

## ORDINANCE NO. 21-\_\_

ORDINANCE OF THE COUNCIL OF THE CITY OF HAYWARD AMENDING THE  
REGULATIONS FOR PERSONAL CANNABIS CULTIVATION AND COMMERCIAL  
CANNABIS LAND USES THROUGH THE AMENDMENT OF HAYWARD  
MUNICIPAL CODE, CHAPTER 10 (PLANNING, ZONING AND SUBDIVISIONS)

THE CITY COUNCIL OF HAYWARD DOES ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that:

A. Pursuant to its police powers, and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act ("MCRSA"), the Adult Use of Marijuana Act ("AUMA"), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transporting, and testing within its jurisdiction.

B. The City has previously adopted land uses and regulations for personal and commercial cannabis activities through the adoption of Ordinance 17-13 and 17-15 for both medical and non- medical adult cannabis land uses and regulations within the City.

C. The City wishes to establish an updated regulatory structure for all medical and nonmedical adult cannabis uses in the City in accordance with state law.

Section 2. Amend Chapter 10 (Planning, Zoning and Subdivisions), Article 1 (Zoning Ordinance) to read as follow:

**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 to 10,000 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 Medical and Non-Medical Manufacturing Level 1, (Up to 5,000 Sq. Feet)	<del>C</del> A	<del>C</del> A	<del>C</del> A	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 Medical and Non-Medical Testing Laboratory	P	P	P	See Section 10-1.3600, Cannabis



Section 3. Amend Chapter 10 (Planning, Zoning and Subdivisions), Article 28 (Development Code), to read follows:

### 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
Retail and Food Uses							
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 4. Amend Chapter 10 (Planning, Zoning and Subdivisions), Article 1 (Zoning Ordinance), Chapter 10-1.3600 to read follows:

### 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



<b>10-1.3605</b>	<b>Commercial Cannabis Cultivation</b>
<b>10-1.3606</b>	<b>Commercial Cannabis Delivery</b>
<b>10-1.3607</b>	<b>Commercial Cannabis Distribution</b>
<b>10-1.3608</b>	<b>Commercial Cannabis Manufacturing</b>
<b>10-1.3609</b>	<b>Commercial Cannabis Microbusiness</b>
<b>10-1.36010</b>	<b>Commercial Cannabis Retail <del>Dispensary</del> and Delivery</b>
<b>10-1.36011</b>	<b>Special Events</b>
<b>10-1.36012</b>	<b>Findings</b>
<b>10-1.36013</b>	<b>Grounds for Permit Revocation or Modification</b>
<b>10-1.3600</b>	<b>Purpose</b>

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**
  - ~~10.~~ 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 **1,000-foot minimum setback from any public or private school** and a 600-foot minimum setback from **all other** 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, f~~ 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 p~~ 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. **To mitigate potential nuisances, all cannabis operators shall participate in the Adopt-A-Block program with Keep Hayward Clean and Green.**
- 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

#### **10-1.360~~86~~ 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~~.
- H. 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 used for microbusiness activities or 1,000 square feet, whichever is less. All cannabis and cannabis products for sale as part of an ancillary storefront retail activity must have been cultivated, produced, or manufactured on-site. For non-storefront retail uses, there is no size limitation for non-storefront retail activities and there is no limitation to what retail cannabis products can be sold.

#### **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:
  - ± **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 5. Amend Chapter 10 (Planning, Zoning and Subdivisions), Article 1 (Zoning Ordinance), to add or amend the following Definitions, in alphabetical order, to Section 10-1.3500 Definitions), Section 10- 24. 500 (Definitions and Riles 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.

Section 6. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to Business and Professions Code section 26055( h) 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 where the discretionary review in any such law, ordinance, rule, or regulation includes any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code; and, under Section 15061(b)(3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. 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. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.

Section 7. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 8. This Ordinance shall become effective thirty (30) days after adoption by the City Council.



INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 6<sup>th</sup> day of July 2021, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 20<sup>th</sup> day of July 2021, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward