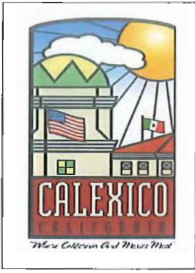


**AGENDA
ITEM**

11



CITY COUNCIL AGENDA STAFF REPORT

DATE: December 1, 2021

TO: Mayor and City Council

APPROVED BY: Miguel Figueroa, City Manager *MV*

PREPARED BY: Lisa Tylenda, Planning and Building Services Director *Lisa Tylenda*

SUBJECT: Public Hearing, Introduction and First Reading by Title Only of an Ordinance Adopting Amendments to Chapter 17 Sections 17.05.120 and 17.05.130

=====

Recommendation

Conduct a public hearing and introduce ordinance and conduct first reading by title only and waive the full reading of the amendments to Chapter 17 Sections 17.05.120 and 17.05.130 to the Calexico Municipal Code as follows:

1. Amendments to the Regulatory Ordinance of Chapter 17.05 relating to Commercial Zones specifically Sections 17.05.120-“Permitted and conditional uses” and 17.05.130-“Property development standards” of the Calexico Municipal Code.

Background:

The City of Calexico’s General Plan has not been updated for almost thirty (30) years. That has created internal constraints in regards to development standards and which uses are permitted by right or conditionally permitted. After COVID-19 pandemic, our business community has been negatively impacted.

Staff has identified constraints and limiting factors within the Commercial Zoning Ordinance that may impede the business and economic development within the City of Calexico. The proposed amendments to the commercial zoning ordinance range from correcting typo’s within the exiting ordinance to listing uses that are not listed and creating the ability for staff to identify similar uses for commercial zones if they are not listed within the “Use Table”.

The other proposed amendment for the commercial zone regarding development standards increases the lot coverage potential for various



commercial zones, making it competitive with what other jurisdictions offer for potential lot coverage. Increasing the lot coverage of a parcel, allows the prospective development and/or business venture to possibly expand the business and services along with potentially growing operating levels that will theoretically be tied to generating revenue and possibly having a positive effect on the City as well. If the Business Community thrives the Citizens and the City of Calexico thrive as well.

By direction of the City Council, staff has taken a proactive approach to creating a Business Friendly movement for the City of Calexico. Amending the Commercial Zoning Ordinance is a step forward to achieving the economic potential and incentivizing development within Calexico for businesses of all sizes.

Discussion and Analysis

The proposed Amendments to the Commercial Zoning Ordinance are an attempt to improve operational impacts that the current zoning ordinance for commercial zones creates in terms of performance and development standards. There is a need for administrative elasticity, in the essence of creating a process that is tailored for the residents and the small business community, but really businesses of all sizes. The proposed ordinance amendments are reflective of the community and economic development growth that the City Council has been moving forward within the community.

Fiscal Impact:

None.

Coordinated With:

None.

Attachment(s):

1. Draft Ordinance Adopting Amendments to Chapter 17 Sections 17.05.120 and 17.05.130.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CALEXICO AMENDING CHAPTER 17.05 SECTIONS 17.05.120 AND 17.05.130 OF THE CALEXICO MUNICIPAL CODE RELATING TO THE COMMERCIAL ZONES LISTED USES AND DEVELOPMENT STANDARDS

THE CITY COUNCIL OF THE CITY OF CALEXICO DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 17.05 of the Calexico Municipal Code is amended as to read as follows:

CHAPTER 17.05 COMMERCIAL ZONES

- 17.05.110 Purposes.
- 17.05.120 Permitted and conditional uses.
- 17.05.130 Property development standards.
- 17.05.140 Performance standards.
- 17.05.150 Accessory structures.
- 17.05.160 Walls and fences.
- 17.05.170 Signs

17.05.110 Purposes.

In addition to the objectives outlined in Section 17.01.110, Purpose and scope, the commercial zones are included in the zoning ordinance to achieve the following purposes:

- A. To provide appropriately located areas for office uses, retail stores, service establishments, and wholesale businesses, offering commodities and services required by residents of the city and its surrounding market area.
- B. To encourage office and commercial uses to concentrate for the convenience of the public and for a more mutually beneficial relationship to each other.
- C. To provide adequate space to meet the needs of modern commercial development, including off-street parking and loading areas.
- D. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them.
- E. To protect commercial properties from noise, odor, smoke, unsightliness, and other objectionable influences incidental to industrial uses.
- F. To promote high standards of site planning, architecture and landscape design for office and commercial developments within the city.

CO Commercial Office Zone. This zone is intended as an area primarily for the development of professional, administrative offices, in addition to restaurants, theaters,

health clubs and ancillary retail uses with setback, landscaping and architectural requirements designed to make such uses relatively compatible with residential uses.

CN Commercial Neighborhood Zone. This zone is intended for neighborhood shopping centers which provide limited retail business service and office facilities for the convenience of residents of the neighborhood. These shopping centers are intended to be compatible with residential environment as at locations indicated on the general plan.

CH Commercial Highway Zone. This zone is intended as an area for the location of highway oriented retail service and wholesale commercial activities.

CS Commercial Specialty Zone. This zone is intended to provide for those commercial uses including mixed-use development centralized in the old downtown area along the international border.

17.05.120 Permitted and conditional uses—C zones.

The following uses shall be permitted uses where the symbol "P" appears and shall be permitted, "P*" appears shall be permitted but subject to review, approval, and conditions of approval by the planning and building services director, uses subject to a conditional use permit where the symbol "C" appears in the column beneath each zone designation; where the symbol "X" appears the use is prohibited.

	C	CN	CH	CS
A. Administrative and Professional Services				
1. Including, but not limited to administrative offices; financial institutions, accounting and auditing services; clerical and legal services; counseling services; public utility company offices; medical, dental and related health services	P	P	P	P
2. Cannabis testing laboratories (See Chapter 17.10, Article X.)	C	X	C	C
B. General Commercial Uses				
1. Adult businesses (see Section 17.11.810—17.11.830)	X	X	C	X -C
2. Antique shops	X	C	P	P
3. Apparel shops	X	P	P	P
4. Art, music and photographic studios and supply stores	X	P	P	P
5. Appliance stores and repair	X	C	P	P
6. Arcades and electronic games (see Section 17.11.610—17.11.620)	X	C	C	C
7. Athletic and health club	C	P	P	P
8. Automobile and or truck services, including, but not limited to, sales, rental agencies, body repair, painting, and car washes	C	X	C	C
9. Bakeries—retail only	X	P	P	P
10. Barber and beauty shops	X	P	P	P
11. Bicycle shops, nonmotorized	X	P	P	P

12. Blueprint and photocopy services when operated in conjunction with a professional office of engineering, planning, surveying, architecture, drafting	P	X	P	P
13. Boat and camper sales and services	C	X	C	X
14. Book, gift, and stationery stores	X	P	P	P
15. Candy stores and confectioneries	X	P	P	P
16. Carpet and flooring stores	X	P	P	P
17. Catering establishments	P	X	P	P
18. Cleaners including dry cleaning with or without cleaning machinery on-site	X	C	P	P
19. Commercial recreation facilities not otherwise listed	X	C	C	C
20. Eating and drinking establishments				
a. Bars (no entertainment)	C	C	C	Ⓞ P*
b. Night clubs, cabarets, restaurants, coffee shops, delicatessens:	C	C	C	Ⓞ P*
1. With alcoholic beverages and/or entertainment	C	C	C	Ⓞ P*
2. Without alcoholic beverage but including entertainment	C	C	C	Ⓞ P*
3. Without alcoholic beverage	P	P	P	P
c. Snack bars, take-out only, refreshment stands contained within a building	P	P	P	P
d. Fast food restaurants with drive-in or drive-through	C	C	C	Ⓞ P*
e. Fast food restaurants with drive-in or drive-through in conjunction with a shopping center development	C	C	C	Ⓞ P*
21. Equipment rental yards including, but not limited to, trucks, trailers, hitches service thereof	C	X	C	X
22. Feed and tack stores (outdoor storage shall be consistent with Section 17.05.140)	C	C	P	C
23. Florist shops Florist Shop	P	P	P	P
24. Furniture stores, with or without repair and upholstery	X	C	P	P
25. Hardware stores	X	P	P	Ⓞ P*
26. Hobby shops	X	P	P	P
27. Hotels and motels with meeting rooms	P	X	P	P
28. Janitorial services and supplies	C	X	P	P
29. Jewelry stores	X	P	P	P
30. Junior department, department stores, discount department stores and membership stores	X	P	P	P
31. Food stores and supermarkets, drug stores with and/or without pharmacies, variety stores, sporting goods store, shoe store (sales and/or repair), toy stores	X	P	P	P

32. Kiosks, including, but not limited to photo sales located in parking lots	C	C	C	C
33. Charity drop off, recycling drop off located in the parking lot or other suitable area with property owners permission	C	C	C	C
34. Liquor stores	X	C	C	C
35. Manufacturing Facilities in conjunction with a Retail Front	X	X	P*	P*
35. Mortuaries	C	X	P	X
36. Motorcycle sales and services including motorized bicycles	C	X	C	X
37. Newspaper and magazine stores, including printing and publishing	C	P	P	P
38. Nurseries and garden supply stores; provided, all equipment and supplies shall be kept within an enclosed area	X	P	P	P
39. Parking facilities (commercial) where fees are charged	C	X	P	C
40. Pharmacies	P	P	P	P
41. Printing shops	C	X	P	P
42. Gasoline dispensing and/or automotive service stations	C	C	C	C
43. Second hand stores (thrift shops)	C	P	P	P
44. Sign painting shop within a completely enclosed building	X	X	P	X
45. Shopping centers	X	P	P	P
46. Stamp and coin shops	X	P	P	P
47. Sterilization Facilities	X	X	P*	P*
48. Storage Facilities: Indoor/Outdoor	X	X	P*	P*
49. Swimming pool supplies (outdoor storage shall comply with Section 17.05.140(J))	C	P	P	P
50. Television, radio sales and repair	C	P	P	P
51. Theatres (motion picture and playhouse)	C	C	C P*	C P*
52. Tire sales and service	X	X	C	X
53. Travel agencies	P	P	P	P
54. Animal hospitals or veterinary offices:				
a. Small animal	C	C	C	X
b. Large animal	X	X	X	X
55. Vehicle storage yard	X	X	C	X
56. Residential and apartment uses on first and second floor of downtown commercial buildings, including new development	X	X P*	X	P P*
C. Public and Semi-Public Uses				
1. Day nurseries, day care schools	C	C	C	C
2. Convalescent homes and hospitals	C	X	C	X
3. Clubs and lodges including YMCA, YWCA, and similar youth group uses	C	C	C	C
4. Educational institutions, public or private, including vocational schools	C	C	C	C
5. Post office branch	P	P	P	P

6. Churches, convents, monasteries, and other religious institutions	C	C	C	C
7. Group care facilities and residential retirement hotels	C	X	C	C
8. Public facilities including but not limited to city headquarters, libraries, public offices, substations, reservoirs, pumping plants, and similar installations	P	P	P	P
D. Accessory Uses				
1. Accessory structures and uses located on the same site as a permitted use	P	P	P	P
2. Accessory structures and uses located on the same site as a conditional use	C	C	C	C
E. Temporary Uses				
1. Temporary uses as prescribed in Section 17.11.110	P	P	P	P
F. Similar Land Use Determinations				
1. Planning and Building Services Director to determine uses not listed in table	X	P*	P*	P*

17.05.130 Property development standards—C zones.

Prior to the construction of any building or structure on any lot within the C zones, a development review is required, pursuant to Chapter 17.01, Article VII. The following property development standards shall apply to all land and buildings permitted in their respective commercial zones. Any legal lot may be used as a building site, except no building permit shall be issued for any lot having lot size of less than three thousand square feet. Each building site shall have a minimum twenty-foot-wide vehicular access to a public street.

A. General Requirements. The following requirements are minimums unless otherwise stated.

	CO	CN	CH	CS
1. Lot area, sq. ft. or acres	10,000	5 acres	10,000	N/A
2. Lot width, in feet	100	300	60	50
3. Lot depth, in feet	100	300	100	100
4. Front yard setback, in feet	20	20	12	12
5. Side yard setback each side, in feet	0/10	0/10	0/10	0/0
6. Side yard, setback street side, in feet	20	20	12	12
7. Rear yard, in feet	0	0	0	0
8. Lot coverage, maximum	40% 60%	35% 60%	30% 80%	100%
9. Building height	35 feet maximum or two stories whichever is less			
10. Off-street parking and loading	(See Chapter 17.13)			

B. Special Requirements.

1. In any C zone, a minimum setback of twenty feet shall be required wherever a lot in the C zone abuts a lot in any residential zone. Fifteen feet of said setback may be used for required open off-street parking areas.
2. In any C zone, the average setback shall be no less than the minimum of the zone. The minimum setback shall be no less than ten feet.
3. In the CS zone, new construction and reconstruction or rehabilitation of existing buildings and/or sites shall be in accordance with the following design criteria:
 - a. Development Plan. A development plan shall be prepared for the entire site under consideration regardless of whether development is contemplated in the near future. The purpose of the development plan is to show conceptually, where buildings might be located and where and how parking, on-site and off-site circulation will function.
 - b. Site Development Standards. The site development standards shall be consistent with the requirements of the CS zone as indicated in subsections A and B of this section. The standards shall be reminiscent and reflective of the early farming and southwest character of Calexico. The materials utilized on building facades should be of wood, brick, stone, slump stone or plaster slurry slump stone or other similar material. The site plan should try and use imaginative, creative and stimulating architectural design with special consideration given to the provision of the following items:
 1. Low intensity lighting;
 2. Pedestrian comfort stations;
 3. Generous landscaping;
 4. Decorative paved walkways;
 5. Basic design theme;
 6. Separation of pedestrian and vehicular rights-of-way; and
 7. Architecturally integrated ground mounted equipment such as trash receptacles and transformers.

17.05.140 Performance standards—C zones.

- A. In all "C" zones, required front and street side yards shall be landscaped. Said landscaping shall consist predominantly of drought tolerant low maintenance plant materials. All required landscaping shall be permanently maintained in a healthy and thriving condition, free from weeds, trash, and debris.
- B. Where a commercial or office use abuts property in any residential zone, a masonry wall six feet in height from the highest finished grade at the property line shall be erected and maintained between such uses and the residential zone. In addition, a five-foot landscaped screen or buffer shall be installed and maintained.

- C. Wherever off-street parking areas are situated across the street from property in a residential zone, a masonry wall or berm three feet in height shall be erected between the required landscape area and the parking area to adequately screen said parking areas from the residential properties.
- D. The noise level emanating from any commercial use or operation shall not exceed five decibels (as defined in the Occupational Safety and Health Act of 1970) above the ambient level of the area measured at the property line.
- E. All ground mounted mechanical equipment, including heating and air conditioning units, and trash receptacle areas, shall be completely screened from surrounding properties by use of a wall or fence or shall be enclosed within a building. Structural and design plans for any required screening under the provisions of this section shall be approved by the planning director and building official.
- F. All roof appurtenances including, but not limited to air conditioning units, and mechanical equipment shall be shielded and architecturally screened from view from on-site parking areas and adjacent public streets.
- G. Reciprocal ingress and egress, circulation and parking arrangements shall be required to facilitate the ease of vehicular movement between adjoining properties.
- H. Lighting. All light sources shall be shielded in such manner that no light is visible from streets or adjoining properties. Illuminators should be integrated within the architecture of the building. Freestanding lamp posts shall be no taller than eighteen feet. The intensity of light at the boundary of any C zone shall not exceed seventy-five foot lamberts from a source of reflected light. All exterior lighting shall be low pressure sodium.
- I. All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Pad-mounted transformers and/or meter box locations shall be included in the site plan with an appropriate screening treatment. Power lines and overhead cables shall be installed underground.
- J. Outdoor storage and/or sales areas shall be entirely enclosed by solid masonry walls or opaque fencing, not less than six feet in height to adequately screen the view of outdoor storage areas from view.
- K. Energy Conservation. Buildings shall be located on the site to provide adjacent buildings adequate sunlight for solar access. All new construction and remodeling shall be preplumbed for solar hot water heating. Buildings shall be designed to minimize energy consumption requirements, and may include but not necessarily be limited to, the following conservation measures:
 - 1. Cogeneration;
 - 2. South facing windows;
 - 3. Eave coverage for windows;
 - 4. Double glazed windows;
 - 5. Earth berming against exterior walls;

6. Green houses; and
 7. Deciduous shade trees.
- L. In all C zones the conversion of the project to condominium ownership shall meet all requirements of the zone to the maximum extent possible within the constraints of the existing development. In no case shall the requirements of the fire code, sign ordinance, and screening standards be waived. Specific city council waiver shall be required where the zone requirements except as noted herein, cannot be met.
- M. Limitations on Retail Stores In Excess Of 150,000 Square Feet.
1. Findings:
 - a. The city of Calexico, through its general plan, has identified protection of its commercial district and existing land use patterns as a primary goal.
 - b. Large retail stores that sell non-taxable items compete with existing retail centers in a manner that may have potential adverse impacts on the existing business district of the city of Calexico;
 - c. Such large retail stores would also negatively impact existing smaller stores and their workforces making the existing shopping centers less viable; thus degrading the continued existence of existing retail stores and existing land use patterns.
 - d. The burdens on the public of large new stores can only be ameliorated by ensuring that they provide sufficient sales tax revenue to the city.
 2. Application. No new store may be constructed in excess of one hundred fifty thousand square feet, nor an existing store expanded, if the resulting total square footage will exceed one hundred fifty thousand square feet unless it meets the standards for the sale of non-taxable merchandise set forth below.
 3. Limits on Non-taxable Sales. If the total square footage for sales is to exceed one hundred fifty thousand square feet, no more than seven and one half percent of total square footage may be devoted to non-taxable merchandise. For purposes of this calculation, only enclosed sales area will be considered. "Enclosed sales area" does not include restrooms, office space, break rooms, backrooms, storage space, open-air garden sales space, etc. Conversions of such space to enclosed retail sales space shall bring the project under the restrictions of the above-described limits. The total square footage and percentage for non-taxable sales shall include subleased and subcontracted departments.
 4. Enforcement.
 - a. The applicant, owner and tenant shall be jointly and severally liable to the city and all other affected government agencies for all sale taxes lost as a result of a violation. In addition, they shall be liable for liquidated damages of one thousand dollars per day for each day a violation occurs, which reflects the city's estimate of this likely damages in addition to lost taxes.

- b. In addition to subparagraph (a) of this section, the city attorney may seek injunctive relief to stop the continued violation of this section.
 - c. The city may recover its full costs, including attorney's fees, in any action to enforce the provisions of this section.
 - d. Any taxpayer or resident of the city shall have standing to enforce the provisions of this section including recovery of all costs and reasonable attorney fees.
5. Environmental Review. The city council finds that adoption of the ordinance codified in this subsection is not an activity resulting in any environmental effect and is exempt from further review under CEQA. The city council hereby directs the planning director to file a "Notice of exemption" with the county recorder.

17.05.150 Accessory structures—C zones.

- A. In any C zone, accessory structures shall not be located in front of or on the side of the main building(s).
- B. In any C zone, accessory structures shall meet all of the setback requirements for main buildings.
- C. In any C zone, porches, steps, architectural features such as canopies or eaves, and chimneys, balconies, or stairways may project not more than four feet into any required yard area.

17.05.160 Walls and fences.

- A. In any required front or street side yard area, a wall or fence shall not exceed thirty-six inches in height.
- B. In any required rear or interior side yard area, a wall or fence shall not exceed six feet in height.

17.05.170 Signs—C zones.

No sign or outdoor advertising structure shall be permitted in any C zone except as provided in Chapter 17.01, Article XI.

SECTION 2. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason

any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

SECTION 4. Certification and Publication. The City Clerk of the City of Calexico shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

SECTION 5. CEQA. The City Council finds that pursuant to CEQA and the State CEQA Guidelines, no further environmental review is required prior to the adoption of the proposed amendments to Chapter 17 Sections 17.05.120 and 17.05.130 of the Calexico Municipal Code. Specifically, the City Council finds that the subject Municipal Code Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA.

THIS ORDINANCE IS PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Calexico this _____ day of _____, 2021.

Javier Moreno, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney

State of California)
County of Imperial) ss.
City of Calexico)

I, Gabriela T. Garcia, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. _____, introduced at a regular meeting held on the _____ day of _____, 2021, and duly adopted by the City Council of the City of Calexico, California at a regular meeting thereof held the _____ day of _____, 2021.

AYES:
NOES:
ABSENT:
ABSTAIN:

Gabriela T. Garcia, City Clerk