



# City of San Leandro

Meeting Date: January 17, 2017

## Staff Report

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**File Number:** 16-709

**Agenda Section:** PUBLIC HEARINGS

**Agenda Number:** 5.A.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report for an Ordinance Amending Zoning Code Article 3, Definitions; Article 6, Commercial and Professional Districts; and Article 7, Industrial Districts; Involving Updates to Definitions and Regulations of Land Uses Involving Medical Cannabis.

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### SUMMARY AND RECOMMENDATIONS

Staff requests that the City Council consider the revised ordinance amending the Zoning Code to be consistent with the Municipal Code. The proposal will replace the term “marijuana” with “cannabis” and remove the one thousand (1,000) foot separation requirement between medical cannabis dispensaries. The proposed changes reflect the Council’s action from its December 19, 2016 meeting.

### BACKGROUND

The City Council considered amendments to the Zoning Code related to cannabis at a public hearing during its December 19, 2016 meeting. At the hearing, the Council took action to separate the Planning Commission’s recommendation into two separate items for future consideration. The Council directed the proposed code consistency items to return for consideration on January 17, 2017 and to have staff return with additional analysis and information regarding the two proposed land uses, “Laboratories, Cannabis Testing Facilities” and “Industry, Cannabis Product Manufacturing” for consideration.

### Analysis

The amendments before the City Council will bring the Zoning Code into alignment with the Municipal Code. The proposed changes are essentially code “clean-up” items that reflect prior changes approved by the Council for the Municipal Code. The use of the term “cannabis” has become standardized throughout state regulations. The proposal amends the Zoning Code by replacing the term “marijuana” with “cannabis” and eliminates the one thousand (1,000) foot distancing requirement between medical cannabis dispensaries, as currently codified in the

Municipal Code. The definition of “Medical Cannabis Dispensary” has also been updated to delete a reference requiring edible products to be manufactured by members of dispensaries, in accord with recent State legislation under Assembly Bill 243 placing regulations pertaining to the production and labeling of edibles under the authority of the California State Department of Public Health. State regulations require all medical cannabis dispensaries to obtain City approval before a State license can be issued.

### **Previous Actions**

The City Council adopted Ordinance 2013-020 in December 2013, which allowed for the establishment of one medical cannabis dispensary subject to performance standards.

The City Council adopted Ordinance 2014-003 in April 2014, implementing performance standards for medical cannabis dispensaries, by amending the Zoning Code to enable the use of medical cannabis dispensaries.

The City Council adopted Ordinance 2016-007 in June 2016, allowing the establishment of a second medical cannabis dispensary.

The City Council adopted Ordinance 2016-013 in September 2016, allowing the establishment of a third medical cannabis dispensary and removing the requirement that a dispensary not be located within one thousand (1,000) feet from another dispensary.

### **Environmental Review**

The proposed Zoning Code amendments are exempt from environmental review under Section 15061(b)(3) of the CEQA Guidelines, as they constitute minor amendments to the Zoning Code necessary for consistency with the Municipal Code and state law. 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.

### **Planning Commission Review and Actions**

The Planning Commission considered the proposed amendments presented to the City Council on December 19, 2016 at its November 17, 2016 meeting and unanimously recommended City Council approval. Because the clean-up provisions in the revised Ordinance were reviewed and a recommendation was made by the Planning Commission, no further Planning Commission approvals are necessary. There were no public comments presented at the Planning Commission or received prior to the preparation of this report.

### **Fiscal Impacts**

The proposed ordinance will have no fiscal impact.

### **ATTACHMENTS**

- Draft Ordinance (16-710)

- Exhibit A, Article 3, Definitions, Proposed Changes
- Exhibit B, Article 6, Commercial and Professional, Proposed Changes
- Exhibit C, Article 7, Industrial, Proposed Changes

**PREPARED BY:**

Andrew J. Mogensen, AICP  
Planning Manager



# City of San Leandro

Meeting Date: January 17, 2017

## Ordinance

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**File Number:** 16-710

**Agenda Section:** PUBLIC HEARINGS

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Ordinance Amending Zoning Code Article 3, Definitions; Article 6, Commercial and Professional Districts; Article 7, Industrial Districts; Involving Updates to Definitions and Regulations of Land Uses Involving Medical Cannabis.

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**WHEREAS**, California's Medical Cannabis Regulation and Safety Act established a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, testing, and distribution of cannabis and cannabis products; and

**WHEREAS**, the State of California enables local governments to adopt new ordinances to regulate local cannabis-related businesses in preparation for State licensing; and

**WHEREAS**, in December 2013, the City Council of the City of San Leandro adopted Ordinance 2013-020, which allowed for the establishment of a Medical Cannabis Dispensary, subject to selection and performance standards, which became effective on January 13, 2014; and

**WHEREAS**, in April 2014, the City Council of the City of San Leandro adopted Ordinance 2014-003, implementing performance standards for medical marijuana dispensaries, by amending the Zoning Code to enable the use of medical marijuana dispensaries; and

**WHEREAS**, in June 2016, the City Council of the City of San Leandro adopted Ordinance 2016-007, which allowed for the establishment of a second Medical Cannabis Dispensary, which became effective on July 20, 2016; and

**WHEREAS**, in September 2016, the City Council of the City of San Leandro adopted Ordinance 2016-013, establishing a third Medical Cannabis Dispensary and removing the requirement that a dispensary not be located within one thousand (1,000) feet from another

dispensary, which became effective on November 3, 2016; and

**WHEREAS**, the City of San Leandro's Community Development Department is tasked with periodic updates to the Zoning Code for conformance with General Plan policy, the San Leandro Municipal Code, and State law; and

**WHEREAS**, the proposed Amendments to the Zoning Code will update and modernize existing regulations pertaining to medical cannabis dispensaries in accord with General Plan policy and the San Leandro Municipal Code; and

**WHEREAS**, the proposed Amendments are intended to make the provisions of the Zoning Code consistent with those found in the Municipal Code; and

**WHEREAS**, the proposed Amendments to the Zoning Code will replace the term "marijuana" with "cannabis" for consistency between the Municipal Code, the Zoning Code, and state law; and

**WHEREAS**, the proposed Amendments to the Zoning Code will remove the requirement that a medical cannabis dispensary not be located within one thousand (1,000) feet of another dispensary; and

**WHEREAS**, the terms "marijuana" and "cannabis" are used interchangeably herein for purposes of description; and

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

**WHEREAS**, the Planning Commission reviewed the proposed Zoning Code Amendments at a duly noticed public hearing on November 17, 2016 and unanimously recommended City Council approval by approving Resolution 2016-007 by a 7-0 vote; and

**WHEREAS**, on December 19, 2016, the City Council of the City of San Leandro considered the Planning Commission's recommendation and directed staff to revise the proposed amendments to the Zoning Code, identified as Exhibits A-C; and

**WHEREAS**, the City Council reviewed the staff report and exhibits and finds that the proposed Amendments to the Zoning Code are exempt from environmental review under Section 15061(b)(3) of the California Environmental Quality Act Guidelines, as they constitute minor amendments to the Zoning Code necessary for consistency with the Municipal Code and state law, and that any potential project enabled under the Amendments will be further subject to review under CEQA; and

**WHEREAS**, the Amendments to the Zoning Code text are set forth in the attached **Exhibits A through C**, incorporated herein by reference.

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

**SECTION 1. RECITALS.** The above recitals are true and correct and made a

part of this ordinance.

**SECTION 2. CEQA.** The proposed Amendments to the Zoning Code are exempt from environmental review under Section 15061(b)(3) of the California Environmental Quality Act Guidelines, as they constitute minor amendments to the Zoning Code necessary for consistency with the Municipal Code and State law, and that any potential project enabled under the amendments will be further subject to review under CEQA. 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.

**SECTION 3. FINDINGS.** Based on the entirety of the record, the City Council hereby finds that the proposed zoning text Amendments shown in Exhibits A-C are consistent with the recently adopted 2035 General Plan. The City Council further finds that consideration of the proposed zoning Amendments complied with the notice and hearing provisions of the Zoning Code.

**SECTION 4. Approval.** The City Council hereby approves the Zoning Code text Amendments as shown in attached Exhibits A-C, described as follows:

Exhibit A: Amended Article 3 Definitions (excerpts only)

Exhibit B: Amended Article 6 Commercial and Professional Districts (excerpts only)

Exhibit C: Amended Article 7 Industrial Districts (excerpts only)

**SECTION 5. 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 6. 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.

**Ordinance \_\_\_\_\_, Exhibit A**  
**Amendments to Article 3, Section 1-304 Definitions (Excerpts)**

Note: Underlined text represents new text; ~~strike through~~ represents text to be eliminated.

The following definitions are additions or modifications to existing definitions as follows and no changes are proposed to definitions not listed here:

**Medical ~~Cannabis~~ Marijuana.** All parts of the plant Cannabis sativa L., also referred to as marijuana, whether growing or not, as defined by California Health and Safety Code Section 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.

**Medical ~~Cannabis~~ Marijuana Dispensary.** A collective, or, cooperative, or other non-profit or for profit entity qualified or permitted to do business in the State of California and the City of San Leandro that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away cannabis (“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 and 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.~~

**Ordinance \_\_\_\_\_, Exhibit B:  
Amended Article 6, Commercial and Professional Districts (Excerpt)**

Note: **Underlined and bolded** text represents new text; ~~strike through~~ represents text to be eliminated.

**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.)

...

32. Medical **Cannabis** Marijuana Dispensary. (A medical **cannabis** 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, **or** 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 during hours as specified in the San Leandro Municipal Code and are further subject to performance standards in the San Leandro Municipal Code.)



# Ordinance \_\_\_\_\_, Exhibit C Amended Article 7 (Excerpt)

Note: underlined and bolded text represents new text; ~~strike through~~ represents text to be eliminated

## 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.)

...

16. Medical **Cannabis** ~~Marijuana~~ Dispensary. (A medical cannabis ~~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, or 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 during hours as specified in the San Leandro Municipal Code and are further subject to performance standards in the San Leandro Municipal Code.)

...

## 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.)

...

16. Medical **Cannabis** ~~Marijuana~~ Dispensary. (A medical cannabis ~~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, or 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 during hours as specified in the San Leandro Municipal Code and are further subject to performance standards in the San Leandro Municipal Code.)

...

## 2-714 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.)

...

19. Medical **Cannabis** ~~Marijuana~~ Dispensary. (A medical cannabis ~~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, or 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 during hours as specified in the San Leandro Municipal Code and are further subject to performance standards in the San Leandro Municipal Code.)