

CITY COUNCIL MEETING
MONDAY, OCTOBER 30, 2017

Presentations

ITEM # 9 – PH 17-096

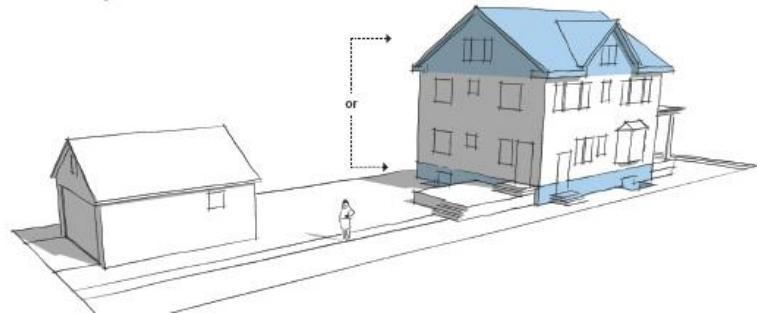
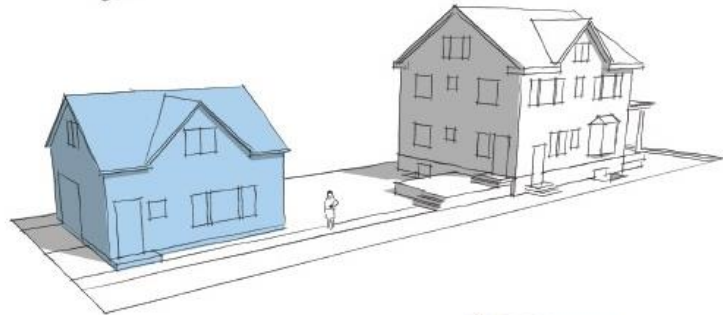
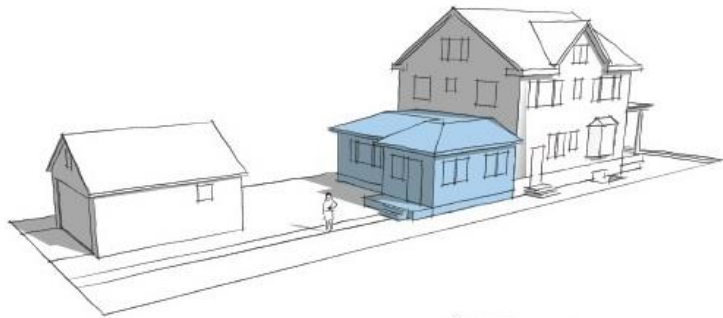
Accessory Dwelling Units



ZONING TEXT AMENDMENT FOR ACCESSORY DWELLING UNITS

City Council
October 30, 2017
Marcus Martinez, Assistant Planner

INTRODUCTION



What is an Accessory Dwelling Unit (ADU)?
Also known as "In-Law Units, Granny Flats,
and Second Dwellings"

- Independent dwelling unit with permanent provisions for living, sleeping, eating, cooking, and sanitation
- Located on the same property as a single-family dwelling
- Three Types of ADUs: Attached, Detached and Internal

BACKGROUND OF NEW STATE LAWS

September 27, 2016: Governor Jerry Brown signed Assembly Bill 2299 and Senate Bill 1069 into law.

January 1, 2017: State laws regarding Accessory Dwelling Units became effective:

- Renders local ordinances not consistent with State law null and void until City adopts compliant provisions;
- Requires City to relax restrictions on the development of ADUs; and
- Encourages the development of ADUs

ADDITIONAL STATE LEGISLATION

October 8, 2017: Governor Jerry Brown signed Assembly Bill 494 and Senate Bill 229 into law.

- Added clarifying language to the previously adopted amendments to Government Code Section 65852.2;
- Identified defined locations where internal ADUs shall be permitted; and
- Revised to what extent local agencies can impose parking requirements
- **Effective: January 1, 2018**

CITY COUNCIL WORK SESSION

Work Session: On March 14, 2017, City Council held a Work Session to:

- Evaluate new State laws regarding ADUs;
- Review staff's recommended Ordinance provisions; and
- Provide policy direction to City staff regarding certain Ordinance provisions.

Key Concerns:

- Conflict between State legislation and HOA CC&Rs;
- On-street parking impacts in congested neighborhoods;
- Notification of proposed ADUs to adjacent properties; and
- ADUs as short-term rentals instead of long-term housing stock.

EMPATHY OUTREACH

Hayward Empathy Action Response Team (HEART):

- City staff visited nine residential areas across the City
- Conducted in-person door-to-door surveys regarding ADUs
- Left door hangers at properties that referred residents to online survey

Key Takeaways:

- Motivator: Additional Income or Extended Family
- Obstacle: Project Costs and Unfamiliarity with Permitting Process
- Biggest Resident Concern: On-Street Parking Congestion

PLANNING COMMISSION RECOMMENDATION

Public Hearing: On July 27, 2017, Planning Commission held a Public Hearing to:

- Evaluate adopted State laws regarding ADUs;
- Review staff recommended Ordinance provisions; and
- Voted unanimously 4-0-0 (two absent) to recommend approval of the Zoning Text Amendment

STANDARDS UNDER LOCAL CONTROL

City maintains discretion on the following provisions and development standards:

- **Location Criteria (i.e. zoning districts)**
- **Parking Requirements for ADU**
- **Maximum Dwelling Unit Sizes**
- **Limit on Number of Bedrooms for ADU**
- **Height Restrictions**
- **Owner Occupancy**

LOCATION CRITERIA

State Law - Requires Designation within City for ADUs

- Cities cannot prohibit ADUs, but may designate zoning districts;
- Interior ADUs shall be permitted in any zone that permits single-family dwellings by right (AB 494 and SB 229)

Proposed Ordinance

- Allow ADUs in the following zoning districts in any configuration, provided a single-family residence exists:
 - Agricultural (A)
 - Single-Family Residential (RS)
 - Medium-Density Residential (RM)
 - Residential Nature Preserve (RNP)
 - Residential Office (RO)
 - Suburban Transect Zone (MB-T3) within the Mission Boulevard Corridor Form Based Code
- Allow interior ADUs only within the following districts, provided an existing single-family residence exists:
 - Planned Development (PD)
 - Airport Terminal - Multi-Family (AT-RM)
 - Central City - Commercial (CC-C)
 - Central City - Plaza (CC-P)
 - Central City - Residential (CC-R)

REQUIRED PARKING FOR ADU

State Law

- Maximum of 1 space per unit or bedroom, *whichever is less* (AB 494 and SB 229)
- Shall be allowed in flexible configuration: uncovered, covered, tandem
- Cannot require any parking in the following instances:
 1. ADU is located within ½ mile of public transit.
 2. ADU is located within a historically significant district.
 3. ADU is part of the existing primary residence or accessory structure.
 4. When there is a car share vehicle located within one block of the ADU.

Proposed Ordinance

- One (1) Parking Space for ADUs, *unless appropriate exemption(s) apply*

REQUIRED PARKING FOR GARAGE CONVERSIONS

State Law

- Required Parking Facilities (i.e. garages) are Permitted to be Converted into ADUs
- Replacement Parking Shall be Allowed in Flexible Configurations

Proposed Ordinance

- Replacement Parking may be Uncovered, Covered, or in a Tandem Configuration on the Lot of the ADU in Same Quantity
- Shall be Parked on an Improved Paved Surface
- Prohibited Parking on Required Landscaped Areas

UNIT SIZE & NUMBER OF BEDROOMS

Maximum ADU Sizes

- Attached/Internal: Shall not Exceed 50% of the Existing Floor Area of the Residence
- Detached: Shall not Exceed 1,200 Square-Feet

Proposed Ordinance: Regardless of Configuration - Shall not Exceed 50% of the Existing Habitable Floor Area of the Main Residential Structure or 1,200 square-feet, whichever is less.

Number of Bedrooms

- Cities Maintain Discretion on Number of Bedrooms for ADUs
- Maximum 1 Parking Space per Unit or Bedroom

Proposed Ordinance: Maximum of Two Bedrooms per ADU

HEIGHT RESTRICTIONS

State Law

- Allows ADUs to be Constructed Atop of Garages with Minimum 5-Foot Setback from Rear and Side Property Lines

Proposed Ordinance

Attached ADUs:

- Subject to Development Standards for the Underlying Zoning District

Detached ADUs:

- Subject to Development Standards for the Underlying Zoning District *for Detached Accessory Structures*

ADUs Atop of Existing Detached Garages:

- Site Plan Review Required (Non-Ministerial)
- Shall Not Exceed Maximum Permitted Height for Primary Structure

OWNER OCCUPANCY

State Law

- Local Agencies have Discretion to Require Owner Occupancy

Proposed Ordinance

- Legal Property Owner shall be Required to Reside in Either Primary Residence or ADU
- ADU and/or Primary Residence cannot be used at Short-Term Rental (less than 30 days).
- Both Units shall Not be Rented Separately
- Deed Restriction shall be Required to be Recorded with the Alameda County Recorder prior to Building Permit

ZONING CONFORMANCE PERMIT

Zoning Conformance Permit for ADUs

- Ministerial Review of ADU to Ensure Compliance Prior to Building Permit Submittal
- Review of Deed Restriction
- Maintain Record of ADUs as Rentable Housing Stock for City RHNA
- Maintain Record for Code Enforcement Rental Inspection Program

Proposed New Fee to Master Fee Schedule

- \$328 Flat Fee (Two Hours of Staff Time)
- Cost Recovery for Staff Time to Review ADU

STAFF RECOMMENDATION

That the City Council:

- ✓ **Introduce** an Ordinance (Attachment II) to Amend Chapter 10 of the Hayward Municipal Code to Update Regulations for ADUs consistent with State Law; and
- ✓ **Adopt** a Resolution (Attachment III) for the required Findings for Zoning Text Amendment No. 201701087 and Environmental CEQA Review for ADUs; and
- ✓ **Adopt** a Resolution (Attachment IV) to Amend the City Master Fee Schedule to establish a Review New Fee for Zoning Conformance Permits.

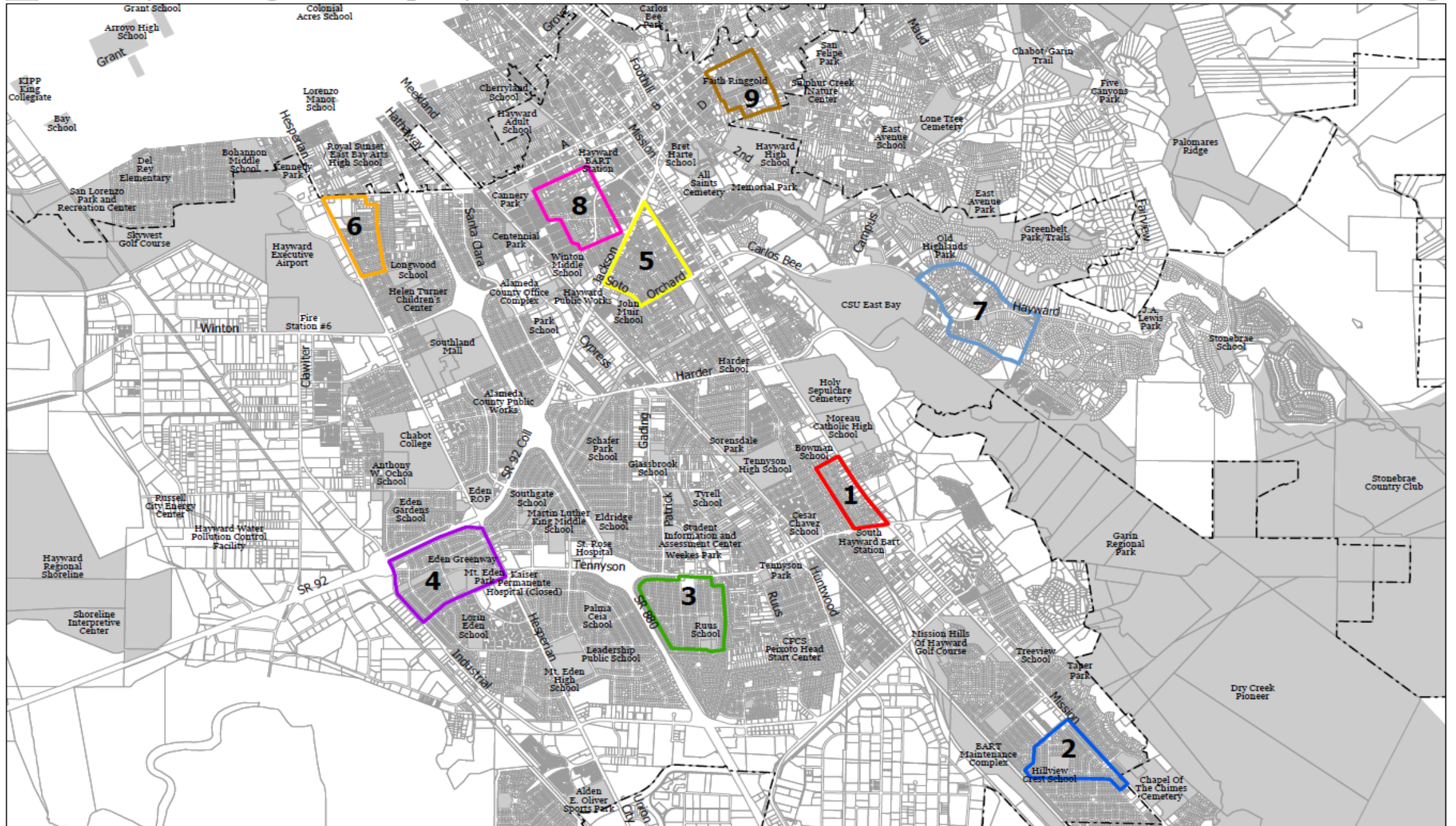
QUESTIONS?

REFERENCE SLIDES



Accessory Dwelling Unit - Empathy Areas

0 0.5 1 2 Miles





ITEM # 10 – WS 17-051

Review of Cannabis Business Operator Selection Process



Commercial Cannabis Program Implementation

City Council Meeting

October 30,
2017



Will Cooper
Jubran Kanaan
Eliza Johnston



Overview

- **Introductions**
- **Approach to Operator Selection**
- **Overview of Application & Selection Process**
- **Proposed Criteria**
- **Proposed Weighting**
- **Discussion**

Introductions

ICF Team:

- 40+ years of experience conducting regulatory analyses for local, state, and federal agencies;
- Multidisciplinary technical expertise in regulation, cannabis, public health, finance, safety, security, environment, and community outreach; and
- More than 5,000 staff—including over 400 staff in 12 California offices.

Cannabis Experience: ICF has supported numerous state and municipal agencies in their implementation of cannabis programs:

- Developed cannabis license applications, guidelines, and criteria customized to local needs and specific regulatory requirements;
- Independent evaluation and scoring of applications;
- Established product testing and facility inspection protocols to reflect regulatory requirements; and
- Supported public involvement, provided meeting facilitation, and facilitated selection processes.



Approach to Operator Selection

- Focus is on transparency and objectivity
 - Transparency: Provide application evaluation criteria to applicants up front
 - Objectivity: Multiple subject matter experts perform independent reviews

- Integrated, competitive application process for all business types
 - Applicants can apply for one or more business type
 - Applicants must provide separate responses to address each specific business type for which they are applying



Proposed Application Development Process

1. Discuss application criteria with City
2. Prepare Draft RFP Application
3. Prepare Draft Evaluation Criteria
4. Prepare Draft Scoring Matrix
5. Finalize application materials
6. Release application via City of Hayward website



Proposed Evaluation and Selection Process

1. Conduct Compliance Review of Application
2. Criminal Background Clearances
3. Competitive Ranking: Application Review and Scoring
4. Compile Scoring Reports and Recommendations
5. Interview of Most Qualified Applicants

Tentative Schedule

Month	Activities
Late October 2017	Develop application, scoring, and weighting criteria
Early November 2017	Release RFP application
Mid-December 2017	RFP application due
Mid-December 2017 – Late January 2018	Review RFP applications, scoring, and recommendations
February 2018	Conduct interviews and select successful applicants
March 2018 - Onward	Program implementation



Potential Evaluation Criteria (1 of 2)

- ***Business Plan and Operations:*** Proposed cannabis business operations, including products and/or services, discussion of compliance with all state and local laws, proposed schedule for start-up, proposed budget including start-up and operating costs, and proof of capitalizations for costs. Pro-forma for at least three years of operation.
- ***Management Experience:*** Experience of the proposed cannabis business management team to determine if they have the requisite managerial, cultivation/agricultural, or research experience to safely, responsibly, and successfully start and manage the long term operations of a commercial cannabis business.
- ***Safety and Security Plan:*** Safety plan and protocols to be implemented, including, discussion of fire prevention and proposed security infrastructure and processes, including but not limited to operational security, transactional security, delivery security, and 3rd party security.



Potential Evaluation Criteria (2 of 2)

- **Community Benefits:** Proposed community benefits such as employment opportunities, youth education, outreach activities, potential tax revenue, and other benefits for local business owners and residents.
- **Product Testing and Safety:** Proposed product testing and inventory management plan and tools, and description of data management systems used for inventory and recordkeeping as well as discussion of consumer safety as required by state and/or local laws.
- **Environmental Plan:** Proposed business practices related to energy usage, water conservation and materials / waste management.
- **Labor and Employment Practices:** Proposed compensation and hiring practices, employee training programs including security, product education/awareness, and legal and regulatory standards, etc.

Example Criteria Weighting

Criteria	Maximum Points	%
Business Plan and Operations	300	30
Management Experience	150	15
Safety and Security Plan	150	15
Community Benefits	150	15
Product Testing and Safety	100	10
Environmental Plan	75	7.5
Labor and Employment Practices	75	7.5
Total	1,000	100%



Discussion

- **Criteria:** Are we missing any key criteria? Are all of the City's priorities included?
- **Criteria Weighting:** Does the weighting scheme correctly reflect your priorities among the example criteria?
- **Community Benefits:** What specific aspects of community benefit are of value to you? (e.g., youth education, local hiring, revenue, etc.)
- **Alignment:** How might this process be informed by or align with the Council's priorities and strategic initiatives?
- **Questions about Process:** Do you have any questions about the application development and operator selection process?
- **Other Questions or Comments?**

Thank you.

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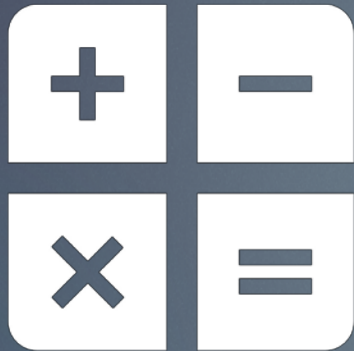
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ITEM # 11 – WS 17-050

Measure EE Cannabis Tax Rate



Measure EE Cannabis Tax

Dustin Claussen, Director of Finance
Michael Vigilia, Assistant City Attorney

OCTOBER 30, 2017

Cannabis Tax in Hayward



▶ State Proposition 64

- ▶ Legalized adult use (recreational) cannabis in state
- ▶ Established state sales and cultivation taxes

▶ Measure EE

- ▶ Passed by the voters of Hayward in November 2016
- ▶ Tax not exceeding 15% of gross sales

A Few Options

1. Tax only at Retail Sales Dispensaries at 10% (of gross sales) through 2021 and increase 2.5% every 2 years thereafter.
2. Tax at 5% (of gross sales) for all **cultivating** and **manufacturing** and 8% (of gross sales) for **retail sales dispensaries**.

A Few Options

3. Tax at 12% of gross sales only when cannabis or manufactured cannabis products leave the jurisdiction or are sold at a retail sales dispensary.
4. Tax at 10% gross sales for all cannabis businesses

Next Steps

- ▶ Gain Council's feedback tonight
- ▶ Continue to research as more information becomes available
- ▶ Develop and refine implementation plan and process for administering the Cannabis Tax
- ▶ Draft an Ordinance for Council Action. (Target date of January 2018)

Questions & Discussion

