



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

SACHI A. HAMAI
Chief Executive Officer

Board of Supervisors
HILDA L. SOLIS
First District
MARK RIDLEY-THOMAS
Second District
SHEILA KUEHL
Third District
JANICE HAHN
Fourth District
KATHRYN BARGER
Fifth District

April 7, 2017

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Hilda L. Solis
Supervisor Sheila Kuehl
Supervisor Janice Hahn
Supervisor Kathryn Barger

From: Sachi A. Hamai
Chief Executive Officer

REPORT ON BEST PRACTICES FOR CANNABIS REGULATION AND LICENSING (FEBRUARY 7, 2017, AGENDA ITEM NO. 9)

On February 7, 2017, your Board directed the Chief Executive Office/Office of Marijuana Management (OMM) to provide your Board with a summary of best practices and lessons learned from jurisdictions which have legalized commercial cannabis activities.

OMM staff has discussed best practices and regulatory challenges with officials, experts, and policymakers from the Cities of Denver, Portland, and Seattle, the States of Colorado, Washington, and Alaska, and other jurisdictions where commercial cannabis is legal. These officials, experts, and policymakers have generally identified the following areas as requiring careful and thoughtful consideration while preparing a comprehensive regulatory framework for cannabis:

- Protecting children, consumers, workers, communities, and the environment;
- Tax considerations; and
- Data collection.

Best practices, lessons learned, and unique challenges for each of these areas are discussed below.¹ This memorandum also discusses various regulations and practices

¹ Each of the issues, best practices, and lessons learned described in this memorandum are based on the experiences of other jurisdictions with different economic, social, and population dynamics than Los Angeles County. The experiences of other jurisdictions should be considered instructive only, and not necessarily a blueprint for the County's commercial cannabis regulations.

"To Enrich Lives Through Effective And Caring Service"

**Please Conserve Paper – This Document and Copies are Two-Sided
Intra-County Correspondence Sent Electronically Only**

the County could utilize to address the many concerns associated with legal commercial cannabis.²

Protecting Children

A chief concern for regulators confronting legal recreational cannabis is protecting the health and safety of youth. Strategies for ensuring the County's youth are not unduly exposed to cannabis, and understand the risks of consuming cannabis, include:

- Implementing aggressive and targeted education, prevention, and intervention programs aimed at deterring substance use among youth.
- Monitoring cannabis industry advertising, and implementing strict advertising restrictions to prevent direct and incidental marketing of cannabis products to youth. While AUMA limits cannabis advertising to media with at least 70 percent audience share over the age of 21, and prohibits the use of cartoon characters and similar elements in advertising, the County may need to consider additional, more restrictive regulations to curb advertising and marketing that has a demonstrated potential to increase youth consumption. At the same time, the County's authority to restrict advertising and marketing generally extends to unincorporated areas and County-owned property only. Cooperation with the State, other cities and counties, and agencies in the region, such as school districts, will be essential to ensure any negative youth impacts are addressed through appropriate advertising and marketing rules.
- Adopting zoning rules which establish minimum buffers between cannabis businesses and places where children are likely to be present in large numbers. By default, AUMA prohibits cannabis businesses from locating within 600 feet of schools, day care centers, and youth centers. However, local jurisdictions may require a buffer of more or less than 600 feet and may also identify other places

² Proposition 64 (Adult Use of Marijuana Act) (AUMA) provides for State oversight of certain aspects of commercial cannabis. For example, State licensing authorities are expected to establish baseline regulations for packing, labeling, testing, distributing, and selling cannabis and cannabis products. In most cases, it is expected that local jurisdictions will have the ability to implement stricter regulations than those imposed by the State. However, the State has not yet published draft regulations for commercial cannabis activities. Therefore, it is unknown at this time whether, and to what extent, County regulations will be preempted by State rules. While this memorandum identifies best practices and regulations that the County is expected to be able to implement at the local level, such best practices and regulations may not be possible, depending on the rules ultimately adopted by the State.

subject to a minimum buffer, such as parks. However, officials from Portland, Oregon, indicated that large buffers may have the unintended consequence of driving cannabis businesses into a limited number of areas, resulting in disproportionate impacts. Determining the appropriate distances from schools, day cares, and other sensitive uses is one of the most critical components of a regulatory program for cannabis and will be carefully evaluated by the County Regional Planning Department and the Regional Planning Commission, with input from other affected departments and communities.

- Implementing education campaigns for parents who consume cannabis to encourage safe consumption and storage practices that reduce the risk that a child will be exposed to, or accidentally consume, a cannabis product.

Protecting Consumers

Protecting consumers from harms associated with the consumption of cannabis products is of paramount importance. Adulterated, mislabeled, and contaminated products can cause illness and injury. Cannabis consumption also has documented health effects about which consumers should be aware. Although State agencies, including the State Departments of Consumer Affairs, Public Health, and Food and Agriculture, will develop and implement State regulations to protect cannabis consumers, additional protections can be applied at the local level, including:

- Implementing a local “track and trace” system to monitor the movement of cannabis products “from seed to sale.” This system should include a mechanism for communicating with the systems used by the State and other cities.
- Establishing local authority by the County Public Health Department (Public Health) to initiate actions in response to emerging concerns, such as issuing recalls of contaminated products and excluding or restricting ill employees from working at cannabis facilities.
- Ensuring an adequate number of licensed testing labs and adequate oversight of testing lab results. In Oregon, the state agency charged with accrediting testing labs was unable to keep pace with the volume of applications, resulting in a supply chain bottleneck, a shortage of cannabis products, and concerns about consumer safety. The County should coordinate with local cities to ensure there are a sufficient number of licensed testing labs to keep pace with market demand for cannabis products.

- Educating consumers on safety and legal considerations when consuming cannabis products, as well as associated health risks. “Good to Know Colorado” (<https://goodtoknowcolorado.com/>) is an example of a program with resources geared towards specific audiences, including parents, pregnant women, and tourists. The County should implement a similar campaign locally to educate residents about such safety and legal considerations.
- Requiring that licensed retailers display a standard emblem visible from outside the business, combined with an education campaign alerting consumers about the importance of shopping at licensed businesses only. Such a program would enable consumers to confirm that a given cannabis business is licensed and empower consumers to “vote with their feet” by patronizing licensed retailers only. The restaurant letter grade program operated by Public Health’s Division of Environmental Health is an example of a similar concept.

Protecting Workers

Cannabis cultivation and extraction present unique hazards to onsite workers and County employees involved in the inspection and licensing of these activities. Some efforts other jurisdictions have implemented to address these hazards include:

- Training County employees on common occupational hazards in the cannabis industry and methods for minimizing risk, including the proper use of personal protective equipment.
- Educating businesses and requiring hazardous waste management plans to ensure proper handling, storage, use, and disposal of hazardous materials in compliance with all laws.
- Aggressively enforcing building and fire code requirements to ensure adequate functioning of life safety systems, such as fire suppression, gas detection, ventilation systems.
- Requiring security measures and emergency procedures, such as panic buttons, safe rooms, and 24-hour video monitoring accessible to local law enforcement via direct internet link.

Protecting Communities

During your Board's meeting on February 7, 2017, your Board expressed strong concerns about the potential for cannabis businesses to over-concentrate in any one community. Some strategies other communities employ to prevent overconcentration include:

- Limiting the number and density of cannabis retailers. Numerical limits may be countywide and/or within smaller geographic units (e.g., supervisorial districts or census tracts). Limits would prevent an overconcentration of licensed businesses in any one community. However, artificial or poorly considered limits could incentivize the continued operation of unlicensed businesses to serve market demand. For this reason, any numerical limits should be closely studied.
- Limiting cannabis businesses to certain zones to avoid incompatible land uses. Many jurisdictions limit cultivation and processing to industrial zones, with testing and retail also permitted in some commercial zones.
- Requiring operational standards to prevent nuisance impacts from cannabis retailers. These may include limits on the hours of operation, the use of on-site security guards, signage limitations, and prohibitions against loitering. Other requirements may include implementation of an odor management system, and façade and frontage design standards to ensure businesses are compatible with existing development and to allow law enforcement to see inside the businesses, which tends to deter crime.
- Pursuing aggressive enforcement actions to shut down unpermitted cannabis businesses, which unfairly compete with the licensed industry.

Protecting the Environment

Environmental and sustainability concerns surround new regulatory programs for commercial cannabis. Cannabis cultivation can be resource intensive, especially indoor cultivation, which uses large amounts of electricity. Although AUMA requires State agencies to regulate certain impacts on lands and surface waters, mostly associated with large-scale outdoor cultivation, the County can adopt additional requirements to address environmental and resource concerns, including:

- Requiring cannabis cultivation businesses to minimize water and energy use, and to use renewable energy, recycled water, and similar technologies whenever

feasible. OMM staff is exploring how such requirements could be integrated with the County's ongoing sustainability initiatives and policies.

- Providing technical assistance regarding sustainability to the industry, including workshops and publications developed in partnership with industry, utilities, and academia.
- Supporting the development of a voluntary certification program for cannabis producers who adopt sustainable practices.

Tax and Fee Considerations

Because of the newness of regulatory programs for commercial cannabis and the near universal presence of unlicensed cannabis businesses, taxes and fees imposed on new cannabis businesses should balance revenues with the need to incentivize the transition from unregulated and illegal markets to the legal, regulated marketplace. In this regard, lessons learned from other jurisdictions include the following:

- Tax rates must be carefully calibrated to avoid encouraging illegal market activity. Excessively high tax rates risk inhibiting the transition from an unregulated market to a legal, regulated market. Local policymakers must be mindful of the cumulative tax burden (e.g., combined State and local taxes and separate taxes on cultivation and retail), as well as tax rates in surrounding jurisdictions. At the same time, taxing too little could result in new regulatory costs which are not offset by new revenues. Further study will be required to calculate the optimal tax rate for Los Angeles County.
- Complex tax structures have proven difficult to implement and enforce. Washington State initially adopted a three-tier tax structure for recreational cannabis with cultivation, processing, and retail each taxed separately. After officials reported difficulties collecting taxes at multiple points in the supply chain, the three-tier structure was replaced with a single excise tax imposed at time of retail sale.
- Local governments should use conservative assumptions when forecasting and allocating initial tax revenues. Experience in other jurisdictions has shown that the "ramp up" for commercial cannabis sales could take several years.
- Permitting and license fees should be set at a level that ensures full cost recovery for ongoing inspections and other regulatory oversight.

Data Collection and Monitoring

Jurisdictions that have adopted regulatory programs for commercial cannabis have highlighted the need to establish a data baseline and track data on diverse aspects of cannabis, including public health, economic impacts, crime, and permitting agency activities. Appropriate data collection is essential for officials to evaluate the effectiveness of policies and programs over time, and to recalibrate when needed. The OMM has begun to meet with departments to identify key data metrics, distill existing data baselines, and design a comprehensive data collection and analysis program for cannabis in Los Angeles County.

If you have any questions or concerns regarding this matter, please contact Joseph M. Nicchitta of the Office of Marijuana Management at (213) 974-4530 or jnicchitta@ceo.lacounty.gov, or Max Thelander of the Office of Marijuana Management at (213) 893-0443 or mthelander@ceo.lacounty.gov.

SAH:JJ:JMN
MT:rld

- c: Executive Office, Board of Supervisors
- Agricultural Commissioner/Weights and Measures
- Consumer and Business Affairs
- County Counsel
- District Attorney
- Fire
- Public Health
- Regional Planning
- Treasurer and Tax Collector