

**CITY COUNCIL MEETING  
TUESDAY, JULY 18, 2017**

**DOCUMENTS RECEIVED AFTER PUBLISHED AGENDA**

**Item #5 CONS 17-418**

**Median Landscape Improvement Project**



## Memorandum

**DATE:** July 17, 2017

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT:** Consent Item 5 (CONS 17-418): Missing Attachment – Median Landscape Improvement Project (Industrial Parkway West – Hesperian Boulevard to I-880) – Award of Contract

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Please find attached Attachment V – Bid Summary, which was omitted from the original staff report.

*Prepared and Recommended by:* Morad Fakhrai, Director of Public Works

Approved by:

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Kelly McAdoo, City Manager

Attachment:

Attachment V – Bid Summary

PROJECT TITLE: MEDIAN LANDSCAPE IMPROVEMENT FY 2017

PROJECT NO.: 05263

BIDS OPENED: JUNE 23, 2017

PROJECT MANAGER: HECTOR LEUTERION NUMBER OF BIDS RECEIVED: 4

MORAD FAKHRAT, DIRECTOR OF PUBLIC WORKS

7/5/17  
DATE

## AWARDED

## BID SUMMARY

## ENGINEER'S ESTIMATE

BID SUMMARY					Elite Landscape 2972 Larkin Avenue Clovis, CA 93612		QLM, Inc. 94 Umberger Road San Jose, CA 95111		Bartolussi & Watkin, Inc. 77 Larkspur Street San Rafael, CA 94901		Marina Landscape, Inc. 3707 W. Garden Grove Blvd Orange, CA 92868		
ITEM	DESCRIPTION	QTY.	UNIT	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	MOBILIZATON	1	LS	5,000.00	5,000.00	28,000.00	28,000.00	29,906.00	29,906.00	99,900.00	99,900.00	40,000.00	40,000.00
2	TRAFFIC CONTROL	1	LS	10,000.00	10,000.00	14,000.00	14,000.00	11,364.00	11,364.00	20,200.00	20,200.00	13,000.00	13,000.00
3	CONCRETE PAVING & COBBLE PAVING REMOVAL, INCLUDING SUB-BASE	8,045	SF	4.50	36,202.50	12.00	96,540.00	2.28	18,342.60	12.00	96,540.00	10.00	80,450.00
4	TREE REMOVAL	10	EA	1,000.00	10,000.00	1,000.00	10,000.00	1,716.60	17,166.00	500.00	5,000.00	700.00	7,000.00
5	TREE PROTECTION, FENCING & SIGNAGE	25	EA	30.00	750.00	150.00	3,750.00	448.60	11,215.00	435.00	10,875.00	250.00	6,250.00
6	CLEARING & GRUBBING INCLUDING ABANDONED IRRIGATION DEBIRS	32,000	SF	0.25	8,000.00	0.24	7,680.00	1.06	33,920.00	0.45	14,400.00	3.00	96,000.00
7	FINE GRADING	32,000	SF	0.10	3,200.00	0.12	3,840.00	2.60	83,200.00	0.06	1,920.00	0.15	4,800.00
8	SOIL PREPARATION & FINISH GRADING	32,000	SF	0.15	4,800.00	0.50	16,000.00	0.60	19,200.00	0.25	8,000.00	0.35	11,200.00
9	IMPORT TOP SOIL / ROUGH GRADING	2,900	SF	18.00	52,200.00	7.00	20,300.00	3.09	8,961.00	20.00	58,000.00	3.00	8,700.00
10	ROOT BARRIERS	1,000	LF	3.50	3,500.00	8.00	8,000.00	4.58	4,580.00	8.00	8,000.00	6.60	6,600.00
11	MEDIAN CONCRETE NOSE CAP	72	SF	5.00	360.00	190.00	13,680.00	103.81	7,474.32	160.00	11,520.00	34.00	2,448.00
12	PERMEABLE PAVERS	980	SF	2.50	2,450.00	22.00	21,560.00	20.25	19,845.00	31.00	30,380.00	23.00	22,540.00
13	STEAL HEADER	60	LF	8.00	480.00	7.00	420.00	31.90	1,914.00	17.00	1,020.00	20.00	1,200.00
14	TREES, 24" BOX	95	EA	325.00	30,875.00	300.00	28,500.00	371.37	35,280.15	300.00	28,500.00	340.00	32,300.00
15	SHRUBS, 15-GALLON	31	EA	75.00	2,325.00	120.00	3,720.00	146.61	4,544.91	95.00	2,945.00	120.00	3,720.00
16	SHRUBS, 5-GALLON	263	EA	15.00	3,945.00	25.00	6,575.00	25.86	6,801.18	29.00	7,627.00	28.00	7,364.00
17	SHRUBS, 1-GALLON	435	EA	7.50	3,262.50	11.00	4,785.00	17.19	7,477.65	17.00	7,395.00	15.00	6,525.00
18	GRAVEL MULCH	19,600	SF	2.50	49,000.00	0.77	15,092.00	2.14	41,944.00	2.80	54,880.00	1.95	38,220.00
19	BARK MULCH	12,400	SF	0.50	6,200.00	0.93	11,532.00	0.63	7,812.00	0.60	7,440.00	2.10	26,040.00
20	STREET BORE	490	LF	60.00	29,400.00	68.00	33,320.00	116.57	57,119.30	58.00	28,420.00	90.00	44,100.00
21	IRRIGATION SYSTEM	1	LS	85,000.00	85,000.00	108,000.00	108,000.00	158,175.00	158,175.00	170,181.00	170,181.00	186,200.00	186,200.00
22	IRRIGATION CONTROLLER	1	LS	8,500.00	8,500.00	16,000.00	16,000.00	12,045.00	12,045.00	12,500.00	12,500.00	15,700.00	15,700.00
23	ELECTRICAL WORKS	1	LS	1,000.00	1,000.00	1,600.00	1,600.00	1,196.00	1,196.00	3,500.00	3,500.00	2,500.00	2,500.00
24	90-DAY MAINTENANCE	1	LS	2,500.00	2,500.00	2,000.00	2,000.00	5,359.00	5,359.00	8,500.00	8,500.00	7,700.00	7,700.00
25	RECYCLING IMPLEMENTATION	1	LS	1,000.00	1,000.00	16,000.00	16,000.00	2,991.00	2,991.00	2,500.00	2,500.00	2,000.00	2,000.00
BASE BID PRICE (ITEMS 1-25)					\$359,950.00		\$490,894.00		\$607,833.11		\$700,143.00		\$672,557.00

## ALTERNATE BIDS

26	EXISTING MEDIAN CURB REMOVAL	7,100	LF	4.50	31,950.00	15.00	106,500.00	2.11	14,981.00	9.00	63,900.00	18.00	127,800.00
27	INSTALL STANDARD ISLAND CURB	7,145	LF	20.00	142,900.00	38.00	271,510.00	43.71	312,307.95	33.00	235,785.00	51.00	364,395.00
	ALTERNATE BID PRICE (ITEMS 26-27)				\$174,850.00		\$378,010.00		\$327,288.95		\$299,685.00		\$492,195.00

TOTAL BASE &amp; ALTERNATE BIDS (ITEMS 1-27) \$534,800.00 \$868,904.00 \$935,122.06 \$999,828.00 \$1,164,752.00

**Item #6 CONS 17-420**

**Delinquent Water and Sewer Bills**



## Memorandum

**DATE:** July 17, 2017

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT:** Consent Item 6 (CONS 17-420): Corrected Attachment - Report and Special Assessment for Delinquent Sewer Bills and Water Bills Incurred by Property Owners

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The attached document replaces Attachment II of Item 6 (CONS 17-420) on the July 18, 2017 City Council Agenda. After the publication of the agenda packet for the July 18, 2017 meeting, staff was made aware of a missing word ("sewer") in the paragraph starting with, "NOW, THEREFORE" of the Resolution. The attached Resolution reflects the corrected text.

*Prepared and Recommended by:* Alex Ameri, Director of Utilities & Environmental Services

Approved by:



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Kelly McAdoo, City Manager

Attachment:

Attachment II

HAYWARD CITY COUNCIL

RESOLUTION NO. 17-

Introduced by Council Member

RESOLUTION CONFIRMING THE REPORT AND SPECIAL ASSESSMENT LIST  
ASSOCIATED WITH DELINQUENT WATER AND SEWER BILLS AND  
AUTHORIZING THE DELINQUENT CHARGES TO BECOME A SPECIAL  
ASSESSMENT AGAINST THE PROPERTIES IF NOT PAID BY AUGUST 1, 2017

WHEREAS, the Director of Utilities & Environmental Services and Director of Finance have rendered an itemized report in writing to this Council indicating certain property owners that receive water and/or sewer service from the City of Hayward who have incurred delinquent water and/or sewer bills, as required by Sections 11-2.50 and 11-3.463 of the Municipal Code of the City of Hayward; and

WHEREAS, the hour of 7 p.m. on Tuesday, July 18, 2017, in the Council Chambers, City Hall, 777 B Street, Hayward, California, was fixed as the time and place for this Council to receive and consider the report, and a copy of the report has been posted and published in the manner required by Sections 11-2.51 and 11-3.464 of the Municipal Code; and

WHEREAS, the report was presented at the time and place fixed, and the City Council has considered the report and all comments with respect thereto; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that, except as may be amended by Council, the report from the Director of Utilities & Environmental Services and Director of Finance of the City of Hayward listing certain property owners that receive water and/or sewer service from the City of Hayward who have incurred a delinquent water and/or sewer bill, a copy of which is attached hereto, is hereby confirmed.

BE IT FURTHER RESOLVED that payments of assessments confirmed hereby may be received by the City of Hayward Director of Finance up to the hour of 5 p.m. on August 1, 2017, and thereafter such official shall transmit the unpaid assessments to the County Auditor for collection on the property tax roll.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2017

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

ATTACHMENT II

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

**Item #18 LB 17-036**

**Commercial Cannabis Business in Hayward**



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** LB 17-035

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**DATE:** July 18, 2017

**TO:** Mayor and City Council

**FROM:** City Attorney and Interim Development Services Director

**SUBJECT**

Commercial Cannabis Businesses in Hayward: Discussion of Proposed Regulatory and Land Use Framework; Authorizing the City Manager to Begin Accepting Permit Applications; and Resolution Establishing Application Processing Fee for Commercial Cannabis Permits

**RECOMMENDATION**

That Council takes the following actions:

1. Provides comments and direction regarding the attached draft commercial cannabis regulatory ordinance, Attachment II.
2. Provides comments and direction regarding proposed text amendments to the Zoning Ordinance regarding cannabis land use regulations.
3. Authorizes the City Manager to begin accepting applications for commercial cannabis permits.
4. Adopts a resolution amending the Master Fee Schedule to establish an application processing fee for commercial cannabis permits, Attachment III.

**ATTACHMENTS**

ATTACHMENT I	Staff Report
ATTACHMENT II	Draft Cannabis Regulations
ATTACHMENT III	Resolution Amending Master Fee Schedule
ATTACHMENT IV	Survey Results
ATTACHMENT V	Land Use Buffer Map



**DATE:** July 18, 2017

**TO:** Mayor and Council

**FROM:** City Attorney and Interim Development Services Director

**SUBJECT** Commercial Cannabis Businesses in Hayward: Discussion of Proposed Regulatory and Land Use Framework; Authorizing City Manager to Begin Accepting Permit Applications; and Resolution Establishing Application Processing Fee for Commercial Cannabis Permits

## **RECOMMENDATION**

That Council takes the following actions:

1. Provides comments and direction regarding the attached draft commercial cannabis regulatory ordinance, Attachment II.
2. Provides comments and direction regarding proposed text amendments to the Zoning Ordinance regarding cannabis land use regulations.
3. Authorizes the City Manager to begin accepting applications for commercial cannabis permits.
4. Adopts a resolution amending the Master Fee Schedule to establish an application processing fee for commercial cannabis permits, Attachment III.

## **BACKGROUND**

During the [March 21, 2017](#) City Council meeting, staff conducted a work session with the Council regarding the legal status of cannabis in California and its implications for the City of Hayward. Staff sought direction from the Council regarding the following questions:

1. Should cannabis businesses be permitted or prohibited in Hayward?
2. If cannabis businesses are permitted, should those businesses include both medical and adult recreational products?
3. If cannabis businesses are permitted, how many should be permitted, where should those businesses be located, and within what sort of regulatory framework?
4. If cannabis businesses are permitted, how should transactions be taxed under Hayward's voter-approved Measure EE?

The Council was generally in favor of allowing cannabis businesses in Hayward with a focus on uses that would be compatible with the Industrial zoning district. Council favored limiting the number of cannabis businesses initially and was open to considering more businesses in the future assuming positive outcomes from the initial businesses. Council and staff were mindful that Hayward had previously allowed a limited number of medical cannabis dispensaries that were unsuccessful for a variety of reasons. The Council emphasized the necessity of imposing the Measure EE tax approved by the voters on any newly permitted cannabis businesses.

Based on comments received from the Council during the work session, staff has prepared a draft regulatory ordinance that would establish a framework for the issuance of business permits for commercial cannabis operations and impose operational and performance standards upon commercial cannabis businesses.

Additionally, staff proposes to make text amendments to the Zoning Ordinance that would allow the following commercial cannabis activity and uses in the Industrial (I) Zoning District: cultivation; manufacturing; testing laboratories; transportation; delivery; and distribution (includes storage); subject to the approval of a Conditional Use Permit with special findings to be made by the Planning Commission for approval.

The proposed text amendments to the Zoning Ordinance (Attachment III) must be reviewed by the Planning Commission prior to consideration by the City Council. Since the proposed text amendments are primarily definitional in nature, a draft ordinance was not included with this report.

Staff seeks comments and direction on the draft regulatory ordinance and the proposed Zoning Ordinance text amendments. If the Council concurs with staff's recommendations, staff will proceed with preparing these items for formal consideration by the City Council and Planning Commission, respectively, in the fall.

## **DISCUSSION**

### A. Legal Developments

During the March 21, 2017 work session, staff provided background and relevant information regarding the state and local regulatory framework for the medical use and the adult recreational use of cannabis. At that time, the three key legislative developments with respect to cannabis were as follows:

- MCRSA (Medical Cannabis Regulation and Safety Act, AB 266, AB 243, SB 643), enacted January 1, 2016
- AUMA (Adult Use of Marijuana Act – Proposition 64), enacted November 9, 2016
- Measure EE (City of Hayward Cannabis Tax), enacted November 8, 2016

On June 15, 2017, the legislature passed Senate Bill 94, which was ultimately approved by Governor Brown. SB 94 repealed MCRSA and incorporated certain provisions from MCRSA related to licensing of medical cannabis businesses into the licensing framework contained in the AUMA. The purpose of SB 94 is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medical cannabis and medical cannabis products and adult-use cannabis and adult-use cannabis products. The new consolidated regulatory framework is known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which is administered and enforced by the Bureau of Cannabis Control within the Department of Consumer Affairs.

The January 1, 2018 timeframe for state issuance of cannabis licenses remains in effect. Consequently, the City remains in the position of having to adopt local cannabis regulations to be effective before that date. Otherwise, the State regulations will govern and the City will have no local discretionary review abilities.

#### B. Draft Regulatory Ordinance

Staff has prepared a draft regulatory ordinance (Attachment II) for review and direction from the Council. The draft ordinance would create a regulatory framework for issuance of commercial cannabis business permits and impose specific minimum performance standards on those businesses. The key features of the proposed regulations include:

- Business permits may only be issued to persons/businesses holding specific state-issued cultivation, manufacturing, laboratory testing, distribution or microbusiness licenses. No retail or dispensary businesses will be allowed except for businesses holding state microbusiness licenses that allow small businesses to vertically integrate operations.
- No more than three (3) permits will be issued annually and each must be renewed after one year.
- Applications for permits will be accepted pursuant to a “request for proposals” type process.
- Applicants for permits must submit detailed operational/business plans, security plans, and submit to criminal background investigations as part of the application process.
- Permits will be issued pursuant to a lottery system involving all applications that are determined to be complete.
- In order to commence operation, a business must obtain the commercial cannabis business permit, conditional use permit, state cannabis license, and pay all required local fees.
- Permittees are subject to inspection of records and premises by the City to ensure compliance with local regulations.
- Violations of operating and performance conditions constitute a basis for potential revocation of a permit.
- Testing or research laboratories will not count against the three-permit limit.

If the Council is generally supportive of the proposed regulatory framework, staff recommends that the Council take the following actions during this meeting: (1) authorize the City Manager to begin accepting applications for commercial cannabis permits; and (2) adopt a resolution amending the Master Fee Schedule to add a \$2,000 cannabis permit application processing fee. These actions would allow staff to be better positioned to commence the full permitting process without undue delay once final regulations are adopted by the Council in the fall.

### C. Proposed Land Use Regulations

Staff does not propose to develop a distinct framework for processing land use approvals for commercial cannabis businesses. The existing conditional use permit (CUP) process contained in the Zoning Ordinance is sufficient to undertake the processing of land use approvals under these circumstances. Staff proposes to make the following text amendments to the Zoning Ordinance in order to accommodate commercial cannabis uses: (1) amend the Zoning Ordinance to include land use descriptions of commercial cannabis businesses; (2) amend provisions related to the Industrial (I) District to identify commercial cannabis businesses as an allowed use subject to issuance of a conditional use permit (CUP); and (3) amend the Zoning Ordinance to include special findings that must be made by the Planning Commission in order to approve a commercial cannabis business land use. See Attachment V for a land use buffer map.

Special findings for cannabis uses are preferred because it would allow the City to evaluate site-specific locations and types of business operations on case-by-case basis. It would also provide greater flexibility for a proposed operator while maintaining some regulatory framework to minimize potential impacts. Staff is recommending four findings of approval be required prior to the issuance of a Conditional Use Permit for Cannabis:

1. The proposed cannabis use will not be detrimental to the public health, safety, or general welfare in that the cannabis operation is situated in an appropriate location where sensitive land uses will not be adversely impacted; and
2. Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste related to the cannabis operation; and
3. The cannabis operation is designed to be safe, secure and aesthetically compatible with the surrounding area; and
4. The cannabis operation will not place a burden on the provision of public services disproportionate to other industrial uses.

In addition to the special findings required for cannabis operations, the Development Services Department is currently evaluating the development standards for existing land uses in the Industrial District to ensure that minimum parking, setbacks and other design criteria are suitable for cannabis land uses.

#### D. Conforming Text Amendments

Additional Municipal Code revisions would be necessary to ensure consistency with any regulatory and land use regulations adopted by the Council, as well as to ensure consistency with the new requirements of State law. For example, revisions to Chapter 4, Article 1 (Public Nuisances) and Chapter 5, Article 6 (Smoking Pollution Control) are necessary. Revisions to both Municipal Code sections are currently being developed and will be presented to the City Council at a future meeting date concurrently with consideration of the proposed regulatory and land use ordinances. As staff continues to review the impact of state law on the Municipal Code, additional areas requiring revision may be identified.

#### E. Regulation of Personal Cultivation

AUMA/MAUCRSA allows cultivation of cannabis by persons aged 21 or older on private property for personal use. Local governments can impose reasonable regulations on indoor cultivation for personal use but cannot completely prohibit it. Local governments may completely prohibit outdoor cultivation for personal use. Staff recommends that the City Council consider prohibiting outdoor cultivation for personal use but not impose regulations with respect to indoor cultivation for personal use at this time. Staff will monitor service demands related to personal cultivation and will return to Council for further direction if additional regulations are required in order to protect public health and safety.

#### F. Tax Revenue

Hayward voters adopted Measure EE authorizing the City Council to impose a tax not exceeding fifteen percent (15%) of gross sales of adult use of recreational and medical cannabis. The tax would apply to the cultivation, distribution, manufacturing, business-to-business sales, as well as retail sales. During the previous work session, there was general interest from the Council regarding cannabis tax rates in neighboring jurisdictions. The tax rates are as follows:

- San Jose – 10%
- Pittsburg – 10%
- San Leandro – 6% through June 2019, 7% beginning July 1, 2019, and 8% on July 1, 2021.
- Oakland – 5% (medical marijuana)
- Berkeley – 2.5% (medical marijuana)

It is important to note that the taxes in San Jose, Berkeley and Oakland were all adopted in 2010 when Prop. 19 could have legalized recreational marijuana. The Berkeley and Oakland ballot initiatives include a 10% tax on recreational marijuana in the event Prop. 19 passed, which it did not.

#### G. Public Outreach

Following the March 21, 2017 work session, the Development Services Department began conducting Lean Empathy interviews to solicit feedback and public opinion on possible cannabis businesses operating in the City of Hayward. Staff interviewed nearly fifty (50) residents, business owners, employees, property owners and various stakeholders on their views of cannabis. Staff also created an on-line survey, and placed door hangers in key residential neighborhoods, along commercial corridors downtown, and within the Industrial area. Staff also solicited broader input from the general public by creating a cannabis webpage, which was on the City's main website and highlighted in The Stack newsletter (June 2017). The webpage provides answers to frequently asked questions, status updates on Ordinance adoption, and links to the survey. In total, over 2,100 stakeholders responded to the survey and have asked to receive information regarding progress towards the adoption of cannabis regulations.

Overall, the survey showed that a large majority of respondents (83%) support permitting cannabis businesses in Hayward and 78% indicated that both medical and recreational cannabis operations should be allowed. When asked about limiting the number of cannabis businesses, 52% of respondents believed the City should allow an unlimited number of businesses, while 13% said the City should only allow delivery businesses. See Attachment IV for a breakdown of survey results.

Given the relatively unknown land use, environmental and public safety impacts associated with the cumulative legalization of cannabis use in California, staff recommends the City Council pursue a more-cautious approach and initially limit the location and number of these businesses to allow the City an opportunity to evaluate the economic, environmental and public safety impacts of cannabis and cannabis-related businesses in Hayward.

#### **SUSTAINABILITY IMPACTS**

The conditional use permit process would identify and address sustainability impacts related to commercial cannabis businesses. It is generally accepted that commercial scale cultivation of cannabis requires significant amounts of water and power. Cultivation for personal use, whether indoor or outdoor, is not believed to create any unusual impacts on the use of water or power.

Impacts related to manufacturing uses such as production of edible cannabis products may not create impacts significantly different from other food production uses already in existence in the City. As stated above, the conditional use permit process will identify and address those issues on a case by case basis.

## **FISCAL IMPACT**

If the Council were to permit cannabis businesses, it is anticipated that a significant cost would be associated with the administration of land use and regulatory ordinances depending on the number and type of businesses Council chooses to allow. As an example, staff would be required to process applications, prepare reports to the Planning Commission and City Council, review business plans, obtain background investigation results for proposed owners and employees, and interact with the State's cannabis regulators. Staff would also be involved in auditing financial records to determine if the City is accurately receiving funds resulting from the application of Measure EE. These staff functions would cover multiple departments and several full-time equivalent higher-level classifications, at the outset of operations in Hayward and subsequently to assure ongoing compliance. If the City were to allow three businesses to operate, staff costs could easily exceed \$300,000 annually. Some or possibly all of these administrative costs could be covered by City licensing fees approved as part of the Master Fee Schedule, but it would take at least two fiscal years of operations to identify true administrative costs. Staff recommends that the Council set an initial deposit of \$2,000 in the Master Fee Schedule. If staff charges exceed this amount, the applicant will be billed on a time and materials basis. After two years of experience with the staff charges associated with these types of applications, staff will return to Council to adjust the deposit amount as needed.

Oakland charges \$67,000 a year for each of its eight licensed retailers for administration, a total of \$500,000. Administrative fees are not the same as taxes, discussed below.

Additionally, law enforcement cost impacts would predictably increase, whether or not cannabis and marijuana businesses are allowed in Hayward, as discussed earlier in this report.

## **ECONOMIC IMPACTS**

It is difficult to predict the potential tax revenue stream created by up to three (3) commercial cannabis businesses in Hayward. Different business types (i.e. Manufacturing vs. cultivation) may generate different levels of revenue. Staff will focus efforts on compiling data and information on this matter in order to assist the Council with determining the optimal tax rate to be imposed. Based on data from surrounding jurisdictions, an initial rate of between 6-10% may be optimal.

In late 2016, the University of the Pacific business school and law school authored a report studying the economic impact of a cannabis industry to the greater Sacramento area.<sup>1</sup> The report, among other things, analyzed the potential economic impact of various sectors of the cannabis industry and assumed a range of potential market models from strictly regulated local models to less regulated regional market models. Although the assumptions utilized in

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<sup>1</sup> **University of Pacific Study:** <http://www.pacific.edu/Academics/Schools-and-Colleges/Eberhardt-School-of-Business/Centers-and-Institutes/Center-for-Business-and-Policy-Research/Custom-Studies/Cannabis-Sector-Analyses.html>

the report may not hold true for Hayward, the methodology will be useful to Hayward staff as staff moves forward with a more detailed economic impact analysis.

## **PUBLIC CONTACT**

This legislative business item has been publicly noticed on the City's website.

## **NEXT STEPS**

If Council concurs with staff recommendations related to the proposed regulatory and land use ordinances, staff will proceed with preparing these items for formal consideration by the City Council and Planning Commission, respectively, in the fall. Additionally, upon direction from the Council, the City Manager will begin accepting commercial cannabis permit applications.

*Prepared by:*                    Michael G. Vigilia, Senior Assistant City Attorney  
    Jeremy Lochirco, Senior Planner

Approved by:



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Kelly McAdoo, City Manager

ORDINANCE NO.

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA  
ADDING ARTICLE 14 TO CHAPTER 6 OF THE HAYWARD  
MUNICIPAL CODE REGARDING COMMERCIAL CANNABIS  
BUSINESSES

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

Section 1. Article 14 is added to Chapter 6 of the Hayward Municipal Code and is hereby enacted to read as follows:

ARTICLE 14  
COMMERCIAL CANNABIS BUSINESSES

SEC. 6-14.00 FINDINGS AND PURPOSE. The City Council finds and declares as follows:

- (a) In 2015 the state enacted a comprehensive regulatory framework (AB 243, AB 266, SB 643) for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery and testing of medicinal cannabis in California. The legislation was collectively known as the Medical Cannabis Regulation and Safety Act (MCRSA).
- (b) On November 8, 2016 the voters of the state adopted Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalized adult cannabis use, possession and cultivation for non-medicinal purposes and created a regulatory framework for non-medicinal cannabis businesses.
- (c) The intent of MCRSA and AUMA was to establish a comprehensive regulatory system for cultivation, production and sale of cannabis and cannabis products, thereby weakening the illicit market for cannabis.
- (d) On November 8, 2016 the voters of the City of Hayward approved Measure EE authorizing the City Council to enact an ordinance imposing a general tax of up to 15% of gross sales of medicinal cannabis and adult use cannabis.
- (e) On June 15, 2017 the state legislature enacted Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) which consolidated

provisions of MCRSA into the regulatory framework of the AUMA, thereby creating a unified regulatory scheme for medicinal and adult use cannabis.

- (f) Under MAUCRSA, beginning on January 1, 2018 the state will issue licenses for businesses to engage in cultivation, manufacturing, testing, distribution and retail sale of cannabis and cannabis products.
- (g) MAUCRSA specifically authorizes local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses licensed pursuant to state law, including local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment of operation of one or more types of businesses licensed pursuant to MAUCRSA.
- (h) It is the intent of the City Council to authorize and regulate specific types of cannabis businesses licensed pursuant to state law.
- (i) The purpose of this Article is to establish local regulations for permitting and operation of specified commercial cannabis businesses within the City of Hayward.
- (j) This ordinance is necessary to protect the public health, safety and welfare of the citizens of the City of Hayward.

**SEC. 6-14.10 DEFINITIONS.** For the purpose of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their content that a different meaning is intended:

“*Applicant*” means an individual, or if not an individual, the general partner, chief executive officer, chief advisor, or other person responsible for the ownership and operation of a business entity, who applies to obtain a permit under this Article.

“*Cannabis*” means all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “*Cannabis*” also means the separated resin, whether

crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (excepted the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this article “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety code.

“*Cannabis Product*” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“*Commercial Cannabis Business*” includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products as permitted by this Article.

“*Cannabis Testing Laboratory*” means a laboratory described in Section 26101 of the California Business and Professions Code holding a Type 8 license as described in Section 26050(a) of the California Business and Professions Code.

“*Cultivation*” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“*Delivery*” means the commercial transfer of cannabis or cannabis products to a customer. “*Delivery*” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

“*Distribution*” means the procurement, sale, and transport of cannabis and cannabis products between state licensees.”

“*Manufacture*” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“*Manufacturer*” means a person or entity that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products

either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

*“Medical/medicinal cannabis” or “Medical/medicinal cannabis product”* means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation. *“Nursery”* means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

*“Owner”* means any of the following: (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance. (2) The chief executive officer of a nonprofit or other entity. (3) A member of the board of directors of a nonprofit. (4) An individual who will be participating in the direction, control, or management of the person applying for a permit. *“Person”* includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

*“Sell,” “sale,” and “to sell”* include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a state licensee to the state licensee from whom the cannabis or cannabis product was purchased.

*“State Licensee”* means a person or entity that has been issued a license pursuant to state law for commercial cannabis activity as defined by state law.

SEC. 6-14.11 PERMIT REQUIRED.

- (a) It is unlawful for any person to own, conduct, operate or maintain, any commercial cannabis business in the City of Hayward without a valid commercial cannabis permit issued pursuant to this Article.
- (b) The City Council may, by resolution, direct the City Manager to call for applications from any parties interested in obtaining a commercial cannabis permit.
- (c) No more than three (3) commercial cannabis permits for the operation of commercial cannabis businesses in the City shall be issued. Permits issued to cannabis testing laboratories shall not count against the permit limit established herein.
- (d) A permit issued pursuant to this Article does not authorize the permittee to operate a commercial cannabis business until the permittee has obtained appropriate land use approvals pursuant to the Hayward Zoning Ordinance, obtained an appropriate cannabis license from the State, paid the annual business license tax required by Chapter 8 of this Code, paid all applicable fees and complied with other applicable state and City of Hayward laws and regulations.
- (e) A permit issued pursuant to this Article does not confer a property interest or vested right to receive a future permit pursuant to this Article.
- (f) A permit issued pursuant to this Article shall be valid for one (1) year from the date the permittee receives land use approval and shall be accompanied by the payment of an annual permit fee in an amount established by resolution of the City Council.
- (g) No permit issued pursuant to this Article shall be sold, transferred, or assigned by the permittee or by operation of law, to any other person. Any such sale, transfer, assignment, attempted sale, attempted transfer or attempted assignment shall constitute an immediate revocation of the permit and the permit shall thereafter be null and void. A new owner of a commercial cannabis business must submit a new application for a permit in accordance with this

Article.

(h) This Article does not apply to the individual use, possession or cultivation of medical cannabis or cannabis for adult use as regulated by state law.

SEC. 6-14.12 CONTENTS OF APPLICATION.

(a) Applications shall include:

- i. A detailed description of the type of commercial cannabis business to be conducted including an operational plan that describes: proposed hours of operation/shift scheduling; type of specialized equipment to be used for cultivation or manufacturing; whether hazardous materials, including volatile solvents or gases are proposed to be used as part of the operation; how industrial waste will be disposed of; anticipated gross annual revenue; list of State licensed transportation and distribution providers serving the facility, if known; anticipated frequency of deliveries serving the facility; other pertinent information involving the operation of the facility.
- ii. The applicant's full, true name, including all other names used presently or in the past, date of birth, valid California driver's license number, identification number or other form of government issued photo identification, Social Security number.
- iii. The names and addresses of all persons financially interested in the business.
- iv. The full, true name under which the business will be conducted.
- v. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation and the name, residence address, and telephone number of each of its current officers, directors, along with the amount of stock held.
- vi. If the applicant is a partnership, the application shall set forth the name, residence street address, and telephone number of each of

the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the County Clerk. If one (1) or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner. The applicant, if a corporation or partnership, shall designate one (1) of its officers or general partners to act as its responsible managing officer/employee. Such person shall complete and sign all application forms required of an individual applicant under this Article and shall, at all times, meet all of the requirements set for permittees by this Article or the permit shall be suspended until a responsible managing officer who meets such requirements are designated. If no such person is found within ninety (90) calendar days after the permit's suspension, the corporation or partnership's permit is deemed canceled. If the corporation or partnership wishes to reapply for a permit, a new application shall be filed.

- vii. Proposed location(s) within the City where the business will be located including documentation showing that the property owner of the proposed location(s) consents to the operation of a commercial cannabis business at the location.
- viii. A security plan describing proposed security arrangements for the premises including, but not limited to: alarm systems; surveillance equipment; use of security personnel; lighting plans; plans for securing points of entry.
- ix. A summary of the applicant's relevant experience in operating commercial cannabis businesses in other jurisdictions within the last five (5) years, with contact information for references in those jurisdictions.
- x. Category of state cannabis license(s) the applicant holds or intends to apply for.

- xi. A summary of any regulatory actions taken against the applicant, including issuance of notices of violation, citations, suspension or revocation of permits, or similar actions, related to any business owned or operated by the applicant related to air quality, water quality, storage or use of hazardous chemicals, building code violations, or public health and safety violations. The name and location of the jurisdiction or agency, which took the action shall also be included.
- xii. Written authorization for the city, its agents, and employees to conduct a background investigation of the applicant and the responsible managing officer/employee of the commercial cannabis business, including submission of fingerprints for criminal background investigation.
- xiii. Any other information required by the City to assist with evaluation of the applicant.

(b) In addition to the information described in (a) above, each application shall be accompanied by a non-refundable application processing fee in an amount established by resolution of the City Council.

SEC. 6-14.13 APPLICATION REVIEW

- (a) The City Manager or his/her designee shall review the applications to determine compliance with Section 6-14.12. Upon written notice that an application is incomplete, the applicant may submit additional information as requested by the City. Failure to submit requested information shall be deemed an abandonment of the application and no further action will be taken by the City.
- (b) Applications shall only be considered from persons or entities who hold or have applied for, or intend to apply for the following state cannabis licenses: Cultivation (Type 1A, 1C, 2A, 3A, 4); Manufacturer 1 (Type 6); Testing Laboratory (Type 8); Distributor (Type 11); Microbusiness (Type 12).
- (c) The City Manager or his/her designee shall conduct an investigation into 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 be rejected if:

- i. It is found to contain material misstatements or omissions;
- ii. The applicant is determined to be ineligible or prohibited from obtaining a cannabis license pursuant to state law.
- iii. The applicant is determined to have any pending or open regulatory actions including issuance of notices of violation, citations, suspension or revocation of permits, or similar actions, related to any business owned or operated by the applicant related to air quality, water quality, storage or use of hazardous chemicals, building code violations, or public health and safety violations.

SEC. 6-14.14 PERMIT ISSUANCE.

- (a) Permits will be issued to three (3) applicants selected via a lottery system from among all applicants determined to be in compliance with Section 6-14.12 and 6-14.13 of this Article.
- (b) Permittees shall comply with the following:
  - i. Pay the annual permit fee as established by resolution of the City Council which shall be refunded if the applicant does not receive the necessary land use approvals.
  - ii. Comply with requirements for obtaining land use approval as set forth in the Zoning Ordinance including any required fees, charges or deposits.
  - iii. Comply with requirements of Chapter 8 of this Code related to payment of the annual business license tax.
  - iv. Comply with any other requirements of local law.

SEC. 6-14.15 OPERATING AND PERFORMANCE STANDARDS.

Permittees shall operate in conformance with the following minimum standards, and such standards shall be incorporated into the conditions of approval for land use approval of the business pursuant to the Zoning Ordinance.

## (a) Operations.

- i. No commercial cannabis business 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 permit is issued. The distance shall be measured via the path of travel from the door of the closest facility to the closest door of the other facility.
- ii. Commercial cannabis businesses shall only be located in the Industrial District as defined in the Hayward Zoning Ordinance, as may be amended from time to time.
- iii. Commercial cannabis businesses holding a state issued microbusiness license with an approved retail component shall only sell medical cannabis or medical cannabis products to individuals authorized by state law to purchase medical cannabis or medical cannabis products and adult use cannabis shall only be sold to individuals authorized by state law to purchase cannabis or cannabis products for adult use.
- iv. Commercial cannabis businesses holding a state issued microbusiness license with an approved retail component may operate no later than 8:00 p.m. daily unless it is determined by the City that a later hour will not affect public health, safety, or welfare. An authorized retail component of a business is prohibited from operating between the hours that the City determines the dispensary should close and 9:00 a.m. the next ensuing day unless further restricted by the City.
- v. Retail sales of cannabis that violate state or local law are expressly prohibited.
- vi. No cannabis odors shall be detectable outside of the facility.
- vii. Permittees shall employ only persons at least 21 years of age at any permitted facility within the City of Hayward.
- viii. Consumption or ingestion of cannabis or cannabis products shall

not be allowed in the facility, outdoor areas or parking areas of the business.

- ix. Permittees shall provide the Police Department and all residents, businesses and property owners within 100 feet with the current name, phone number, secondary phone number and e-mail address of an on-site community relations staff person to whom notice of any operating problems associated with the Facility may be reported. This information shall be updated as necessary to keep it current.
- x. Permittees shall have an on-site manager at each permitted facility within the City of Hayward who is responsible for overall operation at all times that employees are conducting operations, and shall provide the City with contact information for all such persons, including telephone number and email address. Permittees shall also provide the City with the name and contact information including phone number of at least one manager that can be reached 24-hours a day.
- xi. Permittees shall take all reasonable steps to discourage and correct conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding a permitted facility. Such conditions include, but are not limited to: smoking; creating a noise disturbance; loitering; littering; and graffiti. Graffiti must be removed from property and parking lots under the control of the permittee within 72 hours of discovery.

(b) Security.

- i. High definition security cameras or other technology that produces high resolution video and recording capabilities shall be installed and maintained in good condition, and the camera and recording system must be of adequate quality, color rendition and resolution to allow the identification of an individual. The cameras shall be in use twenty-four (24) hours a day, seven (7) days per week, and

shall cover the marijuana dispensing areas, storage areas, all doors and windows to the facility, parking areas and other areas as determined by the City Manager or his/her designee. The recordings shall be maintained at the for a period of ninety (90) days and made available to the Hayward Police Department for purposes of investigation of alleged crimes, promptly upon request without necessity of a warrant or subpoena.

- ii. Facilities must be equipped with an alarm system that is operated and monitored by a security company licensed by and in good standing with the California Department of Consumer Affairs. Alarms shall be maintained and in good working condition at all times.
- iii. Windows and roof hatches at the property shall be secured so as to prevent unauthorized entry and also equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency where required by fire prevention or building code regulations.
- iv. Any security guards employed by a permittee shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security personnel may not be armed.
- v. The business shall maintain adequate exterior lighting in parking areas.

#### SEC. 6-14.16 RECORDS AND INSPECTIONS.

- (a) Permittees shall maintain books, records, accounts and all data and information relevant to its operations and allow the City access to such records for purposes of conducting an audit or examination to determine compliance with this Article, the Hayward Municipal Code, local regulations, including compliance with local tax obligations.
- (b) Permittees shall permit inspection by the City of any facility licensed pursuant to this Article for the purpose of verifying compliance with the requirements of this

Article, the Hayward Municipal Code and the requirements of state law.

SEC. 6-14.17 PERMIT RENEWAL.

(a) A commercial cannabis permit must be renewed annually. Permittees shall apply for renewal in writing no later than sixty (60) days before the expiration of the current permit. The application for renewal shall include:

- i. A statement updating information from the original application or certifying that the information contained in the original application is unchanged.
- ii. Verification that the permittee has renewed or is in the process of renewing a previously issued state cannabis license and is otherwise in compliance with the requirements of state law.
- iii. Authorization for updated criminal background checks.
- iv. Payment of a non-refundable renewal fee.

(b) As part of the renewal process permittees shall allow inspection of any licensed facility by the Building Official, Fire Marshall or their designees, and other City staff to verify compliance with applicable building and safety regulations. Any violations noted shall be corrected within a reasonable time as determined by City staff.

(c) As a condition to renewal of the permit, the permittee must pay any fees required by this Article and applicable provisions of the Hayward Municipal Code.

(d) Upon completion of the necessary investigation and inspections and payment of the required fees, the City Manager of his/her designee shall issue a renewed permit to the permittee for an additional one (1) year period.

SEC. 6-14.18 ENFORCEMENT. A violation of this Article is declared to be a public nuisance which may be enjoined by civil action or pursuant to the procedures provided in this Code for abatement of nuisances. Additionally, any violation of this Article may be enforced subject to the provisions relating to administrative citations found in Chapter 1, Article 7.

SEC. 6-14.19 PERMIT SUSPENSION OR REVOCATION AND HEARING.

(a) The City Manager may suspend or revoke a permit issued pursuant to this Article for failure to comply with any performance or operating standards set forth in this Article, or any other requirement of this Article or applicable local or state regulation. Such suspension or revocation shall only be made upon a hearing granted to the permit holder before an independent hearing officer upon no less than fourteen (14) days' written notice to the permit holder. The notice of suspension or revocation hearing shall generally state the grounds for the proposed action and the time and place of the hearing.

(b) The hearing officer shall receive written and oral testimony and any other evidence he/she deems relevant to the issue of suspension or revocation. The hearing officer shall not be bound by the rules of evidence in conducting the hearing described herein. The hearing officer shall issue a written decision within 10 business days after the conclusion of the hearing. The decision of the independent hearing officer shall be final and conclusive.

SEC. 6-14.20 CITY MANAGER AUTHORITY. The City Manager may establish administrative regulations and policies to implement any provision of this Article.

SEC. 6-14.21 FEES. The City Council may establish by resolution any fees that shall be charged for administration and implementation of this Article. The adoption of such fees shall not prevent the City from recovering enforcement costs not specified in such resolution.

SEC. 6-14.22 NON-CONFORMING USES. No use which purports to have engaged in cultivation, manufacturing, processing, distribution, testing, transportation, or sale of medical cannabis or adult use cannabis prior to the enactment of this Article shall be deemed to have been a legally established use pursuant to the provisions of the Hayward Municipal Code, Hayward Zoning Ordinance, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim a vested right, legal non-conforming or other similar status.

Section 2. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to Business and Professions Code section 26055(h).

Section 3. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 4. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_\_ day of \_\_\_\_ 2017, by Council Member \_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the \_\_\_\_ day of \_\_\_\_ , 2017, 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

DRAFT

**HAYWARD CITY COUNCIL**

**RESOLUTION NO.**

Introduced by Council Member \_\_\_\_\_

**RESOLUTION AMENDING THE MASTER FEE SCHEDULE  
TO ADD A COMMERCIAL CANNABIS PERMIT APPLICATION PROCESSING FEE**

**BE IT RESOLVED** that the City Council of the City of Hayward hereby amends the Master Fee Schedule and approves a commercial cannabis permit application processing fee in the amount of one thousand dollars (\$1,000). The fee shall take effect immediately upon adoption by the City Council.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2017

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

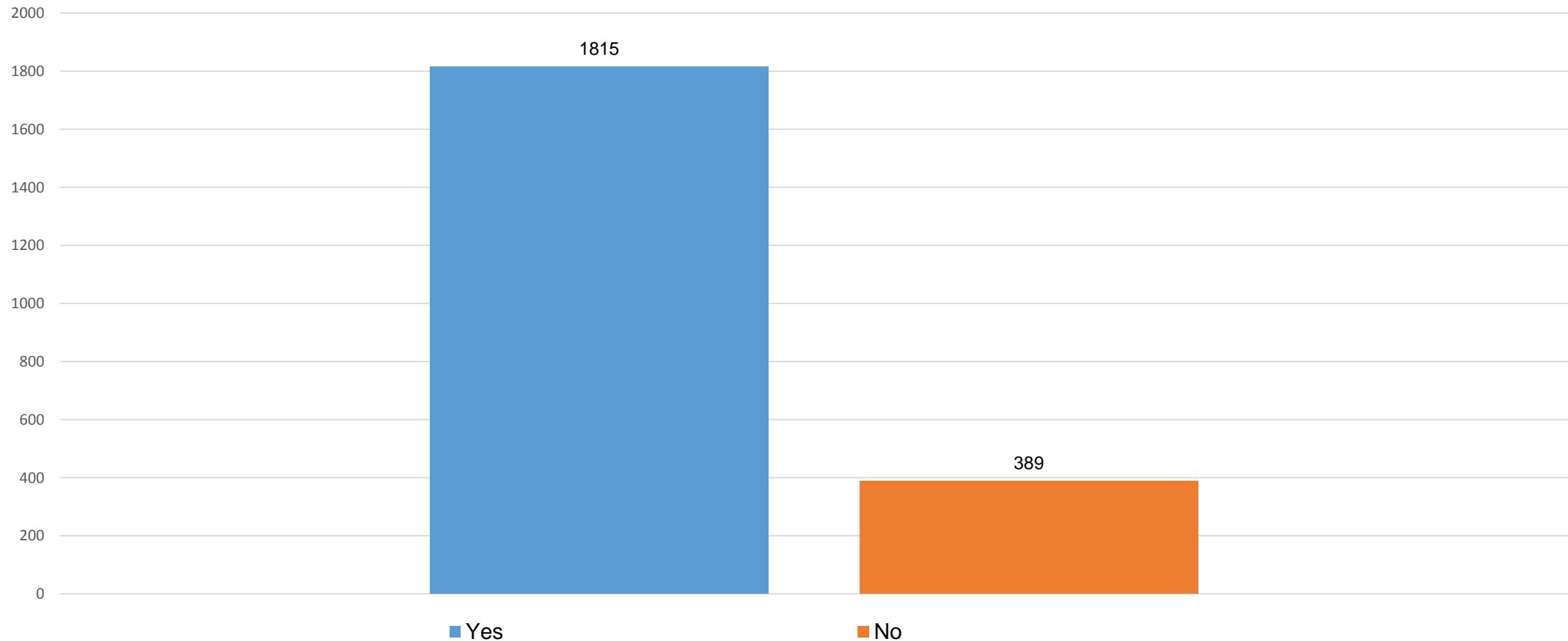
ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

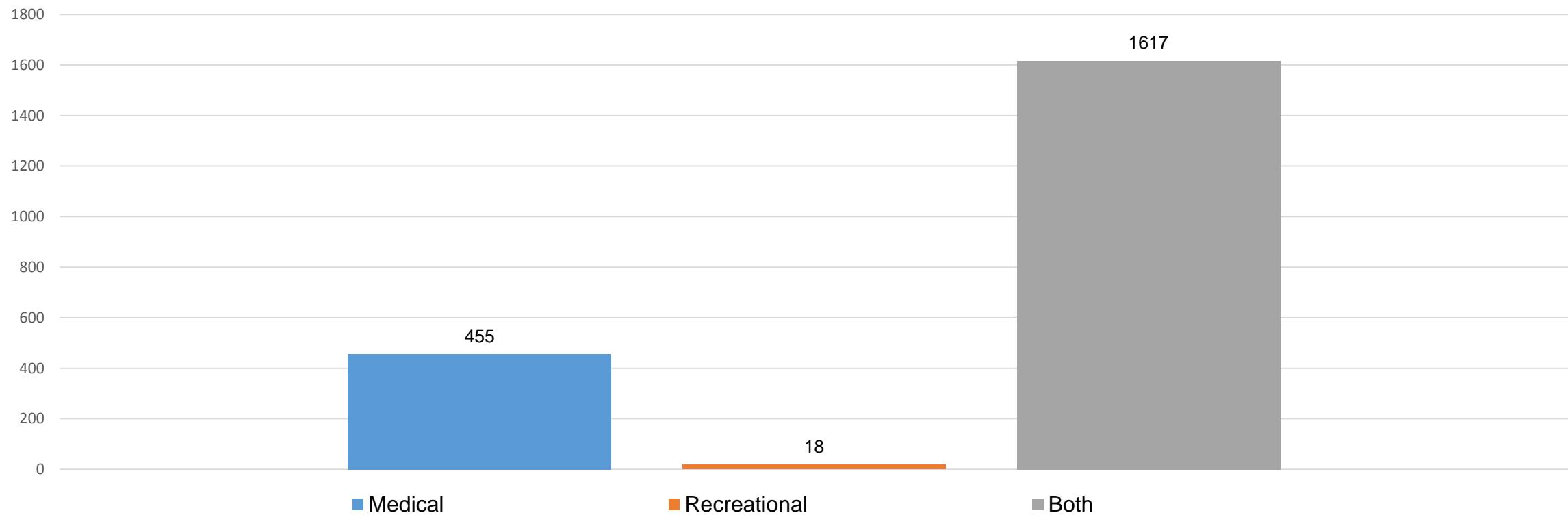
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City Attorney of the City of Hayward

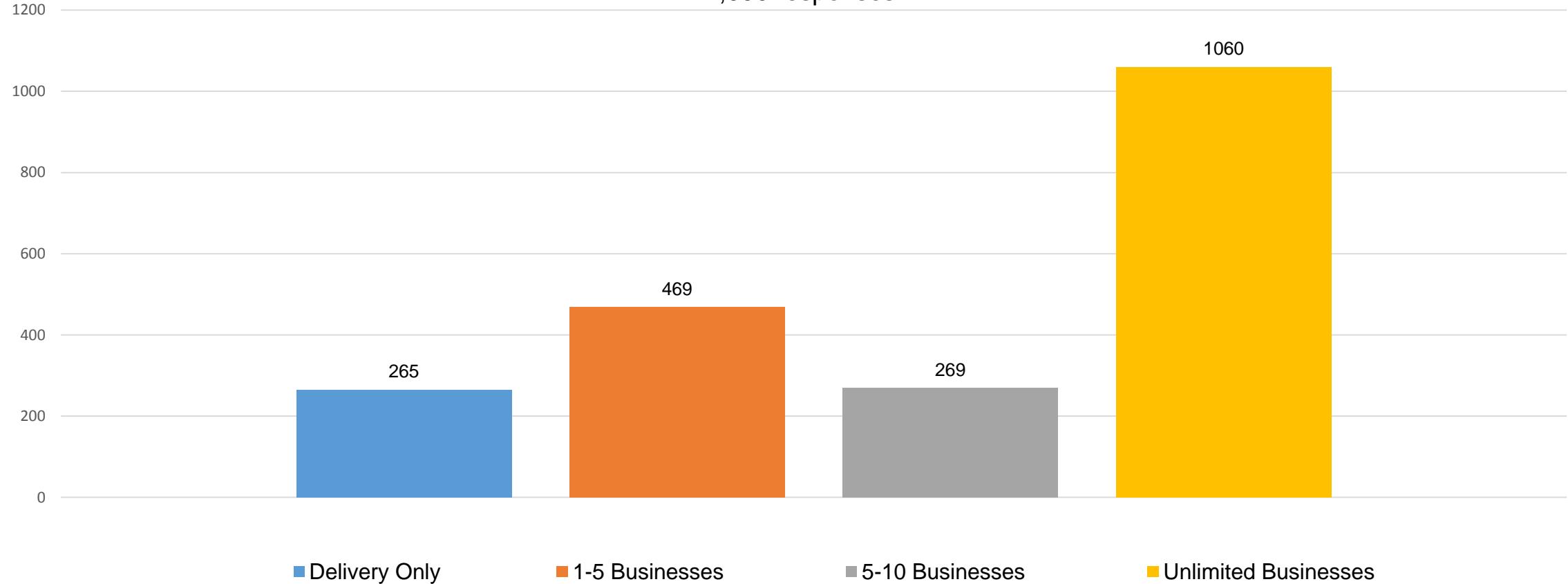
Should Hayward allow cannabis businesses in the City?  
2,204 responses



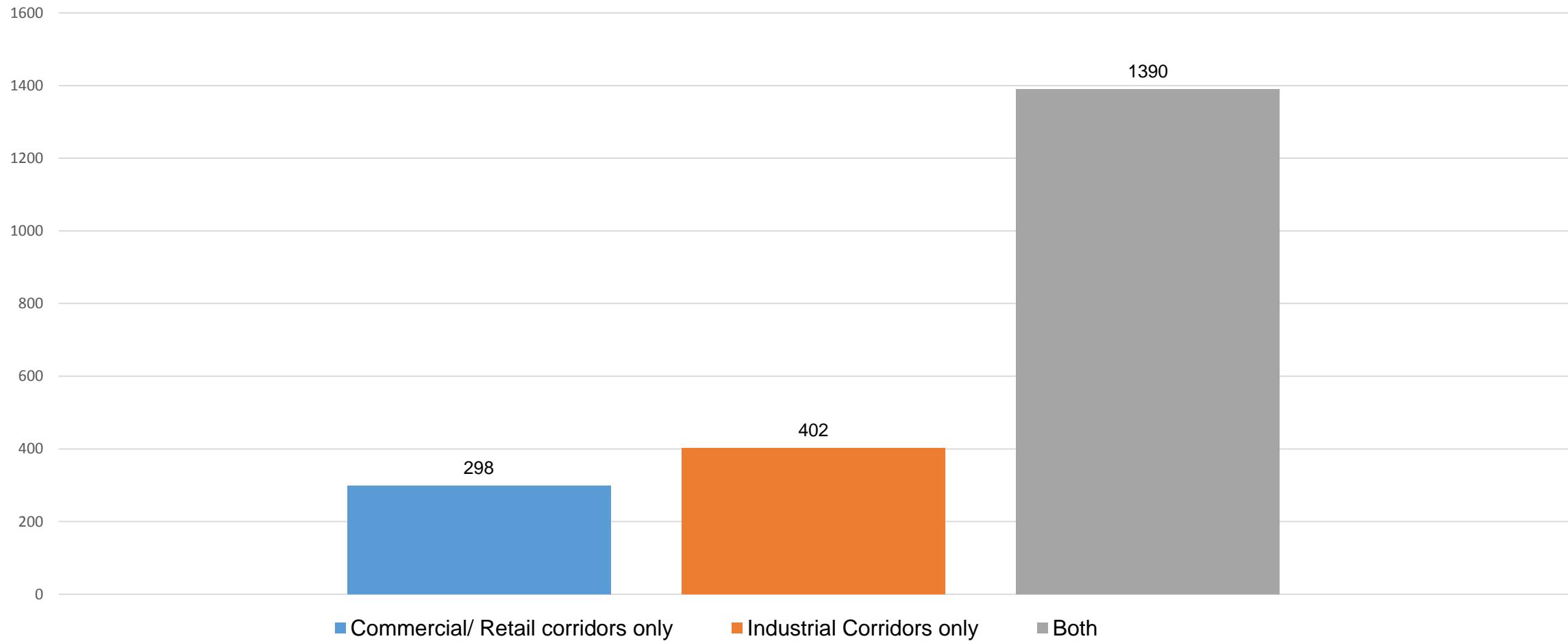
Which kind of businesses should the City allow?  
2,090 responses



How many retail businesses should the City allow?  
2,090 responses



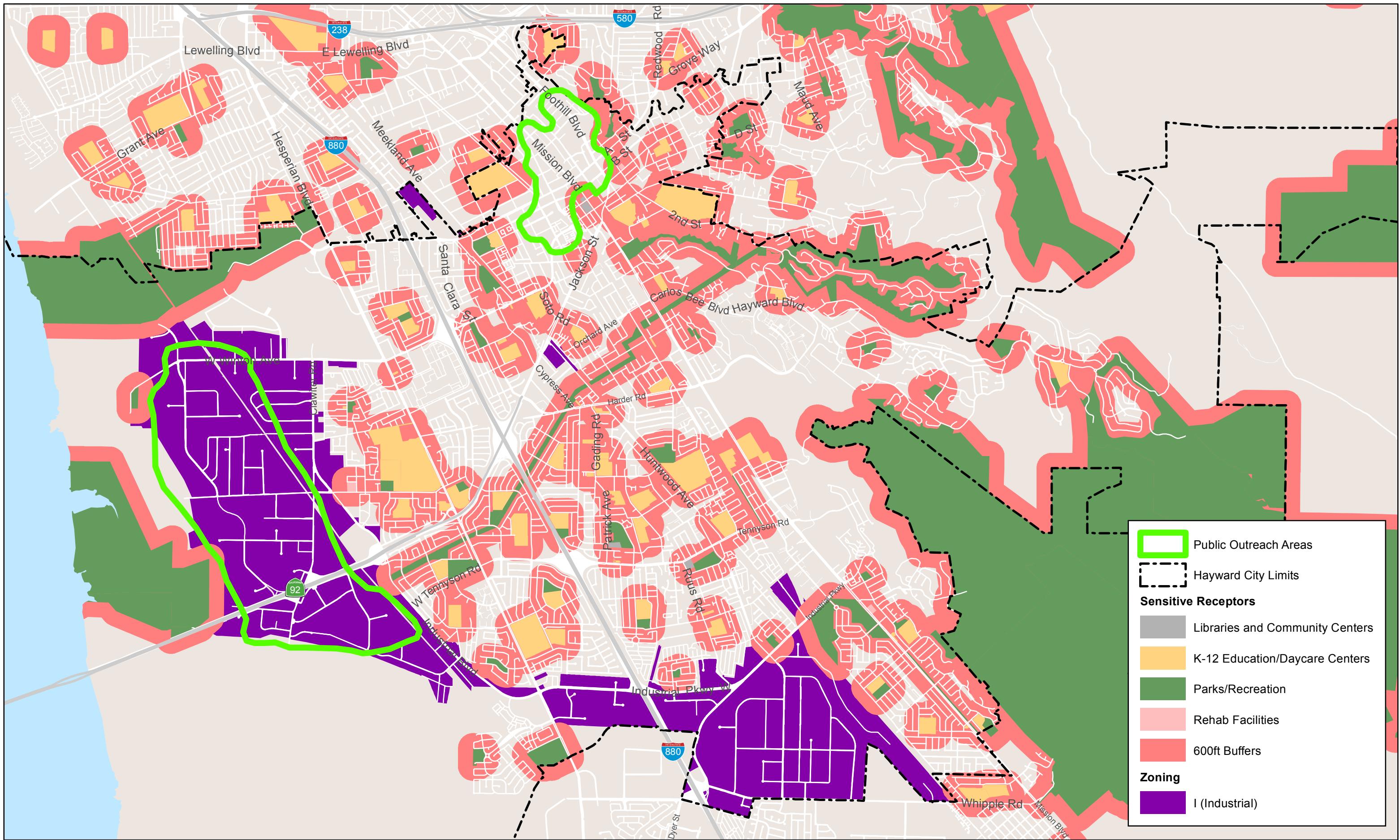
Where should the City allow them?  
2,090 responses





# Cannabis Buffer, Industrial Zoning and Public Outreach Map

0 0.25 0.5 1 Miles



**Item #18 LB 17-036**

**Hector Villasenor**

## Response to City of Hayward Proposed Ordinances

### SEC. 6-14.11 PERMIT REQUIRED.

#### Proposed Regulation:

- (c) No more than three (3) commercial cannabis permits for the operation of commercial cannabis businesses in the City shall be issued. Permits issued to cannabis testing laboratories shall not count against the permit limit established herein.

#### Comment:

- Inhibits vertically integrated businesses greatly placing burdens on businesses
- Change wording of permit to applicants so that it can allows for businesses to vertically integrate.
  - Examples of vertically integrated operations are Caliva and Harborside.
- You can easily house multiple licenses within the same facility for a single applicant
  - I.E One retail site that serves both medical and recreational cannabis would need two licenses.
  - A cultivation facility that also has in house extraction would also require two licenses.

#### Suggested Regulation Change:

- No more than three (3) commercial cannabis business applicants for the operation of commercial cannabis businesses in the City shall be issued. Permits issued to cannabis testing laboratories shall not count against the permit limit established herein.

#### Proposed Regulation:

- (d) A permit issued pursuant to this Article does not authorize the permittee to operate a commercial cannabis business until the permittee has obtained appropriate land use approvals pursuant to the Hayward Zoning Ordinance, **obtained an appropriate cannabis license from the State**, paid the annual business license tax required by Chapter 8 of this Code, paid all applicable fees and complied with other applicable state and City of Hayward laws and regulations.

#### Comment:

- Suggest that they change that requirement to (will apply for state licensing when appropriate).
- Businesses that are up and running before January 1, 2018 can remain open until their state application is approved or denied as long as they have local permit. (Allows Hayward to enter market early which is crucial for competitive advantage in this industry, otherwise will have to wait while already operational localities get priority).
- From MCRSA Section 19321(b)  
(b) Notwithstanding subdivision (b) of Section 19320, the premises or person that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter only if (1) a completed application and all required documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority and (2) the applicant continues to operate in compliance with all local and state requirements, except possession of a state license pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any premises or person that can demonstrate to the authority's satisfaction that the premises or person was in operation and in good standing with the local jurisdiction by January 1, 2016.

**Suggested Regulation Change:**

- (d) A permit issued pursuant to this Article does not authorize the permittee to operate a commercial cannabis business until the permittee has obtained appropriate land use approvals pursuant to the Hayward Zoning Ordinance, **submitted a signed statement that it plans to obtain an appropriate cannabis license from the State when they become available on January 1, 2018**, paid the annual business license tax required by Chapter 8 of this Code, paid all applicable fees and complied with other applicable state and City of Hayward laws and regulations.

**SEC. 6-14.12 CONTENTS OF APPLICATION.****Proposed Regulation**

- (a) Applications shall include:
  - VII. Proposed location(s) within the City where the business will be located including documentation showing that the property owner of the proposed location(s) consents to the operation of a commercial cannabis business at the location.

**Comment**

- We have talked to some willing property owners in multiple different sectors, including Downtown who want to participate but are hesitant to act based on the cities direction. Restricting operations to a single district that does not have the infrastructure certain licenses deprives these other districts economic opportunity.
- Economic opportunity of this business shouldn't be restricted to just one sector.
- SB94 also provides more protections for property owners at the state level who choose to participate in the legal cannabis industry.

SEC. 18. Section 26032 is added to the Business and Professions Code, to read:

26032. (a) The actions of a licensee, its employees, and its agents are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law if they are all of the following:

(1) Permitted pursuant to a state license.

(2) Permitted pursuant to a local authorization, license, or permit issued by the local jurisdiction, if any.

(3) Conducted in accordance with the requirements of this division and regulations adopted pursuant to this division.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and, if required by the applicable local ordinances, a local license or permit, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

**Suggested Regulation Change**

- Regulation requiring letter of intent by the property owner are fine as is. We only suggest that the scope of zoning that is considered is more consistent with what the voters responded to in the survey.

**Proposed Regulation**

- ix. A summary of the applicant's relevant experience in operating commercial cannabis businesses in other jurisdictions within the last five (5) years, with contact information for references in those jurisdictions.

**Comment**

- Subject to interpretation as new regulatory laws are more stringent and thus many businesses operational now would not be compliant under new regulations.
- Suggestion to change to relevant experience in fields that can be applied to commercial cannabis businesses (Regulated fields with oversight etc.).

**Suggested Regulation Change**

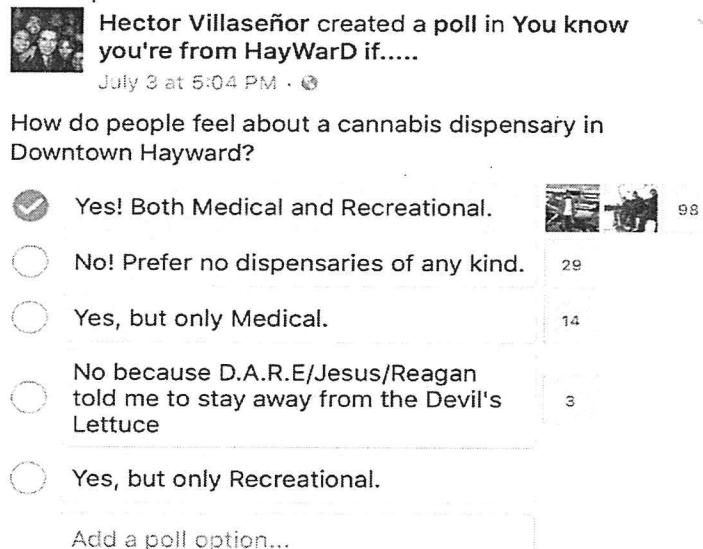
- ix. A summary of the applicant's relevant experience, either direct or indirect, in operating a commercial cannabis businesses or other local, state, or federally regulated business within the last five (5) years, with contact information for references.

**SEC. 6-14.13 APPLICATION REVIEW****Proposed Regulation**

- (b) Applications shall only be considered from persons or entities who hold or have applied for, or intend to apply for the following state cannabis licenses: Cultivation (Type 1A, 1C, 2A, 3A, 4); Manufacturer 1 (Type 6); Testing Laboratory (Type 8); Distributor (Type 11); Microbusiness (Type 12).

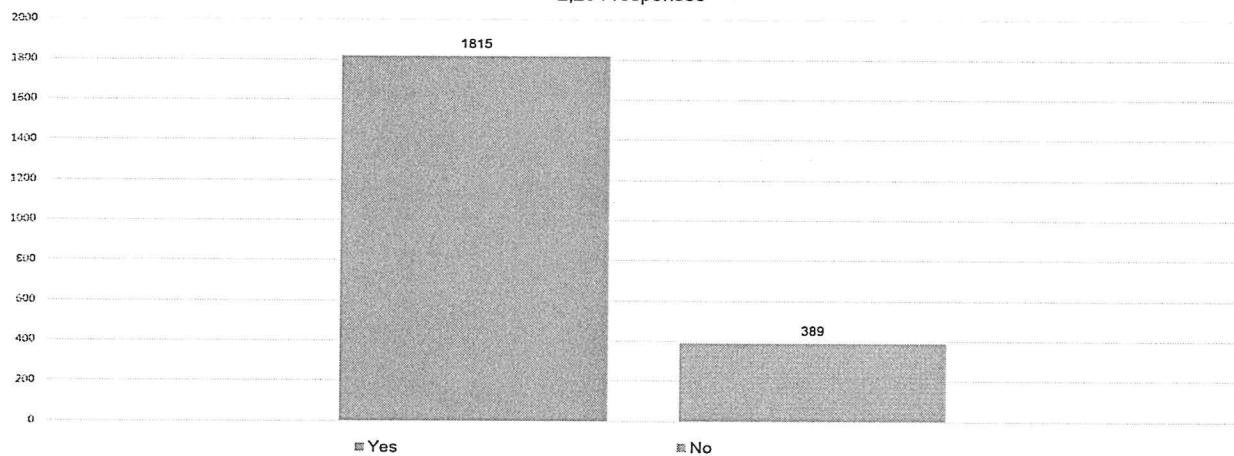
**Comment**

- This goes completely against the will of the voters who have made it clear they want cannabis businesses in the city. When a general consumer thinks cannabis business, the initial picture is a dispensary (Type 10) which is not listed here. Type 10 retail licenses should also be considered and furthermore allowed in commercial areas as determined by the council.
- A survey on July 3 on a Hayward page called "You know you're from HayWarD if....." yielded 146 responses the results which can be seen below:

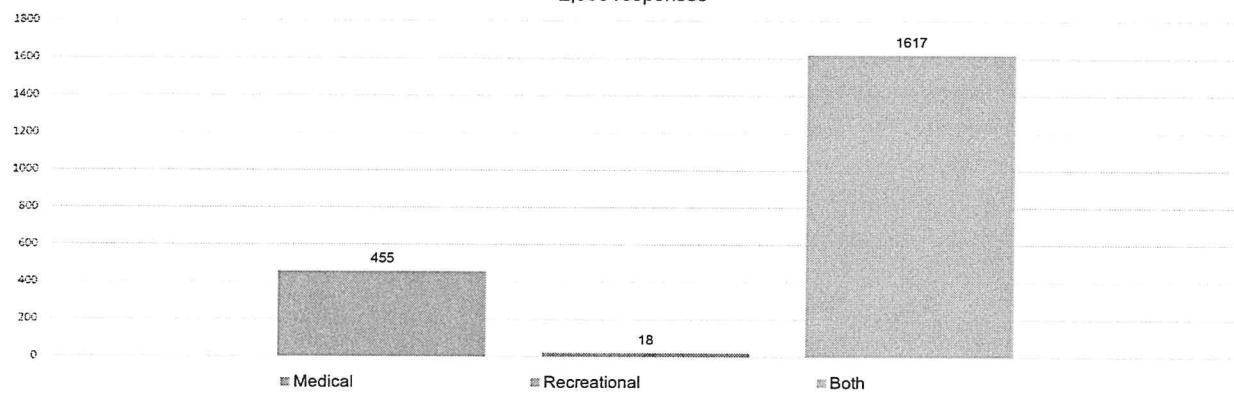


The results of this survey are consistent with the cities own survey results as demonstrated below.

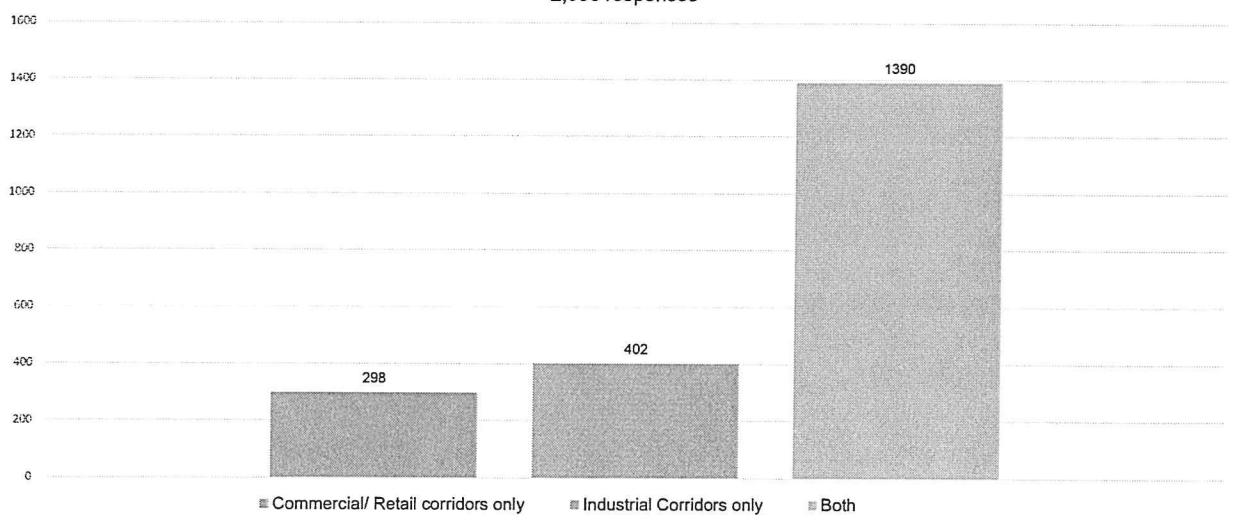
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Which kind of businesses should the City allow?  
2,090 responses



Where should the City allow them?  
2,090 responses



**Suggested Regulation Change:**

- (b) Applications shall only be considered from persons or entities who hold or have applied for, or intend to apply for the following state cannabis licenses: Cultivation (Type 1A, 1C, 2A, 3A, 4); Manufacturer 1 (Type 6); Testing Laboratory (Type 8); **Retailer (Type 10)**; Distributor (Type 11); Microbusiness (Type 12).

**SEC. 6-14.14 PERMIT ISSUANCE**

**Proposed Regulation:**

- Permits will be issued to three (3) applicants selected via a lottery system from among all applicants determined to be in compliance with Section 6-14.12 and 6-14.13 of this Article.

**Comment:**

- Terrible idea to issue licenses based on a lottery system. Suggest council does a ranking system where the top three applicants receive licenses for their businesses. The issues with a lottery system is that they are a mere simplification of the acumen that it takes to run a business of this nature.
  - Prime example of this is the amount of businesses owners who have not accounted for 280e into their business plans (if you don't know what 280e, this is exactly why a lottery system is a terrible idea).
    - See Attachment A.

**Suggested Regulation Change:**

- Instead should do what Berkeley did for its fourth dispensary
  - Each applicant spent 10 minutes pitching ideas for the city's fourth dispensary at the Medical Cannabis Commission's meeting, which was followed by an hour of inquiries from the commission and a public comment session.
- See Attachment B.
- See Attachment C for Marin Community Development Agency report on applications.

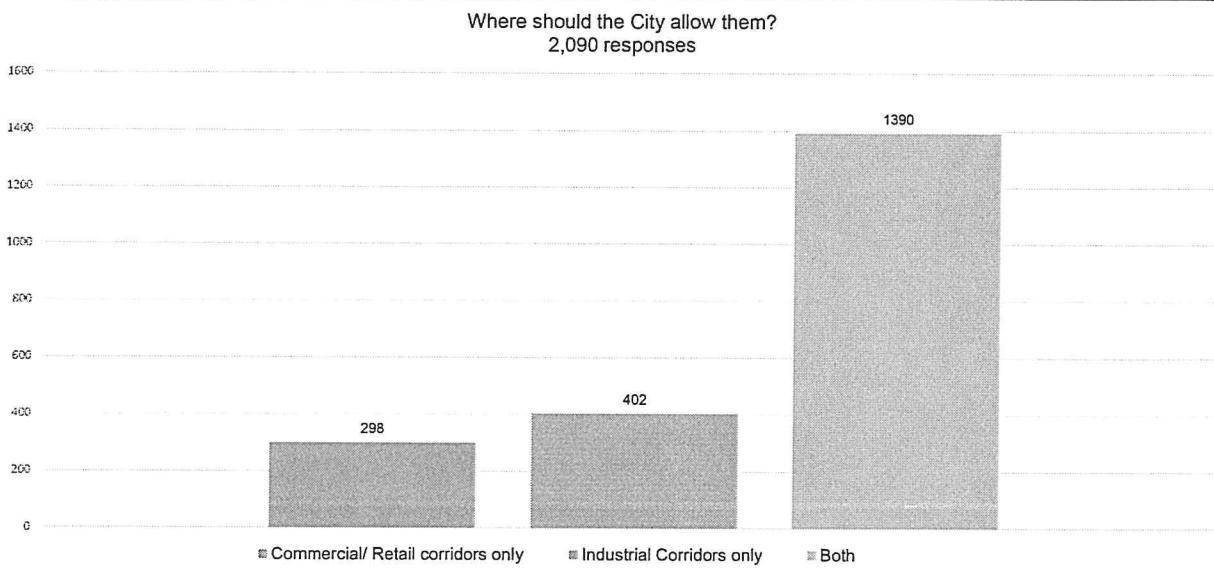
**SEC. 6-14.15 OPERATING AND PERFORMANCE STANDARDS.**

**Proposed Regulation**

- (a) Operations.
  - ii. Commercial cannabis businesses shall only be located in the Industrial District as defined in the Hayward Zoning Ordinance, as may be amended from time to time.

**Comment**

- This goes contrary to what the survey respondents answered. There really is no basis for this decision other than letting the minority opinion guide policy.



 **Hector Villaseñor** created a poll in You know you're from HayWarD if.....

July 3 at 5:04 PM • 0

How do people feel about a cannabis dispensary in Downtown Hayward?

- Yes! Both Medical and Recreational.  98
- No! Prefer no dispensaries of any kind. 29
- Yes, but only Medical. 14
- No because D.A.R.E/Jesus/Reagan told me to stay away from the Devil's Lettuce 3
- Yes, but only Recreational.

Add a poll option...

 Like

 Comment

 Share

#### Suggested Regulation Change:

ii. Commercial cannabis businesses shall be located in the Industrial District and Commercial/Retail Districts granted they are compliant with Hayward Zoning Ordinance and other distance requirements as mandated by state law.

#### Proposed Regulation

- iii. Commercial cannabis businesses holding a state issued microbusiness license with an approved retail component shall only sell medical cannabis or medical cannabis products to individuals authorized by state law to purchase medical cannabis or medical cannabis

products and adult use cannabis shall only be sold to individuals authorized by state law to purchase cannabis or cannabis products for adult use.

**Comment:**

- Should include provision to also include general retail license with same requirements.
- Also, doesn't make sense because a microbusiness is intended for businesses such as a cannabis café that would require on-site consumption.
  - It's like going to a bar to buy something to drink at home.
- This model would also completely negate the medical model as microbusiness licenses are primarily geared for recreational.

**Suggested Regulation Change:**

Include another provision that reads:

- iii. Commercial cannabis businesses holding a state issued retailer license shall only sell medical cannabis or medical cannabis products to individuals authorized by state law to purchase medical cannabis or medical cannabis products and adult use cannabis shall only be sold to individuals authorized by state law to purchase cannabis or cannabis products for adult use.

**Proposed Regulation**

- iv. Commercial cannabis businesses holding a state issued microbusiness license with an approved retail component may operate no later than 8:00 p.m. daily unless it is determined by the City that a later hour will not affect public health, safety, or welfare. An authorized retail component of a business is prohibited from operating between the hours that the City determines the dispensary should close and 9:00 a.m. the next ensuing day unless further restricted by the City

**Comment:**

- Report released by the Bureau of Marijuana Control in their Initial Statement of Reasons suggested a time frame between 6am and 9pm. (See Attachment D. Pg. 8).
- Suggest a 9am to 10pm initial time frame for storefront while allowing deliveries to extend to 12am.
  - Reasoning for late night is that roads will be less congested allowing for easier delivery and less traffic burden on the city.
  - Will allow stores to restock on supply at times that won't be a hassle for the city.
  - Will help in reducing exposure to children.
- Should include provision to also include general retail license with same requirements. (i.e. microbusiness and dispensary retail)

**Suggested Regulation Change:**

- iv. Commercial cannabis businesses holding a state issued microbusiness license or retailer license t may operate no later than 9:00 p.m. daily unless it is determined by the City that a later hour will not affect public health, safety, or welfare. An authorized retail component of a business is prohibited from operating between the hours that the City determines the dispensary should close and 9:00 a.m. the next ensuing day unless further restricted by the City

**Proposed Regulation:**

- Viii. Consumption or ingestion of cannabis or cannabis products shall not be allowed in the facility, outdoor areas or parking areas of the business.

**Comment:**

- Perhaps have them clarify how this would work with microbusinesses as this is contradictory.
- Allowing for on-site consumption would negate some of the concerns people have about the smell of cannabis or a nuisance.
- Allows people to have a dignified way of cannabis consumption just how people who consume alcohol can do so at a bar.
- Hypocritical of the city to condemn cannabis yet allow alcohol as the latter is associated with more health risks and adverse outcomes.

**Suggested Regulation Change:**

- Viii. On-site consumption or ingestion of cannabis or cannabis products will only be allowed indoors if proper ventilation equipment is in place but shall not be a nuisance outside of the facility.

**Additional Suggestions**

- Enact policies like Oakland's Equity Program to ensure residents of the city are allowed the opportunity to represent the city in this industry. (Attachment E).
- Hold more work sessions and involve stakeholders (both from community and the industry) to work on ordinances, such as this meeting, to successfully craft a policy that will be sustainable.
- Consider issuance of a temporary business license to potential applicants
  - Allows entrepreneurs to begin getting the groundwork needed for state licensing and securing Letters of Intent.
- Release statement to property owners so that they understand that the city is considering this initiative and they can determine if their property qualifies.
- Consider that the current tax rates for cannabis companies are astronomical at all levels particularly with the challenges of having access to banking and 280e from the IRS.
  - Suggest an incremental tax increase as cannabis becomes more accepted and tax burden becomes less heavy. Otherwise, prices would have to be high to counterbalance sustainability which will push people to the illicit markets where no tax revenue will be captured.

Attachment F.

To view a soft-copy of this report, visit the following link where you will find a copy of all relative attachments.

<https://drive.google.com/drive/folders/0BzSAXmLE4DrObnhsWTYyU3hLRHc?usp=sharing> or email info@calgreen.farm

## **PUBLIC COMMENTS**

**Kate Turney**

# PUBLIC COMMENT, July 18, 2017

The Hayward Airport's 206 Hangar Pilot's Task Force

Many of us who attended the 1990  
East Bay Celebration of Nelson  
Mandela's triumph over tyranny,  
tonight stand in praise of Hayward's  
Proclamation honoring Nelson  
Mandela.

Thank you for doing the right thing.

Week after week, looking at our  
community's history and your  
individual accomplishments, we are  
constantly reminded that we have  
much more in common than those few  
things that divide us.

With that in mind, I ask with profound  
sense amazement, "*What the hell are  
you doing?*"

For the past five months, the 206  
Hayward Airport's Pilot's Task Force has  
tried to understand why you are driving  
your friends away with your curious  
unsanctioned-secretive airport behavior.

No one in the City--from Manager to  
street sweeper--has yet answered two  
simple questions. ***Who*** authorized the  
10% (perhaps 51%) 2017 rent hike 206  
pilots will suffer in two weeks, and ***when***  
was that action authorized?

This matter will not magically disappear.  
Your individual and collective behavior is  
bewildering. We refuse to take your  
silence, month after month, as the answer  
to our legitimate question.

By Jerry Turney, HWD 1963-present  
The 206 Pilot's Hangar Task Force

## **PUBLIC COMMENTS**

**Jerry Turney**

To: The Hayward City Council  
From: Kate Turney  
Re: Nelson Mandela Day

July 18, 2017

Mayor Halliday, Council and Staff:

Last month, the Council declared itself a Sanctuary City, safe haven for those seeking new lives in this country. Tonight the Council honors Nelson Mandela, now safely dead and whose body rests 6,000 miles away.

What is more to the point is how you honor your own, right here, in this city.

Consider Russell City, now home to the industrial largesse of Hayward. It began as a haven for refugees from Denmark, to farmers, to migrants from the deep south, immigrants from Mexico. Jazz greats performed here regularly.

Hayward chose to use it as a dump for toxic waste, while black migrants, Mexican immigrants, and artists still lived there. It denied them clean water, plumbing, electricity, paved roads and, finally, burned the place down. While people were still living here. Only then did clean water, plumbing, gas, electricity and paving go in.

Hayward wanted an industrial park, and amenities are necessary for profit.

In what specific way does the Council honor Russell City and the contributions of its community? How does the Council atone for the wrongs committed against its people?

Consider now the Tuskegee Airmen. The Black Pilots Association is a huge presence at the Hayward Airport. The Hayward City Council acquiesced to a request to honor these heroes by naming a short road, no more than a grand driveway, really, "Tuskegee Airmen Drive."

What the Council actually put up were signs that read, "Tuskegee Drive." Reminded of the shocking implications of that racially charged insult honoring not the heroes, but the racist syphilis experiments performed on unwitting black men, the Council promised to change the signs, even though the Council sympathized with the business on that driveway suffering the inconvenience of having to change its stationery.

The grand driveway is still marked by signs reading, "Tuskegee Drive."

Historical material relating to the Tuskegee Airmen is stored for free at the Hayward Airport. It sits, unmarked, just outside the chainlink fence next to the bathrooms of the East T's. It is honored by no sign on the airport, no mention in airport information online. We have a luxurious new \$5M terminal with glittering display cases and empty rooms. Free space there would mean something, not only to the Airmen, but to all of us.

Do the right thing. Engage with the living people who address you now. Otherwise, your gesture is meaningless.

## **PUBLIC COMMENTS**

**Wynn Grcich**

# Opinion

Contact us: Phone: 925-977-8430 Fax: 925-943-8362  
Email: dhatfield@bayareanewsgroup.com

## Editorial

# *State should butt out of cities' deals*

A state bill that would give huge telecom companies a financial break and unprecedented rights to use public property at almost no cost is sailing through the Legislature this summer.

Why? Money, of course. Telecom companies measure profits in the tens of billions. California lawmakers understand this, so that's whose side they're on. The bill sailed through the Senate. Now it's up to the Assembly to stand up for communities — particularly low-income neighborhoods — that will be harmed by it.

SB 649 would prohibit cities from any discretionary review or public say on plans to put "small cell" wireless antennas on publicly owned light poles and other structures in any neighborhood. (Yes, even your neighborhood.) And it would sharply limit fees that cities charge private industry for using property or facilities that taxpayers have paid for.

Sponsored by Sen. Ben Hueso, D-Chula Vista, SB 649 is billed as cutting through permitting red tape and improving cell phone service. But it will slash millions in existing revenue to cities. And it will eviscerate cities' ability to bring high-speed Internet service to low-income neighborhoods.

Other mayors are joining forces with the League of California Cities to fight this outrageous power grab by the state and telecoms. We hope it's not too late.

Here are a few of SB 649's problems:

By preventing cities from negotiating over antenna locations, the bill eliminates their ability to push companies to provide high-speed access in underprivileged

areas. Without that leverage, companies will focus only on areas where they make the most money.

By limiting fees, the bill deprives cities of revenue they could use to increase access to broadband in those poor neighborhoods. Companies will save an estimated \$30 million statewide over 10 years — at the cost of public services.

By making public property broadly available to for-profit companies, the bill will limit cities' and counties' ability to locate their own communication equipment, such as police and fire systems and equipment from partners working on ways to help equalize Internet access.

And wait until neighbors find out they have no say over the clumps of electronic equipment that show up on light poles near their houses. But state legislators don't care about that. People won't call them; they'll scream to the local mayor and council members.

The bill sets a terrible precedent of forcing communities to all but give away public property for private profit. Yet it passed the Assembly local government committee last week and went to the Communication and Conveyance Committee on Wednesday.

So — where are area Assembly members? Many are fresh from serving on city councils. They could lead the fight to stop SB 649 in the Assembly and be the heroes of local government. And their voters.

**Other mayors are joining forces with the League of California Cities to fight this outrageous power grab by the state and telecoms. We hope it's not too late.**

\* YouTube: Six Deceptions Needed for Agenda 21 • World Mercury Project.org

\* YouTube: WiFi, Microwaves and the Consequences to Our Health - Dr. Barric Trower  
YouTube: Why these Romanian Immigrant Brothers voted for Trump. side timer to 5 mins Barric Trower  
SUNDAY, JUNE 11, 2017

000 BAY AREA NEWS GROUP A17

# Bill would turn California utility poles into cell towers

YouTube: The Truth About Vaccines

By Nina Beety

Most utility poles will become cell towers under Senate Bill 649. The bill strips municipal governments of decision-making power.

Spaced approximately every 10-20 homes, cell antennas will hang in one or more clusters on utility or light poles. Equipment cabinets the size of refrigerators, with cooling fans and back-up generators, will sit on sidewalks. Towers will be located in the public right of way a few feet from bedroom windows, offices, schools, hospitals and nursing homes.

Called "small cells", there is little difference in size for many of these antennas; the chief difference is the location on utility poles versus large towers. Measurements of these cell towers recently taken in Palo Alto found high levels of radiation on the sidewalk below them — levels higher than those associated in research with breaches in the blood-brain barrier, free radical formation, DNA damage, cancer and tumors, and heart rhythm disturbances.

What the levels are inside buildings a few feet away and in line with the antennas is anyone's guess.

This 24/7 exposure of the most vulnerable, including children, is ignored by the California Legislature. This isn't surprising since Capitol Weekly named AT&T lobbyist Bill Devine the 16th most powerful person in Sacramento last year. CTIA — the wireless industry — is the listed source of SB 649. And the telecom industry hosts the Pro Tem Cup in San Diego and Speakers Cup in Pebble Beach — lavish, hush-hush lobbying and

Look around you and see the leaning, bowing poles next to homes and buildings, hanging over streets and sidewalks. Malibu Mayor Andy Stern called these time bombs. Add more gear, multiply the number of poles impacted, and what will be the result?

COPY & PASS ON

fundraising events for the California Senate and Assembly members. How many members of the public can afford to buy a politician?

SB 649 is effectively eminent domain, taking the public's right of way for another use. The public has not agreed to cell towers in their front yard, but the bill states this is not a municipal affair.

Remember the Malibu fires, where officials evacuated the city? This was caused by utility poles overloaded with telecommunications equipment — AT&T, Sprint, Verizon, and NextG.

Look around you and see the leaning, bowing poles next to homes and buildings, hanging over streets and sidewalks. Malibu Mayor Andy Stern called these time bombs. Add more gear, multiply the number of poles impacted, and what will be the result?

The FCC's website says there are no federal standards for microwave radiation exposure. FCC exposure guidelines were derived from industry, and there is no policing or compliance testing of cell towers. Many exceed federal limits according to two surveys. Once installed, you're stuck, and due to federal laws, every company has to be allowed access to a location, even if that means the

same pole and higher radiation levels.

Do you have a utility pole in your back yard or along your fence line? That utility easement on or through your property means they can put anything on that pole. Undergrounded utilities in your neighborhood? New poles will be erected, or antennas will be mounted on homes. AT&T's new service agreement says you must agree to anything they want to install on or in your home (complain to the CPUC if you disagree).

Impacts to agriculture will be costly, with documented effects from microwave radiation to bees and other pollinators alarming international scientists. Industrial ag is already impacted by dying bees from other causes. Damage to trees and plants is also documented, but the Legislature ignores all of this and the costs to the public.

SB 649 is being rushed through the legislature before the public finds out. It has already passed the Senate. If you don't want cell towers next to your home and office, take action before it's too late.

Nina Beety is a writer and educator and member of the California EMF Safety Committee. She lives in Monterey.

\* YouTube: Dr. Barric Trower, Cell Phone Must See Video / Microwave Directed Energy Weapons  
YouTube: Oct 2014. Do you have a

\* YouTube: WiFi, Microwaves & the Consequences to our health - Dr. Barric Trower

\* YouTube: Agenda 21. The Plan to Kill You. David Icke

Thurs. July 6, 2017

SB 649

# Cities fight bill to streamline cell antenna installations

By Ramona Giwargis  
 giwargis@bayarea  
 newsgroup.com

Lawmakers in 179 California cities including San Jose, Oakland and San Francisco are fighting a bill to streamline permitting for wireless antennas on public buildings, streetlamps and traffic signal poles that they say would limit local control over where they go.

California Senate Bill 649, by state Sen. Ben Hueso, D-San Diego, proposes scaling back permit processes for wireless antennas and equipment in an effort to meet demand for wireless services. It would cap how much a local government could charge wireless companies for leases to \$250 per year, though it does not prohibit them from "mutually agreeing" to a charge that's different.

Supporters say the proposed law could lower cell phone bills for customers, increase wireless access, allow the state to deploy 5G networks and help California remain a leader in the wireless industry.

But the cities and counties opposing the bill say it would be a financial giveaway to telecom companies at the expense of taxpayers. Local officials, they say, would no longer approve the permits in a public hearing, and would lose their power to negotiate public benefits, critics say, such as network access for police, fire and parks.

"Our citizens should be concerned because they will no longer have any say-so over these things," said San Jose Councilman Johnny Khamis. "It takes away the control of



KARL MONDON — STAFF PHOTOGRAPHER

Street lamps and utility poles throughout the state may soon be hosting communication antennas under state Senate Bill 649, a bill opposed by many city officials, including those in San Jose.

where we can place them, the aesthetic qualities and how much revenues we can charge for use of public space."

Under the bill, phone companies like Verizon or AT&T could install antennas as large as 6 cubic feet and equipment boxes

as large as 35 cubic feet — about the size of a refrigerator — sparking concerns about visual blight from the bulky equipment.

SB 649 is primarily supported by the Cellular Telecommunications and Internet Association which said it will help

boost the economy. Locally, it's supported by the Silicon Valley Leadership Group, the Oakland Metropolitan Chamber of Commerce and the East Bay Leadership Council.

CALinnovates, a San Francisco coalition of tech companies, said consumer demand for faster broadband is growing, and Hueso's bill will help meet the demand.

"While increased connectivity will certainly allow more people to simultaneously stream over the top entertainment like *Orange Is The New Black*, small cells can also provide a cost-efficient method of increasing broadband speeds in rural communities, make public transportation systems more responsive and strengthen network connectivity during large public gatherings and events," chief evangelist Kish Rajan wrote.

The bill is opposed by California State Association of Counties, League of California Cities and Rural County Representatives of California.

"We don't want refrigerators on poles outside of people's windows," said Rony Berdugo, a legislative representative for the League of California Cities. "Despite promises being made by the wireless industry, this bill does nothing to guarantee the technology meets 5G, that it gets deployed to underserved areas and that whatever cost-savings they see from this bill is passed on to their customers."

San Jose Mayor Sam Liccardo, who went to the state Capitol last week to testify against the bill, said it forces the city to

give wireless corporations access to public property without input about the equipment's location or size.

The bill also doesn't allow San Jose to charge fair rates for leases, he added, and provides no guarantee that low-income areas will get better wireless connectivity.

Despite opposition from Liccardo and the mayors of Oakland, San Francisco, Los Angeles, Santa Ana and Long Beach, the bill passed the state Senate earlier this year and the Assembly's Local Government Committee on a 6-2 vote last week.

Bay Area lawmakers Jim Beall (D-San Jose), Bob Wieckowski (D-Fremont) did not vote on the bill when it came to the Senate floor in May. Senator Jerry Hill (D-San Mateo) voted in favor of it.

"We all expected that the committee would move the bill forward — as is customary for a powerful lobby like telecom — but by the time that this gets to the Assembly floor, we'll hear considerably from the more than 150 California cities that have joined San Jose in opposing this massive taxpayer subsidy of a half-trillion dollar industry," Liccardo said.

The bill next will be considered by the Assembly Communications and Conveyance Committee on July 12.

Supporters are hoping the legislation gets final approval by September. If approved by the Legislature, critics hope Gov. Jerry Brown vetoes the bill.

Contact Ramona Giwargis at 408-920-5705.

**Stop Smart Meters!**  
*Fighting for health, privacy, and safety*

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## **"Microwave Radiation has been Shown to Cause Neurological Damage"— Physicians and Other SB 649 Opponents Address California Assembly June 28th**

Posted on June 23, 2017 by Josh Hart



### **URGENT CALL TO ACTION FOR CALIFORNIANS:**

The Assembly Local Government Committee voted 6-1 to approve SB 649 on Wednesday June 28th (even after hearing the below testimony). It goes next to the Communications and Conveyance Committee at 1:30pm on July 12th. People are coming from all over the state to be there on this day to speak out against SB 649, including mayors, and regular people opposed to the bill. Will you be one of them?

There is also a protest planned the same day to coincide with a California Dept. of Public Health anniversary celebration event happening on the south steps of the Capitol at 10:30am. (FYI- contact Ellie Marks of the CA Brain Tumor Association at [elliemarks@gmail.com](mailto:elliemarks@gmail.com) 925 285 5437).

This would be a perfect day to pack your cars, pack the buses and trains and head to Sacramento. That is unless you'd prefer to erect barricades in your street with your neighbors (or flee yet again). Time to act, and get others around you to act, to stop ubiquitous micro-cells from becoming the status quo.

We don't want to wonder what could have been, if only we hadn't left some of our horses in the barn, when the bill is signed by the governor and Verizon installation trucks roll down your street.....

**TAKE ACTION to Stop SB 649**— this bill would strip all local govt. planning control over thousands of new cell sites planned for residential neighborhoods **where you live**.

**ATTEND July 12th SB649 Hearing in Sacramento and the CA Dept. of Public Health event (CDPH has been suppressing cell phone health warnings for years).**

**CALL your Assemblymember today** and insist they vote NO on SB649.

## **COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

**Council Member Lamnin**



**WWW.STOPWASTE.ORG**