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HONORABLE CITY COUNCIL

RE: Cannabis Industry Comparative Analysis of facilities in major Downtowns (SUPPLEMENTAL REPORT)

The City Planning Commission (CPC) staff submits this report to supplement the Legislative Policy Division (LPD) report of February 18, 2022 that was prepared in response to Cannabis Industry Comparative Analysis requested by Council Member Coleman A. Young, II.

CPC staff's approach for this supplementary report was to analyze the Top 20 cities in the United States by population and identify those where adult use marijuana is legal and there are established zoning regulations for cannabis related businesses. After disqualifying cities where recreational marijuana is not legal and there are no established zoning regulations for Cannabis related businesses, we were left with eight cities. This analysis provides a snapshot of the marijuana zoning regulations in these cities focusing on the treatment of the downtowns.

Our analysis showed that cities have various approaches in their restrictions of the locations of Cannabis retailers within their zoning codes. Some have specific downtown exclusion zones while others utilize permitted use regs to prohibit the establishment of these businesses in residential, commercial, and industrial districts. Of the eight major cities where recreational marijuana is legal, five of them allow for cannabis businesses to be located within portions of their downtown, whereas three of the cities specifically prohibit those uses in their downtown. Three of the five cities which allow for retail cannabis businesses downtown currently have those businesses operating due to other proximity restrictions.

As of 2018, the City of Detroit zoning code allows for medical marihuana facilities to be in B2, B4, B5, B6, M1, M2, M3, M4, and SD2 zoning districts as a conditional use. A vast majority of downtown Detroit is zoned B4 and B5. Medical marijuana facilities in Detroit must not be located:

- within a drug-free zone
- within a Gateway Radial Thoroughfare overlay area or Traditional Main Street overlay area
- within 1,000 radial feet from any zoning lot occupied by any religious institution
- within 1,000 radial feet from any zoning lot with a medical marihuana caregiver center or medical marihuana provisioning center facility

- within 1,000 radial feet from any zoning lot occupied by a controlled use.

These spacing requirements, being applied equally City-wide, have prevented marijuana facilities from being able to locate within downtown Detroit, not because the downtown was prohibited from consideration. The same is true for Eastern Market.

Major Cities Marijuana Zoning Regulations Matrix

Rank By Pop.	City	Population (2020)	Allowed Downtown	Dispensaries Currently Downtown	Distance from Schools, Parks etc.	Distance from other Cannabis Businesses
2	Los Angeles, CA	3,898,747	Y	13	700ft	700ft
3	Chicago, IL	2,746,388	N	0	500ft	1600ft
5	Phoenix, AZ	1,608,139	N	0	1,320ft	-
8	San Diego, CA	1,386,932	N	0	1,000ft	1,000ft
10	San Jose, CA	1,013,240	Y	0	600ft	-
17	San Francisco, CA	873,965	Y	0	600ft	600ft
18	Seattle, WA	737,015	Y	2	500ft	1000ft
19	Denver, CO	715,522	Y	12	1000ft	1000ft

Los Angeles, CA

According to PotGuide.com¹, adult use marijuana has been legal in the State of California since 2016 and adult use-cannabis sales officially began January 1, 2018. As the largest city in California by population, Los Angeles has many adult use cannabis dispensaries spread throughout the entire city including 13 dispensaries within its downtown.

The City of Los Angeles’ zoning code allows for Commercial Cannabis Activity² within the following zones:

- Chapter 1 of the Los Angeles Municipal Code: C1 Limited Commercial Zone, C1.5 Limited Commercial Zone, C2 Commercial Zone, C4 Commercial Zone, C5 Commercial Zone, CM Commercial Manufacturing Zone, M1 Limited Industrial Zone, M2 Light Industrial Zone, or M3 Heavy Industrial Zone

There are some restrictions on the locations of adult use cannabis dispensaries including:

- Outside of a 700-foot radius of a School, Public Park, Public Library, Alcoholism or Drug Abuse Recovery or Treatment Facility, Day Care Center, and Permanent Supportive Housing.
- Outside of a 700-foot radius of any other Retailer or Microbusiness Commercial Cannabis Activity having on-site retail sales, which is licensed by the state of California

¹ [PotGuide](#) is a fact-driven, scientifically researched comprehensive online resource for the cannabis industry connecting consumers to dispensaries, delivery services, brands and exciting deals/offers on consumer products. A content driven site, PotGuide strives to show consumers the ropes of legal cannabis through various directories, educational guides, and carefully curated information from industry experts. All of our content is created by subject matter experts and extensively reviewed in-house for accuracy.

² [Commercial Cannabis Activity](#) falling under the category “Type 10 - Retailer” in Section 26050 of the California Business and Professions Code or “Type 9 - Non-Storefront Retailer” in California Code of Regulations Title 16 Division 42 Chapter 3 Section 5414; only to the extent such commercial activity is located and occurring:

and licensed by the city to engage in the Commercial Cannabis Activity defined in this section.

CPC staff was unable to identify any evidence of downtown Los Angeles being a prohibited area for the location of commercial cannabis activity.

Chicago, IL

According to PotGuide.com, the State of Illinois legalized medical cannabis in 2014 and recreational cannabis in 2019 for adults over the age of 21. The City of Chicago which is the largest city in Illinois currently has several medical and recreational cannabis dispensaries throughout the city including near the downtown core.

In September 2022 the Cannabis Zoning Ordinance³ was amended by the city to further regulate the location of adult use cannabis dispensaries. The ordinance permits new adult use cannabis dispensaries in certain Business (B), Commercial (C), Downtown (D), Manufacturing (M), and Planned Manufacturing (PMD) zoning districts if they obtain special use permits from the Zoning Board of Appeals (ZBA). There are some restrictions on the locations of adult use cannabis dispensaries including:

- Must be 500 feet from schools
- Must be 1600 feet from other cannabis businesses
- Must be 660 feet from residential districts

Downtown Exclusion Zone

The Cannabis Zoning Ordinance prohibits adult use cannabis dispensaries from opening within a defined portion of the Central Business District due to the unique character, configuration, and congestion of downtown Chicago.

Phoenix, AZ

In 2020, Arizona legalized adult-use recreational cannabis with its passing of Proposition 207, the Smart and Safe Arizona Act.⁴

There are many adult use and medical cannabis dispensaries in Phoenix. However, none are in the central city or downtown Phoenix.

In 2016, the city council of Phoenix passed an amendment to the zoning ordinance to regulate the location of medical cannabis facilities.⁵ For example, C-2 (Intermediate Commercial) zoning

³ The [Cannabis Zoning Ordinance](#) regulates where new adult use cannabis dispensaries may open in the City of Chicago. The ordinance ensures that each new adult use cannabis dispensary receives public hearing before the ZBA and provides an opportunity for public comment.

⁴ Also known as the [Smart and Safe Arizona Act, Proposition 207](#) is a voter initiative that appeared on the November 3, 2020 Arizona general election ballot. Passing with about 60% of the vote, the proposition allows for the legalization, taxation, and recreational use of cannabis for adults 21 and over.

⁵ CPC notes the [Zoning Ordinance of the City of Phoenix](#) by amending section 202 (Definitions), Section 603.A (Suburban S-1 District – Ranch or Farm Residence), Section 604.A (Suburban S-2 District – Ranch or Farm Commercial), Section 623.D (Commercial C-2 District – Intermediate Commercial, and Section 627.D (Industrial A-1 District – Light Industrial District) to add definitions for youth community centers, homeless shelters and amend dependent care facilities and to amend the separation requirements for medical marijuana facilities.

district, nonprofit medical marijuana dispensary facilities⁶ are subject to the following regulations:

- Shall not be located within 500 feet of a residentially zoned district
- Shall not be located within 1,320 feet of all schools, public parks, public community centers, dependent care facilities, homeless shelters, or youth community centers
- Shall not be located within 1,320 feet of a place of worship
- Shall not emit dust, fumes, vapors, or odors into the environment from the premises

The “nonprofit” designation for medical marijuana dispensaries in Arizona has been required as a part of the medical marijuana act. However, medical marijuana dispensaries are not required to meet the IRS requirements for nonprofit tax-exempt status. CPC staff was unable to find evidence of any cannabis facility within Downtown Phoenix. An analysis of the Downtown Code of the City of Phoenix showed no evidence of an allowance for Cannabis facilities.

San Diego, CA

The City of San Diego Development Services Cannabis Information site states that in commercial zones a conditional use permit is required for cannabis outlets.⁷ Outlets are limited to a maximum of four per Council District, 36 citywide. Additional regulations include

- Must be located:
 - 1000 feet from resource- or population-based city parks, other marijuana outlets, churches, childcare centers, playgrounds, libraries, minor-oriented facilities, residential care facilities and schools
 - 100 feet from residential zones

CPC staff notes that the Centre City Planned District Use regulations of San Diego do not permit the establishment of marijuana outlets anywhere in the downtown district.

San Jose, CA

The City of San Jose – Cannabis manufacturing (Type 6) Business, Cannabis Distribution Business, and Cannabis Testing Business⁸ describes the restrictions and conditions, including:

- Shall not be located closer than 600 feet from any parcel on which a school exists
- Shall not be located closer than 600 feet from any parcel on which a day care or religious assembly exists
- Shall not be located closer than 600 feet from any parcel on which a community/recreational facility, a park, or a library exists

⁶ [Medical Marijuana Facilities](#) states "Nonprofit medical marijuana dispensary" means a not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit medical marijuana dispensary may receive payment for all expenses incurred in its operation.

⁷ CPC notes that <https://www.sandiego.gov/development-services/cannabis> states that cannabis outlets are establishments (retail, medicinal or combination) operating with a Conditional Use Permit where cannabis, cannabis products and cannabis accessories are sold to the public.

⁸ The purpose of [Cannabis manufacturing \(Type 6\) Business, Cannabis Distribution Business, and Cannabis Testing Business](#) is to further fulfill the purposes and intents set forth in Chapter 6.88 of Title 6 of the San José Municipal Code

- Shall not be located closer than 150 feet from any parcel on which a residential use exists

An analysis of San Jose Planning Department Cannabis Ordinance Map⁹ displays that cannabis retail storefronts are permitted to be located within the downtown area of the city. However, at the time of this report there were not any retail cannabis storefronts located in downtown San Jose.

San Francisco, CA

According to the Office of Cannabis for the City of San Francisco, there are currently approximately 80 Cannabis retailers.¹⁰ This includes 40 storefronts and 40 delivery only cannabis retailers. The locations of these retailers are spread throughout the entire city.

According to the cannabis storefront retail zoning permissions, most of downtown San Francisco around the Civic Center does not permit this use. There are specific locations within downtown San Francisco where cannabis storefronts are allowed. These locations are on the outskirts of the Civic Center Plaza and spread throughout other parts of the city. Other locations throughout the city are allowed with Conditional Use Authorization from SF Planning. Some locations require a Microbusiness permit to operate. CPC staff's analysis shows that a vast majority of the financial district of San Francisco is zoned to allow for retail cannabis without the need for a Planning Commission hearing.

The City of San Francisco Office of Cannabis uses GIS mapping software to display a map of allowable retail zones and proposed locations. A few of the restrictions include:

- Cannot be within 600 feet of a school
- Cannot be within 600 feet of another cannabis storefront

Additionally, locations that are close to the 600ft boundary must get a letter of determination from SF Planning. Although cannabis storefronts are permitted in certain areas of Downtown San Francisco, there are not any currently.

Seattle, WA

According to PotGuide.com, the State of Washington legalized recreational marijuana in 2012. The city has many recreational and medical marijuana retailers throughout. Seattle City Code Section 23.42.058 prohibits major marijuana activity in any dwelling unit.¹¹ In addition, major marijuana activity is prohibited in the following zones:

- Single-family zones
- Multifamily zones
- Neighborhood Commercial 1 (NC1) zones
- Pioneer Square Mixed (PSM)

⁹ [San Jose Planning Department Cannabis Ordinance Update Map](#)

¹⁰ CPC notes the [Office of Cannabis for the City of San Francisco](#) coordinates with City departments and state agencies to develop policies and regulate the local cannabis industry. They ensure that local public health, safety, and social justice goals are met.

¹¹ CPC notes the [City of Seattle Municipal code](#) states major marijuana activity is prohibited in any dwelling unit, regardless of the zone in which the dwelling unit is located, except that major marijuana activity is allowed in caretaker's quarters unless the quarters are located in a zone or district identified in subsection 23.42.058.B.

- International District Mixed (IDM)
- International District Residential (IDR)
- Downtown Harborfront 1 (DH1)
- Downtown Harborfront 2 (DH2)
- Pike Market Mixed (PMM)
- Ballard Avenue Landmark District
- Columbia City Landmark District
- Fort Lawton Landmark District
- Harvard-Belmont Landmark District
- International Special Review District
- Pike Place Market Historical District
- Pioneer Square Preservation District
- Sand Point Overlay District
- Stadium Transition Area Overlay District

Major marijuana activity that includes the retail sale of marijuana products is allowed in all other zones; however, the following conditions must be met:

- Must be 500 feet or more from any lot line of property that contains an elementary school; secondary school; or playground.
- No more than two properties with major marijuana activity that includes the retail sale of marijuana product are allowed within 1000 feet

CPC staff notes that major marijuana activity is allowed in most downtown commercial districts excluding those mentioned above. However, there are only currently two marijuana dispensaries located on the outskirts of downtown Seattle in an area called Belltown.

Denver, CO

According to PotGuide.com, the State of Colorado became the first state in the U.S. to legalize recreational cannabis. The state also has a thriving medical marijuana market. The Denver City Code¹² limits the proximity of retail and medical stores, including but not restricted to:

- Not within 1000 feet of one or more of the following locations
 - Any school
 - Any childcare establishment
 - Any other medical or retail marijuana store
 - Any alcohol or drug treatment facility

CPC was unable to identify any specific restrictions to locating marijuana dispensaries in downtown Denver. There are approximately 12 cannabis retail businesses located within the downtown.

¹² CPC notes the [Denver Marijuana Code](#) allows for state-licensed medical and retail marijuana businesses to exist in the city in accordance with applicable state laws and regulations as well as the additional local licensing requirements set forth herein. The intent of this article V is to align the local licensing of medical and retail marijuana businesses with the licensing framework utilized by the state licensing authority and to provide additional necessary local regulations including, but not limited to, reserving certain licenses for social equity applicants and prescribing limitations related to proximity, location, and operation.

CONCLUSIONS

CPC staff's analysis of marijuana zoning regulation of Top 20 cities in the United States showed that three of the eight qualifying cities have specific regulation that prohibit cannabis dispensaries from locating downtown. These three cities are Chicago, IL; Phoenix, AZ; and San Diego, CA. Two cities (San Jose, CA and San Francisco, CA) allow cannabis dispensaries to locate within their downtown district, but they have spacing requirements that preclude those businesses and currently do not have any dispensaries in their downtown district. Lastly, the three Cities that currently have marijuana facilities operating in their downtowns are Los Angeles, CA; Seattle WA; and Denver, CO.

If we can be of any further assistance, please call upon us.

Respectfully submitted,



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Attachments

cc: Antoine Bryant, Director, P&DD
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