

**CITY OF HAYWARD PLANNING DIVISION
PROPOSED CANNABIS MICROBUSINESS WITH DELIVERY, DISTRIBUTION, AND
MANUFACTURING ACTIVITIES
STICKY THUMB, 23287 FOLEY STREET
CONDITIONAL USE PERMIT APPLICATION NO. 201901361**

DRAFT CONDITIONS OF APPROVAL

GENERAL

1. The applicant shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. The applicant, property owner or designated representative shall allow the City's staff to access the property for site inspection(s) to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.
3. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City and agreed to by the applicant, may result in failure to obtain a building final and/or a Certificate of Occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were pulled to construct the project. The applicant acknowledges that the conditions set forth in this approval are not intended to supersede any obligations imposed pursuant to Chapter 6, Article 14 of the Hayward Municipal Code related to commercial cannabis permits, as it may be amended from time to time.
4. All outstanding fees owed to the City, including permit charges and staff time spent processing or associated with the development review of this application shall be paid in full prior to any consideration of a request for approval extensions and/or the issuance of a building permit.
5. The applicant 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 within 72 hours of discovery.
6. All loading and unloading of delivery vehicles shall be done inside the building, as shown on the approved set of plans date stamped February 24, 2020.

7. Delivery vehicles shall not be stationed on public right of way.
8. The cannabis microbusiness facility with delivery, distribution, and manufacturing activities shall operate according to these conditions of approval and the business plan submitted on February 26, 2020, including the hours of operation, intensity of use and mode/character of the proposed microbusiness operation. Any future change or modification of the operational plan and/or any expansion of the approved use may require the submittal of a new use permit application and commercial cannabis permit and shall be subject to additional review and approval by the City prior to any change, modification or expansion.
9. The cannabis manufacturing and distribution components may operate between the hours of 9:30 a.m. and 4:00 p.m. Pacific Time, Monday through Friday. The delivery component may operate between 9:30 a.m. and 9:30 p.m. seven days a week, with the last delivery order taken at 8:59 p.m. daily. Upon license renewal, the City may impose more restrictive hours of operation due to site specific conditions or as the result of excessive and/or extraordinary calls for service, as determined by the City's Police Department.
10. The applicant shall provide a detailed Community Benefits program and coordinate the implementation of the proposed Community Benefits program with City staff within six months from use permit approval. The applicant will be subject to annual review and verification on the implementation of the approved Community Benefits program prior to permit renewal.
11. Permittees shall employ only persons at least 21 years of age at any permitted facility within the City of Hayward. Employee records shall be kept and maintained, and proof of age shall be provided to the City upon request.
12. 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 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.
13. The proposed cannabis use shall operate in a manner to prevent possible diversion of cannabis and shall promptly comply with any track and trace program established by the State.
14. The applicant shall notify the City if it intends to transfer any portion of ownership or operational control of a Commercial Cannabis Business and shall complete the New Owner/Investor Application Attestation Form as provided by the City. All new owners/investors are subject to the LiveScan fingerprint background check and the transferee shall be responsible for complying with all applicable local and state licensing requirements. Any conditions imposed upon the transferor by the original 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 and/or commercial cannabis permit, consistent with Sections 10-1.3170 or 10-1.3270 of the Hayward Municipal Code, as applicable.

15. The applicant 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.
16. No closed loop systems shall be utilized without prior inspection and approval of the City's Building Official and Fire Code Official.
17. Any manufacturing, processing and analytical testing devices used by the applicant 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.
18. 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 approved facility where that individual participates in the production of edible cannabis products. No consumption of any cannabis product is allowed on-site, including in outdoor areas and parking lots.
19. If applicable, the applicant shall obtain a permit from the Alameda County Public Health Department and provide a copy of the valid permit to the City prior to the operation of any cannabis manufacturing activities on-site. All 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.
20. 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.
21. Only employees of the licensee and other authorized individuals shall be allowed access to enter the licensed premises. Authorized individuals may include employees, outside vendors, scheduled deliveries and/or contractors, but shall not include the general public.

22. The premises shall be prohibited from conducting on-site sales of cannabis products and cannabis/tobacco paraphernalia/accessories.
23. 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.
24. 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.
25. A licensed retailer's delivery employee shall not carry cannabis goods in the delivery vehicle with a value in excess of \$3,000 (three-thousand) at any given time.
26. 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.
27. Retail sales of cannabis that violate state or local law are expressly prohibited.
28. The facility must be conducted in accordance with the Sustainability Plan approved.

Security

29. The proposed cannabis use shall provide adequate security on the premises, including any on-site security, lighting, and alarms, to ensure the public safety and the safety of persons within the facility and to protect the premises from theft. The applicant 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 maintain and implement a security and safety plan that includes the following minimum requirements:
 - a. *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 weighed, manufactured, packaged, stored, and transferred. 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 ninety (90) days.
 - b. *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. The applicant 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.

- c. *Local Contact.* 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.
- d. *Secure Storage and Waste.* Commercial Cannabis products and associated product manufacturing, distribution, and delivery waste shall be stored and secured in a manner that prevents diversion, theft, loss, hazards and nuisance.
- e. *Transportation.* The proposed use shall implement procedures for safe and secure transportation and delivery of Commercial Medical and Non-Medical Cannabis, including all Cannabis products and currency, in accordance with local and state law. None of the vehicles associated with commercial use shall have markings or advertising that indicates the presence of cannabis on-site.
- f. *Building Security.* All points of ingress and egress to the proposed use shall be secured with Building Code compliant commercial-grade, non-residential door locks and/or window locks. All heating, ventilating, air-conditioning and service openings shall be secured with steel bars and/or metal grating.
- g. *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.
- h. *Background Checks.* All employees working in conjunction with the cannabis microbusiness shall be subject to background/LiveScan checks. Additionally, all employees shall furnish the Hayward Police Department a state or federal registered Identification Card, upon request. The applicant shall provide to the Hayward Police Department all persons employed at the cannabis business, regardless of the nature of the employment. All employees shall be registered with the Hayward Police Department.
- i. *Inspections.* During regular business hours, the building premises shall be accessible, upon request, to an identified Hayward Police Department, Building Division, or Code Enforcement employee for random and/or unannounced inspections.
- j. *Security Guards.* The applicant shall provide at least one uniformed security guard licensed by the State of California.

- i. The security guard(s) shall maintain order therein and prevent any activity which would interfere with the quiet enjoyment of the properties of nearby businesses.
- ii. Said personnel shall carry his/her Guard Card on their person at all times and present it to any Peace Officer upon demand. Said personnel shall be clothed in such a manner as to be readily identifiable.
- iii. The security guard shall be contracted out through a licensed security employer. If the business owner chooses to hire security guards under his/her business, he/she must hold a PSE license (Proprietary private Security Employer). See further information from the Bureau of Security and Investigative services:
<https://www.bsis.ca.gov/consumers/faqs/ppse.shtml>.
- k. *Records Retention*. All financial records, personnel records, training records, contracts, permits, security records, destruction records, data entered into track-and-trace, and an accurate record of all business activities must be made available to the Hayward Police Department upon request.

Odor Control

- 30. No cannabis odors shall be detectable outside of the facility. The applicant shall incorporate and maintain adequate on-site odor control measures such that the odors resulting from cannabis manufactured and stored on-site 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.
- 31. The building permit application shall include duct work, filters and other recommendations included in the Odor Mitigation Plan and shall be certified by a professional engineer or industrial hygienist. The Odor Mitigation Plan shall include the following:
 - a. Operational processes and maintenance plan, including activities undertaken to ensure the odor mitigation system remains functional;
 - b. Staff training procedures; and
 - c. 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.

Commercial Cannabis Permit

32. The applicant shall obtain and maintain a valid Commercial Cannabis Permit from the City, including any other applicable State and local permits and inspections. Commercial Cannabis Permit renewals are subject to the requirements of Section 6-14.15 of the Hayward Municipal Code. Commercial Cannabis Permits are valid for a period of one year from the date that the permittee received land use approval and shall be renewed annually. The permit is invalid if the term has expired and the annual fee, as established in the City of Hayward Master Fee schedule, has not been timely paid in full. Non-payment will result in a violation penalty fee in accordance with the Master Fee Schedule for Cannabis uses. Additionally, the City may invalidate or suspend a Cannabis Permit for excessive calls for service or nuisance citations.
33. The proposed commercial cannabis use shall not commence operations until the Business can demonstrate compliance with all necessary state and local licenses (dual licensing) and agency permits. Failure to demonstrate dual licensing in accordance with the Hayward Municipal Code shall be grounds for revocation of a City approved 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 permit and/or state license is obtained.
34. The applicant shall maintain books, records, accounts, public safety calls for service, and all data and information relevant to its operations of the commercial cannabis use, including the implementation of the proposed community benefits component, and allow the City access to such records for purposes of conducting an audit or examination to determine compliance with the Hayward Municipal Code, and other local regulations, including compliance with local tax obligations. Prior to the applicant's commercial cannabis permit renewal each year, the applicant shall provide these records to the City for review to verify compliance.
35. The applicant shall allow inspections 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.

Building Design & Signage

36. All exterior and rooftop mechanical equipment shall be screened. Mechanical and rooftop equipment shall include, but is not limited to, electrical panels, pull boxes, air conditioning units, gas meters, and other equipment. All rooftop screening and mechanical equipment shall be shown on the project plans and be subject to final review and approval by City staff prior to the issuance of an occupancy permit.
37. Any above-ground structures that may be required to provide utilities for the project shall be compatible as to location, form, design, exterior materials, and noise generation. The applicant shall obtain staff approval prior to issuance of permits.

38. There shall be no display of cannabis goods and/or cannabis related products visible to the general public at the licensed premises. The establishment shall not display any cannabis related paraphernalia that may be used to administer commercial cannabis and/or commercial cannabis products.
39. No signs are approved with this project. Any signs shall be reviewed and approved by the Planning Division and a separate Sign Permit application shall be required, consistent with Hayward Municipal Code Sign Ordinance requirements.

Expiration & Revocation

40. This Use Permit approval is void 36 months after the effective date of approval unless:
 - a. Prior to the expiration of the 36-month period, a building permit application has been submitted and accepted for processing by the Building Official or a time extension of the approval has been granted by the Planning Director.
 - b. If a building permit is issued for construction of improvements authorized by the use permit approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance on the conditional use permit approval. A request for an extension must be submitted in writing to the Planning Division at least 30 days prior to the above date.
 - c. Business operations have commenced in accordance with all applicable conditions of approval.
41. If this conditionally permitted use ceases operation for a period of more than six consecutive months, it shall be deemed to be discontinued, and the use permit establishing said use shall become null and void. Reestablishment of said use shall only be permitted upon obtaining a new use permit.
42. The Planning Commission may require modification, discontinuance or revocation of this Conditional Use Permit if its determined 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 cannabis or 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.

CODE ENFORCEMENT

- 43. All tenant improvements and modifications and/or demolition require approval of a building permit prior to the start of the work. Verified violations of the California Building Code Section 105.1 are subject to a penalty fee of 205% of the required permit fees in addition to the regular Building Division fees in accordance with the City of Hayward Master Fee Schedule.
- 44. No outdoor storage or uses permitted. All cannabis related activities are to be conducted indoors.
- 45. The Commercial Cannabis establishment shall maintain and visibly post valid copies of all required State, Local, and Municipal permits, including but not limited to the State of California Cannabis Bureau license, the Hayward Cannabis license, City of Hayward business license, and other pertinent permits and licenses according to the specific cannabis use.
- 46. Every owner of real property within the City is required to manage the property in a manner so as not to violate the provisions of the Cannabis Ordinance and/or any State and Municipal regulations. The property owner remains ultimately liable for all penalties and fees as a result of violation of any of the requirements for the Commercial Cannabis operation thereof regardless of any contract or tenant agreement or other third parties.

BUILDING

- 47. The proposed project will require a building permit application and building code plan review process. During the building permit review, detailed comments will be provided.
- 48. For the building permit application drawings, please include a plumbing fixture calculation based on Ch. 4 of the California Plumbing Code.
- 49. For the building permit application drawings, please show disabled access upgrades to the path of travel elements as described in 2016 CBC Ch. 11B section 202.4.
- 50. In the building permit set, please show an egress plan with occupant loads.

51. For the building permit set, please indicate the use of the mezzanine space. Please note that without an elevator, the use of the mezzanine will need to have a corresponding version on the first floor.

UTILITIES

52. The tenant space at 23287 Foley Street, Suite B will be required to be served by a separate water meter.
53. All sanitary sewer connection and capacity fees shall be paid at the time of building permit issuance.

SOLID WASTE

54. The owner or property manager shall be responsible for litter-free maintenance of the property and shall remove any litter on or within 50 feet of the property daily to ensure that the property and its street frontage remain clear of any abandoned debris or trash per Municipal Code Sec.11-5.22.

FIRE PREVENTION/HAZARDOUS MATERIALS

55. Install portable fire extinguishers having a minimum size of 5 lbs. and a minimum rating of 2A:10BC in centrally located and accessible locations (as approved by the Fire Department) with maximum travel distance of 75 feet within the tenant space.
56. No more than 5 gallons of Type IIIB combustible liquids is allowed. Up to 16 cubic inches (less than 10 ounces) of rosin is allowed for the press process.
57. No high-piled storage is allowed.
58. Parking vehicles in warehouse overnight is not allowed.
59. Hazardous Materials – The storage and use of hazardous materials shall meet the requirements of Chapter 50 of the 2016 California Fire Code as adopted by the City of Hayward.
60. Hazardous Materials Permit – Based on quantities of hazardous materials/waste an annually Hazardous Materials Permit - Range 1A shall be required to be obtained and maintained by the facility. Any change to chemical quantities and type shall require notification and approval of the Hayward Fire Department's Hazardous Materials Office.
61. Hazardous Materials Business Plan (HMBP) / California Environmental Reporting System (CERS) – Facility shall submit an initial one-time hazardous material electronically reported through the California Environmental Reporting System (CERS) for the chemical to be stored/used on-site.

62. Hazardous Materials over the Maximum Allowable Quantities (MAQs) – Quantities of hazardous materials/waste shall not be stored and used in amounts greater than the maximum allowable quantities (MAQs) in the 2016 California Fire Code as adopted by the City of Hayward.
63. Flammable and Combustible Liquid Storage and Use – The storage and use of flammable and combustible liquids shall meet the requirements of Chapter 57 of the 2016 California Fire Code as adopted by the City of Hayward.
64. Flammable Liquid Storage Cabinet – Quantities in excess of ten (10) gallons of flammable liquid shall require an approved flammable liquids cabinet with self-closing doors.
65. Incompatible Materials – Incompatible materials in storage or use shall be separated according to Chapter 50, Section 5003.9.8 (Separation of incompatible materials) of the 2016 California Fire Code (CFC) when the stored materials are in containers having a capacity of more than 5 lbs. or 0.5 gallons.
66. Disposal of Cannabis Waste – Shall be managed per the appropriate regulatory agencies and approved cannabis disposal contractors. If disposal of waste includes chemical treatment to render the product non-useable then the Hazardous Materials Office of the Hayward Fire Department shall be notified for approval and conditions.
67. Hazardous Waste – Hazardous waste shall be managed and disposed of per Title 22 of the California Code of Regulations. All containers holding hazardous waste shall be properly label and identified with a hazardous waste label. Labeling shall include Generator information, EPA ID number, accumulation start date, contents, physical state and hazard of the waste. Provisions shall also be made for the management and disposal of universal/electronic wastes which are a category of hazardous waste.
68. Signage and Labeling Requirements – All containers and storage areas shall be properly labeled for hazardous materials per the Hayward Fire Department Labeling Guidelines. All hazardous material containers shall be properly labeled stating their contents. Containers containing hazardous waste shall be properly label with Generator Information, Contents, Hazard, Physical State, Accumulation Start Date. Depending on storage an NFPA Placard may be required.
69. Delivery Vehicle Parking and Storage – No motor vehicles of any type shall be parked/stored inside the facility overnight. All overnight motor vehicle parking/storage shall be outside the building.

70. Seismic Protection – Machinery, aboveground tanks, and equipment utilizing hazardous materials shall be braced and anchored in accordance with seismic design requirements of the California Building Code.
71. Oxygen Deficient Environments – This facility is not proposing having oxygen deficient atmospheres or utilizing carbon dioxide to enhance plant grow operations. If there is a change, the operator shall contact the Hazardous Materials Office of the Hayward Fire Department as well as the Hayward Planning Division for approval and conditions.
72. Manufacturing/Extraction Processes – The facility is doing a heat and pressure method of rosin extraction. This facility is not proposing a chemical extraction processes i.e. CO2 or solvent based. If there is a change, the operator shall contact the Hazardous Materials Office of the Hayward Fire Department as well as the Hayward Planning Division for approval and conditions.
73. Future Changes to Operations - If this facility does change its operation, including the use of hazardous materials or the generation of hazardous waste, then the Hayward Fire Department and Planning Division shall be notified by the operator prior to the changes so as to allow review and/or determine if additional conditions of approval will be required by the City.
74. Final Inspection – A final inspection of this facility shall be completed by the Hazardous Materials Office once the facility is ready for operations and before commencement of operations. Please contact the Hazardous Materials Office at (510) 583-4910 to schedule the inspection at least 48 hours in advance.