

Proposed Zoning Code Amendments to Cannabis Regulations

City Council April 19, 2021





Measure CC allows a limited number of cannabis retailers, cultivators, and testing labs to operate within specific zoning districts in the city. Up to:

- 6 retailer permits
- 4 cultivation site permits
- 4 testing laboratory permits
- Measure CC SPECIFICALLY grants the City Council the ability to amend Cannabis regulations:

SECTION 9. The provisions of the Pasadena Municipal Code added or amended

by this ordinance may be further amended by the City Council of the City of Pasadena

in the usual manner at any time, without further voter approval.





The six top-scoring applicants were identified on June 5, 2019 and were offered the opportunity to submit a *Conditional Use Permit: Cannabis Retailer* (CUP) application.

Applicant Status

Integral Associates Dena, LLC (Essence)

Approved, open for business

Tony Fong (Varda) Approved, open for business

The Atrium Group, LLC Current location not code compliant

Harvest of Pasadena, LLC Approved, opening pending tenant improvements

> SweetFlower Pasadena, LLC Current location not code compliant

MME Pasadena Retail, LLC (MedMen)

Disqualified based on ownership changes





Community Benefits Summary

Planning & Community Development Department

Each of the applicants is required to have a Community Benefits Plan. 20% of overall scoring was based on the plan. New retailers would also be required to implement a Community Benefits Plan.

Varda:

- Committed to 30% minimum local hire.
- > Founded a local non-profit, *New Discovery Foundation*, which commits \$10,000 annually to provide grants to organizations that assist those disproportionally impacted in Pasadena.
- > Committed 5% of annual net profits from Varda to financial assistance for various types of local non-profits, community groups, programs focused on education etc.





Community Benefits Summary

Planning & Community Development Department

Essence:

- > Established *Pasadena Community Advisory Board (PCAB)*, to identify and participate in community education programs up to four times annually.
- > Essence will host its own community education events at least twice per quarter.
- Committed to \$1,000,000 to the betterment of Pasadena comprised of \$250,000 per year for four years to five different causes.

Harvest:

- > Committed to \$30,000 annually to local charities and non-profits
- Committed to partner with local business for procurement of goods and services necessary for retail operations.





- In 2019, the City Manger initiated a Code Amendment that would allow the top six applicants to move forward in their current locations without making changes to distance requirements to sensitive uses.
- On November 13, 2019 Staff presented amendments the amendments to the Planning Commission. Some members were not opposed to changing some of the regulations (but there was no consensus on what the changes should be) and others expressed concern over making changes to voter approved regulations. The Commission voted not to change the regulations.
- On November 25, 2019 staff presented the same amendments to the City Council. The City Council directed staff to return once three applicants had obtained their Cannabis Permit. Varda, Essence and Harvest have obtained their Cannabis Permit.





Applicable Code Requirements

- Regulations are contained in the Municipal Code (Titles 5, 8 and 17).
 Title 17 is the Zoning Code.
- Staff is proposing the same location changes to Title 17 as proposed in 2019
 - > To allow up to three cannabis retailers per council district instead of one; and
 - > To decrease the distance required between cannabis retailers from 1,000 feet to 450 feet.





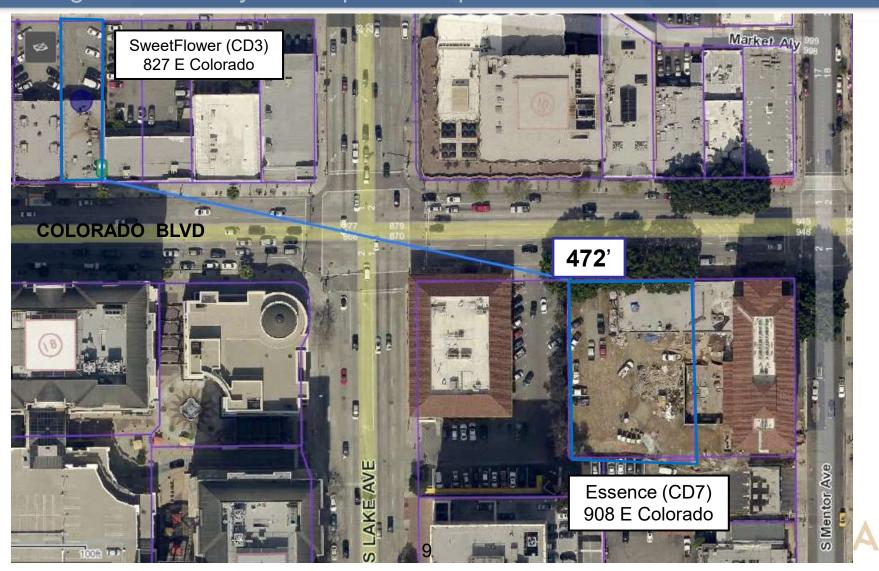
© Cannabis Retailer Sites

<u>Applicant</u>	Location
Harvest of Pasadena, LLC	169 W. Colorado Blvd
Tony Fong (Varda)	3341 E. Colorado Blvd
Integral Associates Dena, LLC (Essence)	908 E. Colorado Blvd
MME Pasadena Retail (disqualified)	536 S. Fair Oaks Ave
SweetFlower LLC	827 E Colorado Blvd
Atrium Inc	70 W Union
	Men of Me





Location Map – SweetFlower to Essence





Location Map – Harvest to Atrium





Regulations: Other Uses

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- Cannabis is the only use that has an overall limit placed by the City
 - Up to six retail
 - Up to four labs
 - Up to four cultivators
 - The State does not have a limit on the number of cannabis permits issued

 Unlike an overall limitation on the number of locations, there are several uses that have distance separation requirements in the Zoning Code.



Land Use	Separation From Same Use	Separation from R Zone	Separation from Parks	Separation from Schools	Separation from Library	Separation from Religious Facility	Maximum Number Permitted City Wide
Drive Through Businesses	500 feet	None	500 feet	500 feet	NONE	NONE	No Limit
Emergency Shelters, Limited Limited:	300 feet	150 feet	None	None	NONE	NONE	No Limit
Recycling Facilities	NONE	200 feet	200 feet	200 feet	200 feet	200 feet	No Limit
Tobacco Retail Sales	NONE	1,000 feet	1,000 feet	1,000 feet	1,000 feet	NONE	No Limit
Bars/Nightclubs in the AD1	250 feet	NONE	NONE	NONE	NONE	NONE	No Limit
Bars/Nightclubs in the AD2	1,000 feet	NONE	NONE	NONE	NONE	NONE	No Limit
Large Family Day-Care Homes	300 feet	NONE	NONE	NONE	NONE	NONE	No Limit
Massage Establishments	500 feet	250 feet	None	None	NONE	NONE	No Limit
Electronic Game Arcades & Internet Access Studios	1,000 feet	NONE	500 feet	500 feet	NONE	500 feet	No Limit
Boarding Houses	500 feet	NONE	NONE	NONE	NONE	NONE	No Limit
Donation Collection Facilities	500 feet	NONE	NONE	NONE	NONE	NONE	No Limit
Pawnshops	500 feet	NONE	NONE	NONE	NONE	NONE	No Limit
Sexually Oriented Businesses	250 feet	250 feet	500 feet	500 feet	NONE	500 feet	No Limit
Cannabis Retailers	450 feet (PROPOSED)	600 feet	600 feet	600 feet	600 feet	600 feet	6



Result of Proposed Changes

- The proposed amendments would not change any distances to sensitive uses or any other regulations.
 - > Allowed only in commercial and industrial zones CO, CL, CG, CD, IG
 - > 600 ft. distance required from residential zones
 - > 600 ft. distance required from sensitive uses, including K-12 schools, libraries, parks, substance abuse centers, etc.
 - > Propose 450 from other cannabis retailers (change from 1,000 feet).
 - > State only requires a 600 ft. distance from k-12 schools, daycare and youth centers.





Result of Proposed Changes

- Based on applications submitted there could be three code compliant locations in Council District 3 (Harvest, Atrium and SweetFlower), one in District 4 (Varda) and one in District 7 (Essence).
 - As the City undergoes required re-districting the locations would be grandfathered





Environmental Review

- The proposed amendments are a "project" under CEQA, but exempt from review
 - "Common sense" exemption CEQA applies only to projects which have the potential for causing a <u>significant effect</u> on the environment
 - Experience with existing operators shows no potential for <u>significant effect</u>
 - Class 1: operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing structures involving negligible or no expansion of use
 - Retail use, reoccupy existing structures



Environmental Review cont'd

- Governor's 2019 budget trailer bill:
 - CEQA "does not apply to the adoption of an ordinance... by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity."
 - > Trailer bill extended exemption to July 1, 2022.
- Each site will be subject to CEQA review upon application
- The two uses in operation have not resulted in impacts to surrounding uses.



Staff Recommendation

- **1. Find** The proposed action is exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and is also exempt from CEQA pursuant to State CEQA Guidelines Section 15301 "Existing Facilities" (Class 1). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination and there are no unique circumstances.
- **2. Direct** the City Attorney's Office to prepare an ordinance to amend the Zoning Code to adopt the proposed City cannabis regulations with the findings as contained in Attachment A to the staff report.





Proposed Zoning Code Amendments to Cannabis Regulations

City Council April 19, 2021





The proposed amendment is in conformance with the goals, policies and objectives of the General Plan, and other adopted goals and policies of the City.

The proposed amendments to the Zoning Code are consistent with the goals and policies of the General Plan as outlined below. The proposed changes do not change to allowable zones for the retail cannabis use which are the CO,CL,CG,CD, and IG zoning districts. The amendments do not change the overall number of locations allowed in the City and they do not change any other distance separation requirements including the distance to sensitive uses and residential zoning districts. The amendments do not change the permitting process or any other operating requirements contained in the Municipal Code that will regulate a cannibas retailer that is successful in securing a Cannabis Permit.

Land Use Element

Goal 2. Land Use Diversity. A mix of land uses meeting the diverse needs of Pasadena's residents and businesses, fostering improved housing conditions, offering a variety of employment and recreation opportunities, and supporting a healthy population while protecting the environment.

Policy 2.3 (Commercial Businesses). Designate sufficient land to enable a broad range of viable commercial uses in Pasadena's Central District, Transit and Neighborhood Villages, and commercial corridors. These uses will serve both local and regional needs, reducing the need for residents to travel to adjoining communities, capturing a greater share of local spending, and offering a diversity of employment opportunities.

Goal 4. Elements Contributing to Urban Form. A safe, well-designed, accessible City with a diversity of uses and forms. These diverse forms include distinct, walkable districts, corridors, and transit and neighborhood villages and cohesive, unique single and multi-family residential neighborhoods and open spaces where people of all ages can live, work, shop, and recreate.

Policy 4.2 (A Diversity of Places). Maintain and enhance the City's urban form with distinct, compact, and walkable areas with a diversity of uses, densities, and characters. Offer choices for living, working, shopping, and recreation consistent with community values, needs, and demographics.

Goal 25. Vital Districts and Corridors. Diverse, active, prosperous and well-designed commercial corridors and districts that provide a diversity of goods, services and entertainment and contribute to a positive experience for residents and visitors.

Policy 25.1 (Diversity of Uses) which encourages the development of a broad range of commercial uses.





2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

The proposed amendments are consistent with various policies in the Land Use Element of the General Plan. The proposed changes to the location requirements do not change to allowable zones for the retail cannabis use which are the CO,CL,CG,CD, and IG zoning districts. The amendments do not change the overall number of locations allowed in the City and they do not change any other distance separation requirements including the distance to sensitive uses and residential zoning districts. The amendments do not change the permitting process or any other operating requirements contained in the Municipal Code that will regulate a cannibas retailer that is successful in securing a Cannabis Permit. Therefore, the proposed amendments would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.





Overview of Regulations

Retailer					
Use	Allows a commercial cannabis business to operate where cannabis and/or cannabis products are offered for retail sale, including deliveries as part of retail sale				
Zoning/ Location	 Allowed in commercial and industrial zones – CO, CL, CG, CD, IG 600 ft. from residential zones 600 ft. from sensitive uses, including K-12 schools, libraries, parks, substance abuse centers, etc. 1,000 ft. from other cannabis retailers and cultivators 				
Density	 Up to 6 retailers may operate at any one time No more than one (1) per council district 				
Operating Standards	 Maximum retail use of 15,000 square feet Prohibits smoking, ingesting, or consumption onsite Hours of operation limited to 7 a.m. to 10 p.m., Mon – Sun Entrances strictly controlled w/ a buzz-in system to limit access/entry Additional regulations on exterior signage Requires advanced ventilation installations 				





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1. Commercial cannabis permit required. A cannabis retailer must obtain and maintain at all times a valid commercial cannabis permit as required by Chapter 5.78.





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2. **Use permit required**. A use permit is required to establish or operate as a cannabis retailer.





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17.50.066 D Retailer

3. Limitation on the number of retailers.

- a. No more than six (6) retailers may operate within the City of Pasadena at any one time and no more than six (6) permits shall be issued by the City of Pasadena for retailers to operate within the City of Pasadena; and
- b. No more than one (1) retailer may operate within a city council district at any one time.

Proposed change to 3b:

No more than one (1) retailer three retailers may operate within a city council district at any one time.





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4. The maximum square footage of a retail use shall be 15,000 square feet





- 5. Location Requirements. Cannabis retailers shall be permitted in only the CO, CL, CG, CD, and IG zoning districts and shall be subject to the following requirements:
- a. No retailer shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer or cultivation site, or within 500 feet of any testing laboratory;
- b. No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone;
- c. No retailer shall be established or located within a mixed-use development project containing a residential use component;
- d. No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any childcare center, in-home (family day care home), youth-oriented facility, church or faith congregation, or substance abuse center;
- e. No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any park, library, or K-12 school;
- f. Retailers shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in the Pasadena Municipal Code.





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- **6. Operating Requirements.** In addition to those operating requirements specifically set forth in Section 5.78.170, the following operating requirements shall apply to all cannabis retailers operating in the City of Pasadena:
- a. Hours of Operation. Retailers may be open for access to the public only between the hours of 7:00 a.m. and 10:00 p.m., Monday through Sunday.
- b. For medicinal cannabis, the retailer shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and that the potential customer has a valid physician's recommendation. For adult-use cannabis, the retailer shall verify the age of each customer to ensure the customer is not under the age of twenty-one (21) years.
- c. Entrances into the retailer shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access and entry to the retailer to separate it from the reception/lobby area.
- d. Notwithstanding the requirements of Section 5.78.160, uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities.
- e. Retailers may have only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale on-site in the retail sales area of the retail facility.
- f. All restroom facilities shall remain locked and under the control of management.





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7. **Delivery Services.** Permitted in association with retailer. Delivery of cannabis shall be permitted pursuant to this Section. A delivery service may operate only as part of and in conjunction with a retailer permitted pursuant to state law and pursuant to this Section. Delivery of cannabis from a retailer permitted pursuant to this Section can only be made in a city or county that does not expressly prohibit it by ordinance.





Planning & Community Development Department

- **8. Conditions of Approval.** The planning commission may address development and operational standards through conditions on the use permit as it determines to be necessary or appropriate for the use permit under consideration; provided, that conditions shall not conflict with the provisions of Section 5.78.170 and Section 17.50.066(D)(5) relating to operating requirements of cannabis retailers, and shall be subordinate to conditions placed on the commercial cannabis permit issued under Chapter 5.78.
- **9. Parking.** Off-street parking shall be provided as required for retail stores under Chapter 17.46
- **10. Discontinuance.** If a cannabis retailer authorized by a use permit approved under this Section is discontinued for a continuous period of 12 months, the use permit expires for discontinuance of use and thereafter is void.





5.78.160 - Security measures.

- A. A permitted commercial cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. Except as may otherwise be determined by the city manager or his/her designee, these security measures shall include, but shall not be limited to, all of the following:
 - 1. Preventing individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business.
 - 2. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
 - 3. Except for live growing plants which are being cultivated at a cultivation site, all cannabis and cannabis products shall be stored in a secured and locked room, safe, display case, or vault. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
 - 4. Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is available upon demand by the city. Video recordings shall be maintained for a minimum of ninety (90) days, and shall be made available to the city manager or his/her designee upon request. video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.
 - 5. Sensors shall be installed to detect entry and exit from all secure areas.
 - 6. Panic buttons shall be installed in all commercial cannabis businesses.
 - 7. Businesses shall have a professionally installed, maintained, and monitored alarm system.
 - 8. Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
 - 9. Security personnel shall be on-site 24 hours a day unless alternative security is authorized by the city manager or his/her designee.

 Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the city manager or his/her designee, with such approval not to be unreasonably withheld.
 - 10. Each commercial cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.





5.78.170 - Miscellaneous operating requirements.

In addition to those operating requirements specifically set forth elsewhere in this chapter or this municipal code, the following operating requirements shall apply to all commercial cannabis businesses operating in the City of Pasadena:

- A. Restriction on Customer Consumption. Cannabis shall not be consumed in any form by any retail customer on the premises of any commercial cannabis businesses.
- B. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any premises issued a commercial cannabis permit, or on any of the vehicles owned or used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- C. Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the city. The commercial cannabis business shall ensure that such information is compatible with the city's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the city manager or his/her designee prior to being used by the permittee.
- D. All cannabis and cannabis products sold, distributed, or manufactured shall be cultivated, manufactured, and transported by state licensed facilities that maintain operations in full conformance with the state and local regulations.
- E. Emergency Contact. Each commercial cannabis business shall provide the city manager or his/her designee with the name, telephone number (mobile preferred, if available) of an on-site employee or owner to whom emergency notice can be provided 24 hours per day.





F. Signage and Notices.

- 1. In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the Pasadena Municipal Code, including, but not limited to, issuance of a City of Pasadena sign permit.
- 2. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
- 3. No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
- 4. Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
- 5. Signage shall not be directly illuminated, internally or externally. No banners, flags, or other prohibited signs may be used at any time.
- 6. In accordance with state law and regulations or unless otherwise stipulated in the City of Pasadena regulatory permit, holders of a commercial cannabis permit shall be prohibited from, as an express and ongoing condition of permit issuance and subsequent renewal, advertising any commercial cannabis business located in the City of Pasadena utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising, anywhere in the state. This paragraph is not intended to place limitations on the ability of a commercial cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.



State Requirements

- 600-foot distance separation to:
 - k-12 schools
 - day care centers
 - youth centers.
- No separation requirements from residential zones or uses (except not allowed within a private residence).





- For "youth-oriented facility" we refer to the definition in the Health & Safety Code Section 11353.1 "Youth center" means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.
- For "childcare center" we reference the definition in the Health & Safety Code Section 1596.76. "Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.
- PMC 17.80.020 defines "family day care homes":
 - **Large Family Day-Care Homes.** A family day-care home that serves nine to 14 children, including children who reside at the home as defined in Health and Safety Code Chapter 3.4.
 - > Small Family Day-Care Homes. A family day-care home that serves eight or fewer children, including children who reside at the home, as defined in Health and Safety Code Chapter 3.4.
- For "substance abuse center" we refer to Health & Safety Code §11834.02. "alcoholism or drug abuse recovery or treatment facility" or "facility" means any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.
- PMC 17.80.020 defines "**mixed use**": The combination of commercial and residential uses in the same structure, where the residential component is located either above (vertical mixed-use) or behind (horizontal mixed-use) the nonresidential component. Nonresidential uses are typically commercial uses.





Draft Cannabis Map

