

**MINUTES
CITY OF COCOA
MARIJUNANA POSSESSION & MEDICAL MARIJUANA DISPENSARY WORKSHOP
OCTOBER 29, 2019**

A Special Meeting was held on Tuesday, October 29, 2019 in Council Chambers at City Hall, 65 Stone Street, Cocoa, Florida 32922 in order to hold a Marijuana Possession & Medical Marijuana Dispensary Workshop.

I. OPENING MATTERS

Mayor Williams Jr. called the meeting to order at 6:00pm.

Kenny Johnson, City of Palm Bay Council Member provided the invocation and Councilmember Goins led the assembly in the Pledge of Allegiance to the flag of the United States of America.

PRESENT:

Jake Williams Jr.	Mayor
Brenda Warner	Deputy Mayor
Don Boisvert	Councilmember
Alex Goins	Councilmember
Lorraine Koss	Councilmember
John Titkanich	City Manager
Matt Fuhrer	Assistant City Manager
Anthony Garganese	City Attorney

ABSENT:

STAFF PRESENT: Nancy Bunt, Community Services Director; Mike Cantaloupe, Police Chief; Dodie Selig, Planning & Zoning Manager; and Angela Essing, Senior Planner.

II. WORKSHOP TOPICS

A. Marijuana Pre-Arrest Discretionary Diversion Program

Assistant City Manager Fuhrer provided background regarding the program Cocoa is looking to implement for those found in possession of marijuana (20g or less), how the city could possibly implement such program, and how the new law has impacted marijuana-related arrests in Florida.

Chief Cantaloupe spoke on Cocoa PD's internal policy regarding physical arrests for marijuana possession. He explained with the new law, only marijuana that registers with a THC (Tetrahydrocannabinol) percentage higher than three percent (3%) is illegal, however, there is no test kit with FDLE (Florida Department of Law Enforcement) or with any agency in the state that can test for the THC level. He explained that as of July 1, 2019 he instructed his officers to not make any physical arrest for marijuana possession because the charge would not be prosecuted. Anything over twenty eight (28) grams will be taken and held as potential evidence for when they possess the equipment needed to test the THC level.

Discussion between Chief Cantaloupe and Deputy Mayor Warner regarding a hypothetical situation and what Cocoa Police Department's (CPD) response would be should someone be found with large amounts of marijuana or if someone was caught selling marijuana.

Chief Cantaloupe shared that Cocoa's K-9s are still fairly new and even though Brevard County Sheriff's Office (BCSO) has twelve (12) new K-9s, it doesn't mean Cocoa's K-9s are no longer effective. He explained that while you cannot un-train the dogs to not pick up marijuana scents, the dogs are still trained to pick up a variety of other drugs that are still illegal to possess i.e. cocaine, meth, etc.

Deputy Mayor Warner pointed out that even if a K-9 hits for marijuana and the officers find meth, the drugs are still taken off the street, which is the main point.

Chief Cantaloupe explained that the State Attorney's Office will still prosecute defendants who are found in possession of other drugs and he noted that it is important to establish case law to make a difference.

Councilmember Goins shared that Palm Bay has started their Civil Citation Program and introduced Kenny Johnson, Palm Bay Council Member, who explained the program more in-depth.

Councilmember Johnson explained what Palm Bay's Civil Citation Program entails. He shared that the State Attorney's Office gave them the green light to proceed with the program and explained how the city utilizes the program's three (3) strikes/violation policy. If you are found to be in possession of marijuana, the policy is enforced at the discretion of the Palm Bay Police. Policy Violation levels are as followed:

- First Strike: \$150 fine or 15 hours of community service with Habitat for Humanity of Brevard County.
- Second Strike: \$300 fine or 30 hours of community service with Habitat of Humanity Brevard.

- Third Strike: \$500 fine and an outpatient treatment program at Specialized Treatment, Education and Prevention Services of Brevard County (STEPS).

Assistant City Manager Fuhrer added that the City of Cocoa Beach was the first city in the county to enact such a program and they have yet to issue a citation and noted a few things the city should be aware of.

Deputy Mayor Warner inquired if the citation would show up under public record.

City Manager Titkanich explained that the citation is public record and pointed out that if you were working in a drug-free workplace, even with a medical marijuana card, you would be held liable if cited and the citation may eliminate a person from job consideration.

Mayor Williams suggested holding off from enacting any programs until further direction from State Attorney Phil Archer is given.

Discussion between Deputy Mayor Warner, Chief Cantaloupe, and Palm Bay Councilmember Johnson regarding how citation records are kept.

City Attorney Garganese discussed the potential collateral consequences the city could face, should the city adopt a civil citation program. He also mentioned that marijuana possession is still illegal at the federal level, which potentially could create other problems with federal funding.

Assistant City Manager Fuhrer added they did research regarding if adopting the ordinance would prevent them from applying for federal grants and other consequences that could affect the city as a whole such as the Crime Report. Overall, he stated that the ordinance is not ready to be implemented right now.

City Attorney Garganese raised the point that by adopting such an ordinance, they would be faced with the question of whether or not to bring in a special magistrate, an attorney, or to simply just submit the cases to the Code Enforcement Board to be handled should someone contest a citation.

Deputy Mayor Warner felt that decision would depend on how many citations the city would write and how many citizens would contest it.

Councilmember Goins added that they could also look into the money from the citations possibly going towards Cocoa's PAL Program or other programs.

Palm Bay Councilmember Johnson noted they put their citation funds towards their Opioid Task Force.

Councilmember Koss and Chief Cantaloupe discussed drug-paraphernalia arrests.

Councilmember Koss suggested that the funds could go towards the Space Coast Recovery Center¹.

City Manager Titkanich suggested that a civil citation program should not be set up until more direction from the State Attorney's Office is received.

Deputy Mayor Warner asked if they could design a plan and not implement or agree on it until such direction from the State Attorney's Office is given. She emphasized she wanted to have an ordinance drafted and in place so they are able to implement it once they have direction.

Discussion was held regarding decriminalizing marijuana and the legality of it.

City Attorney Garganese commented that an ordinance could be worked on to have on standby for when the city is ready for it to be implemented.

City Manager Titkanich discussed possible consequences of having the civil citation program.

Chief Cantaloupe mentioned that Brevard currently has a juvenile civil citation program that is not only for drugs but also for misdemeanor crime. He explained that the civil citation program that they are wanting to implement would be no different except it is geared towards adults (18 years or older) and the adults would not go through Crosswinds nor be eligible to have records of citations sealed/expunged as they would be public record.

Discussion between Councilmember Koss and Chief Cantaloupe regarding if there was a way to not have the citation recorded.

Councilmember Goins added that after talking to the Commissioner in Ft. Lauderdale, he suggested to implement community service over fines because at least then they are giving back to the community.

Mayor Williams shared that overall, they want an ordinance ready and in place when the time is right to implement it.

B. Regulation of Medical Marijuana Dispensaries

¹ Mr. Johnson left the room at 6:43pm

City Manager Titkanich presented a PowerPoint² and provided the background³⁴⁵⁶. He explained the statutes give the city two (2) choices regarding medical marijuana dispensaries which are to either 1) ban or 2) treat medical marijuana facilities as pharmacies for zoning purposes and he provided a summary of the statute (Fla. Stat. § 381.986)⁷.

Discussion between Mayor Williams, City Attorney Garganese, and City Manager Titkanich regarding regulation of locations of pharmacies and if pharmacies outside the new zoning area would be grandfathered in. Discussion was also held regarding conforming and non-conforming pharmacies under the new zoning.

City Manager Titkanich presented the proposed zoning map showing where pharmacies would be allowed to be established and explained the zoning color codes.

Discussion between Deputy Mayor Warner and City Manager Titkanich on the clarification of dispensaries being allowed in residential zoning areas.

Deputy Mayor Warner inquired what the Council is being asked to consider regarding the presented zoning map.

City Manager Titkanich replied that the question before them is if they want to lift the current ban on medical marijuana dispensaries or to continue the ban.

Mayor Williams commented that decision would require some thought.

City Manager Titkanich discussed the Orlando dispensaries and how they are set up with their business.

Deputy Mayor Warner pointed out that she would like to keep the ban in place until Council has a chance to discuss where the dispensaries can be placed and would prefer the dispensaries to be inside city limits, so that they can be controlled.

Mayor Williams added on to Deputy Mayor Warner's point by explaining why he voted for the ban originally.

Discussion between Mayor Williams Jr., Deputy Mayor Warner and City Manager Titkanich regarding lifting the ban, dispensary reciprocity/distance requirements, and the process being dependent on an applicant.

² Potential Medical Marijuana Areas Based on Zoning for Pharmacies

³ Brenda Warner left the room at 6:55pm

⁴ Anthony Garganese left the room at 6:56pm

⁵ Anthony Garganese re-entered the room at 6:57pm

⁶ Brenda Warner re-entered the room at 6:58pm

⁷ Exhibit 1: Medical Marijuana Dispensaries Handout

Councilmember Koss noted that she would like to see the ban lifted. She then inquired what the basis is for treating the dispensaries as pharmacies.

City Manager Titkanich explained that the dispensaries are medical facilities just as CVS or Walgreens are with their pharmacies inside. He also explained if they lift the ban then it affects where to place pharmacies and dispensaries.

Discussion was held regarding how long an ordinance would take to draft and discussion of cultivation.

City Attorney Garganese stated that the city does not have a say in cultivation, it is up to the state.

Councilmember Goins asked if they will be going over the locations during a Council meeting.

City Manager Titkanich explained that once they fix the maps, give a copy of the new maps to Council, meet with the City Attorney to put together an ordinance, show the proposed ordinance to Council to allow staff to submit an application to the Planning & Zoning Board where that board will give their recommendation and then once that recommendation is made, it will be brought back to Council for another discussion.

Deputy Mayor Warner requested staff contact the new pharmacy owner who purchased property on US 1 across the street from the Sushi Market, to inform them of the process they are talking about tonight as it may affect their business.

Jeri Blanco, Cocoa Planning & Zoning Board Member, encouraged Council to carefully consider where they are allowing dispensaries to be placed as a courtesy to future generations as to not negatively affect residents in that area.

A Cocoa Citizen asked for clarification regarding if the medical marijuana dispensaries are for only for dispensing and not cultivating.

City Manager Titkanich confirmed that it is just dispensing and stated cultivating is regulated through state law.

The Cocoa citizen followed up with the question of who would do inspections of the dispensaries.

City Manager Titkanich stated that appointment of inspectors are delegated through the state, as cities do not have the authority to choose.

Discussion between Councilmember Koss and City Manager Titkanich regarding medical marijuana dispensaries being a cash business and the requirements that are associated with it.

Discussion was held between the citizen and City Manager Titkanich regarding the application process for the dispensaries.

Further discussion was held between Aleck Greenwood, 640 Brevard Ave., Cocoa, and City Manager Titkanich regarding if the city can designate a location for cultivation.

Mr. Greenwood expressed that there is a lot of research that needs to be done and suggested a research trip to Colorado to collect feedback from established dispensaries there.

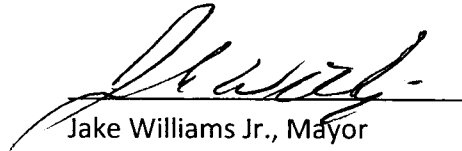
C. ADJOURNMENT

- * **MOTION by Councilmember Boisvert; Seconded by Councilmember Goins to adjourn the workshop.**

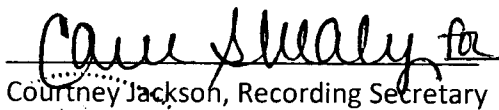
AYES: WILLIAMS, WARNER, BOISVERT, GOINS, KOSS

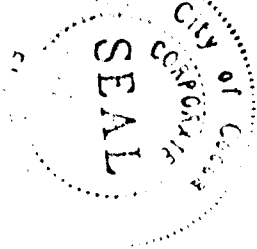
MOTION PASSED UNANIMOUSLY

There being no further business the workshop was adjourned at 7:38pm.


Jake Williams Jr., Mayor

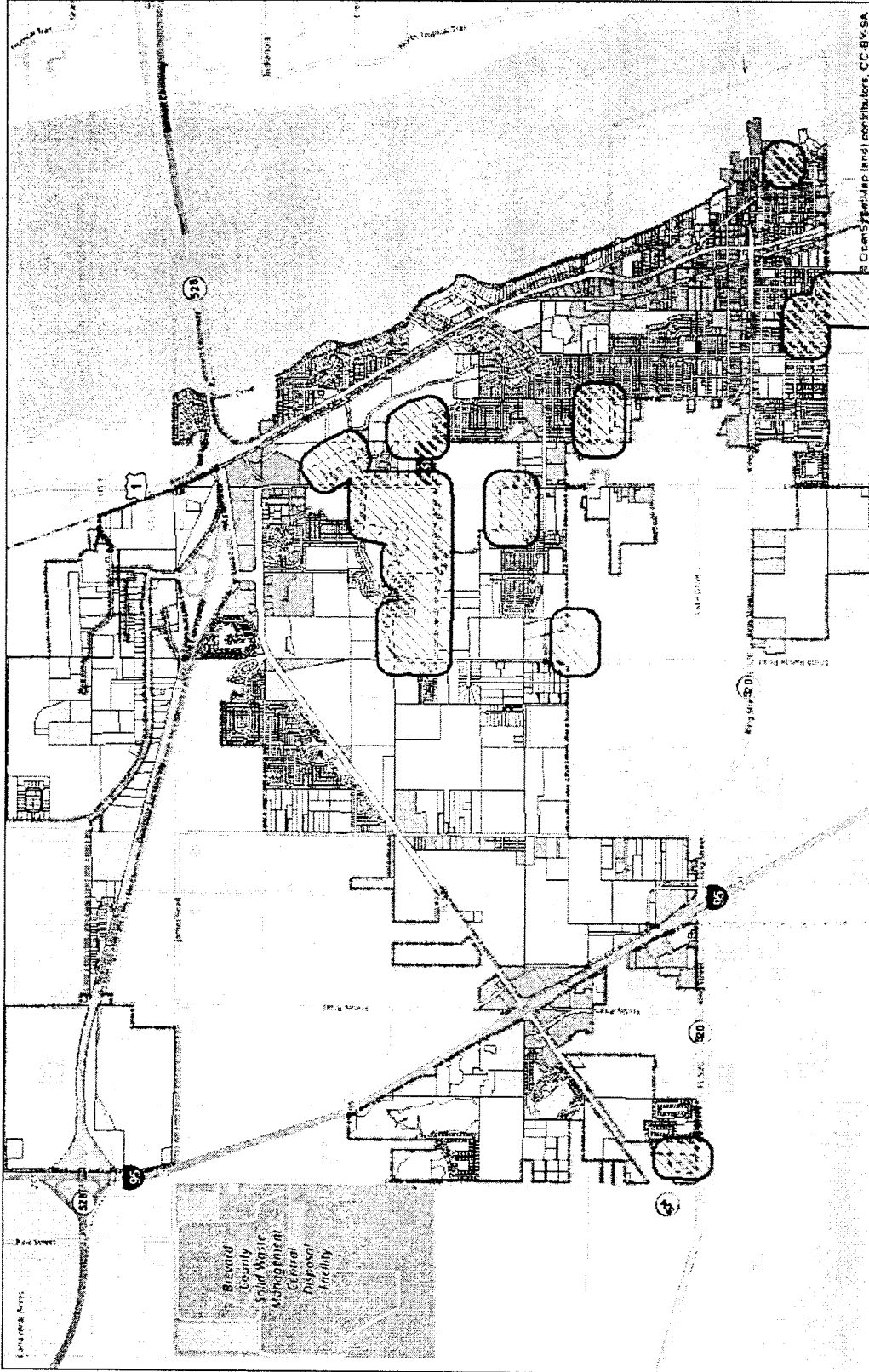
Respectfully Submitted By:


Courtney Jackson, Recording Secretary



Potential Medical Marijuana Areas Based on Zoning for Pharmacies

**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning**



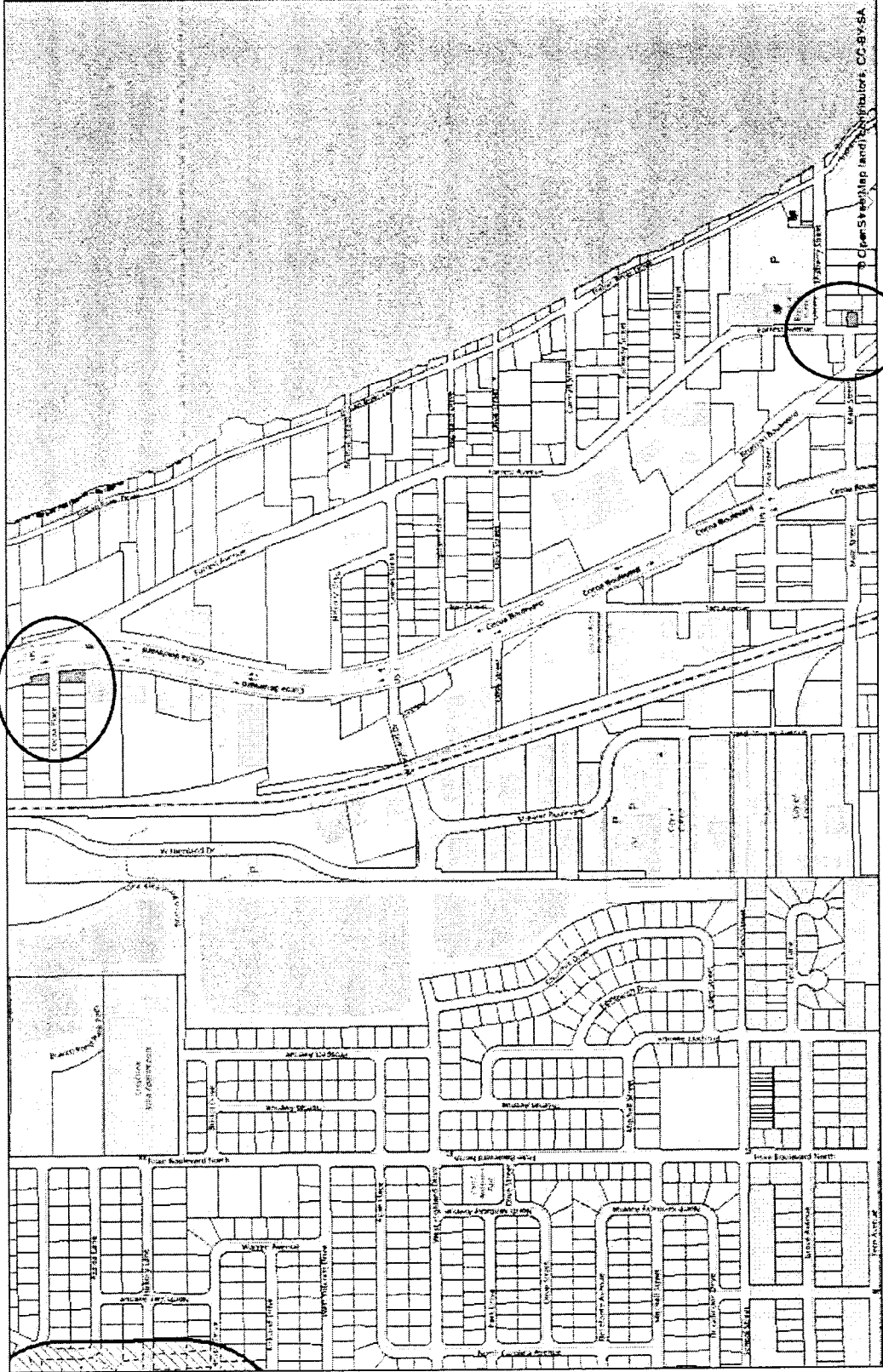
- 500' of a School
- M-1 Light Industrial and Warehouse District
- C-W Wholesale Commercial
- C-G General Commercial
- C-C Core Commercial Districts
- CBD-CVO Central Business District Waterfront District
- CBD Central Business District
- C-N Neighborhood Commercial
- CR Restricted Commercial District
- P-S Professional, Office and Services District
- RP Residential Professional District
- City Parcels
- Waterbody
- Cocoa City Limits



**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning**

- R-P
Residential
Professional
District**
- 500' of a
School**
- City Parcels**
- Waterbody**
- Cocoa City
Limits**
- 3 Parcels**

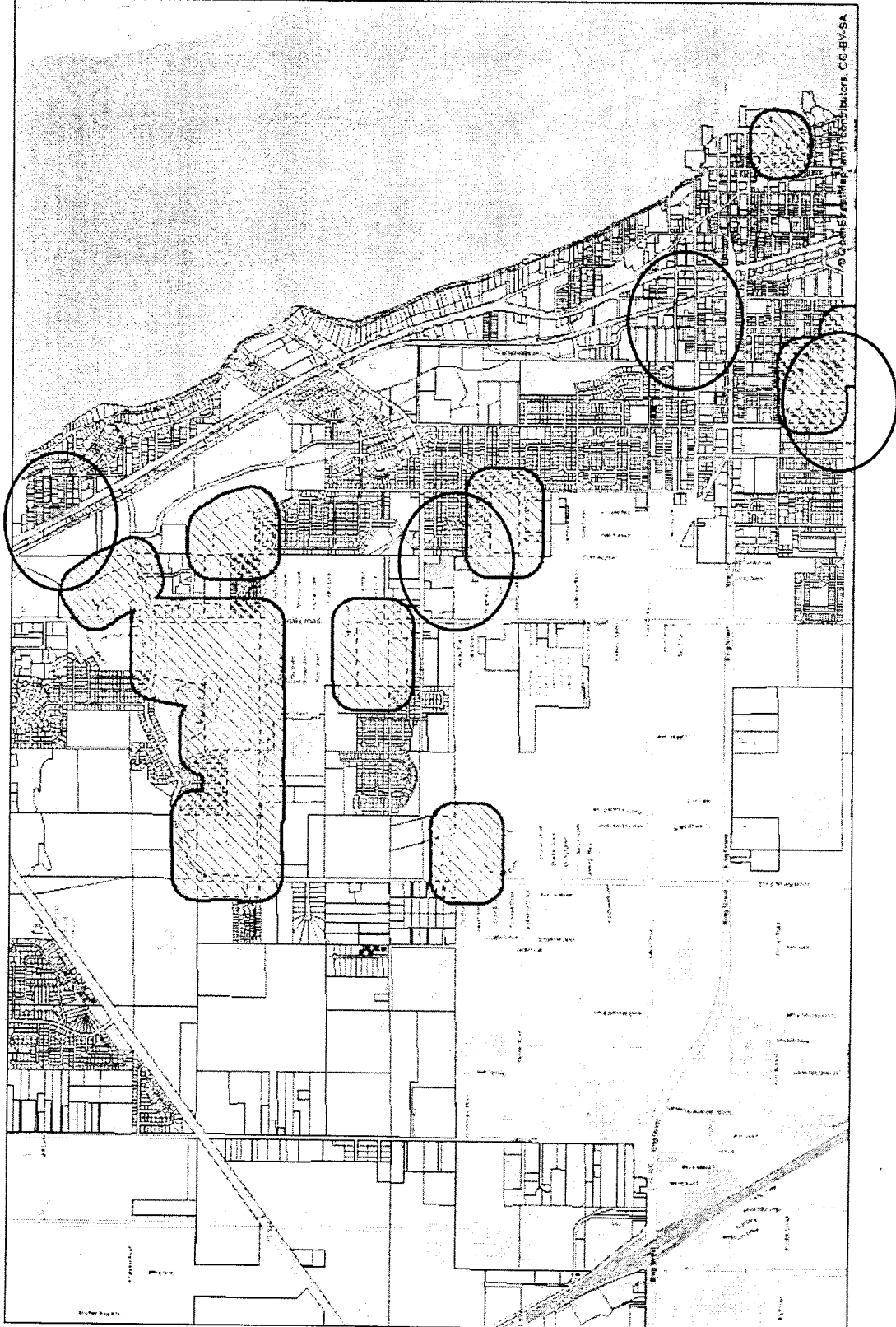
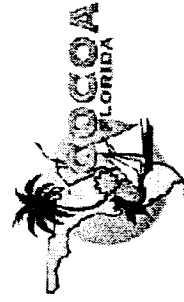
0 225 450 900 Feet



**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning**

-  500' of a School
 -  P.S.
Professional,
Office and
Services
District
 -  City Parcels
 -  Waterbody
 -  Cocoa City
Limits
- 12 Parcels

0.5 Miles

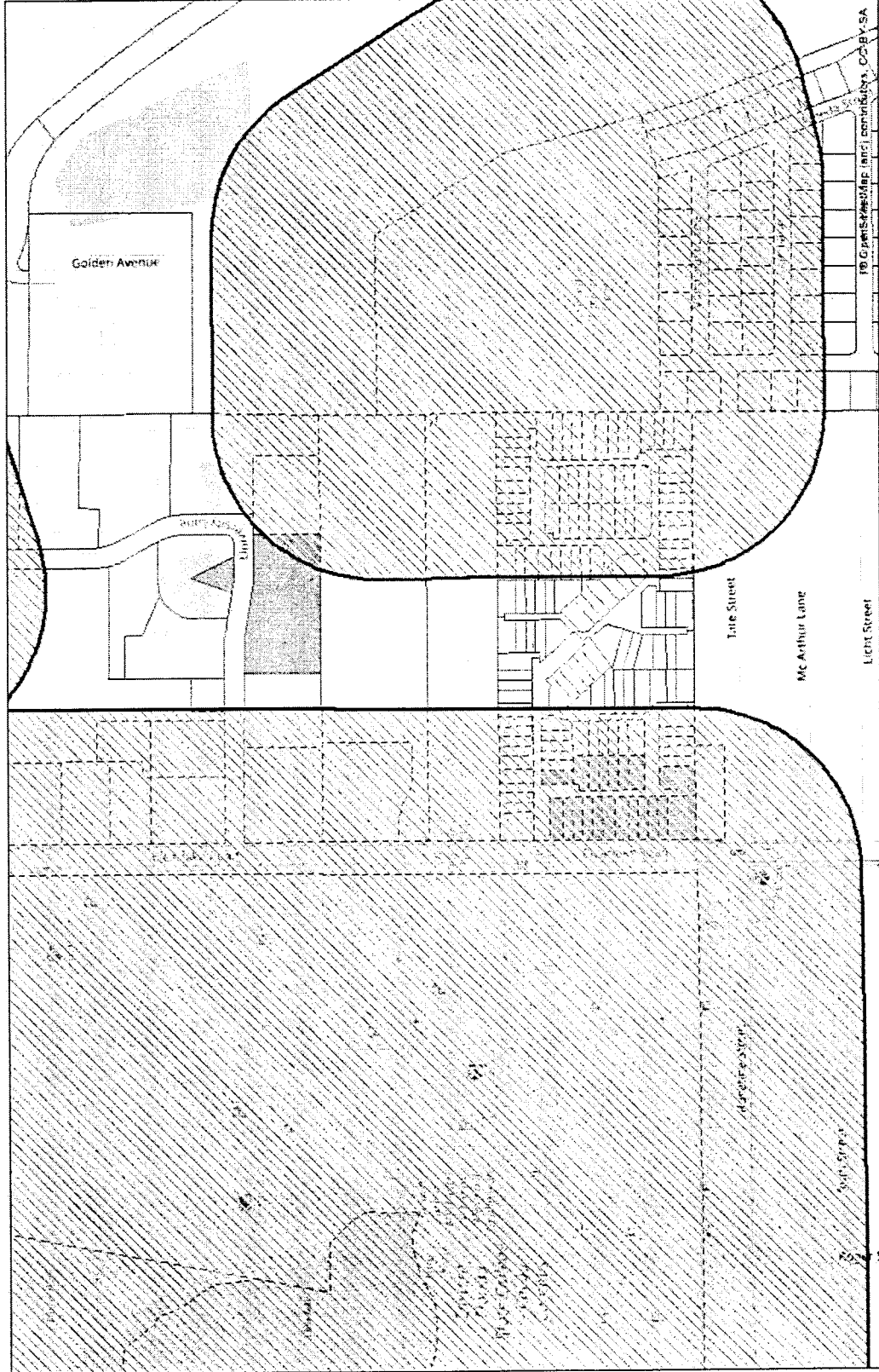


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**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning**

-  500' of a School
 -  C-R
 -  Restricted Commercial District
 -  City Parcels
 -  Waterbody
 -  Cocoa City Limits
- 53 Parcels

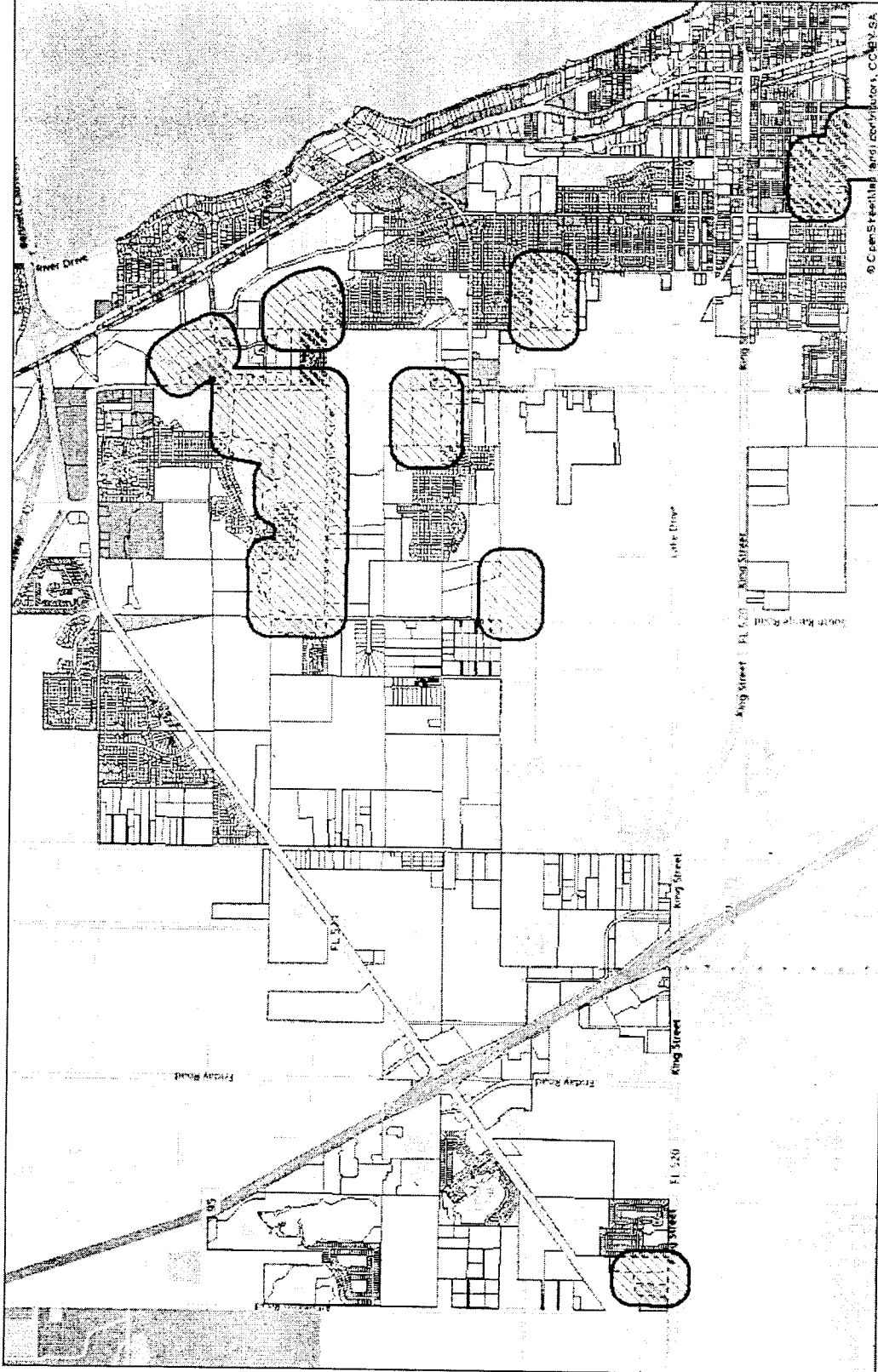
500
Feet



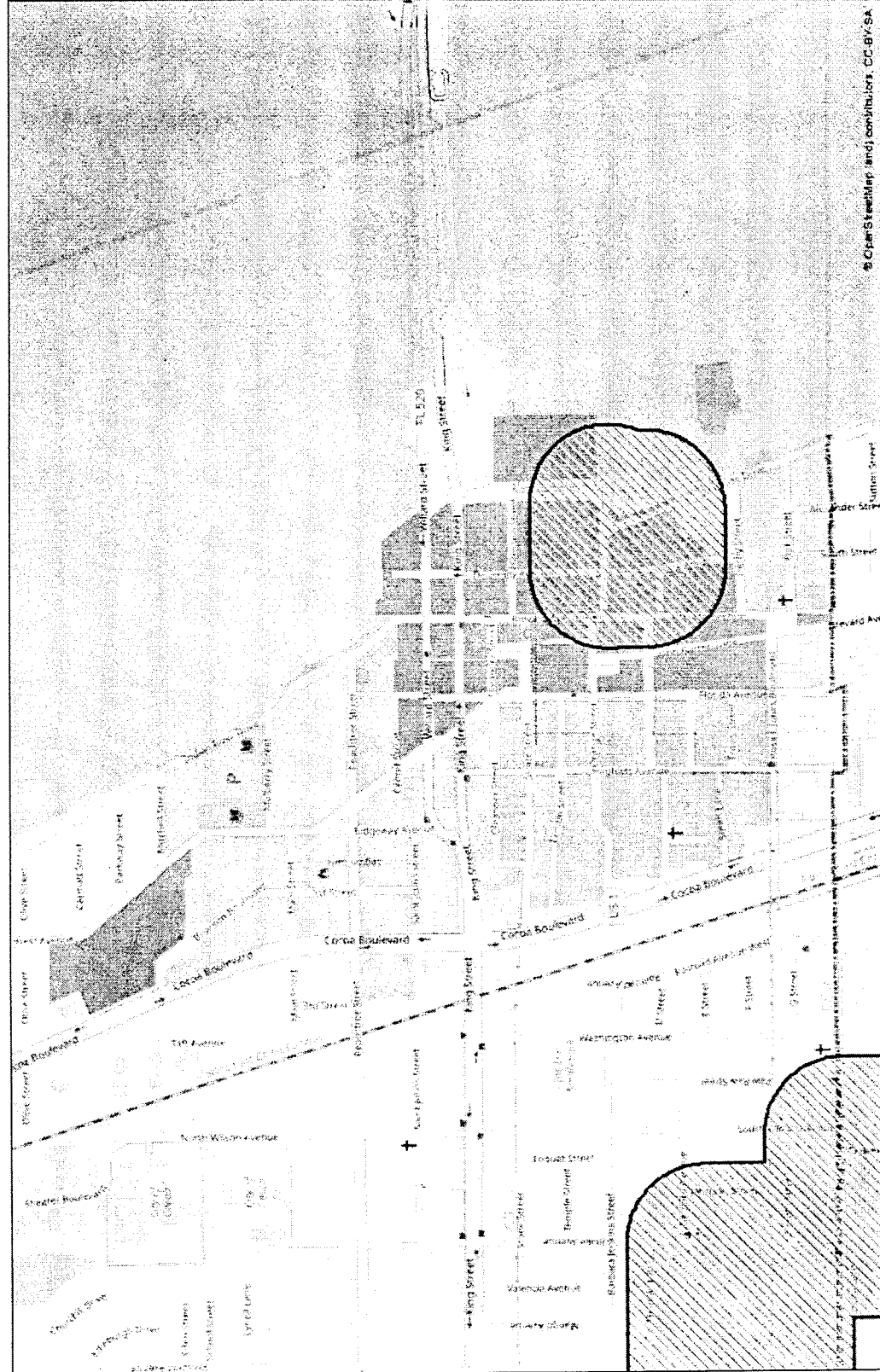
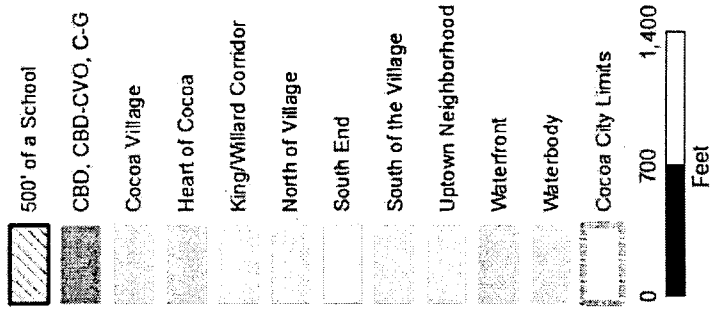
**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning**

- 500' of a School
- C-N
- Neighborhood 223 Parcels
- Commercial
- City Parcels
- Waterbody
- Cocoa City Limits

1
Miles

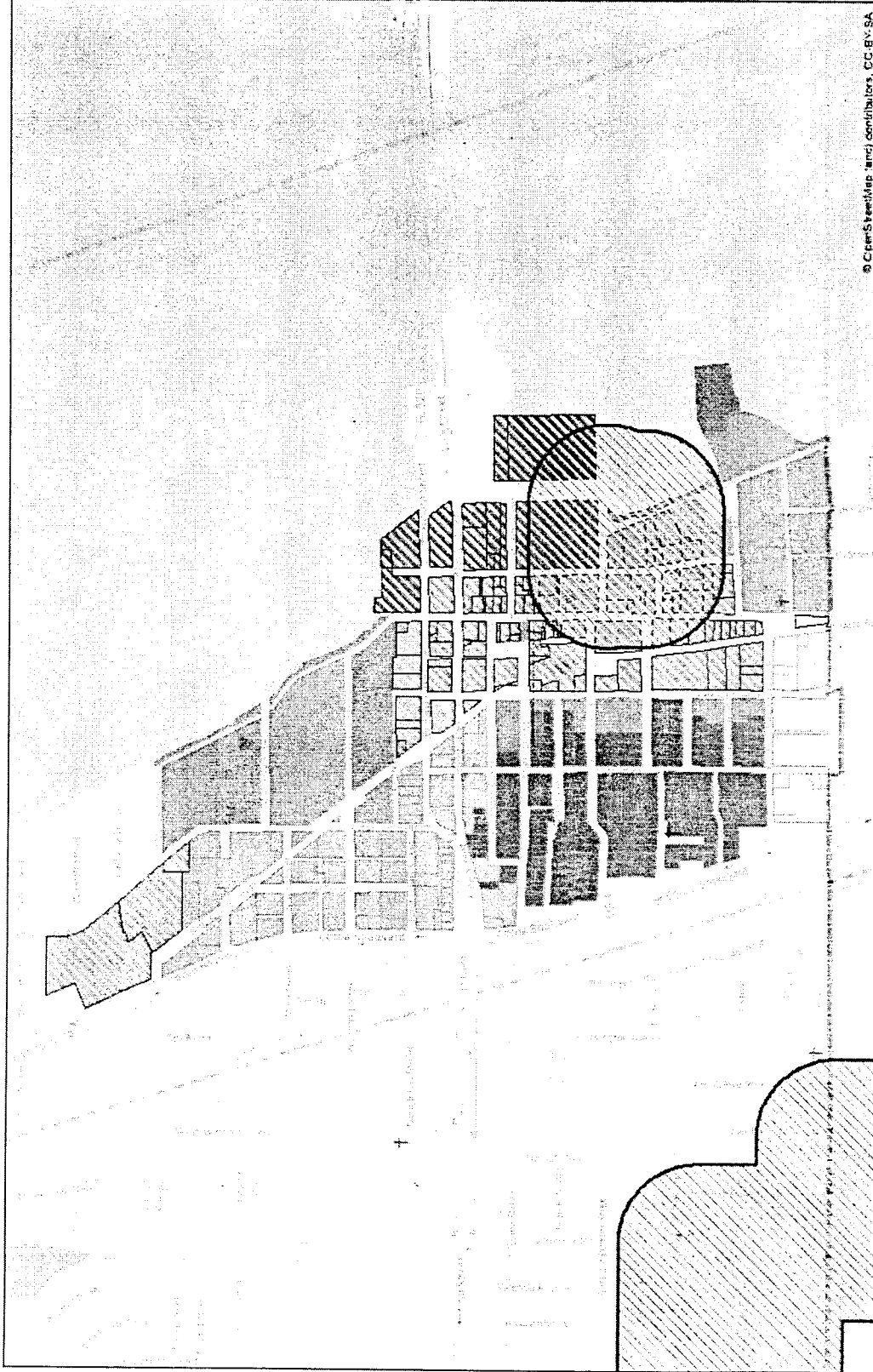
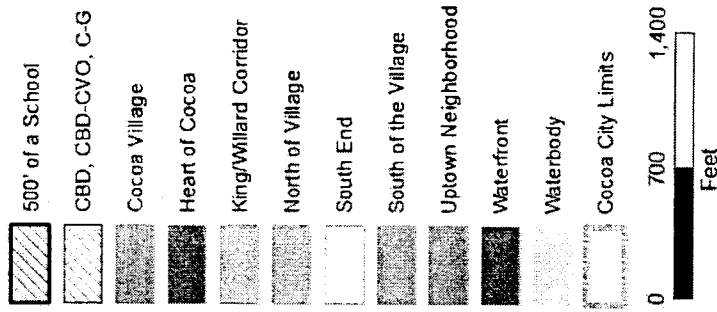


**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning
In The Cocoa Waterfront
Overlay District**



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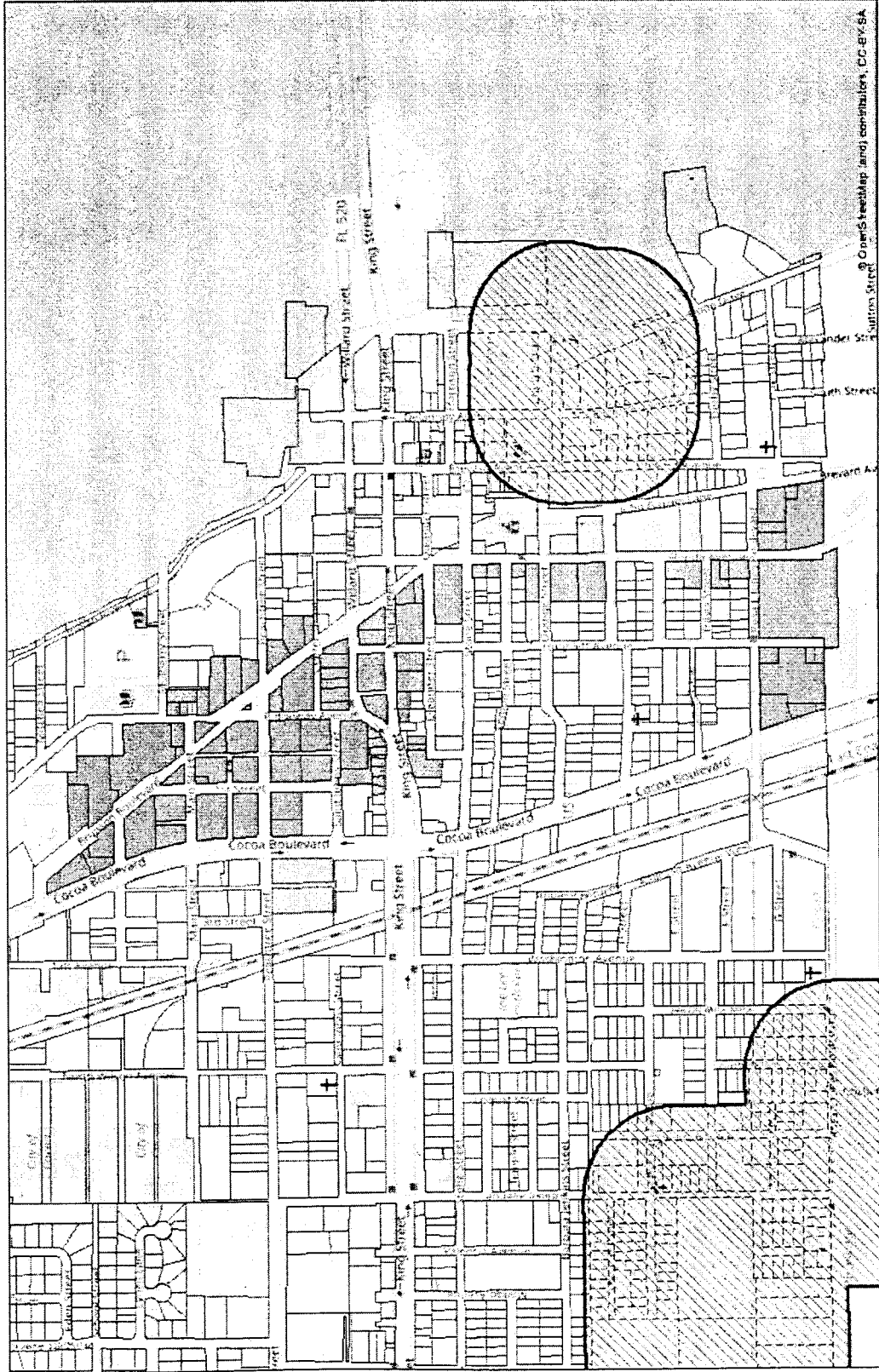
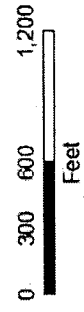
**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning
in The Cocoa Waterfront
Overlay District**



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**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning**

-  500' of a School
-  C-C Core Commercial Districts
-  City Parcels
-  Waterbody
-  Cocoa City Limits
- 92 Parcels**

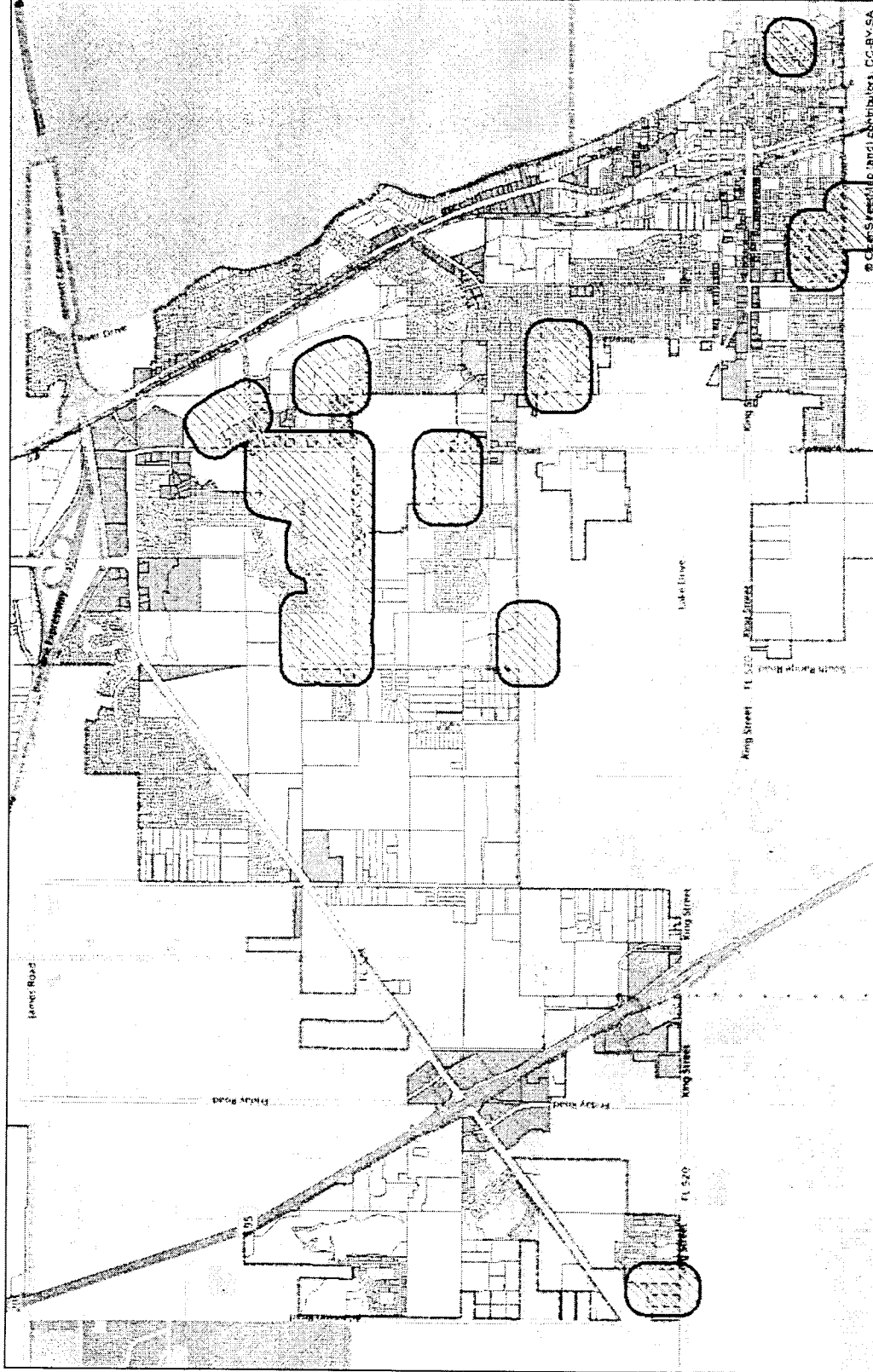


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Pharmacies and Potential Medical Marijuana Dispensary Locations Based on Existing Zoning

- 500' of a School
- C-G General Commercial 262 Parcels
- C-N Neighborhood Commercial 223 Parcels
- P-S Professional, Office and Services District 12 Parcels
- City Parcels
- Waterbody
- Cocoa City Limits

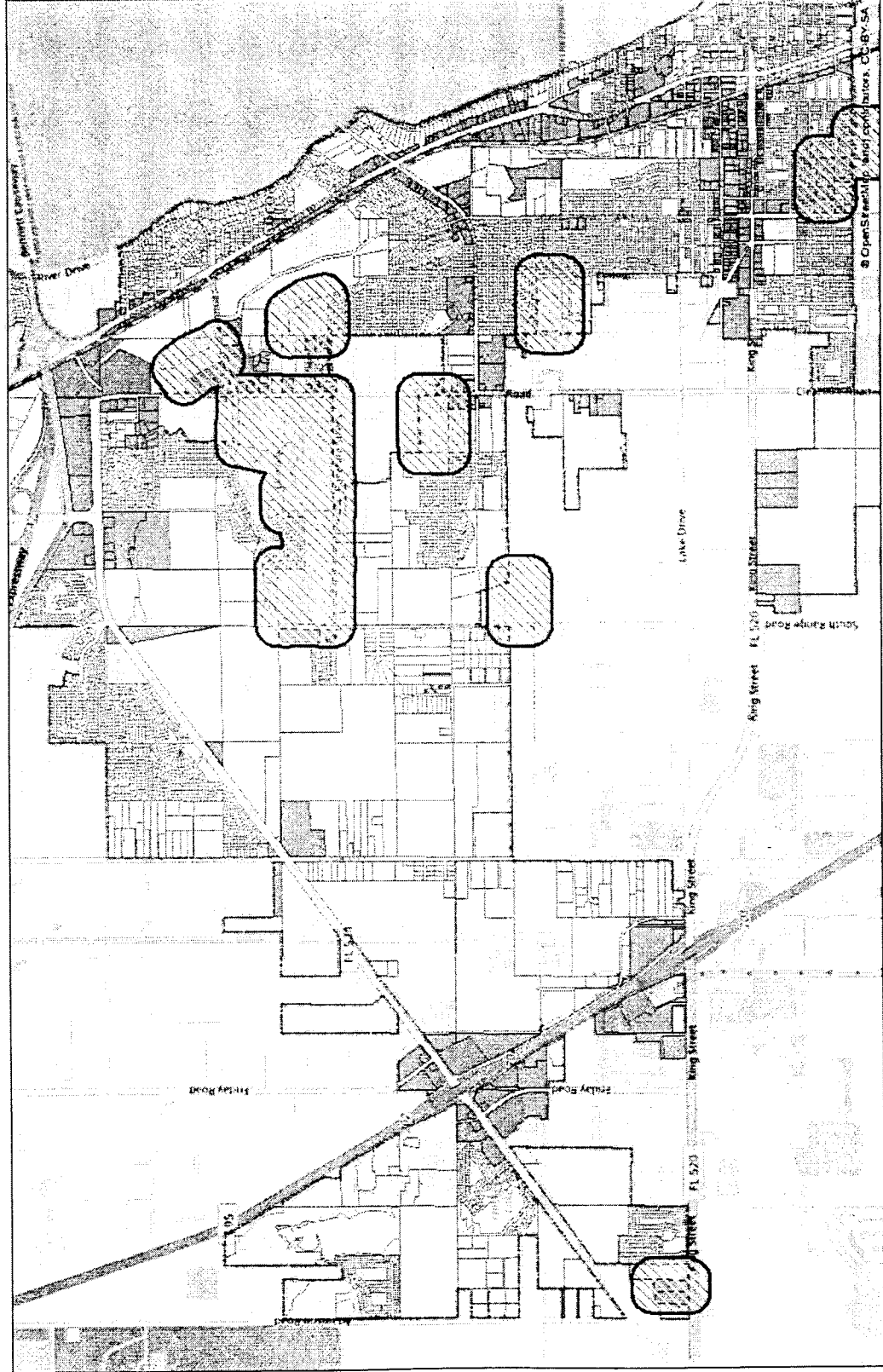
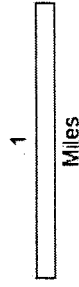
1 Miles



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**Pharmacies and Potential
Medical Marijuana
Dispensary Locations
Based on Existing Zoning**

- 500' of a School
- C-W Wholesale Commercial 171 parcels
- C-G General Commercial 262 Parcels
- C-N Neighborhood Commercial 223 Parcels
- P-S Professional, Office and Services District 12 Parcels
- Waterbody
- City Parcels
- Cocoa City Limits



	500' of a School	
	M-I Light Industrial and Warehouse District	57 Parcels
	C-W Wholesale Commercial	171 parcels
	C-G General Commercial	262 Parcels
	C-N Neighborhood Commercial	223 Parcels
	P-S Professional, Office and Services District	12 Parcels
	Waterbody	
	City Limits	

1

Miles



MEDICAL MARIJUANA DISPENSARIES

The City may not enact regulations relating to permitting or location of dispensing facilities that are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under Chapter 465.

Section 381.986, F.S. – Medical use of Marijuana

An applicant for approval as a dispensing organization must be able to demonstrate: The ability to secure the premises, resources, and personnel necessary to operate as a dispensing organization. An approved dispensing organization must, at all times, maintain compliance with the criteria demonstrated for selection and approval as a dispensing:

1. To ensure the safety and security of its premises and any off-site storage facilities, and to maintain adequate controls against the diversion, theft, and loss of low-THC cannabis, medical cannabis, or cannabis delivery devices, a dispensing organization shall:
 - a. Maintain a fully operational security alarm system that secures all entry points and perimeter windows and is equipped with motion detectors; pressure switches; and duress, panic, and hold-up alarms; or
 - b. Maintain a video surveillance system that records continuously 24 hours each day and meets at least one of the following criteria:
 - (I) Cameras are fixed in a place that allows for the clear identification of persons and activities in controlled areas of the premises. Controlled areas include grow rooms, processing rooms, storage rooms, disposal rooms or areas, and point-of-sale rooms;
 - (II) Cameras are fixed in entrances and exits to the premises, which shall record from both indoor and outdoor, or ingress and egress, vantage points;
 - (III) Recorded images must clearly and accurately display the time and date; or
 - (IV) Retain video surveillance recordings for a minimum of 45 days or longer upon the request of a law enforcement agency.
2. Ensure that the organization's outdoor premises have sufficient lighting from dusk until dawn.
3. Establish and maintain a tracking system approved by the department that traces the low-THC cannabis or medical cannabis from seed to sale. The tracking system shall include notification of key events as determined by the department, including when cannabis seeds are planted, when cannabis plants are harvested and destroyed, and when low-THC cannabis or medical cannabis is transported, sold, stolen, diverted, or lost.
4. Not dispense from its premises low-THC cannabis, medical cannabis, or a cannabis delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver low-THC cannabis and medical cannabis to qualified patients 24 hours each day.
5. Store low-THC cannabis or medical cannabis in a secured, locked room or a vault.
6. Require at least two of its employees, or two employees of a security agency with whom it contracts, to be on the premises at all times.
7. Require each employee to wear a photo identification badge at all times while on the premises.
8. Require each visitor to wear a visitor's pass at all times while on the premises.
9. Implement an alcohol and drug-free workplace policy.
10. Report to local law enforcement within 24 hours after it is notified or becomes aware of the theft, diversion, or loss of low-THC cannabis or medical cannabis.

To ensure the safe transport of low-THC cannabis or medical cannabis to dispensing organization facilities, independent testing laboratories, or patients, the dispensing organization must:

1. Maintain a transportation manifest, which must be retained for at least 1 year.
2. Ensure only vehicles in good working order are used to transport low-THC cannabis or medical cannabis.
3. Lock low-THC cannabis or medical cannabis in a separate compartment or container within the vehicle.

4. Require at least two persons to be in a vehicle transporting low-THC cannabis or medical cannabis, and require at least one person to remain in the vehicle while the low-THC cannabis or medical cannabis is being delivered.
5. Provide specific safety and security training to employees transporting or delivering low-THC cannabis or medical cannabis.

Rule 64-4.002 – Initial Application Requirements for Dispensing Organizations.

Each applicant is required to submit an application to the Department of Health and must be accompanied with written documentation relating to each of the following criteria:

1. The ability to secure the premises, resources, and personnel necessary to operate as a dispensing Organization. Please address the following items, and include a sketch or other illustration:
2. Description of the methods proposed for the dispensing of Derivative Products, including the following:
 - a. Accessibility of dispensing facilities, e.g., centrally located to several populated areas, located on a main roadway, not in a high crime area, et cetera,
 - b. Proximity of dispensing facilities to patient populations; and,
 - c. Alternative dispensing, e.g. delivery.
3. A list of current and proposed staffing, including,
 - a. Position, duties and responsibilities,
 - b. Resume; and,
 - c. Professional licensure disciplinary action in all jurisdictions.
4. 13. An organizational chart illustrating the supervisory structure of the proposed Dispensing Organization,
5. Plans and procedures for loss of key personnel,
6. Plans and procedures for complying with OSHA regulations for workplace safety; and,
7. Relationship(s) with an independent laboratory(ies) with cannabis testing protocols and methods.
8. The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances.
9. Floor plan of each facility or proposed floor plans for proposed facilities, including the following: locking options for each means of ingress and egress, alarm systems, video surveillance, name and function of each room, and layout and dimensions of each room.
10. Storage, including the following: safes, vaults, and climate control
11. Diversion and trafficking prevention procedures,
12. A facility emergency management plan,
13. System for tracking low-THC source plant material throughout cultivation, processing, and dispensing,
14. Inventory control system for low-THC cannabis and Derivative Products,
15. Policies and procedures for recordkeeping,
16. Vehicle tracking and security systems,
12. Methods of screening and monitoring employees,
13. Personnel qualifications and experience with chain of custody or other tracking mechanisms,
14. Personnel reserved solely for inventory control purposes,
15. Personnel reserved solely for security purposes,
16. Waste disposal plan,
17. Plans for the recall of any Derivative Products that have a reasonable probability of causing adverse health consequences based on a testing result, bad patient reaction, or other reason; and
18. Access to specialized resources or expertise regarding data collection, security, and tracking.

Statutory Cap on Number of MMTCs

On July 9, 2019, the 1st DCA granted a temporary injunction brought by an MMTC applicant, finding that the vertical integrated structure compelled by Florida Statute was unconstitutional. For the City's purposes, the important consequence of this ruling is that the statutory caps on the number of MMTCs were likewise found to be unconstitutional. The caps previously severely restricted the total number of MMTCs that could be licensed by the state. The Florida Supreme Court has accepted review of this case.

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