



City of Sacramento City Council

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915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 1/29/2013

Report Type: Public Hearing

Title: Zoning Code Ordinance Amendment - Location of Medical Marijuana Dispensaries in Relation to Parks and K-12 Schools (M12-006) (Pass for Publication on 1-22-13, Published on 1-10-13)

Report ID: 2013-00002

Location: Citywide

Recommendation: Conduct a public hearing and upon conclusion, pass an Ordinance amending Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) relating to location requirements for medical marijuana dispensaries

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: 21001224

Attachments:

1-Description/Analysis

2-Map showing 1,000 foot radius from parks and schools

3-Map of current location of dispensaries and overlay of sensitive use criteria.

4-Map of location of dispensaries with sensitive use criteria modified to 1,000 feet from parks and schools

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City Attorney Review

Approved as to Form
Paul Gale
1/14/2013 9:08:37 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
1/8/2013 10:49:48 AM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 1/9/2013 4:15:11 PM



Description/Analysis

Issue: At the City Council meeting of April 17, 2012, Council member Darrell Fong requested that Community Development Department staff prepare a report for the Law and Legislation Committee on modifying the location criteria for medical marijuana dispensaries 1,000 feet in relation to parks and K-12 public and private schools (Attachment 2). The current distance requirement for a dispensary is 600 feet from a park and from a school (Attachment 3). At the Law and Legislation meeting of July 24, 2012, committee members discussed amending the distance requirement to 1,000 feet from a park or school and directed staff to prepare an ordinance as such (Attachment 4).

Staff has prepared an ordinance (Attachment 5) which deletes the current requirement that states a medical marijuana dispensary shall not be located within six hundred feet of a park or public or private K-12 school. In its place, the requirement is added that no dispensary shall be established within 1,000 feet of a park or school.

The Zoning Code states that if an application for a medical marijuana dispensary is for the location where the dispensary has been in continuous operation since October 26, 2010, the location requirements (distance from residences, parks, schools, child care centers, child care-family day care homes, youth-oriented facilities, church/faith congregations, substance abuse centers, movie theaters/cinemas, tobacco stores and other dispensaries) do not apply and the applicant can submit a special permit application. The proposed amendment would still allow this exemption for parks and K-12 schools at the new 1,000 foot radius. While an applicant can apply for a special permit and not meet the distance requirements, the hearing body can take the sensitive uses into consideration when deciding whether or not to approve, conditionally approve, or deny a special permit.

The medical marijuana dispensary regulations found in Title 5 of the City Code only permit the 34 Phase I dispensaries to apply for a special permit. However, in the future, others may be allowed to apply. These applicants will be required to meet the location requirement of the Zoning Code including, if adopted, the 1,000 foot distance requirement for parks and K-12 schools.

Policy Considerations: Since October 2011, the four California-based United States Attorneys have taken increased enforcement action against dispensaries that are located within 1,000 feet of schools. The 1,000 foot restriction is based on the enhanced penalties that apply under federal law for distribution of controlled substances, including marijuana, within 1,000 feet of schools (21U.S.C. Section 860(a)). In addition, the Sacramento City Council recently expressed concern with the influence of tobacco sales on youth within 1,000 feet of schools and adopted Ordinance 2012-016 on June 19, 2012, requiring any store proposing to sell tobacco within 1,000 feet of a school to obtain a Zoning Administrator's special permit. Sacramento City Code Section 9.08.120.A.1 also prohibits the smoking of marijuana upon or within 1,000 feet of the grounds of any school or park.

Economic Impacts: None

Environmental Considerations: The adoption of the ordinance would have no significant effect on the environment and is exempt pursuant to CEQA Guidelines section 15061(b)(3).

Sustainability: None

Commission/Committee Action: After a lengthy discussion, on October 11, 2012, the Sacramento City Planning and Design Commission voted 7 ayes, 4 noes, 2 absent to recommend approval of the proposed ordinance and forward to City Council. On January 15, 2013 the Law and Legislation Committee voted to recommend approval of the proposed ordinance and forward to City Council.

Rationale for Recommendation: Discussion on the rationale included concerns about the US Attorney's actions on prosecuting dispensaries located within 1000 feet of a school and the enhanced penalties. As a result, the committee took action to recommend an ordinance addressing this location criteria and for areas where children would congregate such as parks, which are often adjacent to schools. In addition, discussion also referenced the tobacco sales within 1000 feet of a school; therefore this proposed ordinance change would be consistent with that approach.

Financial Considerations: None.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

MM Dispensaries: 1,000 Foot Radius to Parks & Schools

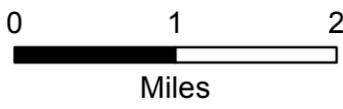
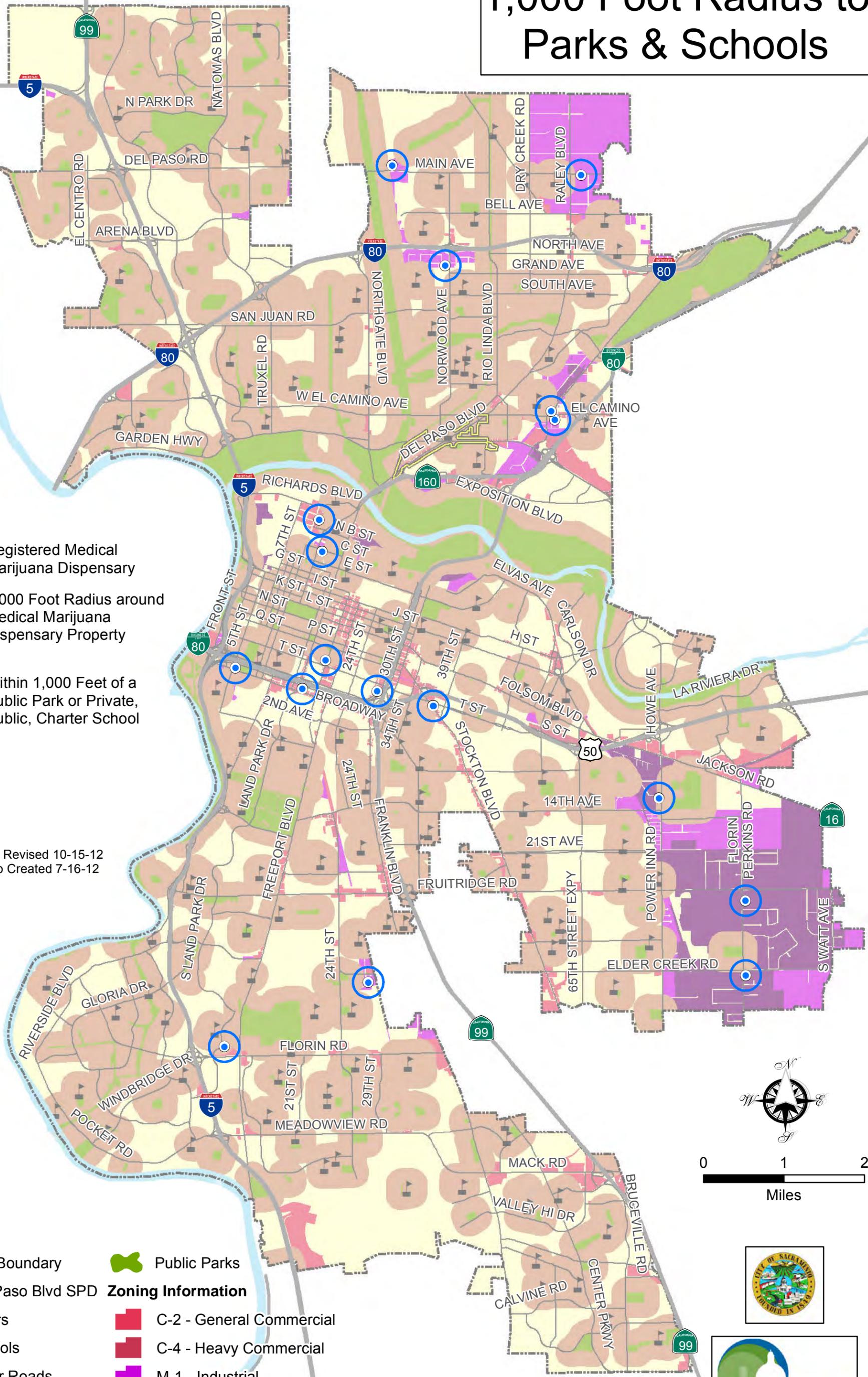
Legend

-  Registered Medical Marijuana Dispensary
-  1,000 Foot Radius around Medical Marijuana Dispensary Property
-  Within 1,000 Feet of a Public Park or Private, Public, Charter School

Map Revised 10-15-12
Map Created 7-16-12

Legend

- | | | | |
|--|-------------------|---|--------------------------|
|  | City Boundary |  | Public Parks |
|  | Del Paso Blvd SPD | Zoning Information | |
|  | Rivers |  | C-2 - General Commercial |
|  | Schools |  | C-4 - Heavy Commercial |
|  | Major Roads |  | M-1 - Industrial |
|  | Highway |  | M-2 - Heavy Industrial |

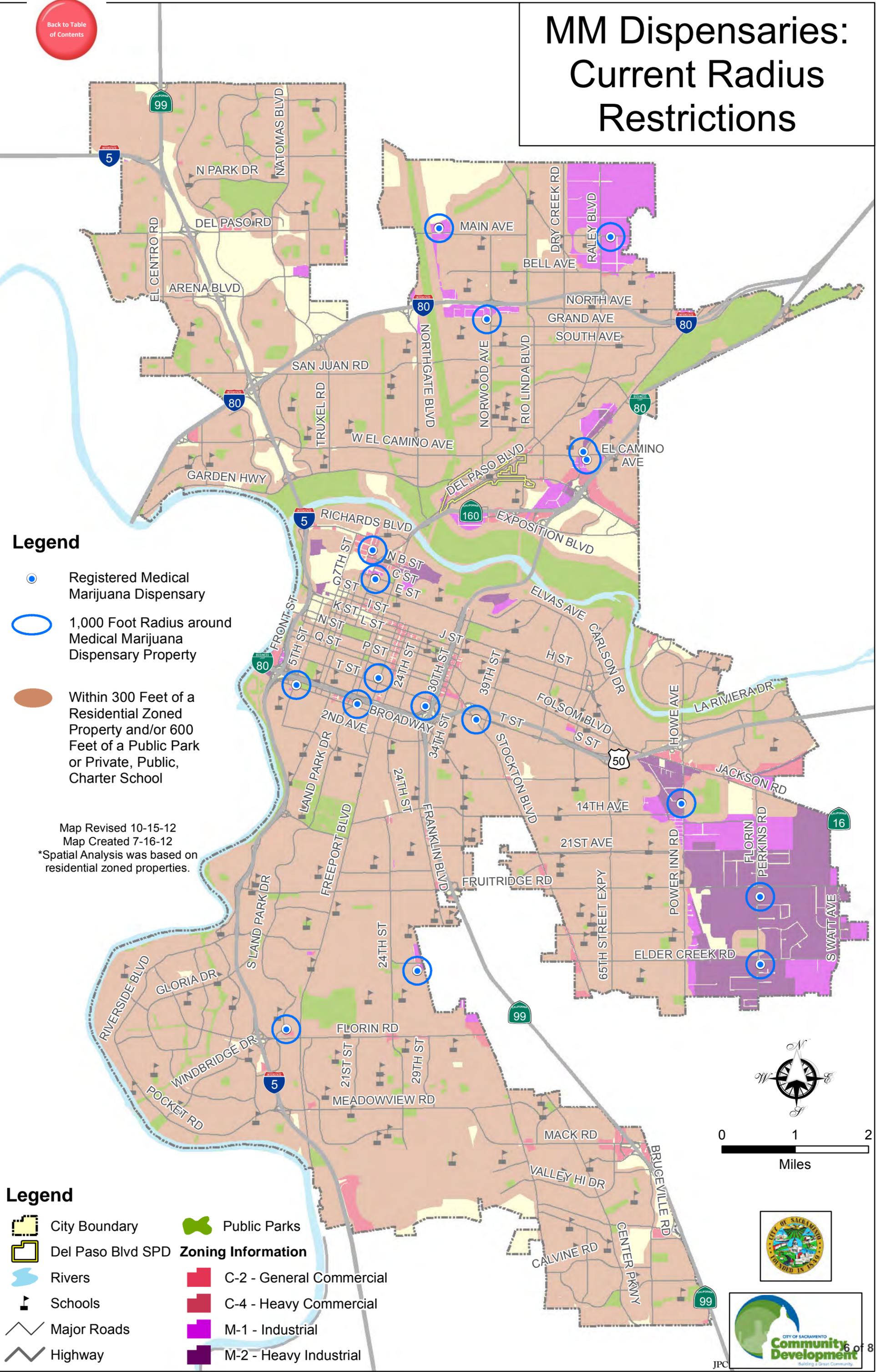


MM Dispensaries: Current Radius Restrictions

Legend

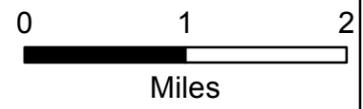
-  Registered Medical Marijuana Dispensary
-  1,000 Foot Radius around Medical Marijuana Dispensary Property
-  Within 300 Feet of a Residential Zoned Property and/or 600 Feet of a Public Park or Private, Public, Charter School

Map Revised 10-15-12
Map Created 7-16-12
*Spatial Analysis was based on residential zoned properties.

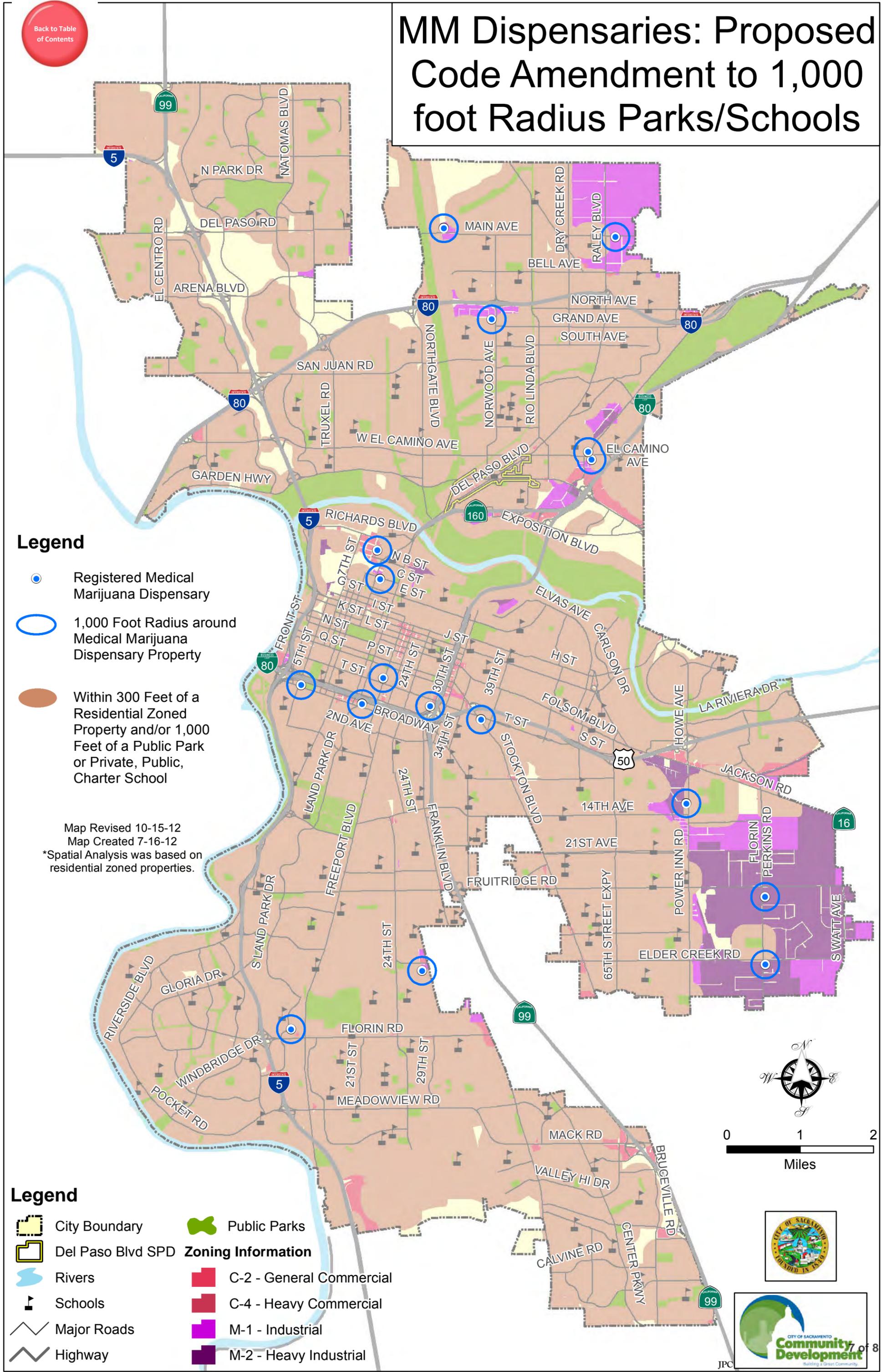


Legend

-  City Boundary
-  Del Paso Blvd SPD
-  Rivers
-  Schools
-  Major Roads
-  Highway
-  Public Parks
- Zoning Information**
-  C-2 - General Commercial
-  C-4 - Heavy Commercial
-  M-1 - Industrial
-  M-2 - Heavy Industrial



MM Dispensaries: Proposed Code Amendment to 1,000 foot Radius Parks/Schools



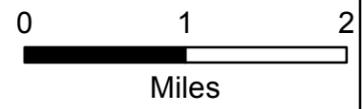
Legend

-  Registered Medical Marijuana Dispensary
-  1,000 Foot Radius around Medical Marijuana Dispensary Property
-  Within 300 Feet of a Residential Zoned Property and/or 1,000 Feet of a Public Park or Private, Public, Charter School

Map Revised 10-15-12
 Map Created 7-16-12
 *Spatial Analysis was based on residential zoned properties.

Legend

- | | | | |
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ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTION 17.24.050 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO LOCATION REQUIREMENTS FOR MEDICAL MARIJUANA DISPENSARIES

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

SECTION 1.

- A. Subsection d of Footnote 85 of Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended to read as follows:
- d. Location and Permit Requirements. Except as provided in subsection m of this footnote, the following location requirements apply to all medical marijuana dispensaries and may not be waived or modified by special permit or variance:
- i. No medical marijuana dispensary shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels, of any other medical marijuana dispensary, park or school (public or private K-12).
- ii. No medical marijuana dispensary shall be established or located within three hundred (300) feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or residential use.
- iii. No medical marijuana dispensary shall be established or located within six hundred (600) feet, measured from the nearest property lines of each of the affected parcels, of any child care center, child care-family day care home (large or small), youth-oriented facility, church/faith congregation, substance abuse center, movie theater/cinema, or tobacco store.
- B. Except as amended as set forth in subsection A, footnote 85 of Section 17.24.050 remains unchanged and in full force and effect.