



Legislation Text

File #: 21-0609, **Version:** 2

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Section 5.92.030, Subsection 5.92.455 d.4, Section 5.92.860, Section 5.92.870, Section 5.92.1610, Subsection 5.92.1620, Section 5.92.1630, Section 5.92.1640, and by renumbering Divisions VIII through XI; by adding Division VII; and by deleting Section 5.92.880; all relating to Shared-use Cannabis Manufacturing in the City of Long Beach, read and adopted as read. (Citywide)

On January 5, 2021, the City Council directed staff to prepare an Ordinance to allow shared-use cannabis manufacturing in Long Beach and include a priority licensing process for verified equity applicants. In addition to the shared-use manufacturing Ordinance, the City Council requested staff remove “is a Long Beach resident currently receiving unemployment benefits” from the Cannabis Social Equity Program’s eligibility criteria. Using recommendations from the City Manager’s Office and City departments, the City Attorney’s Office has prepared an Ordinance with the requested changes.

In 2018, the California Department of Public Health (CDPH) issued regulations for a shared-use manufacturing license, which allows license holders to conduct manufacturing operations out of a shared-use facility. Shared-use cannabis manufacturing operators are limited to the following activities:

- Infusing cannabis concentrates directly into a product;
- Packaging and labeling of cannabis products; and,
- Extracting the essential oils from the cannabis plant, using butter or food-grade oil.

Under State law, shared-use manufacturing facilities have a primary cannabis manufacturer licensee (Principal Licensee) and shared-use manufacturing operator licensee(s) (Operator Licensees) at the facility. The Principal Licensee is a medical and/or adult use cannabis manufacturer that has been approved to operate their licensed manufacturing premises as a shared-use facility. Operator Licensees are manufacturers that rent out or use the Principal Licensee’s facility to conduct manufacturing operations.

The Long Beach Municipal Code (LBMC) currently allows for the licensing and regulation of cannabis manufacturing facilities; however, each licensed location is limited to one operator conducting manufacturing activities at the licensed premises. The shared-use manufacturing

license will allow for multiple cannabis manufacturers to operate out of a single space, similar to a shared-commercial kitchen, whereby multiple businesses can rent a single facility, at separate times, to prepare their products for consumers. The advantage of this license type is that it provides small start-up businesses the opportunity to manufacture products, without having to invest significant up-front capital to construct a facility. In addition, due to the low-intensity nature of shared-use activities, these operations do not have any land use impacts beyond the existing manufacturing license types already permitted in eligible zones.

The addition of this license type helps to expand the goals of the City's Cannabis Social Equity Program (Equity Program). The program was developed to help provide communities impacted by federal cannabis drug enforcement policies (also known as the War on Drugs), an opportunity to benefit from the growth of the newly legalized cannabis industry through employment and ownership opportunities. To qualify for the Equity Program as an equity business owner, an individual must meet the criteria to qualify as an equity applicant as outlined in LBMC Chapter 5.92.1520 and hold at least 51 percent ownership in a cannabis business.

For equity applicants, the shared-use manufacturing license type provides a viable pathway to licensure with a much lower barrier to entry than other cannabis license types currently available in Long Beach. In addition, this license type allows existing cannabis manufacturing facilities in the city to rent their space out to other small businesses, including equity applicants.

As directed by the City Council, the proposed Ordinance includes a priority licensing process for verified Equity Program applicants. This licensing process will require updates to the City's licensing system to accommodate the shared-use manufacturing license type and equity verification processes. The following discussion identifies some of the key provisions that are included in the proposed Ordinance for shared-use manufacturing:

Existing State regulations. The proposed Ordinance reaffirms existing State laws and regulations for shared-use cannabis manufacturing facilities and operators. In addition to State regulations specific to shared-use manufacturing, shared-use manufacturing operators must also comply with regulations for any cannabis manufacturing activities. The inclusion of State requirements in the proposed Ordinance will strengthen the City's ability to enforce statewide standards for shared-use manufacturing activities. The Ordinance includes regulations for operating conditions, cannabis waste disposal, product recalls, facility

modifications, and occupancy schedules.

Priority Licensing for Equity applicants. The proposed Ordinance prioritizes equity applicants in the shared-use manufacturing application process. Applications for shared-use manufacturing operator licenses will only be accepted from verified Equity Program applicants for a period of 1 year, or until 15 licenses have been issued, whichever occurs sooner. In their sole discretion, the City Council may extend the timeframe for accepting Equity Program applications. The one-year period will start on the date the City begins accepting applications for shared-use manufacturing operator licenses. After the deadline for Equity Program licensing has passed, the application process will be opened to all qualified equity and non-equity applicants.

This priority licensing process lowers the barriers to the shared-use manufacturing market for Equity Program applicants by lowering competition in the cannabis manufacturing space in Long Beach. The priority licensing process also reduces the risk for predatory practices against Equity Program applicants by not placing a cap on the number of available licenses. Placing a temporary or permanent cap on the number of available licenses without a defined sunset date could increase predatory agreements and unfair business practices by individuals seeking to partner with Equity Program applicants, who would otherwise not qualify for a business license without that partnership. To reduce these risks, licenses should be made available to all applicants, regardless of equity status, similar to other non-retail cannabis licenses in the city.

Designated and common use areas. The proposed Ordinance reaffirms State regulations that each shared-use facility has designated areas for Operator Licensees that are exclusive to the Operator Licensee and common-use areas that can be used by all licensees in the facility separately during their designated time. Principal Licensees may conduct manufacturing activities as permitted by their medical and/or adult-use manufacturing licenses and may use the common use area during their scheduled time period.

Enforcement. The proposed Ordinance outlines the responsibility of the Principal Licensee and Operator Licensee(s) for violations found at the facility. The Principal Licensee and/or Operator Licensee (s) may be deemed responsible for a violation of any provision in the Ordinance at the facility. Pursuant to the Ordinance, the City can pursue various administrative, civil, and criminal remedies for noncompliance with the LBMC.

Removal of Eligibility Criteria for Cannabis Social Equity Program

In addition to the proposed Ordinance, the removal of unemployment benefits as an eligibility criterion for the Equity Program has been removed to qualify as an equity business owner but will continue to remain in effect for an equity applicant to qualify as an equity employee, as defined by LBMC Chapter 5.92.1520. If this criterion were to be removed to qualify for equity employment, the pool of available equity employees would significantly decrease, which would impact the requirement for all adult-use cannabis businesses to have equity employees performing 40 percent of the work hours at the business.

This matter was reviewed by Deputy City Attorney Arturo Sanchez on June 17, 2021, and by Budget Manager Grace H. Yoon on June 18, 2021.

City Council action is requested on July 6, 2021, to ensure timely amendment to the LBMC. Implementation of the proposed Ordinance is anticipated to take three months, given the technology upgrades that are necessary to the City's licensing system. Changes to the City's administrative application and permitting process are also necessary to administer a licensing process that prioritizes Equity Program applicants.

The recommendation will result in a one-time cost of \$25,000 to update the City's licensing system to accommodate the shared-use manufacturing license type and equity verification processes. An appropriation increase of \$25,000 is requested in the General Fund Group, offset by funds available, if available at the end of the year, or more likely from a drawdown of the operating and/or emergency reserve. The Adopted FY 21 Budget already anticipated the need to draw down on reserves to balance the budget and fully fund both structural and one-time costs, inclusive of Measure MA revenues. Any additional expenditures added during the year that are not offset will be adding to the shortfall and the need to use reserves. This cost cannot be funded with cannabis equity revenues, which are generated from adult-use businesses being charged a fee for the Equity Hire Program and Community Reinvestment Program and must provide a service to adult-use businesses to meet the requirements of the Cannabis Social Equity Program.

It is anticipated that this new license type will result in additional costs for implementation, which will be offset from an increase in business license tax revenues from shared-use manufacturing operators. However, it is unclear how much revenue will be collected from these operators. Shared-use manufacturing operators will be charged the same tax rate of 1 percent of gross receipts, similar to other medical- and adult-use cannabis manufacturing facilities. Revenues from this new license type will not be realized until businesses are

licensed and operating, likely beginning in FY 22. Staff will monitor these additional revenues and anticipated costs and factor that into future projections. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. The number of additional local jobs associated with this recommendation is unknown.

Approve recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTION 5.92.030, SUBSECTION 5.92.455 D.4, SECTION 5.92.860, SECTION 5.92.870, SECTION 5.92.1610, SUBSECTION 5.92.1620, SECTION 5.92.1630, SECTION 5.92.1640, AND BY RENUMBERING DIVISIONS VIII THROUGH XI; BY ADDING DIVISION VII; AND BY DELETING SECTION 5.92.880; ALL RELATING TO SHARED-USE CANNABIS MANUFACTURING IN THE CITY OF LONG BEACH

THOMAS B. MODICA
CITY MANAGER