



COUNCIL AGENDA: 11/1/2022

ITEM: 3.5

FILE NO: 22-1614

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: November 1, 2022

SUBJECT: Cannabis Business Ordinance Revisions

Recommendation

As referred by the Rules and Open Government Committee on October 19, 2022, direct the City Manager to amend the Cannabis Business Ordinance with the following changes:

- (a) Adjust distance requirements for new cannabis storefronts citywide from K-12 Schools, Daycare Centers, and Youth Centers, replacing the current distance requirements, as follows:
 - (1) Establish a 1,000-foot distance buffer measured as path of travel from the public entrance of the cannabis business to the public entrance of the school, daycare, or youth center (path of travel); and
 - (2) Establish a minimum 500-foot distance buffer measured as a straight line from the property line with the cannabis business to the property line of the sensitive use (parcel to parcel).
- (b) Eliminate the distance requirements from other cannabis storefronts.
- (c) Adjust distance requirements for new cannabis storefronts outside of Downtown or Urban Villages from Community Centers, Recreation Centers, and Parks as follows, replacing the current distance requirement:
 - (1) Establish a 500-foot distance buffer measured as parcel to parcel.
- (d) Retain current distance requirements to sensitive uses for Rehab Centers, Emergency Residential Shelters, and Residential Uses.
- (e) Remove the crime overlay restriction on new cannabis storefronts.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Jones, Peralez, Carrasco and Foley)

[Rules Committee referral 10/19/2022 - Item C.1]



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Vice Mayor Chappie Jones
Councilmember Raul Peralez
Councilmember Magdalena Carrasco
Councilmember Pam Foley

SUBJECT: Cannabis Business Ordinance Revisions **DATE:** October 19, 2022

Approved

Date 10/13/2022

RECOMMENDATION

Direct the City Manager to amend the Cannabis Business Ordinance with the following changes.

1. Adjust distance requirements for new cannabis storefronts citywide from K-12 Schools, Daycare Centers, and Youth Centers, replacing the current distance requirements, as follows:
 - a. Establish a 1,000-foot distance buffer measured as path of travel from the public entrance of the cannabis business to the public entrance of the school, daycare, or youth center (path of travel).
 - b. Establish a minimum 500-foot distance buffer measured as a straight line from the property line with the cannabis business to the property line of the sensitive use (parcel to parcel).
2. Eliminate the distance requirements from other cannabis storefronts.
3. Adjust distance requirements for new cannabis storefronts outside of Downtown or Urban Villages from Community Centers, Recreation Centers, and Parks as follows, replacing the current distance requirement:
 - a. Establish a 500-foot distance buffer measured as parcel to parcel.
4. Retain current distance requirements to sensitive uses for Rehab Centers, Emergency Residential Shelters, and Residential Uses.
5. Remove the crime overlay restriction on new cannabis storefronts.

BACKGROUND

This policy action will allow for the opening of new cannabis storefronts while also facilitating the relocation of cannabis storefronts from areas of the City where they are currently overconcentrated. District 7 will continue to be shielded from any new cannabis storefronts. The

RULES AND OPEN GOVERNMENT COMMITTEE

October 19, 2022

Subject: Cannabis Business Ordinance Revisions

Page 2

opening of new cannabis storefronts will provide extensive revenue benefits to the city. It's estimated that a cannabis store in a busy retail area could generate as much as \$1 million annually for the city in sales tax revenue.

In 1996, cannabis became legal for medicinal use in California under the Compassionate Use Act. It was 20 years later in 2016 through Proposition 64 that the recreational use of cannabis became legal. While California has been at the forefront of a national effort to legalize cannabis and reduce the stigma that surrounds it, there have been a multitude of difficulties that have presented themselves, specifically on a citywide level.

When San José allowed for the legal sale of cannabis to adults in 2018, there were no rules regarding cannabis storefronts. In response, the first City regulations were incredibly restrictive which led to an overconcentration of cannabis dispensaries in two council districts and clustered within small industrial areas. Because of this, an unfair burden was placed on these council districts and communities. However, through multiple revisions that were passed by City Council in early 2022, an effort is underway to reasonably ease restrictions and facilitate a redistribution of cannabis storefronts citywide.

Even with the revisions that City Council passed in 2022, there have been many challenges that the cannabis industry continues to face. Representatives from the existing cannabis businesses have indicated that even with the loosened restrictions from the updated Cannabis Business Ordinance, there are a limited number of sites that they can potentially operate out of. This number, small as it is, continues to dwindle as many property owners are reluctant or unable to lease to a cannabis business as it remains illegal on a federal level.

The recommended revisions to the Cannabis Business Ordinance in this memorandum will allow for a more equal distribution of cannabis storefronts citywide while also facilitating the opening of new cannabis storefronts in areas where it makes sense, generating significant tax revenue for the city.

Under the current Cannabis Business Ordinance two measurement methodologies are being used; parcel to parcel and path of travel. Parcel to parcel is a straight-line distance from one parcel to another. Path of travel is the shortest pedestrian travel distance from the entrance of one parcel to another.

We recommend keeping the 1000-foot buffer for K-12 schools, daycare centers, and youth centers; however, we also recommend that the City of San Jose change its measurement methodology to path of travel rather than parcel to parcel. In addition, retaining a more limited parcel to parcel measurement ensures a reasonable buffer from sensitive uses. Doing so will respect sensitive use zones, while opening more available sites for cannabis businesses in appropriate areas.

Additionally, the crime overlay that restricts cannabis businesses in certain areas should be removed. Currently, 14 of 16 cannabis businesses operate within these zones. By removing the

RULES AND OPEN GOVERNMENT COMMITTEE

October 19, 2022

Subject: Cannabis Business Ordinance Revisions

Page 3

crime overlay restriction a significant number of sites will be available for more storefronts. Due to the robust security requirements of cannabis businesses, there is no evidence that cannabis storefronts attract crime.

We as a city can become more equitable and inclusive with our cannabis policy by implementing these recommendations. San José has always been regarded as the pioneer city within California, we should continue that trend and reduce the stigma surrounding cannabis.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.