



Legislation Text

File #: 18-266, **Version:** 1

Ordinance amending Chapter 20.410 of the South San Francisco Municipal Code to permit and regulate indoor commercial cultivation of cannabis.

WHEREAS, on October 9, 2015, Governor Brown approved the Medical Marijuana and Regulation and Safety Act (MMRSA), effective January 1, 2016, which established a comprehensive state licensing and regulatory framework for the cultivation, manufacturing, testing, distribution, transportation, dispensing, and delivery of medical cannabis and which recognized the authority of local jurisdictions to prohibit or impose additional restrictions on any such medical cannabis activities; and

WHEREAS, on June 27, 2016, Governor Brown approved Senate Bill 837, which amended the MMRSA and renamed it the Medical Cannabis Regulation and Safety Act (MCRSA); and

WHEREAS, on November 8, 2016, the voters of the State of California (“State”) enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA); and

WHEREAS, on April 4, 2017, Governor Brown released a budget trailer bill that aimed to reconcile the existing medical marijuana statutory framework under MCRSA and the recreational statutory framework adopted under the AUMA. After some revision, the State Senate and Assembly passed a modified version of the original proposal in the form of AB 110/SB 94, known as the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), and on June 27, 2017 and the Governor signed it into law; and

WHEREAS, MAUCRSA uses the term “cannabis” instead of “marijuana”; and

WHEREAS, subject to certain exceptions, MAUCRSA generally establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of cannabis, including cannabis products, and to tax the commercial growth and retail sale of cannabis; and

WHEREAS, MAUCRSA permits a city to enact and enforce “reasonable regulations” to regulate the possession, planting, cultivation, harvesting, drying, or processing of cannabis plants, including the complete prohibition of such activities outdoors; and

WHEREAS, the MAUCRSA created a licensing system whereby on January 1, 2018, the State began issuing licenses to businesses authorizing them to cultivate, distribute, transport, store, manufacture, process, and sell cannabis and cannabis products; and

WHEREAS, the MAUCRSA mandates that State licensing authorities shall not approve an application for a

State license if approval of the State license will violate the provisions of any local ordinance or regulation adopted in accordance with the requirements of MAUCRSA; and

WHEREAS, the MAUCRSA states that nothing in it shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under the MAUCRSA, including completely prohibiting the establishment or operation of one or more types of businesses licensed under MAUCRSA in the local jurisdiction; and

WHEREAS, on December 13, 2017, the City Council adopted Ordinance No. 17-1085 amending Chapter 20.410 of the South San Francisco Municipal Code to prohibit the retail sale and outdoor cultivation of cannabis; and

WHEREAS, on February 14, 2018, the City Council adopted Ordinance No. 18-99 amending Chapter 20.410 to permit commercial cannabis manufacturing, testing, distribution, and delivery uses within the boundaries of the city, create a local application process for the issuance of Operator Permits for those uses, and prohibit microbusinesses; and

WHEREAS, the City desires to permit indoor commercial cultivation of cannabis subject to certain restrictions; and

WHEREAS, to permit indoor commercial cultivation uses, the City prepared a Zoning Amendment (“Amendment”) to the City’s zoning ordinance contained in Chapter 20 of the City’s Municipal Code (“Zoning Ordinance”), which would amend Chapter 20.410 of the Zoning Ordinance; and

WHEREAS, the Zoning Ordinance was adopted after preparation, circulation, consideration, and adoption of an Initial Study/Mitigated Negative Declaration (IS/MND) in accordance with the California Environmental Quality Act, Public Resources Code Sections 21000, et seq. (CEQA), in which the IS/MND analyzed the environmental impacts of adopting the Zoning Ordinance and concluded that adoption of the Zoning Ordinance could not have a significant effect on the environment because none of the impacts required to be analyzed under CEQA would exceed established thresholds of significance; and

WHEREAS, the refinements, clarifications, and/or corrections set forth in this Amendment, as they relate to permitting indoor commercial cannabis cultivation are minor in nature, the adoption of which would not result in any new significant environmental effects or a substantial increase in the severity of any previously identified effects beyond those disclosed and analyzed in the IS/MND prepared for the Zoning Ordinance Amendment, nor do the refinements, clarifications, and/or corrections constitute a change in the project or change in circumstances that would require additional environmental review; and

WHEREAS, pursuant to Business and Professions Code § 26055(h), adoption of an ordinance, rule or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses or other authorizations to engage in commercial cannabis activity is not subject to CEQA provided that the ordinance is

adopted prior to July 1, 2019, and any specific discretionary review or approval authorized by said ordinance includes any applicable environmental review. As the Amendment requires each applicant for an Operator Permit for an indoor commercial cultivation use to obtain a conditional use permit, which requires applicable environmental analysis and environmental review, adoption of this Amendment is not subject to CEQA; and

WHEREAS, on March 15, 2018, the Planning Commission for the City of South San Francisco held a lawfully noticed public hearing to solicit public comment and consider the proposed Amendment, take public testimony, and make a recommendation to the City Council on the Amendment; and

WHEREAS, on April 11, 2018, the City Council for the City of South San Francisco held a lawfully noticed public hearing to solicit public comment, take public testimony, and consider the proposed Amendment.

NOW, THEREFORE, BE IT ORDAINED that based on the entirety of the record before it, as described below, the City Council of the City of South San Francisco does hereby ORDAIN as follows:

SECTION 1. Findings

Based on the entirety of the record as described below, the City Council for the City of South San Francisco hereby makes the following findings:

A. General Findings

1. The foregoing recitals are true and correct and made a part of this Amendment.
2. The record for these proceedings, and upon which this Amendment is based, includes without limitation, federal and State law; the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA); the California Environmental Quality Act (Public Resources Code §§ 21000 et seq. (CEQA)) and the CEQA Guidelines (14 California Code of Regulations §§ 15000 et seq.); the South San Francisco General Plan and General Plan Environmental Impact Report, including all amendments and updates thereto; the South San Francisco Municipal Code; the Initial Study and Negative Declaration prepared for the Zoning Ordinance Update, including all written comments received; all reports, minutes, and public testimony submitted as part of the Planning Commission's duly noticed meetings on March 15, 2018; all reports, minutes, and public testimony submitted as part of the City Council's duly noticed meeting on April 11, 2018; and any other evidence (within the meaning of Public Resources Code section 21080, subdivision (e) and section 21082.2).
3. The refinements, clarifications, and/or corrections to the Zoning Ordinance as they relate to permitting indoor commercial cultivation of cannabis uses are minor in nature. Therefore, the adoption of the Amendment would not result in any new significant environmental effects or a substantial increase in the severity of any previously identified effects beyond those disclosed and analyzed in the IS/MND prepared and circulated for the Zoning Ordinance (2010), nor do the refinements, clarifications, and/or

corrections constitute a change in the project or change in circumstances that would require additional environmental review.

4. Pursuant to Business and Professions Code § 26055(h), adoption of an ordinance, rule or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses or other authorizations to engage in commercial cannabis activity is not subject to CEQA provided that the ordinance is adopted prior to July 1, 2019 and any specific discretionary review or approval authorized by said ordinance includes any applicable environmental review. As the Amendment requires each applicant for an Operator Permit for an indoor commercial cultivation use to obtain a conditional use permit, which requires applicable environmental analysis and environmental review, adoption of this Amendment is not subject to CEQA.
5. The documents and other material constituting the record for these proceedings are located at the Planning Division for the City of South San Francisco, 315 Maple Avenue, South San Francisco, CA 94080, and in the custody of Chief Planner, Sailesh Mehra.

B. Zoning Amendment Findings

1. The proposed Zoning Amendment is consistent with the adopted General Plan because the Zoning Amendment will reinforce General Plan policies, and is consistent with the relevant specific plans. The proposed amendments would permit commercial cannabis activities that are consistent with the City's economic and land use patterns. Adopting this Amendment would be consistent with the intent of the City's existing regulations that would serve to protect the public health, safety and welfare of the citizens of South San Francisco. The permitting of indoor commercial cannabis cultivation will not conflict with or impede achievement of any of the goals, policies, or land use designations established in the General Plan.
2. The proposed Zoning Amendment permitting indoor commercial cannabis cultivation uses is consistent with existing manufacturing, cultivation, and warehousing uses currently operating in the City. The proposed Zoning Amendment includes detailed regulations for indoor commercial cannabis cultivation related activities, which are necessary to protect the public health, safety and welfare of the citizens of South San Francisco. The proposed Amendment ensures that subject properties for indoor commercial cannabis cultivation are suitable for the relevant zone in terms of access, size of parcel, relationship to similar or related uses, and other considerations deemed relevant by the Planning Commission and City Council because the proposed Amendment will impose specific distance, safety, and operational requirements that ensure that these uses will be compatible with existing and future uses in the City.
3. The proposed Amendment permitting indoor commercial cannabis cultivation will not be detrimental to the use of land in any adjacent zone because the Amendment imposes specific distance, safety and operational requirements that ensure that these uses will not have detrimental impacts on adjacent land uses.

SECTION 2. **Amendments**

The City Council hereby makes the findings contained in this Ordinance and amends the sections attached as Exhibit A with additions in double-underline and deletions in strikethrough. Sections and subsections that are not amended by this Ordinance in Exhibit A shall remain in full force and effect.

SECTION 3. **Severability**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of South San Francisco hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 4. **Publication and Effective Date**

Pursuant to the provisions of Government Code section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk’s Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk’s Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting. This Ordinance shall become effective thirty (30) days from and after its adoption.

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