



DATE: October 30, 2017

TO: Mayor and Council Members

FROM: City Clerk and City Attorney

SUBJECT Adoption of Ordinance of the Council of the City of Hayward Enacting Comprehensive Regulations for Personal Cannabis Cultivation and Commercial Cannabis Land Uses Through the Amendment of Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance); Article 2 (Off-Street Parking Requirements); Article 24 (South Hayward BART/Mission Boulevard Form-Based Code); and Article 25 (Hayward Mission Boulevard Corridor Form-Based Code)

RECOMMENDATION

That the Council adopts the Ordinance introduced on October 17, 2017.

BACKGROUND

The Ordinance was introduced by Council Member Zermeño at the October 17, 2017, meeting of the City Council with the following vote:

AYES:	COUNCIL MEMBERS: Zermeño, Márquez, Mendall, Peixoto, Salinas, Lamnin
	MAYOR: Halliday
NOES:	None
ABSENT:	None
ABSTAIN:	None

The motion included the following amendments: 1) amend the ordinance to remove hours of operation and have it specified in the Conditional Use Permit process, and align delivery hours with alcohol regulations; 2) modify the ordinance by removing the word “armed” from the security guard language; 3) include language about workers’ compensation and labor agreement in the Request for Proposal (RFP) scoring process; 4) adopt a resolution to limit the number of commercial cannabis retail dispensaries to three; 5) evaluate modifying the language in the ordinance to remove all cannabis related uses from the Form-Based Code and Neighborhood Commercial-Residential districts; 6) review language to allow a business application to move forward absent a permanent/temporary State license but not allow to open until it has a provisional/permanent State license; and 7) add youth education as a community benefit component to the RFP.

- 1) Amend 10-1.3607 Commercial Cannabis Retail Dispensaries and Delivery – D. Operational Requirements. 4. Hours of Operation as follows:
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 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 of operation shall be specified in the permit.
- 2) Amend 10-1.3604 General Requirements. F. Security as follows:
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, ~~armed~~—Security Guard ~~Officer~~ 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:
- 3) Include workers’ compensation and labor agreement language to the Request for Proposal scoring process. This language has been added to the Request for Proposals, which will be presented to the City Council separately at the October 30 special meeting under item WS 17-051.
- 4) Adopt a resolution to limit the number of commercial cannabis retail dispensaries to three. This resolution has been prepared and is included as a separate item, CONS 17-676, for City Council consideration.
- 5) Evaluate modifying the language in the ordinance to remove retail dispensaries from the Form-Based Code and Neighborhood Commercial-Residential districts. Staff has removed the commercial cannabis retail dispensaries as a conditionally permitted land use in the Neighborhood Commercial-Residential zoning district, the Hayward/Mission Boulevard Corridor Form Based Code district, and the South Hayward BART/Mission Boulevard Corridor Form Based Code district. These mixed-use zoning districts contain a significant amount of existing or planned residential development and this land use trend is expected to continue. Staff does recommend that the Neighborhood Commercial zoning district be conditionally permitted to allow retail dispensaries as most of these areas area developed predominately with commercial land uses and serve residents in adjacent neighborhoods. If Council decides to remove the Neighborhood Commercial zoning district as an area where retail dispensaries are conditionally permitted, the Tennyson Corridor, portions of Foothill Boulevard near downtown, and areas along Harder Road and Hesperian Boulevard would be eliminated as areas for potential development and redevelopment. The revised cannabis land use map is provided as Attachment IV.

- 6) Review language to allow a business application to move forward absent a permanent/temporary State license but not allow to open until it has a provisional/permanent State license. Staff has reviewed the proposed ordinance language and has determined that modifications are not necessary at this time. The existing language will not prohibit applicants from obtaining a local cannabis permit if the State is only issuing temporary permits beginning on January 1, 2018 nor does it prevent applicants from moving through the local permit process prior to the State permit process. The existing ordinance language does not require an applicant to obtain a state permit prior to applying for a local cannabis permit. The existing language prohibits operation until both local and state licenses have been obtained.
- 7) Add youth education as a community benefit component to the RFP. Staff has referenced "youth education" as a community benefit in the RFP, which will be presented to the City Council separately at the October 30 special meeting under item WS 17-051.

The revised Ordinance in its entirety has been included as Attachment III.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC CONTACT

The summary of the Ordinance was published in the Hayward Daily Review on Friday, October 27, 2017. Adoption at this time is therefore appropriate.

NEXT STEPS

The Hayward Municipal Code and other related documents will be updated accordingly.

Prepared by: Miriam Lens, City Clerk and Michael Lawson, City Attorney

Recommended by: Miriam Lens, City Clerk and Michael Lawson, City Attorney

Approved by:



Kelly McAdoo, City Manager