

HAYWARD CITY COUNCIL

RESOLUTION NO 21-____

Introduced by Council Member _____

RESOLUTION ADOPTING FINDINGS SUPPORTING TEXT AMENDMENTS TO
CHAPTER 6, ARTICLE 14 AND CHAPTER 10 OF THE HAYWARD MUNICIPAL
CODE RELATED TO THE REGULATION OF PERSONAL CANNABIS
CULTIVATION AND COMMERCIAL CANNABIS BUSINESSES AND LAND USES

WHEREAS, at the direction of the City Council, staff prepared amendments to the City's Municipal Code to establish regulations related to the placement and enforcement of personal cannabis cultivation and the placement, maintenance, and enforcement of Commercial Cannabis land uses to implement the proposed regulatory framework for commercial cannabis businesses in the City of Hayward (the "Project"); and

WHEREAS, the City Council independently finds and determines that this action is exempt from CEQA pursuant to Business and Professions Code section 26055(h) for the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity where the discretionary review in any such law, ordinance, rule, or regulation includes any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code; and, under Section 15061(b) 3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on June 10, 2021, and where the motion passed (6-1-0), to recommend that the City Council approve the proposed text amendments with revisions to Chapter 6, Article 14 (Commercial Cannabis Businesses) and Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code for the Regulation of Personal and Commercial Cannabis in the City of Hayward (Application No. 202102446); and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on July 6, 2021.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. The proposed Text Amendments are exempt from environmental review under Section 15061(b)(3) of the CEQA Guidelines, as they constitute minor amendments to the Zoning Code necessary for consistency with the Municipal Code and state law, and that any potential project enabled under the amendments will be subject to review under CEQA. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. MAUCRSA (Business and Professions Code section 26055(h), also provides an exemption for the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity provided that the project-level discretionary review includes applicable environmental review pursuant to CEQA. Per state law, this exemption becomes inoperative on July 1, 2021. While the City adopted the original cannabis regulatory and land use Ordinances in 2017, the proposed text amendments will not result in additional land use activities or environmental impacts that were not previous anticipated following the certification of the *Hayward 2040 General Plan* EIR.

AMENDMENTS TO THE MUNICIPAL CODE RELATED TO PERSONAL CULTIVATION AND COMMERCIAL CANNABIS BUSINESSES AND LAND USES (REFERRED TO AS THE "TEXT AMENDMENTS")

1. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;

The proposed Text Amendments to the cannabis regulations will promote the public health, safety, convenience, and general welfare of the residents of Hayward by providing additional employment and business opportunities from commercial cannabis businesses in Hayward and provide a streamline regulatory framework to ensure safe and efficient cannabis program. The proposed changes will allow cannabis land uses in the commercially and industrially zoned areas that are compatible with existing and future uses and will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

As proposed, the cannabis regulations will ensure that any cannabis business will operate in such a manner to minimize public safety and public nuisance impacts while incorporating appropriate measures to mitigate possible environmental impacts associated with business activities. Additionally, the State of California, through the passage of the MAUCRSA, has found substantial evidence that cannabis has medicinal value for many health conditions that otherwise would result in a compromised quality of life for residents.

2. The proposed change is in conformance with all applicable, officially adopted policies and plans;

The proposed Text Amendments contained herein are consistent with the goals and policies of all elements of the *Hayward 2040 General Plan*, and any applicable specific plan in that the amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses. The proposed zoning amendments are internally consistent with other applicable provisions of Chapter 6 and Chapter 10 of the Municipal Code in that the entirety of the Code will apply to cannabis as a new and existing land use classifications, such as identifying where cannabis uses are allowed and updating the Commercial Cannabis Permit processes. The proposed Amendments are consistent with the following policies and actions of the *Hayward 2040 General Plan*:

LU-5.2 Flexible Land Use Regulations. The City shall maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.

LU-5.6 Adaptive Reuse, Renovation or Redevelopment. The City shall support the adaptive reuse, renovation or redevelopment of community and regional shopping centers that are no longer viable due to changing market conditions, demographics, or retail trends. The City shall consider alternative land uses if market conditions limit the feasibility of commercial uses.

LU-6.1 Land Uses. The City shall encourage employee-intensive uses, such as professional office, corporate campuses, research and development, traditional and specialized manufacturing, throughout the Industrial Technology and Innovation Corridor.

ED-1.6 Advances and Specialized Manufacturing. The City shall encourage the establishment and expansion of advanced and specialized manufacturing businesses to counter declining employment trends in traditional industrial manufacturing.

ED-1.11 Local Serving Retail. The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Hayward and provide needed goods and services to local residents and businesses.

ED-3.2 Fast Growing Industries. The City shall monitor industry and market trends to identify fast-growing industries, and coordinate with local businesses within those industries to proactively assist with potential business expansion plans.

ED-6.2 Land Use Certainty. The City shall strive to enhance land use certainty for businesses by identifying and removing unnecessary regulatory barriers that discourage private-sector investment.

HLQ-4.1 Adequate Health Care Facilities. The City shall encourage the development and maintenance of a full range of health care facilities, including hospitals, acute care facilities, neighborhood health portals/clinics, and mental health facilities, to meet the needs of all residents.

HQL-10.6 Parks as Buffers. The City shall consider the use of parks and recreational corridor as buffers between incompatible land uses.

3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

As conditioned, the streets and public facilities that currently serve the City are not expected to be significantly impacted by the cannabis land uses. Much of the land use activities associated with cannabis are consistent and compatible with the other land uses that are currently permitted or conditionally permitted in the zoning districts. No properties are proposed to be reclassified or rezoned with the proposed Text Amendments. As such, the streets and public facilities, both existing and proposed, would be adequate to serve the potential development of new cannabis and cannabis-related businesses in the City.

4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified with the proposed Text Amendments that regulate cannabis businesses or land uses. A beneficial effect will be achieved with the proposed revision to the HMC, as it will allow for more predictable and transparent regulations, as well as create a more streamlined permitting process for applicants. The proposed Amendments will continue to regulate cannabis businesses in the City, which provide additional business and employment opportunities in Hayward. The proposed Amendments will require applicants submit a Neighborhood Compatibility Plan and still be subject to special findings and operational requirements to ensure that any proposed cannabis business will operate in a manner which is compatible with present and potential future land uses.

BE IT FURTHER RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of Text Amendments Application 202102446 and Proposed Adoption of Updated Business and Land Use Regulations pertaining to Personal and Commercial Cannabis within the City of Hayward, subject to the adoption of the companion ordinances.

IN COUNCIL, HAYWARD, CALIFORNIA, _____, 2021.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward