

ORDINANCE No. 23-02

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA AMENDING ARTICLE 14, CHAPTER 6 OF THE HAYWARD MUNICIPAL CODE REGARDING COMMERCIAL CANNABIS BUSINESSES BY AMENDING SECTION 6-14.13(d) RELATING TO COMMERCIAL CANNABIS PERMIT APPLICATION, AMENDING SECTION 6-14.14 RELATING TO OPERATING AND PERFORMANCE STANDARDS AND ADDING SECTION 6-14.18 RELATING TO ENFORCEMENT

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Section 6-14.13(d) of the Hayward Municipal Code is amended to read as follows:

SEC. 6.14.13 COMMERCIAL CANNABIS APPLICATION

(d) In addition to the information described in subsection (c) above, each application shall be accompanied by a fee in an amount established by resolution of the City Council.

Section 2. Section 6-14.14 of the Hayward Municipal Code is amended to read as follows:

SEC. 6-14.14 OPERATING AND PERFORMANCE STANDARDS.

Permittees shall operate in conformance with the minimum standards contained in Section 10-1.3600 et seq. of the Municipal Code (Zoning Ordinance). Such standards shall be incorporated into the conditions of approval for land use approval of the business pursuant to the applicable provisions of Section 10-1.3600 et seq.

Section 3. Section 6.-14.18 is added to Article 14, Chapter 6 of the Hayward Municipal Code to read as follows:

SEC. 6-14.18 ENFORCEMENT.

(a) In addition to any other remedy provided by law, any violation of this Article is subject to enforcement pursuant to the provisions of Chapter 1, Article 3 and Chapter 1, Article 7 of this Code.

- (b) Any violation of this Article is declared to be a public nuisance and is subject to abatement and enforcement pursuant to Chapter 4, Article 1 of this Code relating to Public Nuisances, Chapter 4, Article 15 relating to Social Nuisance, Chapter 5, Article 7 relating to Community Preservation and Improvement, and any other applicable provisions of law relating to abatement of public nuisances.
- (c) Any person who violates any provision of this Article is liable for administrative penalties as specified in the Master Fee Schedule.
- (d) Any person who violates any provision of this Article is guilty of a misdemeanor.
- (e) The City Attorney may institute a civil action for injunctive relief and civil penalties against any person who violates any provision of this Article.
- (1) Except as provided in subdivision (e)(2) herein, the civil penalties imposed shall be no less than \$5000 or more than \$15,000 per day the violation continues.
- (2) Civil penalties for cultivation of cannabis in violation of this Article shall be as follows:
- (A) First violation. \$1,000 per plant.
- (B) Second violation within two (2) years. \$2,500 per plant.
- (C) Third violation within two (2) years. \$5,000 per plant.
- (f) Responsible parties. An enforcement officer may issue a notice of violation, correction notice, or administrative citation to the owner of a property where a violation of this Article exists. The property owner or tenant shall be liable for any administrative or civil penalties imposed pursuant to this Section.
- (1) In addition to any other official identified as enforcement officers by this Code, for the purpose of this Article, an enforcement officer includes but is not limited to, a code enforcement officer, building official, building inspector, fire inspector, fire marshal, and police officer.
- (g) All remedies described in this Section are cumulative and the election of one or more remedies does not bar the city from the pursuit of any other remedy available at law or equity to enforce this Article.

Section 4. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to 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 5. 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 6. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a special meeting of the City Council of the City of Hayward, held the 28th day of February 2023, by Council Member Márquez.

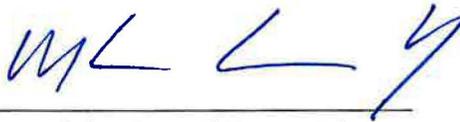
ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 7th day of March 2023, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS: Andrews, Goldstein, Márquez, Roche, Syrop, Zermeño
MAYOR: Salinas

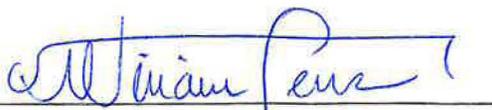
NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

APPROVED: 
Mayor of the City of Hayward

DATE: March 14, 2023

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


City Attorney of the City of Hayward

