

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-

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

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

WHEREAS, in January 2019, the City of Hayward initiated a Zoning Text Amendment to amend Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code (HMC) to allow additional flexibility for the establishment of commercial cannabis activities near sensitive land uses and a reduction in the over-concentration buffer for commercial cannabis retail dispensaries;

WHEREAS, commercial cannabis retail dispensaries are required to maintain a 1,000 foot over-concentration buffer from other cannabis retail dispensaries and all commercial cannabis land uses are required to maintain a 600-foot buffer from sensitive land uses, including schools, day care centers, and youth centers, with the exception that commercial cannabis land uses can locate within 600-feet of parks, libraries and open space areas containing children's areas if additional findings of necessity can be made;

WHEREAS, the proposed text amendments would allow additional flexibility for the establishment of commercial cannabis businesses from sensitive land uses, as defined in the Hayward Municipal Code, if additional findings of necessity can be made and in addition to the required findings for a Conditional Use Permit and special findings for all Cannabis activities; and allows commercial cannabis retail dispensaries the ability to locate within 500 feet from another retail dispensary;

WHEREAS, on February 28, 2019, the Planning Commission considered Zoning Text Amendment Application No. 201900727 at a public hearing, and voted (4-1-0), that the City Council approve the Zoning Text Amendments; and

WHEREAS, a Notice of Public Hearing was published in the manner required by law and the hearing was duly held by the City Council on March 19, 2019.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The proposed text amendments are exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Zoning Text Amendment to the Hayward Zoning Ordinance would reduce the over-concentration buffer between retail dispensaries to 500 feet and require additional findings for commercial cannabis uses locating within 600 feet of sensitive land uses. Commercial cannabis operators would still be subject to the RFP review and selection process and subject to the land use entitlement process, which would evaluate applications on a case-by-case basis for environmental impacts pursuant to CEQA.

FINDINGS FOR A ZONING TEXT AMENDMENT TO THE HAYWARD MUNICIPAL CODE

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

The proposed text amendments will ensure public health, safety, convenience, and general welfare of the residents of Hayward through the review and evaluation of cannabis operations as part of the RFP process, the State's regulatory framework, and the Use Permit process, which ensures any impacts resulting from commercial cannabis operations be minimized. Additionally, the proposed text amendments will promote additional employment and business opportunities with the allowance of commercial cannabis businesses in Hayward.

The amendments will result in land uses in the commercially and industrially zoned areas that are compatible with existing and future uses. Specifically, the proposed amendments will ensure that any cannabis business will operate in such a manner to minimize public safety and public nuisance impacts while incorporating appropriate measures to mitigate possible environmental impacts associated with business activities. The State, through the passage of the MAUCRSA, has found substantial evidence that cannabis has medicinal value for many health conditions that otherwise would result in a compromised quality of life for residents.

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

The proposed text amendments contained herein are consistent with the goals and policies of all elements of the *Hayward 2040 General Plan*, and any applicable specific plan in that the amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses. The proposed text amendments are internally consistent with other applicable provisions of Chapter 10 of the Municipal Code in that the entirety of the Code will apply to cannabis uses located within proximity to other sensitive land uses, as

defined by the City and State. The proposed amendments are consistent with the following policies and actions of the *Hayward 2040 General Plan*:

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

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

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

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

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

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

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

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

No properties are proposed to be reclassified with the proposed text amendment pertaining to cannabis. A beneficial effect will be achieved with the proposed revision to the HMC, as it will allow for cannabis businesses with greater flexibility to locate within the City upon demonstrating that: 1) the public convenience and necessity will be served by an alternate distance requirement; and 2) alternative measures have been taken by the applicant to assure public health and safety are in place with respect to a commercial cannabis business.

The adopted State regulations, along with the additional local regulations with special findings and operational requirements, will ensure that any proposed cannabis business will operate in a manner which is compatible with present and potential future land uses.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of Zoning Text Amendment Application No. 201900727, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 19-\_\_) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward