



DATE: July 20, 2021
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adopt an Ordinance Amending Article 14 of Chapter 6 of the Hayward Municipal Code Regarding Commercial Cannabis Businesses

RECOMMENDATION

That the Council adopts the Ordinance introduced on July 6, 2021.

SUMMARY

This item entails adoption of an Ordinance amending Article 14 of Chapter 6 of the Hayward Municipal Code Regarding Commercial Cannabis Businesses of the Hayward Municipal Code, introduced on July 6, 2021, by Council Member Wahab.

BACKGROUND

The Ordinance was introduced by Council Member Wahab at the July 6, 2021, meeting of the City Council with the following vote:

AYES:	COUNCIL MEMBERS: Andrews, Lamnin, Márquez, Salinas, Wahab, Zermeño MAYOR Halliday
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

The introduction of the Ordinance included the following amendments: add the two Planning Commission recommendations to Chapter 6 (Business, Trades and Professional) and Chapter 10 (Planning, Zoning and Subdivision) regarding the regulation of commercial cannabis business; and add public art as an option for the Community Benefit plan.

City staff has revised the ordinance to reflect Council’s recommendations. The revised ordinance (Attachment III) contains additional changes in red text and yellow highlight. The additional amendments are also included below.

SEC. 6-14.12 PRELIMINARY DETERMINATION OF ELEGIBILITY / SCREENING

2) Applicants shall be subject to LiveScan/Background Checks

- (a) A Live Scan Background Check shall be conducted for each applicant to determine eligibility to be issued a permit pursuant to this Article. An applicant is not eligible to be issued a permit if they have suffered a felony conviction involving fraud, deceit, or embezzlement. Background checks shall only be used to determine whether an applicant was convicted of a crime that excludes them from local licensing.
- (b) With the exception of a felony conviction involving fraud, deceit, or embezzlement, evidence of rehabilitation may be used in determining whether a person should be licensed to operate a cannabis business if their conviction directly relates to the operation of a business. Convictions directly relating to the operation of the business shall be those specified in Business and Professions Code section 26057(b)(4), with the exception of a felony conviction involving fraud, deceit, or embezzlement.

SEC. 6-14.12 COMMERCIAL CANNABIS BUSINESS PERMIT APPLICATION

- (c) (17) Community benefits. Although not required, if an applicant is proposing a community benefit component as part of their normal business plan, the applicant should indicate how the proposed activities are intended to provide a public benefit to the City of Hayward and its residents. Applicants are encouraged to be creative, realistic, and specific in their proposals, and seek to align those proposals with the City's priorities and needs. Proposed community benefit could include neighborhood-specific benefits, **installation of public art**, health education and prevention approaches, quantification of economic benefits or community outreach examples.
- (f) The City Manager or his/her designee shall investigate the truth of the statements set forth in the application to determine if an applicant is qualified to obtain a commercial cannabis permit. An application **will may** be rejected if:
- (g) If the City Manager or his/her designee determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the City Manager or his/her designee shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review. The City Manager or his/her designee may consider the factors specified in section 5017(c) of Title 16, Division 42 of the California Code of Regulations when conducting the review described in this subsection.

(h) Applicants who are denied licensure shall be notified of the decision in writing. The notice shall include an explanation of the City's decision. An applicant may appeal the decision by submitting an appeal request to the City Manager within 30 days of receipt of the City's written decision. The appeal will be assigned to an independent hearing officer for decision. The independent hearing officer's decision will be the final administrative decision. The City Manager is authorized to promulgate regulations to implement this subsection. The City Council may amend the Master Fee Schedule to include a fee for the appeal described in this subsection.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to one of the priorities outlined in the Council's Strategic Roadmap.

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC CONTACT

The summary of the Ordinance was published in the Hayward Daily Review on Friday, July 16, 2020. Adoption, at this time, is therefore appropriate.

NEXT STEPS

The Hayward Municipal Code and other related documents will be updated accordingly.

Prepared and Recommended by:

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Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager