Meeting Date: **8/9/2016**

Report Type: Staff/Discussion

Report ID: 2016-00780

City of SACRAMENTO 05

Law and Legislation Committee Report

915 I Street, 1st Floor

www.CityofSacramento.org

Title: Ordinance Amending Various Sections of Title 17 of the Sacramento City Code Relating to Marijuana Cultivation (M15-017)

Location: Citywide

Recommendation: 1) Review an Ordinance amending various section of the Planning and Development Code (Title 17) for marijuana cultivation; and 2) pass a Motion forwarding the ordinance to City Council for approval.

Contact: Joy Patterson, Principal Planner (916) 808-5607, Community Development Department

Presenter: Joy Patterson, Principal Planner (916) 808-5607, Community Development Department

Department: Community Development Dept

Division: Zoning

Dept ID:

Attachments:

1-Description/Analysis

2-Title 17 Ordinance (Redline)

3-Title17 Ordinance (Clean)

4-Related Definitions and Regulations

5-Map with 600-foot radius from schools and indicating A, C-4, M-1, M-1S, M-2 and M-2S zoned property

6-Map with 600-foot radius from schools and parks, 300-foot radius from residential zoned property and indicating C-2 zoned property

7-Map with 600-foot radius from schools and parks and indicating C-2 zoned property

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City Attorney Review

Approved as to Form
Steve Itagaki
8/2/2016 1:47:46 PM

Approvals/Acknowledgements

Department Director or Designee: Ryan Devore - 7/25/2016 3:41:24 PM

Description/Analysis

Issue Detail:

Background

In September 2015, Governor Brown signed three bills affecting state and local government licensing/permitting of medical marijuana businesses (Assembly Bill 243, Assembly Bill 266, and Senate Bill 643). These bills protect local control of the medical marijuana industry and create a statewide framework for additional oversight of industry practices. On February 2, 2016, the Sacramento City Council approved amendments to Title 17 which permitted conditional use permits for marijuana cultivation in the General Commercial, Heavy Commercial, Industrial and Agricultural zones. The Council, however, asked the City Manager to direct his staff to come back to Council with the level of conditional use permit review. The Council also requested the City Manager to direct his staff to make recommendations on the distance from sensitive uses, primarily schools and parks. Staff has completed research and has prepared an ordinance amending Title 17 with recommendations on level of permit review and distance from sensitive uses.

Staff Outreach and Research

Planning Division staff is a part of a citywide team that is developing regulations for marijuana cultivation. The team is comprised of staff from the City Manager's office, Revenue, Planning, Building, Police, Fire, Economic Development, and the City Attorney's office. Since the February 2, 2016 City Council meeting, City staff has visited cultivation operations in Oakland, Sparks (Nevada), and Sacramento; and has researched ordinances of communities throughout the state, as well as out-of-state, where cultivation is permitted. Meetings with various stakeholders from neighborhood organizations, business associations, and marijuana related businesses and organizations were held. The most recent stakeholder meetings were conducted on July 7, 2016, with approximately 175 people attending a two-hour meeting at the Meadowview Community Center in the morning and approximately 20 people attending a one-hour meeting at Historic City Hall in the evening.

Proposed Amendments to Title 17

The proposed ordinance takes into account the research of staff as well as input from the stakeholder meetings that included cannabis stakeholders, neighborhood associations, and business associations. The City Attorney's office has also reviewed the wording found in the regulations for consistency throughout Title 17 as well as the rest of the City Code. A clean and red-lined version of the ordinance are attached (Attachment 2 and 3). Related definitions and regulations are also attached to assist in reading the proposed ordinance (Attachment 4).

Section 1 through Section 9 of the ordinance proposes amendments to Title 17 to remove the word cannabis and replace it with the word marijuana. These amendments are proposed in order to avoid confusion and be consistent throughout the City Code.

The second change in Section 1 one through Section 9 is the addition of a recommendation for the level of review for the conditional use permit in each of the zones where cultivation permits are allowed. The City Council asked for staff's recommendation on whether the conditional use permit should be heard at the Zoning Administrator level or the Planning and Design Commission level. Based on experience with dispensary permits, staff recommends that the hearings be conducted at the commission level. All of the dispensaries heard at the ZA level were in the industrial zone and met location criteria. Of those 11 dispensaries, three of the decisions were appealed to the commission. Twenty-two dispensary permits were heard at the commission level. The sites were in the general commercial, heavy commercial and industrial zones. Of those 22 permits only one was appealed to the City Council.

Section 10 of the proposed ordinance discusses staff recommendations for distance requirements. The amendment indicates that all cultivation sites, regardless of zone, will be required to meet the following requirements:

- Inside a fully enclosed building and not be visible from the public right-of-way;
- Comply with all applicable state and local laws;
- No more than one sign, attached or detached, non-illuminated and cannot exceed six square feet in area.

Potential cultivators have indicated that they do not wish to draw attention to their operations. Since the sites will be inside with minimal signage, staff recommends the following for all zones:

- A cultivation site cannot be located within 600 feet of a school, in accordance with section 11362.768 of the California Health and Safety Code.

The definition of school includes public and private schools, K-12. Again, the four requirements listed above apply to all zones, A, C-2, C-4, M-1, M-1S, M-2, and M-2S zones.

A map showing Heavy Commercial (C-4), Industrial (M-1, M-1S, M-2, and M-2S) and Agricultural (A) zones and a 600-foot radius from schools is attached (Attachment 5). This map, and the other maps included in this report, indicate zoning; the maps do not indicate sites that are necessarily appropriate for cultivation or are available for lease or sale. The conditional use permit process evaluates whether or not the site is appropriate for cultivation and whether or not the site results in an undue concentration of marijuana cultivation establishments. For example, Cal Expo is zoned A and shows up as A zoned property on the map.

The General Commercial (C-2) zone, however, is in more heavily populated areas than the agricultural and heavy commercial/industrial zones. Staff, therefore, recommends the following additional requirements for the C-2 zone:

- The cultivation site cannot be location within 600 feet of a park;
- The cultivation site cannot be located within 1,000 feet of any other cultivation site;

- The cultivation site cannot be located within 300 feet of any existing residential zone;
- The cultivation site cannot exceed 6,400 square feet in area

Currently in the C-2 zone manufacturing, processing, packaging and wholesale operations are also required to abide by the 6,400 square foot area restriction (17.216.710). A cultivation site is similar in that it does not result in a large number of employees or visitors and it is not an active retail storefront.

A map showing General Commercial zoned property and properties within 300 feet of residential zoned property and/or 600 feet for a park or a school is attached (Attachment 6).

Feedback from potential cultivators in the General Commercial zone has been that adding the 300-foot distance requirement from residential zones severely limits the number of sites in C-2 areas. Staff has prepared a map which leaves out the residential restriction but does indicate the 600-foot radius from parks and schools. (Attachment 7).

Policy Considerations: On February 2, 2016, when the City Council approved the conditional use permit requirement for cultivation, Assembly Bill 243 (California Medical Marijuana Regulation and Safety Act) allowed for local government to ban or regulate medical marijuana cultivation if an ordinance was in place by March 1, 2016. The City Council also adopted at that time a moratorium on cultivation permits so city staff could develop additional regulations related to cultivation land use and licensing. This included a recommendation on level of review and distance requirements from sensitive uses. The proposed ordinance addresses these land use policies as requested by the City Council.

Economic Impacts: None.

Environmental Considerations: This action is not a project subject to the California Environmental Quality Act (CEQA) because it involves only general policy and procedure making and does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment (CEQA Guidelines, sections 15002(d), 15378, 15061 (b)(3).)

Sustainability: None.

Commission/Committee Action: The proposed ordinance amending the Planning and Development Code (Title 17) was reviewed by the Planning and Design Commission on July 21, 2016. After listening to public testimony from city residents, business associations and potential cultivators in the city, the commission reviewed the provisions of the proposed ordinance. The commission expressed concern that the additional requirements for C-2 zoned property limited the number that potentially could locate in the zone and could result in a further concentration of marijuana cultivation sites in the two primary industrial areas found in the north and south portions of the city. The commission indicated that they believed the

conditional use permit provided a process to review the potential for adjacent sensitive uses on a site on a case by case basis and the additional requirements were not necessary. The commission, by a vote of 11 ayes, three noes, and one absent, voted to recommend approval of the proposed ordinance amending Title 17 subject to the deletion of provision C in its entirety from Section 10.

Rationale for Recommendation: On February 2, 2016, the City Council adopted a conditional use permit requirement for cultivation in the General Commercial, Heavy Commercial, Industrial and Agricultural zones. The ordinance, however, did not specify a level of review nor the final distance requirements from sensitive uses. The Planning and Development Code needs to be amended before potential applicants can apply for a conditional use permit.

Financial Considerations: None.

Local Business Enterprise (LBE): None.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 17 OF THE SACRAMENTO CITY CODE RELATING TO MARIJUANA CULTIVATION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The definition of "cannabis cultivation" in section 17.108.040 of the Sacramento City Code is deleted.

> ~~"Cannabis cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. As used in this definition, "cannabis" has the same meaning as in section 19300.5 of the California Business and Professions Code, which includes marijuana as defined in section 11018 of the California Health and Safety Code.~~

SECTION 2.

A. The definition of "marijuana cultivation" is added to section 17.108.140 to read as follows:

> "Marijuana cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana. As used in this definition, "marijuana" has the same meaning as "cannabis" in section 19300.5 of the California Business and Professions Code, which includes marijuana as defined in section 11018 of the California Health and Safety Code.

B. Except as specifically amended in section A above, all other provisions of section 17.108.140 remain unchanged and in full effect.

SECTION 3.

A. The table set forth in subsection B.2 (Industrial and Agricultural Uses) of section 17.200.110 (A zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

~~Cannabis cultivation~~	~~Subject to special use regulations in section 17.228.127~~	

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.200.110 remain unchanged and in full effect.

SECTION 4.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.216.710 (C-2 zone—Permitted Uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

~~Cannabis cultivation~~	~~Subject to special use regulations in section 17.228.127~~	

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.216.710 remain unchanged and in full effect.

SECTION 5.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.216.910 (C-4 zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

~~Cannabis cultivation~~	~~Subject to special use regulations in section 17.228.127~~	

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.216.910 remain unchanged and in full effect.

SECTION 6.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.220.110 (M-1 zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

~~Cannabis cultivation~~	~~Subject to special use regulations in section 17.228.127~~	

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.110 remain unchanged and in full effect.

SECTION 7.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.220.210 (M-1(S) zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

~~Cannabis cultivation~~	~~Subject to special use regulations in section 17.228.127~~	

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.210 remain unchanged and in full effect.

SECTION 8.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.220.310 (M-2 zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

~~Cannabis cultivation~~	~~Subject to special use regulations in section 17.228.127~~	

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.310 remain unchanged and in full effect.

SECTION 9.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.220.410 (M-2(S) zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

~~Cannabis cultivation~~	~~Subject to special use regulations in section 17.228.127~~	

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.410 remain unchanged and in full effect.

SECTION 10.

Section 17.228.127 of the Sacramento City Code is amended to read as follows:

17.228.127 ~~Cannabis~~ Marijuana cultivation.

A. A conditional use permit approved by the planning and design commission is required to establish ~~cannabis~~ marijuana cultivation in the A, C-2, C-4, M-1, M-1(S), M-2, and M-2(S) zones. The commission may approve a conditional use permit for marijuana cultivation based on the findings set forth in section 17.808.200.C and the following:

1. The proposed marijuana cultivation will not adversely affect the peace or general welfare of the surrounding neighborhood; and

2. The proposed marijuana cultivation will not result in undue concentration of marijuana cultivation establishments.

B. ~~Cannabis cultivation generally.~~ In any zone, ~~cannabis~~ marijuana cultivation must comply with the following provisions:

1. ~~Cannabis~~ Marijuana cultivation must be within a fully enclosed building and must not be visible from the public right-of-way.

~~2. The total canopy size of cannabis growing on one premises must not exceed 22,000 square feet.~~

2. The cultivation site cannot be located within 600 feet of a school, in accordance with section 11362.768 of the California Health and Safety Code.

3. The cultivation site cannot have more than one sign. The sign may be attached or detached. The sign cannot be illuminated and cannot exceed six square feet in area.

~~3~~4. ~~Cannabis~~Marijuana cultivation must comply with all applicable state and local laws.

C. In the C-2 zone, marijuana cultivation must comply with the following additional provisions:

1. The cultivation site cannot be located within 600 feet of a park, measured from the nearest property lines of each of the affected parcels.

2. The cultivation site cannot be located within 1,000 feet of any other cultivation site, measured from the nearest property lines of each of the affected parcels.

3. The cultivation site cannot be located within 300 feet of any existing residential zone, measured from the nearest property lines of each of the affected parcels.

4. The cultivation site cannot exceed 6,400 square feet in area.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 17 OF THE SACRAMENTO CITY CODE RELATING TO MARIJUANA CULTIVATION

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SECTION 1.

The definition of "cannabis cultivation" in section 17.108.040 of the Sacramento City Code is deleted.

SECTION 2.

A. The definition of "marijuana cultivation" is added to section 17.108.140 to read as follows:

> "Marijuana cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana. As used in this definition, "marijuana" has the same meaning as "cannabis" in section 19300.5 of the California Business and Professions Code, which includes marijuana as defined in section 11018 of the California Health and Safety Code.

B. Except as specifically amended in section A above, all other provisions of section 17.108.140 remain unchanged and in full effect.

SECTION 3.

A. The table set forth in subsection B.2 (Industrial and Agricultural Uses) of section 17.200.110 (A zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.200.110 remain unchanged and in full effect.

SECTION 4.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.216.710 (C-2 zone—Permitted Uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.216.710 remain unchanged and in full effect.

SECTION 5.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.216.910 (C-4 zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.216.910 remain unchanged and in full effect.

SECTION 6.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.220.110 (M-1 zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.110 remain unchanged and in full effect.

SECTION 7.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.220.210 (M-1(S) zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.210 remain unchanged and in full effect.

SECTION 8.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.220.310 (M-2 zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.310 remain unchanged and in full effect.

SECTION 9.

A. The table set forth in subsection B.3 (Industrial and Agricultural Uses) of section 17.220.410 (M-2(S) zone—Permitted uses) of the Sacramento City Code is amended as follows:

1. The row for cannabis cultivation is deleted.

2. A row is added to read as follows:

Marijuana cultivation	Subject to special use regulations in section 17.228.127	PDC

B. Except as specifically amended in subsection A above, the tables set forth in section 17.220.410 remain unchanged and in full effect.

SECTION 10.

Section 17.228.127 of the Sacramento City Code is amended to read as follows:

17.228.127 Marijuana cultivation.

A. A conditional use permit approved by the planning and design commission is required to establish marijuana cultivation in the A, C-2, C-4, M-1, M-1(S), M-2, and M-2(S) zones. The commission may approve a conditional use permit for marijuana cultivation based on the findings set forth in section 17.808.200.C and the following:

1. The proposed marijuana cultivation will not adversely affect the peace or general welfare of the surrounding neighborhood; and

2. The proposed marijuana cultivation will not result in undue concentration of marijuana cultivation establishments.

B. In any zone, marijuana cultivation must comply with the following provisions:

1. Marijuana cultivation must be within a fully enclosed building and must not be visible from the public right-of-way.

2. The cultivation site cannot be located within 600 feet of a

school, in accordance with section 11362.768 of the California Health and Safety Code.

3. The cultivation site cannot have more than one sign. The sign may be attached or detached. The sign cannot be illuminated and cannot exceed six square feet in area.

4. Marijuana cultivation must comply with all applicable state and local laws.

C. In the C-2 zone, marijuana cultivation must comply with the following additional provisions:

1. The cultivation site cannot be located within 600 feet of a park, measured from the nearest property lines of each of the affected parcels.

2. The cultivation site cannot be located within 1,000 feet of any other cultivation site, measured from the nearest property lines of each of the affected parcels.

3. The cultivation site cannot be located within 300 feet of any existing residential zone, measured from the nearest property lines of each of the affected parcels.

4. The cultivation site cannot exceed 6,400 square feet in area.

Attachment 4

Related Definitions and Terms

"Site" means a contiguous area of land, including a lot or lots or a portion thereof, upon which a project is developed or proposed for development. SCC 17.108.200

"Park" means all publicly owned and operated parks that are used, operated, or maintained for recreational purpose. SCC 17.108.170

Schools: Cal Health & Safety Code 11362.768

…

(b) No medical marijuana cooperative, collective, dispensary, operator, establishment or provider who possesses, cultivates, or distributes medical marijuana pursuant to this article shall be located within a 600-foot radius of a school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the property lie of the school to the closest property line of the lot on which the medical marijuana cooperative, collective, dispensary, operator, establishment or provider is to be located without regard to intervening structures.

…

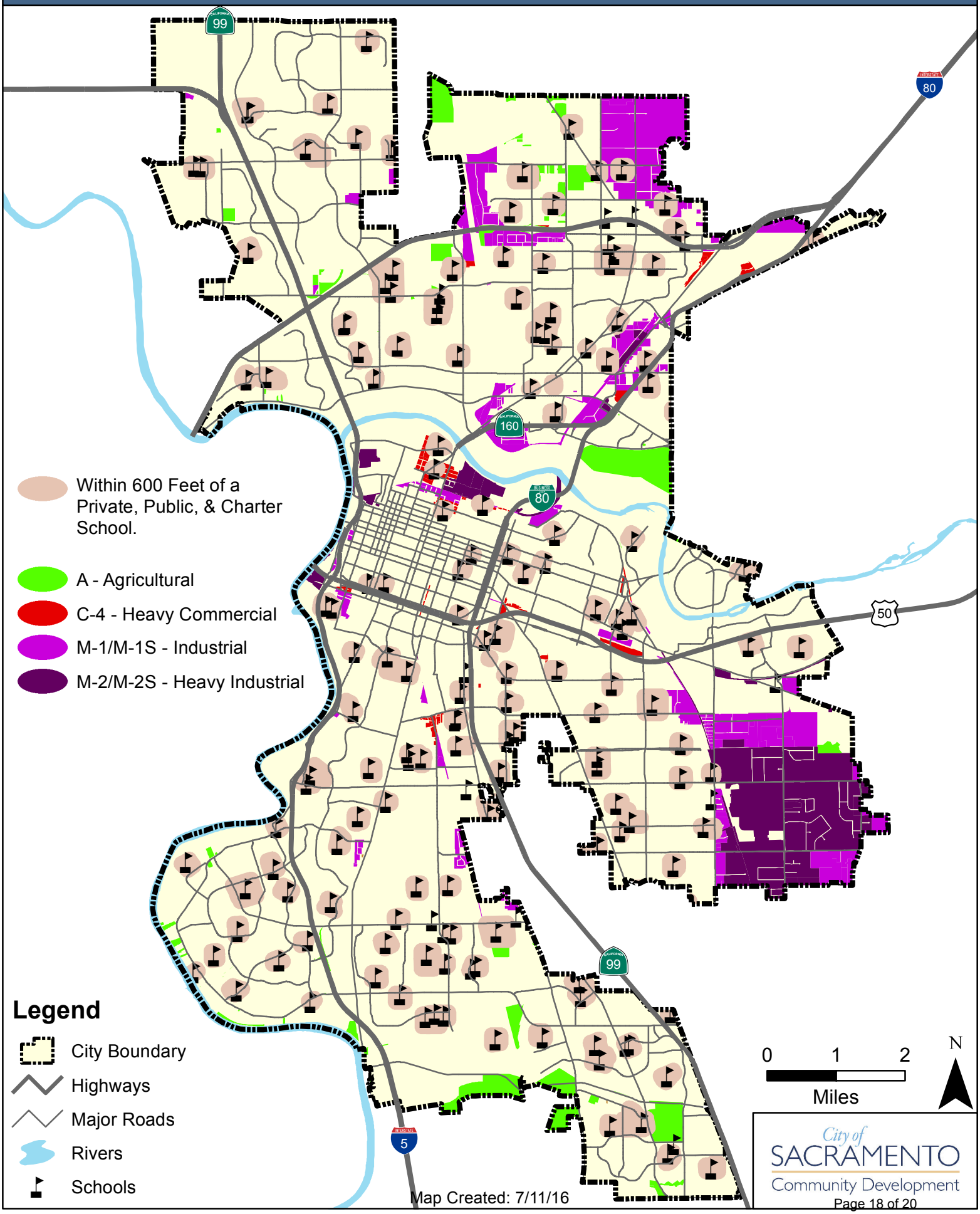
(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider.

…

(h) For the purposes of this section "school" means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

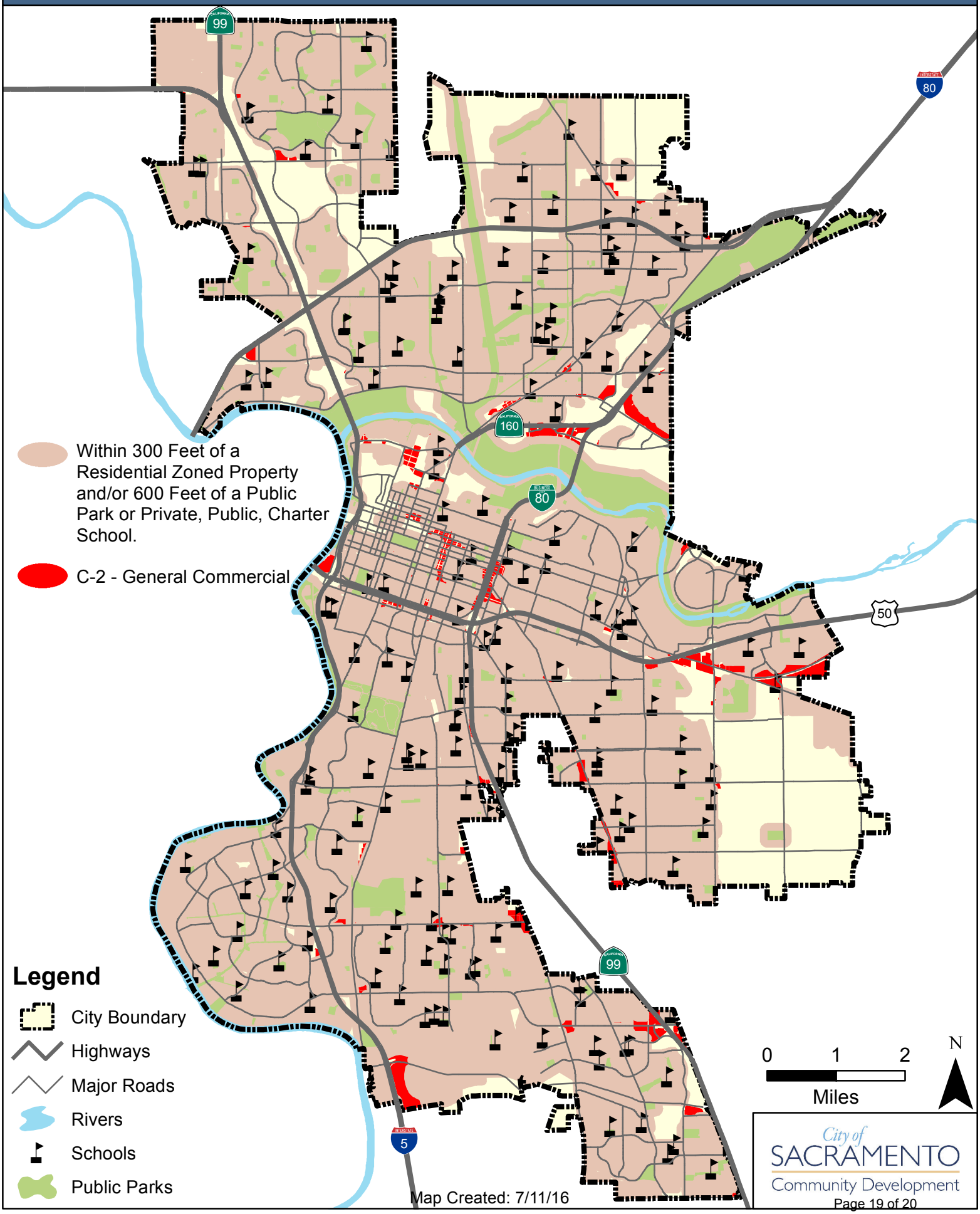
City of Sacramento

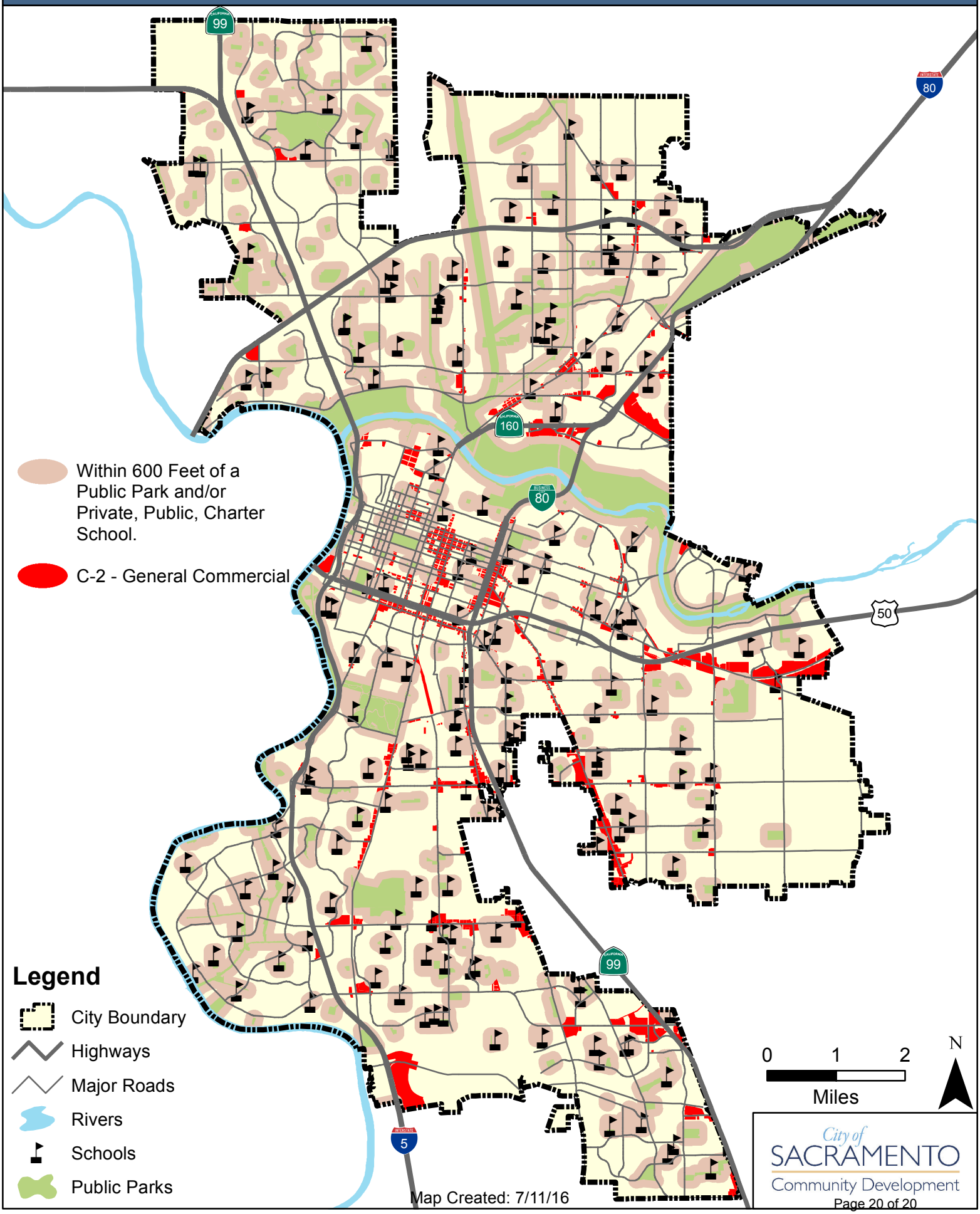
A, C-4, M-1/M-1S, M-2/M-2S - Schools



City of Sacramento

C-2 - Schools, Parks, & Residential



City of Sacramento

C-2 - Schools & Parks