or manager has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.
 - iv. The applicant, owner, officer director or manager has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, including but not limited to having had a cannabis related license or permit suspended or revoked in the three years immediately preceding the date of filing of the application.
 - v. Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
- d) For the purpose of sub-section c, Section 5017 of Chapter 1 of Title 16 Division 42 of the California Code of Regulations shall be the standards for determining substantially related.

VI) Permit Conditions

A retailer must comply with the following permit conditions:

- a) Each retailer, including its owners, officers, managers and employees, are individually and jointly responsible for complying with all applicable state and local laws and regulations.
- b) Each retailer, including its owners, officers, and managers, is responsible for ensuring that all employees complete background checks, with approval from the Santa Monica Police Department prior to beginning employment. Retailers must maintain copies of each employee's approval at the retail

location site and make it available for inspection by any authorized enforcement officer.

c) Each retailer shall post the following warning notices in a conspicuous manner at an entrance or at a point of sale as to make it likely to be read and understood by a customer of the retailer. Signs must be 30-point type or larger and must include the word “WARNING” in all capital letters.

i. Pregnancy Warning

WARNING

According to the California Department of Public Health, consuming cannabis can affect the health of your baby and is not recommended for women who are pregnant or breastfeeding, or who plan to become pregnant soon.

ii. Concentrates Warning

WARNING

According to the U.S. Centers for Disease control and Prevention, vaporized and concentrated cannabis can have a lot more THC, which increases the risk of poisoning; and vaporizing cannabis may expose you to toxic substances

- d) Each retailer must provide training to all employees on safe cannabis use consistent with any guidelines provided by the California Department of Public Health, including consuming edibles safely, risk associated with concentrates, and the risk to a baby from cannabis use by pregnant and breastfeeding women.
- e) Each retailer must comply with the written security procedures submitted to and approved by the City.
- f) An on-site supervisor must be present at all times that the retailer is open to the public for operation.
- g) The retailer must identify a liaison to Police and Code Enforcement for both regular businesses hours and after hours.

[end]