



# C | B Law Offices of Clifton Black, P.C.

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**August 26, 2024**

Planning Commission  
City of Colorado Springs  
2880 International Circle  
Colorado Springs, CO

RE: Proposed Zoning Code Change  
Recreational cannabis shops to be one mile away from Schools, rehabilitation facilities,  
and childcare facilities (“1-mile buffer zone”).

Dear Planning Commission.

I am writing to request that the Planning Commission vote against the proposed 1-mile buffer zone proposed by the City Council.


My name is Clifton Black. I have lived in Colorado Springs for over 50 years of my life, having attended Woodrow Wilson Elementary School, Irving Jr. High School, and William Mitchell High School. I have degrees from Pikes Peak Community College and the University of Colorado, Colorado Springs. I am an attorney, having a law firm in Colorado Springs for about 24 years.


As I assume the members of the Planning Commission are aware, there are two related ballot initiatives on the ballot for November 5, 2024. One initiative is to allow recreational cannabis while the other is to ban it. This will allow the voters of Colorado Springs to decide the issues as voters should.

Clearly, the 1-mile buffer zone is merely a backdoor approach to circumvent the voters’ wishes should the voters vote to allow recreational cannabis. Obviously, a 1-mile buffer zone will be a de facto ban on recreational cannabis businesses since it will zone out the entire city. This would certainly be a slap in the face to the voters.

Cannabis businesses are currently required to be 1,000 feet from public or private schools, k-12, a college, university, seminary, residential daycare, and drug rehab facility. This distance requirement have proven to be effective in preventing sales to the people that attend these institutions. There are no widespread reports to show that sales are made to minors. The Colorado Marijuana Enforcement Division conducts sting operations to ensure minors are not purchasing cannabis. Therefore, the only purpose of the 1-mile buffer zone is to potentially circumvent the will of the voters.

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In addition, there are no other businesses that require such unreasonable distance requirements. For example:

- adult businesses must be 1,000 ft from other adult businesses, residential areas, religious institutions, schools, daycares, parks, and higher education facilities,
- Bars must be 200 feet from residential areas.
- Liquor stores must be 500 feet from any school or principal campus of any college, university, or seminary.
- Oil and natural gas drilling must be 1,000 feet from high-occupancy buildings, schools, hospitals, daycares, correctional facilities and 350 ft from designated outside activity areas (parks, recreation areas, etc.).
- Large group homes and detox centers must be 1,000 feet from other large group homes and detox centers.
- Gas stations must be 250 feet from residential areas; and,
- There are no setbacks for tobacco shops, smoke shops, homeless shelters, alcohol and drug treatment facilities, nor sex offenders with some living 500 ft – 1,000 ft from a school.

As you can see, requiring recreational marijuana businesses to be 1-mile from a school, daycare, and drug rehabilitation facility is arbitrary and capricious, and certainly calls for judicial review. This will prove to cost the taxpayers tremendous tax dollars.

Furthermore, the City Council has an established Marijuana Working Group that includes City Council members, police department, fire department, an attorney, CONO, a medical doctor, a patient advocate, and various business owners. Historically, this group would discuss issues related to the cannabis industry, including potential ordinances, rules, and regulations. In this instance, the City Council has failed to bring this issue to its own, City Council ordained, Marijuana Working Group.

My understanding is that the Planning Commission's duties are to review various development applications and proposals, and either approve them or present its findings to the City Council. I would ask the Planning Commission to not participate in the City Council's back door efforts to circumvent the voters, and vote against the 1-mile buffer zone (defacto ban).

Respectfully submitted,

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Clifton Black,  
Founder and Managing Partner of  
The Law Offices of Clifton Black, PC



Colorado Springs Cannabis Association  
2306 N Powers Frontage Rd, Suite 120  
Colorado Springs, CO 80915

August 28, 2024

Colorado Springs Planning Commission  
107 N. Nevada Avenue  
Colorado Springs, CO 80903

Dear Members of the Colorado Springs Planning Commission:

As the City Planning Commission considers new setback requirements for recreational marijuana stores that are currently not permitted in the City's zoning code, we urge the commission to carefully consider the facts of this matter. Importantly, the Planning Commission only moved to consider a one-mile setback after it became clear that Colorado Springs voters would have the opportunity to decide on a citizen-led initiative to regulate and tax retail cannabis sales. The proposed setback has nothing to do with land use policy and everything to do with improperly mobilizing the power of the administrative state in an attempt to frustrate the will of Colorado Springs voters and taxpayers. In short, this is not a proper exercise of the Planning Commission's authority and appears to go far beyond the Planning Commission's jurisdiction.

Our industry has worked side-by-side with your colleagues and community stakeholders specifically on this issue as part of the Marijuana Working Group. The 14-member group, which included perspectives from both sides of this issue, supported the 1,000 ft setback from schools and childcare facilities and was subsequently passed by an 8-1 City Council vote. Notably, Councilwoman Crow-Iverson—a member of your commission, a member of the Marijuana Working Group, and a member of the City Council sponsoring the current effort to ban recreational marijuana in Colorado Springs—voted in favor of the 1,000 ft setback.

Creating a setback for a use that is not currently permitted by the zoning code in anticipation of the results of a citizen-led ballot initiative is a clear attempt to use the administrative state to block the will of the voters and enact a de facto ban on recreational marijuana stores.

By Council's own admission, there is no science or reasoning behind the newly proposed 1-mile setback and there is certainly no precedent. This is especially important in the context of other zoning distances in relation to schools and childcare facilities. Here are a few examples:

- **Adult businesses must be 1000 ft** from other adult businesses, residential areas, religious institutions, schools, daycares, parks, and higher education facilities.
- **Bars must be 200 ft** from residential areas.
- **Liquor stores must be 500 ft** from any school or principal campus of any college, university, or seminary (state regulation).
- **Oil and natural gas drilling must be 1000 ft** from high-occupancy buildings (schools, hospitals, daycares, correctional facilities) and **350 ft** from Designated Outside Activity Areas (parks, recreation areas, etc.) (state regulation).
- **Large group homes and detox centers must be 1000 ft** from other large group homes and detox centers.
- **Gas stations must be 250 ft** from residential areas.
- No setback requirements for tobacco shops or smoke shops.

To this end, it is clear that the intent of this proposal is to permanently ban recreational marijuana in Colorado Springs with no regard for the facts or precedent.

Further, studies have shown that legalization and regulation of recreational marijuana decreases youth use. The most recent Healthy Kids Colorado survey conducted by CDPHE shows that the percentage of high school students who have ever used marijuana has fallen from 41% in 2009 to 26% in 2023. If a ban on recreational marijuana is enacted, the illicit market will thrive and incentivize youth use. We agree this cannot happen. Enacting a ban via zoning laws is not the right path forward. Regulation works. Prohibition, in any form, does not.

We respectfully ask that the planning commission not move forward with this policy ban disguised as a zoning issue that will have major, negative consequences in the community. Let the voters decide “yes” or “no” on the initiative designed to responsibly regulate recreational marijuana.

Thank you for your time and consideration.

Sincerely,

Board of Directors  
**Colorado Springs Cannabis Association**

Colorado Springs Planning Commission  
107 N. Nevada Avenue  
Colorado Springs, CO 80903

Dear Members of the Colorado Springs Planning Commission:

I write today as a commercial landlord in the City of Colorado Springs who has marijuana businesses as tenants. I am alarmed at the City's attempt to ban recreational marijuana.

This proposal has far-reaching consequences that go well beyond marijuana policy. Foremost, property owners should have the freedom of contract and the freedom to make economic decisions about how to put their property to its highest and best use. The bottom line is that commercial landlords should not have local government calling balls and strikes. We're compliant, our tenants are compliant, and any suggestion or change otherwise is detrimental to our business.

As you may be aware, the local commercial property business is tough. There are many closed businesses and vacancies across the city, which discourages shoppers and encourages crime. Allowing marijuana businesses to operate responsibly within our commercial properties guards against this issue, ensuring a steady stream of customers going in and out to the benefit of surrounding businesses as well. Further, marijuana businesses have heightened security monitoring and video surveillance, which also discourages crime in the immediate and surrounding area.

Marijuana businesses are among our most reliable tenants: they pay their rent on time, are open when they say they're going to be open, and, ultimately, are good stewards to the properties we own. If the rules are changed to ban recreational marijuana, it would be devastating to the businesses we own and manage.

We ask that the City Council to consider the negative fallout of a ban on recreational marijuana.

Thank you for your time and attention to this matter.

Sincerely,

Nicholas Bonicelli

A handwritten signature in black ink, appearing to read "Nick Bonicelli". The signature is written in a cursive, flowing style.