

ORDINANCE NO. 18-1029

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD, APPROVING AMENDMENTS TO THE MUNICIPAL CODE TO REGULATE CANNABIS USES.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City of West Hollywood initiated amendments to the Municipal Code to adopt amended regulations for cannabis uses to clarify the application screening process and in response to recent interpretations of state law.

SECTION 2. The West Hollywood City Council properly reviewed and considered this matter at their April 2, 2018, meeting.

SECTION 3. Section 5.70.020 of Chapter 5.70 of Title 5 of the West Hollywood Municipal Code is amended to read as follows:

5.70.020 Application Information.

A. Cannabis Business License Screening Application. In addition to the information prescribed by the Director pursuant to the authority set forth in Section 5.08.040, all screening applications for a license to conduct a cannabis adult-use retail establishment, consumption area, delivery service, or a cannabis medical-use dispensary shall contain information related to the following categories.

1. Business Plan
2. Physical Design and Concept
3. Security Plan
4. Experience

Screening applications may be accepted without having secured a physical business location; however, a physical location shall be required prior to issuance of a business license by the city. Pursuant to Section 5.70.035, the specific criteria and weighting points for each of the categories listed above will be determined prior to the commencement of the initial screening application period and posted publically.

B. Zone Clearance Application. If selected through the screening process as one of the top eight (8) applicants in one of the license categories, cannabis businesses shall submit a Zone Clearance application in conformance with Section 19.10.030. All exterior building improvements, including façade improvements, shall be reviewed for conformance with the City's Design Standards prior to issuance of a Zone Clearance. The Zone Clearance for the

location does not excuse compliance with any other requirement in the Zoning Ordinance or Building Code and any additional permits required may be obtained after the Business License is issued but before operation.

C. Cannabis Business License Application. After obtaining an approved Zone Clearance, cannabis businesses shall submit a business license application to include all information required in Section 5.08.040 and the additional information described below, if applicable for a certain business type.

1. All the information provided in 5.70.020.A, Cannabis Business License Screening Application;
2. In the event the applicant is not the owner of record of the real property upon which the cannabis business is, or is to be, located the application must be accompanied by a notarized statement and consent from the owner of the property acknowledging that a cannabis business is or will be located on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name and address of the owner of record of the property, as well as a copy of the lease or rental agreement pertaining to the premises in which the cannabis business is or will be located;
3. An executed release of liability and hold harmless in the form set forth in the city's application form;
4. A description of the procedure for documenting the source of the cannabis to be dispensed by the cannabis use. If the cannabis is cultivated or manufactured off-site, documentation that the off-site location is compliant with the zoning regulations of the jurisdiction in which it is located;
5. Text and graphic materials showing the site in the context of the immediate neighborhood and floor plan of the facility;
6. A description of the screening, registration and validation process for qualified medical cannabis patients and that purchasers of medical-use cannabis are 18 years of age or older and adult-use cannabis are 21 years of age or older;
7. A description of qualified patient records acquisition and retention procedures for medical-use dispensaries;
8. A description of the process for tracking cannabis quantities and inventory controls, including on-site cultivation (if any), processing and cannabis products received from outside sources;
9. A description of measures taken to minimize or offset energy use from the cultivation or processing of cannabis plants and products, if these uses are proposed as ancillary uses under Section 19.36.030;
10. A description of chemicals stored or used on-site and any effluent proposed to be discharged into the city's wastewater or storm water systems;
11. Authorization for the city to verify the information and representations contained in the application;

12. Delivery Services Application. A description of any cannabis delivery service, including number of delivery vehicles, location of vehicle storage, and extent of delivery area;
13. If consumption, cultivation, retail sales, dispensing, storage, or manufacturing is a planned part of the business, a description and plan of the odor control system to be utilized, such as roof ventilation and/or carbon air filtration, or other applicable odor control as required for compliance with Sections 5.70.040(11), 5.70.041(11), and 5.70.043(16);
14. If on-site consumption (including smoking, vaping, and ingestion of edible cannabis products) is a planned part of the business, provide a description of the consumption area. The on-site consumption plan must include:
 - (a) the secured location of the on-site consumption area clearly identified as part of the site plan;
 - (b) a detailed description of how to prevent the visibility from any public place or non-age-restricted area (e.g. types of windows used, and/or example elevations as seen from the public right-of-way) pursuant to State Law;
 - (c) a detailed description of how access will be limited to persons twenty-one years of age or older; and
 - (d) if smoking and vaping of cannabis products is proposed, a detailed description of compliance with Section 7.08.030 (Smoking Regulations) in the Municipal Code.
15. If manufacturing or cultivation is a planned part of the business as ancillary uses under Section 19.36.030, a Hazard Analysis Plan or equivalent document must be submitted to and approved by the Los Angeles County Fire Department as part of the application; and
16. Any additional information deemed relevant by the Director.

SECTION 4. Section 5.70.030 of Chapter 5.70 of Title 5 of the West Hollywood Municipal Code is amended to read as follows:

5.70.030 Minimum Criteria for Issuance of a License.

1. The applicant, and any existing or prospective manager, must be at least twenty-one years of age.
2. The applicant, or any existing or prospective manager, must not have had a similar type of license previously revoked or denied for good cause within the immediately preceding two years prior to the license application.
3. The applicant and proposed manager shall undergo a background investigation. Neither the applicant, nor any proposed or prospective manager, shall have been convicted of:
 - (a) Any offense relating to possession, manufacture, sales, or distribution of a controlled substance, with the exception of cannabis related offenses;

(b) Any offense involving the use of force or violence upon the person of another;

(c) Any offense involving theft, fraud, dishonesty or deceit;

(d) Sales of cannabis to a minor or use of a minor to distribute cannabis.

For purposes of this subsection 3, a conviction includes a plea or verdict of guilty or a conviction following a plea of *nolo contendere*. The above criteria are in addition to the provisions in Section 5.08.080 (Grounds for Denial of Business License) and any applicable provisions of State Law.

4. The location for which the license is sought shall not be located within six hundred feet of a day care center, youth center or school, and otherwise comply with Sections 7.08.030, 19.10.030, 19.36.091, 19.36.092, 19.36.093, 19.36.340, 19.90.020, of the Municipal Code. For purposes of this Section, youth center shall mean any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities as defined by State law; day care center means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers as defined by State law; and school shall mean any property containing a structure which is used for education or instruction, whether public or private, at grade levels kindergarten through 12.

5. There shall be no more than the following number of cannabis business licenses issued at any one time in the following activity categories (a) – (e):

(a) Eight (8) Adult-Use Retail Business Licenses.

(b) Eight (8) Consumption Area (smoking, vaping, ingestion) with On-Site Adult-Use Retail (sales of products to be consumed on-site) Business Licenses

(c) Eight (8) Consumption Area (edible ingestion only) with On-Site Adult-Use Retail (sales of products to be consumed on-site) Business Licenses

(d) Eight (8) Medical-Use Dispensary Business Licenses

(e) Eight (8) business licenses for cannabis delivery services located in West Hollywood and no limit on the amount of business licenses issued for cannabis delivery services that are located outside the City limits and deliver cannabis to customers within the City of West Hollywood.

6. A separate business license is required for each cannabis business activity listed in subsection (5). Multiple cannabis business activities are allowed at one location.

7. No separate cannabis business license is required for cannabis testing laboratories.

8. An applicant may not apply for, or possess, more than one of the same type of cannabis business license.

SECTION 5. Section 5.70.035 of Chapter 5.70 of Title 5 of the West Hollywood Municipal Code is amended to read as follows:

5.70.035 Application Period, Scoring, and Review

1. There shall be an initial 30-day cannabis business license screening application period to be determined by the City Manager, or designee. Subsequent cannabis business license screening application periods shall commence upon certification by the City Manager, or designee, that additional Cannabis Licenses are available and shall close 30 days after such certification.

2. An application evaluation committee composed of at a minimum three (3) individuals with demonstrated experience in either city government or the cannabis industry, with no business interests in the City of West Hollywood shall be appointed by the City Manager to review and score each application based on the general criteria listed below. The specific criteria and weighting (points per criteria) for each license type will be determined prior to the commencement of the initial screening application period and posted publically. Each application will be independently scored by the evaluation committee members.

3. The following general criteria shall be used to rank applications:

(a) Previous adult-use retail, medical-use dispensing, or consumption area operation experience that was subject to state cannabis regulation, or experience in a similarly state-regulated activity (by way of example and not limitation, alcohol sales).

(b) Ability to demonstrate the quality of cannabis strains and derivative product offerings.

(c) Employee training, standard operating procedures, online ordering systems and procedures for providing medical cannabis to disadvantaged or disabled persons.

(d) Social equity in terms of provision of providing a living wage and employee benefits and compliance with local, state, and federal employee non-discrimination policies.

(e) Security program.

(f) Pre-existing West Hollywood Cannabis Business that has no outstanding code violations with the City and is in compliance with local and state laws.

(g) Ability to meet City of West Hollywood Urban Design Standards.

(h) Additional information that demonstrates the ability to operate in a safe and responsible manner in the City, including without limitation a review of the quality and thoroughness of application materials, connection to West Hollywood, ability to serve West Hollywood, familiarity with the City, and innovative boutique business models consistent with the West Hollywood community.

4. Prior to scoring applications City staff shall review applications for general compliance with the City's Municipal Code or any other applicable laws, and shall reject any application which does not meet such requirements. Rejected

applications shall not be scored. The City shall also disqualify any application that contains any false or misleading information.

5. The scores awarded by the application evaluation committee shall be totaled and averaged for each applicant. The applicants shall then be ranked from highest to lowest based on their scores.

6. The top eight (8) applicants in each license category (or applicants applying for vacated licenses) based on points are required to secure a viable business location if one has not been secured and apply for and obtain a Zone Clearance, (Section 19.42 of the Municipal Code) from the West Hollywood Planning and Development Services Department after being notified that their application has been accepted and ranked as one of the top eight (8) applicants (or available vacated licenses).

7. Top ranked applicants (8 in each category) that have obtained a Zone Clearance from the City are required to be reviewed and approved by the Business License Commission prior to issuance of a business license by the City.

8. If any of the top eight (8) ranking applicants in each license category has not secured a business license from the City within 12 months of the City notifying them they were one of the top eight (8) ranking applicants, their ability to obtain a business license, shall terminate.

9. Applicants that have approved licenses issued by the City shall obtain a license from the state, as well as any other required local permits from the City (i.e. building permits) or other local agencies (i.e. Los Angeles County Fire Department, Sheriff's Office, or Health Department) prior to operating a cannabis business in the City.

SECTION 6. Section 5.70.040 of Chapter 5.70 of Title 5 of the West Hollywood Municipal Code is amended to revise subsection (3) and add a new subsection (15) to read as follows:

5.70.040 Adult-Use Retail - Operating Requirements.

3. Hours of operation shall be limited to: Monday through Sunday, 6:00 a.m. to 2:00 a.m., or as further limited by the Business License Commission or State Law.

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15. The consumption of cannabis products sold at an adult-use retail business is allowed if the business is issued a separate consumption area business license. The consumption portion of the business shall comply with all requirements of 5.70.041. Cannabis products not fully consumed onsite may be taken offsite by the purchaser.

SECTION 7. Section 5.70.041 of Chapter 5.70 of Title 5 of the West Hollywood Municipal Code is amended to read as follows:

5.70.041 Cannabis Consumption Area with On-Site Adult-Use Retail - Operating Requirements.

All cannabis consumption areas in the city shall operate in conformance with the following operating requirements:

1. Security shall comply with the following minimum standards:

(a) Cannabis consumption areas shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times in conformance with the security plan submitted with the license application.

(b) All security guards employed by cannabis consumption areas shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Consumption areas security guards shall not possess firearms or Tasers.

(c) Cannabis consumption areas shall provide a neighborhood security guard patrol for a two-block radius surrounding the business during all hours of operation.

2. There shall be no on-site sales of alcohol or tobacco, and no on-site consumption of alcohol or tobacco products by patrons or employees. The on-site sale of food and food items infused with cannabis is permitted.

3. Hours of operation shall be limited to: Monday through Sunday, 6:00 a.m. to 2:00 a.m., or as further limited by the Business License Commission or State Law.

4. Cannabis consumption areas shall notify patrons of the following verbally and through posting of a sign in a conspicuous location readily visible to persons entering the premises:

(a) Entry into the premises by persons under the age of twenty one is prohibited.

5. Cannabis consumption areas shall only provide cannabis to an individual in an amount reasonable for onsite consumption and consistent with personal possession and use limits allowed by the state.

6. Cannabis consumption areas shall provide law enforcement and all neighbors within one hundred feet of the business with the name and phone number of an on-site community relations employee to notify if there are operational problems with the establishment.

7. Cannabis consumption area operator(s) shall attend regular meetings with the Los Angeles County Sheriff's Department, Los Angeles Fire Department, and City Public Safety Department staff to review public safety issues associated with the operations.

8. Cannabis consumption areas shall sell cannabis only from the following sources:

(a) Limited ancillary cultivation of cannabis on-site is permitted. The space devoted to cultivation shall not exceed twenty-five percent of the total floor

area, but in no case more than one thousand five hundred square feet or greater than ten feet in height, and be in compliance with Section 19.36.030.

(b) From an off-site location where cannabis is cultivated or manufactured in accordance with applicable state law and zoning regulations in the jurisdiction in which it is cultivated or manufactured.

(c) The onsite production of cannabis-infused food items.

9. West Hollywood City Code Compliance Officers, West Hollywood Sheriff's Deputies, Los Angeles Fire Department staff, or other agents or employees of the city requesting admission for the purpose of determining compliance with these standards shall be given unrestricted access.

10. Cannabis consumption areas shall have a responsible person on the premises to act as manager and supervise employees at all times during business hours.

11. An odor absorbing ventilation and exhaust system must be installed so that odor generated inside the business is not detected outside the property or lease area boundaries, or anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the cannabis use.

12. Depending on the type of cannabis consumption areas business license issued by the City, the consumption area shall be limited to one of the following cannabis consumption methods:

(a) Consumption of cannabis by smoking, vaping, and ingestion; or

(b) Consumption by ingestion only.

13. Cannabis consumption areas shall be permitted subject to the following requirements:

(a) Cannabis consumption areas shall not be visible to the public or by any persons under 21 years of age

(b) No sale or consumption of alcohol or tobacco is allowed on the licensed premises.

(c) No one under 21 years of age is allowed in the consumption area.

(d) Cannabis consumption areas located on the same premises as an adult-use or medical-use retail business shall also comply with the following:

i. The space devoted to cannabis consumption shall not exceed fifty percent of the total floor area of the adult-use or medical-use retail space, but in no case more than one thousand five hundred square feet.

ii. Cannabis consumption areas shall be well-ventilated private areas that are partitioned off from access to all other areas of the retail establishment and are designed to prevent the flow of smoke to any other area of the establishment.

14. Cannabis consumption areas that allow smoking and vaping shall comply with Section 7.08.03 Smoking of the Municipal Code

15. Conduct of Patrons. The cannabis consumption area shall do the following to encourage appropriate patron conduct:

(a) Make an announcement at closing requesting patrons to respect the residents of the adjacent residential neighborhoods by being quiet when leaving;

(b) Post signs at locations clearly visible within the consumption area and at both on- and off-site parking areas, requesting patrons to respect residents of adjacent residential neighborhoods by being quiet when leaving and reminding patrons of the existence of permit parking districts within the neighborhoods adjacent to the consumption area.

(c) Cut off service to impaired patrons and provide information on car services.

16. Employee Training and Customer Education.

(a) The business shall train their employees about the various products the consumption area sells, including potency of the products, absorption time, and effects of the products.

(b) Employees shall educate all customers as to the items mentioned in subsection (a), in an effort to ensure responsible consumption.

17. Noise. The structure housing the consumption area shall be adequately soundproofed so that interior and exterior noise is not audible beyond the property line and shall comply with Chapter 9.08, Noise Ordinance.

18. The management of the consumption area shall:

(a) Place and properly maintain solid waste receptacles and recycling bins, in sufficient numbers and locations to service the needs of the proposed use at peak business periods, in compliance with Section 19.20.180 (Solid Waste and Recyclable Materials Storage).

(b) Ensure that the consumption area property and all areas within at least 100 feet of the consumption area are free of any waste or litter generated by the use, by 7:00 a.m. following each night of operations.

SECTION 8. Section 5.70.042 of Chapter 5.70 of Title 5 of the West Hollywood Municipal Code is amended to revise subsection (f) and add a new subsection (k) to read as follows:

(f) Only delivery to persons 21 years of age or over shall be allowed and 18 years of age and older if the customer is a medical patient.

(k) A delivery service that has a physical location in West Hollywood may store cannabis and cannabis products for delivery in an area that shall not exceed seventy-five percent of the total floor area of the business's location, but in no case more than one thousand five hundred square feet.

SECTION 9. Section 5.70.043 of Chapter 5.70 of Title 5 of the West Hollywood Municipal Code is amended to revise subsection (4) and add a new subsection (19) to read as follows:

5.70.043 Medical-Use Dispensaries - Operating Requirements.

4. Hours of operation shall be limited to: Monday through Sunday, 6:00 a.m. to 2:00 a.m., or as further limited by the Business License Commission or State Law.

19. The consumption of cannabis products sold at a medical-use retail business is allowed if the business is issued a separate consumption area business license. The consumption portion of the business shall comply with all requirements of 5.70.041. Cannabis products not fully consumed onsite may be taken offsite by the purchaser.

SECTION 10. Section 5.70.070 of Chapter 5.70 of Title 5 of the West Hollywood Municipal Code is amended to read as follows:

No person or entity shall dispense, distribute, sell, convey, exchange or give away cannabis in the city except in compliance with the provisions of this chapter and Sections 19.36.091, 19.36.092, and 19.36.093, of this code. Dispensing, distributing, selling, conveying, exchanging or giving away cannabis in the city without a business license is a misdemeanor punishable as provided in Section 1.08.010(a) of this code. Nothing in this chapter shall be interpreted to conflict with state law, including without limitation the Compassionate Use Act, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) and the MAUCRSA, as may be amended, and the rights granted to individuals for the adult-use and medical-use of cannabis under these State Laws.

SECTION 11. Section 7.08.030 of Chapter 7.08 of Title 7 of the West Hollywood Municipal Code is amended to read as follows:

7.08.030 Smoking Regulations.

a. In addition to all places where smoking is prohibited under state or federal law, in which case those laws apply, no person shall smoke in, and smoking areas shall not be established or designated in:

1. Open air dining areas and cannabis businesses, except as provided in subsection (e) of this section;

2. Outdoor service areas;

3. Enclosed public places;

4. Any area where the owner, operator, manager or other person exercising management and control over the property has declared the area, where smoking would otherwise be allowed, to be a non-smoking area and posted the appropriate signage as set forth in this chapter; and

5. Within five feet of the entrance, divider, opening or doorway to a smoke-free open air dining area, or outdoor service area, where smoking is prohibited by this chapter, except while actively passing by on the way to another destination.

b. No employer and no owner, operator, manager, employee or other person having control of a place of employment or a public place shall make ashtrays available in any area where smoking is prohibited.

c. No owner, operator, manager, employee or other person having control of a restaurant shall place matchbooks on tables or otherwise make matchbooks or matches available to patrons; provided, however, that upon request a promotional matchbook may be provided to a patron only when departing the restaurant.

d. No person shall dispose of smoking waste or place or maintain a receptacle for smoking waste in an area where smoking is prohibited by this chapter or other law, or within a distance of five feet from an area where smoking is prohibited.

e. Notwithstanding subsection (a), smoking may be permitted and smoking areas may be designated in the following places:

1. An open air dining area of a bar or nightclub;
2. An unenclosed congregation area of a restaurant, provided that food is not served to patrons in this area, the area is completely separate and segregated from any outdoor dining area where smoking is not permitted, and smoke cannot be detected or smelled in the nonsmoking area;

3. Areas excluded from the definition of "Place of employment" in California Labor Code Section 6404.5(d), as may be amended from time to time; and

4. At the specific hookah cafés that are open and in continuous operation at the same location on or prior to February 1, 2011, provided that the operators have submitted a smoking operations plan for review and approval in compliance with Section 7.08.050; and

5. At the specific private membership clubs that are open and in continuous operation at the same location on or prior to February 1, 2011, provided that the operators have submitted a smoking operations plan for review and approval in compliance with Section 7.08.050.

6. Indoors and outdoors within a licensed cannabis consumption area provided that the operators have submitted a smoking operations plan for review and approval in compliance with Section 7.08.050 Smoking Operations Plan and have obtained a business license for the activity in accordance with Chapter 5.70.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 16th day of April, 2018 by the following vote:

AYES:	Councilmember:	D'Amico, Horvath, Meister, Mayor Tempore Duran, and Mayor Heilman.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.



JOHN HEILMAN, MAYOR

ATTEST:



YVONNE QUARKER, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST HOLLYWOOD)

I, YVONNE QUARKER, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 18-1029 was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 16th day of April, 2018, after having its first reading at the regular meeting of said City Council on the 2nd day of April, 2018.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29th day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 17th DAY OF APRIL, 2018.



YVONNE QUARKER, CITY CLERK