



Legislation Text

File #: 16-710, Version: 1

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.

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.