



## City Council Agenda Item Staff Report

CITY OF SAN BRUNO

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**DATE:** January 24, 2023

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager  
Trisha Ortiz, City Attorney

**SUBJECT:** Review Commercial Cannabis Regulations

### **BACKGROUND:**

On October 11, 2022, the City Council adopted two Ordinances collectively referred to as the City's Commercial Cannabis Regulations:

1. Ordinance No. 1930 amended the City Zoning Code to add a new chapter to permit and regulate commercial cannabis retailers (storefront sales) and commercial cannabis distribution facilities; and
2. Ordinance No. 1931 provided various Municipal Code Amendments to regulate cannabis operations, including the addition of new Chapter 4.70 to define the Commercial Cannabis Operator's Permit process.

These ordinances were effective on November 10, 2022.

At the City Council meeting on January 10, 2023, the City Council directed staff to bring the matter back the City Council to discuss potential changes to the City's Commercial Cannabis Regulations. Two specific changes were suggested for consideration by the City Council:

1. To reduce the total number of allowed businesses from a maximum of four to a maximum of two, with one being for distribution use only, and the second being retail and/or distribution; and
2. To remove the downtown (Central Business District) and The Shops at Tanforan from permitted locations for commercial cannabis operations.

### **DISCUSSION:**

#### ***Summary of Adopted Commercial Cannabis Regulations***

The ordinances adopted on October 11, 2022 added a new Chapter 12.300 to the Zoning Code provisions of the Municipal Code to specify the zoning districts in which cannabis uses are allowed and added a new Chapter 4.70 to define the Operator's Permit process.

The adopted cannabis regulations allows for up to three Cannabis Retailers (previously termed "dispensaries") in selected areas of the City. Cannabis retailers are operations that provide general retail storefront sales of cannabis or cannabis products, packaging and labeling of cannabis for sale, and also include delivery services to residences or end-users. Cannabis

retailers must obtain a Commercial Cannabis Operators Permit as well as a Conditional Use Permit.

The adopted cannabis program also allows for one Cannabis Distribution Facility in selected areas of the City. Cannabis distribution facilities provide storage and distribution of commercial cannabis products to licensed commercial cannabis operators, with no retail sales. These uses would be allowed subject to obtaining approval of a Commercial Cannabis Operators Permit as well as a Conditional Use Permit. Any distribution service would be required to comply with security and transportation requirements.

There are no other types of commercial cannabis operations permitted; all of the following uses are currently and would continue to be prohibited by the City:

- No commercial cannabis cultivation. This use involves the commercial planting, growing, harvesting, drying, grading and trimming of cannabis, and can occur indoors or outdoors, including in a nursery setting.
- No commercial cannabis manufacturing, including CBD (cannabidiol) extract derived from cannabis. This use involves subjecting cannabis to a process which concentrates cannabis into an edible or topical product.
- No commercial cannabis testing/laboratories. This use involves state-mandated testing of cannabis products in a state-licensed laboratory setting prior to distribution and sale.
- No cannabis microbusinesses. This is a business involved in at least three types of commercial cannabis activities, including retail sale, cultivation, distribution and/or manufacturing.
- No temporary cannabis events. This is an event where cannabis may be consumed over a short period of time and at a temporary event location.
- No “cannabis cafes” for onsite consumption of cannabis products.

The adopted cannabis program allows cannabis retailer operations to locate only in the zoning districts in downtown, along major transportation corridors (portions of El Camino Real and San Bruno Avenue, as well as San Mateo Avenue, and The Shops at Tanforan) where there is a mix of commercial and office uses. Commercial cannabis distribution facilities are permitted only in the M-1 (Industrial) Zone north of San Bruno Avenue.

Cannabis operations cannot locate within 600 feet of specified “sensitive uses,” including:

- Youth Centers (defined as any public or private facility that is primarily used to host recreational or social activities for minors).
- Daycare Centers (defined as a childcare center, other than home-based day care operations, and includes licensed childcare centers).
- Schools (defined as K-12 public or private schools).
- Public Libraries

Attachment 2 is a map showing the allowed locations and sensitive use buffers.

Commercial Cannabis Operations for cannabis retailers or cannabis distribution facilities require both a Commercial Cannabis Operators Permit (CCOP) and a Conditional Use Permit (CUP).

The first step in the process is for a prospective commercial cannabis operator to file a CCOP

application. The CCOP application requires the cannabis business to identify the owners and managers of the business, requires the business submit certain information pertaining to the business including financial information, and requires the owners and managers to submit to background checks. These applications would be reviewed by a team of staff from different City Departments and Divisions, including Planning, Building, Public Works Engineering, Fire, and Police. The applications would be assigned a “Pass” or “Fail” status by the team based on review criteria established by the City, which include such factors as a proposed business plan, community benefits, neighborhood compatibility, safety and hazardous materials plan, security plan and odor control plan.

Those CCOP applications achieving a “pass” rating would be cleared to proceed to the second step, consisting of City Council review and selection of up to three retail businesses and up to one distribution business.

Those businesses approved by the City Council would then proceed to the third step, formally filing a Conditional Use Permit (CUP) application for a specific location. CUP applications would be reviewed by staff and presented to the Planning Commission for consideration at a noticed public hearing. The Planning Commission shall be the recommending body with the City Council being the final approving authority on which commercial cannabis operations obtain a CUP. With CUP approval, the third and final step would be for staff to formally issue the CCOP to those applicants who have obtained their CUP approval.

#### ***City Council Direction***

At the City Council meeting on January 10, 2023, the City Council directed staff to schedule a future agenda item to discuss potential changes to the City’s Commercial Cannabis Regulations. Two specific changes were suggested for future consideration:

1. Reduce the total number of allowed businesses from a maximum of four to a maximum of two, with one being for distribution use only, and the second being retail and/or distribution; and
2. Remove the downtown (Central Business District) and The Shops at Tanforan from permitted locations for commercial cannabis operations.

A draft ordinance showing these changes is attached to this Staff Report. If the City Council directs staff to prepare an ordinance to amend the existing cannabis program, the scope of those amendments will determine the timing and next steps for the proposed changes. For example, amendments to the City’s zoning code would require at least three public meetings, which include one Planning Commission meeting, followed by two City Council meetings to introduce and then adopt an ordinance.

#### ***Suspension of Operator’s Permit Application Period***

In response to the City Council’s request for reconsideration of the adopted commercial cannabis operations program, staff suspended the application period that was scheduled to end on January 17, 2023. No CCOP applications were submitted. The City is not accepting any CCOP applications or fees at this time. Staff proposes to reopen the application period promptly after the City Council completes its review of the adopted program and provides further direction. If the City Council decides not to amend the existing program, then staff will reopen the application period based on the existing regulations and set a new submission deadline. If the City Council amends the commercial cannabis operations program, then staff will restart the application process in line with the adopted amendments.

**FISCAL IMPACT:**

This agenda item will not have a fiscal impact. If the cannabis ordinance is amended to reduce the number of commercial cannabis operations in the City would have an undetermined net negative fiscal impact due to the reduced tax revenues as compared to the tax revenues to be received from the current commercial cannabis operations program.

**ENVIRONMENTAL IMPACT:**

There is no environmental impact from this agenda item. A determination of the environmental impact of the cannabis ordinance amendments will be provided as part of the public hearings for those amendments.

**RECOMMENDATION:**

Review the commercial cannabis regulations and provide direction on proposed changes, if any.

**ATTACHMENTS:**

1. Draft Ordinance
2. Map of Allowed Zoning Districts with Sensitive Use Buffers