



City of San Leandro

Meeting Date: June 19, 2017

Staff Report

File Number: 17-219

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; Article 7, Industrial Districts; and Article 16, Non-Residential Districts, Involving Updates to Definitions and Regulations Enabling Cannabis Product Manufacturing and Laboratories, and a Resolution Adding Title 5, Chapter 6 to the Administrative Code to identify a pilot program for Cannabis Product Manufacturing applications.

SUMMARY AND RECOMMENDATIONS

Staff requests the City Council consider a proposed Ordinance to enable Cannabis Product Manufacturing and Laboratories and a concurrent Resolution containing Administrative Code provisions for a new pilot program for Cannabis Product Manufacturing applications. The purpose of the proposed changes are to enable cannabis manufacturing and cannabis testing laboratories as conditionally permitted uses and to establish a pilot program placing limitations on the total number of cannabis manufacturing use permits allowed. Staff and the Planning Commission recommend City Council approval of the proposed ordinance. Staff also recommends City Council approval of the proposed Resolution to amend the Administrative Code.

BACKGROUND

Three assembly bills that passed in 2015 (Assembly Bills 243 and 266, and Senate Bill 643) established the state-level licensing and regulatory framework for medical cannabis as well as the new California Bureau of Medical Cannabis Regulation. The Bureau is responsible for developing regulations and issuing licenses at the State level for the cultivation, manufacture, distribution, laboratory testing, and public sale of medical cannabis. Following the passage of the Adult Use of Marijuana Act as part of the November 2016 ballot, this state agency will be charged with regulating non-medical cannabis businesses as well. All businesses involving the use of cannabis will be required to obtain both a City permit and a State license in order to operate. This proposed Ordinance and pilot program will operate in conjunction with the new State-level cannabis licensing regulations.

This item was previously considered by the City Council at a public hearing held on December 19, 2016 and continued for further research and discussion. During the follow-up City Council work session held on April 24, 2017, the direction provided by Council was to allow cannabis laboratories and develop special required findings for approval of Cannabis Product Manufacturing uses, as well as a concurrent pilot program to limit the total number of manufacturing permits allowed on a trial basis.

Analysis

This proposal enables two new conditionally permitted land uses in the Zoning Code related to cannabis: “Industry, Cannabis Product Manufacturing,” and “Laboratories, Cannabis Testing Facilities.” The first will enable the manufacturing of cannabis products and the second will enable laboratories that provide analytical data, quality control, and testing services of cannabis and cannabis products. Proposed uses under these new categories would require review and approval of a Conditional Use Permit by the Board of Zoning Adjustments and State licensure prior to establishment.

Staff is also proposing a new pilot program for Cannabis Product Manufacturing applications in the City’s Administrative Code. The pilot program will be a “first-come, first-served” system for interested applicants, who will be required to comply with specific application submittal and processing timeframe requirements. Staff proposes to limit the total number of conditionally permitted Cannabis Product Manufacturing facilities to five (5) permits. The City Council will have the option to expand or modify the pilot program after reviewing the outcome, once the initial permitted Cannabis Product Manufacturing uses have been established and become operational.

For the Zoning Code update, staff proposes to define and identify “Laboratories, Cannabis Testing Facilities” and “Industry, Cannabis Product Manufacturing” in Zoning Code Articles 3, 6, & 7 as follows:

“Laboratories, Cannabis Testing Facilities. Laboratories conducting safety, quality control, and analytical testing services of cannabis and products derived from cannabis as a service to cannabis dispensaries, medical facilities, government agencies, cannabis product manufacturers, or other entities as allowed by state law. This definition includes cannabis testing and laboratory facilities requiring a Type 8 license from the State of California. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of cannabis and cannabis products to the public.”

“Laboratories, Cannabis Testing Facilities” would only be allowed in the Community Commercial (CC), Industrial General (IG), Industrial General - Assembly Use (IG-AU), and Industrial Park (IP) zoning districts with an approved Conditional Use Permit. Laboratories, Cannabis Testing Facilities are not proposed to be subject to buffer or distance requirements as they have minimal product on hand, limited interaction with clients, and are required to destroy or securely dispose of test samples. Cannabis testing laboratories will be limited to performing independent analytical testing and quality control as a service to other cannabis businesses and are prohibited from growing, selling, or delivering cannabis.

Industry, Cannabis Product Manufacturing. Cannabis manufacturing, processing, and packaging of products derived from or infused with cannabis, including edibles, concentrates and extracts for wholesale or retail to cannabis dispensaries or other cannabis product distributors and manufacturers as allowed by state law. This definition includes cannabis manufacturers requiring a Type 6 or 7 license from the State of California. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of manufactured cannabis products to the public.”

“Industry, Cannabis Product Manufacturing” would only be allowed in the Industrial General (IG), Industrial General - Assembly Use (IG-AU), and Industrial Park (IP) zoning districts with a Conditional Use Permit.

Special Findings Necessary

In addition to the zoning locations, staff also proposes to require special findings be met prior to the approval of any Cannabis Product Manufacturing Conditional Use Permit. Requiring special findings is preferred over prescriptive requirements (such as a fixed numerical setback based on geographical distance) because findings allow some flexibility while still maintaining an appropriate standard. In addition to the required findings for all Conditional Use Permits (identified in Section 5-2212), Cannabis Product Manufacturing projects will also need to meet the following findings prior to approval, identified in proposed Section 4-1640 (Exhibit D):

1. The cannabis product manufacturing facility is situated in an appropriate location where schools, residences, childcare centers, parks, or other sensitive land uses will not be adversely impacted.
2. Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste.
3. The cannabis product manufacturing facility is suitably designed to be secure and aesthetically compatible with the surrounding area.
4. The cannabis product manufacturing facility will not place a burden on the provision of public services disproportionate to other industrial uses.

Staff believes that evaluating each application on a case-by-case basis based on these proposed findings is the most appropriate means of regulation.

Cannabis product manufacturing facilities and cannabis testing laboratories are not anticipated to be noticeably different from laboratories or manufacturing facilities that do not involve cannabis. The City will have the ability to evaluate and condition each proposed business on a case-by-case basis through the Conditional Use Permit process, which requires review and approval by the Board of Zoning Adjustments at a public hearing. Should problems arise in the future, the City has the authority to issue citations, revisit or revoke a Conditional Use Permit.

Pilot Program for Cannabis Manufacturing

The proposed pilot program places strict requirements on Conditional Use Permit applications for cannabis product manufacturing. Applications must meet all of the required submittal criteria in order to be accepted for processing. This criteria includes: detailed property and applicant information; project and operational plans i.e. security measures and measures to control inventory and cannabis waste; a traffic generation report; a noise study; and an odor control mitigation plan. If additional information or changes are required, applicants will have 60 days to respond.

The pilot program will limit the number of manufacturers to five (5) in order to provide the City the opportunity to evaluate their impact. Speculative or third party applications would be disqualified from consideration. Under the five use permit limitation, any approvals that lapse or are revoked will allow a new application to be considered.

By enabling laboratories and a limited pilot program for cannabis manufacturing, the City will position itself to measurably accommodate the anticipated growth in the cannabis manufacturing industry as well as the anticipated employment and tax revenue stemming from those new uses. These uses also advance the City's goal to support employment-intensive businesses in the industrial area as opposed to warehousing. Over the past year, staff has received a number of inquiries from manufacturers who have been seeking potential locations to legally manufacture products containing cannabis to supply to existing, legally permitted dispensaries. These provisions will enable manufacturers to consider locating their operations in San Leandro.

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 February 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.
- The City Council adopted Ordinance 2017-001 on January 17, 2017 to bring the Zoning Code's medical cannabis dispensary provisions into consistency with the Municipal Code and to replace the term "marijuana" with "cannabis."
- The City Council reviewed this item on December 19, 2016 and continued the item so that staff could prepare additional information and hold a work session to discuss cannabis policy at a future date.
- The City Council held a work session to discuss cannabis policy on April 24, 2017,

confirming direction for this proposal. Representatives from the cannabis industry were invited to attend the work session and a number of speakers provided the Council with insight into their business operations.

Applicable General Plan Policies

The proposed recommendations are consistent with the recently adopted 2035 General Plan, which identifies policies and actions to ensure the City remains flexible and responsive to industrial trends:

- **Policy LU-7.3 - Zoning Flexibility**. “Ensure that industrial zoning regulations are flexible enough to achieve the vision of San Leandro’s industrial area as an “innovation ecosystem”, where new methods of production, operations, and design are supported.”
- **Action LU-7.3.A - Zoning Review**. “Regularly review the Zoning Code to respond to real estate market and development trends, as well as changes in technology. The City shall routinely review the lists of permitted and conditionally permitted uses in industrial areas to ensure that desired and potentially compatible uses are not excluded.”
- **Policy LU-7.4 - Tax Base Enhancement**. “Encourage business development that improves the City’s ability to provide the public with high-quality services and which minimizes increases in the tax burden for existing businesses and residents.”

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, 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.

Board/Commission Review and Actions

The Planning Commission considered the proposed amendments at its November 17, 2016 meeting and unanimously recommended City Council approval of the proposed Ordinance. The Planning Commission posed a number of questions to staff and noted support for additional revenue generation. There were no public comments presented at the Planning Commission or received prior to the preparation of this report.

Summary of Public Outreach Efforts

Staff reached out to members of the cannabis manufacturing industry who had previously expressed an interest in these provisions at the City Council work session held on April 24, 2017. Those individuals were again contacted in advance of scheduling for this hearing item. Since that time, staff has received several additional inquiries from interested parties regarding this proposal.

A legal advertisement for this hearing item was published in the East Bay Times Daily Review on June 9, 2017. No public comments were received as of the filing of this report.

Legal Analysis

The City Attorney reviewed the draft Zoning Code amendments, and the amendments to the Administrative Code; they are approved as to form.

Fiscal Impacts

With the approval of Measure NN, which enables the City of San Leandro to tax up to 10% of the gross receipts of cannabis businesses (currently set at 6% of gross receipts), approval of the proposed ordinance could expand potential revenue sources for the City.

ATTACHMENTS

- Draft Zoning Code Ordinance (17-220)
 - Exhibit A, Article 3, Definitions, Proposed Changes
 - Exhibit B, Article 6, Commercial and Professional, Proposed Changes
 - Exhibit C, Article 7, Industrial, Proposed Changes
 - Exhibit D, Article 16, Development Regulations, Non-Residential Districts, Cannabis Product Manufacturing

- Draft Administrative Code Resolution, Exhibit A (17-339)

PREPARED BY:

Andrew J. Mogensen, AICP
Planning Manager



City of San Leandro

Meeting Date: June 19, 2017

Ordinance

File Number: 17-220

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; and Article 16, Nonresidential Uses, to Enable Cannabis Product Manufacturing and Laboratories.

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, the manufacturing of cannabis products has only recently been legalized in the State of California and it is in the interest of the City of San Leandro to ensure that this new land use is responsibly established and compatible with other uses in the City; and

WHEREAS, in 2016, the City of San Leandro adopted a new General Plan, which states that “[t]he 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 “[t]he 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 General Plan establishes policies to “[e]nsure that industrial zoning regulations are flexible enough to achieve the vision of San Leandro’s industrial area as an ‘innovation ecosystem’, where new methods of production, operations, and design are supported”; and

WHEREAS, the General Plan directs the City to “[r]egularly review the Zoning Code to

respond to real estate market and development trends, as well as changes in technology,” and directs that “[t]he City shall routinely review the lists of permitted and conditionally permitted uses in industrial areas to ensure that desired and potentially compatible uses are not excluded”; and

WHEREAS, the proposed Amendments are in accord with the policies of the General Plan in that the Amendments will “encourage business development that improves the City’s ability to provide the public with high-quality services and which minimizes increases in the tax burden for existing businesses and residents”; 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 Marijuana 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 cannabis dispensaries, by amending the Zoning Code to enable the use of medical cannabis dispensaries; and

WHEREAS, the City of San Leandro’s Planning Services Division is tasked with periodic updates to the Zoning Code for conformance with General Plan policy and State law; and

WHEREAS, the proposed Amendments to the Zoning Code will update and modernize existing regulations pertaining to medical cannabis dispensaries and enable new regulations for those industries that support them in accord with General Plan policy; 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 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 of the proposed ordinance by approving Resolution 2016-007 by a 7-0 vote; and

WHEREAS, the City Council of the City of San Leandro previously considered this

Ordinance at a publically noticed hearing held in December 2016 and directed staff to continue the item and return following further policy discussion; 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 attached **Exhibits A through D**, 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-D 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-D, 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)
- Exhibit D: Amended Article 16, Division 2, Section 4-1640 Cannabis Product Manufacturing

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
Reserved Cannabis Oriented Businesses

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

Industry, Cannabis Product Manufacturing. Cannabis manufacturing, processing, and packaging of products derived from or infused with cannabis, including edibles, concentrates and extracts for wholesale or retail to cannabis dispensaries or other cannabis product distributors and manufacturers as allowed by state law. This definition includes cannabis manufacturers requiring a Type 6 or 7 license from the State of California. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of manufactured cannabis products to the public.

Laboratories. Establishments providing medical or dental laboratory services; or establishments with less than two thousand (2,000) square feet providing photographic, analytical, or testing services. Other laboratories are classified as ~~limited~~ “Industry, Research and Development” or “Laboratories, Cannabis Testing Facilities.”

Laboratories, Cannabis Testing Facilities. Laboratories conducting safety, quality control, and analytical testing services of cannabis and products derived from cannabis as a service to cannabis dispensaries, medical facilities, government agencies, cannabis product manufacturers, or other entities as allowed by state law. This definition includes cannabis testing and laboratory facilities requiring a Type 8 license from the State of California. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of cannabis and cannabis products to the public.

Ordinance _____, Exhibit B Amendments to Article 6 Commercial and Professional Districts

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.)

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. Beer and Wine Stores. [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. 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 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.]
8. Billiard Parlors.
9. Bingo Parlors.
10. Building Materials and Services.
11. Coin-Operated Laundry Businesses.
12. Commercial Parking Facility.
13. Commercial Recreation.
14. 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.)

15. Cultural Institutions.
16. Dance Clubs.
17. Department Stores.
18. Drive-Up Facilities.
19. Emergency Health Care.
20. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
21. Farmers' Market.
22. Fast Food Establishments, Large Scale.
23. 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.)
24. Fortune-Telling Establishments.
25. Game Centers.
26. Government Offices.
27. Gun or Weapon Shop.
28. Hospitals.
29. Hotels, Motels, and Time-Share Facilities.
30. **Laboratories, Cannabis Testing Facilities.**
- ~~31.~~ ~~30.~~ Liquor Stores. (Liquor 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 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 store shall not be deemed a nonconforming use solely due to non-compliance with the one thousand (1,000) foot minimum distance requirement.)
- ~~32.~~ ~~31.~~ Massage Therapy.
- ~~33.~~ ~~32.~~ Medical Cannabis Dispensary. (A medical cannabis 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; 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.)
- ~~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. Retail Sales, Big Box.
- ~~40.~~ 39. Secondhand Sales.
- ~~41.~~ 40. Service Stations.
- ~~42.~~ 41. Supermarkets.
- ~~43.~~ 42. Telecommunications, New Monopoles and Towers. (Subject to the regulations of Section 4-1686: Wireless Telecommunications Facilities.)
- ~~44.~~ 43. Theaters.
- ~~45.~~ 44. 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.]
- ~~46.~~ 45. Two-Family Residential.
- ~~47.~~ 46. Utilities, Major.
- ~~48.~~ 47. Vehicle/Equipment Repair, Limited.
- ~~49.~~ 48. Vehicle/Equipment Repair, General.
- ~~50.~~ 49. Vehicle/Heavy Equipment Dealers, New.
- ~~51.~~ 50. Vehicle/Heavy Equipment Dealers, Used.
- ~~52.~~ 51. Vehicle/Heavy Equipment Rentals.

Ordinance _____, Exhibit C Amendments to Article 7 Industrial Districts

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.)

1. Accessory uses when in conjunction with a conditional use.
2. Animal Boarding (with outside use).
3. Bars.
4. Corporation Yards.
5. Cultural Institutions.
6. Dance Clubs.
7. Drive-Up Facilities.
8. Drugstores.
9. Farmers' Market.
10. Fast Food Establishments, Large Scale.
11. Furniture, Electronics and Appliance Sales.
12. Game Centers.
13. Industrial Transfer/Storage/Treatment Facilities for Hazardous Waste.
14. **Industry, Cannabis Product Manufacturing.**
- ~~15.~~ **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.)
- ~~16.~~ **15.** **Laboratories, Cannabis Testing Facilities.**
- ~~17.~~ **15.** Massage Therapy.
- ~~18.~~ **16.** Medical Cannabis Dispensary. (A medical cannabis 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; 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.)
- ~~19.~~ **17.** Public Safety Facilities.
- ~~20.~~ **18.** Public Storage.
- ~~21.~~ **19.** Recycling Facilities, Heavy Processing. (Subject to the regulations of Section 4-1646: Recycling Facilities.)

- ~~22.~~ 20. Residuals Repositories for Hazardous Waste.
- ~~23.~~ 21. Service Stations.
- ~~24.~~ 22. Small-Scale Transfer and Storage Facilities for Hazardous Waste. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- ~~25.~~ 23. Supermarkets.
- ~~26.~~ 24. Transfer Stations.
- ~~27.~~ 25. Trucking Terminals.
- ~~28.~~ 26. Utilities, Major.
- ~~29.~~ 27. Vehicle/Equipment Repair, General.
- ~~30.~~ 28. Vehicle/Equipment Repair, Limited.
- ~~31.~~ 29. Vehicle/Heavy Equipment Dealers, Used.
- ~~32.~~ 30. Vehicle/Heavy Equipment Rentals.
- ~~33.~~ 31. Vehicle Storage.
- ~~34.~~ 32. Warehouse—Storage Facilities. (A conditional use permit is required if the proposed use will expand an existing building ten thousand (10,000) square feet or more to accommodate this use or if a new building of any size is proposed to accommodate this use.)
- ~~35.~~ 33. Warehouse—Wholesale/Retail Distribution Facilities. (A conditional use permit is required if the proposed use will expand an existing building ten thousand (10,000) square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use.)

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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 (with outdoor use).
- 3. Automobile Parts Sales.
- 4. Bars.
- 5. Cultural Institutions.
- 6. Dance Clubs.
- 7. Drive-Up Facilities.
- 8. Emergency Health Care.
- 9. Farmers' Market.
- 10. Fast Food Establishments, Large Scale.
- 11. Food Processing, General.
- 12. Furniture, Electronics, and Appliance Sales.
- 13. **Industry, Cannabis Product Manufacturing.**

- ~~14.~~ 13. Industry, General.
- ~~15.~~ 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.)
- 16.** **Laboratories, Cannabis Testing Facilities.**
- ~~17.~~ 15. Massage Therapy.
- ~~18.~~ 16. Medical Cannabis Dispensary. (A medical cannabis 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; 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.)
- ~~19.~~ 17. Public Safety Facilities.
- ~~20.~~ 18. Service Stations.
- ~~21.~~ 19. Utilities, Major.
- ~~22.~~ 20. Vehicle/Heavy Equipment Dealers, Used.
- ~~23.~~ 21. Warehouse—Storage Facilities. (A conditional use permit is required if the proposed use will expand an existing building ten thousand (10,000) square feet or more to accommodate this use or if a new building of any size is proposed to accommodate this use.)
- ~~24.~~ 22. Warehouse—Wholesale/Retail Distribution Facilities. (A conditional use permit is required if the proposed use will expand an existing building ten thousand (10,000) square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use.)

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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.)

- 1. Accessory uses when in conjunction with a conditional use.
- 2. Animal Boarding (with outdoor use).
- 3. Assembly Uses.
- 4. Bars.
- 5. Commercial Recreation.
- 6. Corporation Yards.
- 7. Cultural Institutions.
- 8. Dance Clubs.
- 9. Drive-Up Facilities.

10. Drugstores.
11. Entertainment Events. (Entertainment events, when provided either as a primary use or as an accessory use to permitted and conditionally permitted uses, require use permit approval.)
12. Farmers' Market.
13. Fast Food Establishments, Large Scale.
14. Furniture, Electronics and Appliance Sales.
15. Game Centers.
16. Industrial Transfer/Storage/Treatment Facilities for Hazardous Waste.
- 17. Industry, Cannabis Product Manufacturing.**
- 18.** ~~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.)
- 19. Laboratories, Cannabis Testing Facilities.**
- 20.** ~~18.~~ Massage Therapy.
- 21.** ~~19.~~ Medical Cannabis Dispensary. (A medical cannabis 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; 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.)
- 22.** ~~20.~~ Public Safety Facilities.
- 23.** ~~21.~~ Public Storage.
- 24.** ~~22.~~ Recycling Facilities, Heavy Processing. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- 25.** ~~23.~~ Residuals Repositories for Hazardous Waste.
- 26.** ~~24.~~ Service Stations.
- 27.** ~~25.~~ Small-Scale Transfer and Storage Facilities for Hazardous Waste. (Subject to the regulations of Section 4-1646: Recycling Facilities.)
- 28.** ~~26.~~ Supermarkets.
- 29.** ~~27.~~ Transfer Stations.
- 30.** ~~28.~~ Trucking Terminals.
- 31.** ~~29.~~ Utilities, Major.
- 32.** ~~30.~~ Vehicle/Equipment Repair, General.
- 33.** ~~31.~~ Vehicle/Equipment Repair, Limited.
- 34.** ~~32.~~ Vehicle/Heavy Equipment Dealers, Used.
- 35.** ~~33.~~ Vehicle/Heavy Equipment Rentals.
- 36.** ~~34.~~ Vehicle Storage.
- 37.** ~~35.~~ Warehouse—Storage Facilities. (A conditional use permit is required if the proposed use will expand an existing building ten thousand (10,000) square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use.)
- 38.** ~~36.~~ Warehouse—Wholesale/Retail Distribution Facilities. (A conditional use permit is required if the proposed use will expand an existing building ten

thousand (10,000) square feet or more to accommodate this use, or if a new building of any size is proposed to accommodate this use.)

Ordinance _____, Exhibit D
Amendment to Article 16, Division 2, Section 4-1640
Cannabis Product Manufacturing

4-1640 Cannabis Product Manufacturing

The following supplemental regulations shall apply to the permitting and operation of any land use involving the manufacturing of cannabis products.

- A. Conditional Use Permit Required. A conditional use permit shall be required for cannabis product manufacturing.

- B. State Licensure Required for Operation. Cannabis product manufacturers and all third-party distributors responsible for the delivery of cannabis and finished cannabis products to and from cannabis product manufacturing facilities shall hold a valid State license.

- C. Public Sale Limited to Dispensaries. The direct sales, distribution, delivery, and dispensing of manufactured cannabis products to the public shall be limited to licensed cannabis dispensaries.

- D. Total Number of Valid Permits Allowed. The number of conditional use permits available for cannabis product manufacturing shall be limited to five (5) issued use permits at a given time. A prior use permit that has lapsed, discontinued or revoked shall become available.

- E. Findings for Approval. In addition to the Required Findings for all Use Permits, the following additional findings shall be made:
 - 1. The cannabis product manufacturing facility is situated in an appropriate location where schools, residences, childcare centers, parks, or other sensitive land uses will not be adversely impacted.
 - 2. Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste.
 - 3. The cannabis product manufacturing facility is suitably designed to be secure and aesthetically compatible with the surrounding area.
 - 4. The cannabis product manufacturing facility will not place a burden on the provision of public services disproportionate to other industrial uses.



City of San Leandro

Meeting Date: June 19, 2017

Resolution - Council

File Number: 17-339

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: RESOLUTION Adding Title 5, Chapter 6 to the San Leandro Administrative Code, Establishing a Cannabis Product Manufacturing Pilot Program

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

WHEREAS, the City of San Leandro has adopted an ordinance to enable and regulate local cannabis manufacturing businesses in conjunction with State licensing requirements; and

WHEREAS, the manufacturing of cannabis products has only recently been legalized in the State of California and it is in the interest of the City of San Leandro to ensure that this new land use is responsibly established and compatible with other uses in the City; and

WHEREAS, this pilot program establishes procedures for processing and reviewing Conditional Use Permit applications for Cannabis Product Manufacturing on a limited basis in accord with the Zoning Code and General Plan policies; and

WHEREAS, this pilot program in the Administrative Code will function in tandem with the provisions of the Zoning Code until such time the City Council sees fit to discontinue or modify the pilot program; and

WHEREAS, the addition of Title 5, Chapter 13 to the San Leandro Administrative Code is set forth in the attached **Exhibit A**, incorporated herein by reference.

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF SAN LEANDRO HEREBY RESOLVES THAT:

1. The above recitals are true and correct and made a part of this resolution.

2. That the addition of Title 5, Chapter 13, to the San Leandro Administrative Code, as set forth in the attached Exhibit A, is hereby approved and the pilot program described therein is authorized.

Resolution _____, Exhibit A
An Amendment to the City of San Leandro
Administrative Code Adding
Title 5, Chapter 6
Cannabis Product Manufacturing Pilot Program

§5.6.100: General

Cannabis Product Manufacturing is a controlled land use that requires a special license from the State of California. This program identifies the criteria for the application, review and approval of a limited number of Conditional Use Permits for Cannabis Product Manufacturing on a pilot basis. This program shall apply to all Conditional Use Permit applications for Cannabis Product Manufacturing in conjunction with the Zoning Code.

§5.6.110: Eligible Applicants

Applications considered under this pilot program shall be from those applicants who intend to apply for or have already received a Cannabis Manufacturing License from the State of California. Speculative or third party applications shall be disqualified from consideration.

§5.6.120: Application Requirements

A Conditional Use Permit application for Cannabis Product Manufacturing shall be accepted for processing only when the following mandatory fees and documentation are provided at the time of application submittal:

- a) A completed application form with an original signature of the applicant(s) and property owner(s), as prescribed by the Community Development Department, including the following:
 - 1) Applicant and Property Owner Information:
 - i) The legal business name of the applicant and the applicant's tax identification number;
 - ii) The name(s) under which the cannabis manufacturing business will operate ("Doing Business As");
 - iii) The applicant's contact information, including name, title, mailing address, phone number, and email address;

- iv) The ownership structure of the applicant as filed with the California Secretary of State (e.g. limited liability company, joint partnership, S-Corporation). An applicant that is a foreign corporation shall include in its application the certificate of qualification issued by the Secretary of State of California;
 - v) The name(s), title, address and phone number of the current property owner(s);
 - vi) The name, title, address and phone number of any manager or management company responsible for the property or facility on behalf of the property owner(s).
- 2) Identification of other cannabis licenses the applicant holds or has applied for in other jurisdictions.
 - 3) The Assessor's Parcel Number (APN) of the project location and physical address (if any).
- b) The required deposit for a Conditional Use Permit, as per the City's current fee schedule, and any other concurrent application(s).
 - c) Twenty (20) printed and bound copies of the following shall be provided at the time of application:
 - 1) A detailed Project Description that identifies the following information:
 - i) A description of the proposed project and intended manufacturing use;
 - ii) The type of Cannabis Manufacturing License being sought from the State of California (e.g., Type N, Type P, Type 6, or Type 7);
 - iii) A description of the project location and property details, including proposed and existing square footage of the manufacturing facility, lot coverage calculations, floor area ratio (FAR), roof height, landscaped area, and other pertinent information pertaining to the property.
 - iv) Parking calculations and anticipated total number of intended employees.
 - 2) A detailed Operational Plan that identifies the following information:
 - i) Proposed hours of operation and/or shift scheduling;
 - ii) A description of the type of equipment used for manufacturing;

- iii) A description of any hazardous materials used, including volatile solvents or gases used for extracting, and their storage methods;
 - iv) A description of security measures, including physical and procedural measures taken to secure the facility, inventory, and employees;
 - v) A description of measures taken to control or destroy unsold or damaged inventory and cannabis waste;
 - vi) The anticipated gross annual revenue from all sales of products manufactured at the manufacturing premises;
 - vii) A list of State licensed transportation and distribution providers serving the facility, if known;
 - viii) Anticipated number and frequency of deliveries serving the facility;
 - ix) Any other pertinent information involving the operation of the facility.
- d) Three (3) copies of a Title Report for the subject property prepared within three months of the time of application.
- e) Ten (10) full size sets (ARCH D or ANSI D) and fifteen (15) half size sets (ARCH B or ANSI B) of Project Plans drawn to scale, prepared and stamped by a licensed architect and/or civil engineer. Site Plans shall be submitted bound, rolled, or folded. The plans shall include pages of the following:
- 1) Existing and Proposed Site Plan. Show, label, and dimension the property lines, sidewalks, curbs, all structures with a roof, the outline of buildings, ingress and egress points, paving, parking, walls/fences, trash enclosures, adjacent buildings, and contours (where relevant).
 - 2) Stormwater Control Plans (C.3). Provide Stormwater Control Plans for the project site in accord with Alameda County's Clean Water Program technical guidance. Plans shall be prepared by a licensed civil engineer.
 - 3) Conceptual Landscaping Plans. Identify existing and proposed landscaping for the project site, including all tree, shrub, and groundcover species and materials, plant sizes, and water use calculations in accord with the State of California's Model Water Efficient Landscaping Ordinance. Conceptual landscaping plans shall be prepared by a licensed landscape architect.
 - 4) Existing and Proposed Floor Plans. A scaled diagram of the premises to be permitted, showing boundaries, dimensions, entrances and exits, interior

partitions, walls, rooms, windows, and common or shared entryways. The plans shall identify all areas where commercial cannabis activities will be conducted. Plans shall be prepared by a licensed architect.

- 5) Existing and Proposed Elevations. Show, label, and dimension all details for window types, trim, eaves, roof materials, exterior materials, fencing, trash enclosures, mechanical equipment, and screening. Provide color elevations of proposed building(s). For new construction, a color and materials board and color renderings shall be required.
- f) A Traffic Generation Report prepared and stamped by a licensed transportation engineer. The report shall identify the estimated number of trips generated by the proposed use and summarize existing conditions on surrounding roadways.
- g) A Noise Study or statement prepared by a qualified professional such as an acoustical engineer. The study shall identify and analyze potential sources of noise related to the proposed use and provide acoustically feasible abatement measures as necessary.
- h) An Odor Control Mitigation Plan or statement describing assumed conditions and any necessary measures taken to monitor, control, and/or mitigate odors that may be generated from the manufacturing process.
- i) A digital copy of all required application exhibits shall be provided in an accessible format.

§5.6.130: Incomplete Applications

Following City review of an application, if an applicant fails to submit any required documentation within sixty (60) calendar days from the date of written notification from the City, the application shall be deemed abandoned and closed. No time extensions or exceptions shall be granted.

§5.6.140: Application Limitations

The Community Development Department shall accept up to five (5) applications for Cannabis Product Manufacturing for processing on a first-come, first-serve basis. Once this application limit has been reached, no further applications will be accepted for processing until which time an application is withdrawn, abandoned, or disapproved.

§5.6.150: Permit Limitations

The City shall authorize issuance of up to five (5) Conditional Use Permits for Cannabis Product Manufacturing. Once this permit limit has been reached, no further applications will be considered for approval until which time a prior issued Conditional Use Permit under this pilot program has lapsed or is revoked or discontinued.