



# CITY OF HAYWARD

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

## Agenda

### Planning Commission

---

**Thursday, June 10, 2021**

**7:00 PM**

**Remote Participation**

---

#### PLANNING COMMISSION MEETING

COVID-19 Notice: Consistent with State of California Executive Order No. 29-20 dated March 17, 2020, and Alameda County Health Officer Order No. 20-10 dated April 29, 2020, the Planning Commission will be participating in public meetings via phone/video conferencing.

Please note that we are now using the Zoom Webinar platform to conduct meetings and receive live public comment.

How to watch the meeting from home:

1. Comcast TV Channel 15
2. Live stream <https://hayward.legistar.com/Calendar.aspx>
3. YouTube Live stream: <https://www.youtube.com/user/cityofhayward>

How to submit written Public Comment:

Send an email to [cityclerk@hayward-ca.gov](mailto:cityclerk@hayward-ca.gov) by 3:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the Planning Commission and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda. Written comments received after 3:00 p.m. that address an item on the agenda will still be included as part of the record.

How to provide live Public Comment during the meeting:

Please click the link below to join the webinar:

<https://hayward.zoom.us/j/98236210572?pwd=TkNIN3cvbDVFdVJqNU5BRklhR2lCZz09>

Webinar ID: 982 3621 0572

Passcode: PC6/10@7pm

Or One tap mobile :

US: +16699006833, 98236210572#, \*3285630529# or +12532158782, 98236210572#, \*3285630529#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799  
or +1 929 205 6099

Webinar ID: 982 3621 0572

Passcode: 3285630529

International numbers available: <https://hayward.zoom.us/j/aeEasMRUNf>

A Guide to attend virtual meetings is provided at this link: <https://bit.ly/3jmaUxa>

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMENTS**

*The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Commission is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff for further action.*

**ACTION ITEMS**

*The Commission will permit live public comment as each item is called at the time indicated by the Meeting Chair.*

**PUBLIC HEARING**

**For agenda item No. 1 the Planning Commission may make a recommendation to the City Council.**

- 1. [PH 21-052](#) Proposed Text Amendments to Chapter 6, Article 14 (Commercial Cannabis Businesses) and Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code for the Regulation of Personal and Commercial Cannabis in the City of Hayward (Application No. 202102446)

- Attachments:** [Attachment I Staff Report](#)  
[Attachment II Draft Findings for Approval](#)  
[Attachment III Proposed Zoning Text Amendments](#)  
[Attachment IV Proposed Zoning Maps and Land Use Table](#)  
[Attachment V Proposed Business Regulatory Amendments](#)

**COMMISSION REPORTS**

Oral Report on Planning and Zoning Matters

Commissioners' Announcements, Referrals

**ADJOURNMENT**

**NEXT MEETING, JUNE 24, 2021, 7:00PM**

**PLEASE TAKE NOTICE**

*That if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.*

**PLEASE TAKE FURTHER NOTICE**

*That the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.*

*\*\*\*Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.\*\*\**

*Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.*



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
www.Hayward-CA.gov

---

**File #:** PH 21-052

---

**DATE:** June 10, 2021

**TO:** Planning Commission

**FROM:** Jeremy Lochirco, Acting Planning Manager

**SUBJECT**

Proposed Text Amendments to Chapter 6, Article 14 (Commercial Cannabis Businesses) and Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code for the Regulation of Personal and Commercial Cannabis in the City of Hayward (Application No. 202102446)

**RECOMMENDATION**

That the Planning Commission recommend to the City Council adoption of the Proposed Text Amendments to Chapter 6, Article 14 (Commercial Cannabis Businesses) and Chapter 10 (Planning, Zoning, and Subdivisions), of the Hayward Municipal Code for the Regulation of Personal and Commercial Cannabis in the City of Hayward, pursuant to the findings for approval (Attachment II).

**SUMMARY**

During the past three years that Hayward's cannabis program has been operational, staff has identified several issues and inconsistencies with processes and local regulations that should be resolved before embarking on a new request for applicant proposals. During this same time, the State of California has promulgated several new laws and regulations related to cannabis as the broader industry has evolved. While the City's regulatory and land use ordinances were sufficient to accommodate the first round of applicants, the lack of resources coupled with a greater demand for operational processes and protocols have presented challenges to the administration and management of the cannabis program.

Over the past year, City staff and ICF, the City's consultant, have been working to identify new opportunities and recommendations to improve the current cannabis program to ensure long term success, including an evaluation of what has worked well and what could be improved, taking stock of changes in the broader industry and state regulatory system, and learning from effective and innovative practices from other jurisdictions. Staff believes the proposed Amendments reflect the feedback provided by various stakeholders, including Council, and believes the Planning Commission can make the required findings to recommend adoption of the proposed Amendments to the Council for consideration in July 2021. Once adopted, staff anticipates a new application cycle for commercial cannabis operators will open in late Summer 2021.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Draft Findings for Approval
Attachment III	Proposed Zoning Text Amendments
Attachment IV	Proposed Zoning Maps and Land Use Table
Attachment V	Proposed Business Regulatory Amendments



## **SUBJECT**

Proposed Text Amendments to Chapter 6, Article 14 (Commercial Cannabis Businesses) and Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code for the Regulation of Personal and Commercial Cannabis in the City of Hayward (Application No. 202102446)

## **RECOMMENDATION**

That the Planning Commission recommend to the City Council adoption of the Proposed Text Amendments to Chapter 6, Article 14 (Commercial Cannabis Businesses) and Chapter 10 (Planning, Zoning, and Subdivisions), of the Hayward Municipal Code for the Regulation of Personal and Commercial Cannabis in the City of Hayward, pursuant to the findings for approval (Attachment II).

## **SUMMARY**

During the past three years that Hayward's cannabis program has been operational, staff has identified several issues and inconsistencies with processes and local regulations that should be resolved before embarking on a new request for applicant proposals. During this same time, the State of California has promulgated several new laws and regulations related to cannabis as the broader industry has evolved. While the City's regulatory and land use ordinances were sufficient to accommodate the first round of applicants, the lack of resources coupled with a greater demand for operational processes and protocols have presented challenges to the administration and management of the cannabis program.

Over the past year, City staff and ICF, the City's consultant, have been working to identify new opportunities and recommendations to improve the current cannabis program to ensure long term success, including an evaluation of what has worked well and what could be improved, taking stock of changes in the broader industry and state regulatory system, and learning from effective and innovative practices from other jurisdictions. Staff believes the proposed Amendments reflect the feedback provided by various stakeholders, including Council, and believes the Planning Commission can make the required findings to recommend adoption of the proposed Amendments to the Council for consideration in July 2021. Once adopted, staff anticipates a new application cycle for commercial cannabis operators will open in late Summer 2021.

## **BACKGROUND**

In December 2019, the Council directed staff, supported by its consultants at ICF, to conduct a review of experiences to date with the City's commercial cannabis program and

develop recommendations for updating key elements of the program and the two related City ordinances. This work plan included five main components:

- Task 1** Conduct Background Review
- Task 2** Refine Processes for Licensing and Permitting
- Task 3** Strengthen Systems for Auditing and Compliance
- Task 4** Assess Organizational Requirements and Update Fee Schedule
- Task 5** Update Regulatory Ordinance and Land Use Ordinance

ICF conducted a review of the City's current cannabis program, as well as relevant local and statewide factors that might inform any proposed changes to Hayward's program. The review by ICF summarized these findings and consolidated the feedback received from existing cannabis licensees and key City staff into six categories, which are identified below:

- Refine Business Licensing [Request for Proposal (RFP), Application, & Review] Processes
- Improve Land-Use Entitlement Processes
- Strengthen Auditing, Inspection, and Compliance Processes
- Enhance Measures to Curtail Illegal Operations
- Strengthen Organizational Capacities & Update Fee Schedule
- Revise Commercial Cannabis Ordinance & Land-Use Ordinance

*Public Outreach:* On November 27, 2020, a Notice of Public Hearing for the Council work session was posted at City Hall and a legal ad was published within *The Daily Review* with the staff report and attachments uploaded to the City's cannabis webpage, which provided members of the public and interested stakeholders with status updates and meeting information on the City's cannabis program. In addition, the public notice was sent to nearly 100 additional stakeholders on the City's interested parties list.

On December 8, 2020<sup>1</sup>, the Council held a work session to provide feedback on the recommendations being proposed to the City's cannabis licensing and permitting processes. The Council supported many of the recommendations proposed and staff has been working with ICF and other stakeholders to finalize the new regulations and operational guidelines, which requires amendments to the Hayward Municipal Code regulating personal use and commercial cannabis businesses in the City.

On May 20, 2021, the City held a Public Community Meeting<sup>2</sup> via Zoom to obtain feedback and provide an update to cannabis applicants and stakeholders on the revised cannabis permit process. The meeting notice was sent to nearly 234 interested stakeholders and the agenda and presentation were also posted to the City's website. A total of 25 stakeholders attended the meeting and asked questions about the updated Permit process.

On May 28, 2021, a Notice of Public Hearing for the Planning Commission was posted at City Hall and circulated to 234 businesses, residents and interested stakeholders (including

---

<sup>1</sup> City Council Work Session Minutes:  
<https://hayward.legistar.com/View.ashx?M=E3&ID=816115&GUID=4238E494-0DA5-4E9A-A413-71220794E0CE>

<sup>2</sup> Public Community Meeting and Presentation:  
<https://www.hayward-ca.gov/your-government/programs/commercial-cannabis-permit-program>

task forces and community groups listed above) as well as published within *The Daily Review* newspaper as a Legal Ad. To date, several members of the public have expressed support for the proposed Text Amendments and program updates.

## DISCUSSION

Since 2019, City staff and ICF have been working to identify possible procedural and regulatory improvements to the City's commercial cannabis program. While much of the work has been focused on evaluating the current application and licensing process and identifying new opportunities to consolidate and streamline development review, many of the program components remain the same. Below is a summary of the proposed Amendments to the City's Business Ordinance<sup>3</sup> (Chapter 6) and Land Use Ordinance<sup>4</sup>(Chapter 10), which reflect best practices from other cannabis programs in the State:

### Proposed Business Ordinance Amendments

As part of the business regulatory ordinance adopted in 2017, the City enacted guidelines and operational criteria for how commercial cannabis operators can apply for and renew a Commercial Cannabis Permit in the City of Hayward. Following significant stakeholder feedback and per direction received from Council at their work session in December 2020, staff is proposed several updates to Chapter 6 (Business, Professions and Trades) to streamline the application, review and selection process for cannabis operators and create a process for applicants to amend or modify their existing Permit. A summary of the proposed business regulatory amendments are detailed below and reflected in the draft Ordinance (Attachment V).

*Streamlined Licensing and Application Review.* The proposed Amendments to Chapter 6, Article 14 (Commercial Cannabis Businesses) will clarify and update the regulatory framework on how commercial cannabis businesses should operate in the City and establishes processes and protocols for licensing, auditing, and annual renewals.

The proposed Amendments will streamline the previous RFP selection and review process with an updated process that includes three main components, with the latter two running concurrently: (1) an initial pre-screening process to determine applicant eligibility; (2) the land use permit process, focusing primarily on site-specific requirements; and (3) a concurrent business operating permit process, focusing on broader operational and regulatory compliance. The updated licensing process replaces the existing RFP process with a more regular and predictable program that includes bi-annual application cycles to allow interested parties an opportunity to apply for a Commercial Cannabis Permit and submit land use applications on a more frequent and metered basis. This approach would balance limited staff resources yet allow cannabis applicants two opportunities per year to submit a proposal for review. Staff has summarized the streamlined process below:

1. *Better Utilizes City Resources.* The new pre-application screening process provides a preliminary determination of eligibility before the applicant and City begin the

---

<sup>3</sup> Commercial Cannabis Businesses:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH6BUPRTR\\_ART14COCABU](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU)

<sup>4</sup> Zoning Ordinance:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU)

time- and resource-intensive process of reviewing detailed application materials and business plans by immediately weeding out applicants who (a) do not have a proposed location that meets the zoning requirement; (b) do not have proof of site control for the proposed location; (c) do not pass the background check requirements; or (d) do not meet minimum requirements for sound business operation. As part of the updated process, applicants will now be required to have a site secured prior to the submittal of the pre-application or business plan.

2. Increases administrative efficiency and decreases the overall time it takes applicants to become operational.
  - a. *Removes duplication:* Many licensees expressed frustration that they had to submit the same materials to different divisions/staff throughout the process. The new concurrent process clearly outlines responsibility and ensures that there is no duplication between material submittal requirements for the business license permit and the land use permit. Additionally, the proposed process removes duplicative requirements that are sufficiently covered by the state regulations.
  - b. *Reduces complexity:* Many licensees felt that Hayward's entitlement process was overly complex, cumbersome, and costly compared to other cities. The proposed update simplifies the application requirements and clearly outlines approval criteria for each stage of the process.
  - c. *Improves coordination and information sharing between City staff:* Concurrent permitting processes will allow City staff to utilize the most recent information from applicants to inform their decision making and improve consistency and efficiency.
3. Maintains the rigor of the existing RFP process. While the existing RFP process is proposed to be replaced, the pre-screening will continue to require background checks, a high-level review of business proposals to ensure applicants understand the regulatory framework around cannabis operations, and in-person interviews. The updated licensing process will also ensure that cannabis businesses will work collaboratively with City staff and members of the public to highlight several other components of the business plan, including community objectives related to social or racial equity; labor, wage and employment practices; and any community benefits being proposed, which will remain as an optional plan component.

Updated Evaluation Criteria. The updated evaluation criteria will continue to include most of the original evaluation criteria that was supported by Council as part of the original RFP process in 2017, but also provides more detailed guidance on the disclosure of local hire, labor and employment practices, and requires applicants provide a business and marketing plan that will be reviewed and approved by the City. The proposed criteria also provide applicants flexibility in the submittal of a community benefits plan, which was later replaced with an increased cannabis sales tax intended to support various community programs. The updated evaluation criteria will include the following:

- Business Structure: Provide a description of the Commercial Cannabis Business organizational status and provide proof of status, such as articles of incorporation, by-laws, partnership agreements, and other documentation as may be necessary.

This shall include a list of all owners/entities that have an interest of 5% or greater in the business.

- **Local Ownership and Control:** A description of the extent to which the business will be locally managed and/or if the principal owners/employees reside in Hayward or in Alameda County.
- **Business Plan:** Applicants should provide a more detailed description of the project narrative, including the proposed business model, expertise of owners and staff, and a plan for implementation, which includes a schedule of anticipated first-year startup activities and capitalization.
- **Community Benefit:** As an optional component, applicants can include a Community Benefit plan that highlights the proposed activities that would benefit the City and its residents. The Plan could include neighborhood-specific benefits, health education and prevention approaches, quantification of economic benefits, and broader examples of community outreach.
- **Labor and Employment Practices:** Applicants should identify the proposed labor and employment practices for the business. Proposals should include a discussion of the overall hiring plan, a certification of a labor peace agreement in place or the applicant's intention to negotiate one, the extent of the applicant's commitment to local hiring, and a guarantee that the applicant will pay a living wage, will not discriminate, and will provide compensation and opportunities for continuing education to its employees.

**Updated Audit, Inspection and Enforcement.** The proposed Amendments will establish a more explicit and robust system for cannabis auditing, inspection, and compliance reporting to ensure that licensees are complying with relevant state/local regulations and following through on their stated intentions from their Permit applications. The updated system would address both revenue reporting and a range of operational issues (e.g., new employee/workers background checks and clearances, emergency access, parking, waste disposal, security, lighting, storage of chemicals, product storage, etc.). The City has drafted integrated inspection checklists and processes to ensure coverage of all key issues while improving coordination across all relevant City departments. The updated compliance system will incorporate a range of penalties and incentives - including fees and potential Permit revocation - to help ensure compliance and enable corrective actions.

**Expansion or Modification of Existing Cannabis Uses.** Aside from retail dispensaries, which currently have a cap of three, there have been several cannabis operators who have expressed interest in expanding their business to include other cannabis activities that were not previously approved. Under the current regulatory framework, applicants must submit separate business proposals for each activity and be evaluated/scored on each activity as part of the review and selection process. For operators who have already secured a Commercial Cannabis Permit from the City and are now looking to expand, there is currently no framework established that allows these operators an ability to expand their activities outside of the RFP process. As such, applicants are somewhat limited in their ability to expand in Hayward and those that choose to expand are subject to a time consuming and resource intensive process. Staff has added provisions to the regulatory Ordinance to address this issue and provide applicants with an option to expand or modify

their Commercial Cannabis Permit without being required to go through the pre-screening determination of eligibility.

### **Proposed Zoning Text Amendments and Land Use Updates**

As part of the original land use Ordinance adopted in 2017, the City limited areas where commercial cannabis operators could locate with a majority of retail area focused on Downtown with the remaining activities concentrated within the Industrial areas of Hayward. Following significant stakeholder feedback and per direction received from Council at their work session in December 2020, staff is proposing several updates to the Zoning Ordinance and proposed land use table to clarify zones where each activity are permitted. A summary of the proposed zoning text amendments and land use updates are summarized below and included in the draft Ordinance (Attachment III) and a summary of the proposed land use table and related zoning maps are included as Attachment IV.

General Regulations. While many of the general regulations that apply to all cannabis businesses are proposed to remain, the proposed Text Amendments would update inventory and tracking protocols, clarify processes related to transfers of ownership and establish employee identification requirements and protocols for all employees working in cannabis businesses throughout the City. Additionally, staff is proposing applicants provide a Neighborhood Compatibility Plan and provide a local Point of Contact that can address neighborhood concerns and mitigate any nuisances or impacts that are typically associated with normal cannabis operations, such as noise and odors.

Mandatory Buffer from Sensitive Land Uses. As part of the Ordinance update, staff is proposing to maintain the existing 600-foot buffer that was previously established from sensitive land uses, as described in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, including libraries, designated public open space areas and designated public parks that contain a children's playground(s) or similar area dedicated towards child activities. The required 600-foot setback may be reduced as part of the issuance of a Conditional Use Permit from the Planning Commission if it is found that the public convenience and necessity will be served by an alternate distance requirement and that alternative measures to assure public health and safety are in place with respect to a commercial cannabis business. To date, the only cannabis applicants to request a reduction of the mandatory 600-foot buffer are the two retail dispensaries proposed in Downtown. Both requests were approved by the Council as part of their consideration of the Conditional Use Permit.

Transfers of Ownership: In addition to the updates in the auditing and compliance process, several applicants have experienced financial and regulatory challenges in establishing or expanding their cannabis operation due to changes in State regulations and shifting demand as a result of an emerging cannabis industry. As a result, many of the City's previously approved applicants have inquired about the possibility of selling or transferring ownership to other entities. Since adoption of the regulatory ordinance in 2017, the City has allowed cannabis operators the ability to transfer a minority share of ownership (less than 50%) to another entity as long as a majority ownership group remains the same and as long as the minority ownership group successfully passes a background check and completes a New Owner Attestation Form. While some transfers of

ownership do not result in operational or branding changes, staff has added text in the amended Ordinance to ensure that applicants will need to obtain approval from the City if transfers of ownership result in branding, marketing or operational changes that were not previously disclosed or evaluated by the City.

*Cannabis Retail Dispensaries (Storefront).* Retail activities associated with cannabis businesses currently are grouped into three main categories: Storefront Retail Dispensaries; Non-Storefront Retail Deliveries; and Ancillary Retail (Storefront and Non-Storefront) Uses for Microbusinesses. For the purposes of clarification, staff has highlighted the two cannabis activities that include storefront retail activities, retail dispensaries and retail associated with microbusinesses, and has provided additional analysis for each activity below.

Retail dispensaries, which are currently limited to three, are primarily allowed in Downtown Hayward as well as conditionally permitted on scattered parcels throughout the City that are zoned General Commercial. While all three dispensaries have been approved for locations in Downtown, at least one of these operators has had issues securing a site, despite obtaining Council approval of the Use Permit. While much of the regulatory framework tied to storefront dispensaries are proposed to remain, staff is recommending that the zoning for areas to accommodate storefront retail dispensaries be expanded to include the IP, Industrial Park zoning district. The Industrial Park zoning district was amended in 2019 to allow for retail uses and staff believes is better suited to accommodate a storefront retail dispensary than other parts of Hayward, including some portions of Downtown Hayward that were reclassified following the adoption of the Downtown Specific Plan and designate multi-family residential as the primary use. As proposed, storefront retail dispensaries would continue to be allowed in several Commercial districts and would also be allowed in the IP, Industrial Park zoning district, subject to the issuance of a Conditional Use Permit.

*Cannabis Microbusiness and Ancillary Retail (Storefront or Non-storefront).* Cannabis microbusinesses, which require a Type 12 license with the State, do allow licensees to engage in multiple activities under one license type, which include cultivation of cannabis on an area less than 10,000 square feet, be a licensed distributor, include Level 1 manufacturer, and/or contain a retail component (either storefront or non-storefront delivery). In order to qualify for a microbusiness license with the State, a licensee must engage in at least three (3) of the four (4) commercial cannabis activities listed. Although the land use regulations provide microbusinesses the ability to maintain a small storefront retail operation on-site as an ancillary use, currently only products that are manufactured or cultivated on-site can be sold in the retail space and the total area dedicated towards that on-site retail is limited to no more than 10 percent of the first-floor area of the building. Given feedback from the cannabis industry and to provide more options for retail activities related to microbusiness operators, staff is proposing to eliminate the provision that limits the type of products that can be sold on-site, but staff recommends maintaining the overall size limitation for storefront retail activities to ensure that the microbusiness activities do not result in additional retail dispensaries, which are currently capped at three. For non-storefront retail activities for microbusinesses, staff is not proposing to limit the size of the retail component, consistent with other non-storefront activities associated

with other uses. As currently proposed, all microbusiness activities would be permitted in all Industrially zoned districts, subject to the issuance of a Conditional Use Permit.

*Cannabis Delivery and Non-Storefront Retail.* Staff has received multiple inquiries from delivery operators who want to expand operations to include non-storefront retail. While the City currently allows non-storefront retail as part of a commercial cannabis delivery operation, staff has added clarifying language in the proposed Amendments to address this activity, including requirements for operators to maintain a delivery log and manifest, consistent with State requirements, and establishing standards for all delivery vehicles associated with the business. As proposed, all Commercial Cannabis Delivery uses, including non-storefront retail, are permitted in select Commercial and Industrial zoned districts, subject to the issuance of an Administrative Use Permit.

*Cannabis Manufacturing.* There are two primary types of cannabis 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 during the manufacturing process, while Level 2 primarily involves the use of volatile solvents. Traditionally, Level 2 manufacturing tends to have a greater potential for public safety issues, such as increased risk of explosions or fire; however, several communities throughout the State have allowed both types of manufacturing activities so long as enhanced safety and operational protocols are incorporated.

While the use of volatile materials for manufacturing does pose an increased safety risk, the overall risk to the public remains extremely low and the proposed Level 2 use is very similar to other manufacturing or industrial uses that currently use hazardous materials as part of their normal manufacturing operations. Since adoption of the original cannabis regulations, new equipment and technologies have emerged that create a more regulated, safer environment for cannabis manufacturing and extraction. Additionally, staff has added an operational requirement that states the applicants may be required to provide a technical report to evaluate fire protection and determine the acceptability of equipment, extraction operations, or other processes as well as the storage/use of hazardous materials, if requested by the Fire Department.

The proposed Text Amendments will add Cannabis Manufacturing that predominately utilize volatile substances as part of the manufacturing and extraction process and is proposing that this land use be allowed only in the IG, General Industrial district, subject to the issuance of a Conditional Use Permit. Staff is also proposing to permit smaller manufacturing operations which are less than 5,000 square feet and utilize non-volatile substances the ability to operate in all Industrially zoned districts, subject to the issuance of an Administrative Use Permit. Larger manufacturing operations that are 5,000 square feet or larger would continue to be allowed in all Industrially zoned districts, subject to the issuance of a Conditional Use Permit.

*Cannabis Distribution.* Similar to cannabis delivery operations, the State requires cannabis distribution operators maintain a distribution log and manifest that supports their track and trace program and establishes protocols for safe distribution of cannabis and cannabis related products between licenses cannabis operators. Staff is not proposing significant changes to the way in which cannabis distribution businesses can operate but has added

more detailed guidance for cannabis distributors as part of the proposed Amendments. Similar to delivery, cannabis distribution uses are allowed in all Industrially zoned districts, subject to the issuance of an Administrative Use Permit.

*Cannabis Testing Labs.* Testing laboratories, which function to ensure that the products manufactured and sold to consumers meet minimum safety standards, is one example of an operation that has grown in response to the cannabis industry. The City's only approved cannabis testing lab, Harrens Lab, opened in 2019 and while this company does provide State compliance testing for cannabis, they also provide testing for several non-cannabis products, such as food additives, pesticides and veterinary drugs. In an effort to align with State regulations and provide additional guidance for operators, staff is proposing minor Amendments and clarifications for testing labs, including a provision that allows testing labs to operate temporarily while State certification is underway.

## **POLICY CONTEXT AND CODE COMPLIANCE**

*Hayward 2040 General Plan.* Staff believes the proposed Amendments are consistent with the goals and policies of the *Hayward 2040 General Plan* in that the amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses and provide an updated regulatory framework for how these businesses should operate to maintain public health, safety, and general welfare. The proposed Amendments are internally consistent with other applicable provisions of Chapter 6 and Chapter 10 of the Hayward Municipal Code in that the entirety of the Code will apply to cannabis operators and clarify cannabis land use activities and will identify where these uses are allowed. The proposed Amendments are consistent with the following policies and actions of the *Hayward 2040 General Plan*:

- *LU-5.2 Flexible Land Use Regulations:* The City shall maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.
- *LU-5.6 Adaptive Reuse, Renovation or Redevelopment:* The City shall support the adaptive reuse, renovation or redevelopment of community and regional shopping centers that are no longer viable due to changing market conditions, demographics, or retail trends. The City shall consider alternative land uses if market conditions limit the feasibility of commercial uses.
- *LU-6.1 Land Uses:* The City shall encourage employee-intensive uses, such as professional office, corporate campuses, research and development, traditional and specialized manufacturing, throughout the Industrial Technology and Innovation Corridor.
- *ED-1.6 Advances and Specialized Manufacturing:* The City shall encourage the establishment and expansion of advanced and specialized manufacturing businesses to counter declining employment trends in traditional industrial manufacturing.
- *ED-1.11 Local Serving Retail:* The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Hayward and provide needed goods and services to local residents and businesses.

- *ED-3.2 Fast Growing Industries:* The City shall monitor industry and market trends to identify fast-growing industries, and coordinate with local businesses within those industries to proactively assist with potential business expansion plans.
- *ED-6.2 Land Use Certainty:* The City shall strive to enhance land use certainty for businesses by identifying and removing unnecessary regulatory barriers that discourage private-sector investment.
- *HLQ-4.1 Adequate Health Care Facilities:* The City shall encourage the development and maintenance of a full range of health care facilities, including hospitals, acute care facilities, neighborhood health portals/clinics, and mental health facilities, to meet the needs of all residents.
- *HQL-10.6 Parks as Buffers:* The City shall consider the use of parks and recreational corridor as buffers between incompatible land uses.

Ordinance Amendment Process. Per Section 10-1.3425(a)<sup>5</sup>, the Planning Commission shall hold a public hearing on all text amendments, reclassifications and pre-zonings. The Planning Commission may recommend approval of or deny a text amendment, reclassification, or pre-zoning to the Council based on all the following findings:

- Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;
- The proposed change is in conformance with all applicable, officially adopted policies and plans;
- Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and
- 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.

Staff believes the Planning Commission can make the findings to support the proposed Text Amendments and has included more detailed analysis in Attachment II.

Economic Impact. Each of the approved applicants who were issued a Commercial Cannabis Permit by Council articulated the desire to hire local Hayward residents and to pay them a living wage. From the information provided by each applicant, these firms plan to create an estimated 250 new jobs. These jobs will impact the City as these employees pursue their lives in the Hayward community and therefore contribute to the local economy while also remitting City sales, property, utility user, and other City levied taxes and fees. While the number of jobs and economic impact from the cannabis industry is expected to grow in Hayward, the updated regulatory and land use ordinances will further accommodate economic growth in the City and improve overall organizational efficiencies.

---

<sup>5</sup> Planning Commission Procedures:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1ZOOR\\_S10-1.3400AM\\_S10-1.3425PLCOPR](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3400AM_S10-1.3425PLCOPR)

## ENVIRONMENTAL REVIEW

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

## NEXT STEPS

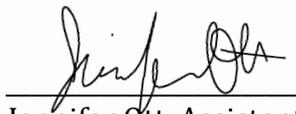
Following Planning Commission feedback and recommendation, staff will forward the proposed Amendments of the Hayward Municipal Code to the Council for a public hearing and first reading, tentatively scheduled for July 6, 2021. If approved, the proposed text amendments would become effective 30 days after the second reading and adoption.

*Prepared and Recommended by:* Jeremy Lochirco, Acting Planning Manager

*Approved by:*



Sara Buizer, AICP, Acting Deputy Director of Development Services



Jennifer Ott, Assistant City Manager/ Director of Development Services

**CITY OF HAYWARD PLANNING COMMISSION  
PROPOSED TEXT AMENDMENTS TO CHAPTER 6, ARTICLE 14 AND CHAPTER 10 OF THE  
HAYWARD MUNICIPAL CODE FOR REGULATION OF CANNABIS  
APPLICATION 202102446**

**DRAFT FINDINGS FOR APPROVAL**

**PROPOSED TEXT AMENDMENT**

Per Section 10-1.3425(a), the Planning Commission shall hold a public hearing on all text amendments, reclassifications and pre-zonings. The Planning Commission may recommend approval of or deny a text amendment, reclassification, or pre-zoning to the City Council. Recommendations for approval shall be based upon all the following findings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and proposed, would be adequate to serve the potential development of new cannabis and cannabis-related businesses in the City.

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

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

**CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

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

**PROPOSED TEXT AMENDMENTS  
CHAPTER 10, PLANNING, ZONING AND SUBDIVISIONS**

**SEC. 10-1.1530 – CENTRAL CITY—RESIDENTIAL SUBDISTRICT (CC-R)**

**SEC. 10-1.1533 – CC-R CONDITIONALLY PERMITTED USES.**

- b. Conditional Uses. The following uses, or uses determined to be similar by the Planning Director, are permitted in the CC-R Subdistrict subject to approval of a conditional use permit:
  - 5. Retail Commercial Uses.  
~~Commercial Cannabis Retail Dispensary (See Section 10-1.3600)~~

**SEC. 10-1.1600 - INDUSTRIAL DISTRICT (I)**

**SEC. 10-1.1603 – USE REGULATIONS – INDUSTRIAL SUBDISTRICTS**

Table 10-1.1603, Land Use Regulations—Industrial Subdistricts, sets the land use regulations for Industrial Subdistricts by letter designation as follows unless a use or activity is prohibited or subject to a higher level of permit pursuant to other parts of this Section, other requirements of the Hayward Municipal Code, or other applicable regulations:

“P” designates permitted uses.

“A” designates uses that are permitted after review and approval of an Administrative Use Permit

“C” designates uses that are permitted after review and approval of a Conditional Use Permit.

“-“ designates uses that are not allowed.

A project which includes two or more categories of land use in the same building or on the same site is subject to the highest permit level required for any individual use or single component of the project.

Section numbers in the right-hand column refer to other sections of the Zoning Ordinance or other limitations as well as subsections A through E following the Table.

Land uses are defined in Article 1, Section 10-1.3500, Definitions. In cases where a specific land use or activity is not defined, the Planning Director or other approving authority shall assign the land use or activity to a classification that is substantially similar in character. Land uses defined in the Hayward Municipal Code and not listed in the table or not found to be substantially similar to the uses below are prohibited. Unless otherwise explicitly stated, all uses shall be conducted indoor.

Use	Subdistrict			Additional Regulations
	IL	IP	IG	
<b>Industrial Uses</b>				
<b>Cannabis</b>	<b>See Below</b>			
Commercial Cannabis Cultivation (up to 5,000 Square feet or Less)	A	A	A	See Section 10-1.3600, Cannabis
Commercial Cannabis Cultivation (5,001 Square feet or Greater)	C	C	C	See Section 10-1.3600, Cannabis
Commercial Cannabis Delivery	A	A	A	See Section 10-1.3600, Cannabis
Commercial Cannabis Retail Dispensary	C	-	-	See Section 10-1.3600, Cannabis
Commercial Cannabis Distribution	A	A	A	See Section 10-1.3600, Cannabis
Commercial Cannabis <del>Medical and Non-Medical</del> Manufacturing Level 1, (Up to 5,000 Sq. Feet)	<del>C</del>	<del>C</del>	<del>C</del>	See Section 10-1.3600, Cannabis
Commercial Cannabis Manufacturing, Level 1, (5,001 Sq. Feet or Greater)	C	C	C	See Section 10-1.3600, Cannabis
Commercial Cannabis Manufacturing, Level 2	C	-	-	See Section 10-1.3600, Cannabis
Commercial Cannabis Microbusiness	C	C	C	See Section 10-1.3600, Cannabis
Commercial <del>Medical and Non-Medical</del> Testing Laboratory	P	P	P	See Section 10-1.3600, Cannabis

## SECTION 10-28 DEVELOPMENT CODE

### DIVISION 10-28.2.3: USE TABLE

#### 10-28.2.3.010 - ALLOWED LAND USES AND PERMIT REQUIREMENTS

- A. **Allowed Land Uses.** The land uses allowed in the Downtown Zones are established in Table A (Allowed Uses in Downtown Zones). Each land use listed in Table A (Allowed Uses in Downtown Zones) is defined in Section 6.1.020 (Land Uses).
- B. **Permit Required.** Land uses identified in Table A (Allowed Uses in Downtown Zones) are subject to the permit requirements listed in the Table.

- C. **Additional Standards.** Table A includes references to additional standards for specific uses in Division 3.5 (Specific to Use) or Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Code.
- D. A land use that is not listed in Table A (Allowed Uses in Downtown Zones) is not allowed, unless the Director finds that the proposed use is similar to, compatible with, and is consistent with the purpose of the zone, the General Plan, and the Specific Plan, and the new use will not involve a greater intensity than a listed use.

Table 2.3.010.A Allowed Uses in Downtown Zones							
Land Use Type	Specific to Use Regulations	Permit Required by Zone					
		NE	NG	UN	UN-L	DT-MS	UC
<b>Retail and Food Uses</b>							
Commercial Cannabis Retail Dispensary	10-1.3600	CUP -	CUP-	CUP	CUP -	CUP	CUP
<b>Key</b> <b>P</b> Permitted <b>AUP</b> Administrative Use Permit <b>CUP</b> Conditional Use Permit <b>TUP</b> Temporary Use Permit      - Not Permitted							

**SECTION 10-1.3600**

**CANNABIS**

**Sections:**

- 10-1.3600 Purpose**
- 10-1.3601 Limitation on Use**
- 10-1.3602 Personal Cannabis Cultivation**
- 10-1.3603 Commercial Cannabis Businesses**
- 10-1.3604 General Requirements**
- 10-1.3605 Commercial Cannabis Cultivation**
- 10-1.3606 Commercial Cannabis Delivery**
- 10-1.3607 Commercial Cannabis Distribution**
- 10-1.36086 Commercial Cannabis Manufacturing**
- 10-1.3609 Commercial Cannabis Microbusiness**
- 10-1.360107 Commercial Cannabis Retail **Dispensary** and ~~Delivery~~**
- 10-1.360118 Special Events**
- 10-1.360129 Findings**
- 10-1.360130 Grounds for Permit Revocation or Modification**
- 10-1.3600 Purpose.**

This Chapter provides the location and operating standards for Personal Cannabis Cultivation and Commercial Cannabis Businesses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.

**10-1.3601 Limitations on Use.**

- A. Compliance with City Code. Personal Cannabis Cultivation and Commercial Cannabis Businesses shall only be allowed in compliance with this Chapter and all applicable regulations set forth in the City Code, including but not limited to, the cannabis business tax ordinance, and all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.
- B. Compliance with State Laws and Regulations. All Commercial Cannabis Businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over Cannabis and/or Cannabis Businesses. All Cannabis Businesses (~~Medical and Non-Medical~~) shall comply with the rules and regulations for Cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.
- C. Compliance with Local and Regional Laws and Regulations. All Cannabis Businesses shall comply with all applicable Alameda County and other local and regional agency regulations, including, but not limited to, regulations issued by the Regional Water Quality Control Board and the Alameda County Public Health Department.
- D. Commercial Cannabis Businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance. Commercial Cannabis ~~p~~Permits issued pursuant to Article 14, Chapter 6 of this Code are valid for one year.
- ~~E. Applications for Administrative or Conditional Use Permits pursuant to this Chapter will not be accepted unless an applicant has already obtained a commercial cannabis permit pursuant to Article 14, Chapter 6 of this Code.~~

**10-1.3602 Personal Cannabis Cultivation.**

Personal Cannabis Cultivation for medical and adult use shall be permitted only in compliance with the provisions of this Article and shall be subject to the following standards and limitations.

- A. Cannabis Maximum Limitation. The personal cultivation of cannabis is limited to no more than six (6) mature plants within a single private residence or upon the grounds of that private residence, at one time regardless of the number of residents. For purposes of this section,

“private residence” means a house, an apartment unit, a mobile home, or other similar dwelling.

- B. Residency Requirement. Cultivation of cannabis may occur only on parcels with an existing legal residence occupied by a full-time resident. **Nothing in the section is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting personal cultivation by tenants.**
- C. Outdoor Cultivation. Cannabis plants shall not be located anywhere in a front or street side yard. Cannabis plants are permitted inside and rear yards only if fully screened from public view with a solid fence or wall.
- D. Indoor Cultivation. All structures used for Personal Cannabis Cultivation (including accessory structures, greenhouses, and garages) must be legally constructed with all applicable Building and Fire permits (including grading, building, electrical, mechanical and plumbing) and shall adhere to the development standards of the underlying zoning district.
- E. The following operating requirements are applicable to personal cannabis cultivation:
  - 1. Visibility. No visible markers or evidence indicating that cannabis is being cultivated on the site shall be visible from the public right of way.
  - 2. Security. All enclosures and structures used for cannabis cultivation shall have security measures sufficient to prevent access by children or other unauthorized persons.
  - 3. Prohibition of Volatile Solvents. The manufacturing of cannabis products for personal non-commercial consumption shall be limited to processes that are solvent-free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug and Cosmetic Act. The use of volatile solvents to manufacture cannabis products for personal consumption is prohibited.
  - 4. **Lighting. Grow lights shall not exceed 1,200 watts per light and are prohibited from producing a glare that interferes with other residents' reasonable enjoyment of their property.**
  - 5. **Odors. No cannabis odors may be detectable from any place outside the residence. An odor absorbing ventilation and exhaust system must be installed if the odor generated inside the residence is detected outside the property or premises, or anywhere on adjacent property or public rights-of-way, or within another unit located within the same building as the cultivation.**
  - 6. **Generators. The use of generators for personal cannabis cultivation is prohibited, except for temporary use in the event of a power outage or for emergency use. For purposes of this subsection, emergency use is defined in accordance with 17 California Code of Regulations § 93115, as may be amended. For purposes of this subsection, the limit on use of a generator in an emergency is 90 days.**

**10-1.3603 Commercial Cannabis Businesses.**

Commercial Cannabis Businesses shall be administratively and conditionally permitted only in compliance with the provisions of **Chapter 6, Article 14 (Commercial Cannabis Businesses)** and Chapter 10, Article 1 (Planning, Zoning and Subdivisions), as amended, and shall be subject to the following standards and limitations.

- A. Land Use. All Commercial ~~Medical and Non-Medical~~ Cannabis Businesses shall be located in compliance with the requirements of Chapter 10, Article 1 (Planning, Zoning and Subdivisions), as amended, and as designated in the Zoning Code. For purposes of this Chapter, Commercial Cannabis Businesses shall include the following land use classifications, all of which are further defined in Chapter 10, Section 10.1-3500 (Definitions):
1. Commercial Cannabis Cultivation, up to 5,000 sf
  2. Commercial Cannabis Cultivation, 5,001 sf or greater
  3. **Commercial Cannabis Delivery, including Non-Storefront Retail**
  4. Commercial Cannabis **Retail** Dispensaries (~~Retail~~ **Storefront**)
  5. Commercial ~~Medical and Non-Medical~~ Cannabis Distribution
  6. Commercial ~~Medical and Non-Medical~~ Cannabis Manufacturing – Level 1, **up to 5,000 sf**
  7. **Commercial Cannabis Manufacturing – Level 1, 5,001 sf or greater**
  8. Commercial ~~Medical and Non-Medical~~ Cannabis Manufacturing – Level 2
  9. **Commercial Cannabis Microbusinesses**
  109. Commercial ~~Medical and Non-Medical~~ Cannabis Testing Laboratory
- B. Required Setbacks. All Commercial Cannabis businesses operating within the City of Hayward shall be subject to a 600-foot minimum setback from sensitive land uses as described in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, including libraries, designated public open space areas and designated public parks that contain a children's playground(s) or similar area dedicated towards children activities, including but not limited to sports fields and swimming pools. The required 600-foot setback may be reduced as part of the issuance of a Conditional Use Permit from the Planning Commission if it is found that the public convenience and necessity will be served by an alternate distance requirement and that alternative measures to assure public health and safety are in place with respect to a commercial cannabis business. The distance shall be measured from the closest boundary line of the property on which the Commercial Cannabis Business is located to the closest boundary line of the property on which the school or sensitive land use is located.
- C. Development Standards. The development standards for specific cannabis land uses in this Chapter supplement and are required in addition to the underlying zoning districts listed in Chapter 10, Article 1 (Zoning Ordinance), Chapter 10, Article 2 (Off-Street Parking Regulations), Chapter 10, Article 22 (Green Building Requirements for Private

Development), Chapter 10, Article 24 (South Hayward BART Mission Form Based Code), and Chapter 10, Article 28 25 (Downtown Development Code) Hayward/Mission Boulevard Form Based Code) of the Hayward Municipal Code.

#### 10-1.3604 General Requirements.

The following general operating requirements are applicable to all Commercial ~~Medical and Non-Medical~~ Cannabis Businesses identified in this Chapter including Commercial Cannabis Testing Labs. In addition, requirements specific to each Cannabis Business subtype are set forth in subsections 10-1.3605 (Commercial Cannabis Cultivation), 10-1.3606 (Commercial Cannabis Delivery Manufacturing) and, 10-1.3607 (Commercial Cannabis Distribution), 10-1.3608 (Commercial Cannabis Manufacturing), 10-1.3609 (Commercial Cannabis Microbusiness), and 10-1.3610, (Commercial Cannabis Retail Dispensary and Delivery).

- A. Dual Licensing. The City recognizes that state law requires dual licensing at the state and local level for all Cannabis Businesses. All Cannabis Operators shall therefore be required to obtain a Commercial Cannabis Permit issued from the City of Hayward and diligently pursue and obtain a state cannabis license from the State of California. at such time as the state begins issuing such licenses, and Applicants shall comply at all times with all applicable local and state licensing requirements and any conditions related to that license, including Permit renewal.
1. New Operators. New Commercial Cannabis Businesses which have received land use permit approval pursuant to this Chapter shall not commence operations until the Business can demonstrate that all necessary state and local licenses and agency permits have been obtained.
  2. Grounds for Revocation. ~~Once state licenses and agency permits become available,~~ Failure to demonstrate dual licensing in accordance with this Chapter shall be grounds for revocation of a City approved issued permit. Revocation of a local permit and/or a state license shall terminate the ability of the Commercial Cannabis Business to operate until a new Commercial Cannabis Permit and/or state license is obtained.
- B. Age Restriction. No person who is younger than the minimum age established by state law for the purchase, possession or consumption of cannabis and cannabis- related products shall be allowed on the premises of a licensed Commercial Cannabis Business.
- C. Inventory and Tracking. All Cannabis Businesses shall, at all times, operate in a manner to prevent possible diversion of ~~Medical and Non-Medical~~ Cannabis and shall promptly comply with any track and trace program established by the State. Operators shall also notify the Hayward Police Department within twenty-four hours of discovering any of the following:
1. Significant discrepancies identified during inventory. The level of significance shall be two percent of inventory or per State regulations, whichever is stricter.

2. Diversion, theft, or loss, or any criminal activity involving the commercial cannabis use or any agent or employee of the commercial cannabis use.
  3. Any other breach of security.
- D. Multiple Permits Per Site. Multiple Cannabis Businesses and Cannabis Operators proposed on any one site or parcel shall be permitted only if all the proposed Cannabis Businesses and their co-location operators are located on separate and distinct premises as defined in Business and Professions Code section 26001 and have obtained all necessary local and state permits or licenses, and land use approvals from appropriate local and state agencies. Subject to the provisions of this Zoning Ordinance, Cannabis Operators holding multiple licenses from the state may operate from a single premises to the extent such operation is consistent with state law, as it may be amended from time to time.
- E. Transfer of Ownership Operator. Transfers of ownership interests that result in new majority ownership are not permitted and operators will be required to re-apply for a new Commercial Cannabis Permit, consistent with the provisions outlined in Chapter 6, Article 14 of the Hayward Municipal Code. A permittee shall notify the City if it intends to transfer partial ownership or operational control of a Commercial Cannabis Business and shall complete and submit a New Owner Attestation Form prior to any partial ownership transfer and pay the additional fee associated with the background/LiveScan check. The transferee shall be responsible for complying with all applicable local and state licensing requirements. Any conditions imposed upon the transferor by the original conditional use permit shall be binding upon any subsequent transferees. Any transfer of ownership or operational control of a Commercial Cannabis Business which results in a lapse of normal operations for a period of six months or more shall be required to obtain a new use permit, consistent with Sections 10-1.3170 or 10-1.3270 of this Code, as applicable. Any changes to the approved business name, changes to the product marketing, and/or rebranding of the Commercial Cannabis business shall be subject to review and approval by the City prior to any changes.
- F. Employee Identification.
1. While at the Commercial Cannabis Business's Premises or Location, each Owner, Manager, and employee engaged in the cultivation, processing, manufacturing, distributing, testing, transporting, delivery, handling or dispensing of cannabis shall, at all times while engaged in the duties of his or her position, wear in plain sight, on his or her person and above the waist, a valid identification badge, which has been reviewed and approved by the City of Hayward.
  2. While engaged in the duties of his or her position for the Cannabis Business, but not at the Cannabis Business's Premises or Location, each Owner, Manager and employee engaged in the cultivation, processing, manufacturing, distribution, testing, transporting, delivery, handling or dispensing of cannabis shall at all times have in his or her possession a valid identification badge, approved by the City of Hayward.

3. Upon request by any City official charged with enforcing the provisions of this Code, or any state official charged with enforcing state law pertaining to Cannabis Businesses, each Owner, Manager and employee engaged in the cultivation, processing, manufacturing, distribution, testing, transporting, delivery, handling or dispensing of cannabis shall produce such valid identification badge for inspection.
4. No Owner, Manager, or employee engaged in the cultivation, processing, manufacturing, distribution, testing, transporting, delivery, handling or dispensing of cannabis shall engage in any activities on behalf of the Commercial Cannabis Business, without first obtaining a valid identification badge from the Commercial Cannabis operator within 10 days of employment.
5. Identification badges shall remain at the Commercial Cannabis Business's Premises when not in use. Owners, Managers, and employees participating in the cultivation, processing, manufacturing, distribution, testing, transporting, delivery, handling or dispensing of cannabis shall not take identification badges home or off-Premises, except in the case of traveling off-premises on official business of the Cannabis Business, including delivery or transport of cannabis.

**FG.** Security. Commercial Cannabis Businesses shall provide adequate security on the premises, including any on-site security, lighting and alarms, to insure the public safety and the safety of persons within the facility and to protect the premises from theft. All Commercial Cannabis Businesses shall provide at least one, State-licensed, security guard on the premises during hours of operation. Additionally, all Commercial Cannabis Businesses and Cannabis Operators shall include a security and safety plan that includes the following minimum requirements:

1. Security Cameras. Security surveillance IP video cameras shall be installed and maintained in good working order to provide coverage on a twenty-four (24) hour real-time basis of all internal and exterior areas where Cannabis is cultivated, weighed, manufactured, packaged, stored, transferred, **tested**, and dispensed. The cameras shall allow for remote access to be provided to the Hayward Police Department. The security surveillance cameras shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. IP cameras shall remain active at all times and **be NDAA compliant**. All security cameras shall be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and shall be maintained for ~~sixty (60)~~ **ninety (90)** days.
2. Alarm System. A professionally monitored security alarm system shall be installed and maintained in good working condition. The alarm system shall include sensors to detect entry and exit from all secure areas and all windows. Commercial Cannabis Businesses shall keep the name and contact information of the alarm system installation and monitoring company as part of the Commercial Cannabis Business's onsite books and

records. Cannabis Operators shall also identify a local contact who will be responsible for addressing security and safety issues and shall provide and keep current that contact information to the Hayward Police Department as part of the permitting process.

3. **Secure Storage and Waste.** Commercial Cannabis products and associated product manufacturing, distribution or cultivation waste shall be stored and secured in a manner that prevents diversion, theft, loss, hazards and nuisance. **Additionally, all trash and recycling containers, regardless of location, must be locked and secured.**
  4. **Transportation.** Commercial Cannabis Businesses shall implement procedures for safe and secure transportation and delivery of Commercial ~~Medical and Non-Medical~~ Cannabis, including all Commercial ~~Medical and Non-Medical~~ Cannabis products and currency in accordance with state law.
  5. **Building Security.** All points of ingress and egress to a Commercial Cannabis Business shall be secured with Building Code compliant commercial-grade, non-residential door locks and/or window locks.
  6. **Emergency Access.** Security measures shall be designed to ensure emergency access is provided to the Hayward Police Department and Hayward Fire Department for all areas on the premises in the case of an emergency.
  7. **Background Checks.** All employees working in a Commercial Cannabis Business shall be subject to background /LiveScan checks **prior to the start date of employment.** Additionally, all employees shall furnish the Hayward Police Department a state or federal registered Identification Card, upon request. **Employees must authorize the use of the results to run a state and federal criminal background check. Live Scan fees are payable to the Hayward Police Department at the time of submission of the Live Scan.**
  8. **Inspections.** During regular business hours, all Commercial Cannabis Business premises shall be accessible, upon request, to an identified Hayward Police Department, **Hayward Fire Department, Planning Division** or Code Enforcement employee for random and/or unannounced inspections.
  9. **Additional Information.** **The Chief of Police may require additional information to be included in the site security plan, including but not limited to, identification of on-site security personnel.**
- EH.** **Odor Control.** All Commercial Cannabis Businesses shall incorporate and maintain adequate on-site odor control measures such that the odors as a result of cultivation, manufacturing, distribution, transport or sales of Cannabis and Cannabis-related products cannot be readily detected from outside of the structure in which the Business operates or from other non-Cannabis businesses adjoining the Commercial Cannabis Business. ~~Any land-use application filed with the City of Hayward requesting a Commercial Cannabis Business shall include an~~

~~Odor Mitigation Plan certified by a professional engineer or industrial hygienist that includes the following:~~

- ~~1. Operational processes and maintenance plan, including activities undertaken to ensure the odor mitigation system remains functional;~~
- ~~2. Staff training procedures; and~~
- ~~3. Engineering controls, which may include carbon filtration or other methods of air cleansing, and evidence that such controls are sufficient to effectively mitigate odors from all odor sources. All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry specific technologies designed to effectively mitigate cannabis odors.~~

I. **Neighborhood Compatibility Plan.** Prior to the issuance of any Commercial Cannabis Permit, applicants shall submit a Neighborhood Compatibility Plan that demonstrates how the management and operation of the proposed Commercial Cannabis Business will be compatible with the surrounding neighborhood, including proposals to mitigate potential negative impacts on the surrounding neighborhood.

J. **Point of Contact.** All Commercial Cannabis Businesses shall provide the City Manager or his/her designee, and all residents, businesses and property owners within 100 feet of the permitted premises 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 premises may be reported. This information shall be updated as necessary to keep it current.

All Commercial Cannabis Businesses shall have an on-site manager at each permitted facility within the City of Hayward who is responsible for overall operation during times that employees are conducting operations and shall provide the City Manager or his/her designee 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.

K. **Nuisance Abatement.** Commercial Cannabis Business Operators 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 48 hours of discovery.

L. **Testing Laboratories.** In addition to the General Requirements for Commercial Cannabis Businesses listed in Section 10-1.3604, all testing laboratories must obtain and maintain ISO/IEC 17025 accreditation by the State of California. Testing laboratories may be issued a provisional license allowing them to operate while they obtain ISO/IEC 17025 accreditation, provided they meet all other local and state requirements.

### 10-1.3605 Commercial Cannabis Cultivation

In addition to the General Operating Requirements set forth in Section 10-1.3604, this section provides additional requirements for Commercial Cannabis Cultivation.

- A. ~~Administrative Use Permit or Conditional Use Permit Required.~~ Depending on the size of the facility, an Administrative Use Permit or Conditional Use Permit shall be required for Commercial Cannabis Cultivation, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended. Commercial Cannabis Cultivation businesses up to 5,000 square feet of gross floor area are permitted in select zoning districts, subjected to an Administrative Use Permit. Commercial Cannabis Cultivation businesses containing 5,001 square feet or greater gross floor area are ~~conditionally~~ permitted in select zoning districts, subject to issuance of a Conditional Use Permit.
- B. Outdoor Commercial Cultivation Prohibited. The commercial cultivation of ~~Medical and Non-Medical~~ Cannabis may only be conducted within a fully enclosed space.
- C. Pesticides. The Commercial Cultivation of ~~Medical and Non-Medical~~ Cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).
- D. Sustainability Plan. As part of an application to operate within the City of Hayward, all Commercial Cannabis Cultivation Businesses shall provide a Sustainability Plan that incorporates best practices of sustainability for the proposed Business operations and site-specific improvements. The Plan may include, but not limited to, ~~recommendations for~~ energy conservation and efficiency **measures**, ~~use of solar panels~~, water conservation **measures**, **strategies to reduce** ~~tions in~~ air emissions, ~~use of toxic materials~~ and recycling **practices**.
- E. **Generators.** The use of generators for Commercial Cannabis Cultivation is prohibited, except for temporary use in the event of a power outage or for emergency use. For purposes of this subsection, emergency use is defined in accordance with 17 California Code of Regulations § 93115, as may be amended. For purposes of this subsection, the limit on use of a generator in an emergency is 90 days.
- F. **Fire Protection Report.** A technical report may be required by the Hayward Fire Department as part of the process to evaluate fire protection and determine the acceptability of equipment, extraction operations, or other processes as well as the storage/use of hazardous materials. The report shall be prepared by a qualified registered design professional or other professional approved by the Hayward Fire Department.

~~E. Ancillary Retail Use. The retail sale of cannabis and cannabis products is allowed only as a component of a microbusiness operation as defined by Business and Professions Code section 26070. The operator must hold a microbusiness (Type 12) license issued by the state Bureau of Cannabis Control. The cumulative floor area of the retail activity shall not exceed 10 percent of the first floor area of the industrial building. All cannabis and cannabis products for sale must have been cultivated, produced and manufactured on site.~~

### **10-1.3606 Commercial Cannabis Delivery**

In addition to the General Operating Requirements set forth in Section 10.1-3604, this section provides additional operational requirements for Commercial Cannabis Delivery operators:

- A. Use Permit Required. An Administrative Use Permit shall be required for Commercial Cannabis Delivery operations, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended.
- B. Non-Storefront Retail. Commercial Cannabis Delivery operators may sell cannabis goods to customers exclusively through delivery. A non-storefront retailer shall have and maintained a secured premises to store the cannabis goods for delivery, and the premises shall not be open to the public. A non-storefront retailer may only sell cannabis goods, cannabis accessories, and branded merchandise or promotional materials and may only receive cannabis goods for sale from a licensed distributor. All cannabis goods must comply with all packaging and labeling requirements as required by the State. The sale of expired cannabis or cannabis products is prohibited.
- C. Delivery Vehicles.
  1. Delivery vehicles shall not contain identifiable markings that associate the delivery service with the cannabis business.
  2. The applicant shall provide the Police Department with information regarding any motor vehicle used for the delivery of cannabis goods, including the vehicle's make, model, color, vehicle identification number (VIN), license plate number and Department of Motor Vehicles registration information. Vehicles shall be registered with the Hayward Police Department. Any motor vehicle used to deliver or transport cannabis goods is subject to inspection by the Hayward Police Department. Vehicles may be stopped and inspected by the Hayward Police Department at any licensed premises or during delivery or transport.
  3. Each delivery vehicle shall be equipped with a functioning dual-facing video camera and recording system affixed to the vehicle and positioned in such a way so as to capture the driver/interior of the vehicle, as well as the front outside of the vehicle.

4. Video recordings from each delivery vehicle recording system shall be retained for ninety (90) calendar days. Such recordings shall be made available and accessible to the Hayward Police Department immediately upon request for review and copying during normal hours of operation, without the need for a search warrant, subpoena or court order.
5. The delivery vehicle video and recording system must be of adequate quality, color rendition, resolution, and position to allow the ready identification of any individual driving the delivery vehicle, approaching the delivery vehicle, or occupying the passenger compartment of the delivery vehicle.
6. Delivery vehicle video recordings shall be made available and accessible to the Hayward Police Department within 24 hours of request.
7. The delivery vehicle shall be equipped with a GPS tracking system that collects and stores vehicle movement during product delivery and meets the requirements for GPS reporting under Section 12(A)(8) and Section 12(B)(7). The historical driving data will be stored at least sixty (60) calendar days. The cannabis business shall provide this data to the Hayward Police Department upon request.
8. Each delivery vehicle shall be equipped with a secure, locked container to store products. A secure container means an enclosed container affixed to a vehicle, the contents of which are not visible from the outside of the vehicle, which is made of sufficient materials and design so as to prevent entry without key or combination and cannot be easily removed from the vehicle.

D. Delivery Log. All Commercial Cannabis Delivery Operators must maintain a delivery log of all transactions and provide access to that log upon request to the Hayward Police Department. A “Delivery log” means a list of all deliveries of cannabis and/or cannabis product completed per delivery vehicle. The log shall contain the following information:

1. Name, address, and phone number of the cannabis business
2. Date of the delivery or deliveries
3. Time of departure from the cannabis business of the delivery vehicle
4. Time of return to the cannabis business of the delivery vehicle
5. Name, City-approved ID Badge number, and delivery driver endorsement number of the delivery driver
6. Make, model, license plate number, and GPS tracking device ID assigned to the vehicle
7. Order number associated with each unique delivery
8. Address of the delivery for each order number
9. Time of delivery for each order number
10. Price or total value for each order number
11. Total price or value of all completed orders delivered

12. Name and signature of a manager certifying that the delivery log is complete and accurate
  13. Total number of deliveries completed for that vehicle during that shift
  14. Explanation and information concerning any unanticipated circumstances, if any, that occurred during the delivery (e.g. vehicle accident, flat tire, theft of product)
- E. Delivery Manifest. All Commercial Cannabis Delivery Operators must maintain a delivery manifest of all transactions and provide access to that manifest upon request to the Hayward Police Department. “Delivery manifest” means a detailed accounting of the cannabis and cannabis products authorized by the delivery center to be contained in the delivery vehicle at the time of departure from the delivery center and at the time of return to the delivery center. The delivery manifest shall contain the following information:
1. Name, address, and phone number of the cannabis business
  2. Date of departure of cannabis or cannabis product from the cannabis business and the time of return to the cannabis business
  3. Time of departure of cannabis or cannabis product from the cannabis business and the time of return to the cannabis business
  4. Name, City-approved ID Badge number, and delivery driver endorsement number of the delivery driver
  5. Make, model license plate number, and GPS tracking device ID assigned to the vehicle
  6. Type of product (e.g. flower, concentrate, edible, infused product)
  7. Itemized product description (e.g. strain, manufacturer, description of edible such as candy bar, cookie, description of infused product such as tincture, lotion)
  8. Itemized amount of product by quantity or weight as appropriate for the type of product
  9. Itemized value of product by quantity or weight as appropriate for the type of product
  10. Total amount of product by quantity or weight as appropriate for the type of product at the time of departure from the cannabis business and at the time of return to the cannabis business if a transaction(s) did not occur or was modified
  11. Total value of all medicinal cannabis and medicinal cannabis products in the vehicle at the time of departure from the cannabis business and at the time of return to the cannabis business
- F. Safety and Security.
1. If delivery services will be provided as part of the Commercial Cannabis Retail operation, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in this Chapter and state law.
  2. A licensed retailer’s delivery employee shall not carry cannabis goods in the delivery vehicle with a value in excess of \$5,000 at any time. The value of cannabis goods carried in the delivery vehicle for which a delivery order was not received and

processed by the licensed retailer prior to the delivery employee departing from the licensed premises may not exceed \$3,000.

**10-1.3607 Commercial Cannabis Distribution**

In addition to the General Operating Requirements set forth in Section 10.1-3604, this section provides additional operational requirements for Commercial Cannabis Distribution operators:

- A. Use Permit Required. An Administrative Use Permit shall be required for Commercial Cannabis Distribution operations, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended.
- B. Distribution Vehicles.
  - 1. Vehicles used for Distribution between licensed cannabis operators shall not contain identifiable markings that associate the distribution service with the cannabis business.
  - 2. A licensed distributor shall only travel between licensees' premises, except for necessary rest, fuel, or vehicle repair stops, while transporting cannabis goods, consistent with State law.
  - 3. The applicant shall provide the Police Department with information regarding any motor vehicle used for the delivery of cannabis goods, including the vehicle's make, model, color, vehicle identification number (VIN), license plate number and Department of Motor Vehicles registration information. Vehicles shall be registered with the Hayward Police Department. Any motor vehicle used to deliver or transport cannabis goods is subject to inspection by the Hayward Police Department. Vehicles may be stopped and inspected by the Hayward Police Department at any licensed premises or during delivery or transport.
  - 4. Each vehicle used in association with the distribution operation shall be equipped with a functioning dual-facing video camera and recording system affixed to the vehicle and positioned in such a way so as to capture the driver/interior of the vehicle, as well as the front outside of the vehicle.
  - 5. Video recordings from each distribution vehicle recording system shall be retained for ninety (90) calendar days. Such recordings shall be made available and accessible to the Hayward Police Department immediately upon request for review and copying during normal hours of operation, without the need for a search warrant, subpoena or court order.
  - 6. The distribution vehicle video and recording system must be of adequate quality, color rendition, resolution, and position to allow the ready identification of any individual driving the delivery vehicle, approaching the delivery vehicle, or occupying the passenger compartment of the delivery vehicle.

7. Distribution vehicle video recordings shall be made available and accessible to the Hayward Police Department within 24 hours of request.
  8. The distribution vehicle shall be equipped with a GPS tracking system that collects and stores vehicle movement during product delivery. The historical driving data will be stored at least sixty (60) calendar days. The cannabis business shall provide this data to the Hayward Police Department upon request.
  9. Each distribution vehicle shall be equipped with a secure, locked container to store products. A secure container means an enclosed container affixed to a vehicle, the contents of which are not visible from the outside of the vehicle, which is made of sufficient materials and design so as to prevent entry without key or combination and cannot be easily removed from the vehicle.
- C. Delivery Log. All Commercial Cannabis Distribution Operators must maintain a log of all transactions and provide access to that log upon request to the Hayward Police Department. A “Delivery log” means a list of all deliveries of cannabis and/or cannabis product completed per delivery vehicle. The log shall contain the following information:
1. Name, address, and phone number of the cannabis business
  2. Date of the delivery or deliveries
  3. Time of departure from the cannabis business of the delivery vehicle
  4. Time of return to the cannabis business of the delivery vehicle
  5. Name, City-approved ID Badge number, and delivery driver endorsement number of the delivery driver
  6. Make, model, license plate number, and GPS tracking device ID assigned to the vehicle
  7. Order number associated with each unique delivery
  8. Address of the delivery for each order number
  9. Time of delivery for each order number
  10. Price or total value for each order number
  11. Total price or value of all completed orders delivered
  12. Name and signature of a manager certifying that the delivery log is complete and accurate
  13. Total number of deliveries completed for that vehicle during that shift
  14. Explanation and information concerning any unanticipated circumstances, if any, that occurred during the delivery (e.g. vehicle accident, flat tire, theft of product)
- D. Delivery Manifest. All Commercial Cannabis Distribution Operators must maintain a delivery manifest of all transactions and provide access to that manifest upon request to the Hayward Police Department. “Delivery manifest” means a detailed accounting of the cannabis and cannabis products authorized by the delivery center to be contained in the delivery vehicle at

the time of departure from the delivery center and at the time of return to the delivery center. The delivery manifest shall contain the following information:

1. Name, address, and phone number of the cannabis business
2. Date of departure of cannabis or cannabis product from the cannabis business and the time of return to the cannabis business
3. Time of departure of cannabis or cannabis product from the cannabis business and the time of return to the cannabis business
4. Name, City-approved ID Badge number, and delivery driver endorsement number of the delivery driver
5. Make, model license plate number, and GPS tracking device ID assigned to the vehicle
6. Type of product (e.g. flower, concentrate, edible, infused product)
7. Itemized product description (e.g. strain, manufacturer, description of edible such as candy bar, cookie, description of infused product such as tincture, lotion)
8. Itemized amount of product by quantity or weight as appropriate for the type of product
9. Itemized value of product by quantity or weight as appropriate for the type of product
10. Total amount of product by quantity or weight as appropriate for the type of product at the time of departure from the cannabis business and at the time of return to the cannabis business if a transaction(s) did not occur or was modified
11. Total value of all medicinal cannabis and medicinal cannabis products in the vehicle at the time of departure from the cannabis business and at the time of return to the cannabis business

#### **10-1.36086 Commercial ~~Medical and Non-Medical~~ Cannabis Manufacturing**

In addition to the General Operating Requirements set forth in Section 10.1-3604, this section provides additional operational requirements for Commercial Cannabis Manufacturing, **Level 1 and Level 2**:

- A. **Use Permit Required.** Depending on the size of the facility, an Administrative Use Permit or Conditional Use Permit shall be required for Commercial Cannabis Manufacturing (Non-Volatile) operations, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended. Commercial Cannabis Manufacturing Level 1 (Non-Volatile) up to 5,000 square feet of gross floor area are permitted in select zoning districts, subject to an Administrative Use Permit. Commercial Cannabis Manufacturing Level 1 (Non-Volatile) over 5,000 square feet of gross floor area are permitted in select zoning districts, subject to a Conditional Use Permit. Commercial Cannabis Manufacturing – Level 2 (Volatile) are only permitted in the select zoning districts, subject to the issuance of a Conditional Use Permit, regardless of size.
- ~~A. A Conditional Use Permit shall be required for all Commercial Medical and Non-Medical Cannabis Manufacturing Level 1 operations, pursuant to the land use and development~~

~~regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended. Commercial Medical and Non Medical Cannabis Manufacturing Level 2 is prohibited.~~

- B. Extraction Processes. Commercial Cannabis Manufacturers shall utilize only extraction processes that are (a) solvent-free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act, and/or (b) use solvents exclusively within a closed loop system that meets the requirements of the federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a California licensed engineer. ~~The use of volatile solvents, defined as Commercial Medical and Non Medical Cannabis Manufacturing Level 2, is prohibited.~~
- C. Loop Systems. No closed loop systems shall be utilized without prior inspection and approval of the City's Building Official and Fire Code Official.
- D. Standards of Equipment. Manufacturing, processing and analytical testing devices used by the Cannabis Manufacturer must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third-party testing agency or engineer and approved for the intended use by the City's Building Official and Fire Code Official.
- E. Food Handler Certification. All owners, employees, volunteers or other individuals that participate in the production of edible Cannabis Products must be state certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the Cannabis Manufacturer's facility where that individual participates in the production of edible Cannabis Products.
- F. Edible Product Manufacturing. Commercial Cannabis Businesses that sell or manufacture edible cannabis products shall obtain a permit from the Alameda County Public Health Department. Permit holders shall comply with State and County health permit requirements. These requirements provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.
- G. Sustainability Plan. As part of an application to operate within the City of Hayward, all Commercial Cannabis Cultivation Businesses shall provide a Sustainability Plan that incorporates best practices of sustainability for the proposed Business operations and site-specific improvements. The Plan may include, but not limited to, ~~recommendations for~~ energy conservation and efficiency **measures**, ~~use of solar panels~~, water conservation **measures**, **strategies to reduce** ~~tions in~~ air emissions, ~~use of toxic materials~~ and recycling **practices**.
- F. **Fire Protection Report. A technical report may be required by the Hayward Fire Department as part of the process to evaluate fire protection and determine the acceptability of equipment,**

extraction operations, or other processes as well as the storage/use of hazardous materials. The report shall be prepared by a qualified registered design professional or other professional approved by the Hayward Fire Department.

- ~~F. Ancillary Retail Use. The retail sale of cannabis and cannabis products is allowed only as a component of a microbusiness operation as defined by Business and Professions Code section 26070. The operator must hold a microbusiness (Type 12) license issued by the state Bureau of Cannabis Control. The cumulative floor area of the retail activity shall not exceed 10 percent of the first floor area of the industrial building. All cannabis and cannabis products for sale must have been cultivated, produced and manufactured on site.~~

### **10-1.3609 Commercial Cannabis Microbusiness**

In addition to the General Operating Requirements set forth in Section 10.1-3604, this section provides additional operational requirements for Commercial Cannabis Microbusinesses shall comply with the following:

- A. **Use Permit Required.** A Conditional Use Permit shall be required for Commercial Cannabis Microbusiness operations, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended.
- B. As part of the Conditional Use Permit, applicants shall obtain a license issued by the State Bureau of Cannabis Control for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Manufacturer - Level 1 (Non-Volatile), or retailer (Storefront or Non-Storefront) pursuant to California Business and Professions Code sections 26050 and 26070. In order to be defined as a Microbusiness, the applicant must engage in three of the four listed activities and comply with all the operational and regulatory guidelines for each activity as defined by this Chapter.
- C. **Fire Protection Report.** A technical report may be required by the Hayward Fire Department as part of the process to evaluate fire protection and determine the acceptability of equipment, extraction operations, or other processes as well as the storage/use of hazardous materials. The report shall be prepared by a qualified registered design professional or other professional approved by the Hayward Fire Department.
- D. **Retail Use.** The retail sales of cannabis and cannabis products (storefront) is allowed as a component of a microbusiness operation as defined by Business and Professions Code section 26070. The operator must hold a microbusiness (Type 12) license issued by the state Bureau of Cannabis Control. The cumulative floor area of the storefront retail component shall not exceed 10 percent of the first-floor area of the industrial building or the total square footage microbusiness activity area, whichever is less. There is no size limitation for non-storefront retail activities.

**10-1.361007 Commercial Cannabis Retail Dispensaries and Delivery.**

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

- A. ~~Conditional Use Permit or Administrative Use Permit Required.~~ A Conditional Use Permit shall be required for Commercial Cannabis Retail dispensaries, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended. ~~An Administrative Use Permit shall be required for Commercial Cannabis Delivery businesses, pursuant to the land use regulations contained within Chapter 10, Article 1 (Zoning Ordinance).~~
- B. Drive-Through Dispensaries. Drive-through, Drive-up or walk-up window services in conjunction with Commercial Cannabis Retail Dispensaries is prohibited.
- C. Setbacks and Buffers. In addition to the zoning requirements and development regulations contained in Chapter 10 (Zoning Ordinance), all Commercial Cannabis Retail **Storefront** dispensaries shall be subject to the following:
  1. Overconcentration. To avoid overconcentration, a Commercial Cannabis Retail **Storefront** Dispensary shall not be located within 500 feet of any other Commercial Cannabis Retail **Storefront** Dispensary within the City of Hayward.
  2. Legal Non-Conforming Use. Establishment of a school or sensitive land use, as defined in Business and Professions Code Section 26054 and Health and Safety Code Section 11362.768, within the required 500-foot buffer of a Commercial Cannabis Retail **Storefront** dispensary after such facility has obtained a Conditional Use Permit shall render the Retail **Storefront** dispensary a legally non-conforming use, which is subject to the protections and provisions of Section 10-1.2900 (Non-Conforming Uses).
- D. Operational Requirements. In addition to project specific conditions of approval, Commercial Cannabis Retail Dispensaries shall comply with the following operational requirements:
  1. Employees. The Commercial Cannabis Retail Operator shall maintain a current register of the names of all employees employed by the Commercial Cannabis Retailer and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this section.
  2. Recordkeeping. The Commercial Cannabis Retail Operator shall maintain patient and sales records in accordance with state law.

3. Protocols and requirements for ~~patients and~~ persons entering the site. No person shall be permitted to enter a Commercial Cannabis Retail dispensary without government issued photo identification. A Commercial Cannabis Retail dispensary shall not provide Cannabis or Cannabis Products (~~Medical or Non-Medical~~) to any person, whether by purchase, trade, gift or otherwise, who does not possess a valid government-issued photo identification card or a valid physician's recommendation under Section 11362.712 of the Health and Safety Code.
4. Hours of Operation. A Commercial Cannabis Retail Dispensary may operate up to seven (7) days per week with the hours of operation determined by the Planning Commission with the issuance of a Conditional Use Permit. Upon ~~license~~ **Commercial Cannabis Permit** renewal, the City may impose more restrictive hours of operation due to site-specific conditions or as the result of excessive and extraordinary calls for service, as determined by the City's Police Department. The basis for any restriction on the hours or operation shall be specified in the **Commercial Cannabis p**Permit.
5. Secured Access. A Commercial Cannabis Retail Dispensary shall be designed to prevent unauthorized entrance into areas containing Cannabis or Cannabis Products. Limited access areas accessible to only authorized personnel shall be established.
6. Product Storage. Commercial Cannabis and Cannabis Products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.
7. Cannabis Paraphernalia. No dispensary shall sell or display any cannabis related paraphernalia or any implement that may be used to administer Commercial Cannabis or Commercial Cannabis Products unless specifically described and authorized in the Conditional Use Permit. The sale of such products must comply with the City's zoning code and any other applicable state regulations.
8. On-site Physician Restriction. Commercial Cannabis Retail dispensaries shall not have an on-site or on-staff physician to evaluate patients and provide a recommendation for Medical Cannabis.
9. Site Management. The Commercial Cannabis Retail operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, "Reasonable steps" shall include calling the police in a timely manner; and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request.

10. **Permit Display.** All Commercial Cannabis Retail dispensaries shall maintain a copy of the valid operating ~~license~~ **Commercial Cannabis Permit** issued by the City on display during business hours and in a conspicuous place so that the same may be readily seen by all persons entering the facility.
  11. **Storefront Entrance & Accessibility.** The storefront entrance of a Commercial Cannabis Retail dispensary shall be ADA accessible and placed in a visible location that provides an unobstructed view from the public right of way.
- E. **On-Site Consumption.** In general, On-Site Consumption of cannabis and cannabis products by customers or employees is prohibited. If permitted, the consumption of Cannabis and Cannabis Products shall be subject to the following requirements:
1. **Patients.** Qualified Patients, as defined by state law, shall not be permitted to consume medical cannabis on the site of a Commercial Cannabis Retail dispensary except as permitted in accordance with Chapter 5, Article 6 (Smoking Pollution Control) of the Hayward Municipal Code and state law and as follows:
    - i. Conditional Use Permit applications for a Commercial Cannabis Retail business shall include a statement as to whether the use will include on-site consumption by patients of Medical Cannabis and Medical Cannabis Products.
    - ii. If on-site consumption will be included, the application shall describe the operational plan and specific extent of such provision, security protocols, and how the consumption will comply with the requirements set forth in this Chapter and state law. Specifically, any on-site consumption shall be subject to the following conditions: (1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older; (2) Cannabis consumption is not visible from any public place or non-age restricted area; (3) sale or consumption of alcohol or tobacco is not allowed on the premises.
  2. **Employees.** Employees of a Commercial Cannabis Retail facility who are qualified patients may consume Medical Cannabis or Medical Cannabis Products on-site within designated spaces not visible by members of the public, provided that such consumption is in compliance with Chapter 5, Article 6 (Smoking Pollution Control) of the Hayward Municipal Code and state law.
  3. **Signage and Public Notice.** The entrance to a Commercial Cannabis Retail dispensary shall be clearly and legibly posted with a notice indicating that smoking, vaping, and consumption of cannabis and cannabis products is prohibited on site, except as permitted in accordance with Chapter 5, Article 6 of the Hayward Municipal Code (Smoking Pollution Control) and state law.

- F. **Delivery Services.** Commercial Cannabis Retail Dispensaries that provide customer deliveries of cannabis and cannabis products shall be permitted as an ancillary use, pursuant to the regulations outlined in Section 10-1.3606.
- G. **Ancillary Cannabis, Industrial Hemp and CBD.** No general retailer can sell any cannabis or cannabis products as an ancillary use at their retail location without first applying for a Commercial Cannabis Retail Dispensary permit as the principal land use at their location and complying with the location and permitting requirements of this Section. Retail sales of products that contain CBD (cannabidiol) derived from industrial hemp are allowed and do not require a Commercial Cannabis Permit. The use of industrial hemp as the source of CBD to be added to food products is prohibited, unless otherwise permitted by the State of California.
- G. ~~In addition to the requirements established in this Chapter for Commercial Cannabis Retail Dispensaries, the delivery of Medical and Non-Medical Cannabis and Cannabis Products shall be subject to the following requirements:~~
1. ~~An Administrative Use Permit shall be required for Commercial Cannabis Delivery Only businesses, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended. If the delivery service is ancillary to a Commercial Cannabis Retail Dispensary, a Conditional Use Permit that identified both uses shall be required.~~
  2. ~~A Commercial Cannabis Retail Dispensary shall not conduct sales exclusively by delivery.~~
  3. ~~All applications for Commercial Cannabis Retail dispensary shall indicate a statement as to whether the proposed use will include delivery of Cannabis and Cannabis Products to customers or qualified patients.~~
  4. ~~If delivery services will be provided as part of the Commercial Cannabis Retail operations, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in this Chapter and state law.~~
  5. ~~Delivery vehicles shall not contain identifiable markings that associate the delivery service with the cannabis business.~~
  6. ~~Commercial Cannabis Delivery Only businesses shall not store or sell cannabis or cannabis products on site.~~

**10-1.3608 Special Events**

- A. Temporary special events that involve onsite cannabis sales to, and consumption by persons 21 years of age or older shall not be allowed unless the Commercial Cannabis Business obtains a special event permit from the City pursuant to the adopted Rules and Regulations for Food Vendors and the Rules and/or the Regulations for Special Event Organizers, as applicable, and, demonstrates that it possesses a local cannabis business permit and state license for retail cannabis sales.
- B. Permit Required. Applications for a special event that includes cannabis shall be considered a Temporary Use, per Chapter 10, Article 1 (Zoning Ordinance) and shall obtain an Administrative Use Permit, pursuant to the zoning district and location of the event.

**10-1.3609 Findings**

In addition to the required findings contained in Section 10-1.3125 (Administrative Use Permit) and Section 10-1.3125 (Conditional Use Permit), every land use application requiring discretionary review for cannabis and cannabis products shall be required to make the following findings prior to issuance:

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;
2. Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste related to the cannabis operation;
3. The cannabis operation is designed to be safe, secure, sustainable 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.

**10-1.3610 Grounds for Permit Revocation or Modification**

In addition to the permitting requirements contained in Chapter 6 (Businesses, Professions and Trades), the reviewing authority may require modification, discontinuance or revocation of a Conditional Use Permit or Administrative Use Permit for a Commercial Cannabis Business ~~permit~~ if the review authority finds that the use is operated or maintained in a manner that it:

- A. Adversely affects the health, peace or safety of persons living or working in the surrounding area;

- B. Contributes to a public nuisance; or
- C. Has resulted in excessive nuisance activities including disturbances of the peace, illegal drug activity, diversion of Commercial Cannabis or Commercial Cannabis Products, public intoxication, smoking in public, harassment of passerby, littering, or obstruction of any street, sidewalk or public way; or
- D. Violates any provision of the Hayward Municipal Code or condition imposed by a City issued permit, or violates any provision of any other local, state, regulation, or order, including those of state law or violates any condition imposed by permits or licenses issued in compliance with those laws.

### SECTION 10-1.3500 DEFINITIONS

Update the following Definitions, in alphabetical order, to Section 10-1.3500 (Definitions), Section 10-24.500 (Definitions and Rules of Interpretation) and Section 10-25.600 (Definitions) to read and provide as follows:

**“Cannabis”** means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972, and amended by the California Control, Regulate and Tax Adult Use of Marijuana Initiative, and as defined by other applicable state law. “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

**"Canopy"**. The designated area(s) at a cannabis business, except nurseries and processors, that will contain mature plants at any point in time, as follows. For indoor cultivation, canopy is calculated in square feet and measured using the room boundaries, walls, or ceiling-to-floor partitions of each enclosed area that will contain mature plants at any point in time. If mature plants are being cultivated using a shelving system, the surface area of each level is included in the total canopy calculation.

**“Commercial Cannabis Business”** means an entity engaged in the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes.

**“Cannabis Delivery”** means the commercial transfer of Cannabis or Cannabis Products to a customer, including Medical Cannabis or Cannabis Products, to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code. “Delivery” also includes the use of any technology platform owned and controlled by a Cannabis Business Operator that enables

clients or patients to arrange for or facilitate the commercial transfer by a permitted Commercial Cannabis Retail dispensary.

**“Edible Cannabis Product”** means a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

**“Extraction”**. A process by which cannabinoids are separated from cannabis plant material through chemical, physical, or any other means.

**“Greenhouse”** means a permanent enclosed structure for the propagation and growing of plants, constructed with a translucent roof and/or walls.

**“Industrial hemp”** or **“Hemp”** means an agricultural product, whether growing or not, that is limited to types of the plant *Cannabis sativa L.* and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.

**“Marijuana”** See **“Cannabis”**.

**“Medical Cannabis”** or **“Medical Cannabis Product”** means cannabis or a cannabis product, respectfully, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medical cannabis patient in California who possesses a physician’s recommendation.

**“Commercial Cannabis Microbusiness”** means a commercial cannabis business holding a license issued by the State Bureau of Cannabis Control for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer pursuant to Business and Professions Code sections 26050 and 26070. **In order to be defined as a Microbusiness, an operator must engage in three of the four listed activities.**

**“Premises”** means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

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

**“Commercial Cannabis Distribution”** means the procurement, sale, and transport of medical and non-medical adult recreational use Cannabis and medical and non-medical adult recreational use Cannabis Products between Commercial Cannabis Businesses.

**“Commercial Cannabis Manufacturing”** means the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by mean 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.

**“Commercial Cannabis Manufacturing – Level 1”** means the manufacturing of cannabis products **primarily** using nonvolatile solvents, or no solvents. ~~A Commercial Cannabis Manufacturing Level 1 Operator shall only manufacture cannabis products for sale by a permitted Commercial Cannabis Retail facility.~~

**“Commercial Cannabis Manufacturing – Level 2”** means the manufacturing of cannabis products using volatile solvents. ~~A Commercial Cannabis Manufacturing Level 2 Operator shall only manufacture cannabis products for sale by a permitted Commercial Cannabis Retail dispensary.~~ For purposes of this section, “volatile solvents” shall include ~~ethanol~~ and all solvents described in paragraph (3) of subdivision (d) of Section 11362.3 of the Health and Safety Code, as such section may be amended.

**“Medical Marijuana”** See **“Medical Cannabis”**.

**“Commercial Cannabis Operator”** or **“Operator”** means the person or entity that is engaged in the conduct of any commercial medical or non-medical adult recreational Cannabis use.

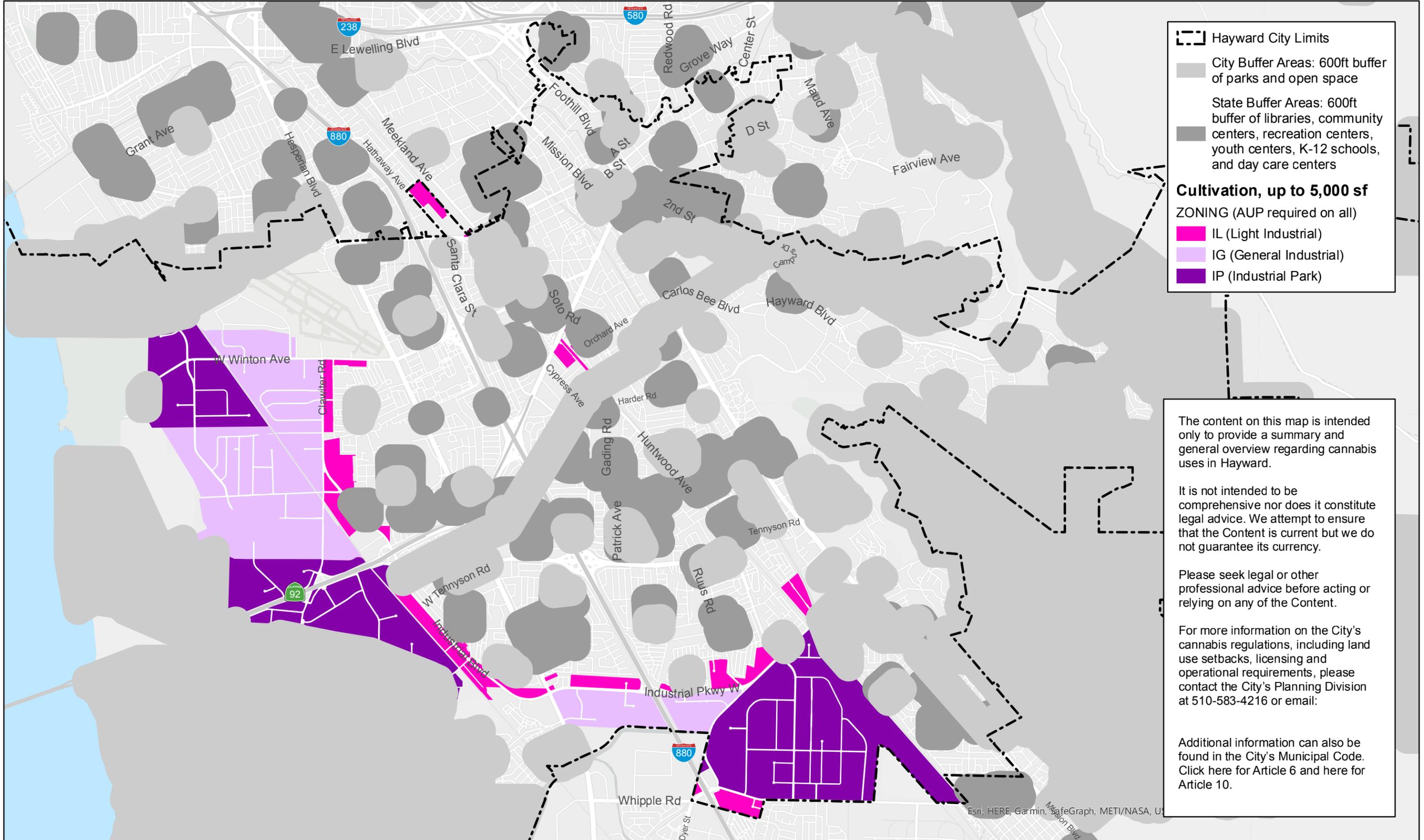
**“Commercial Cannabis Retail Dispensary”** means a facility where Commercial Cannabis or Commercial Cannabis Products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical and non-medical adult recreational use Cannabis or medical and non-medical adult recreational use Cannabis Products as part of a retail sale.

**“Commercial Cannabis Testing Laboratory”** means a laboratory, facility, or entity in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
- (2) Licensed by the Bureau of Cannabis Control.

ZONING	Cultivation Up to 5,000 sf	Cultivation 5,001 sf or greater	Delivery	Dispensary	Distribution	Manufacturing Level 1 Up to 5,000 sf	Manufacturing Level 1 5,001 sf or greater	Manufacturing Level 2	Microbusiness	Testing Labs
CG, General Commerical	x	x	AUP	CUP	x	x	x	x	x	AUP
CO, Commerical Office	x	x	AUP	x	x	x	x	x	x	AUP
CC-C, City Center Commercial	x	x	x	CUP	x	x	x	x	x	x
CC-R, City Center Residential	x	x	x	<del>CUP</del> -x	x	x	x	x	x	x
DT-NE, Neighborhood Edge	x	x	x	<del>CUP</del> -x	x	x	x	x	x	x
NG, Neighborhood General	x	x	x	<del>CUP</del> -x	x	x	x	x	x	x
UN, Urban Neighborhood	x	x	x	CUP	x	x	x	x	x	x
UNL, Urban Neighborhood Ltd	x	x	x	<del>CUP</del> -x	x	x	x	x	x	x
DT-MS, Downtown Main Street	x	x	x	CUP	x	x	x	x	x	x
UC, Urban Center	x	x	x	CUP	x	x	x	x	x	x
IL, Light Industrial	AUP	CUP	AUP	x	AUP	AUP	CUP	x	CUP	P
IP, Industrial Park	AUP	CUP	AUP	* CUP	AUP	AUP	CUP	x	CUP	P
IG, General Industrial	AUP	CUP	AUP	x	AUP	AUP	CUP	* CUP	CUP	P

NV = Type 1 (Non Volatile)  
V = Type 2 (Volatile)  
x = Prohibited



The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

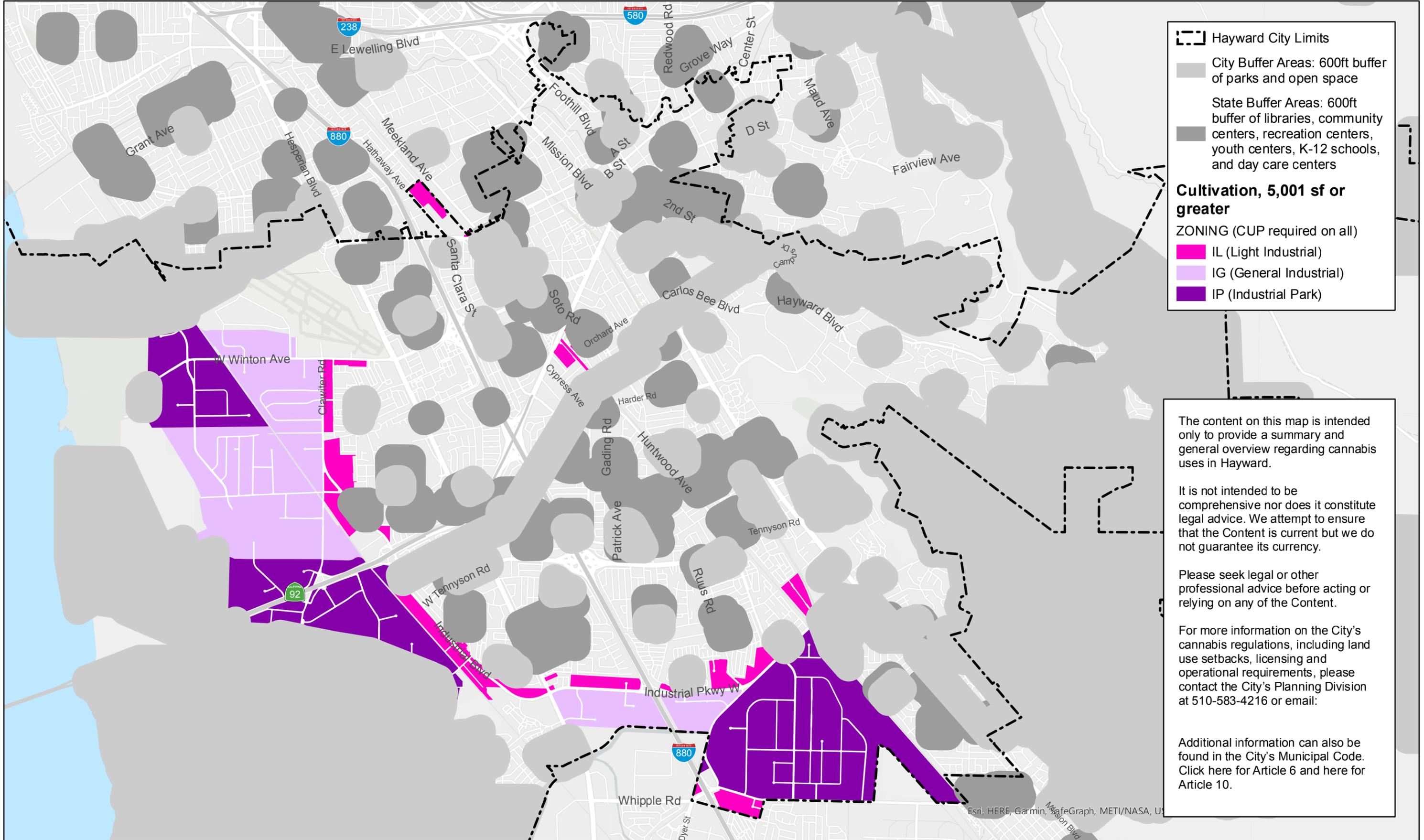
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



 Hayward City Limits

 City Buffer Areas: 600ft buffer of parks and open space

 State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Cultivation, 5,001 sf or greater**

ZONING (CUP required on all)

 IL (Light Industrial)

 IG (General Industrial)

 IP (Industrial Park)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

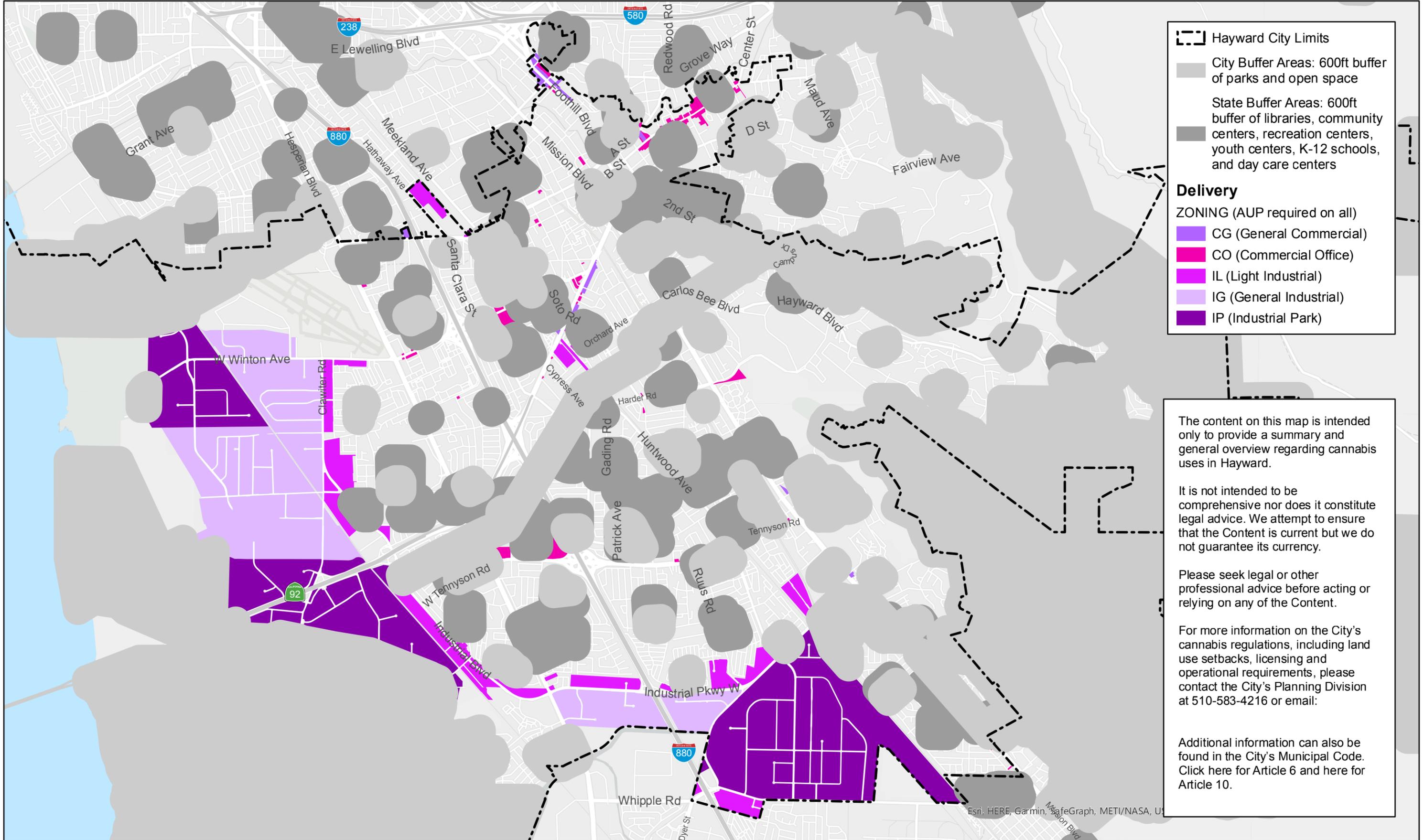
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



 Hayward City Limits

 City Buffer Areas: 600ft buffer of parks and open space

 State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Delivery**

ZONING (AUP required on all)

 CG (General Commercial)

 CO (Commercial Office)

 IL (Light Industrial)

 IG (General Industrial)

 IP (Industrial Park)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

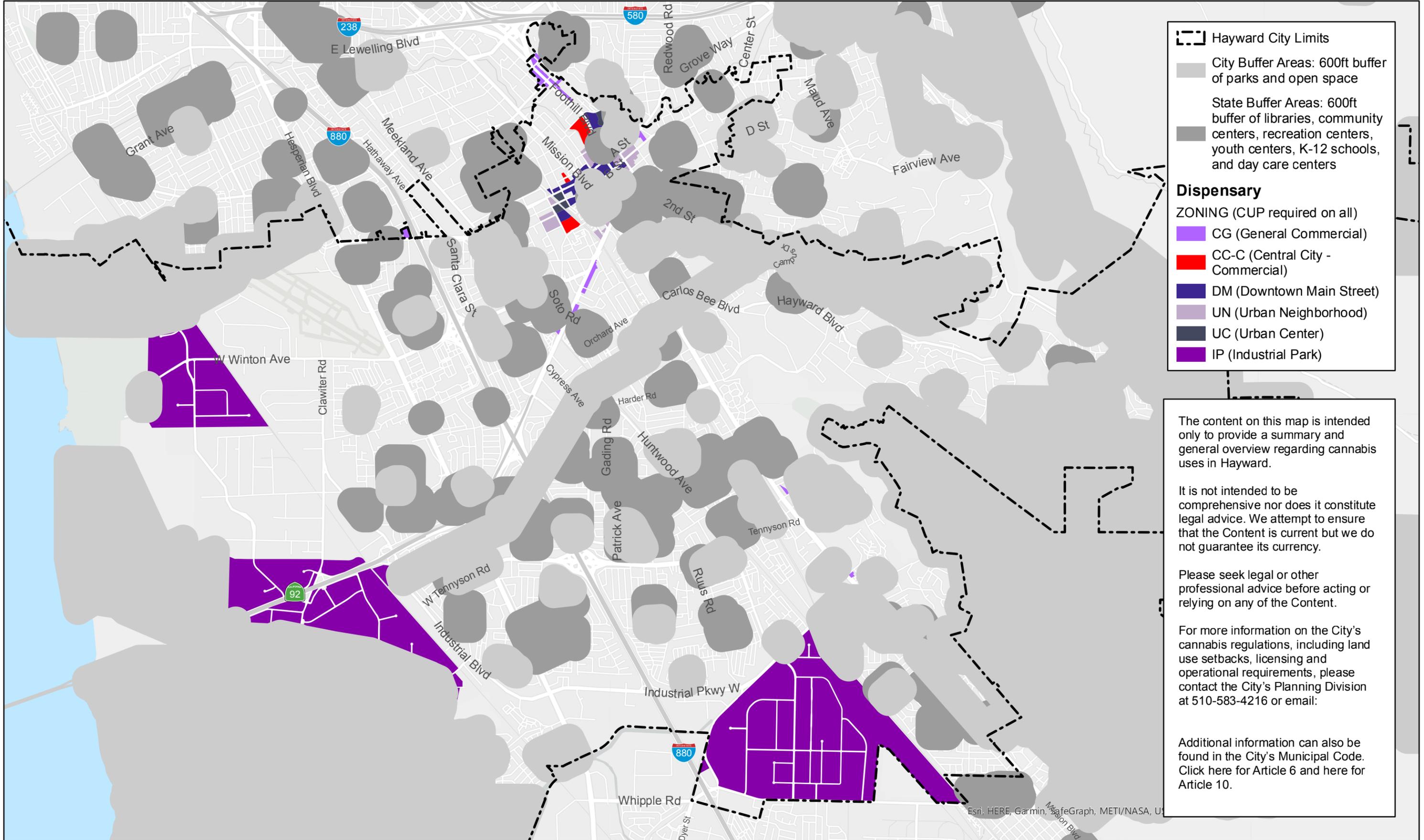
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



**Hayward City Limits**

- City Buffer Areas: 600ft buffer of parks and open space
- State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Dispensary**

ZONING (CUP required on all)

- CG (General Commercial)
- CC-C (Central City - Commercial)
- DM (Downtown Main Street)
- UN (Urban Neighborhood)
- UC (Urban Center)
- IP (Industrial Park)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

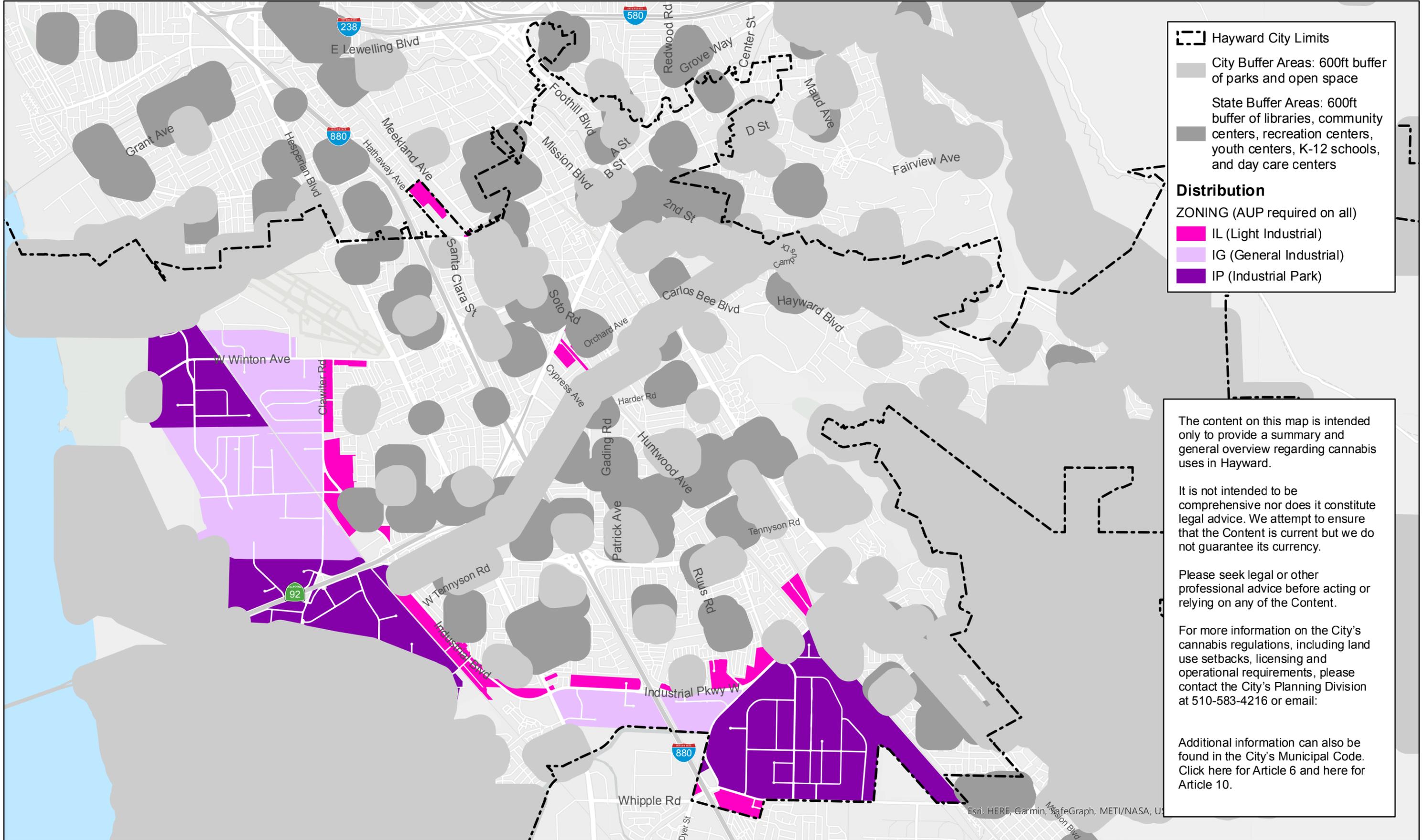
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



 Hayward City Limits

 City Buffer Areas: 600ft buffer of parks and open space

 State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Distribution**

ZONING (AUP required on all)

 IL (Light Industrial)

 IG (General Industrial)

 IP (Industrial Park)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

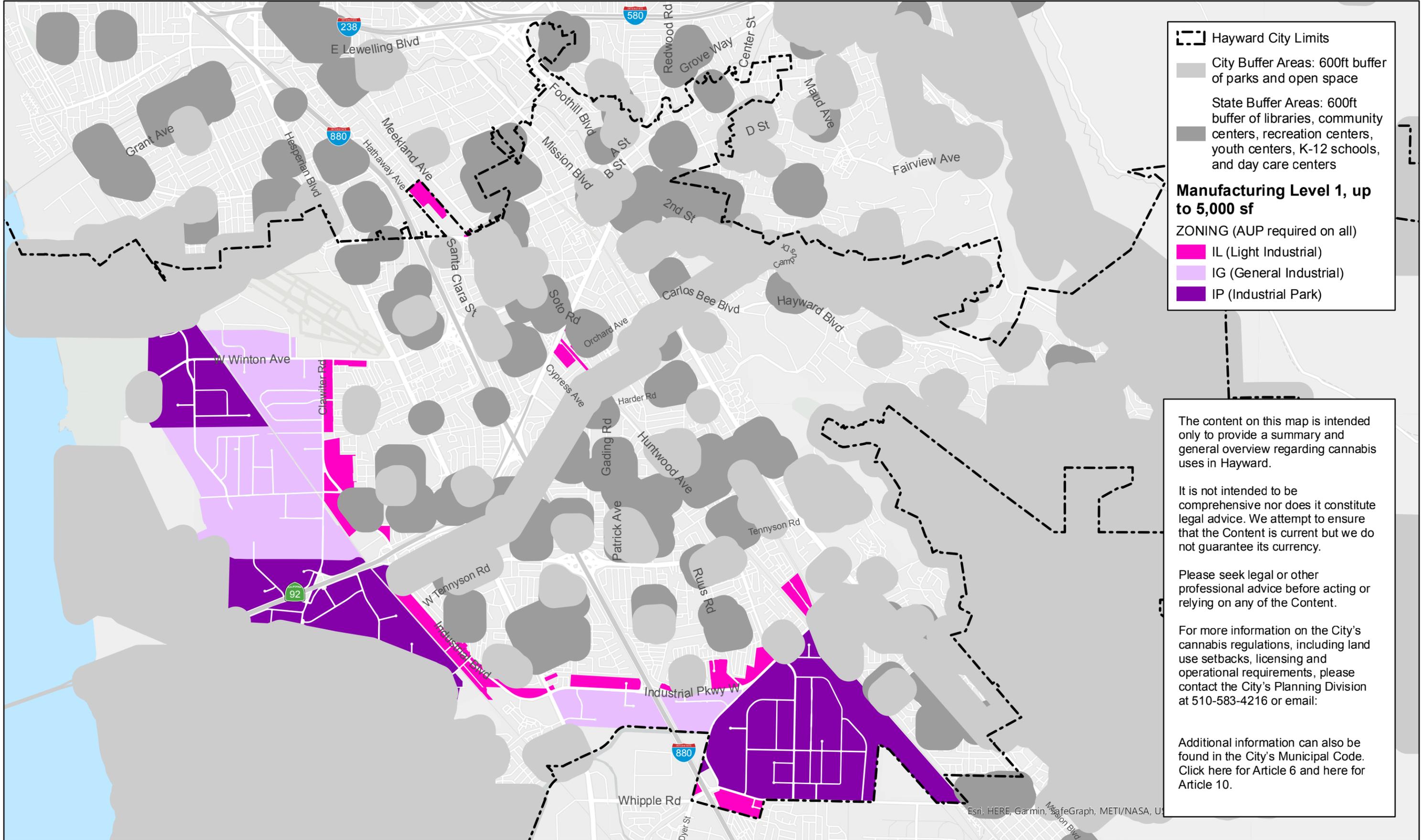
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



 Hayward City Limits

 City Buffer Areas: 600ft buffer of parks and open space

 State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Manufacturing Level 1, up to 5,000 sf**

ZONING (AUP required on all)

 IL (Light Industrial)

 IG (General Industrial)

 IP (Industrial Park)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

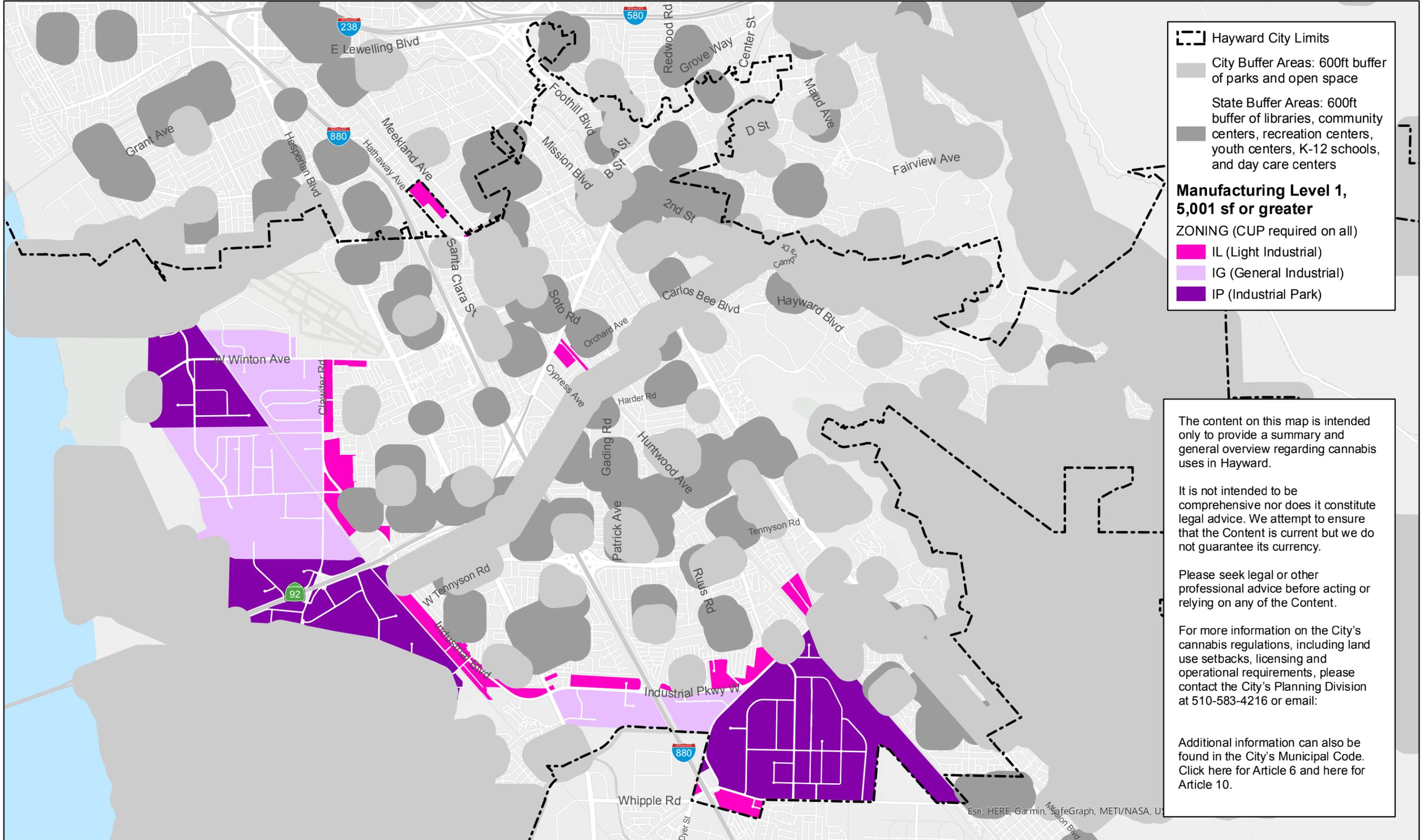
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



 Hayward City Limits

 City Buffer Areas: 600ft buffer of parks and open space

 State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Manufacturing Level 1, 5,001 sf or greater**

ZONING (CUP required on all)

 IL (Light Industrial)

 IG (General Industrial)

 IP (Industrial Park)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

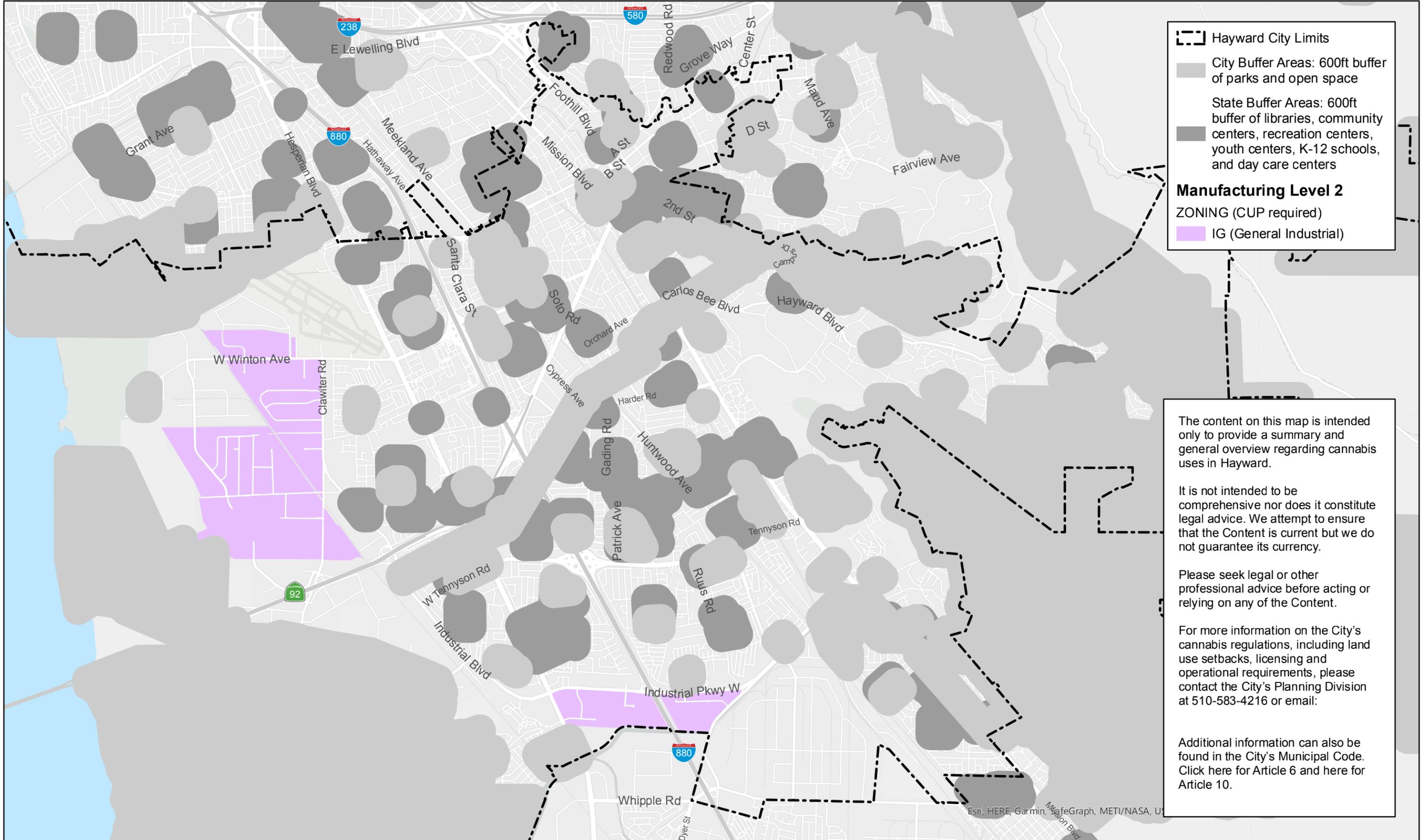
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



 Hayward City Limits

 City Buffer Areas: 600ft buffer of parks and open space

 State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Manufacturing Level 2**  
ZONING (CUP required)  
 IG (General Industrial)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

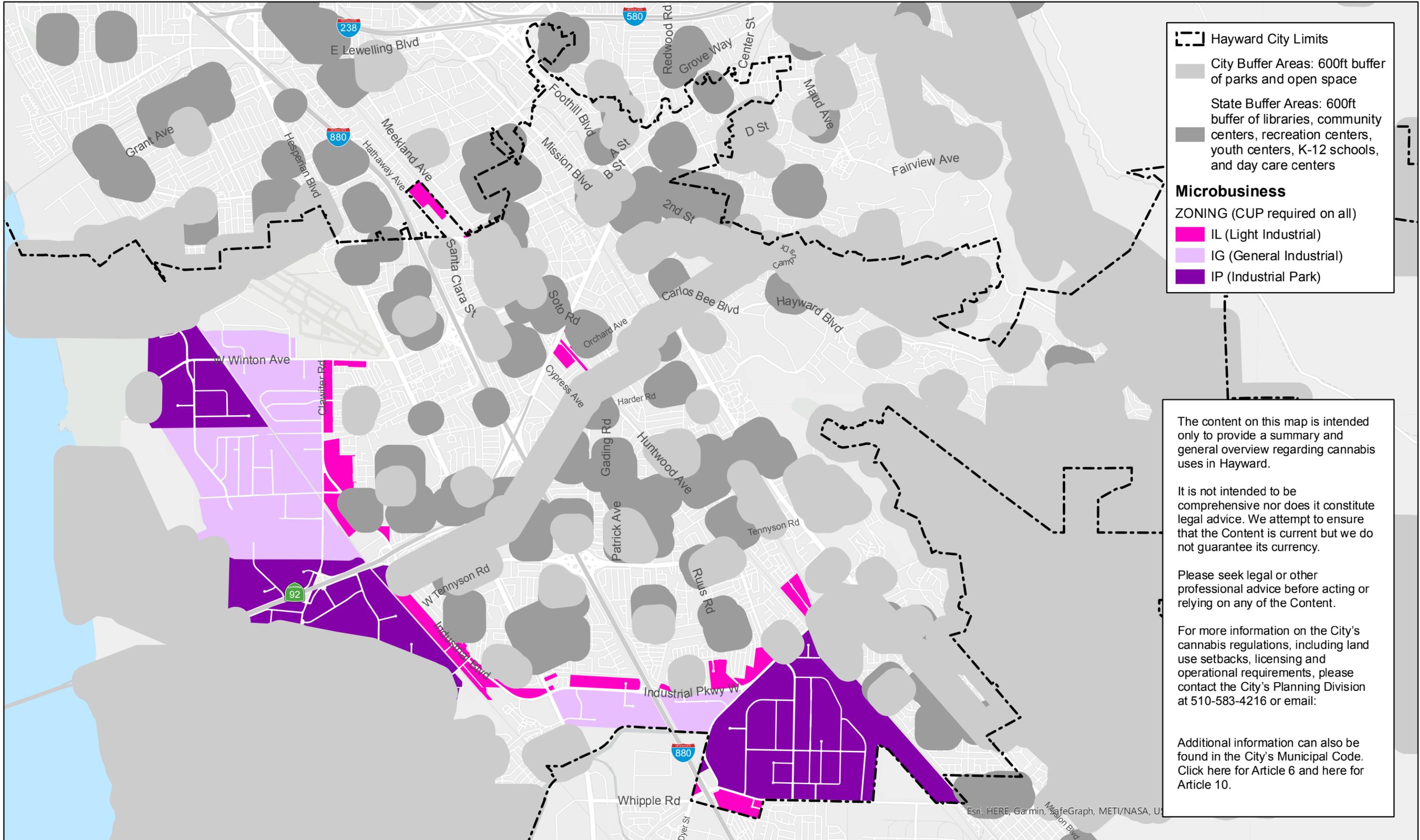
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



**Hayward City Limits**

- City Buffer Areas: 600ft buffer of parks and open space
- State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Microbusiness**

ZONING (CUP required on all)

- IL (Light Industrial)
- IG (General Industrial)
- IP (Industrial Park)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

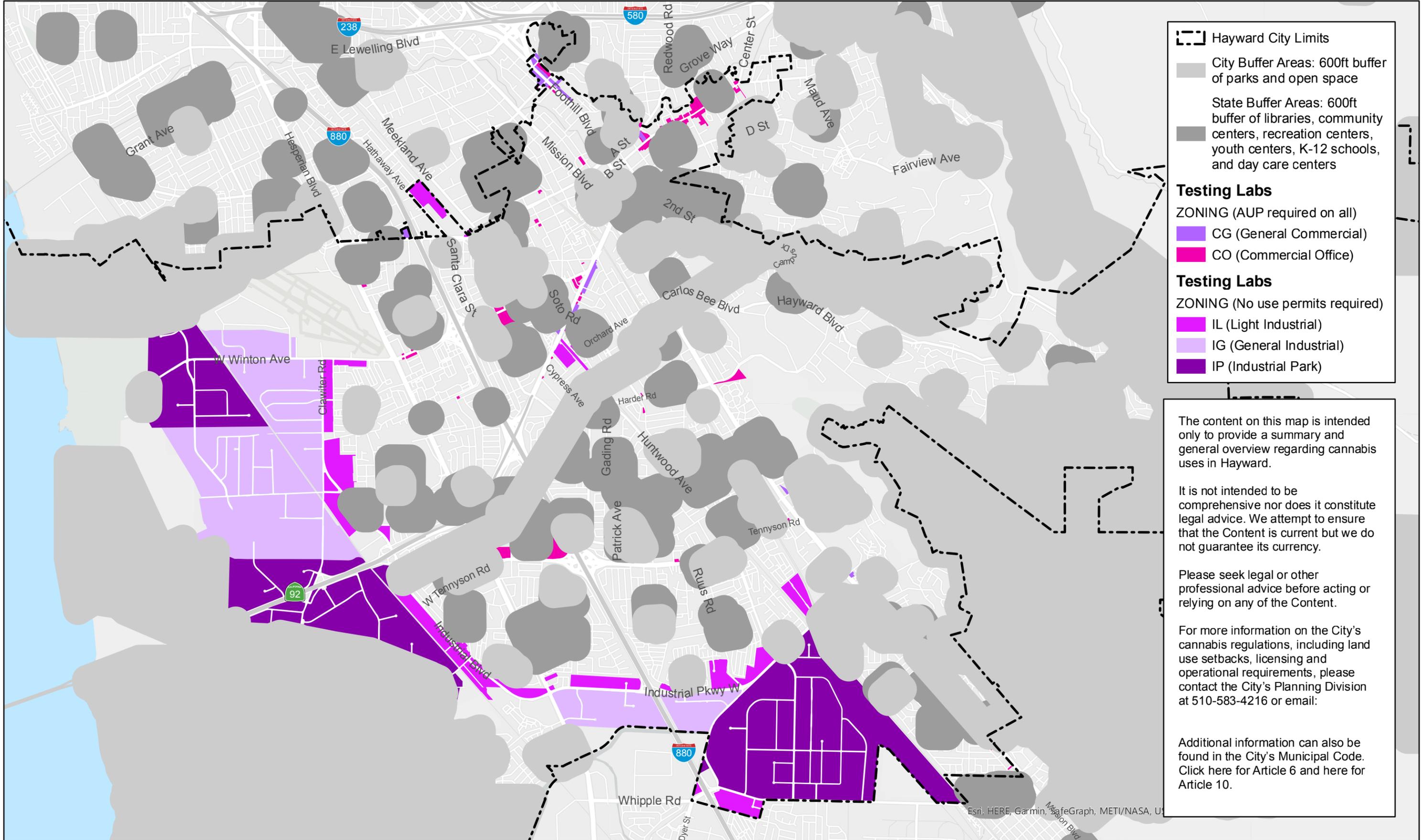
Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.



**Hayward City Limits**

City Buffer Areas: 600ft buffer of parks and open space

State Buffer Areas: 600ft buffer of libraries, community centers, recreation centers, youth centers, K-12 schools, and day care centers

**Testing Labs**

ZONING (AUP required on all)

- CG (General Commercial)
- CO (Commercial Office)

**Testing Labs**

ZONING (No use permits required)

- IL (Light Industrial)
- IG (General Industrial)
- IP (Industrial Park)

The content on this map is intended only to provide a summary and general overview regarding cannabis uses in Hayward.

It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure that the Content is current but we do not guarantee its currency.

Please seek legal or other professional advice before acting or relying on any of the Content.

For more information on the City's cannabis regulations, including land use setbacks, licensing and operational requirements, please contact the City's Planning Division at 510-583-4216 or email:

Additional information can also be found in the City's Municipal Code. Click here for Article 6 and here for Article 10.

Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

\*Entitlement process depends on the size of the cultivation operation.

**PROPOSED TEXT AMENDMENTS  
CHAPTER 6: BUSINESS, TRADES AND PROFESSIONS**

**ARTICLE 14  
COMMERCIAL CANNABIS BUSINESSES**

**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 **business operating** 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) The City Council may, by resolution, establish a limit on the number of permits to be issued pursuant to this Article.
- (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 all applicable fees, charges, taxes and deposits, and complied with other applicable state and local 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 **without prior approval of the City, pursuant to the limitations outlined in Section 10-1.3604 of the Hayward Municipal Code.** Any such sale, transfer, assignment, attempted sale, attempted transfer or attempted assignment **without prior approval of the City** shall constitute a **violation of this Article and result in 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 PRELIMINARY DETERMINATION OF ELEGIBILITY / SCREENING**

**Prior to applying for a Commercial Cannabis Permit, applicants shall be screened as part of the preliminary determination of eligibility using the criteria listed below.**

- 1) Applicants shall complete a Pre-Application Form, that includes the following information:
  - (a) Applicant Information: contact name, company name, mailing address, phone number, email, etc.
  - (b) Property Owner(s) Information: contact name, company name, mailing address, phone number, email
  - (c) Proposed Location: site address, zoning district, parcel number, total property size in acres or sq. ft., lot dimensions
  - (d) Site Control: proof of property ownership, or a notarized letter of the property owner's willingness to lease or sell the property
  - (e) Prescreening Fee. Applicants shall pay the Preliminary Determination of

Eligibility and Initial Screen fee prior to the submittal of any concurrent land use application.

- 2) Applicants shall be subject to LiveScan/Background Checks
  - (a) Live Scan Background Check: confirm no good cause to deny eligibility, consistent with the State Bureau of Cannabis Control, Code of Regulations, Article 3, Section 5017 and 5018. Background checks shall only be used to determine whether an applicant was convicted of a crime that excludes them from local licensing.
  - (b) Evidence of rehabilitation may be used in determining whether a person should be licensed to operate or be employed in the industry if their conviction directly relates to the operation of a business.
  - (c) Any changes or transfers in ownership shall be subject to the review and authorization by the City pursuant to Section 10-1.3604(e) of the Hayward Municipal Code.
- 3) Applicants shall submit a Business and Operating Plan that includes the following information:
  - (a) Summary Project Description (4-page max): Market opportunity, business model, including a description of day-to-day operations, description of the products sold, description of how operations will conform with applicable state and local laws, expertise of owners and staff, and implementation plan (schedule of anticipated first-year startup activities and capitalization)
- 4) Applicants shall Complete an Interview with City Staff that will include the following:
  - (a) The applicant shall demonstrate a good understanding of the proposed business model and market opportunity. This includes a detailed discussion of day-to-day operations, a description of products and or services being sold, an explanation of community need and why the business the opportunity to be successful.
  - (b) The applicant shall demonstrate a sufficient understanding of applicable state and local laws and can provide a general description of how operations will conform with these regulations. (The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), Hayward Ordinance 17-13 and 17-15, Alameda County Cannabis Ordinances)
  - (c) The applicant shall provide a schedule of anticipated first-year startup activities and has a general idea of costing for the various permitting stages of the business.

SEC. 6-14.12 REVIEW OF APPLICATIONS COMMERCIAL CANNABIS BUSINESS PERMIT APPLICATION

- (a) The City Manager shall establish procedures for accepting and evaluating applications submitted pursuant to this Article. ~~The evaluation process shall include a method for scoring and ranking each application.~~
- (b) Upon completing the evaluation of all applications, the City Manager or his/her designee shall prepare a report to the City Council and provide a recommendation regarding selection of permittees.
- (c) Applications shall include information required by the City ~~Manager~~ including, but not limited to the following:
  - (1) Pre-application reference number, including date of approval and Planning Division contact
  - (2) A detailed description of the type of commercial cannabis business that includes 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.
- (3) 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 and Social Security number.
  - (4) The names, addresses, and contact information of all persons financially interested in the business, including officers, directors, and board members.
  - (5) The full, true name under which the business will be conducted.
  - (6) Management company name, contact person, mailing address and contact information (if business is managed by persons/entities other than the owner)
  - (7) 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.
  - (8) 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.
  - (9) Local Ownership and Control. Applicants shall include a description of the extent to which the business will be locally managed and/or if the principal owners/employees reside in Hayward, CA or in Alameda County
  - (10) Property Ownership. Applicants shall include the name, address and contact information for the property owner and landlord, is applicable.
  - (11) Property Owner Consent. 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.
  - (12) ~~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.~~
  - (13) ~~A summary of the applicant's relevant experience, if any, in operating permitted commercial cannabis businesses in other jurisdictions, with contact information for references in those jurisdictions.~~ A detailed business plan that includes a project narrative, including business model, relevant cannabis and expertise of owners

and staff, and implementation plan (schedule of anticipated first-year startup activities and capitalization).

- (14) Category of state cannabis license(s) the applicant holds or intends to apply for.
  - (15) A summary of any regulatory actions currently pending or taken against the applicant, including issuance of notices of violation, citations, suspension or revocation of licenses, 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.
  - (16) 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.
  - (17) Community benefits. ~~proposals.~~ **Although not required, if an applicant is proposing a community benefit component as part of their normal business plan, the applicant should indicate how the proposed activities are intended to provide a public benefit to the City of Hayward and its residents. Applicants are encouraged to be creative, realistic, and specific in their proposals, and seek to align those proposals with the City's priorities and needs. Proposed community benefit could include neighborhood-specific benefits, health education and prevention approaches, quantification of economic benefits or community outreach examples.**
  - (18) **Labor and employment practices. Applicants shall identify the proposed labor and employment practices for the business. At minimum, proposals should include the following: 1) a general description of the overall hiring plan, including a certification of a labor peace agreement in place, or the applicant's intention to negotiate one; 2) the extent of the applicant's commitment to local hiring; 3) a guarantee that the applicant will pay a living wage; 4) a guarantee that the applicant will not discriminate as part of hiring practices; and 5) the applicant will provide compensation and opportunities for continuing education and training for their employees.**
  - (19) A conceptual site plan with proposed interior and exterior building designs and layouts.
- (d) In addition to the information described in (c) above, each application shall be accompanied by a refundable deposit in an amount established by resolution of the City Council.
  - (e) The City Manager or his/her designee shall review the applications to determine compliance with subdivision (c) of this section. Upon written notice that an application is incomplete, the applicant may submit additional information as requested by the City. Failure to submit requested information may be deemed an abandonment of the application resulting in no further action being taken by the City.
  - (f) The City Manager or his/her designee shall investigate 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:
    - (1) It is found to contain material misstatements or omissions;
    - (2) The applicant is determined to be ineligible or prohibited from obtaining a state cannabis license pursuant to state law.
    - (3) The applicant, or any of its officers, directors, or owners is found to have been convicted of any of the following offenses: A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code; A serious

- felony conviction, as specified in subdivision (c) of Section 119 2.7 of the Penal Code; A felony conviction involving fraud, deceit, or embezzlement; A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor; A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.
- (4) The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
  - (5) The applicant, or any of its officers, directors, or owners, has been sanctioned by a state licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities.
- (g) Applicants who are denied licensure shall have an opportunity to appeal the City of Hayward's decision, and shall be provided with an explanation of why their application was denied.
- (f) Permit Modifications. A permittee may submit a request to modify an existing Commercial Cannabis Permit that was previously issued by the City Council. The request shall be submitted on a form provided by the City Manager or his/her designee and include payment of a modification request fee, as established in the current Master Fee Schedule. The permittee may be required to submit additional documents or information deemed necessary to process the request, consistent with the submittal requirements of Section 6-14.12. Permit modification requests shall not be processed until all required documents, information, and fees have been submitted to the City. The permittee shall be responsible for obtaining approval for the proposed modification(s) from the applicable State licensing or regulatory agency or agencies and updating business organizational documents with the California Secretary of State, if applicable. The City shall provide written notification to the permittee when the requested amendment has been processed. Modifications to an existing Commercial Cannabis Permit issued by the City does not include any necessary modifications to a previously approved land use entitlement and all cannabis activities shall comply with the provisions established in Section 10-1.3600, Cannabis, as well as any other applicable regulations established by this Code.
- (g) Temporary Permit. The City may, at its discretion, issue a Temporary Permit for a limited term, not to exceed six (6) months, to allow non-Commercial Cannabis operators to engage in Commercial Cannabis Activities, contingent on the following:
1. A Temporary Permit may not be issued unless an Applicant: (1) pays the Commercial Cannabis Permit Fee for each Commercial Cannabis activity, pursuant to the adopted Master Fee Schedule; (2) the Applicant receives authorization from the State to engage in commercial cannabis activity; (3) the Business Premises location passes an initial inspection by the City; (4) there are no fire or life safety violations at the Business Premises; (5) the Applicant is subject to the Pre-Screening Determination of Eligibility as specified in this Section; (6) the Applicant indemnifies the City on a form provided by the City; and (7) the proposed Temporary Permit complies with all the Commercial Cannabis land use regulations as specified in Section 10-1.3600 (Cannabis). These requirements do not apply to Temporary Approvals issued under the authority of Section 10-1.3600 (Cannabis).
  2. Issuance of a Temporary Approval does not create a vested right in the holder to

- either an extension of the Temporary Approval, or to the issuance of a Commercial Cannabis Permit as described in this Ordinance. Temporary Approval authorizes the Applicant to conduct Commercial Cannabis Activities for a term not to exceed six (6) months but does not waive the obligation to comply with any other applicable requirements imposed by state or local law. A one-time extension, up to 90 days, may be granted if the extension is deemed necessary in order for the applicant to obtain the required local Permit and secure State licensing.
3. If at any time during the processing of a Temporary Permit Application it is discovered that an Application has been found to be inaccurate or if required information has not been submitted in accordance with the rules and regulations of this Section, upon notification to the Applicant, processing shall be suspended and shall not continue until the Application has been corrected or the required information provided.
  4. The City may immediately suspend a Temporary Permit upon a determination that the commercial cannabis activity at the business premises poses an imminent threat to public health or safety, or if it is determined that the cannabis activity at the business premises was not previously authorized and approved by the City. The City's determination is final and not appealable.

**SEC. 6-14.13 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~~ **Section 10-1.3600 of the Municipal Code (Zoning Ordinance)**.

**(a) Operations:**

- ~~(1) All Commercial Cannabis businesses operating within the City of Hayward shall be subject to a 600-foot minimum setback from sensitive land uses as described in California Business and Professions Code section 26054 and California Health and Safety Code Section 11362.768, including libraries, designated public open space areas and designated public parks that contain a children's playground(s) or similar use dedicated towards children activities, including but not limited to sports fields and swimming pools. The required 600-foot setback for public parks and open spaces may be reduced following the issuance of a Conditional Use Permit from the Planning Commission if it is found that the public convenience and necessity will be served by an alternate distance requirement and that alternative measures to assure public health and safety are in place with respect to a commercial cannabis business. The distance shall be made in a straight line from the closest boundary line of the property on which the Cannabis Business is located to the closest boundary line of the property on which the school or sensitive land use is located.~~
- ~~(2) Cannabis or cannabis products, whether for medicinal or adult recreational use, shall only be sold to individuals authorized by state law to purchase such cannabis or cannabis products.~~
- ~~(3) No person who is younger than the minimum age established by state law for the purchase, possession or consumption of cannabis and cannabis-related products shall be allowed on the premises of a permitted Commercial Cannabis Business.~~
- ~~(4) Operate in a manner to prevent possible diversion of Medical and Non-Medical Cannabis and shall promptly comply with any track and trace program established by the State.~~
- ~~(5) Permittees engaged in retail sales shall maintain hours of operation as specified by a Conditional Use Permit.~~

- ~~(6) Retail sales of cannabis that violate state or local law are expressly prohibited.~~
  - ~~(7) No cannabis odors shall be detectable outside of the facility.~~
  - ~~(8) Permittees shall employ only persons at least 21 years of age at any permitted facility within the City of Hayward.~~
  - ~~(9) Subject to Section 10-1.3607 of this Code, consumption or ingestion of cannabis or cannabis products on the premises of a permittee, including outdoor areas and parking lots, is prohibited.~~
  - ~~(10) Permittees shall provide the City Manager or his/her designee, and all residents, businesses and property owners within 100 feet of the permitted premises 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 premises may be reported. This information shall be updated as necessary to keep it current.~~
  - ~~(11) Permittees shall have an on-site manager at each permitted facility within the City of Hayward who is responsible for overall operation during times that employees are conducting operations, and shall provide the City Manager or his/her designee 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.~~
  - ~~(12) 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:~~
- ~~(1) Security surveillance IP video cameras shall be installed and maintained in good working order to provide coverage on a twenty-four (24) hour real-time basis of all internal and exterior areas where Cannabis is cultivated, weighed, manufactured, packaged, stored, transferred, and dispensed. The cameras shall allow for remote access to be provided to the Hayward Police Department. The security surveillance cameras shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. IP cameras shall remain active at all times and shall be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and shall be maintained for sixty (60) days.~~
  - ~~(2) A professionally monitored security alarm system shall be installed and maintained in good working condition. The alarm system shall include sensors to detect entry and exit from all secure areas and all windows. Commercial Cannabis Businesses shall keep the name and contact information of the alarm system installation and monitoring company as part of the Commercial Cannabis Business's onsite books and records. Cannabis Operators shall also identify a local contact who will be responsible for addressing security and safety issues and shall provide and keep current that contact information to the Hayward Police Department as part of the permitting process.~~
  - ~~(3) All points of ingress and egress to a Commercial Cannabis Business shall be secured with Building Code compliant commercial grade, non-residential door locks and/or window locks.~~
  - ~~(4) Permittees shall utilize security officers possessing a valid Department of~~

- ~~Consumer Affairs "Security Guard Card" during hours of operation.~~
- (5) ~~Security measures shall be designed to ensure emergency access is provided to the Hayward Police Department and Hayward Fire Department for all areas on the premises in the case of an emergency.~~

SEC. 6-14.14 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, and other local regulations, including compliance with local tax obligations. **All books, records, accounts, and any and all relevant data shall be produced no later than twenty-four (24) hours after receipt of the City's request or within a reasonable time as authorized in writing by the City.**
- (b) Permittees shall allow inspection by the City of any facility permitted pursuant to this Article to verify compliance with the requirements of this Article, the Hayward Municipal Code and the requirements of state law.
- (c) **Annual Audit. Each Commercial Cannabis Business shall file with the City Manager or his/her designee an audit of its financial operations for the previous year of operation, complete and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. Each Owner and/or operator of a Commercial Cannabis Business shall annually file the audit of its financial operations on the anniversary of the first day of its operations after the initial issuance of a Commercial Cannabis Permit. The audit shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the audit shall be made available in electronic format compatible with Microsoft Office programs and software and which can easily be imported into either Excel, Access or any other contemporary software designated by the city inspection body.**
- (d) **Inventory control and reporting system. All Commercial Cannabis Businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until sold or distributed, as required by the State.**
- (e) **Consistent with Section 10-1.3600, Each operator of a Commercial Cannabis Business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of all employees currently employed by the Commercial Cannabis Business and shall disclose such register to any City official upon request.**
- (f) **Demographic Reporting. All cannabis businesses in Hayward shall submit a report to the City, to the extent allowed under state law, the demographic information on their workforce, including information on race, ethnicity, gender, income level, prior convictions, and veteran status. The City will collect demographic data on all applicants and for all application types in Hayward. This shall include, but not be limited to, information on race, ethnicity, gender, income level, prior convictions, and veteran status. The data will be used to inform future efforts to create more equity in Hayward's cannabis industry.**
- (g) **The City will collect data on law enforcement involvement related to cannabis law violations, including the violation type, race, ethnicity, and gender. This information will be consolidated and reported without individual identifying information and posted on the City's website annually.**

SEC. 6-14.15 PERMIT RENEWAL. PACKAGING AND LABELING

Prior to the sale or the delivery of any edible cannabis or edible cannabis product the same shall be labelled and in tamper-evident packaging which at least meets the requirements of California Business and Professions Code sections 26120 et. seq. and similar state statutes, as the same may be amended from time-to-time or superseded or replaced by subsequent State legislation or by any department or division of the State of California. The City Council may impose additional packaging and labelling requirements on cannabis or cannabis products by ordinance or resolution.

SEC. 6-14.15 PERMIT RENEWAL.

- (a) A commercial cannabis permit must be renewed annually. Permittees may apply for renewal in writing no later than sixty (60) days before the expiration of the current permit. The application for renewal shall include:
  - (1) A statement updating information from the original permit application or certifying that the information contained in the original permit application is unchanged.
  - (2) 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.
  - (3) Authorization for updated criminal background checks.
  - (4) A renewal fee as established by the City Council.
- (b) As part of the renewal process permittees shall allow inspection of any permitted facility by **Code Enforcement**, the Building Official, Fire Marshall or their designees, **Police Department, Planning Division**, and other City officials 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, charges, taxes or deposits required by this Article and applicable provisions of the Hayward Municipal Code.
- (d) Failure to correct violations or pay applicable fees, charges, taxes or deposits may result in denial of a permit renewal request.
- (e) Permits shall be renewed for a period of one (1) year.