

ORDINANCE NO. ____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF HAYWARD AMENDING THE HAYWARD MUNICIPAL CODE, CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE); SECTION 10-1.3603(B) RELATED TO A PROPOSED MODIFICATION OF THE REQUIRED SETBACKS FOR COMMERCIAL CANNABIS BUSINESSES FROM CERTAIN SENSITIVE LAND USES; AND AMENDMENT OF CHAPTER 10, ARTICLE 1, SECTION 10-1.3607(C).1 RELATED TO REDUCTION OF OVERCONCENTRATION BUFFER FOR COMMERCIAL CANNABIS RETAIL DISPENSARIES

WHEREAS, on March 19, 2019, the City Council held a public hearing and adopted findings in support of the requested zoning text amendment as set forth in the companion Resolution (No. 19-__);

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Provisions. The City Council incorporates by reference the findings contained in Resolution No. 19-__ approving the text changes to the Hayward Municipal Code requested in Zoning Text Amendment Application No. 201900727.

Section 2. Chapter 10, Planning, Zoning, and Subdivisions of the Hayward Municipal Code, which establishes minimum performance and design standards for all zoning districts within City boundaries, is hereby amended to add certain text (as indicated by underline) and delete certain provisions (as indicated by strikethrough) in the attached "Exhibit A" related to Commercial Cannabis Businesses in the City, introduced herewith and as specifically shown in this Ordinance.

Section 3. Severance. Should any part of this Ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of the Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. Effective Date. In accordance with the provisions of Section 620 of the City Charter, the Ordinance shall become effective immediately upon adoption.

THE CITY COUNCIL OF HAYWARD DOES ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that:

A. Pursuant to its police powers, and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transporting, and testing within its jurisdiction.

B. The City has previously enacted the regulatory and land use ordinances authorizing cannabis businesses in the City, subject to compliance with the local and state regulations.

C. The City currently requires that commercial cannabis businesses observe a 600-foot setback from certain sensitive land uses within the City, with the exception that parks, libraries and open space areas where children congregate can be reduced upon making two additional findings. The 600-foot setback requirement is from the sensitive land uses as defined in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, unless the local jurisdiction establishes an alternative setback requirement.

D. The City currently requires commercial cannabis retail dispensaries observe an over-concentration buffer of 1,000 feet from other retail dispensaries in the City.

E. The City wishes to amend Section 10-1.3600 to reduce the over-concentration buffer from 1,000 feet to 500 feet and establish uniform regulatory framework for all commercial cannabis uses in the City, in accordance with state law, when located in proximity to sensitive land uses.

Section 2. Amend Chapter 10 (Planning, Zoning and Subdivisions), Article 1 (Zoning Ordinance to as shown in the attached “Exhibit A”.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 19th day of March 2019, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ___ day of _____ 2019, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

“EXHIBIT A”
CHAPTER 10 – PLANNING, ZONING, AND SUBDIVISIONS
ARTICLE 1 – ZONING ORDINANCE

10-1.3603 Commercial Cannabis Businesses.

Commercial Cannabis Businesses shall be administratively and conditionally permitted only in compliance with the provisions of Chapter 10, Article 1 (Planning, Zoning and Subdivisions), as amended, and shall be subject to the following standards and limitations.

A. Land Use. All Commercial Medical and Non-Medical Cannabis Businesses shall be located in compliance with the requirements of Chapter 10, Article 1 (Planning, Zoning and Subdivisions), as amended, and as designated in the Zoning Code. For purposes of this Chapter, Commercial Cannabis Businesses shall include the following land use classifications, all of which are further defined in Chapter 10, Section 10.1-3500 (Definitions):

1. Commercial Cannabis Cultivation, up to 5,000 sf
2. Commercial Cannabis Cultivation, 5,001 sf or greater
3. Commercial Cannabis Dispensaries (Retail)
4. Commercial Medical and Non-Medical Cannabis Distribution
5. Commercial Medical and Non-Medical Cannabis Manufacturing–Level 1
6. Commercial Medical and Non-Medical Cannabis Manufacturing–Level 2
7. Commercial Medical and Non-Medical Cannabis Testing Laboratory

B. Required Setbacks. All Commercial Cannabis businesses operating within the City of Hayward shall be subject to a 600-foot minimum setback from sensitive land uses as described in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, including libraries, designated public open space areas and designated public parks that contain a children's playground(s) or similar area dedicated towards children activities, including but not limited to sports fields and swimming pools. The required 600-foot setback ~~for public parks and open spaces~~ may be reduced as part of the issuance of a Conditional Use Permit from the Planning Commission if it is found that the public convenience and necessity will be served by an alternate distance requirement and that alternative measures to assure public health and safety are in place with respect to a commercial cannabis business. The distance shall be measured from the closest boundary line of the property on which the Commercial Cannabis Business is located to the closest boundary line of the property on which the school or sensitive land use is located.

10-1.3607 Commercial Cannabis Retail Dispensaries and Delivery.

In addition to the General Operating Requirements set forth in Section 10-1.3604, this section provides location and operating requirements for Commercial Cannabis Retail Dispensaries and Delivery Businesses:

A. Conditional Use Permit or Administrative Use Permit Required. A Conditional Use Permit shall be required for Commercial Cannabis Retail dispensaries, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended. An Administrative Use Permit shall be required for Commercial Cannabis Delivery businesses, pursuant to the land use regulations contained within Chapter 10, Article 1 (Zoning Ordinance).

B. Drive-Through Dispensaries. Drive-through, Drive-up or walk-up window services in conjunction with Commercial Cannabis Retail Dispensaries is prohibited.

C. Setbacks and Buffers. In addition to the zoning requirements and development regulations contained in Chapter 10 (Zoning Ordinance), all Commercial Cannabis Retail dispensaries shall be subject to the following:

1. Overconcentration. To avoid overconcentration, a Commercial Cannabis Retail Dispensary shall not be located within ~~1,000~~500 feet of any other Commercial Cannabis Retail Dispensary within the City of Hayward.