

Proposition 64 Compliance Program

CITY OF MONTCLAIR

WORKSHOP

THURSDAY, MAY 30, 2019

6:00 P.M.



Moving Toward a Regulated Commercial Cannabis Marketplace

Major Cannabis-Related Initiatives and Legislation in California

- 1996 – Proposition 215 – The Compassionate Use Act (CUA)
 - Voter initiative provides for the medicinal use of cannabis for persons 18 years of age or older, with physician's recommendation.
- 2004 – SB 420 – The Medical Marijuana Program Act (MMPA)
 - Implements provisions of the CUA.
- 2015 – Medical Marijuana Regulation and Safety Act (MMRSA)
 - Consisted of three interrelated pieces of legislation (SB 643, AB 243, and AB 266) intended to provide a comprehensive regulatory framework for the licensing, control, and taxation of commercial cannabis related businesses.
- 2016 – Proposition 64, the Control, Regulate and Tax Adult-Use of Marijuana Act (AUMA)
 - Voter initiative provides for a regulatory framework for Adult-use commercial cannabis activity.
- 2017 – SB 94 Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)
 - Repeals MMRSA and incorporates the AUMA into a comprehensive regulatory system for adult-use and medicinal cannabis.

Proposition 64—the Control Regulate and Tax Adult-Use of Marijuana Act (the AUMA)

- 2016 – Proposition 64, the Control, Regulate and Tax Adult-Use of Marijuana Act (the “AUMA”).
 - November 6, 2016, approved by California voters—Provides a comprehensive regulatory framework for the licensing, control, and taxation of adult-use commercial cannabis activities in California.
 - Statewide: 57.13%
 - San Bernardino County: 57.13%
 - City of Montclair: 53.1%
 - Authorizes a person 21 years of age or older, for adult-use, to possess and use up to 28.5 grams of cannabis and up to 8 grams of concentrated cannabis, and to possess up to 6 living cannabis plants.
 - For Medicinal Purposes, 18 years of age or older and 12 or more living cannabis plants.

The AUMA and The MAUCRSA

- The AUMA & The MAUCRSA:

- Establish a comprehensive set of provisions for the regulation of commercial cannabis including:
 - The cultivation, distribution, transport, storage, manufacturing, processing, and sale of:
 - Medicinal cannabis and medicinal cannabis products for patients with valid physician's recommendations; and
 - Adult-use cannabis and adult-use cannabis products for adults 21 years of age or older.
- Establish compliance requirements with other rules and regulations adopted by the state Legislature, and State Licensing Authorities, including:
 - The Bureau of Cannabis Control – Distribution, Testing Laboratories, Retail, Microbusinesses, and disciplinary guidelines;
 - Department of Food and Agriculture – Cultivation; and
 - Department of Public Health – Manufacturing.

Rohrabacher-Farr Amendment

- Rohrabacher-Farr Amendment:

- Despite classification of cannabis as a CSA Schedule I drug, Congress continues to adopt and extend a series of budget amendments known as Rohrabacher-Farr, prohibiting the Department of Justice (DOJ) from spending federal funds to interfere with implementation of state medical cannabis laws.

- United States v. McIntosh:

- In August 2016, the Ninth Circuit Court of Appeals, in *U.S. v. McIntosh*, affirmed Rohrabacher-Farr, stating that “*none of the funds made available under the [Rohrabacher-Farr] Amendment to the Department of Justice may be used*” to “*prevent [states] from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana*”, including criminal prosecution of people who engage in those activities as well as lawsuits aimed at overturning or neutralizing medical cannabis laws.

Cole Memo

- Cole Memo establishes eight guiding principles:

1. Prevent the distribution of cannabis and cannabis products to minors;
2. Prevent revenue from sale of cannabis and cannabis products from going to criminal enterprises, gangs, and cartels;
3. Prevent revenue from the sale of cannabis and cannabis products from states where it is legal under state law to transfer in some form to other states;
4. Prevent state-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

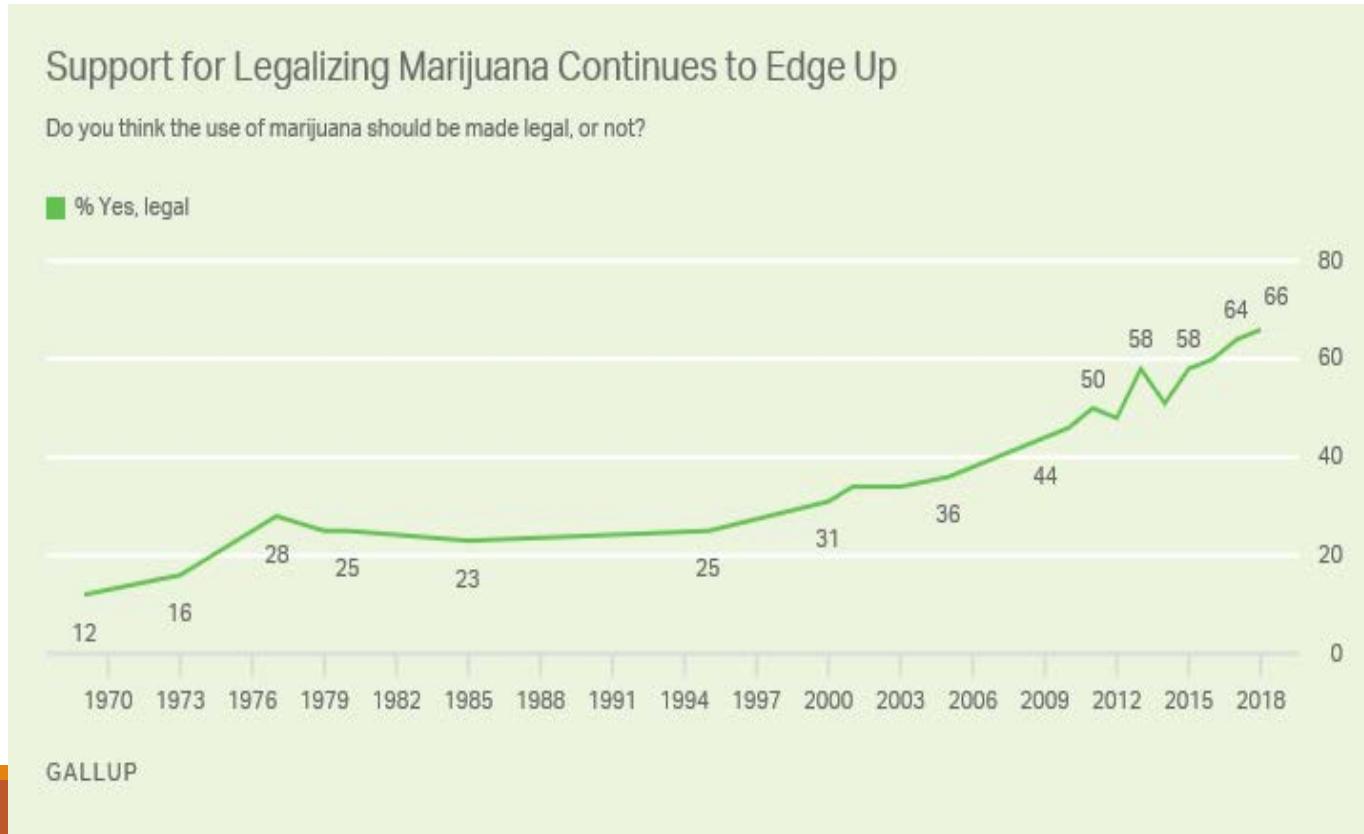
Cole Memo

- Cole Memo establishes eight guiding principles:

5. Prevent violence and the use of firearms in the cultivation and distribution of cannabis and cannabis products;
6. Prevent drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use;
7. Prevent the growing of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands; and
8. Prevent cannabis possession or use on federal property.

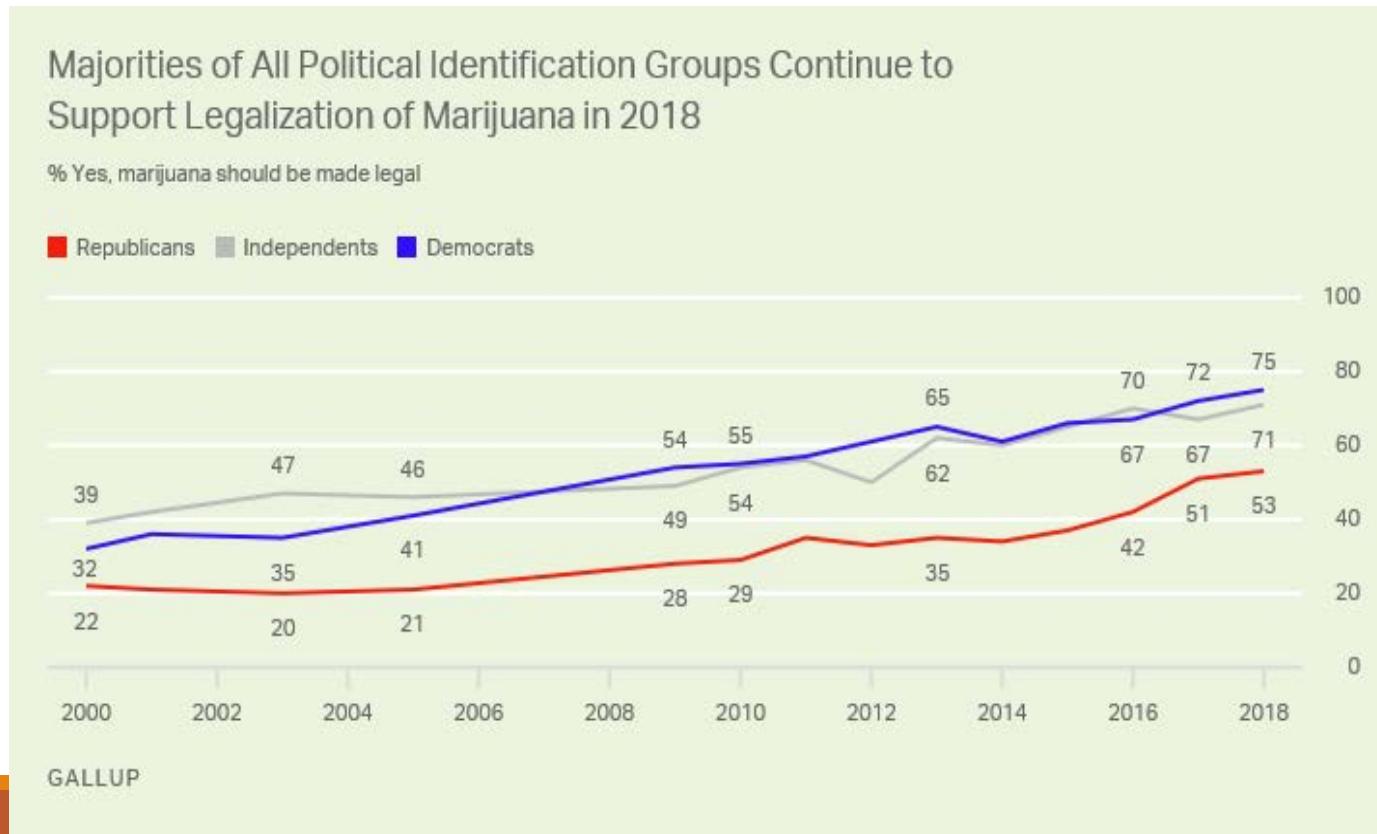
Nationwide Support for Legalization of Medicinal and Adult-Use Cannabis

- Recent national Gallup Poll finds that 66% of Americans support legalization of adult-use cannabis.



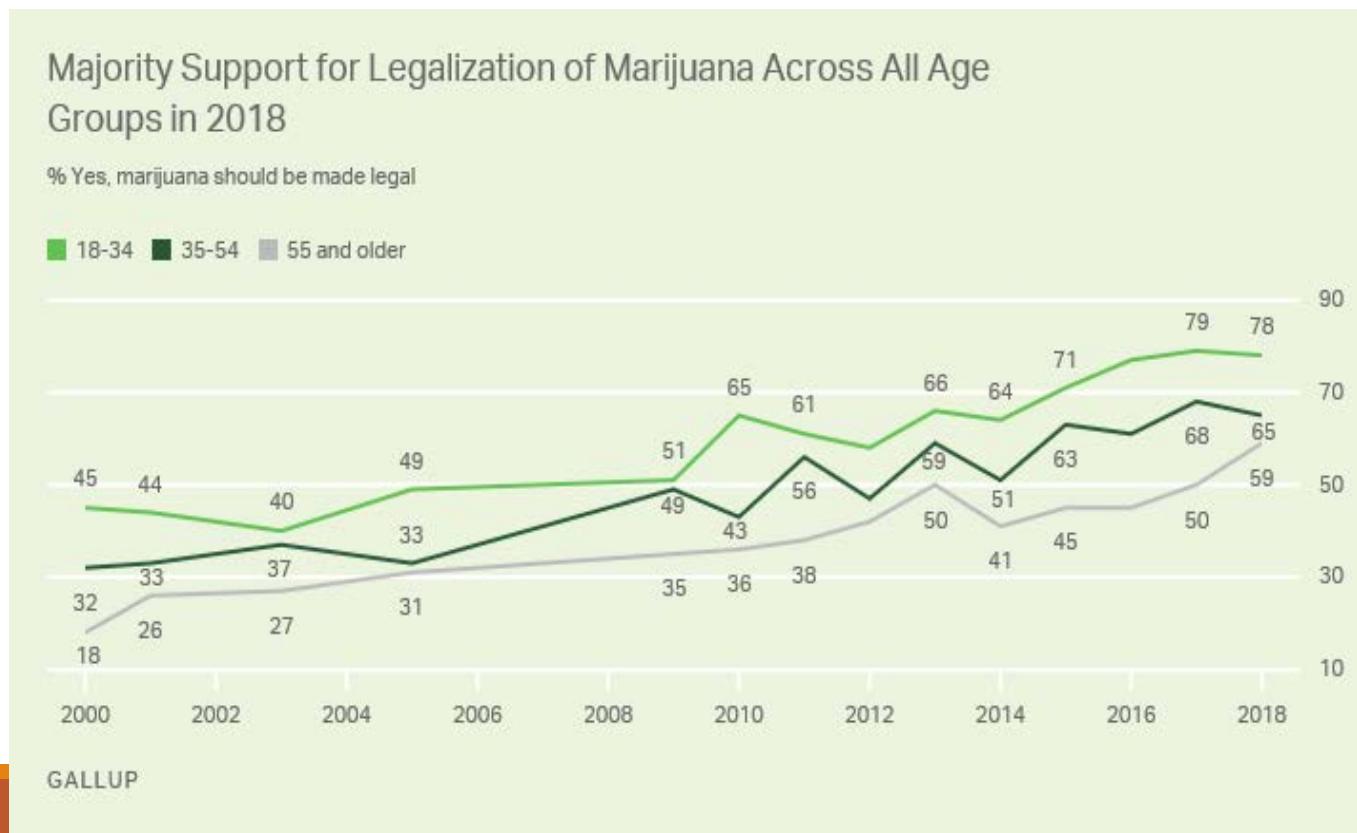
Nationwide Support for Legalization of Medicinal and Adult-Use Cannabis

- Recent national Gallup Poll finds Democrats (75 percent), Independents (71 percent) and a slim majority of Republicans support legalizing cannabis (53 percent).



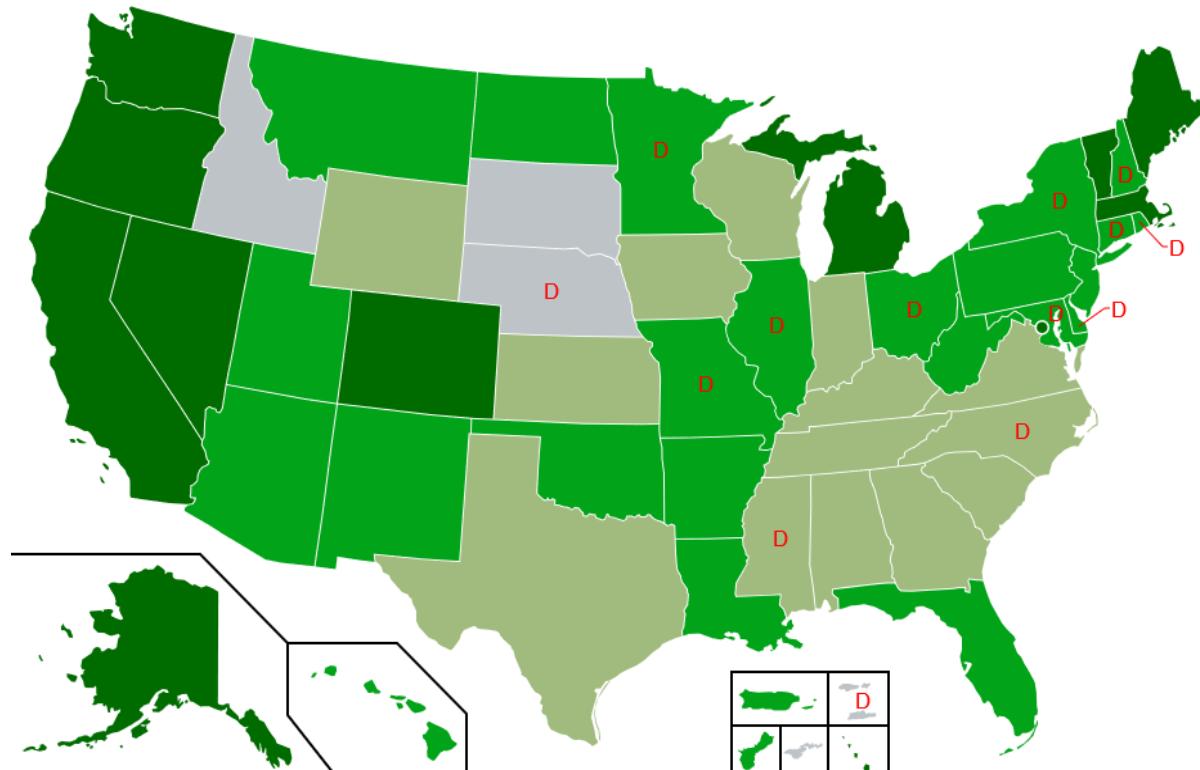
State Legalization of Medicinal and Adult-Use Cannabis

- Recent national Gallup poll finds that among Americans aged 55 and older, 59 percent in support of cannabis legalization, up from 50 percent in 2017:



State Legalization of Medicinal and Adult-Use Cannabis

- Legal
- Legal for Medical Use
- Legal for Medical Use- Limited THC
- Prohibited for Any Use
- Decriminalized



State Legalization of Medicinal and Adult-Use Cannabis

- State Legalization of Medicinal and Adult-Use Cannabis:

- Medical-use of cannabis is legal in 33 states, plus the District of Columbia, and the territories of Guam, Puerto Rico, the Northern Mariana Islands, and the U.S. Virgin Islands.
- 14 other states have laws that limit THC content, for the purpose of allowing access to products that are rich in CBD.
- Adult-use of cannabis is legal in 10 states (Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont, and Washington), the District of Columbia, and the Northern Mariana Islands.

Status of Commercial Cannabis Activity in the City of Montclair

- Local Ban

- Pursuant to Chapter 11.11 of the Municipal Code, Montclair currently has in place a total ban on medicinal and adult-use commercial cannabis activities.

- Illegal Commercial Cannabis Activities

- Efforts to enforce against illegal commercial cannabis operators is not only an expensive legal effort, it is also hindered by a lack of enforcement powers that are only available through adoption of a regulatory system with access to fines, penalties and other legal remedies.

Status of Commercial Cannabis Activity in the City of Montclair

- **Illegal Commercial Cannabis Dispensaries and Cultivators**

- Since January of 2010, Police and Code Enforcement have shut down approximately 30 illegal commercial cannabis dispensaries and 14 illegal commercial cannabis cultivation facilities in the City.
- The amount of illegal commercial cannabis dispensaries and illegal commercial cannabis cultivation facilities has increased significantly since the passage of Proposition 64 in 2016.
- 21 of the 30 illegal commercial cannabis dispensaries and 11 of the 14 illegal commercial cannabis cultivation facilities have occurred over the last 36 months.

City of Montclair - Illegal Commercial Cannabis Dispensaries:

1. 4927 Holt – Greenhouse Medz	11. 5093 Mission – The Flower Shop	21. 4027 Holt – The Green Owl
2. 4750 Mission - Montclair Caregivers	12. 4601 Brooks – Showtime Collective	22. 10330 Central – High Quality
3. 4027 Holt - The Locker Room	13. 10665 Mills – Green Heart Therapy	23. 5093 Mission – 2Down
4. 4238 Mission – Kush Town Caregivers	14. 5466 Moreno – Half Baked Medical	24. 9680 Central – The Gas Company
5. 5090 Holt – Barnies	15. 9074 Benson – Secret Garden	25. 5196 Benito – The Spot
6. 9513 Central – Turn Breeze	16. 0334 Central – Chronic Revolution	26. 5196 Benito – The Flower Shop
7. 4029 Holt – Green Cross	17. 5505 Moreno (107) – Chubby's	27. 4027 Holt – Green 100
8. 4439 Mission – Suite H Collective	18. 4795 Holt – Fire House Medz	28. 4439 Mission – RX Medz
9. 5505 Moreno (107) – High Class	19. 5505 Moreno (105) – Secret Garden	29. 5220 Benito – MCW
10. 5505 Moreno (105) – Chubby's Med	20. 5640 Moreno – Mr. T's	30. 5093 Mission – Meca

City of Montclair - Illegal Commercial Cannabis **Cultivators:**

- 1. 5237 Saddleback
- 2. 10660 Silicon
- 3. 4650 Arrow
- 4. 4748 Mission
- 5. 9024 Benson
- 6. 10784 Fremont
- 7. 5139 Brooks
- 8. 5235 State
- 9. 10205 Fremont
- 10. 5505 Moreno
- 11. 10720 Ada
- 12. 5196 Benito
- 13. 4750 Mission
- 14. 4752 Mission

Status of Commercial Cannabis Activity in the City of Montclair

- Illegal Commercial Cannabis Activities:

- In effect, the proliferation of illegal cannabis operations has taught the community that....

Status of Commercial Cannabis Activity in the City of Montclair

We cannot ban cannabis.

Status of Commercial Cannabis Activity in the City of Montclair

We can only ban legal cannabis.

Status of Commercial Cannabis Activity in the City of Montclair

Or Can We?

Current State Legislative Activities Promoting Commercial Cannabis Activities

- Frustrated with the following:

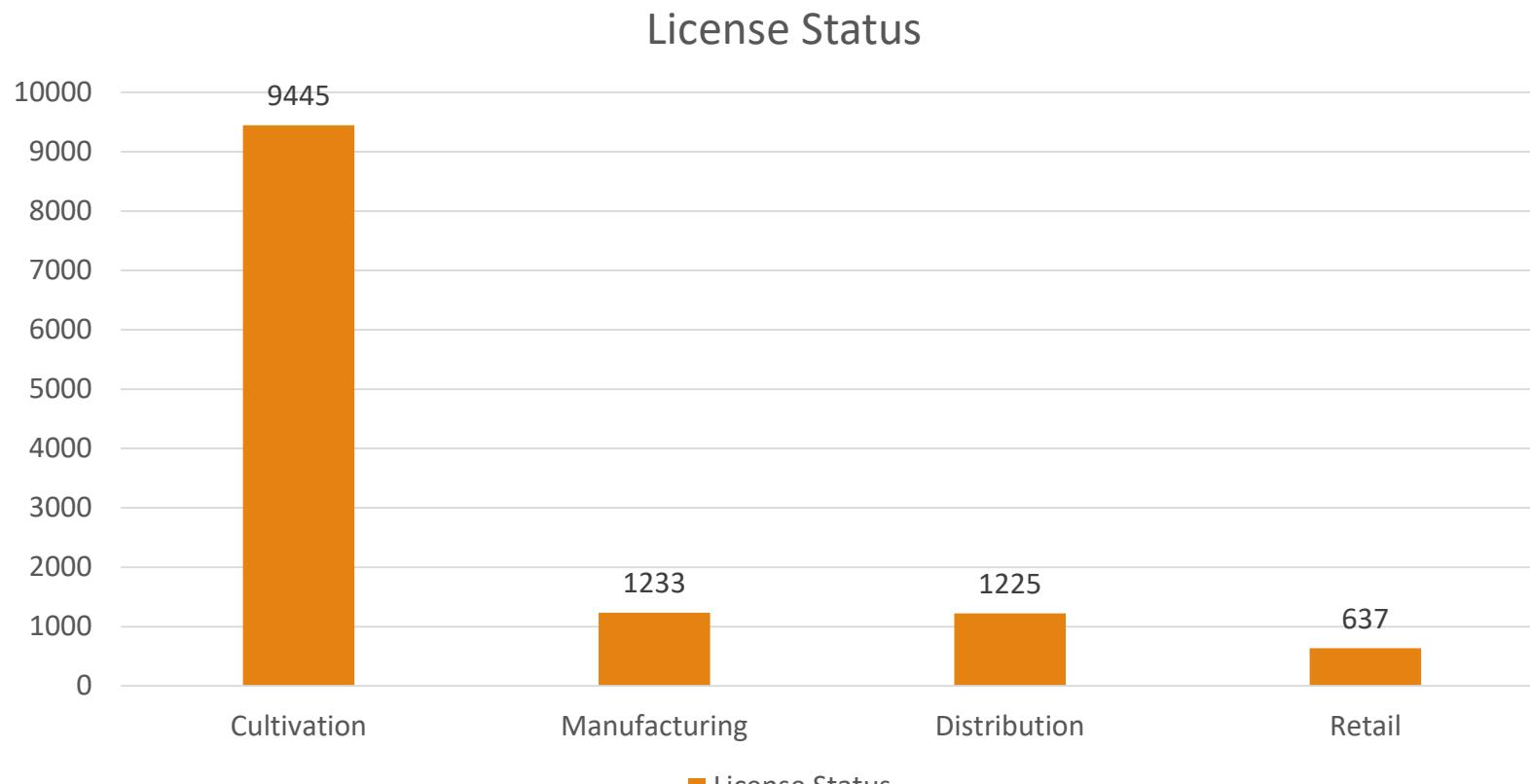
- A lack of local regulatory systems in the state.
- Expanding growth in the black market.
- A backward permitting system.

The State Legislature is taking a proactive approach to integrating cannabis into communities statewide.

California Commercial Cannabis Market

- California has a non-viable legal market caused by lack of commercial cannabis licenses at the local level, resulting in a thriving illegal market.
 - 80% of cannabis grown in State is for the illegal market.
 - 20% of cannabis grown in State is for the legal market.
 - WHY?

California License Status 2019



14.82 : 1.94 : 1.92 : 1

2019 Legislative Session (46 Cannabis Bills)

- AB 3 Cooper
- AB 37 Jones-Sawyer
- AB 127 Lackey
- AB 147 Burke
- AB 228 Aguiar-Curry
- AB 286 Bonta
- AB 397 Chau
- AB 404 Stone
- AB 420 Lackey/Cooley/Wood
- AB 545 Low
- AB 717 Nazarian
- AB 833 Lackey
- AB 585 Levine
- AB 953 Ting
- AB 1085 McCarthy
- AB 1288 Cooley
- AB 1291 Jones-Sawyer
- AB 1296 Gonzalez
- AB 1356 Ting**
- AB 1417 Rubio/Blanca
- AB 1420 Obernolte
- AB 1458 Quirk
- AB 1461 Quirk
- AB 1470 Quirk
- AB 1525 Jones-Sawyer
- AB 1530 Cooley
- AB 1569 Jones-Sawyer
- AB 1678 Cabrillo
- AB 1710 Wood
- SB 34 Weiner
- SB 51 Hertzberg
- SB 67 McGuire
- SB 153 Wilk
- SB 185 McGuire
- SB 203 Bradford
- SB 223 Hill
- SB 305 hues
- SB 475 Skinner
- SB 527 Caballero
- SB 581 Caballero
- SB 595 Bradford
- SB 625 Hill
- SB 627 Monning
- SB 658 Bradford
- SB 684 Umberg

AB 1356 (Ting)

- Cannabis: Local Jurisdictions: Retail Commercial Cannabis Activity:

- If more than 50% of the voters of a local jurisdiction voted in favor of Proposition 64, a local jurisdiction would be required to allow retail commercial cannabis activity.
- AB 1356 requires local jurisdictions to issue a minimum of one retail cannabis license for every six On-Sale (Type 47&48) Liquor Licenses (1 to 6 ratio) in the local jurisdiction or one retail cannabis license for every 15,000 people in the local jurisdiction (1/15,000), rounded down, whichever is lower.
- If approved, the City of Montclair would be required to provide a minimum of 2 adult-use retail commercial cannabis activity permits.
- To become law, AB 1356 requires approval by two-thirds of both houses.
 - Earlier today placed by the Author in the Inactive File—The portion of the Daily File (bills eligible for Floor action that day) containing legislation that is ready for floor consideration, but, for a variety of reasons, is dormant. The author may move a bill to the inactive file and move it off the inactive file at a later date, with one day's public notice.

Local Ballot Initiative

- **Ballot Initiative:**

- In addition to lawsuits and other activities designed to circumvent local bans, the City is also faced with an illegal commercial cannabis marketplace that is aggressively pursuing their “right to exist” under Proposition 64, including by presenting for City Council action a local ballot initiative.
- City staff has been advised that at least one unpermitted cannabis operator has hired a marketing firm, Orbis Capital Consultants, to petition to the City Council to place a ballot measure on the November 2020 General Election Ballot to overturn the City ban on cannabis and implement a permit program.
- Orbis Capital has been in repeated contact with the City Manager’s Office, requesting access to the City Council.

Local Ballot Initiative

- **Ballot Initiative:**

- As of May 30, 2019, the Sutton Law Firm, located in Los Angeles, has presented the City with “The Montclair Freedom of Choice Cannabis Initiative”.
- As presented, the document requests a Title and Summary for the Measure to proceed with petition circulation.
- The Limited Purpose of the Initiative would achieve the following:
 - Permit the operation of medicinal and adult-use commercial cannabis activities in the City within all areas zoned Commercial and MIP Manufacturing and Industrial;
 - Require that any change to the initiative, if approved by the voters, must be approved by the electorate;
 - Require that any convictions, fines, citations, legal actions and penalties based on alleged violations contained in Chapter 11. 11 of the Municipal Code be expunged;
 - Limit the amount of City Taxes imposed to \$10,000 per location, annually; and
 - Provide for a 250 foot separation from commercial cannabis activities.

Bureau of Cannabis Control

- Bureau of Cannabis Control Regulation Legalizing Delivery Statewide.
 - Circumvents local authority and bans on Delivery:
 - January 2019—Title 16, Section 5416(d) of the Bureau of Cannabis Control regulations governs deliveries to a physical address.
 - Local governments have no authority to ban cannabis deliveries and the transportation of cannabis and cannabis products within their respective jurisdictions—even if a local government has a total ban on all commercial cannabis activities.

Weedmaps

weedmaps Upland, CA

LOG IN SIGN UP

HOME MAPS BRANDS DEALS LEARN NEWS ORDER ONLINE BETA

3 BUSINESS TYPES AMENITIES AGE RESTRICTIONS ORDER PICKUP ORDER DELIVERY OPEN NOW MEDICAL RECREATIONAL

North Pomona, Claremont, Montclair, Upland, Ontario

Premium Vapes 6g/\$180 or 3g/\$100

Storewide

Green Pinnacle Claremont, CA

© Mapbox, © OpenStreetMap

City Council Responsibilities

City Council Responsibilities

- Consider Adoption of the Medicinal and Adult-Use Cannabis Regulation and Safety Law (the “MAUCRSL”) of the City of Montclair
 - Ordinance No. 19-982, the Comprehensive Commercial Cannabis Regulatory Ordinance of the City of Montclair—establishes the primary framework for a regulated commercial cannabis marketplace in the City of Montclair;
 - Ordinance No. 19-983, the Commercial Cannabis Land Use Ordinance of the City of Montclair—provides for the foundational basis for zoning and land use designations for commercial cannabis activity in the City and provides for a regulatory structure for the cultivation, harvesting, processing, and consumption of cannabis on private property; and
 - Ordinance No. 19-984, the Comprehensive Second-Hand Smoke Control Ordinance of the City of Montclair—related to the effects of second-hand smoke and addressing those effects by imposing restrictions on smoking tobacco products and cannabis products in work and public places.

City Council Responsibilities

- Consider Formation of the Commercial Cannabis Activity Evaluation Committee.
- Consider Granting or Denying of Permits Recommended by the Commercial Cannabis Activity Evaluation Committee or, by Resolution, Refer Approval Responsibility to the Commercial Cannabis Activity Evaluation Committee.
- Conduct Hearings Related to Appeals, or Refer Responsibility for Conducting Hearings to the Commercial Cannabis Activity Evaluation Committee.
- Consider Adoption and Revisions to Fee and Bail Schedules for Commercial Cannabis Activity in the City.

City Council Responsibilities

- Consider Formation of the Commercial Cannabis Activity Evaluation Committee:
 - Section 4.07.170(3): The MAUCRSL provides for a committee to be known as the Commercial Cannabis Activity Evaluation Committee, with responsibility to:
 - Evaluate City Manager-recommended applications for commercial cannabis activity permits
 - Recommend the approval of permits to the City Council;
 - Formulate and approve rules and regulations for the City's commercial cannabis activity program;
 - Conduct informal hearings as set forth in the MAUCRSL;
 - Recommend and impose disciplinary actions including, but not limited to, permit revocations, suspensions, probation, fines, and penalties;
 - Establish additional rules, regulations and criteria for evaluating and ranking permit applications by merit; and
 - Establish guidelines for determining a merit-based selection system.

City Council Responsibilities

- Consider Formation of the Commercial Cannabis Activity Evaluation Committee:
 - In its review of each City Manager–recommended application, the Commercial Cannabis Activity Evaluation Committee shall evaluate each recommended application for the following:
 - Completeness, correctness and compliance with provisions of the MAUCRSL and applicable City rules, regulations and resolutions;
 - Proper location of the proposed location of the premises in an approved zone and area of the City;
 - Quality of proposed operations and facilities;
 - Quality of the application and appended information/documents;
 - Financial structure and fiscal capacity and integrity of the commercial cannabis activity operation proposed by applicant;
 - Experience of the applicant as it relates to legal commercial cannabis activity operations—although, lack of prior experience shall not be determinate to award of a City–issued permit;

City Council Responsibilities

- Consider Formation of the Commercial Cannabis Activity Evaluation Committee:
 - In its review of each City Manager-recommended application, the Commercial Cannabis Activity Evaluation Committee shall evaluate each recommended application for the following:
 - Permit- and commercial cannabis activity-type applied for by applicant, as defined in Section 4.07.080 of this Chapter, or as otherwise amended by ordinance or resolution of the City Council;
 - Quality of applicant's business plan as required by Section 4.07.090 of this Chapter—the business plan shall be applicable to the permit- and commercial cannabis activity-type applied for;
 - Community impact factors including, but not limited to, excessive concentration of commercial cannabis activity types in the City or zones of the City, as determined by the City pursuant to Section 4.07.080(1)(j) of this Chapter and Chapter 11.11 of the Montclair Municipal Code; and
 - Any other criteria determined appropriate by the Commercial Cannabis Activity Evaluation Committee. The Commercial Cannabis Activity Evaluation Committee may require selected applicants or their representative(s) to appear before the Commercial Cannabis Activity Evaluation Committee to present their business plan and respond to inquiries from the Commercial Cannabis Activity Evaluation Committee.

City Council Responsibilities

- Consider Formation of the Commercial Cannabis Activity Evaluation Committee:
 - Appointees to the Commercial Cannabis Activity Evaluation Committee may include the following:
 - City Manager
 - Deputy City Manager
 - Chief of Police,
 - Community Development Director
 - Commercial Cannabis Compliance Manager
 - Code Enforcement Supervisor, and
 - Any other appointee(s) deemed necessary by the City Council, including representation from:
 - The Planning Commission
 - The Community Activities Commission
 - Non-cannabis affiliated business owners, etc.

Maximum Number and Types of Commercial Cannabis Activity Permits

Maximum Number and Types of Commercial Cannabis Activity Permits:

- Ordinance No. 19-982 Provides for a Maximum Number and Types of Commercial Cannabis Activity Permits for the following commercial cannabis activity types:
 - Cultivation
 - Manufacturing
 - Testing
 - Retailer
 - Distributor
 - Microbusiness
- Potential maximum does not impose a standard, mandate, or requirement.
 - Applications for any type of commercial cannabis activity can be phased in over any period of time, and limited in the number of permits on a temporary or permanent basis.
 - Except for Testing (which is both medicinal and adult-use), applicant may apply for a medicinal (M-Type) or adult-use (A-Type) commercial cannabis activity permit, or for both at the same premises, with each A- and M-Type license counting against the total number of permits that may be authorized for each commercial cannabis activity type.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- Regulatory Requirements for A- and M-Types the Same, except as follows:
 - A-Type permit.
 - Not sell cannabis/products to persons under 21 years of age.
 - Not allow any person under 21 years of age on its premises.
 - Not employ or retain persons under 21 years of age.
 - M-Type permit.
 - Allow on the premises any person 18 years of age or older who possesses a valid physician's recommendation.
 - Sell cannabis, cannabis/products to a person 18 years of age or older who possesses a valid physician's recommendation.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- Cultivation:

- Specialty Type B.
 - Type B2—indoor cultivation site between 501 And 5,000 square feet:
 - M-Type B2—Maximum of two (2) permits.
 - A-Type B2—Maximum of two (2) permits.
- Small Type C.
 - Type C2—indoor cultivation site between 5,001 and 10,000 square feet :
 - M-Type C2—Maximum of two (2) permits.
 - A-Type C2—Maximum of two (2) permits.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- Cultivation:

- Medium Type D.
 - Type D2—indoor cultivation site between 10,001 and 22,000 square feet:
 - M-Type D2—Maximum of four (4) permits.
 - A-Type D2—Maximum of four (4) permits.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- Cultivation:

- Nursery Type E.
 - Indoor cultivation site.
 - M- and/or A-Type Permits. Maximum of two (2) permits.
- Processor Type F.
 - Indoor cultivation site.
 - M- and/or A-Type Permits. Maximum of two (2) permits.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- Manufacturing:

- Manufacturing Type 6.
 - Extractions using mechanical methods or nonvolatile solvents.
 - M- and/or A-Type Permits. Maximum of two (2) permits.
- Manufacturing Type 7.
 - Extractions using volatile solvents.
 - M- and/or A-Type Permits. Maximum of two (2) permits.
- Manufacturing Type N.
 - Produce cannabis products other than extracts or concentrates that are produced through extraction.
 - M- and/or A-Type Permits. Maximum of two (2) permits.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- Manufacturing:

- Manufacturing Type P:
 - Manufacturers that only package or repackage cannabis products.
 - M- and/or A-Type Permits. Maximum of two (2) permits.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- Testing Laboratory:

- Testing Laboratory Type 8.
 - Type 8—Maximum of three (3) permits.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- **Retailer:**

- Retailer Type 10 :
 - Storefront sale.
 - M-Type 10 Storefront—Maximum of six (6) permits, including up to five (5) permits for permittees with both A- and M-Type permits.
 - A-Type 10 Storefront—Maximum of five (5) permits, including up to five (5) permits for permittees with both A- and M-Type permits.
- Retailer Type 9:
 - Non-storefront.
 - A-, M-, or A- and M-Type 9 non-storefront—Maximum of two (2) permits.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- **Distributor:**

- Distributor Type 11.
 - Purchases, sells, arranges for testing, conducts quality assurance review of packaging and labeling, and transports cannabis goods between licensees.
 - A-, M-, or A- and M-Type 11—Maximum of three (3) permits.
- Distributor – Transport Only Type 13.
 - Transports cannabis goods between licensees.
 - A-, M-, or A- and M-Type 13—Maximum of two (2) permits.

Ordinance No. 19–982

Commercial Cannabis Activity Permits

- Microbusinesses:

- Microbusiness Type 12.
 - An applicant for microbusiness must engage in at least three (3) of the following commercial cannabis activities:
 - Retailer Storefront or Retailer Non-Storefront.
 - Distributor or Distributor—Transport Only.
 - Cultivation (less than 10,000 square feet).
 - Manufacturer Level 1, Type 6—non-volatile.
 - A-, M-, or A- and M-Type 11—Maximum of three (3) permits.

Zoning: Commercial Cannabis Permitted Activity Areas

Zoning and Land Use

- Regulatory Ordinance and Franchise Agreement Based Program:

- The Regulatory Ordinances, along with the MAUCRSA and regulations adopted by the Bureau of Cannabis Control and Department of Food and Agriculture and Department of Public Health constitute the backbone for conditions required of permittees.
- Entering into a Franchise Agreement provides for additional conditions unique to each permittee, and the City exercises greater control over the franchise relationship than it would over a Development Agreement between parties.
 - The Franchise is also a fee-based program that provides revenue, but does not operate as a tax.

- Not Conditional Use Permit-Based Program:

- CUPs are designed to allow flexibility within zoning laws, giving discretion to allow uses otherwise prohibited in the specific district for the benefit of the neighborhood. However, a CUP may establish a land use entitlement that can succeed the original applicant/property owner for a particular land use designation.

Zoning and Land Use Location Restrictions

- Premises Requirements.
 - Each permittee shall operate from a designated permitted premises, with a distinct street address and suite number.
 - The City may allow a permittee to conduct both medicinal and adult-use commercial cannabis activity at the same permitted premises.
 - Storefront Retailers and Microbusinesses shall conduct all retail business within the interior of the physical structure on the premises
 - Any permitted premises that is adjacent to another and separately permitted premises shall be physically separated by walls, and any doors leading to the separately permitted premises shall remain closed and secured at all times.
 - City-issued commercial cannabis activity permit shall be good only for the address of the permitted premises identified on the City-approved Commercial Cannabis Activity Permit Application.

Zoning and Land Use Location Restrictions

- Operational Areas.
 - For purposes of separation from sensitive and residential uses, the following shall serve as buffer zones:
 - North Montclair, the I-10 freeway corridor, the Arrow Highway corridor, the Mills Avenue corridor and the Benson Avenue corridor shall function as Buffer Zones.
 - Central Montclair, the I-10 Freeway corridor, the Holt Boulevard corridor, the Mills Avenue Corridor, the Benson Avenue corridor, the Monte Vista Avenue Corridor and the Central Avenue corridor shall function as Buffer Zones; and
 - South Montclair the Holt Boulevard corridor, Mission Boulevard corridor, Benson Avenue corridor, Mills Avenue Corridor and Central Avenue corridor shall function as Buffer Zones.

Zoning and Land Use Location Restrictions

- Restrictions on Location.
 - Each type and classification of commercial cannabis activity shall be restricted to those zones of the City identified in the Commercial Cannabis Activity Zoning and Land-Use Maps.
- Permitted Zones.
 - Commercial cannabis activities shall be permitted only in the following zones of the City:
 - Administrative Professional;
 - General Commercial;
 - Manufacturing Industrial;
 - Limited Manufacturing; and
 - General Manufacturing.

Zoning and Land Use Location Restrictions

- Administrative Professional Zone Exemption.
 - There shall be only one commercial cannabis activity permitted for the Administrative Professional Zone, and such permittee shall operate only as an M-Type 10 commercial cannabis activity.
- Measuring Distances Between Sensitive and Residential Uses and Between Permitted Activities.
 - Straight line from the property line of the sensitive use/residential property /building façade to the property line of the lot on which the subject commercial cannabis business is located without regard to intervening structures.
- Home Occupation Prohibited.
 - Permit shall not be issued to any person for residential, or home occupation commercial cannabis activity.

Zoning and Land Use Location Restrictions

- Separation from Sensitive and Residential Uses.
 - Be established outside of a 600 foot radius of sensitive uses in the City including, but not limited to, schools, public parks, public libraries, youth centers and alcoholism or drug abuse recovery or treatment facilities;
 - Be established outside of a minimum 100 foot radius from any other commercial cannabis activity of the same permit type in the City; and
 - Be established outside of a 100 foot radius of residential zones in the City.

MAP EXHIBIT 1
Sensitive Uses Separation &
Permitted Areas

Montclair, CA

DRAFT

Legend

- Sensitive Uses Separation
- Schools
- Commercial Cannabis Activity Prohibited
- Montclair Boundary
- Permitted Premises Areas For Commercial Cannabis Activity



DRAFT

Source City of Montclair 2019

MAP EXHIBIT 2
Commercial Cannabis Activity
Permitted Types & Areas

Montclair, CA

DRAFT

Legend

- Permitted, StoreFront & Non-StoreFront Retail, Microbusiness & Testing Laboratory
- Permitted, Medicinal StoreFront Retail
- Permitted, StoreFront & Non-StoreFront Retail, Microbusiness, Testing Laboratory, Cultivation, Manufacturing & Distribution
- Montclair Boundary

North
Montclair

Central
Montclair

South
Montclair



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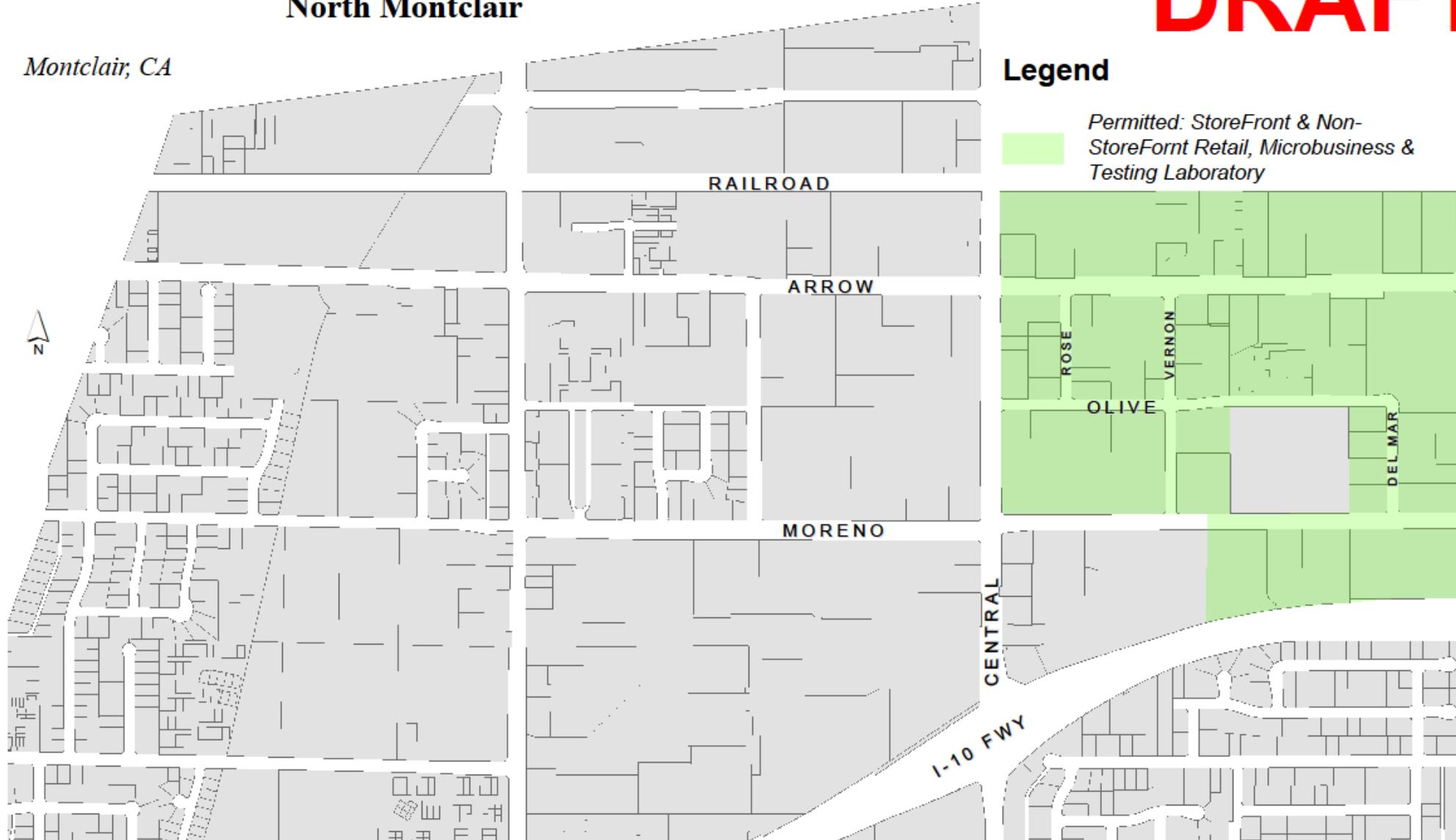
Source City of Montclair 2019

Source City of Montclair 2019

MAP EXHIBIT 2-A

North Montclair

Montclair, CA



Source: City of Montclair, 2019

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Legend

Permitted: StoreFront & Non-
StoreFront Retail, Microbusiness &
Testing Laboratory

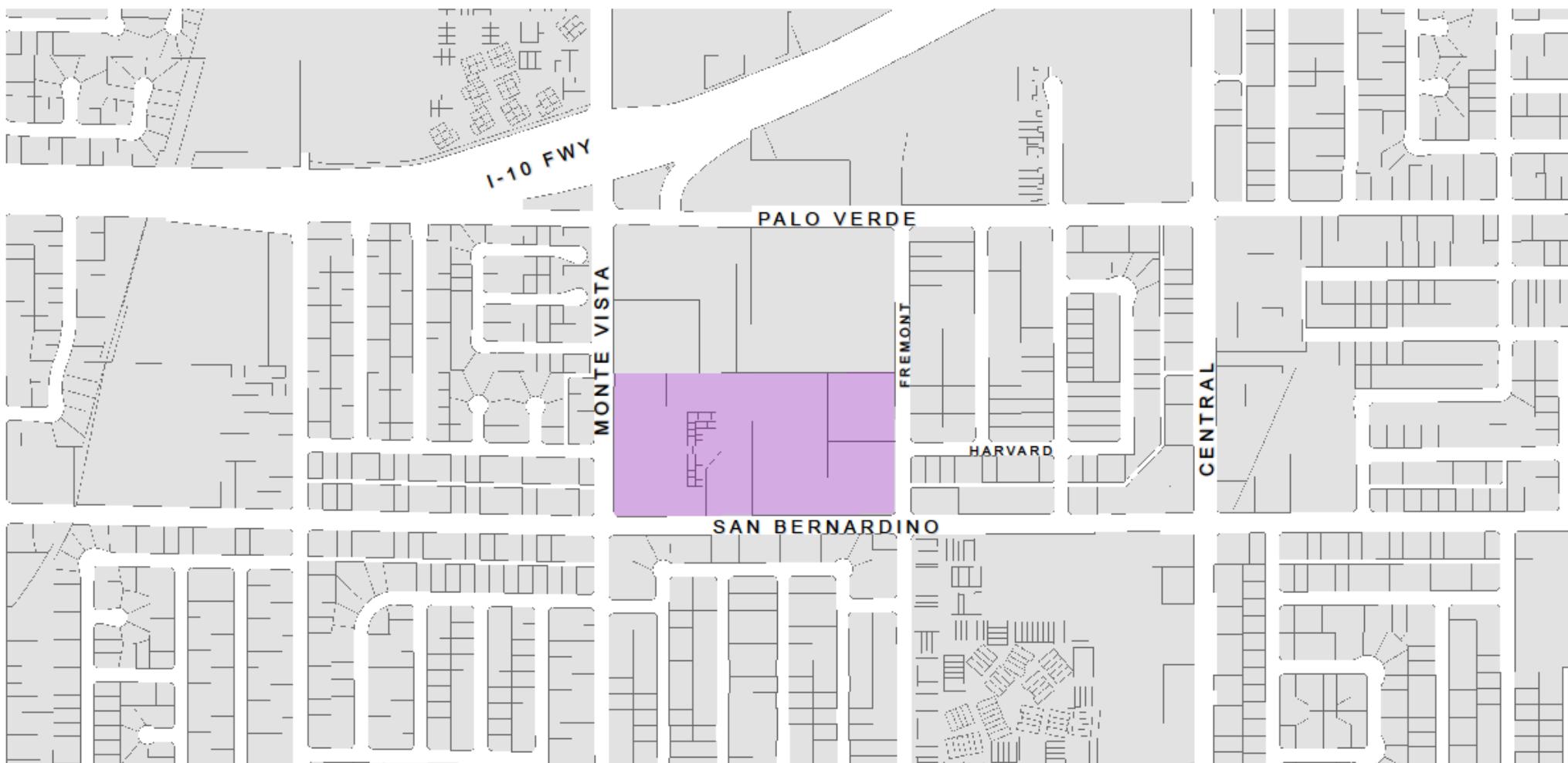
MAP EXHIBIT 2-B
Central Montclair

Legend



Permitted: Medicinal StoreFront-Retail

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Montclair, CA

MAP EXHIBIT 2-C

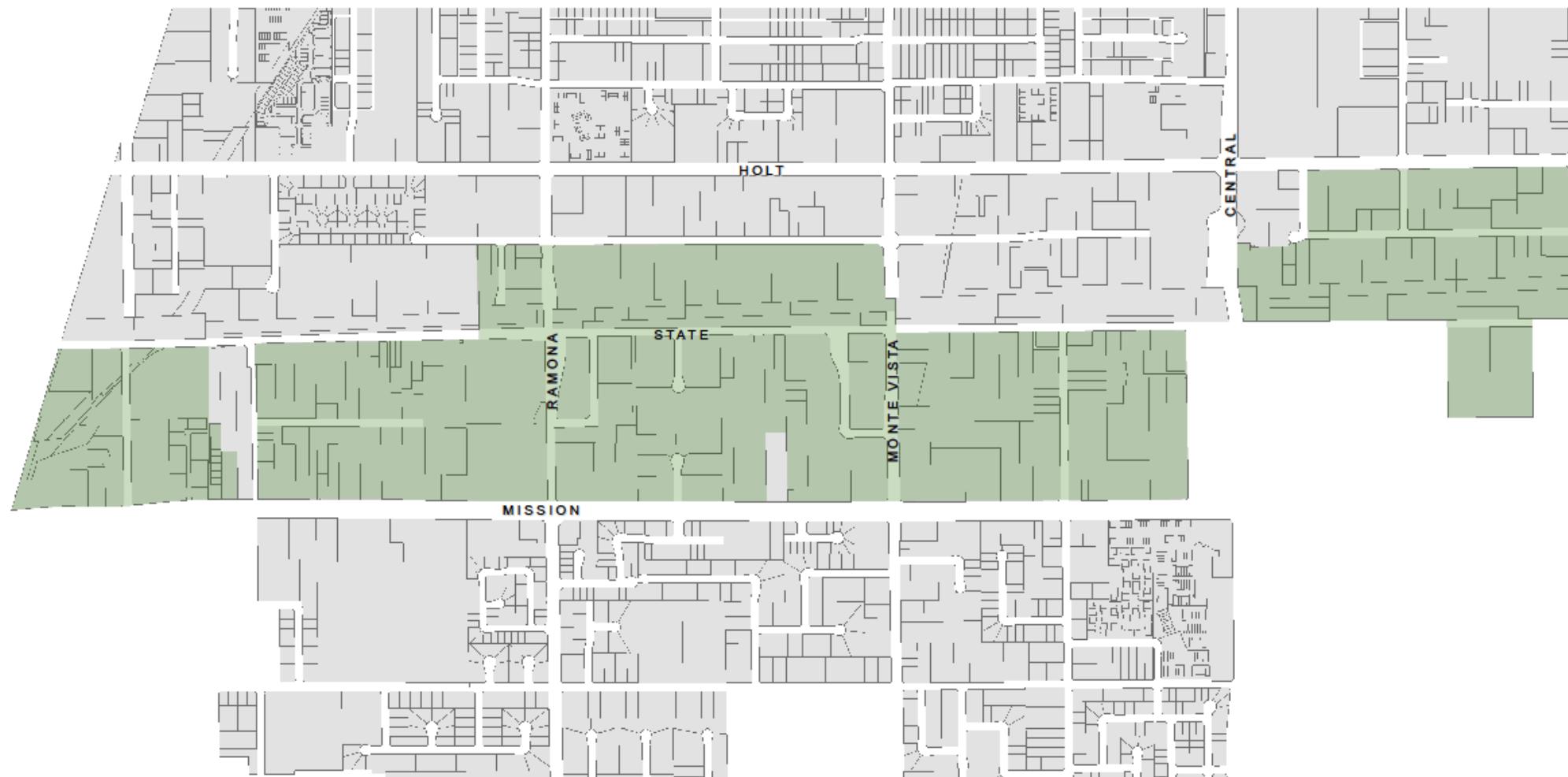
South Montclair

Legend



Permitted: StoreFront & Non-StoreFront
Retail, Microbusiness, Testing Laboratory,
Cultivation, Manufacturing & Distribution

DRAFT



Source: City of Montclair, 2019

GIS\Departments\Admin Svcs\Green_Special_Area3.mxd

Private Residential Use

- Reasonable Rules and Regulations for Private Residential Use.
 - Adult Use.
 - Not more than 6 living plants may be planted, cultivated, harvested, dried, or processed within a single private residence or in an accessory structure at any one time.
 - Medical Use.
 - Not more than 6 mature or 12 immature cannabis plants per qualified patient, or the amount of cannabis determined necessary by the attending physician for the qualified patient's needs, may be planted, cultivated, harvested, dried, or processed within a single private residence or in an accessory structure at any one time.

California Environmental Quality Act (CEQA)

Local CEQA Exemption

- Local CEQA Exemption.
 - Business and Professions Code Section 26055(h) - Until July 1, 2019, the adoption of a specified ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity is exempt from the California Environmental Quality Act (CEQA)
- Governor Budget Trailer Bill.
 - Proposes to extend the sunset date for the CEQA exemption from July 1, 2019 to July 1, 2021.

CEQA Compliance

- Ordinance No. 19-983 Provides for CEQA Compliance.
 - Land use approvals shall include compliance with any applicable provisions of CEQA or other environmental requirements as provided for in the MAUCRSA, the MAUCRSL, state regulations, or applicable state laws or City Ordinances, rules, regulations, resolutions, City-adopted local guidelines for implementing CEQA, or as conditioned in the franchise agreement between the City and permittee.
 - CEQA may include:
 - Initial Study,
 - Negative Declaration;
 - Mitigated Declaration;
 - Environmental Impact Report;
 - Traffic Analysis; and
 - Other CEQA-based factors requiring mitigation and/or analysis.
- CEQA Exemption.
 - If a project falls within a class of projects determined not to have significant effect on the environment then the project shall be considered exempt from CEQA.

Potential Fee-Based and Other Revenues

Potential Fee-Based and Other Revenues

- **Fiscal Impact:**

- The fiscal impact on the General Fund related to approving the MAUCRSL is indeterminate at this time; however, the City Manager's office projects the impact would be positive.
- In order to effectively estimate a General Fund impact, the City Council would first need to consider adoption of a resolution fixing various fees, including the following:
 - Administration, enforcement, application and annual reauthorization fees;
 - Franchise fees;
 - A schedule of fees related to penalties and fines; and
 - Other fees determined necessary to implement provisions of the MAUCRSL.
 - Potential \$500,000 to \$2.5 million annually.

Potential Fee-Based and Other Revenues

- **Fiscal Impact:**

- Illegal Operation—3X Annual Application Fee:
 - Each day a separate violation, for each violation.
- Violation-related fees:
 - Each day a separate violation.
 - Administrative Citation, up to \$5,000 per citation.
- Franchise Fee:
 - Purposed 5% Franchise Fee potential.
 - \$500,000 to \$1.75 million based on permits issued.

Potential Fee-Based and Other Revenues

- **Fiscal Impact:**

- Other state sales taxes and local transactions and use taxes:
 - \$50,000 to \$300,000.
- Application and Reauthorization Fees:
 - Application and Reauthorization Fees anticipated to range from \$10,000 to \$25,000 annually.
 - \$20,000 to \$300,000.
- Other Administrative and Processing Fees:
 - \$15,000 to \$100,000.
- State Grants:
 - Grants are available only to local agencies that have adopted regulatory schemes.
 - Estimated potential: \$200,000±

Proposition 64 Potential Regulations On Commercial Cannabis Activity

CITY OF MONTCLAIR

WORKSHOP

THURSDAY, MAY 30, 2019

