

**ATTACHMENT E**  
**EDTECH MEMO MAY 27, 2021**

---

---

**MEMORANDUM**

---

---

**TO:** ECONOMIC DEVELOPMENT AND TECHNOLOGY COMMITTEE

**FROM:** DAVID M. REYES, DIRECTOR OF THE PLANNING AND  
COMMUNITY DEVELOPMENT DEPARTMENT

**SUBJECT:** POTENTIAL AMENDMENTS TO CANNABIS REGULATIONS  
REGARDING ALLOWED LOCATIONS AND CONSIDERATION OF  
EQUITY PERMITTING PROGRAM

**DATE:** MAY 27, 2021

**EXECUTIVE SUMMARY**

Following approval by voters of Measures CC and DD, the City undertook a qualifications-based selection process for cannabis retailers. The top scoring six applicants were subsequently invited to apply for a cannabis permit. One applicant has been disqualified, three applicants have secured permits and two applicants have not secured a code compliant location.

Given the inventory of commercial real estate that is actually available for dispensaries under the existing rules, it does not appear that there will be more than three retail dispensaries in the City. Staff believes that the present situation is not in the best interest of the City, and is not in keeping with the intent of the voters who wished cannabis retailing in the City and reasonably expected there to be six cannabis retailers in the City.

This memorandum outlines various options that the City Council may pursue:

**Make No Changes to Regulations**

- Likely 3, maybe 4 operators given existing rules

**Amend Existing Location Requirements**

- Revise distance separation requirements
- Number of dispensaries in district
- Align with state law

**Establish New Opportunities for Equity Permits**

- Create new criteria for additional applicants based on social equity criteria and/or community benefits

## **BACKGROUND**

Although Measure CC envisioned permitting up to six retail cannabis locations, based on staff's preliminary analysis, it was understood that a high likelihood existed that only three or four retailers would find code-compliant locations. This is due to the distance separation requirements to protect sensitive uses established by the City Council (e.g., schools, churches, and residential neighborhoods), which are more restrictive than those established by the state, coupled with the additional restriction of not more than one retailer per Council district.

The following table compares Pasadena's more restrictive distance separation requirements with the corresponding state requirements:

<b>Pasadena - Distance Separation Cannabis Retailers</b>	<b>State – Distance Separation</b>
600 feet to k-12 schools	600 feet to k-12 schools
600 feet to youth center	600 feet to youth center
600 feet to day care centers	600 feet to day care centers
600 feet to large/small family daycare	NONE REQUIRED
600 feet to churches	NONE REQUIRED
600 feet to libraries	NONE REQUIRED
600 feet to substance abuse centers	NONE REQUIRED
600 feet to parks	NONE REQUIRED
600 feet to residential zones	NONE REQUIRED
1000 feet from another cannabis retailer	NONE REQUIRED
1000 feet from a cannabis cultivator	NONE REQUIRED

500 feet from a cannabis testing lab	NONE REQUIRED
Not allowed within mixed use projects	NONE REQUIRED
Cap of one per Council District	NONE REQUIRED

Measure CC provides an explicit mechanism for the City Council to fine tune the regulations, as it authorizes the City Council to make revisions to the regulations without having to return to the voters. Several such options are presented below.

### **POTENTIAL OPTIONS MOVING FORWARD**

There are several options that the Council may consider regarding the existing rules, regulations and processes regarding cannabis permitting. The options are discussed below.

#### **Make No Changes**

Given existing regulations and circumstances, it would appear that there may be an opportunity for one additional dispensary in the City. This would mean that there would be 3 or possibly 4 retail dispensaries citywide. The Council may feel that this is an acceptable number of permits and decide not to amend the existing regulations.

#### **Amend Existing Regulations**

The City Council could amend existing regulations to allow the remaining two applicants to establish dispensaries. There are various options that the Council could consider, but any approach would likely involve changes to the distance separation requirements and/or changes to the limit of one dispensary per district.

The City's distance separation requirements far exceed the state requirements and were established several years ago before any legal dispensaries were operating. These regulations were adopted with the intent to ensure these uses would not negatively impact certain uses in the vicinity, including but not limited to: churches, parks, cultivators, testing labs, libraries, parks, properties located in a residential zoning district. In addition they are limited to one per council district.

The two dispensaries that are operating in the City have not resulted in negative impacts or any code compliance violations. While the existing regulations were appropriate given the unknown potential impacts at the time of their adoption, these dispensaries have operated without incident. Given the actual operations

of these businesses, it may be appropriate to amend existing regulations to align with the state requirements. Other, more limited amendments may also be considered, such as the option was previously presented to the City Council that would allow up to 3 dispensaries per council district not less than 450 square feet from each other.

### Consideration of New Equity Permit Opportunities

The Council may wish to consider establishing additional permit opportunities that are based on social equity considerations and/or a greater emphasis on community benefits. Examples of such programs exist in other California cities:

#### **OAKLAND:**

- Must be Oakland Resident
- Must have annual income at or less than 80% of Oakland AMI
- Must live in an area with high arrest rates for drug related offenses or have been arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland

#### **LONG BEACH:**

- Apply as a person, not an entity
- Have an annual income of not greater than 80% of Los Angeles Area median income
- Have a net worth below \$250,000 and satisfy one of the following 3 criteria:
- Have lived in a Long Beach census tract for a minimum of 3 years where at least 51% of current residents have a household income at or below 80% of the Los Angeles Area Median Income.
- Was arrested or convicted for a crime relating to the sale, possession, use, or cultivation of cannabis in the City of Long Beach prior to November 8, 2016 that could have been prosecuted as a misdemeanor or citation under California law.
- Is a Long Beach resident currently receiving unemployment benefits.

#### **San Francisco:**

To qualify as an Equity Applicant you must:

- Apply as a person, not a company
- Have net assets below established limits for each household. This means you will not qualify as an Equity Applicant if your 1 person household has net assets over \$193,500.
- Be one of the following:

- the business owner
- own at least 40% of the business and be the CEO
- own at least 51% of the business
- a board member of a non-profit cannabis business where most of the board also qualify as Equity Applicants
- an individual with a membership interest in a cannabis business formed as a cooperative

In addition, to qualify as an Equity Applicant, at least 3 of the following 6 conditions must be met:

1. Have a household income below 80% of the average median income (AMI) in San Francisco for 2018.
2. Have been arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis (including as a juvenile) from 1971 to 2016.
3. Have a parent, sibling or child who was arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis (including as a juvenile) from 1971 to 2016.
4. Lost housing in San Francisco after 1995 through eviction, foreclosure or subsidy cancellation.
5. Attended school in the San Francisco Unified School District for a total of 5 years from 1971 to 2016.
6. Have lived in San Francisco census tracts for a total of 5 years from 1971 to 2016 where at least 17% of the households had incomes at or below the federal poverty level.

A Pasadena specific program could be explored that has elements of the above or other criteria that the Council deems appropriate.

A new program that affords equity applicants the opportunity to be considered for a permit could be established in combination with amendments to the current location requirements to ensure viable locations can be secured. Any new process should not proceed until those top applicants under the existing regulations have either been sited or are time barred.

### **NEXT STEPS**

Three of the five cannabis dispensary applicants have secured permits. It is unclear if existing regulations and market conditions would allow the remaining two applicants to secure permits. In light of this, the EDTECH Committee is asked to provide direction to staff as outlined herein.