



## STAFF REPORT

To the Honorable Mayor and City Council  
From the City Manager

**DATE:** October 26, 2020

### **SUBJECT**

Amendments to Article 59 of the Redwood City Zoning Ordinance to allow cannabis storefront retail and  
Amendments to Chapter 32, Article V, Division 7 to regulate cannabis storefront retail and update  
operating requirements for cannabis businesses

### **RECOMMENDATION**

1. Hold a public hearing;
2. Waive first reading and introduce Ordinance Amending Article 59 of the Redwood City Zoning Ordinance to allow Cannabis Storefront Retail; and
3. Waive first reading and introduce Ordinance Amending Chapter 32, Article V, Division 7 of the Redwood City Municipal Code to Regulate Cannabis Storefront Retail and Update Operating Requirements for Cannabis Businesses.

### **STRATEGIC PLAN GUIDING PRINCIPLE**

Economic Vitality

### **BACKGROUND**

Medical cannabis use has been legal in California since 1996. On November 9, 2016, adult use of cannabis by persons age 21 or over became legal in California. In June 2017, California enacted the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), which consolidated the state regulatory and licensing framework for medical and adult-use cannabis. The state agencies responsible for regulating commercial cannabis activity adopted regulations addressing commercial cannabis activity. These state regulations affect commercial cannabis activity and include a variety of licensing, operation and business location requirements.

On January 1, 2018, the state began issuing state licenses allowing businesses to sell cannabis products for medical use to individuals who are at least 18 and have a valid physician's recommendation and adult use to adults 21 or over. In response to these statewide changes, the City Council of Redwood City approved a phased approach to implement local medical and adult use cannabis regulations. The phased approach includes:

- **Phase 1 (Completed):** In November 2017, the City Council adopted a Zoning Code amendment regulating personal cultivation of cannabis and banning commercial cannabis-related activities including commercial cultivation, manufacturing, testing, retail, and distribution, except for deliveries of medicinal and adult use cannabis by cannabis retailers located outside Redwood City. This step maintained local land use control and allowed city staff more time to analyze other potential allowed uses.
- **Phase 2 (Completed):** Delivery operators who may be delivering cannabis products in the City were notified that they needed to obtain a business license and pay the business license tax. Cannabis regulatory fees to offset staff costs involved with permitting and regulating cannabis activity and regulations associated with deliveries were developed in Phase 2 and adopted in Phase 3.
- **Phase 3 (Completed):** The City Council adopted [regulations](#) to allow cannabis delivery from non-storefront retail (e.g., delivery only) facilities located in the City and to allow cannabis nurseries. Non-storefront retail facilities are permitted by right in the Industrial Restricted (IR), Light Industrial Incubator (LII), Industrial Park (IP), and General Industrial (GI) and conditionally permitted in the Commercial Office (CO) zoning districts. Indoor nurseries are conditionally permitted in the CO, IR, LII, IP, and GI zoning districts. All commercial cannabis activity is subject to the minimum distance requirements of 600 feet from certain uses as well as requiring a Cannabis Business Permit pursuant to Municipal Code Chapter 32, Article V, Division 7. Furthermore, the City Council placed a cannabis tax measure on the November 6, 2018 Gubernatorial Election Ballot. The tax measure was approved by 78.69% of Redwood City voters.
- **Phase 4 (Current):** Consideration and implementation of policy and program recommendations to allow retail storefront (walk in) cannabis businesses to operate in designated zoning districts of the City.

On August 15, 2019, the City Council Finance/Audit Sub-Committee (FAC) discussed options for increasing General Fund revenues as part of a strategy to address projected operating budget deficits over the next decade. On October 14, 2019, City staff presented the FAC with initial research on the potential new City revenue generation from permitting retail cannabis storefront businesses. The Sub-Committee recommended further analysis of this option and staff reconvened the City's cannabis inter-departmental staff team to explore options for allowing cannabis retail storefront businesses.

To analyze options and understand the experience of other communities, the City engaged the services of HdL, a recognized local government consulting firm with expertise in cannabis permitting policy. HdL

has assessed the revenue potential, industry trends, best practices, and regional developments for the City's exploration of establishing retail cannabis storefronts in Redwood City. The company represents over 175 cities and counties in California for cannabis related services. HdL's Cannabis Management Team of professionals has over 46 years of direct experience establishing and implementing cannabis regulatory and taxation programs, including establishing land-use regulations, permit processes, staffing plans, cost recovery fees, regulatory compliance, financial audits and staff training. Furthermore, their staff has conducted over 16,000 cannabis compliance inspections and investigations in California, Colorado, and Nevada. In addition, HdL staff has reviewed, scored and processed over 2,200 cannabis business applications for California cities and counties in the last five years, which included reviewing pro-formas and other financial documents. Most recently, HDL assisted City staff with drafting the City's 2018 cannabis tax measure.

On December 9, 2019, with the assistance of HdL, staff presented a fiscal analysis report to the Finance and Audit Committee (FAC). The FAC members recommended staff undertake further public outreach to determine public opinion about allowing cannabis retail storefronts in the City. The Committee also asked staff to present a report to the City Council that identified potential impacts, policy issues, and the merits of allowing cannabis storefront retail operations.

On [August 24, 2020](#), City Council held a study session to receive information and provide staff with feedback on whether to develop zoning and Municipal Code ordinance amendments to allow for cannabis storefront retails. Staff asked Council for input on five questions:

1. Should the City permit up to six cannabis retail storefront businesses?
2. Should cannabis retail storefront businesses be permitted to conduct delivery services as part of their cannabis business permit?
3. Should cannabis storefront retailers be permitted in all zoning districts allowing general retail?
4. Should retail storefront cannabis businesses be subject to the same city requirements established for non-storefront retail cannabis businesses?
5. Should retail storefront cannabis business applications be processed using a merit-based application process conducted by staff, or should the City Council be involved in the final decision or any appeal?

Members of the City Council provided their thoughts on these five questions which responses are incorporated into the ordinance amendments under consideration and detailed below.

There was support for amending City ordinances to permit retail cannabis storefront businesses in certain zoning districts in Redwood City, including the following recommendations:

- Allow up to six storefront cannabis retailers
- Allow storefront cannabis retailers to conduct deliveries
- Classify storefront retail cannabis similarly to general retail. This approach would allow these businesses to be located in Redwood City's Zoning Districts in the same manner that general retail uses are allowed. In some situations, a Conditional Use Permit would be required if certain square footage thresholds are met, as identified elsewhere in this report.
- Continue the 600-foot buffer from sensitive uses

- Process applications for a cannabis business permit for cannabis storefront retailers through a merit-based process conducted by staff

Additionally, the City Council asked staff to consider social equity as part of a merit-based business permitting process and look into whether there is a way to reduce the 30,000 sq. ft. threshold in the IP and IR Zoning Districts to allow for a smaller retail cannabis business footprint in those zoning districts.

## ANALYSIS

### Proposed Zoning Ordinance Amendment and Planning Commission Meeting September 15, 2020

Following the City Council study session, on [September 15, 2020](#), the Planning Commission reviewed the proposed amendments to Article 59 of the Zoning Ordinance to permit retail cannabis storefronts in certain commercial zoning districts in Redwood City. In line with the input received at the Council study session, the proposed zoning ordinance amendments classify storefront retail cannabis as general retail and allow storefront retail cannabis stores to be located in all of Redwood City’s zoning districts that already permit general retail in the same manner as other retail uses. This means that storefront retail cannabis would be allowed by right in some zoning districts and conditionally permitted in other zoning districts. Table 1 includes each zoning district in which retail cannabis would be permitted by right or conditionally permitted due to square foot limitations. By right provides that stores could locate in the identified zoning districts without a discretionary review process and use or architectural permit unless certain circumstances arise. A Conditional Use Permit (CUP) could be required if the use did not meet the required parking pursuant to [Section 33.19](#) and an Architectural Permit could be required if the project proposed exterior façade changes.

**Table 1**

ZONING DISTRICT	GENERAL RETAIL	SQ. FT. LIMITATIONS
<b>Redwood City Downtown (DTTP)</b>	<b>Permitted in Downtown Core and Entertainment District</b> <i>Conditionally Permitted in Downtown General</i>	N/A
<b>Neighborhood Commercial (CN)</b>	<b>Permitted</b>	N/A
<b>General Commercial (GC)</b>	<b>Permitted</b>	N/A
<i>Industrial Restricted (IR)</i>	<i>Conditionally Permitted</i>	<i>Greater than 30,000 sq. ft.</i>
<b>Light Industrial Incubator (LII)</b>	<b>Permitted</b> <i>Conditionally Permitted</i>	<b>2,500 sq. ft. or less</b> <i>Greater than 2,500 sq. ft.</i>
<i>Industrial Park (IP)</i>	<i>Conditionally Permitted</i>	<i>Greater than 30,000 sq. ft.</i>
<b>Mixed Use Corridor (MUC)</b>	<b>Permitted</b>	N/A
<b>Mixed Use Neighborhood (MUN)</b>	<b>Permitted</b>	N/A
<b>Mixed Use Transitional (MUT)</b>	<b>Permitted</b> <i>Conditionally permitted</i>	<b>5,000 sq. ft. or less</b> <i>Greater than 5,000 sq. ft.</i>
<b>Mixed Use Waterfront (MUW)</b>	<b>Permitted</b>	N/A

One area of the discussion focused on the inclusion of downtown as an area where storefront retail cannabis could be located. There were comments on whether storefront retail cannabis would be compatible with and complement other downtown uses. An additional concern was whether the security requirements for a storefront cannabis retail would be inconsistent with the frontage and transparency requirements of the Downtown Precise Plan (DTPP). The goal of “active retail” is to create high foot traffic areas and complement other uses in the Downtown. Cannabis storefront retail establishments typically create increased foot traffic by customers.

Also, there was discussion about potential clustering or over-concentration of retail cannabis uses in one location and neighborhood impacts. The Planning Commission suggested that if clustering is a concern, then inclusion of specific regulations in the Zoning Ordinance may be the best way to address the concern. Staff believes clustering concerns will be adequately addressed by limiting the number of cannabis business permits awarded to cannabis storefront retailers to up to six.

The Planning Commission also presented concerns on youth access to cannabis storefront retail stores. However, this concern is addressed by existing state regulations which require cannabis retailers to confirm a customer’s age and identity prior to entering the retail establishment, and existing City regulations which cannabis businesses have to employ an electronic age verification device prior to selling a customer cannabis or cannabis products. An “electronic age verification device” is capable of quickly and reliably confirming the age of the cardholder of a government issued identification card using computer processes.

The Commission also discussed whether retail stores can sell retail goods other than cannabis and cannabis related products. It should be noted that state regulations do not permit the sales of any other items which are not cannabis goods or cannabis accessories other than licensee branded merchandise such as hats, sweaters or t-shirts. Therefore, it distinctly prohibits the sale of tobacco or alcohol on the premises.

Furthermore, the Planning Commission discussed concerns that allowing cannabis storefront retail would result in smoking of cannabis in public places or on the business premises. This concern is addressed by state law, which prohibits smoking cannabis in public places, and by the City’s smoking ordinance, which prohibits smoking in and around multi-unit residences.

The Commission also discussed the possibility of adjusting the 600 ft. buffer based on a specific sensitive use. For example, the buffer could be reduced for a day-care but increased for a park or high school. The rationale was that preschoolers would not be drawn to the cannabis retail but that high school students could be interested in this type of business in a negative way so more of a buffer might be considered. Staff recommends having a uniform 600-foot buffer for all sensitive receptors which conforms with state default minimum buffer requirements and with City cannabis delivery business buffers.

Finally, the Planning Commission also asked about staff’s recommendation, supported by Council, to only allow up to six cannabis storefront retailers to locate in the City. This numerical limitation is in the proposed amendments to the Municipal Code. Staff recommends this limitation because: (i) research indicates the community would be adequately served by up to six cannabis storefront retailers when viewed in relation to the other cannabis retailers in the area, (ii) the limitation would

protect the City's residents and neighborhoods from the negative impacts of clustering, and (iii) the limitation would protect current business from disproportionately negative impacts. These are legitimate governmental purposes which promote the public health, morals, safety, or general welfare of the community. State cannabis law allows local jurisdictions to limit the number of cannabis businesses that can locate in the City, and many jurisdictions have imposed such numerical limitations.

There were eight speakers who provided public comment. Speakers included cannabis industry representatives who would like the City to move forward with permitting retail businesses in the city and residents who do not want the City to proceed with permitting retail storefronts in the City.

The Planning Commission voted 5-1 to adopt a resolution recommending approval to the City Council of the proposed Zoning Ordinance amendments. The Planning Commission supported treating storefront retail cannabis similarly to general retail and permitting this use in the recommended zoning districts in the same manner as other retail uses. During the discussion, the Planning Commission had some input and/or suggestions for City Council consideration.

#### 30,000 sq. ft. threshold in the Industrial Park (IP) and Industrial Restricted (IR) Zoning Districts

In addition to the proposed zoning amendments, staff also asked the Planning Commission to provide input on potentially adjusting the minimum 30,000 sq. ft. threshold for retail in the Industrial Park (IP) and Industrial Restricted (IR) zones. The minimum 30,000 sq. ft. threshold already exists for general retail uses and is not a specific regulation for storefront retail cannabis. Staff considers that the original intent of the minimum 30,000 sq. ft. is to provide areas in the City where it may be appropriate for larger scale retail uses with significant parking requirements.

Staff recommended to maintain the 30,000 sq. ft. threshold in the IP and IR Zoning Districts. Currently, only 39 parcels citywide could accommodate a 30,000 sq. ft. development due to the maximum FAR in those zoning districts. Lowering the threshold for general retail would affect all IR and IP parcels in the City and would cause a significant change in policy for the industrial zoning districts, which are intended to provide areas for a wide range of industrial uses.

Removing this threshold specifically for storefront retail cannabis would be counter to the argument that storefront retail cannabis is similar to general retail. Industrial zoning districts would not have the same visibility or the same number of suitable retail spaces.

The Planning Commission discussed the threshold and recommended that the 30,000 sq. ft. limit be maintained for this process. The Commission suggested that it could be an amendment for future consideration, but more data and research would be needed to understand impacts and implications. According to the City Attorney's Office, a General Plan Amendment would be required to make this change. Planning staff estimates that a General Plan Amendment process would take approximately 12 to 18 months to complete and would need to be placed on a separate planning timeline.

#### Updated Retail Cannabis Map

An updated map ([Link](#)) showing potential locations where storefront retail cannabis may be located in Redwood City is included in this staff report. This map indicates where the recommended Zoning Districts for storefront retail cannabis would be with the 600 ft. buffer from sensitive uses accounted for. This map does not take into account the feasibility or availability of the sites for a storefront retail cannabis use. The map has been updated since the August 24 study session to include mini-parks (e.g. Jardin de Niños) in the sensitive receptor buffer which eliminated some available sites. In addition, parcel boundaries have also been updated which also eliminated some available parcels.

Proposed Municipal Code Amendment and Merit Based Permitting Process

The proposed Municipal Code ordinance amendments: (1) set forth the selection process for awarding up to six cannabis business permits to storefront retailers and (2) update the operating requirements and approval and appeal process for all cannabis businesses, including permitted non-storefront (delivery only) retailers and indoor nurseries.

Cities are granted great discretion in the application process. In cities where the jurisdiction is considering limiting the numbers of businesses, as is proposed here, it is very common for the cities to use a merit-based application process. The proposed Municipal Code amendments:

- Authorize the City Manager to create procedures governing the application process, which must include adoption of review criteria evaluated on a point system;
- Authorize the City Manager to establish the specific review criteria to rank applications, which must include evaluation of the retailer’s previous experience operating a state-regulated business, employee training and standard operating procedures, and security program;
- Requires an initial review, scoring, and ranking of complete applications using one or more of the review criteria, and a subsequent interview by a selection committee appointed by the City Manager of top applicants based on points;
- Requires the selection committee to provide its final ranking and recommendation to the City Manager, who will decide which applicants will receive a cannabis business permit for storefront retail.

If the City Council adopts the zoning and municipal code amendments, the City Manager would proceed with promulgating procedures to govern the application process for cannabis business permits for storefront retailers. Staff is considering the phased application process in Table 2.

**TABLE 2**

<b>Cannabis Business Permit Application Process for Storefront Retail</b>
<b>Phase 1</b> - Application Submittal Determination of Completeness
<b>Phase 2</b> - Application Review Criteria Scoring and Initial Ranking (City’s consultant HdL)
<b>Phase 3</b> - Interview and Second Ranking (Selection Committee consisting of City Staff)
<b>Phase 4</b> - Final Determination (City Manager)

<b>Cannabis Business Permit Application Process for Storefront Retail</b>
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<b>Appeals (Hearing Officer)</b>
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Regarding the review criteria for applications, staff is considering:

1. Neighborhood Compatibility which would evaluate the applicant's policies and procedures to be a good neighbor, address complaints related to loitering, noise, light, odor, vehicle and pedestrian traffic, and avoid becoming a nuisance or having impacts on its neighbors and the surrounding community
2. Location which would evaluate the overall proposed property, building, and floor plan
3. A Business Plan that would evaluate the owners' experience and the business' finances, daily operations, pro-forma, and proof of capitalization
4. A Labor Plan which would evaluate the business' local hiring, living wage, and employee benefits, and whether the business' ownership and hiring practices benefit communities in Redwood City that are marginalized and disproportionately impacted by the war on drugs
5. and 6) A Security Plan and a Safety Plan which would evaluate how the business will comply with the operating requirements in the City's Municipal Code and the City Manager's Regulations, including security-related requirements such as limited-access-areas, employee badge requirements, video surveillance, security personnel, locks, alarms systems, track and trace system, inventory reporting, destruction and waste disposal procedures, and
6. A Community Benefits and Investments Plan which would evaluate the benefits the business will provide to the local community, for example by directly aiding, participating in, or funding the work of local non-profits, civic organizations, or social services organizations.

## **FISCAL ANALYSIS**

Had provided preliminary revenue projections based upon certain assumptions and confidential data collected from cannabis storefront and non-storefront retailers in the Bay Area as well as other market trends. The prevailing cannabis excise tax rate in other communities in the state is 4-6% and the City's current cannabis excise tax rate for non-storefront and retail cannabis sales is 4%. Staff recommends taxing both non-storefront and retail cannabis sales at the same level, and taxing both at 4%. No further action is needed by the City Council if the City Council agrees with this approach.

As an alternative to the staff recommendation, the City Council could consider establishing a cannabis tax at 5 or 6%, to stay within the prevailing rate, or at a rate of up to 10% as allowed under the cannabis tax ordinance. The table below estimates the potential revenue that could be generated from the City Excise Tax, the 1% City Sales Tax and Measure RR 0.5% transaction tax for up to six storefront retailers.

Excise Tax Rate	Storefront Retailers Projected Revenue	Bradley Burns Local Sales Tax (1%)	Measure RR Transaction Tax (0.5%)	Total Annual Projected Revenue
	6 stores	6 stores	6 stores	6 stores
<b>4% (currently established, staff recommendation)</b>	\$960,000	\$240,000	\$120,000	\$1,320,000
<b>Alternatives:</b>				
<b>5%</b>	\$1,200,000	\$240,000	\$120,000	\$1,560,000
<b>6%</b>	\$1,440,000	\$240,000	\$120,000	\$1,800,000
<b>For illustration Purposes-not recommended</b>				
<b>10%</b>	\$2,400,000	\$240,000	\$120,000	\$2,760,000

In addition to the revenue that will be generated from the cannabis storefront retailers, the consultant estimates that the City will also receive approximately \$652,500 in revenues from the non-storefront retailers in excise, sales and transaction taxes. Non-storefront retailers also contribute \$10,000 each as part of the annual renewal fee that is designated for cannabis drug education for children and youth. This fee will be collected for the first time in 2021 when non-storefront retailers renew their license. City staff propose to include the same cannabis drug children and youth education prevention fee for storefront retailers.

## FISCAL IMPACT ON CITY RESOURCES

There will be some additional impact to City resources (primarily staff time) to expand the cannabis program but with the assistance of the consultant this impact can be minimized and costs can be recouped through the application fee. Permit fees can also cover staff time involved in ongoing monitoring of business operations. To date the City has spent significant staff resources to bring this City Council initiative forward. Permit application fees for potential businesses will cost \$22,604. City staff plans to revisit the City' cannabis business permit fees in the spring of 2021.

## COMMUNITY OUTREACH

In addition to recent public comment received at the August 24, 2020 City Council study session and the September 15, 2020 Planning Commission Meeting, the City Council requested community input to help guide the retail cannabis discussion. Staff publicized two workshops and solicited the assistance of the consultant to facilitate and conduct a presentation. Workshops were held on February 18, 2020 at the Veterans Memorial Senior Center and March 5, 2020 at the Fair Oaks Community Center (in Spanish). The goal of the workshops was to gauge the community's interest and concerns associated with allowing cannabis retail storefront businesses to operate in the City.

During the meeting, an overview was provided and key areas of concerns such as public safety, land use, environmental, public health, access to youth and oversight regulations were discussed. Community members were broken up into small groups to discuss the following questions:

1. Should cannabis storefront retail businesses be permitted in the City?
2. How many businesses should be allowed in the City?
3. What type of restrictions should be placed on each of the operations?
4. What type of application process should be established for the issuance of the permits?
5. What are your concerns in allowing cannabis storefront retail businesses to be permitted in the City?

In general, the feedback received was very positive. The twenty-two attendees supported allowing storefront retail cannabis in traditional retail locations. The attendees indicated that retail locations in the industrial zoned areas are not conducive for retail shopping, as they are not located in convenient retail areas of the city, may be poorly lit and may feel unsafe in the evening hours.

The March 5, 2019 outreach meeting was intended for the Latinx community and materials and the presentation were provided in Spanish. This date coincided with rising concerns regarding the COVID 19 pandemic and only two members of the community attended.

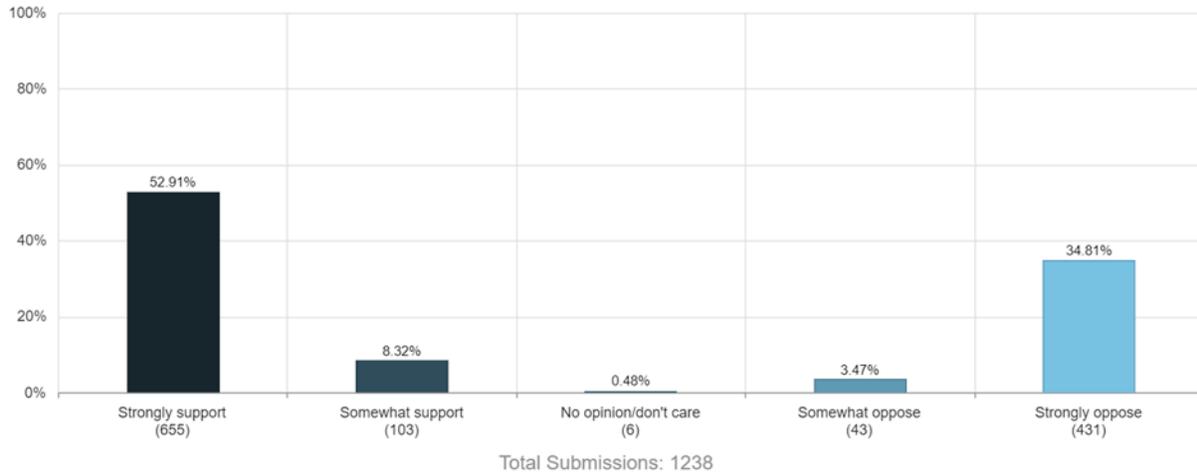
In addition to the above community outreach, a survey was available online from February 5 to March 12, 2020 and then again from June 19 to July 5, 2020. The second survey was translated into Spanish with specific outreach to the Latinx community. The survey consisted of the following questions:

1. In general, do you support or oppose allowing storefront cannabis retailers in Redwood City?
2. Storefront cannabis retailers should be allowed in:
  - All commercial districts
  - Commercial districts where large retailers are
  - Neighborhood districts
  - Downtown central business district
  - Mixed-use districts
  - Light industrial districts

The City received a total of 1,238 responses. Sixty-one percent of survey respondents strongly or somewhat support storefront cannabis retailers in Redwood City, and 38% of survey respondents strongly or somewhat oppose storefront cannabis retailers in Redwood City. Responses to survey questions about the potential location of cannabis retailers are included in Attachment B.

## CHART 2

### In general, do you support or oppose allowing storefront cannabis retailers in Redwood City?



## NEXT STEPS

If City Council adopts the ordinances, staff will develop a merit based application process working with the City's consultant, HdL, and initiate a timeline for submission, approval and review of applications in early 2021.

## ENVIRONMENTAL REVIEW

Two CEQA exemptions relate to the proposed ordinance amendments. It can be seen with certainty that the proposed ordinances as it relates to retail cannabis use permitted by right do not have the potential to cause a significant impact on the environment (CEQA Guidelines Section 15061(b)(3)). Retail uses are currently permitted by right in those particular zoning districts. Any potential impacts, including traffic, water, energy or air pollution are substantially similar to what is currently permitted by right.

In addition, conditionally allowing retail uses in the Industrial Zoning Districts are statutorily exempt from the requirements of CEQA (Bus. & Prof. Section 26055(h)) because they will require a Conditional Use Permit. This section states that CEQA does not apply to the adoption of an ordinance, rule or regulation by a local jurisdiction that requires discretionary review and approval of other permits or licenses. To qualify for this exemption, environmental review must be performed as part of the discretionary permit. Additional CEQA analysis is in the attached memo in Attachment C.

## PUBLIC NOTICE

Notice of the public hearing and proposed zoning ordinance amendments was published in the San Mateo Daily Journal on October 16, 2020, more than 10 days in advance of the City Council hearing. Additional notice was provided to interested parties, posted on the City’s social media accounts, and sent out through e-communications. The agenda was posted on the website at least 72 hours in advance of the hearing.

**ALTERNATIVES**

1. The City Council could choose not to proceed with establishing retail Cannabis Storefronts in Redwood City; or
2. The City Council could direct staff to establish a cannabis excise tax greater than 4% and no higher than 10%.

**ATTACHMENTS**

ATTACHMENT A – Zoning Ordinance Amendments to Article 59 of the Redwood City Zoning Ordinance regarding commercial cannabis activities

ATTACHMENT B – Ordinance Amending Division 7 (Regulation of Cannabis Businesses) of Article V of Chapter 32 of the Municipal Code of Redwood City

ATTACHMENT C – CEQA analysis Memorandum

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