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City of Lancaster
Administrative Policies and Procedures
for
Commercial Cannabis Facilities

1. OVERVIEW

Ordinance Nos. 1019, 1053 and 1083 (codified at Chapters 5.56 and 17.43 of the Lancaster Municipal Code (“LMC”)), establish a comprehensive set of regulations allowing cannabis cultivation, manufacturing and distribution facilities within the City.¹ Any person seeking to establish or operate a commercial cannabis facility within the City must obtain prior approval from the City before commencing operations. These Policies and Procedures are intended to provide a clear process for obtaining approval of a commercial cannabis facility in the City. To the extent of any inconsistency between these Policies and Procedures and the Ordinance, the Ordinance shall control. Words and phrases used in these Policies and Procedures shall have the same meaning ascribed to them in the Ordinance, unless specified otherwise herein.

1.1 Required City Approvals

The City requires all commercial cannabis facilities within the City to obtain a license pursuant to LMC Chapter 5.56 and conditional use permit pursuant to LMC Chapter 17.43 in addition to any other generally applicable permits, licenses or approvals that are required of businesses that operate in the City. The cannabis license is in lieu of the general business license required pursuant to LMC Chapter 5.04. Depending on the specifics of the proposed cannabis facility, other permits or approvals that may be required include building permits, sign permits, and design review. A separate license and conditional use permit are required for each proposed location.

A proposed cannabis facility shall submit applications for a license and conditional use permit at the same time, unless the license application is for a facility at a location for which a conditional use permit has previously been approved. A qualifying conditional use permit will not be heard by the Planning Commission until after the license has been provisionally approved. A license must be renewed annually.

1.2 Allowable Types of Cannabis Businesses

The Ordinance allows, subject to the requirements of LMC Chapters 5.56 and 17.43 and all other applicable state and local laws and regulations, medicinal and/or adult-use cannabis cultivation, manufacturing, and/or distribution facilities to be operated within the City. The Ordinance allows operation of indoor and/or mixed-light cannabis facilities. An approved cultivation or manufacturing facility may transport its own cannabis and cannabis products to other licensees with a state “Type 11” license; however, notwithstanding that the state authorizes a Type 11 licensee to transport other licensees’ cannabis and cannabis products, a facility licensed in the City may only transport its own cannabis and cannabis products. A stand-alone distribution facility may transport cannabis and cannabis products in accordance with state requirements and restrictions.

Any person who desires to open a commercial cannabis facility in the City should ensure that the proposed location of the use satisfies the City’s locational restrictions, including the zone limitations and distance requirements set forth in LMC Section 17.43.110, prior to filing an application package for a

¹ Although retail sales and delivery were included as permissible activities in the most recent ordinance, pursuant to Resolution No. 21-20, no retail or delivery facilities will be approved until/unless the City Manager is so directed by the Mayor.

license and conditional use permit. A potential applicant should also ensure that the proposed location will be serviced with adequate energy and water necessary to maintain commercial cannabis activities.

The Ordinance also authorizes state-licensed testing labs to operate in the City with a general business license.

1.3 Fees

The City intends to recover all costs associated with processing and issuing licenses and conditional use permits pursuant to the Ordinance. At the time an application for a license and conditional use permit is filed, the City will require the applicant to submit an application fee in the amount established by the City Council and as may be amended from time to time. Prior to issuance of the Certificate of Occupancy (the last step in the process before license issuance and commencement of operations), an applicant shall pay the site regulation fee, security deposit, and all other applicable fees.

1.4 Processing Time

There are many factors that impact the time it takes to process a license and conditional use permit, including but not limited to, the number of background checks that must be completed, the nature of any criminal history of an applicant, the level of detail provided in the plans required as a part of each application, and whether the applications are complete when submitted. The City is committed to processing applications as expediently as possible, but due to the multitude of factors that impact processing times it cannot commit to a firm processing deadline.

1.5 Availability of Required Application Forms

All forms promulgated by the City in implementation of the Ordinance, including, without limitation, applications for a license pursuant to LMC Chapter 5.56 and applications for a conditional use permit pursuant to LMC Chapter 17.43, shall be available at the Business Licensing counter and provided free of charge to any person upon request.

1.6 Measurement of Canopy Area

For purposes of measuring and determining the canopy area of a cannabis cultivation facility, as defined in LMC Section 5.56.020, the starting point shall be the first plant and the ending point shall be the last plant. As specified in LMC Section 5.56.020, the measurement shall be taken at the widest point and in a straight horizontal line. The measurement shall include all space between the measurement's starting and ending points, regardless of whether or how much of such space is actually occupied by plants. If a facility has multi-story or multi-level cultivation, the total canopy area is the sum of the square footages of each floor.

1.7 Use of Renewable Energy

The operating plans submitted by an applicant pursuant to LMC Sections 5.56.070 and 17.43.070 shall provide that the commercial cannabis facility will utilize the Lancaster Choice Energy Smart Choice (100% renewable) energy plan for all electrical energy.

2. LICENSE

2.1 Submission of Application

An applicant for a license must complete the application form required by the City. The completed application form shall be signed under penalty of perjury. An applicant shall pay the required fee, as well as the fee for the conditional use application, and submit the license and CUP application package at the City's Business Licensing counter. If the application is for a facility at a location for which a conditional use application was previously approved, only the license application and fee shall be submitted. The license application must include the following²:

- Proof of organizational status that includes, in addition to the documentation/information set forth in LMC Section 5.56.070, a list of the applicant's management personnel who will be responsible for the day-to-day operations and activities of the medicinal cannabis cultivation/manufacturing facility, and any shareholder, partner, member, officer and/or director;
- Written documentation that the applicant's management personnel who will be responsible for the day-to-day operations and activities of the medicinal cannabis cultivation/manufacturing facility and any shareholder, partner, member, officer and/or director, as well as any person with an ownership interest (individual, limited liability company, partnership and/or closely held corporation), have completed Live Scan fingerprinting for purposes of the City conducting a criminal background check³;
- Documentation establishing that the applicant is, or will be, entitled to possession of the premises, or portion of the premises, for which application is made. An applicant who owns or will own the entire premises shall submit a preliminary title report issued by a title insurance company that shows all existing encumbrances. An applicant for a suite or unit in a facility at a location for which a conditional use permit has previously been approved may submit a properly recorded deed, lease agreement or other documentation satisfactory to the city manager.
- In the event the applicant does not legally own the property, a notarized acknowledgement from the person that owns the property that a commercial cannabis facility will be operated on his or her property;
- An operating plan that includes, in addition to the documentation/information set forth in LMC Section 5.56.070, the following, where applicable: (a) a description of the type of cultivation processes to be utilized (including, without limitation, all nutrients, chemicals and other materials), and the square footage of cultivation space; (b) a specific description of the types of manufacturing activities/products, extraction and/or infusion methods, specific equipment to be utilized, whether and which volatile solvents will be used, and what percentage of the facility will be used for such activity; and (c) for distribution, a

² Please read LMC Section 5.56.070 for additional specific requirements.

³ Any person/entity with an ownership interest of 5% or more must be disclosed. Loans are considered an ownership interest.

detailed description of the activities that will be performed (e.g., processing, packaging, labeling, transporting);

- A 5-year business plan including job projections, operation revenue projections, and the estimated surcharges that will be due to the City monthly. If you will be building or expanding the facility in phases, provide the timeline for phase-in and planned additional square footage of cultivation at each phase;
- A statement indicating whether any owner, officer, managing member, partner financial backer, or other person with an ownership interest has been convicted of any crimes, the nature of the specific offense, and the sentence imposed for any such conviction;
- A description of prior pertinent business, agricultural or other experience of each partner, member, shareholder and/or owner;
- A security plan, including a narrative of the security procedures, equipment and security firm to be used, as well as site and floor plans that identify the location of all cameras, lights, keypads and other security fixtures and installations;
- Written authorization for the City to verify the information contained within the application and authorization to conduct the background check(s);
- Written acknowledgment that, if a license is issued, the applicant agrees to and will comply with all applicable state laws and regulations (even if more restrictive than the City's and as they may be amended from time to time);
- Written acknowledgment that the applicant will timely coordinate with all governmental agencies as a part of the certificate of occupancy process (if applicable); and
- Any additional information that the City may request to process and fully investigate the application (which must be provided to the City within ten (10) business days of request).

Additionally, the application package should include documentation/information sufficient for the City to make the determination that the following approval criteria have been satisfied:

- There is a clear financial benefit to the community;
- The applicant has evidenced the financial wherewithal to undertake the proposed project and sustain operations until the business has achieved profitability.
- The applicant demonstrates the intent to utilize a local hiring preference;
- The applicant's business plan and floor plans evidence enhanced processes and features to ensure state-of-the-art safety and security at the facility;
- The applicant will implement processes and procedures that support enhanced product safety and quality control.

2.2 Determination of Completeness

The City will make a determination within forty-five (45) calendar days after an application is submitted whether the application is complete and contains sufficient documentation/information to allow the City to conduct the background inspection and to determine whether the approval criteria are met. An application is considered “complete” if all required materials listed in Section 2.1 and information sufficient to demonstrate satisfaction of the approval criteria, have been submitted to the City.

If the application is determined to be incomplete, the City will provide the applicant with notice by email, which will identify the additional information required to process the application. Service of notice shall be deemed complete upon transmission of the email. The applicant shall have ten (10) business days from the date of the notice to provide all of the additional information. Failure to provide all of the supplemental information within the ten (10) day window will result in the application being deemed withdrawn. In this event, the license application fee will not be refunded.

2.3 Changes to an Application

The City may request any changes to an application or additional information it deems necessary at any time. An applicant may also make changes to its application after submission, except as listed below. Any changes made unilaterally by the applicant prior to the City’s determination that the application is complete will result in a new forty-five (45) day period for the City to make a completeness determination. Any changes made unilaterally by the applicant after a determination of completeness may also result in delays. Applicants are not allowed to make either of the following changes to an application:

- Once an application is determined to be complete, the applicant may not make any changes to the application that would impact the individuals who must undergo a background check.
- The proposed location of the commercial cannabis facility may not be changed after receipt of the application by the City.

If an applicant desires to make either of two types of changes above, the applicant must withdraw the pending application and submit a new application and application fee.

2.4 Approval or Denial of License

The City Manager, or his or her designee, is responsible for approving or denying an application for a license. An application will be approved unless good cause exists to deny the application, or if documentation/information provided (or supplemented following notice of incomplete submittal) does not adequately demonstrate that the applicant has satisfied the approval criteria. “Good cause” to deny an application includes, but is not limited to, the following:

- The applicant has violated any of the terms, conditions or provisions of LMC Chapters 5.56 and/or 17.43, local regulations, and/or applicable provisions of state laws and regulations;

- The applicant has knowingly made false statements, misrepresentations or material omissions on an application form, renewal form, or any other document submitted to the City;
- Issuance of the license would impair the health, safety or welfare of the public, cause negative impacts to property values, impair the City's ability to prevent crime associated with cannabis, and/or impair the City's ability to ensure that cannabis and cannabis products remain secure and do not find their way to minors or illicit markets;
- The applicant's criminal history does not indicate that the applicant is of good moral character; or the applicant 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, or that otherwise indicates his/her operation of a commercial cannabis facility would pose a hazard to public health and safety;
- The applicant is employing or being financed in whole or in part by any person whose criminal history indicates that person is not of good moral character;
- The applicant has had a cannabis license revoked or has had more than one suspension on its cannabis license by the City;
- The applicant has had a commercial cannabis business license, issued by another local or state jurisdiction, revoked or suspended; or
- The applicant has previously operated a cannabis business in violation of LMC Chapters 5.56 and 17.43 or any other applicable state or local law.

2.5 Procedure Following Decision on License; Appeal

If the City Manager, or his or her designee, determines that the applicant satisfies the requirements for a License, the license shall be provisionally approved. The license will not be issued until a conditional use permit has been approved by Planning Commission, a Certificate of Occupancy has been issued by the City for the facility, and the applicant has tendered the requisite security deposit, first-year annual site regulation fee, and all other applicable fees.⁴ If the City Manager determines that the applicant does not satisfy the requirements for a License, the City Manager will notify an applicant by email and by written notice via first class mail of the decision to deny the license. Service of notice shall be deemed complete upon transmission of the email. The notice of denial will inform the applicant of his/her right to appeal the decision and the procedure for filing and hearing the appeal.

2.6 Licensee Liable for Tenants; Incorporation of Ordinance in Tenant Agreements

An approved licensee who will be leasing or renting suites, units or separate buildings at a property to tenants is liable and responsible for the conduct of tenants at the premises; tenants operate subject to the licensee's license and conditional use permit as well as their own license. The Licensee of a cannabis facility with separately leased or rented suites/units/buildings shall enter into a written rental agreement, lease or other agreement with each tenant that incorporates and includes a copy of the

⁴ See the Fee Schedule, included in the application package.

Ordinance as an exhibit and expressly requires the tenant to comply with the Ordinance, including, without limitation, the tenant's obligation to do the following: (a) pay to the City the annual site regulation amount attributable to tenant's portion of the premises; (b) timely pay to the City all surcharges related to tenant's activities; (c) comply with all license requirements; (d) defend and indemnify the City as set forth in LMC Section 17.43.13; and (e) comply with the inspection requirements set forth in LMC Sections 5.56.140 and 17.43.140.

2.7 Renewals

A commercial cannabis facility shall apply for the renewal of a license no less than thirty (30) days prior to the license's expiration date. If the facility owner/operator files a renewal application within thirty (30) days prior to expiration, the facility owner/operator must provide a written explanation detailing the circumstances surrounding the late filing. The City Manager, or his or her designee, may accept or reject such late filing in his or her discretion. The City Manager, or his or her designee, may administratively continue a license past its expiration date, provided that the licensee has submitted a renewal application that is complete and pending final action.

An application for renewal will only be accepted if it is accompanied by the requisite licensing fees and annual site regulation fee. Each application for renewal shall include updated information for any part of the application that has undergone a change in circumstance since the original application or last renewal filing, shall recertify all information submitted in prior application(s), and shall include proof of Live Scan of all persons with an ownership interest, as set forth in Section 2.1.

Changes in ownership, including but not limited to the addition of new persons with a financial interest of 5% or greater, require an application for a new business license, not a renewal.

3 CONDITIONAL USE PERMIT

3.1 Procedural Considerations

An applicant shall apply for a conditional use permit concurrently with a license application. The application for a conditional use permit will not be formally considered complete for the purposes of the Permit Streamlining Act (Cal. Gov't Code § 65940 et seq.) until the license has been provisionally approved as set forth in section 2.4, above. However, in the interest of expediency, the City will review the conditional use permit application for completeness concurrently with the review of the license application documents. Any required documents or information missing from the CUP application will be included in the notice of incomplete submission, as described in Section 2.2; supplemental documents will be due within the ten (10) business day timeline as set forth in that section. The City will not schedule the conditional use permit for a public hearing before the Planning Commission until a license has been provisionally approved. If the license is denied, or if the supplemental documents identified in the notice of incomplete submission are not timely provided, the conditional use permit application will be deemed incomplete and the applicant will be refunded fifty percent (50%) of the conditional use permit application fee.

3.2 Submission of Application

An applicant for a conditional use permit for a cannabis cultivation/manufacturing facility must complete the application form required by the City. The completed application shall contain the information/documentation set forth in detail in Section 17.43.070 of the Municipal Code, which includes the following⁵:

- Environmental plan;
- Emergency response plan;
- Context aerial map;
- Address of cannabis cultivation/manufacturing facility;
- Site plan and floor plan;
- Interior improvements;
- Owner and manager information;
- Property owner information;
- In the event the applicant does not legally own the property, a notarized acknowledgement from the person that owns the property that a cannabis cultivation/manufacturing facility will be operated on his or her property;
- Operating plan that includes all the information set forth in LMC Section 17.43.070(B)(10);
- Security plan;
- Odor filtration system verification;
- Declaration by the applicant certifying under penalty of perjury that all the information contained in the application is true and correct;
- Authorization for the City to seek verification of the information contained within the application; and
- Any such additional and further information as is deemed necessary by the City.

3.3 Approval or Denial of Conditional Use Permit

In addition to the findings set forth in LMC Section 17.32.090, a conditional use permit shall only be granted subject to certain conditions to protect the health, safety and general welfare of the neighborhood or community, subject to the following findings:

- The commercial cannabis facility as well as all operations as conducted therein, fully

⁵ Please read LMC Section 17.43.070 for additional specific requirements.

comply with all applicable environmental, building, electrical, zoning and fire codes, accessibility requirements of the Americans with Disability Act, and all other applicable City and state laws and regulations; and

- The cannabis cultivation/manufacturing facility complies with and meets all operating criteria required pursuant to state laws and regulations, LMC Chapter 5.56, any other applicable provisions of this Code, and any specific, additional operating procedures and measures as may be imposed as conditions of approval in the conditional use permit.

Following the public hearing, the Planning Commission shall deny an application for a conditional use permit upon making any of the following findings, which shall be made part of the record of the meeting/public hearing:

- The findings required by LMC Section 17.32.090 or those listed above for the granting of a conditional use permit cannot be made; or
- For “good cause” as defined in LMC Section 17.43.030.

3.4 Notification of Decision; Appeal

The Planning Department shall notify the applicant by email and written notice via first class mail of the Planning Commission’s decision to approve or deny a conditional use permit. Service of notice shall be deemed complete upon transmission of the email. The notice of denial will inform the applicant of his/her right to appeal the decision and the procedure for filing and hearing the appeal.

3.5 Applicability of State Law and Regulations

In the event any regulation promulgated by the State of California, including any of its agencies, prohibits a commercial cannabis facility with separately leased or rented suites/units/buildings, such facility in the City will not be “grandfathered” or deemed approved.