



DATE: October 17, 2017

TO: Mayor and City Council

FROM: City Attorney
Interim Development Services Director

SUBJECT Adoption of a Resolution and Introduction of Ordinances Related to Cannabis:

1. Zoning Text Amendment (Application No. 201705042) to Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code.
2. Land Use Regulations pertaining to Medical and Adult Use Cannabis within the City of Hayward.
3. Ordinance adding Article 14 to Chapter 6 of the Hayward Municipal Code regarding Commercial Cannabis Businesses.
4. Ordinance amending Article 6 of Chapter 5 of the Hayward Municipal Code regarding Smoking Pollution Control.
5. Revisions in the City's 2018 Master Fee Schedule to include Commercial Cannabis Licensing and Inspection program.

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment II) and introduces the following ordinances related to cannabis:

1. Zoning Text Amendment to Chapter 10, Planning, Zoning, and Subdivisions, of the Hayward Municipal Code (Attachment III);
2. Land Use Regulations for Medical and Adult Use Cannabis for Personal Cultivation and Commercial Cannabis Businesses (Attachment III);
3. Ordinance adding Article 14 to Chapter 6 of the Hayward Municipal Code regarding Commercial Cannabis Businesses (Attachment IV);
4. Ordinance amending Article 6 of Chapter 5 of the Hayward Municipal Code regarding Smoking Pollution Control (Attachment V); and
5. Master Fee Schedule revisions for the annual inspections related to Commercial Cannabis Businesses.

SUMMARY

In response to State mandated deadlines and Council direction, the Development Services Department and City Attorney's Office have drafted a new regulatory and land use ordinance to establish guidelines for personal cultivation and provide land use guidelines and development standards to allow the commercial cultivation, distribution, delivery, manufacturing, testing, and retail dispensaries of cannabis land uses in the City of Hayward.

City staff is proposing a series of zoning text amendments, coupled with new land use guidelines that rely on the existing land use entitlement process, to permit the establishment of new commercial cannabis businesses in the City and regulate the placement of personal cultivation, consistent with State law. The existing Administrative Use Permit (AUP) and 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 to accommodate commercial cannabis uses: (1) amend the Zoning Ordinance to include land use descriptions of commercial cannabis businesses; (2) amend provisions related to various commercial and industrial zoning districts to identify compatible cannabis land use types which are permitted outright or as an allowed use, subject to issuance of an Administrative Use Permit or Conditional Use Permit (CUP); (3) amend the Zoning Ordinance to include general regulations and special findings that must be made by the Council in order to approve a commercial cannabis business land use; and (4) amend the Zoning Ordinance to include general regulations pertaining to personal cultivation. The proposed zoning text amendments and land use ordinance, included as Attachment III, were reviewed and recommended for City Council adoption by the Planning Commission during the September 14, 2017 Planning Commission meeting.

Staff has also developed a commercial cannabis business regulatory ordinance that creates a regulatory framework for issuance of commercial cannabis business permits and imposes specific minimum performance standards on those businesses. Additionally, staff has developed amendments to the Smoking Ordinance to conform with state law and the proposed local cannabis regulatory framework.

BACKGROUND

City Council Work Sessions. The City Council held two separate work sessions earlier this year to discuss cannabis in Hayward: March 2017 and July 2017. 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 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 the comments received from the work session in March, staff prepared a draft regulatory ordinance that establishes a framework for the issuance of business permits for commercial cannabis operations and imposes operational and performance standards for commercial cannabis businesses. On [July 18, 2017](#), staff presented the draft regulations for Council review and feedback. While generally supportive of the regulatory framework, the Council directed staff to eliminate the proposed limit to the number of cannabis business permits and suggested that new cannabis businesses be evaluated on a case-by-case basis following the issuance of a RFP process to ensure that the business operations are consistent with the City's long-term economic, environmental and land use objectives. The Council also indicated a willingness to allow a variety of cannabis land uses in the City's commercial and industrial areas. Staff has revised the draft regulatory ordinance and has developed a draft land use framework consistent with the direction provided by Council.

Planning Commission. The Hayward Planning Commission reviewed the draft land use Ordinance at their regular meeting on [September 14, 2017](#). Following feedback from the public, the Commission voted unanimously to recommend approval of the proposed land use Ordinance to the City Council. Additionally, the Commission recommended the buffer requirements for "Park" and "Open Space" areas be clarified and further defined to provide guidance to potential cannabis operators as it relates to buffering use to children. In response to Commission feedback, staff has revised the proposed land use ordinance to clarify the recommended buffers from park areas that contain children's playgrounds and/or children activities. Similar to *Alcohol Beverage Outlets*, staff has included an additional provision that provides some flexibility on the required buffer setback distance with the approval of a Conditional Use Permit. The additional language allows the Planning Commission the ability to reduce the required 600-foot buffer from public parks and open space areas upon finding that the public convenience and necessity will be served by an alternate distance requirement and that alternative measures to assure public health and safety are in place with respect to a commercial cannabis business.

DISCUSSION

As part of the regulatory and land use framework proposed by staff, cannabis operators would be required to obtain multiple approvals through a two-step process at the local level in addition to State licensing. First, an applicant would be required to receive approval of a Commercial Cannabis Business Permit by the City to assure that all regulatory requirements are met. Second, the applicant would be required to obtain the necessary land use entitlements, that consider the location, size and types of proposed uses allowed, consistent with the Zoning Ordinance standards. Any cannabis business operating in the City pursuant to City-issued permits must also obtain a cannabis license from the State. As currently proposed, failure to obtain the State license would be grounds for revoking the City's permit.

In response to local and state licensing requirements, the cannabis industry has been adjusting to the new regulatory oversight from the State and the local agencies that choose to regulate this industry. Local agencies in California generally have little experience regulating

cannabis uses and best practices will evolve over time. As such, any community choosing to allow this use and regulate this industry, including the City of Hayward, will most likely need to adapt and update the regulatory and land use framework to respond to unforeseen issues. If warranted, staff will propose adjustments to the regulatory and land use ordinance for consideration by the Council in the future.

Draft Regulatory Ordinance. Following Council direction at the two previous work sessions, staff has prepared a revised draft of the regulatory ordinance (Attachment IV) for review by the Council. The 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:

- Applications for permits will be accepted pursuant to a request for proposal process.
- Applications will be scored and ranked based on objective criteria and standards.
- Applicants for permits must submit detailed operational/business plans, security plans, and submit to criminal background investigations as part of the application process.
- Once all applications have been evaluated, staff will provide a report and recommendation to Council regarding selection of permittees.
- In order to commence operation, a business must obtain the commercial cannabis business permit, land use authorization such as AUP or CUP, 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.
- The City Council may adopt a resolution setting limits on the number of permits to be issued.
- The City Council may adopt a resolution setting the local tax to be imposed pursuant to Measure EE.

Draft Land Use Ordinance. The proposed land use ordinance would establish performance and operational standards for all commercial cannabis activities in the City of Hayward, including cultivation, manufacturing, testing laboratories, delivery, distribution, and retail dispensaries. Specifically, the Ordinance proposes seven new land use definitions and includes a set of development and operational standards applicable for each:

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

Additionally, the Ordinance establishes general criteria for the regulation of personal cannabis cultivation, including location and minimum screening requirements. Details on the specific regulatory and land use requirements are listed below.

Special Use Permit Findings. In addition to the required findings in the City's Zoning Ordinance for Administrative Use Permits and Conditional Use Permits, staff is recommending four special findings be made for all cannabis land uses. These more specific land use findings allow the City the opportunity to evaluate site-specific locations and business operations on a case-by-case basis and provide greater direction on mitigating potential impacts. Staff is recommending these four special findings be made in addition to the general findings necessary to approve any Administrative or Conditional Use Permit:

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 or commercial uses.

Personal Cultivation. Both AUMA/MAUCRSA legislation allows cultivation of cannabis by persons aged 21 or older on private property for personal use. Specifically, the State law allows cultivation for personal use of up to 6 cannabis plants per dwelling. While the City can impose reasonable regulations on indoor cultivation for personal use, the City cannot prohibit it. AUMA/MAUCRSA authorizes municipalities to completely prohibit outdoor cultivation for personal use; however, staff is not proposing such a prohibition at this time.

While the proposed Ordinance does not regulate the indoor vs. outdoor location of cannabis cultivation, it does include some general regulations that govern placement on the site, screening, and provisions that require indoor cultivation be within a legally constructed structure and grown by someone who resides on the property. In addition, State law does allow landlords the ability to prohibit cannabis cultivation from being grown by tenants on-site if the property owner chooses to prohibit this activity as part of a lease agreement. The proposed Ordinance regulations are not intended to be overly burdensome, but are intended to ensure that any personal cultivation activity in a residential area does not result in increased public safety, building code or public nuisance issues.

Smoking Pollution Control Revisions. In addition to the regulatory and land use ordinance proposed, other text amendments to the Hayward Municipal Code are necessary to ensure consistency with existing regulatory and land use regulations adopted by the Council, as well as to ensure consistency with the new requirements of State law. Specifically, staff has included the revisions to Chapter 5, Article 6 (Smoking Pollution Control) to reflect the addition of cannabis and cannabis products.

Annual Cannabis License Fee. Consistent with City Council directives to ensuring the cannabis licensing program maintains full cost recovery, staff is proposing an annual cannabis license fee of \$10,000 per business, to cover the total cost of one annual inspection by the City's code enforcement and public safety divisions to ensure compliance with local and state law. The proposed cannabis licensing and inspection program is similar to the existing smoking inspection program, which is currently administered for tobacco related businesses operating in the City.

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% until 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. Staff is currently evaluating different tax scenarios and will present this options for Council consideration at their special meeting on October 30, 2017. Council can also provide preliminary feedback on desired tax rates at this meeting.

Other Regulatory Ordinances. As of March 2017, there were eighteen licensed medical marijuana retailers in Alameda County – six in Berkeley, seven in Oakland, two in San Leandro (with a third pending) and two in unincorporated Alameda County.

All local jurisdictions that allow MCRSA businesses have adopted regulatory ordinances unique to these kinds of business models. These ordinances require ownership disclosures and backgrounds of the owners and employees, hours of operations, security requirements, signage and lighting controls on air emissions, inventory controls and financial practices, license review, inspections and revocation and so on. These requirements would be in addition to the state licensing requirements under MCRSA and AUMA. The City's proposed land use regulations incorporate similar operational measures to minimize environmental impacts and ensure public safety.

Some jurisdictions have established a limit on the number of MCRSA businesses allowed – San Leandro has a maximum of three MCRSA businesses, while unincorporated Alameda County will allow up to five dispensaries. With this approach, jurisdictions often invite requests for qualifications to evaluate potential businesses before selecting an operator. Other jurisdictions use land use controls and separation requirements, which by their nature tend to limit the number of such businesses. While the City Council did not support a limit to the total

number of cannabis businesses operating in the City, there was some support to limit certain types of cannabis businesses and evaluate the impacts and benefits of those businesses through a RFP process, which is anticipated to be released shortly. While neither the draft land use ordinance nor the regulatory ordinance propose a limit on the number of cannabis businesses in Hayward, the City Council retains the discretion to limit the number of licenses issued, if desired.

Based on feedback from Council, staff is proposing several zoning text amendments to accommodate commercial cannabis land uses in the City as well as establish a series of cannabis specific guidelines that apply to personal cultivation and commercial cannabis businesses in the City. As previously mentioned in this report, the proposed zoning ordinance text amendment would amend select commercial and industrial zoning districts to add six new land use definitions and related business activities for commercial cannabis uses and establish an entitlement process required for each. A more thorough review and analysis for each of the proposed land uses is detailed below.

Commercial Cannabis Cultivation. The State defines, regulates and licenses Commercial Cultivation businesses based on the size of the proposed land use: Cannabis Cultivation up to 5,000 square feet; and Cannabis Cultivation 5,001 square feet and over. Similarly, staff believes that the scale of the Commercial Cannabis Cultivation operations should be considered when evaluating potential land use impacts and processing land use entitlements. For smaller-scale Cultivation businesses containing 5,000 square feet and below, staff is recommending these be permitted in the Industrial zoning district with an Administrative Use Permit. For large-scale Cultivation operations that exceed 5,000 square feet, staff is recommending these be permitted in the Industrial zoning district with a Conditional Use Permit. Additionally, both small and large-scale cultivation activities would be subject to the general requirements and use-specific regulations contained in Section 10-1.3600.

Commercial Cannabis Testing Laboratories. Commercial Cannabis Testing Laboratories are not anticipated to have noticeably different impacts than other testing facilities currently in operation in Hayward. In fact, staff anticipates that many of the existing testing facilities currently operating in the City, will expand their business operations to accommodate the new State licensing requirements related to cannabis testing. Staff believes the additional business operations, which will be regulated by the State, will have little, if any, land use impacts as a result of cannabis and as such, staff is recommending that these cannabis testing laboratories be permitted (Industrial) or administratively permitted (Commercial), pursuant to the general requirements established in Section 10-1.3600.

Commercial Cannabis Manufacturing. For the purposes of the land use impacts, there are two types of manufacturing activities designated by the State: Level 1 and Level 2. The principal distinction between the two levels is that Level 1 involves the use of non-volatile solvents or no solvents for the manufacturing process while Level 2 may involve use of volatile solvents, such as butane. Allowing both types of manufacturing creates opportunities for additional cannabis businesses to operate within the City, but Level 2 manufacturing has a greater potential for public safety issues, including a higher risk for explosion and fire. Although the State does regulate the use and storage of Level 2 volatile substances in the manufacturing

process, much of the regulations and oversight depend on the level and degree of business compliance with the State regulations. Due to the relatively unknown use of these substances in the cannabis manufacturing process, staff is recommending a prohibition on this type of activity until greater and more detailed research is completed.

While manufacturing operations can vary greatly, the Commercial Cannabis Manufacturing – Level 1 uses are not anticipated to be noticeably different from other manufacturing uses that do not involve cannabis. For example, the impacts related to the manufacturing and production of edible cannabis products, such as candy or baked goods, may not be significantly different from other food production uses already in existence in the City. Staff believes the CUP for Level 1 manufacturing activities is appropriate and provides an opportunity for the City to evaluate these uses on a case-by-case basis and to incorporate any site or use-specific conditions to mitigate impacts. Additionally, all Commercial Cannabis Manufacturing operations would be subjected to the general regulations and use-specific requirements contained in Section 10-1.3600.

Commercial Cannabis Retail Dispensaries. Commercial Cannabis Retail Dispensaries are typically the land use activity that results in the greatest number of potential impacts related to public safety, traffic, noise, and odors. In evaluating possible locations where retail dispensaries could locate, staff reviewed the existing commercial zoning districts that allowed the age-restricted, controlled access land uses, such as bars, nightclubs, smoking lounges, and determined that from a land use perspective, retail cannabis dispensaries were not significantly different. As such, the draft land use ordinance only proposes to allow retail cannabis dispensaries in select zoning districts that currently permit similarly sensitive land uses but includes additional site and operational requirements intended to mitigate and minimize potential impacts on-site and on nearby properties. Staff believes that similar to other controlled-accessed land uses, retail cannabis dispensaries should be subject to the CUP process and be required to meet all the general and land use regulations identified in Section 10-1.3600.

Commercial Cannabis Delivery. Although cannabis delivery operations associated with a Commercial Cannabis Retail Dispensary would be conditionally permitted and evaluated as part of the CUP process, staff considers a delivery-only business that provides the transport of medical and non-medical cannabis to clients and between various cannabis operators to be similar in nature to other Administrative and Professional Office uses currently established in the City. Many of these proposed uses would require multiple vehicles to facilitate the delivery of goods and an office area for the personnel, operational and administrative functions of the business. Staff believes these business operations will have little, if any, site-specific impacts resulting from cannabis delivery. As such, staff is recommending Commercial Cannabis Delivery be a “permitted” use in the Industrial zoning district and allowed in select Commercial zoning districts with an Administrative Use Permit. Like other uses, Commercial Cannabis Delivery operations are subject to the general regulations and use-specific requirements in Section 10-1.3600.

Development Standards and Mandatory Buffer. While many of the existing development standards for the underlying zoning district would apply to cannabis land uses (parking,

building setbacks, landscaping), there are additional guidelines which staff has included in the draft Ordinance to ensure public safety and minimize potential impacts to other sensitive land uses in the area. Specifically, State law requires that all Cannabis businesses be subject to a 600-foot minimum setback from the sensitive land uses as described in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768. These sensitive land uses include kindergarten, any schools (grades 1 through 12), day care center, and youth/recreation centers. In addition to the uses identified by the State, staff is proposing to expand the buffer to include other land uses where children and under-aged persons could congregate, including public parks, libraries and designated open space areas. Public parks and open space areas that do not contain a playground or children's activities are not included as part of staff's recommendation. While the inclusion of parks and open space areas is over and above the State's minimum requirements, the proposed buffers will further limit the possible exposure of these uses by minors and are consistent with how the City has controlled other sensitive, age-restricted uses, including bars, nightclubs, liquor stores and smoking establishments. As part of the CUP issuance for any proposed cannabis business, the Planning Commission may reduce the buffer around parks that contain playgrounds or children's activities if the Commission finds that the public convenience and necessity will be served by an alternate distance requirement and that alternative measures to assure public health and safety are in place with respect to a commercial cannabis business.

In addition to the 600-foot mandated State buffer, staff is also recommending a commercial cannabis retail dispensary buffer of 1,000 feet to minimize potential for over-concentration of these uses in the City's commercial areas. Even with the proposed 1,000-foot minimum buffer, staff believes the potential number of retail dispensaries, unless limited, remains significant. Maps of the permitted zoning districts for each of the cannabis land uses are included as Attachment III.

ECONOMIC IMPACT

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.

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.¹ 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 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.

FISCAL IMPACT

Staff anticipates that a significant cost from cannabis uses would be associated with the administration of land use and regulatory ordinances, depending on the number and type

of businesses Council chooses to allow. 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. 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.

Following the July work session, Council set an initial deposit of \$5,000 in the Master Fee Schedule per proposal. 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.

STRATEGIC INITIATIVES

The proposed regulatory and land use ordinances are consistent with the goals and policies of the *Hayward 2040 General Plan*, and more specifically, are consistent with two of the Council's Strategic Initiatives: Complete Communities and Tennyson Corridor. Under the proposed regulatory and land use framework, new cannabis land uses could be established in select locations along the Tennyson Corridor and would support the Complete Communities Initiatives by diversifying employment opportunities and creating redevelopment and adaptive reuse of existing properties along the Tennyson Corridor and other locations throughout Hayward. Staff has identified several goals and policies of the Hayward 2040 General Plan, which support the Council's Initiatives:

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

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

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

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

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

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

SUSTAINABILITY FEATURES

As part of the land use entitlement process, the Administrative Use Permit and Conditional Use Permit process would identify and address sustainability impacts related to commercial cannabis businesses. While each proposed project will be subject to CEQA environmental assessment, the proposed land use ordinance requires cannabis cultivation and manufacturing operations submit a Sustainability Plan that demonstrates and incorporates project-specific sustainable features, such as green building materials, incorporation of water conserving devices and use of solar panels.

PUBLIC CONTACT

Following the March 21, 2017 City Council 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, and links to the survey. In total, over 2,250 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 (82%) 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, 50% of respondents believed the City should allow an unlimited number of businesses, while 13% said the City should only allow delivery operations. Overwhelmingly, 66% of respondents indicated that the City should allow cannabis businesses in the commercially and industrially zoned areas of the City. A copy of the survey results is included as Attachment IV.

NEXT STEPS

If the City Council introduces the attached ordinances this evening, they will be brought back for adoption during a special meeting scheduled for October 30, 2017. The text amendment to the zoning ordinance and the land use regulations will be effective upon adoption. The regulatory ordinance and the amendments to the Smoking Ordinance will be effective 30 days after adoption. At the October 30 special meeting, the City Council will also be asked to consider possible scoring criteria for the Request for Proposal process and discuss the proposed sales tax rate for commercial cannabis businesses in Hayward. Staff has hired an outside consultant to assist in the identification of possible scoring criteria and best practices for inclusion in the draft Request for Proposals and will assist with the discussion during the special meeting. This third-party consultant will provide an independent evaluation and scoring of the cannabis business proposals following the release of the RFP and anticipates presenting the final scores for proposals in each land use category to the Council for final consideration in December 2017.

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

Recommended by: Stacey Bristow, Interim Development Services Director
Michael S. Lawson, City Attorney

Approved by:



Kelly McAdoo, City Manager