To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington
Subject: Ordinance to Clarify City Policy on Cannabis Nurseries

RECOMMENDATION:
That the Planning Commission and Medical Cannabis Commission create an ordinance to clarify city policy on cannabis and existing nurseries.

BACKGROUND:
Taking into consideration state policies on cannabis regulation, it is imperative that Berkeley follow such trends and clarify city policy on cannabis and existing nurseries. The State of California passed proposition 64 on November 8, 2016, which legalized cannabis for use by adults 21 years or older. Chapter 1 of the Proposition defines a cannabis nursery as “a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana," and a Type 4—Cultivation; Nursery license is designed specifically for cannabis nurseries.

Proposition 64 adopted a zoning requirement for cannabis business. “No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius.”

Sonoma County and Humboldt County adopted the exact definition of a cannabis nursery from state law. Humboldt County sets separate zoning requirements for retail cannabis nursery and wholesale cannabis nurseries. Retail cannabis nurseries are defined as cannabis nurseries that sell their products to the public, while wholesale cannabis nurseries are defined as nurseries that distribute cannabis products to other businesses. Both counties have set square footage limitations for cannabis nurseries. Sonoma County limits cannabis nurseries to be under one acre for outdoor or under 22,000 square feet for indoor. Humboldt County limits the size of retail cannabis nurseries to under 5,000 or under 10,000, as square footage depends on use permits, and under 5 acres or no parcel size limitation for wholesale cannabis nurseries depends on the use permit. Our city should include zoning requirements and square footage limitations on cannabis nurseries.
According to Chapter 20 of the Proposition, any city within the State of California has the right to adopt and enforce local ordinances to regulate adult use cannabis businesses. It is urgent for the Planning Commission to work in conjunction with the Medical Cannabis Commission to adopt ordinances and regulations for adult use cannabis in order to emulate state progress on cannabis policy.

FINANCIAL IMPLICATIONS: Minimal.

ENVIROMENTAL SUSTAINABILITY
Consistent with Berkeley’s Environmental Sustainability Goals and no negative impact.

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Attachment:

Tentative List of Current Plant Nursery

1. Lee's Florist & Nursery
   Address: 1420 University Ave, Berkeley CA 94702
   District: 4

2. Berkeley Horticultural Nursery
   Address: 1310 McGee Ave, Berkeley, CA 94703
   District: 5

3. East Bay Nursery
   Address: 2332 San Pablo Ave, Berkeley, CA 94702
   District: 2

4. Oaktown Native Plant Nursery
   Address: 702 Channing Way, Berkeley, CA 94710
   District: 2 (Note: within 300 ft of Dreamland For Kids Playground, but legal)

5. Cactus Jungle Nursery and Garden
   Address: 1509 Fourth St, Berkeley, CA 94710
   District: 1 (Note: within 300 ft of Golden Gate Kids Preschool)

6. Westbrae Nursery
   Address: 1272 Gilman St, Berkeley, CA 94706
   District: 1 (Note: within 700 ft of Redwood Garden Preschool)

7. Spiral Gardens
   Address: 2850 Sacramento St, Berkeley, CA 94702
   District: 2 (Note: within 900 ft of San Pablo Park)
8. **FLORA ARTE**  
   Address: 2070 M.L.K. Jr Way, Berkeley, CA 94704  
   District: 4 (Note: within 900 ft of Berkeley High)

9. **Native Here Nursery**  
   Address: 101 Golf Course Dr Tilden Regional Park, Berkeley, CA 94708, Berkeley, CA 94708  
   District: 6

10. **Oaktown Native Plant Nursery**  
    Address: 2410 Roosevelt Ave, Berkeley, CA 94703  
    District: 4 (Note: within 900 ft of Walden Center and School)

11. **Succulent & Cactus**  
    Address: 1735 Delaware St, Berkeley, CA 94703  
    District: 1 (Note: Within 500ft of Ohlone Doggy Park)

12. **The Gardener**  
    Address: 1836 Fourth St, Berkeley, CA 94710  
    District: 1 (Note: Within 300 ft of Golestan Center For Language Immersion and Cultural Education)