

## Distance to School

The City of Santa Rosa has required setback requirements for a **retail (dispensary) and delivery cannabis business** to a school, as defined in **City's Comprehensive Cannabis Ordinance** and as required by the Health and Safety Code 11362.768.

The City does not have a setback or distance requirement for non-retail cannabis facilities.

In 2010, Gov. Schwarzenegger signed bill AB 2650, which prohibits medical marijuana collectives from operating within 600 feet of a school as of Jan 1, 2011. AB 2650 added **Section 11362.768 to the Health and Safety Code** which states that: *"No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana pursuant to this article shall be located within a **600-foot radius of a school**."* This section only applies, however, to a medical cannabis cooperative, dispensary or other provider **that has a storefront or mobile retail outlet**.

In addition, **Business and Professions Code section 26054 (b)** provides that cannabis businesses cannot be located within a **600-foot radius of a school**, youth center or day care center. However, this section further provides that "a licensing authority or a local jurisdiction may specify a different radius." The City's Ordinance expressly states that the 600-foot setback applies only to retail operations, and properly asserts its right to establish its own setbacks pursuant to Business and Professions Code section 26054(b). (Ordinance, 26-46-040(B).)

### Example: 3310 Industrial Drive.

This site is located approx. 905 feet from the Schaefer Elementary School parcel and approx. 458 feet from the Lattice Educational Services parcel. Both facilities meet the definition of "school".

In this example, a non-retail cannabis business **without a retail component (storefront or mobile retail outlet)** would be eligible for consideration. A proposed retail cannabis business on this site, however, would conflict with the distance to school requirement and therefore would not be eligible for consideration.



<sup>i</sup> The distance is to be measured in a straight line from the property line of the school to the closest property line of lot on which the facility is to be located.



## FAQs

# SETBACK TO SCHOOLS FOR CANNABIS BUSINESSES

**1. Does the City's cannabis ordinance require cannabis businesses to be located a certain distance from schools or other youth-oriented facilities?**

The City's cannabis ordinance requires retail cannabis businesses to be setback at least 600-feet from schools providing K-12 instruction. (Ordinance, § 20-46.080(D)(2).) The distance between the cannabis retail business and a school shall be measured in a straight line from the boundary line of the property on which the cannabis retail is located to the closest boundary line of the property on which a school is located. (Ordinance, §20-46.080(D)(3). The ordinance also precludes cannabis retail facilities from advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a school. (Ordinance, § 20-46.080(F).) The ordinance does not require any buffers between non-retail cannabis businesses and schools or other youth-oriented facilities.

**2. Does state law require cannabis businesses to be located a certain distance from schools or other youth-oriented facilities?**

The Medicinal and Adult Use Cannabis Regulation and Safety Act (Business and Professions Code §§ 26000 et seq. (MAUCRSA) imposes a 600-foot radius between cannabis businesses and schools providing K-12 instruction, day care centers and youth centers, unless a local jurisdiction specifically allows a different radius (including no setbacks). California Health and Safety Code § 11362.768 requires 600-foot buffers between schools and retail cannabis businesses.

**3. Does federal law require cannabis businesses to be located a certain distance from schools or other youth-oriented facilities?**

Cannabis is listed as a Schedule I drug and is illegal under Federal law. As such, it is illegal for any person to knowingly or intentionally manufacture, distribute, possess with intent to manufacture, dispense or distribute, or dispense cannabis. (21 U.S. Code § 841, subd. (a).) Cannabis businesses are therefore illegal in any location, whether next door to a school, one thousand feet from a school, or ten miles from a school.

A person who violates federal law may be subject to criminal penalties, including imprisonment and fines. (21 U.S. Code § 841, subd. (b).) These penalties are enhanced where a person distributes, possesses with intent to distribute, or manufactures cannabis in, on, or within 1,000 feet of a public or private elementary, vocational or secondary school or a public or private college, junior college or university, or a playground, or a housing facility owned by a public housing authority. (21 U.S. Code § 860, subd. (a).) Penalties are also enhanced where a person distributes, possesses with intent to distribute, or manufactures cannabis in, on, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.

**4. Will schools lose federal funding if cannabis businesses are located near the campus?**

Federal law prohibits educational facilities from knowingly permitting *possession, use or distribution of cannabis on school grounds*, and a school's willful violation of this law could potentially place the school's federal grant funds at risk.

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