

San Francisco Cannabis State Legalization Task Force Issue Brief #4 – Land Use and Equity

As early as November 2016, California voters may consider legalizing and regulating nonmedical use and possession of cannabis.ⁱ To prepare for this, the San Francisco Board of Supervisors created the Cannabis State Legalization Task Force via Ordinance in July of 2015. According to the Ordinance, “the purpose of the Task Force shall be to advise the Board of Supervisors, the Mayor, and other City departments on matters relating to the potential legalization of cannabis so that the City’s policymakers are fully prepared to address the policy questions through legislation, administrative actions, and otherwise, following the adoption of a State law.”¹

In order to fulfill this duty, The Cannabis State Legalization Task Force will design a set of viable recommendations for San Francisco policymakers to consider. At the January 13, 2016, Task Force meeting, Task Force Members expressed an interest in discussing social equity issues as they relate to legalization, i.e. the negative impacts of previous federal and State drug policies on communities and possible mechanisms for addressing these impacts. Adult use legalization may present an opportunity to repair damage to communities disproportionately affected by these policies and reduce any existing barriers to cannabis employment or business ownership that may exist in these communities. In addition, adult use legalization may also lead to an increased cannabis industry presence in San Francisco. Developing a zoning plan for this increase would involve creating an equitable distribution of the cannabis industry across the City and preparing the cannabis industry workforce for these new employment opportunities.

These considerations allow for a discussion not only of the technical aspects of land use and urban planning, but the accompanying social equity issues, as well. This issue brief highlights these considerations and outlines relevant provisions in the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA)ⁱⁱ to serve as a basis for Task Force discussions.

ⁱUnless part of a quote or formal name of a statute, organization or regulatory body, the term “cannabis” will be used throughout this document.

ⁱⁱ There have been many adult use initiatives submitted to the California Secretary of State for the November 2016 ballot, and, according to various news reports, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) seems to have the most momentum. As such and as mentioned in previous issue briefs, it forms the policy basis for Task Force discussions.

CANNABIS LEGALIZATION AND EQUITY

The “War on Drugs” and its Effects

The War on Drugs in the United States has led to large scale arrest and incarceration, and, according to drug policy experts, uneven application of the laws against communities of color in the United States.

Arrest and incarceration have negative effects on the individual, families and whole communities, and the disadvantages associated with arrest and conviction can be particularly devastating for youth.

President Richard Nixon and the War on Drugs

In the 1960s, drug use was associated with political unrest and social rebellion. A report released in May of 1971 also found drug addiction among soldiers deployed during the Vietnam War. In response to these findings, President Richard Nixon officially launched the war on drugs in the United States in June 1971. At a press conference introducing this strategy, the Intensified Program for Drug Abuse Prevention and Control, Nixon referred to drug abuse as “public enemy number one” necessitating a “new, all out offensive.” This intensified program consolidated existing governmental efforts to curb drug abuse and introduced mandatory drug sentencing laws. President Nixon also called for additional funding to support the Program and its desired outcomes.² In the 1980s, President Ronald Reagan and first Lady Nancy Reagan prioritized previous anti-drug efforts and campaigns to support the war on drugs. During that time, the federal government also passed the Anti-Drug Abuse Acts of 1986 and 1988, focusing on incarceration and punitive measures over treatment and rehabilitation.³

Racial Disparities in War on Drugs Policies

The Global Commission on Drug Policy has called the global war on drugs a failure, noting that its “vast expenditures on criminalization and repressive measures . . . have failed to effectively curtail [drug] supply or consumption,” thereby necessitating “fundamental reforms in national and global drug control policies.”⁴ According to the Commission, rather than reduce drug abuse and addiction, the war on drugs has hampered public health HIV/AIDS prevention efforts, stigmatized individuals who use drugs, and destroyed lives and families.⁵

War on drugs policies have led to large scale arrest and incarceration, and, according to drug policy experts, uneven application of the laws against communities of color in the United States. In a report released in 2009, Human Rights Watch estimated that from 1980 to 2007, African-American U.S. drug arrest rates were 2.8 to 5.5 times higher than those of whites.⁶ Another recent study of adolescents found that African-Americans were less likely than Caucasians to use or sell drugs, but more likely to have been arrested for drug-related offenses.⁷

This broader narrative also applies within the narrower context of cannabis. In a 2013 report, the American Civil Liberties Union analyzed the racial impact of the war on drugs from 2001 to 2010, focusing its study on cannabis.⁸ The report found that over that time period, the vast majority of cannabis arrests in the United States were for possession offenses (~88%), rather than sales. With respect to these possession arrests, the report also found racial disparities to exist across the United States, and that these disparities had increased over time. The cannabis possession arrest rate nationwide remained relatively constant for Caucasians (~192 per 100,000 individuals), while that of African-Americans had increased 33 percent between 2001 and 2010 (537 per 100,000 individuals in 2001 to 716 per 100,000 in 2010). Finally, to counter the view that African-Americans are more likely to use or possess cannabis as a possible explanation for the disparity, the report found similar cannabis use rates among Caucasians and African-Americans in the United States.⁹

Secondary Effects of Arrest and Incarceration

According to various commentary on the issue, arrest and incarceration have effects on the individual, their families and their communities. For example, following a drug-related arrest and/or incarceration, a person may find it difficult to obtain and sustain employment, housing, and public assistance. Evidence of arrest may also affect that person's ability to secure loans and financial aid, reducing opportunities to begin or complete an education.¹⁰ And, in places with high arrest and imprisonment rates, whole social and community networks are also disrupted, "damaging the human and social capital of disadvantaged neighborhoods . . . and diminishing opportunities for social and economic mobility."¹¹

For youth, the disadvantages of arrest and conviction can be particularly devastating. A report from California's Blue Ribbon Commission on Marijuana Policyⁱⁱⁱ discourages unduly punitive actions for youth due to their secondary effects, including:

- Youth who are arrested become defined and treated as criminals, often permanently;
- Ineligibility for federal school loans reduces educational opportunities;
- Pre-employment screening of legal problems reduces job opportunities;
- Fines and attorney's fees place disproportionate burdens on the poor; and
- Immigration/naturalization problems are increased.¹²

ⁱⁱⁱ In anticipation of nonmedical cannabis legalization, California Lieutenant Governor Gavin Newsom and other policy experts established the Blue Ribbon Commission on Marijuana Policy in 2013. Since its formation, the Commission has examined various cannabis legalization policy options and priorities and its most recent report, "Policy Options for Regulating Marijuana in California," provides a blueprint for the State and local jurisdictions to consider in preparation for possible adult use legalization.

The Connection between Cannabis Legalization and Equity

The California Blue Ribbon Commission on Marijuana Policy is supportive of cannabis legalization structures that consider racial equity in their design.

According to the Commission, an over-reliance on past criminal records as a barrier to cannabis market entry would perpetuate the existing racial disparities created by previous drug policies. Tax revenue from the cannabis industry could be used to support legalization goals, including equity.

Barriers to Entry into the Cannabis Industry

The Blue Ribbon Commission report notes the racial disparities within the criminal justice system with respect to cannabis-related offenses and further asserts that racial and ethnic disparities in the State, “from who has access to the legal market to how to communicate public health messages,” must be considered within any plan to legalize cannabis in California.¹³

Within that context, the Commission views the decisions of who may be employed and obtain licenses within the cannabis industry post-legalization and whether previous criminal records may serve as barriers to such opportunities as critical. It asserts that market entry requirements that rely too much on past criminal records would exacerbate existing racial disparities because of the disproportionate effect of drug policies on communities of color. If, as the report puts it, “a goal of legalization is to further some sense of racial equity, then a mechanism to expunge some criminal records might be an appealing option.”¹⁴ This presents a direct connection between the war on drugs and equity in the implementation of a legalization plan.

Using Tax Revenue to Support Equity Goals

The Blue Ribbon Commission’s report also recommends that the tax revenue from legalization be allocated towards goals and priorities identified by the public and policymakers. If the public and policymakers identify equity as a priority and legalization goal, tax revenue allocations could be structured to reflect that goal. The Blue Ribbon Commission suggests youth protection programs, public health education campaigns, public safety, enforcement, and workforce development as possible tax revenue investment areas. With regard to workforce development, the Commission states that legal employment opportunities would be important for reducing the illicit market in places where individuals have limited educational, employment and economic mobility options. Revenue could be used to develop training programs and employment options for individuals seeking to enter the cannabis industry and/or to support communities with high drug arrest, unemployment and crime rates in a transition to employment in other sectors.¹⁵

Approaches to Equity in Legalization

The City of Oakland has recently established equity licensing programs for its medical cannabis industry that prioritize Oakland residents that have been disproportionately affected by the war on drugs.

On October 9, 2015, California Governor Jerry Brown signed a package of three bills,¹⁶ collectively known as the Medical Marijuana Regulation and Safety Act (MMRSA), into law. Taken together, MMRSA gives the State more regulatory control over the medical cannabis industry, from cultivation to sale. Perhaps one of the most significant ways in which this will be achieved is via a dual State-local licensing system identifying seventeen different licensing categories across the supply chain. In order to legally operate a medical cannabis business at every step in the supply chain, an entity would need permission to do so at the State and local levels.

Oakland – Priority Licensing as a Mechanism for Reducing Barriers to Entry

As part of its preparation for MMRSA implementation, proponents of recently passed ordinances in Oakland, California, are using the licensing process as a mechanism for promoting equity. The ordinances state that cannabis law enforcement policies have had disproportionate effects on communities of color, and that individuals arrested or previously incarcerated for cannabis-related offenses find it difficult to secure employment, financial aid and other benefits. To address these concerns, the ordinances establish the Dispensary Equity Permit Program and the Cultivation, Manufacturing, Distribution, Testing and Transporting Equity Permit Program to “provide equity in ownership in the cannabis industry” in all aspects of the supply chain.¹⁷

At their core, the equity programs require that that fifty percent of all permits issued be reserved for individuals who meet the following qualifications:

- reside for at least two years prior to the date of application along a set of six Oakland Police beats that, according to the ordinance, have been disproportionately impacted by cannabis enforcement laws OR have, within the last ten years, been incarcerated for a cannabis-related offense arising in Oakland; AND
- maintain not less than 50 percent ownership in the permit application entity.¹⁸

The ordinances also state that prior cannabis convictions will not bar one from obtaining a permit in the equity programs.¹⁹

Oakland Equity Program Concerns

According to media reports, there is a concern that the equity programs’ eligibility requirements are too narrow and would exclude people of color that already have access to the medical cannabis industry but do not meet the ordinance’s qualifications. Since, under the MMRSA regulations, an entity seeking to enter the industry would need a local permit to do so, media also reports that critics of the ordinance are also concerned that the equity programs may stifle genuine efforts to

expand the cannabis industry by encouraging individuals who do not meet the criteria to target those who do in order to obtain a license.²⁰

Though the equity program focuses exclusively on the medical cannabis industry, the aforementioned considerations and desired outcomes of the equity programs may be useful to take into account for adult use legalization, as well.

The AUMA Equity Approach

The AUMA includes two main provisions that promote equity: (1) resentencing and criminal record dismissal options for those convicted of cannabis-related offenses and; (2) a Community Reinvestment Grant program to fund social and economic mobility efforts for communities disproportionately affected by the war on drugs.

Resentencing and Criminal Record Expungement

The AUMA includes provisions that promote racial equity. First, it authorizes courts to resentence individuals convicted of cannabis-related offenses whose sentences would be reduced under the Act and allows for such offenses to be expunged from their criminal records. The Act also removes incarceration as an option for minors who commit cannabis-related offenses – they may only be charged with infractions. To the extent that racial disparities exist among youth and adults that are arrested for cannabis-related offenses and exposed to the secondary effects associated with arrest and conviction, these provisions would address those concerns.

Community Reinvestment Grants

The AUMA also establishes a Community Reinvestment Grant with the following objectives:

support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by federal and state drug policies.²¹

The California Governor's Office of Business and Economic Development, along with the Labor and Workforce Development Agency and Department of Social Services as consultants, would administer the program. In developing the grant program, the Office of Business and Economic Development is also required to solicit input from a variety of experts and stakeholders, including legal service and job placement providers. The program would be funded at \$10 million in fiscal year 2019 and increase by that amount each fiscal year until fiscal year 2023, when the program funding will be \$50 million per year. The funds would be distributed to local health departments and qualified community-based non-profit organizations to achieve program goals.²²

In providing opportunities for criminal resentencing and expungement for cannabis-related crimes and using tax revenue from adult use legalization to support equity goals, the AUMA is aligned with the Blue Ribbon Commission’s approach.

LAND USE

Adult use legalization in California may result in expansion of the cannabis industry in San Francisco beyond the existing medical cannabis program. According to the AUMA, the State adult use licensing system would include all levels of the cannabis supply chain, from cultivation to retail sale. To implement such a licensing structure and prepare for possible expansion, the City may choose to develop new zoning controls (which may or may not build upon the existing medical cannabis program) and take into account the effects of location requirements on neighborhood character, access, and well-being. This section therefore provides background on the medical cannabis dispensary zoning process in San Francisco and the relevant AUMA adult use zoning provisions that would impact the City if implemented.

City Planning and Land Use in San Francisco

The General Plan and Planning Code are San Francisco’s governing land use documents. They outline land use goals and divide the City into various Zoning Districts, depending on the types of uses permitted within those Districts.

The San Francisco Planning Commission and Planning Department are the lead implementing entities for land use issues in San Francisco.

San Francisco’s General Plan and Planning Code

In general, land use considerations are those involving how particular types of land are used within a geographic location or locations. These considerations lead to decisions about where hospitals, shops, schools, businesses, parks, and other buildings are located. San Francisco’s General Plan is the City’s long-term land use planning tool created with the goal, among others, of

improvement of the city as a place for commerce and industry by making it more efficient, orderly, and satisfactory for the production, exchange and distribution of goods and services, with adequate space for each type of economic activity and improved facilities for the loading and movement of goods.²³

San Francisco’s Planning Code implements the goals outlined in the General Plan and divides the City into various Zoning Districts. The Planning Code defines a “use” as “[t]he purpose for which

land or a structure, or both, are designed, constructed, arranged or intended, or for which they are legally occupied or maintained, let or leased.”²⁴ For example, certain areas of the City are zoned for residential use, which would include homes and apartments, others are zoned for commercial use and include retail and shopping areas, and others for public use, meaning the land is owned by a government agency. Still other Districts allow for a range of different uses and are generally referred to as “mixed use” districts. The Planning Code includes zoning maps illustrating these Districts throughout the City.²⁵

Depending on the Zoning District, uses typically fall into one of three categories: (1) permitted; (2) conditionally permitted, meaning it requires the Planning Commission’s granting of a Conditional Use authorization; (3) not permitted. Under the “conditional use” category, property owners must file a conditional use authorization application and a public Planning Commission hearing is held to determine whether the proposed use is “necessary or desirable to the neighborhood, has a potential negative impact on the surrounding neighborhood, and complies with the San Francisco General Plan.”²⁶ This hearing may result in certain conditions being applied to the use in question to mitigate any public concerns and ensure compliance with the Planning Code and Planning Department regulations.²⁷

The Planning Code is amended from time to time. Such amendments most typically are initiated by a member of the Board of Supervisors or the Mayor, while others are initiated by the Planning Department. While members of the general public may also apply to amend the Planning Code, such applications are very rare. Regardless of the party initiating amendments, public hearings must be conducted at both the Planning Commission and Board of Supervisors, at which changes to the proposed amendments can be made, before being ultimately considered for adoption by the Board and Mayor.

San Francisco Planning Commission and Planning Department

The Planning Department is the lead agency overseeing the implementation of the Planning Code, meaning it regulates the type and scale of land use activities across the City. To do this, the Department uses various tools to regulate elements such as building height, dwelling unit density, and commercial uses.²⁸ The Planning Commission is the Department’s governing body, consisting of seven members appointed by the Mayor and President of the Board of Supervisors. The Commission’s task is to “advise the Mayor, Board of Supervisors and City departments on San Francisco’s long-range goals, policies and programs on a broad array of issues related to land use, transportation, and current planning”²⁹ and to render decisions on a range of development and land use applications.

In achieving its goals, the Planning Department works closely with other City agencies. For example, the Department of Building Inspection is the lead agency overseeing building permits for new construction, demolition, building alterations and renovations, and the Planning Department reviews many such permits to ensure that the building’s intended use and physicality complies with land use and building form requirements.³⁰ The Planning Department also works closely with the San Francisco Department of Public Health in many aspects, including managing the City’s medical cannabis program, as outlined below.

Zoning and Cannabis in San Francisco

The current areas of the City in which new medical cannabis dispensaries can open have become known as “Green Zones.” The Planning Code includes three main zoning requirements for dispensaries: they may not be within 1,000 feet of schools or of certain recreation buildings and they must be located within a range of specific Zoning Districts.

Led by the Planning Department and Commission, the zoning process for dispensaries involves a technical assessment of whether a proposed location meets land use requirements under the Planning Code and opportunities for public engagement.

San Francisco’s “Green Zone”

San Francisco’s medical cannabis program has been in existence since 2005, with the enactment of the Medical Cannabis Act. The Act outlines the permitting guidelines for medical cannabis dispensaries (MCDs), which all currently operate as collectives/cooperatives as required by Article 33 of the Public Health Code. In order to legally obtain medical cannabis from such a dispensary, a patient or qualified caregiver must obtain a physician’s recommendation for medical cannabis and join a collective/cooperative. This essentially establishes a closed system of cannabis activity, where a group of qualified patients/caregivers is responsible for all aspects of cannabis cultivation and sale.³¹

As of December 31, 2015, there were 28 licensed medical cannabis dispensaries in the City/County of San Francisco.³² The Department of Public Health is responsible for the medical cannabis dispensary permitting process and overall management of the medical cannabis program. As part of the permitting process, the Planning Department must first determine whether a proposed medical cannabis dispensary meets the zoning requirements for a proposed location, since only certain areas in San Francisco are zoned to allow for a medical cannabis dispensary. These areas have become known as “Green Zones.”

Medical Cannabis Dispensary Requirements under the Planning Code

The San Francisco Planning Code classifies medical cannabis dispensaries as an “Institutional Healthcare Use,” which also includes hospitals and residential care facilities.³³ Medical Cannabis Dispensary zoning requirements are noted in Article 2, where the Code establishes the following medical cannabis dispensary location and operating requirements³⁴ (zoning requirements in bold):

1. Medical Cannabis Dispensaries must apply for a permit from the San Francisco Department of Public Health prior to submitting an MCD application to the Planning Department;

2. **Medical Cannabis Dispensaries may not be located less than 1,000 feet from an elementary or secondary school (public or private) or facility that caters to persons under eighteen years of age.**
3. Medical Cannabis Dispensaries that allow smoking on-site must provide adequate ventilation such that doors and/or windows are not left open for such purposes, resulting in odor emission from the premises;
4. Alcohol may not be sold or distributed on the premises for on or off-site consumption;
5. **Medical Cannabis Dispensaries may not be located on the same property as one providing substance abuse services licensed by the State of California or funded by the Department of Public Health;**
6. Each permit issued must include the following language: “Issuance of this permit by the City and County of San Francisco is not intended to and does not authorize the violation of State or Federal law.”

Public Engagement Forms Part of MCD Zoning and Permitting Process

The zoning process for MCDs in San Francisco involves both technical aspects, i.e. the aforementioned location requirements under the Planning Code, and opportunities for public engagement. After accepting a complete MCD application and determining that it meets the minimum zoning requirements, the Planning Department must notify nearby property owners and neighbors of its potential location. This notification usually includes information about the project and copies of the plans. An MCD application to the Planning Department includes an MCD building permit application, which is subject to a thirty day public notice to allow sufficient public review.

After the thirty-day public review period, the Planning Code requires the Planning Commission to hold a public hearing to decide whether to exercise its Discretionary Review (DR) powers over the MCD building permit.³⁵ In general, the Planning Commission has Discretionary Review over all building permit applications. This discretionary authority is implemented by the Planning Department except in cases where the Planning Code (as in the case of MCDs), Commission Policy, Department Staff, or concerned members of the public bring the matter to the Commission at a public hearing in order for it to find “exceptional and extraordinary circumstances associated with the proposed project . . . where no resolution is achieved by neighbors or with the help of [Planning] Department staff or Community Board mediation services.” In such cases, and after deliberation, the Commission will take one of four actions on the project: (1) approve; (2) approve with certain conditions or modifications; (3) disapprove; (4) continue the case to a later date.³⁶

Medical Cannabis Dispensary Program Concerns and Possible Adjustments

In 2014, the San Francisco Planning Department made a series of recommendations for the medical cannabis dispensary program that may be helpful within the adult use context, including suggestions for modifying the Green Zone and addressing neighborhood concerns about cannabis businesses.

In 2014, the Planning Department made medical cannabis program recommendations in response to a request from the San Francisco Board of Supervisors to evaluate the Planning Code’s medical cannabis dispensary provisions. In its request, the Board noted that “current laws governing the location of MCDs have led to a concentration of MCDs in a relatively small portion of the City,” which may have various effects on San Francisco residents.³⁷

In its response, the Planning Department noted that the location requirements put in place for the medical cannabis program would have an impact on location considerations for adult use cannabis businesses, as well. After consulting with various stakeholders, including City agencies, medical cannabis dispensary owners, advocates and patients, the Planning Department put forth eight recommendations³⁸:

1. Maintain the Discretionary Review process and enhance it by adding Planning Commission findings for MCD Discretionary Review applications. These findings would provide the Commission with a standard set of criteria to evaluate each application, e.g. whether the proposed MCD had engaged the community and/or is providing unique services within that community.
2. Expand the Green Zone, and consider three options to do so:
 - a. reducing the 1000-foot school buffer to 600 feet to more evenly distribute MCDs across the City;
 - b. allowing MCDs in more Zoning Districts and;
 - c. permitting the MCD use on the second floor of a building.

The Department estimated that this would expand the Green Zone by five times its current size.

3. Remove the 1000-foot buffer around Recreational Facilities that cater to individuals under the age of 18 because it is difficult to identify which facilities fall into that category. In its place, Discretionary Review findings (*see* Recommendation #1) could also consider whether sensitive uses (e.g. child-friendly facilities) are located near a proposed MCD.
4. In the event that the existing Green Zone is expanded, it would be appropriate to institute a buffer around MCDs on the ground floor in Neighborhood Commercial Districts to prevent overconcentration.

5. Require a pre-application meeting for proposed MCDs to allow for a community engagement process early on in the permitting process. The Planning Department already requires pre-application meetings for other types of projects.
6. To better integrate MCDs into the community and address misconceptions that MCDs are illicit businesses, clarify that MCDs located on the ground floor are subject to the Transparency Requirements in the Planning Code.
7. Add double parking and diversion monitoring policies to the Health Code to address neighborhood concerns about illicit sales and parking violations around MCDs.
8. Provide a dedicated source of information and platform for discussion regarding the MCD process in San Francisco to inform the public and gather feedback about the MCD approval process.

At a public hearing to review the Planning Department's analysis and recommendations, the Planning Commission voted to forward them to the Board for consideration.³⁹ Though the analysis and recommendations focus only on the medical cannabis program, they may also be useful for adult use legalization zoning considerations.

AUMA Zoning Provisions

The AUMA gives localities the authority to regulate adult use cannabis businesses through local zoning and land use requirements.

The AUMA includes three main zoning provisions: (1) adult use licensees may not be located with 600 feet of schools; (2) advertising signs may not be located with 1,000 feet of schools and; (3) licensing authorities may consider "excessive concentration" in making their licensing determinations.

The AUMA's local control provision gives local governments the authority to regulate adult use cannabis businesses, including local zoning and land use requirements.⁴⁰ Within that context, the ballot initiative contains two main zoning provisions. First, it prohibits cannabis licensees under the Act from locating within 600 feet from a school (kindergarten or grades 1-12), day care center, or youth center that is in existence at the time the license is issued, unless a State licensing authority or locality specifies a different radius.⁴¹ This would seem to allow localities to either increase or decrease this radius as they see fit.^{iv} Second, it prohibits advertising or marketing (on a sign) within

^{iv} It is important to note that the Medical Marijuana regulation and Safety Act (MMRSA) maintains the existing State requirement that medical cannabis cultivation sites and medical cannabis dispensaries be located at least 600 feet from

1,000 feet of schools, day care centers, schools (kindergarten or grades 1 – 12), playgrounds, or youth centers.⁴²

Finally, the AUMA provides policy considerations that State licensing authorities may take into account in granting, denying or renewing a cannabis license, including whether granting a retail, microbusiness or qualified nonprofit license would result in “excessive concentration of licensees in a given city, county, or both.” It defines “excessive concentration” as an area where either of the following conditions exists:

1. The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products;
2. The ratio of retail, microbusiness, or nonprofit licenses to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under the [AUMA local control provision Section 26200].⁴³

These provisions give State licensing authorities and local governments tools to avoid clustering of retail locations in a particular area.

San Francisco Density Ordinance

To the extent that adult use cannabis retail locations may also sell tobacco products, they may be impacted by San Francisco’s Tobacco Density Ordinance.

In December 2014, the San Francisco Board of Supervisors amended Article 19H of the San Francisco Health Code to cap the number of tobacco sale permits at forty-five per supervisorial district, and the law was enacted on January 18, 2015 (“Tobacco Density Ordinance”). The legislation was established to curb illegal tobacco and tobacco product sales to minors in San Francisco, noting that “more aggressive policies are needed to keep San Francisco’s youth from gaining access to Tobacco Products.”⁴⁴

According to the legislation’s accompanying rules and regulations, no new tobacco sales permits will be issued for a location meeting the following requirements:^v

- in a supervisorial district with forty-five or more establishments holding valid tobacco sales permits;

schools. Because the AUMA creates an adult use legalization system that will run parallel to that of medical cannabis, State and local medical cannabis dispensary zoning provisions may need to be considered along with any zoning plan for adult use. CAL S. B. 643, Chapter 719 (Cal. Stat. 2015).

^v See San Francisco Health Code Article 19H.6 for grounds of denial of a permit under the Tobacco Density Ordinance.

- within 500 feet of a school;
- within 500 feet of another business with a valid tobacco sales permit;
- any establishment whose main purpose is offering food, beverage, or alcoholic beverage for sale for consumption on the premises (including restaurants and bars), tobacco shop, or any establishment without an existing tobacco sales permit;
- in a site not previously occupied by a business with a valid tobacco sales permit.⁴⁵

At the moment, the San Francisco district with tobacco sales permits that fall below the cap is District 7, which, as of April 2016, has 31 such permits.⁴⁶

The San Francisco Health Code defines “tobacco product” as

(1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed . . . or ingested by any means . . . ; (2) any device or component, part, or accessory that delivers nicotine alone or combined with other substances to the person using the device. . . .⁴⁷

Recent developments at the State and federal levels may have an impact on the application of the Tobacco Density Ordinance to cannabis adult use retail sites. California Governor Jerry Brown recently signed tobacco-related legislation into law that align with the San Francisco Health Code definition of “tobacco product.”⁴⁸ At the federal level, the Food and Drug Administration (FDA) recently published its final rules expanding the definition of “tobacco products” and broadening FDA’s authority over these products to include their components and parts but not accessories. Previously, the FDA regulated cigarettes, cigarette tobacco, roll-your-own tobacco and smokeless tobacco. Effective August 8, 2016, FDA’s authority will include regulation of electronic nicotine delivery systems (such as e-cigarettes and vape pens), all cigars, hookah (waterpipe) tobacco, pipe tobacco and nicotine gels, among other items.⁴⁹ Aligning the San Francisco, California, and FDA definitions of tobacco product may mean that, to the extent that adult use cannabis retail businesses in San Francisco would also be selling tobacco products, which now include items such as e-cigarettes, vape pens, and hookah pipes, they may require a tobacco sales permit and be subject to San Francisco’s Tobacco Density Ordinance. The San Francisco Department of Public Health is currently analyzing the applicability of the Tobacco Density Ordinance in these and other cases.

Delivery Services as Emerging Area within Cannabis Industry

Cannabis delivery services may provide an alternative in areas where residents are uncomfortable with traditional retail storefronts in their neighborhoods, but may also present safety concerns in localities where it is permitted.

Traditionally, cannabis sales have taken place in brick-and-mortar, or storefront, locations, where travel to that particular location was necessary. Cannabis delivery services have emerged as an alternative way of providing cannabis to consumers, especially for individuals that may not be

physically able to travel to a medical cannabis dispensary. In some places, delivery services can be offered by storefront locations as an additional service, or may function as mobile retail outlets without a storefront presence at all. In Los Angeles, California, media reports that delivery services increased partly in response to a reduction in the number of storefront medical cannabis dispensaries—owners of closed storefronts turned to mobile delivery services as a way of continuing the business.⁵⁰

Media also reports that, according to one drug policy expert, cannabis delivery services could also alleviate the concerns of neighborhood residents that are uncomfortable with a storefront in their vicinity.⁵¹ In this way, mobile medical cannabis dispensaries and adult use retailers could be an alternative to storefronts and zoning challenges for storefront locations.

This alternative may need to be balanced against safety concerns associated with cannabis delivery. Media reports that the city of Las Vegas, Nevada, recently allowed one medical cannabis storefront dispensary to begin offering delivery services to residents and noted concerns about product theft.⁵² In Oceanside, California, media also reports that the City Council voted to allow delivery services from outside the City to medical cannabis patients against the wishes of Mayor Jim Wood, who cited safety concerns as a reason he could not support the measure.⁵³

Other States' Experiences – Delivery Services

At the moment, Washington and Alaska do not allow adult use cannabis delivery services,⁵⁴ but in Washington, a bill currently making its way through the legislative process would establish a pilot program to combat illicit delivery services that are happening in violation of the law and outside of the regulated market. The program would authorize up to five licensed retailers to deliver cannabis in certain cities.⁵⁵

In Oregon, the Liquor Commission recently finalized regulations that allow for adult use cannabis delivery services. Deliveries may only be made in response to a “bona fide order” received from an individual 21 years of age or older before a certain time on the request date. A delivery retailer may only carry \$100 worth of cannabis or cannabis products at any one time. The regulations also include delivery operating times and documentation requirements.⁵⁶

AUMA Delivery Service Provisions

The AUMA allows for delivery services from licensed retailers, and localities may not prevent licensees from making deliveries on public roads if acting in compliance with the AUMA and local law.

The AUMA defines “delivery” as the commercial transfer of cannabis or cannabis products to a customer and the use by a retailer of any technology platform that enables customers to arrange for that commercial transfer.⁵⁷ Under the Act, only licensed retailers, microbusinesses and nonprofits (licensed under Section 26070.5 of the AUMA) can make cannabis deliveries, and local jurisdictions may not prevent cannabis delivery on public roads by licensees acting in compliance

with the AUMA and local law. Delivery customers are required to maintain a physical or electronic copy of the delivery request and make it available to license authorities and law enforcement if requested.⁵⁸

The Bureau of Marijuana Control, i.e. the State entity responsible for regulating cannabis under the AUMA, is required to establish additional security and transportation safety requirements, including minimum qualifications for delivery personnel and vehicle type.⁵⁹

CONCLUSION

Land use and equity, as well as the connections between the two areas, are important considerations for adult use legalization. As is evident, these considerations invite conversations about zoning, neighborhood safety, equity, workforce development, and business interests. In fulfilling its advisory role, the Task Force will discuss the issues raised in this issue brief and attempt to develop recommendations that reflect these considerations.

References

¹San Francisco Ordinance Number 115-15 (2015). Establishing Cannabis State Legalization Task Force. Retrieved from <https://sfgov.legistar.com/View.ashx?M=F&ID=3873579&GUID=1BAFED02-E19A-4AC4-8F96-3BB268939F5B>.

² Richard Nixon. (1971). Remarks About an Intensified Program for Drug Abuse Prevention and Control. Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=3047>.

Golub, A. Bennett, Alex S., Elliot, L. (2015). Beyond America's War on Drugs: Developing Public Policy to Navigate the Prevailing Pharmacological Revolution. *AMS Public Health*, 2(1), 142-160. Retrieved from <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4398966/>.

Public Broadcasting Service. Thirty Years of America's Drug War. Retrieve from <http://www.pbs.org/wgbh/pages/frontline/shows/drugs/cron/>.

Drug Policy Alliance. A Brief History of the Drug War. Retrieved from <http://www.drugpolicy.org/new-solutions-drug-policy/brief-history-drug-war>.

³ The Sentencing Project. (2007). A 25-Year Quagmire: The War on Drugs and its Impact on American Society. Retrieved from <http://www.sentencingproject.org/publications/a-25-year-quagmire-the-war-on-drugs-and-its-impact-on-american-society/>.

Drug Policy Alliance. A Brief History of the Drug War. Retrieved from <http://www.drugpolicy.org/new-solutions-drug-policy/brief-history-drug-war>.

⁴ Global Commission on Drugs. (2011). War on Drugs: Report of the Global Commission on Drug Policy. Retrieved from http://www.globalcommissionondrugs.org/wp-content/uploads/2012/03/GCDP_WaronDrugs_EN.pdf.

⁵ Global Commission on Drugs. (2011). War on Drugs: Report of the Global Commission on Drug Policy. Retrieved from http://www.globalcommissionondrugs.org/wp-content/uploads/2012/03/GCDP_WaronDrugs_EN.pdf.

⁶ Human Rights Watch. (2009). Decades of Disparity. Retrieved from <https://www.hrw.org/report/2009/03/02/decades-disparity/drug-arrests-and-race-united-states>.

Human Rights Watch. (2008). Targeting Blacks: Drug Law Enforcement and Race in the United States. Retrieved from https://www.hrw.org/sites/default/files/reports/us0508_1.pdf.

Other related source: American Civil Liberties Union. Criminal Law Reform. Retrieved from <https://www.aclu.org/issues/criminal-law-reform?redirect=drug-law-reform>.

The Sentencing Project. (2007). A 25-Year Quagmire: The War on Drugs and its Impact on American Society. Retrieved from <http://www.sentencingproject.org/publications/a-25-year-quagmire-the-war-on-drugs-and-its-impact-on-american-society/>.

⁷ Kakade, M., Duarte, CS, Liu X., Fuller, CJ et.al. (2012). Adolescent Substance Use and Other Illegal Behaviors and Racial Disparities in Criminal Justice System Involvement: Findings from a US National Survey. *American Journal of Public Health*, 102(7), 1307-10. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/22594721>.

⁸ American Civil Liberties Union. (2013). The War on Marijuana in Black and White. Retrieved from <https://www.aclu.org/files/assets/aclu-thewaronmarijuana-rel2.pdf>. In reviewing the report's data and focus on African-American and Caucasian arrest rates, it is important to note what the ACLU notes as the "Latino Data Problem" on page 32 of the report.

⁹ American Civil Liberties Union. (2013). The War on Marijuana in Black and White. Retrieved from <https://www.aclu.org/files/assets/aclu-thewaronmarijuana-rel2.pdf>.

¹⁰ Drug Policy Alliance. (2016). The Drug War, Mass Incarceration and Race. Retrieved from <http://www.drugpolicy.org/sites/default/files/DPA%20Fact%20Sheet%20Drug%20War%20Mass%20Incarceration%20and%20Race%28Feb.%202016%29.pdf>.

Fields, G. Emshwiller, J. (2014, August 18). As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime. *Wall Street Journal*. Retrieved from <http://www.wsj.com/articles/as-arrest-records-rise-americans-find-consequences-can-last-a-lifetime-1408415402>.

¹¹ Human Rights Watch. (2000). Punishment and Prejudice: Racial Disparities in the War on Drugs. Summary and Recommendations. Retrieved from <https://www.hrw.org/reports/2000/usa/>.

Clear, T. (2008). The Effects of High Imprisonment Rates on Communities. *Chicago Journals*, (37(1) 97-12. Retrieved from <http://myweb.fsu.edu/bstults/ccj5625/readings/clear-cj-2008.pdf>.

¹² Blue Ribbon Commission on Marijuana Policy. (2015). Pathways Report: Policy Options for Regulating Marijuana in California. p. 73. Retrieved from <https://www.safeandsmartpolicy.org/>.

¹³ Blue Ribbon Commission on Marijuana Policy. (2015). Pathways Report: Policy Options for Regulating Marijuana in California. p. 10. Retrieved from <https://www.safeandsmartpolicy.org/>.

¹⁴ Blue Ribbon Commission on Marijuana Policy. (2015). Pathways Report: Policy Options for Regulating Marijuana in California. pp. 4, 38, 63. Retrieved from <https://www.safeandsmartpolicy.org/>.

¹⁵ Blue Ribbon Commission on Marijuana Policy. (2015). Pathways Report: Policy Options for Regulating Marijuana in California. pp. 67-70. Retrieved from <https://www.safeandmartpolicy.org/>.

¹⁶ Cal. Assemb. B. 266, Chapter 69 (Cal. Stat. 2015).

Cal. Assemb. B. 243, Chapter 688 (Cal. Stat. 2015).

CAL S. B. 643, Chapter 719 (Cal. Stat. 2015).

¹⁷ Oakland City Council Ordinance No. 13370 Amending Oakland and Municipal Code Chapter 5.80, Medical Cannabis Dispensary Permits, to Align with California's Medical Marijuana Regulation and Safety Act and Adopting CEQA Exemption Findings, (2016). Retrieved from <https://oakland.legistar.com/Legislation.aspx>.

Oakland City Council Ordinance No. 13371 Amending Oakland Municipal Code Chapter 5.81, Medical Cannabis Cultivation Facility Permits, to Align with California's Medical Marijuana Regulation and Safety Act and Adopting CEQA Exemption Findings, (2016). Retrieved from <https://oakland.legistar.com/Legislation.aspx>.

¹⁸ Oakland City Council Ordinance No. 13370 Amending Oakland and Municipal Code Chapter 5.80, Medical Cannabis Dispensary Permits, to Align with California's Medical Marijuana Regulation and Safety Act and Adopting CEQA Exemption Findings, (2016). Retrieved from <https://oakland.legistar.com/Legislation.aspx>.

Oakland City Council Ordinance No. 13371 Amending Oakland Municipal Code Chapter 5.81, Medical Cannabis Cultivation Facility Permits, to Align with California's Medical Marijuana Regulation and Safety Act and Adopting CEQA Exemption Findings, (2016). Retrieved from <https://oakland.legistar.com/Legislation.aspx>.

¹⁹ Oakland City Council Ordinance No. 13370 Amending Oakland and Municipal Code Chapter 5.80, Medical Cannabis Dispensary Permits, to Align with California's Medical Marijuana Regulation and Safety Act and Adopting CEQA Exemption Findings, (2016). Retrieved from <https://oakland.legistar.com/Legislation.aspx>.

Oakland City Council Ordinance No. 13371 Amending Oakland Municipal Code Chapter 5.81, Medical Cannabis Cultivation Facility Permits, to Align with California's Medical Marijuana Regulation and Safety Act and Adopting CEQA Exemption Findings, (2016). Retrieved from <https://oakland.legistar.com/Legislation.aspx>.

²⁰ Debolt, D. (2016, May 18). Oakland Approves New Marijuana Laws to Help Minority-Owned Pot Business. *East Bay Times*. Retrieved from http://www.eastbaytimes.com/breaking-news/ci_29907004/oakland-council-approves-new-marijuana-laws-help-minority.

Swan, R. (2016, May 17). Oakland Approves Laws to Regulate Pot Industry. *SF Gate*. Retrieved from <http://www.sfgate.com/bayarea/article/Oakland-approves-laws-to-regulate-pot-industry-7582416.php>.

Swan, R. (2016, May 16). Oakland Hopes to Light the Way for Minority-Owned Pot Businesses. *San Francisco Chronicle*. Retrieved from <http://www.sfchronicle.com/bayarea/article/Oakland-hopes-to-light-the-way-for-minority-owned-7470161.php>.

²¹ The Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) of 2016. p. 48 (Revenue and Taxation Code - Sec. 34019). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf.

²² The Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) of 2016. p. 48 (Revenue and Taxation Code - Sec. 34019). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf.

²³ San Francisco Department of Planning. San Francisco General Plan. Retrieved from http://sf-planning.org/ftp/General_Plan/index.htm.

²⁴ San Francisco Planning Code. Definitions, Section 102. Retrieved from American Legal Publishing Corporation, http://www.amlegal.com/codes/client/san-francisco_ca/.

²⁵ See San Francisco Planning Code for Zoning Maps. Retrieved from American Legal Publishing Corporation, http://www.amlegal.com/codes/client/san-francisco_ca/. See also San Francisco Department of Planning website, at <http://sf-planning.org/zoning-maps>.

²⁶ San Francisco Department of Planning. Permit FAQ & Glossary. Retrieved from <http://sf-planning.org/permit-faq-glossary>.

²⁷ San Francisco Department of Planning. Permit FAQ & Glossary. Retrieved from <http://sf-planning.org/permit-faq-glossary>.

²⁸ San Francisco Department of Planning. Frequently Asked Questions. Retrieved from <http://sf-planning.org/frequently-asked-questions>.

²⁹ San Francisco Department of Planning. Planning Commission. Retrieved from <http://sf-planning.org/planning-commission>.

³⁰ San Francisco Department of Planning. Frequently Asked Questions. Retrieved from <http://sf-planning.org/frequently-asked-questions>.

³¹ Medical Cannabis Act. San Francisco Health Code, Art. 33. Retrieved from <http://www.amlegal.com/>. Retrieved from American Legal Publishing Corporation, http://www.amlegal.com/codes/client/san-francisco_ca/.

-
- ³² San Francisco Department of Public Health. (2016). *2015 Annual Director's Report on Medical Cannabis Dispensaries*. Retrieved from https://www.sfdph.org/dph/files/EHSdocs/MedCannabis/2015_MCD_Annual_Report.pdf.
- ³³ San Francisco Planning Code. Definitions, Section 102. Retrieved from American Legal Publishing Corporation, http://www.amlegal.com/codes/client/san-francisco_ca/.
- ³⁴ San Francisco Planning Code, Article 2, Location and Operating Conditions, Section 202.2.(e)(1). Retrieved from American Legal Publishing Corporation, http://www.amlegal.com/codes/client/san-francisco_ca/.
- ³⁵ San Francisco Planning Code, Article 2, Location and Operating Conditions, Section 202.2.(e)(1). Retrieved from American Legal Publishing Corporation, http://www.amlegal.com/codes/client/san-francisco_ca/.
- ³⁶ San Francisco Department of Planning. (2012). Application for Discretionary Review. Retrieved from <http://sf-planning.org/sites/default/files/FileCenter/Documents/491-Discretionary%20Review%20Application.pdf>.
- ³⁷ San Francisco Planning Department. (2014). Draft Planning Commission Report: Evaluating the Planning Code's Medical Cannabis Dispensaries Locational Requirements. pp. 11, 24-27. Retrieved from <http://commissions.sfplanning.org/cpcpackets/2013.1255U.pdf>.
- ³⁸ San Francisco Planning Department. (2014). Draft Planning Commission Report: Evaluating the Planning Code's Medical Cannabis Dispensaries Locational Requirements. Exhibit B. Retrieved from <http://commissions.sfplanning.org/cpcpackets/2013.1255U.pdf>.
- ³⁹ San Francisco Planning Department. (2014). Transmittal of Planning Department Case Number 2013.1255U Commission Report: "Evaluating the Planning Code's Medical Cannabis Dispensaries Locational Requirements." Retrieved from <http://commissions.sfplanning.org/cpcmotions/2014/19107.pdf>
- ⁴⁰ The Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA") of 2016. p. 38 (Business and Professions Code - Sec. 26200). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf.
- ⁴¹ The Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA") of 2016. p. 38 (Business and Professions Code - Sec. 26054). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf.
- ⁴² The Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA") of 2016. p. 35 (Business and Professions Code - Sec. 26152). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf. (Note that the advertising restriction does not apply to signs inside a licensed premises which are not visible by normal unaided vision from a public place, provided that such advertising signs to not intend to encourage underage use. (Sec. 26155).

⁴³ The Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) of 2016. pp. 19-20 (Business and Professions Code - Sec. 26051). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf.

⁴⁴ San Francisco Ordinance No. 259-14. Ordinance amending the Health Code by adding Density, Proximity, and Sales Establishment Limitation on the Granting of New Tobacco Sales Permits, and Renumbering all Sections in Article 19H; Amending the Business and Tax Regulations Code by Increasing the Annual License and Application Fees; and Making Environmental Findings. (2014). Retrieved from <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances14/o0259-14.pdf>.

⁴⁵ San Francisco Department of Public Health. (2015). Rules and Regulations for the Retail Tobacco Permit Program Article 19H of the San Francisco Health Code. Retrieved from https://www.sfdph.org/dph/files/EHSdocs/Tobacco/Rules_for_SFHC_19H_Tobacco_Retail_Permits.pdf.

⁴⁶ San Francisco Department of Public Health records.

San Francisco Department of Public Health. Retail Tobacco Sales Permit Program. Retrieved from <https://www.sfdph.org/dph/EH/tobacco/>.

⁴⁷ San Francisco Health Code, Article 19H, Definitions, Sec. 19H.2. Retrieved from http://www.amlegal.com/codes/client/san-francisco_ca/.

⁴⁸ California Senate Bill 5 (2016). Retrieved from https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201520162SB5.

⁴⁹ Text excerpted from U.S. Food and Drug Administration. (2016). Extending Authorities to all Tobacco Products, Including E-Cigarettes, Cigars and Hookah. Retrieved from <http://www.fda.gov/TobaccoProducts/Labeling/RulesRegulationsGuidance/ucm388395.htm>.

FDA Tobacco Products Rule. 81 Fed. Reg. 90 (May 10, 2016) (to be codified at 21 CFR pts. 1100, 1140, 1143). Retrieved from <https://www.gpo.gov/fdsys/pkg/FR-2016-05-10/pdf/2016-10685.pdf>.

⁵⁰ Pierson, D. (2014, July 14). Medical Marijuana Delivery Services are on a Roll. *Los Angeles Times*. Retrieved from <http://www.latimes.com/business/la-fi-marijuana-delivery-20140713-story.html>.

⁵¹ Pierson, D. (2014, July 14). Medical Marijuana Delivery Services are on a Roll. *Los Angeles Times*. Retrieved from <http://www.latimes.com/business/la-fi-marijuana-delivery-20140713-story.html>.

⁵² Kynaston, M. (2015, November 13). Concerns with Safety Surround Delivery Medical Marijuana. Retrieved from <http://www.ktnv.com/news/concerns-with-safety-surround-delivery-medical-marijuana>.

⁵³ Yee. P. (2013, March 3). Oceanside Approves Medical Marijuana Delivery Service. Retrieved from <http://www.thecoastnews.com/2016/03/03/oceanside-approves-medical-marijuana-delivery-service/>.

⁵⁴ Alaska Alcohol & Marijuana Control Office. (2016). Marijuana FAQs. Retrieved from <https://www.commerce.alaska.gov/web/amco/MarijuanaFAQs.aspx>.

Washington State House Bill (2368) Report (2016). Retrieved from <http://lawfilesextra.wa.gov/biennium/2015-16/Pdf/Bill%20Reports/House/2368%20HBR%20COG%2016.pdf>.

⁵⁵ Seattle Mayor Edward B. Murray. (2016). Mayor Murray and City Attorney Holmes Announce Support of State Legislation Creating Pathway for Legal Marijuana Delivery [Press Release]. Retrieved from <http://www.seattle.gov/news/detail.asp?ID=15461>.

City of Seattle. Reducing the Illicit Marijuana Market. Retrieved from <http://murray.seattle.gov/wp-content/uploads/2016/01/House-Bill-2368.pdf>.

Washington State House Bill 2368 (2016). Retrieved from <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=2368>.

⁵⁶ Oregon Liquor Control Commission, Division, Recreational Marijuana. General Requirements Applicable to All Marijuana Licenses. Sec. 845-025-2880. Retrieved from http://www.oregon.gov/olcc/marijuana/Documents/TemporaryMarijuanaRules_adopted_102215.pdf.

⁵⁷ The Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) of 2016. p. 11 (Business and Professions Code - Sec. 26000). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf.

The AUMA defines a microbusiness as an entity engaged in the “cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer [under the Act] (p. 27, Sec. 26070).

⁵⁸ The Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) of 2016. p. 29 (Business and Professions Code - Sec. 26090). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf.

⁵⁹ The Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) of 2016. pp. 27-28. (Business and Professions Code - Sec. 26070). Retrieved from http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf.