



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: May 25, 2023

**SUBJECT: PP23-001 - AMENDMENT TO TITLE 20 (THE ZONING ORDINANCE)
OF THE SAN JOSÉ MUNICIPAL CODE FOR CANNABIS RETAIL
BUSINESSES**

RECOMMENDATION

The Planning Commission voted 7-3-0 (Garcia, Ornelas-Wise, and Barocio opposed) to recommend the City Council take the following actions:

- (a) Adopt a resolution approving the Cannabis Business Ordinance Update Addendum to an approved Initial Study and Negative Declaration, as addended, in accordance with the California Environmental Quality Act (CEQA).
- (b) Adopt an ordinance of the City of San José amending the following Sections 20.80.763, 20.80.770, 20.80.775, and 20.80.780 from Part 9.75 of Chapter 20.80 in Title 20 of San José Municipal Code to modify distance requirements from Cannabis retail businesses to schools, daycare centers, youth centers, community and recreation centers, and parks; eliminate the distance requirement between storefronts and add a standard to address the concentration of cannabis retail businesses; remove the police beat restriction; and make other technical, non-substantive, or formatting changes within those sections.

SUMMARY AND OUTCOME

If adopted this ordinance would modify distance requirements from Cannabis retail businesses to schools, daycare centers, youth centers, community and recreation centers, and parks, eliminate the distance requirement between storefronts, add standards to address the concentration of cannabis retail businesses and remove the police beat restriction.

BACKGROUND

On February 15, 2022, the City Council adopted changes to the zoning ordinance to allow cannabis retail storefronts to open in commercial zoning districts and directed the City Manager to open registration for additional cannabis retail locations in the city. Specifically, the existing 16 cannabis businesses may open a second retail location, and up to ten future equity applicants may register for new locations for delivery or retail. Although registration for new locations has been open for nearly 15 months, the industry has faced challenges in finding a compliant site that is available for lease to them. These challenges are discussed in detail in an [Information Memo released on September 23, 2022](#). In order to address these challenges the industry is facing finding a compliant location within a commercial zoning district, the City Council, on November 1, 2022, directed staff to return with additional updates to distance criteria for cannabis retail storefronts, by the end of the fiscal year.

On May 24, 2023, the Planning Commission held a public hearing on the proposed ordinance to incorporate City Council's direction and amend distance separation requirements and concentration standards for cannabis uses. Planning staff provided an overview of the proposed amendments and was available to respond to questions from the Commission. Staff from the Police Department's Division of Cannabis Regulation were also present. The Planning Commission's comments and questions are summarized in the Commission Recommendation/Input section below.

ANALYSIS

A complete analysis of the issues regarding the Zoning Ordinance amendments is contained in the Planning Commission staff report dated May 24, 2023 (attached).

Climate Smart San José Analysis

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals.

If cannabis retail businesses are located within commercial areas, it would result in a net decrease of Vehicle Miles Traveled because it would give existing cannabis-product consumers options to take shorter trips closer to where they live when shopping compared to the current destination(s). A net decrease of Vehicle Miles Traveled would result in fewer vehicle emissions citywide.

EVALUATION AND FOLLOW-UP

Should this item be adopted by the City Council, staff will continue to work with existing cannabis businesses in their efforts to find a compliant new location for cannabis retail.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's Office and the San José Police Department.

PUBLIC OUTREACH

This memorandum will be posted on the City Council Agenda website for the June 13, 2023 Council meeting.

Staff followed Council Policy 6-30: Public Outreach Policy, in that notices for the public hearings, were posted on the City's website and published in the San José Post-Record, and emailed to a list of interested groups and individuals. The staff report and attachments were posted on the City's website. An informational webpage was published on the Planning Division website. The staff has been available to respond to questions from the public.

Staff conducted an outreach meeting with cannabis industry stakeholders on April 26, 2023, and attendees were mostly in favor of the proposed amendments. The attached Planning Commission staff report contains description of community outreach related this ordinance.

COMMISSION RECOMMENDATION/INPUT

The Planning Commission voted 7-3-0 (Garcia, Ornelas-Wise, and Barocio opposed) to recommend that the City Council approve an amendment to the Zoning Ordinance cannabis provisions to modify distance requirements from cannabis storefronts to sensitive uses, establish concentration standards, and remove police beat restriction. If adopted, the zoning changes could potentially result in additional compliant retail storefront locations.

One public comment supported retail uses within commercial retail areas. The commenter mentioned existing examples of cannabis retail in commercial areas within Union City and Redwood City, and thanked staff for facilitating updating the map and language compatibility for cannabis business uses.

Commissioner Young asked if the proposed amendment specifically reflects City Council directed changes as of November 1, 2022. Staff affirmed that this update addressed those changes.

Commissioner Lardinois inquired if the proposed concentration of a maximum of four storefronts within a one thousand square foot radius would apply across other city jurisdictions. Staff responded that the restriction would apply to any cannabis retail storefront use regardless of its location in another jurisdiction.

Commissioner Ornelas-Wise expressed strong concern about proximity of cannabis businesses to sensitive uses such as schools. She cited safety concerns about exposure of drugs to children, families, and the broader community. She stated her opposition to the proposed ordinance and cited the public information poll conducted for the previous cannabis land use update where approximately half of the responders were opposed to expansion of cannabis uses in the city. She recommended that any cannabis retail be restricted to specific geographic areas that are far from areas where children or families congregate.

Commissioner Casey stated that the eligibility of newer geographic areas would better disperse the cannabis uses despite other concerns.

Commissioner Cantrall inquired if the Police Department had any concerns related to existing cannabis locations or any use-related violations. Staff indicated that the existing robust regulatory program and Title 6 regulations mitigate most security and operational concerns. They closely work with the Code Enforcement staff to ensure compliance.

Commissioner Boracio asked if experts such as the County of Santa Clara Health Department could weigh in on current conditions and data from sensitive areas. Staff responded that they could bring in the experts if the Commission were to request specific information. In response to an additional question related to the definition of a daycare center and if family daycare homes would qualify, staff indicated that the facilities are mostly stand-alone and range from small to large, and home-based daycares are not considered.

Commissioner Young asked staff to reiterate the proposed distance requirements between cannabis businesses and sensitive uses. He indicated that changes to support legal cannabis businesses may likely reduce competing illegal cannabis businesses and generate tax revenues that could help support affordable housing.

Commissioner Lardinois made a motion that the Commission recommend that the City Council approve the Resolution and Ordinance as proposed by staff. Commissioner Casey seconded the motion.

Additionally, staff referred the proposed ordinance amendment to the Airport Land Use Commission which on May 24, 2023, determined that the amendment is consistent with the San José International Airport (SJC) and Reid-Hillview Airport (RHV) Comprehensive Land Use Plans.

CEQA

In accordance with the California Environmental Quality Act, an Addendum to the prior Initial Study/Negative Declaration (PP21-002), as addended to, was prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), under File Number PP23-001 (the “Addendum to Initial Study/Negative Declaration”) and including State and local implementing regulations. The purpose is to document the changes to the project and provide CEQA analysis for the project, which would amend Title 20 of the Municipal Code for proposed changes related to Cannabis businesses registered in San José. The proposed ordinance essentially allows retail sale of cannabis in areas where retail sales are already allowed. It involves a set of changes to existing regulations but does not involve any activities by the city that will result in potential changes to the size, location, or number of registered cannabis businesses than previously analyzed in the ND. Therefore, there is no increase in the magnitude of any previously identified environmental impacts.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City’s Open Government Resolution.

/s/
Christopher Burton
Secretary, Planning Commission

For questions, please contact Michael Brilliot, Deputy Director, at michael.brilliot@sanjoseca.gov

Attachment:
Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION**FROM:** Christopher Burton**SUBJECT:** File No. PP23-001**DATE:** May 24, 2023

Project	Cannabis Ordinance Update
Applicability	Citywide in applicable Zoning Districts
Project Description	Amendment of the City of San José Zoning Ordinance to amend Sections 20.80.763, 20.80.770, 20.80.775, and 20.80.780 from Part 9.75 of Chapter 20.80 in Title 20 of San José Municipal Code. The proposed amendments would: modify distance requirements from Cannabis retail businesses to schools, daycare centers, youth centers, community and recreation centers, and parks; eliminate the distance requirement between storefronts and add a standard to address the concentration of cannabis retail businesses; remove the police beat restriction; and make other technical, non-substantive, or formatting changes within those sections.
CEQA Clearance	In accordance with the California Environmental Quality Act, an Addendum to the prior Initial Study/Negative Declaration (PP21-002), as addended to, was prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), under File Number PP23-001 (the "Addendum to Initial Study/Negative Declaration") and including State and local implementing regulations.
Project Planner	Aparna Ankola

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Staff recommends the Planning Commission recommend the City Council:

1. Adopt a Resolution approving the Cannabis Business Ordinance Update Addendum to an approved Initial Study and Negative Declaration, as addended, in accordance with the California Environmental Quality Act (CEQA).
2. Adopt an ordinance of the City of San José amending the following Sections 20.80.763, 20.80.770, 20.80.775, and 20.80.780 from Part 9.75 of Chapter 20.80 in Title 20 of San José Municipal Code. The proposed amendments would: modify distance requirements from Cannabis retail businesses to schools, daycare centers, youth centers, community and recreation centers, and parks; eliminate the distance requirement between storefronts and add a standard to address the concentration of cannabis retail businesses; remove the police beat restriction; and make other technical, non-substantive, or formatting changes within those sections.

PROJECT BACKGROUND

The City of San José has a robust Cannabis Regulatory Program that regulates the cultivation, manufacturing, processing, testing, distribution, and dispensing of cannabis for medical and non-medical purposes. This program initially went into effect on July 18, 2014, known at the time as the Medical Marijuana Regulatory Program, as non-medical cannabis had not yet been authorized under state law. The program has three components: The Zoning Ordinance, which regulates where cannabis businesses can

locate; Chapter 6.88 of the San José Municipal Code (SJMC), which sets forth operational and regulatory requirements; and the City Manager Regulations, which promulgates additional regulations necessary for administering the program, including the registration process.

Prior to the adoption of the program in 2014, over 100 medical cannabis facilities, or collectives, proliferated in the city. Upon adoption of the program, the San José collectives were required to obtain registration by December 18, 2015, to continue operating. By the deadline, 16 collectives were registered in San José.

In 2016 California voters passed Proposition 64, a statewide regulatory and licensing system for cannabis cultivation, manufacturing, distribution, testing, and dispensing. This proposition also mandated a statewide licensing program for “adult use” (oftentimes referred to as recreational) sales of cannabis to persons 21 or older by January 1, 2018. On November 14, 2017, the City Council approved allowing the City’s 16 registered collectives to conduct non-medical cannabis activities. All 16 former “collectives” have now converted to being cannabis businesses.

The City Council conducted priority setting on March 5, 2019. At this meeting, Council directed staff to analyze and return with updates to the Zoning Ordinance and regulatory program to allow an increase in the number of cannabis businesses in the city, to allow cannabis dispensing (retail) in more locations, and to address the concentration of cannabis businesses in Council District 7.

On February 15, 2022, the City Council adopted changes to the zoning ordinance to allow cannabis retail storefronts to open in commercial zoning districts and directed the City Manager to open registration for a second retail storefront for the existing 16 cannabis businesses and allow up to ten new locations for delivery or retail for future equity applicants. An equity applicant is someone who may have been harmed by years of cannabis prohibition and the “War on Drugs.” Equity applicants must meet the criteria delineated in [Part 3.5 of Chapter 6.88 of the Municipal Code](#) and must graduate from the City’s Cannabis Business Equity Academy. At that time Council voted to prohibit new or relocated retail storefronts in Council District 7 to address concerns around concentration in that District. The updated setback requirements for a cannabis retail storefront are summarized in **Table 1**. A complete analysis including extensive discussion of prior actions and outreach related to cannabis businesses in San Jose can be found in the [Planning Commission Staff Report](#) for the approved ordinance update (File No. PP21-002).

Table 1 - Existing Distance Criteria as approved by City Council (February 15, 2022)

Areas	Parks, Community and Recreation Center, Library	Substance Abuse Rehabilitation Center, Emergency Residential Shelter	Residential	Daycare Center, Youth Center	Public or private, Elementary School, or Secondary School,	Another Medical Cannabis Dispensary or Cannabis Retail Storefront
Downtown	-	-	-	500 ft	1000 ft	500 ft path of travel
Urban Village	-	500 ft	-	1000 ft		
Outside of Downtown or Urban Village	1000 ft	500 ft	300 ft path of travel			1000 ft path of travel

After the February 2022 update to the City’s cannabis program, the existing 16 cannabis businesses began to look for new retail locations using the updated zoning criteria. While staff predicted the new zoning standards balanced concerns related to the proximity of cannabis storefronts to sensitive receptors with

the need for the industry to have an adequate inventory of potential retail locations, the industry reported difficulty in finding new locations. They reported that they have been unable to find a compliant location in a commercial zoning district due to a combination of setback requirements detailed above, and the reluctance or inability of property owners to lease to a cannabis business. This reluctance creates a problem unique to the cannabis industry where many retail sites that would otherwise be compliant with zoning restrictions are not actually available for this specific use due to a combination of factors. These include the situation that many lease terms for an existing business in a multi-tenant site dictate a property owner may not lease to another tenant that is not legal on a state or federal level (Cannabis remains a Schedule I controlled substance and, therefore, remains illegal under federal law). These issues are described in detail in an [Information Memo released on September 23, 2022](#). As of the writing of this memorandum, only one of the 16 businesses has received a Zoning Code Verification Certificate for a second retail location in a commercial zoning district, despite concerted efforts.

To address the challenges of finding a compliant location in a commercial zoning district, the City Council, on November 1, 2022, directed staff to return with the following updates to the Zoning Ordinance criteria for cannabis retail storefronts:

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 the 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
 - 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:
4. Establish a 500-foot distance buffer measured as parcel to parcel.
 - a. Retain current distance requirements to sensitive uses for Rehab Centers, Emergency Residential Shelters, and Residential Uses.
 - b. Remove the crime overlay restriction on new cannabis storefronts.
 - c. Evaluate potential standards to address the concentration of cannabis businesses for consideration by the City Council.

Analysis

Throughout the past year, staff has assisted representatives from some of the City's existing cannabis businesses as they evaluate potential new locations. Through this experience, staff identified that the thousand-foot distance requirement to schools and daycare centers is one of the most common constraints from locating sites that are otherwise compliant, and where the owner may be willing to lease to a cannabis business. The restrictions upon locations proposed in the police beat with an above-average crime rate is another major constraint. This restriction was initially proposed in part to potentially address the concentration of businesses in certain geographic areas; however, it presented challenges that are described in the September 2022 Informational Memo referenced above. At their [November 1, 2022, meeting](#), Council directed staff to revise these criteria.

The current distance requirements for sensitive uses are similar to those that applied when the existing businesses initially found their locations in 2014; however, at that time, cannabis businesses were also restricted to industrial zoning districts. Industrial areas are significantly less likely to have sensitive receptors like schools, parks, and daycare centers nearby. Therefore, the potential presence of these uses was not a major constraint in finding locations during the initial registration period. It is important to note that in 2014 the city required cannabis businesses to be “vertically integrated,” meaning that they were required to cultivate, process, and dispense cannabis from one single location. This combination of uses caused the city to restrict the industry to industrial zoning districts.

In general, the Zoning Ordinance does not allow retail cannabis businesses to locate in industrial areas to preserve this limited job-producing land. The vertical integration requirement has since been removed through updates to the cannabis regulatory program. Without vertical integration, cannabis retail is functionally much like any other type of retail. Cannabis retail businesses desire to be in locations that are near their customers and have adequate parking, signage, and street visibility. These types of locations are mostly found in commercial areas. With the vertical integration requirement no longer applicable, and with the industry having several years of successful operation in the city, Council deemed it appropriate for future cannabis retail to locate in commercial areas. It has become apparent that to facilitate this industry in commercial areas, the city will need to reevaluate the distance requirements for sensitive uses.

Pursuant to Council’s prior direction to modify the land use restrictions to further facilitate cannabis businesses locating in commercial areas, amendments to the distance requirements to sensitive uses and concentration standards are proposed. These amendments are summarized in Table 2 below. The city has a robust regulatory program that requires extensive security measures.

To better understand what, if any, crime impacts exist, in February 2022 staff analyzed the total reported incidents on a block containing a cannabis business and compared that to the total reported incidents on a block containing a business with an ABC liquor license for off-sale. ABC license holders were selected primarily because the community feedback likened cannabis to alcohol. After examining the crime statistics for both the 16 registered cannabis businesses and 19 ABC licensed locations within a half-mile radius of the 16 registered businesses, the total average crime rate was significantly less on blocks containing dispensaries when comparing the total average crime. Thus, staff concluded that the current regulatory framework is sufficient to mitigate potential negative impacts. Cannabis businesses are subject to many requirements to ensure that they do not sell to minors, therefore, the staff’s recommendation is aligned with the City Council’s direction.

Table 2 - Proposed Amendments to Distance Criteria as directed by City Council

Areas	Parks, Community and Recreation Center, Library	Substance Abuse Rehabilitation Center, Emergency Residential Shelter	Residential	Public or private, Elementary School, or Secondary School, Daycare Center, Youth Center	Another Medical Cannabis Dispensary or Cannabis Retail Storefront
Downtown	-	-	-	500 ft from the property line or 1000 Ft path of travel, whichever is more restrictive.	No more than four within a 1000-foot radius, measured from building or tenant space
Urban Village	-	500 ft	-		
Outside of Downtown or Urban Village	500 ft	500 ft	300 ft path of travel		

Concentration of Storefront Dispensaries

As part of the November 2022 action, Council directed staff to eliminate distance requirements between cannabis storefronts and propose a potential standard to address the concentration of cannabis businesses. Standards to address the concentration of certain types of businesses are not new. For example, City Council Policy 6-23, Guidelines for Evaluation of Nightclubs and Bars, and Municipal Code Chapter 6.84 that pertains to Determinations of Public Convenience or Necessity for off-sale of alcohol both contain standards to address proximity or concentration of those respective uses. Concentration standards tend to be applied to business types that are anticipated to cause higher-than-normal public safety issues. The Council Policy was also created because of the public perception that a concentration of certain types of “vice” businesses can be indicative of crime and/or lower land values. Staff evaluated various options for a standard to address concentration. Each option has benefits and drawbacks, as discussed below.

First, staff explored proposing a cap per Council District, given the precedent of concern around too many cannabis businesses being in one specific Council District. The issue with establishing a cap per Council District is that Council Districts are large, sometimes oddly shaped geographic areas. A cap could end up inadvertently being overly restrictive. For example, several businesses located near different district boundaries would effectively be dispersed. However, a cap would not account for this outcome. On the converse, businesses could still create the perception of a concentration if they were to locate near each other and/or on both sides of the boundary of two or more Council Districts. Furthermore, the concentration, of cannabis businesses in Council District 7, was a result of prior land use restrictions that resulted in the bulk of compliant sites being in that district. With an adequate number of compliant sites across the city, staff believes it is less likely for the businesses to end up largely concentrated in one area. For these reasons, staff is not recommending a restriction per Council District. A potential cap using other predefined geographic areas such as census tracts or zip codes encounters these same issues.

Any potential concentration standard has the drawback of potentially limiting sites for an industry that is already constrained based more than others. It also creates a situation where the first businesses to find sites have an advantage. This could disproportionality impact the equity applicants who will not be eligible to apply for a Zoning Code Verification Certificate for a site until they graduate from the City’s Equity Academy in the fall.

Should the Planning Commission recommend that Council adopts a standard for the concentration of businesses, staff recommends using an existing standard derived from the process of evaluating a Determination of Public Convenience or Necessity for the off-sale of alcohol (Chapter 6.84 of the Municipal Code). Specifically, staff recommends that any proposed cannabis storefront cannot lead to the grouping of more than four cannabis storefronts within a one-thousand-foot radius. The benefit of this standard is that it looks at the actual surroundings of the business to determine the concentration, unlike the above-discussed options that look at a larger and more arbitrary geographic area. To account for variations in site sizes, staff proposes that this be measured from the nearest exterior wall of the building, in the case of a single-tenant building, or tenant space, in the case of a multi-tenant building. The site would be “locked in” for the business upon completion of the Zoning Verification certificate process.

Figure 1 – Illustration of a 1,000-ft radius from a retail tenant space

The Planning Commission could also consider recommending that Council remove the restriction from a cannabis storefront locating in Council District 7. While not part of the Council’s November 2022 direction to staff, this was raised during the outreach process by an industry representative as a potential means to further address concentration. Allowing the cannabis businesses to relocate to commercial areas throughout Council District 7 could even further reduce existing concentration, as currently, they are in limited industrial areas within the district.

General Plan Conformance

The Envision San José 2040 General Plan encourages the periodic review of the Zoning Ordinance and other supporting Ordinances in the Municipal Code to ensure the document reflects the goals, policies, and implementation of the General Plan. The proposed amendments to Title 20 are consistent with the following General Plan policies:

1. **Land Use and Employment Policy IE-1.1:** To retain land capacity for employment uses in San José, protect and improve the quantity and quality of all lands designated exclusively for industrial uses, especially those that are vulnerable to conversion to non-employment uses.
2. **Land Use and Employment Policy IE-1.2:** Plan for the retention and expansion of a strategic mix of employment activities at appropriate locations throughout the City to support a balanced economic base, including industrial suppliers and services, commercial/retail support services, clean technologies, life sciences, as well as high technology manufacturers and other related industries.
3. **Business Growth and Retention Policy IE-2.3:** Ensure support for a creative economy by facilitating access to resources and services for creative industries and entrepreneurs.
4. **Business Growth and Retention Policy IE-2.5:** Provide business assistance and support to facilitate job creation, develop new businesses, spur private investment, and promote industry growth.

5. Business Growth and Retention Policy IE-2.6: Promote retail development to the maximum extent feasible, consistent with other General Plan goals and policies, in order to generate City revenue, create jobs, improve customer convenience, and enhance neighborhood livability.
6. Business Growth and Retention Policy IE-2.7: Encourage business and property development that will provide jobs and generate revenue to support city services and infrastructure.
7. General Land Use Policy LU-1.10: Review criteria in the Zoning Ordinance and update it as appropriate to reflect Land Use goals, policies, and implementation actions in this Plan.
8. General Land Use Policy LU-1.5: Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use/Transportation Diagram and Envision General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards, including heights, to achieve vital mixed-use complete communities and facilitate their implementation.
9. Downtown Policy LU-3.4: Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.
10. Neighborhood Serving Commercial Policy LU-5.7: Encourage retail, restaurant, and other active uses as ground-floor occupants in identified growth areas and other locations with high concentrations of development.

The proposed amendments to Title 20 would update certain sections of the Zoning Code that will allow for better implementation of the goals and policies of the General plan by both facilitating Cannabis uses within the City and by mitigating potential negative impacts. These changes help ensure the Zoning Ordinance appropriately reflects the goals and policies of the General Plan.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

In accordance with the California Environmental Quality Act, an Addendum (PP23-001) to the previously approved Initial Study and Negative Declaration (PP21-002) was prepared for this ordinance under the provisions of the California Environmental Quality Act of 1970 (CEQA), as amended, including State and local implementing regulations. The purpose is to document the changes to the project and provide CEQA analysis for the project, which would amend Title 20 of the Municipal Code on updates related to Cannabis businesses registered in San José. This Addendum determined the proposed project would result in a less than significant impact to environment resources because it facilitates establishment of commercial uses city-wide in areas where similar uses already occur. Staff has been available to respond to questions and comments from the public.

PUBLIC OUTREACH

In March of 2021, staff previously released a survey requesting information from the public about cannabis land use. This survey was available in three different languages. A total of 454 respondents provided 1,708 written comments, and staff reviewed and analyzed these comments. The comments were approximately half in support and half opposed to loosening restrictions on Cannabis land use. The following is a summary of the top themes in general order of frequency with the most frequent first:

- Cannabis dispensaries should be treated the same as alcohol sales and allowed anywhere alcohol sales are allowed.
- Cannabis dispensaries should be kept away from anywhere children and teens congregate (including residential areas)/concern about access to children.
- Support for cannabis dispensaries in convenient and walkable areas where people shop.
- General opposition to cannabis; the City should not facilitate and support its sale unless strictly for medical purposes.

- General support of deregulation of cannabis and treating cannabis like any other business.
- Concerns that cannabis dispensaries will attract crime and/or will negatively impact neighboring businesses.
- Cannabis dispensaries are acceptable in commercial areas as long as they are inconspicuous.
- Concerns about public consumption of cannabis near dispensaries.

On April 26, 2023, staff met with San José's cannabis stakeholders and businesses to discuss the initial draft proposal. Approximately 30 representatives attended this virtual event and mostly in support of the proposed amendments. Staff received comments from one representative recommending that the city retain the 500-foot distance requirement between dispensaries, as they felt it was risky to deviate from this established standard. They noted that this standard exists within the City's existing policy for bars and nightclubs and that cannabis businesses should be regulated similarly to alcohol uses. Another industry representative disagreed that cannabis businesses are akin to alcohol businesses, and therefore should not be regulated the same.

Staff also created an informational webpage on the proposal which was posted to the City's website on May 5, 2023. This report and attachments were posted on the City's website. Staff has been available to respond to questions from the public.

Staff followed Council Policy 6-30: Public Outreach Policy, in that notices for the public hearings, were posted on the City's website and published in the San José Post-Record.

Project Manager: Aparna Ankola

Approved by: /s/ Michael Brilliot, Deputy Director for Christopher Burton, Planning Director

ATTACHMENTS:	
Exhibit A:	Draft Ordinance
Exhibit B:	Draft Addendum

PP23-001

Links to Attachment A - B

Click on the title to view document

Exhibit A: Draft Ordinance
Exhibit B: Draft Addendum