

**PLANNING COMMISSION MEETING  
THURSDAY, JUNE 10, 2021**

**PRESENTATIONS**

## **STAFF PRESENTATION**

### **ITEM #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 Regulations of Personal and Commercial Cannabis in the City of Hayward. Application No. 202102446.**



# Hayward Cannabis Program and Process Ordinance Text Amendments

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# Background

- In December 2019, the Council directed staff to conduct a review of the City's commercial cannabis program and develop recommendations for updating key elements of the program and the two related City ordinances.
- Work plan included 5 main components
- Included a review of the City's existing cannabis program (2017)
- Consider local and statewide factors that might inform any proposed changes to the City's cannabis program.
- Council held Work Session in December 2020
- Staff completed draft program and process updates in early 2021
- Public stakeholder meeting on May 20, 2021, to answer questions and obtain feedback on updated process

# Objectives of Cannabis Program Update



## **Support Operational Businesses in Hayward**

*Understand barriers that impede licensees from becoming operational*



## **Refine Application and Licensing Processes**

*Derive lessons from first round RFP; streamline processes; clarify requirements; propose revisions*



## **Strengthen Auditing and Compliance Processes**

*Ensure compliance with state/local regulations; implementation of commitments; annual renewals*



## **Develop Mechanisms to Maximize Community Benefits**

*Explore options for maximizing community benefits, including possible social equity program component*



## **Ensure Organizational Capacity and Full Cost Recovery**

*Assess full range of City functions related to cannabis; propose enhancements; ensure cost recovery*



## **Update Commercial Cannabis Ordinance and Land Use Ordinance**

*Update Ordinances to clarify language, align with State regs, and reflect updated program elements*

# Program Update Process



Collect feedback from City departments key to program implementation



Conduct stakeholder interviews with selected current Hayward licensees



Review successful practices employed by other comparable jurisdictions in California and across the country



Propose program options and specific revisions to cannabis ordinances, application and licensing materials, and auditing processes.



Conduct additional outreach with City Council, Planning Commission and operational businesses

# Summary Findings on Program Evaluation

- While Hayward's progress in operationalizing its cannabis program has been slow, it is performing roughly on par with many other jurisdictions in Alameda County and across California.
- ICF identified two significant areas of potential improvement:
  1. Strengthening internal organizational capacities and coordination
  2. Streamlining the land use process for cannabis applicants
- Of 23 licenses originally approved by Council:
  - 7 licenses were abandoned due to failure to submit Planning application
  - 1 license was revoked
  - 3 licenses remain active and currently under Planning Review
  - 3 licenses obtained Planning approval and are operational
  - 9 licenses obtained Planning approval and are at various stages of construction

# Summary Findings on Business License Process

Broad consensus that RFP process is robust and impartial; but desire to streamline, where possible.

## ■ *Challenges with Current Approach:*

- Time consuming for both staff and applicants
- The quality of written applications submitted often did not correlate with the ultimate quality of the proposer/applicant team
- Some complaints from applicants over application requirements, process (e.g., interviewing only the top scorers in each license type), shifting criteria for interviews (e.g., lowering point thresholds), etc.

## ■ *Proposed Improvements:*

- Conduct pre-application review/screening to weed out non-serious applicants, and interview all candidates at an earlier stage in the process
- Require site control to allow for concurrent applications for BOP and CUP
- Defer to state licensing requirements wherever possible
- Update and clarify key requirements/thresholds for approval



# Summary Findings on Land Use Process

Many licensees described the process as a major impediment to getting their businesses operational. Opportunity to improve administrative efficiency.

## ■ *Challenges with Current Approach:*

- Licensees felt the process was cumbersome and more demanding/detailed than in other cities
- Long delays in City response and multiple rounds of back-and-forth iterations
- Some duplication with state requirements
- Applicants without a pre-selected location had difficulty finding a site, developing a site-specific operational/safety plan, and submitting a planning application within the stipulated timeframe

## ■ *Proposed Improvements:*

- Remove duplication with the state requirements (e.g., product tracking, waste management, hours of operation, etc.) and other regulatory issues covered by the business licensing
- Clarify what requirements need to be met up-front vs. those that can be handled during later operational compliance processes
- Consider revising zoning for allowable locations of cannabis businesses
- Require concurrent BOP and CUP processes to allow applications to begin the time intensive process earlier

# Key Highlights of Program Update

## LICENSING

- RFP process will be replaced with more predictable and frequent bi-annual application cycle
- Pre-Screening of applications will continue to subject applicants to background checks, in-person interviews from key city staff and include high level review of business plan
- New process will provide applicants opportunity to submit concurrent land use entitlements with subsequent and separate review of business plan
- Council will continue to maintain final approval of all cannabis licenses
- Site control will be required
- Creates process for temporary uses and expansion of existing operations

# Key Highlights of Program Update

## ADMINISTRATON & ENFORCEMENT

- Strengthens and provides clear auditing requirements for applicants
- Imposes penalties for property owners that lease to illegal grow operators
- Creates inspection and auditing checklists for City staff and establishes internal and external points of contact for various phases of license issuance and renewal
- Creates streamlined process for existing applicants who are wanting to expand as well as other operators who handle cannabis as ancillary
- Updates Master Fee Schedule to create tiered system, based on number of inspections and cost of program administration

# Key Highlights of Program Update

## LAND USE

- Retail dispensaries proposed for IP, Industrial Park district
- Manufacturing (Level 2) land use added for IG, General Industrial district
- Detailed operational requirements for delivery and distribution activities, including non-storefront retail activities
- “Microbusiness” land use added
- Requires City approval prior to changes in business name, marketing or branding
- Requires applicants submit Neighborhood Compatibility Plan
- Maintains land use buffer from sensitive uses
- Strengthens employee ID, nuisance abatement & public safety protocols

# CEQA Determination

- 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.
- 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.



# Staff 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.

# Key Dates and Next Steps

- June 10 Planning Commission
- July 6 City Council (First Reading)
- July 22 City Council (Second Reading)
- Aug. 22 Ordinance Revisions Become Effective
- Sept 2021 Pre-Screening/Application Process Opens
- Oct. 2021 Review Applications/Interview Applicants
- Oct. 2021 Planning and License Applications Accepted
- Nov. 2021 Anticipated Council Action on Licenses



# Questions

