



City of San Leandro

Meeting Date: May 5, 2014

Ordinance

File Number: 14-130

Agenda Section: ACTION ITEMS

Agenda Number: 10.A.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: Not Applicable

TITLE: ORDINANCE Amending the City of San Leandro Zoning Code in Article 3, Section 1-304 Definitions; Article 6, Section 2-606 CC Districts - Use Regulations; Article 7, Sections 2-706 IG District - Use Regulations, 2-708 IP District - Use Regulations, and 2-712 IG(AU) District - Use Regulations; and Article 17, Section 4-1704 Off-Street Parking and Loading Spaces Required Related to a Medical Marijuana Dispensary (adds medical marijuana dispensary definition, use regulations, and parking requirements to the Zoning Code)

The City Council of the City of San Leandro does **ORDAIN** as follows:

SECTION 1. PURPOSE.

WHEREAS, in 1996 the voters of the State of California approved Proposition 215, codified as Health and Safety Code Section 11362.5 et. seq. and entitled "The Compassionate Use Act of 1996"; and

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of medical marijuana for specified medical purposes to obtain medical marijuana, and use it under limited, specified circumstances; and

WHEREAS, in 2002, the City of San Leandro adopted a new General Plan, which states that "the San Leandro General Plan aspires to reshape the industrial areas of West and Central San Leandro to meet the demands of the new economy." Furthermore, the General Plan states that "the guiding objectives in the City's large business districts are to promote business retention and diversification"; and to "locate the most intensive industrial uses in the areas that are furthest away from residential neighborhoods"; and

WHEREAS, the City of San Leandro Planning Division has been tasked with periodic updates to the Zoning Code; and

WHEREAS, in December 2013, the City Council of the City of San Leandro adopted Ordinance 2013-020, which allows for the establishment of one Medical Marijuana Dispensary, subject to selection and performance standards, which became effective on January 15, 2014; and

WHEREAS, the proposed amendments to the Zoning Code apply to a Medical Marijuana Dispensary; and

WHEREAS, the City has determined that the proposed amendments to the Zoning Code are exempt from environmental review under subsections (b)(2) and (b)(3) of Section 15061 of the CEQA Guidelines as a minor amendment of the Zoning Code to provide for a Medical Marijuana Dispensary use in the IG, IG(AU), IP and CC zoning districts with a Conditional Use Permit, because these amendments will not have a significant effect on the environment; and

WHEREAS, the final General Plan and the Zoning Code are incorporated herein by reference, and are available for review at City Hall during normal business hours.

SECTION 2. **Findings for the Zoning Code Amendment.** As required under state law, the City Council finds as follows:

a. The amendments pertaining to a Medical Marijuana Dispensary in Article 3, Section 1-304 Definitions; Article 6, Section 2-606 CC Districts - Use Regulations; Article 7, Sections 2-706 IG District - Use Regulations, 2-708 IP District - Use Regulations, and 2-712 IG(AU) District - Use Regulations; and Article 17, Section 4-1704 Off-Street Parking and Loading Spaces Required are in general agreement with General Plan Policies 7.02, 8.02, 10.01 and 12.03, as further explained in the staff report associated with this ordinance.

b. The proposed Zoning Code amendments are internally consistent with the City's Zoning Ordinance. The amendments meet the requirements and standards of the Zoning Ordinance and the procedural requirements of Government Code sections 65856 and 65867, and Article 27, "Amendments," as required by sections 5-2708 and 5-2712 of the Zoning Code.

Section 3. **Adoption of the Zoning Code Amendments.** Based on the entirety of the record, as described above, Article 3, Section 1-304 Definitions; Article 6, Section 2-606 CC Districts - Use Regulations; Article 7, Sections 2-706 IG District - Use Regulations, 2-708 IP District - Use Regulations, and 2-712 IG(AU) District - Use Regulations; and Article 17, Section 4-1704 Off-Street Parking and Loading Spaces Required; are hereby amended, as set forth in Exhibit A, attached hereto and incorporated into this Ordinance by this reference.

SECTION 4. **SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it

would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 5. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

Exhibit A: Zoning Code Excerpts with Proposed Changes Relating to Medical Marijuana Dispensary

(Note: Additions are shown in **bold underline** and deletions in ~~strike-out~~; all other sections of the Code not amended or altered shall remain the same, and in full force and effect)

Article 3, Section 1-304 Definitions

Medical Marijuana Dispensary. A collective or cooperative that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away marijuana for medicinal purposes to four (4) or more qualified patients and/ or primary caregivers pursuant to California Health and Safety Code Sections 11362. 5, 11362. 7 et seq. Baked medicinal products (i. e. brownies, bars, cookies, cakes), tinctures and other non- refrigerated type items are acceptable for manufacture and sale at a Dispensary. Edible cannabis products for sale or distribution at a Dispensary must have been prepared by a member of that Dispensary. No non-member edible cannabis products are allowed for sale or distribution at a Dispensary.

Medical Marijuana. All parts of the plant Cannabis sativa L., whether growing or not, as defined by California Health and Safety Code § 11018, as amended from time to time. This includes "cannabis" as: the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant incapable of germination.

Article 6, Section 2-606 CC District—Use Regulations

B. CC District—Conditionally Permitted Uses.

The following uses are allowed in the CC District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory Uses in conjunction with a conditionally permitted use.
2. Animal Boarding.
3. Animal Hospitals.
4. Automobile Washing, Unattended.
5. Bars.
6. Bed and Breakfast Inns. (Subject to the regulations of Section 4-1674: Bed and Breakfast Inns.)
7. Billiard Parlors.
8. Bingo Parlors.
9. Building Materials and Services.

10. Coin-Operated Laundry Businesses.
11. Commercial Parking Facility.
12. Commercial Recreation.
13. Convenience Stores. [Convenience markets shall not be located within one thousand (1,000) feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Convenience markets may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses. A pre-existing Convenience Store shall not be deemed a nonconforming use solely due to non-compliance with the one thousand (1,000) foot minimum distance requirement.]
14. Cultural Institutions.
15. Dance Hall.
16. Day Care, General.
17. Department Stores.
18. Drive-up Facilities.
19. Drugstores.
20. Emergency Health Care.
21. Entertainment Activities. (Entertainment Activities, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
22. Farmers' Market.
23. Fast Food Establishments, Large Scale.
24. Financial Institutions, Personal Loan Services. (Financial Institutions, Personal Loan Services uses shall not be located within one thousand five hundred (1,500) feet from other Financial Institutions, Personal Loan Services uses. Financial Institutions, Personal Loan Services uses may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses.)
25. Fortune-telling Establishments.
26. Game Center.
27. Government Offices.
28. Gun or Weapon Shop.
29. Hospitals.
30. Hotels, Motels, and Time-Share Facilities.
31. Liquor, Beer and Wine Stores. [Liquor, Beer and Wine Stores shall not be located within one thousand (1,000) feet of a site occupied by a public or private school, park, library, or recreational facilities, and no exterior vending machines shall be permitted. Liquor, Beer and Wine Stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an

adverse effect on neighboring uses. A pre-existing Liquor, Beer and Wine Store shall not be deemed a nonconforming use solely due to non-compliance with the one thousand (1,000) foot minimum distance requirement.]

32. Massage Therapy.

33. Medical Marijuana Dispensary. [A Medical Marijuana Dispensary shall not be located within one thousand (1,000) feet of a public or private school, public library, youth center [serving youth ages eighteen (18) and under], parks and recreation facilities, facilities for religious worship and incidental religious education, or another Dispensary; and shall not be located within five hundred (500) feet from a residential zone. A Dispensary may be open only between the hours of 9 am to 7pm, Monday through Sunday and are further subject to performance standards in the San Leandro Municipal Code.]

34~~33~~. Mixed-Use Residential.

35~~34~~. Multi-Family Residential.

36~~35~~. Park and Recreation Facilities.

37~~36~~. Pawn Shop.

38~~37~~. Public Safety Facilities.

39~~38~~. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4-1646: Recycling Facilities.)

40~~39~~. Retail Sales, Big Box.

41~~40~~. Secondhand Sales.

42~~41~~. Service Stations.

43~~42~~. Supermarkets.

44~~43~~. Tattoo Parlors.

45~~44~~. Telecommunications Towers [see Section 4-1686: Wireless Telecommunication Facilities {as per Ordinance No. 98-009}].

46~~45~~. Theaters.

47~~46~~. Tobacconist/Cigarette Stores. [Tobacconist/Cigarette Stores shall not be located within one thousand five hundred (1,500) feet of a site occupied by a public or private school, park, library, or recreational facilities, or of other Tobacconist/Cigarette Stores, and no exterior vending machines shall be permitted. Tobacconist/Cigarette Stores may be operated only between the hours of 6:00 a.m. and 10:00 p.m. unless longer hours are allowed with the approval of a conditional use permit, with a finding that the extended hours would not have an adverse effect on neighboring uses.]

48~~47~~. Two-Family Residential.

49~~48~~. Utilities, Major.

50~~49~~. Vehicle/Equipment Repair, Limited.

51~~50~~. Vehicle/Equipment Repair, General.

52~~51~~. Vehicle/Heavy Equipment Dealers, New.

53~~52~~. Vehicle/Heavy Equipment Dealers, Used.

54~~53~~. Vehicle/Heavy Equipment Rentals.

Article 7, Section 2-706 IG District—Use Regulations

B. IG District—Conditionally Permitted Uses.

The following uses are allowed in the IG District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (inside use only).
3. Bars.
4. Cafés.
5. Corporation Yards.
6. Day Care, General.
7. Drive-up Facilities.
8. Farmers' Market.
9. Fast Food Establishments, Large Scale.
10. Fast Food Establishments, Small Scale.
11. Financial Institutions, Retail.
12. Furniture, Electronics and Appliance Sales.
13. Industrial Transfer/Storage/Treatment Facilities for Hazardous Waste.
14. Industry, Hazardous Materials or Hazardous Waste. (Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
15. Massage Therapy.
- 16. Medical Marijuana Dispensary. [A Medical Marijuana Dispensary shall not be located within one thousand (1,000) feet of a public or private school, public library, youth center [serving youth ages eighteen (18) and under], parks and recreation facilities, facilities for religious worship and incidental religious education, or another Dispensary; and shall not be located within five hundred (500) feet from a residential zone. A Dispensary may be open only between the hours of 9 am to 7pm, Monday through Sunday and are further subject to performance standards in the San Leandro Municipal Code.]**
- ~~17~~16. Public Safety Facilities.
- ~~18~~17. Public Storage.
- ~~19~~18. Recycling Facilities, Heavy Processing. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- ~~20~~19. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- ~~21~~20. Recycling Facilities, Light Processing. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- ~~22~~21. Residuals Repositories for Hazardous Waste.
- ~~23~~22. Restaurants, Full-Service.
- ~~24~~23. Service Stations.

- ~~25~~24. Small-Scale Transfer and Storage Facilities for Hazardous Waste.
(Subject to the regulations of Section 4-1646: Recycling Facilities.)
- ~~26~~25. Transfer Stations.
- ~~27~~26. Trucking Terminals.
- ~~28~~27. Utilities, Major.
- ~~29~~28. Vehicle/Equipment Repair, General.
- ~~30~~29. Vehicle Equipment Repair, Limited.
- ~~31~~30. Vehicle/Heavy Equipment Dealers, Used.
- ~~32~~31. Vehicle/Heavy Equipment Rentals.
- ~~33~~32. Vehicle Storage.
- ~~34~~33. Warehouse—Storage Facilities. (A use permit is required if the proposed use will occupy a building constructed after August 15, 2001, or an existing building will be expanded ten thousand (10,000) square feet to accommodate this use.)

Article 7, Section 2-708 IP District—Use Regulations

B. IP District—Conditionally Permitted Uses.

The following uses are allowed in the IP District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (inside use only).
3. Automobile Parts Sales.
4. Bars.
5. Cafés.
6. Day Care, General.
7. Drive-up Facilities.
8. Emergency Health Care.
9. Farmers' Market.
10. Fast Food Establishments, Large Scale.
11. Fast Food Establishments, Small Scale.
12. Food Processing, General.
13. Furniture, Electronics, and Appliance Sales.
14. Industry, General.
15. Industry, Hazardous Materials, or Hazardous Waste. (Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
16. Massage Therapy.
- 17. Medical Marijuana Dispensary. [A Medical Marijuana Dispensary shall not be located within one thousand (1,000) feet of a public or private school, public library, youth center [serving youth ages**

eighteen (18) and under], parks and recreation facilities, facilities for religious worship and incidental religious education, or another Dispensary; and shall not be located within five hundred (500) feet from a residential zone. A Dispensary may be open only between the hours of 9 am to 7pm, Monday through Sunday and are further subject to performance standards in the San Leandro Municipal Code.]

- 1817.** Public Safety Facilities.
- 1918.** Restaurants, Full-Service.
- 2019.** Service Stations.
- 2120.** Utilities, Major.
- 2221.** Vehicle/Heavy Equipment Dealers, Used.
- 2322.** Warehouse—Storage Facilities. (A use permit is required if the proposed use will occupy a building constructed after August 15, 2001, or an existing building will be expanded ten thousand (10,000) square feet to accommodate this use.)

Article 7, Section 2-712 IG (AU) District—Use Regulations

B. IG (AU) District—Conditionally Permitted Uses.

The following uses are allowed in the IG (AU) District, subject to the approval of a conditional use permit. (Certain uses are subject to special requirements and/or limitations, as prescribed following the individual use classification.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (inside uses only).
3. Assembly Uses.
4. Bars.
5. Cafés.
6. Commercial Recreation.
7. Corporation Yards.
8. Day Care, General.
9. Drive-up Facilities.
10. Entertainment Activities. (Entertainment Activities, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval).
11. Farmers' Market.
12. Fast Food Establishments, Large Scale.
13. Fast Food Establishments, Small Scale.
14. Financial Institutions, Retail.
15. Furniture, Electronics and Appliance Sales.
16. Industrial Transfer/Storage/Treatment Facilities for Hazardous Waste.

17. Industry, Hazardous Materials or Hazardous Waste. (Provided that the use is consistent with the Alameda County Hazardous Waste Management Plan and the San Leandro General Plan.)
18. Massage Therapy.
- 19. Medical Marijuana Dispensary. [A Medical Marijuana Dispensary shall not be located within one thousand (1,000) feet of a public or private school, public library, youth center [serving youth ages eighteen (18) and under], parks and recreation facilities, facilities for religious worship and incidental religious education, or another Dispensary; and shall not be located within five hundred (500) feet from a residential zone. A Dispensary may be open only between the hours of 9 am to 7pm, Monday through Sunday and are further subject to performance standards in the San Leandro Municipal Code.]**
- 20**19. Public Safety Facilities.
- 21**20. Public Storage.
- 22**24. Recycling Facilities, Heavy Processing. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- 23**22. Recycling Facilities, Large Collection. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- 24**23. Recycling Facilities, Light Processing. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- 25**24. Residuals Repositories for Hazardous Waste.
- 26**25. Restaurants, Full-Service.
- 27**26. Service Stations.
- 28**27. Small-Scale Transfer and Storage Facilities for Hazardous Waste. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- 29**28. Transfer Stations.
- 30**29. Trucking Terminals.
- 31**30. Utilities, Major.
- 32**31. Vehicle/Equipment Repair, General.
- 33**32. Vehicle Equipment Repair, Limited.
- 34**33. Vehicle/Heavy Equipment Dealers, Used.
- 35**34. Vehicle/Heavy Equipment Rentals.
- 36**35. Vehicle Storage.
- 37**36. Warehouse—Storage Facilities. (A use permit is required if the proposed use will occupy a building constructed after August 15, 2001, or an existing building will be expanded ten thousand (10,000) square feet to accommodate this use.)

Article 17, Section 4-1704 (revisions to table)

Use Classification	Off-Street Parking Spaces
<u>Medical Marijuana Dispensary</u>	<u>1 space per 200 square feet for retail sales and services; other use types per conditional use permit</u>