

ORDINANCE NO. 1178

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING TITLE 5 (BUSINESS LICENSES AND REGULATIONS), ARTICLE II, CHAPTER 5.96 OF THE CALEXICO MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS ACTIVITY.

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health & Safety Code Section 11362.5 *et seq.* and entitled "The Compassionate Use Act of 1996"); and,

WHEREAS, the intent of Proposition 215 was to enable seriously ill Californians to legally possess, use, and cultivate cannabis for medical use under state law; and,

WHEREAS, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program ("MMP"), codified as California Health and Safety Code Section 11362.7 *et seq.*, which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate cannabis for medical purposes without being subject to criminal prosecution under the California Penal Code; and,

WHEREAS, neither the Compassionate Use Act ("CUA") nor the MMP require nor impose an affirmative duty or mandate upon local governments to allow, authorize, or sanction the establishment of facilities that cultivate or process medical cannabis within its jurisdiction; and,

WHEREAS, in May 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, holding that cities have the authority to regulate or ban outright medical cannabis land uses; and,

WHEREAS, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 *et seq.*, the use, possession, and cultivation of cannabis are unlawful and subject to federal prosecution without regard to a claimed medical need; and,

WHEREAS, on October 9, 2015, Governor Brown signed the "Medical Cannabis Regulation and Safety Act" ("MCRSA") into law; and,

WHEREAS, MCRSA became effective January 1, 2016 and contains provisions which allow for local governments to regulate licenses and certain activities thereunder; and

WHEREAS, MCRSA contains a provision which sets forth that the State shall become the sole authority for regulation under certain parts of the MCRSA, unless local governments have "land use regulations or ordinances regulating or prohibiting the cultivation of cannabis..." (California Health and Safety Code §11362.777(c)(4)); and,

WHEREAS, California has adopted, through ballot initiative, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA") (Proposition 64) to regulate the personal, medical, and commercial use of cannabis pursuant to local authority preserved in the AUMA; and

WHEREAS, AUMA took effect on November 9, 2016; and

WHEREAS, unregulated indoor cannabis cultivation and manufacturing and subsequent testing, distribution, and transportation has the potential to adversely affect the health and

safety of the occupants, including structural damage to the building due to increased moisture and excessive mold growth which can occur and can pose a risk of fire and electrocution; additionally, the use of pesticides and fertilizers can lead to chemical contamination within the structure; and,

WHEREAS, based on the experiences of other jurisdictions, unregulated commercial cannabis activity could have negative effects on public health, safety, and welfare of the citizens of Calexico; and,

WHEREAS, the City Council of the City of Calexico ("City Council") desires to update Title 5, *Business Licenses and Regulations*, Article II, Chapter 5.96, which has established a regulatory permit scheme for cannabis cultivation, manufacturing, distribution, testing, and transportation activities, such that each proposed commercial cannabis activity must have both a conditional use permit, development agreement or other applicable entitlements and a regulatory permit prior to operation; and

WHEREAS, the City Council conducted a properly noticed public hearing on June 21, 2017 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff, and other public testimony.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council hereby finds that all of the foregoing recitals are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 2. Amendment to the Calexico Municipal Code. Title 5 (Business Licenses and Regulations), Article II, Chapter 5.96 of the Calexico Municipal Code is hereby amended and restated as follows:

"Chapter 5.96. — Commercial Cannabis Activity Regulatory Permit.

5.96.010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the cultivation, manufacturing, testing, distribution, and transportation of medicinal and nonmedicinal adult use cannabis (including cannabis products and edible cannabis products) within the City of Calexico.

The regulations and prohibitions in this chapter are enacted to ensure the health, safety, and welfare of the residents of the city. The regulations and prohibitions herein, which are in compliance with the Compassionate Use Act of 1996 ("CUA"), the Medical Marijuana Program ("MMP"), the Medical Cannabis Regulation and Safety Act ("MCRSA"), the Control, Use, Tax Adult Use of Marijuana Act ("AUMA"), (collectively, "State law"), do not interfere with the use and possession of cannabis as authorized under State law.

Nothing in this chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance, or (2) allow any activity relating to the cultivation,

manufacturing, testing, distribution, transportation, or use of cannabis that is otherwise illegal under California state law.

5.96.020 – Definitions.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not explicitly defined in this chapter, the common and ordinary meaning of the word shall apply.

“Applicant” means a person applying for a regulatory permit under this chapter. An “applicant” includes all representatives, agents, parent entities, or subsidiary entities of the applicant.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined in California Health and Safety Code Section 11018. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

“Cannabis products” has the same meaning as marijuana products in Section 11018.1 of the California Health and Safety Code. When the term “cannabis” is used in this chapter, it shall include “cannabis products.”

“City manager” means the city manager of the City of Calexico or designee.

“Commercial cannabis activity” includes the cultivation, manufacture, distributing, laboratory testing, and transportation (including possession, processing, storing, and labeling incidental to such activities) of cannabis and cannabis products as provided in this chapter. “Commercial cannabis activity” does not include delivery, dispensing, or retail sale of cannabis or cannabis products.

“Cultivate” or “cultivation” means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, or State Law.

“Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product

is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product.

"Owner" means any of the following: (1) All persons with an aggregate ownership interest of 20 percent (20%) or more in the applicant, unless such interest is solely a security, lien, or encumbrance; (2) the chief executive officer of an entity or nonprofit; (3) all members of the board of directors of a nonprofit; or (4) an individual that will be participating in the direction, control, or management of the permitted commercial cannabis activity.

"Permittee" means the individual or applicant to whom a regulatory permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, Limited Liability Company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structures and land specified in the regulatory permit application that are in the possession of an used by the applicant or permittee to conduct the commercial cannabis activity. The premises must be a contiguous area and may only be occupied by one licensee.

"Retailer" means a person or entity that sells cannabis or cannabis products to customers. The term "retailer" shall also include the term "dispensary," as defined under MCRSA.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

"Transportation" means transferring cannabis and/or cannabis products from one person or entity permitted under this chapter, permitted by another local California jurisdiction, and/or licensed under State Law to another person or entity permitted under this chapter, permitted by another local California jurisdiction, and/or licensed under State Law.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

- A. The Compassionate Use Act of 1996 ("CUA");
- B. The Medical Marijuana Program ("MMP"); and
- C. The Medical Cannabis Regulation and Safety Act ("MCRSA"); and
- D. Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA")."

5.96.030 – Regulatory permit required.

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the legal representative of the persons wishing to operate and/or lease out a facility for commercial cannabis activity shall first obtain a conditional use permit or fully execute a development agreement approved by city council or other entitlement as required under Title 17 (Zoning), Chapter 17.11, Article X of this code and then obtain a regulatory permit from the city manager and shall pay an application fee as established by resolution adopted by the city council as amended from time to time.

5.96.040 - Regulatory permit application.

An application for a regulatory permit shall include, but shall not be limited to, the following information:

- A. The name, address, and telephone number of the applicant.
- B. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement operating agreement, and fictitious business name statement.
- C. The name, address, telephone number, title, and function of each of the interested parties described in Section 5.96.150.
- D. A legible copy of each applicant's photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.
- E. A list of the license or permit types (including license or permit numbers) held by the applicant that involve the operation of a commercial cannabis activity, including the date the license or permit was issued and the jurisdiction or State license authority that issued the license or permit.
- F. Whether the applicant has been denied a license or permit by the City, any other jurisdiction, and/or the State that involves the operation of a commercial cannabis activity. The applicant shall provide a description of the license or permit applied for, the name of the jurisdiction or State license authority that reviewed the license or permit application, and the date of denial.
- G. The proposed commercial cannabis activity's physical address, telephone number, website address, and email address.
- H. Contact information for the applicant's designated primary contact person including the name, title, address, phone number, and email address of the individual.
- I. A list of every fictitious business name the applicant is operating under including the address where the business is located.

J. Financial information including the following:

1. A list of funds belonging to the commercial cannabis business held in savings, checking, or other accounts maintained by a financial institution. The applicant shall provide for each account, the financial institution's name, the financial institution's address, account type, account number, and the amount of money in the account.

2. A list of loans made to the commercial cannabis business. For each loan, the applicant shall provide the amount of the loan, the date of the loan, term(s) of the loan, security provided for the loan, and the name, address, and phone number of the lender.

3. A list of investments made into the commercial cannabis business. For each investment, the applicant shall provide the amount of the investment, the date of the investment, term(s) of the investment, and the name, address, and phone number of the investor.

4. A list of all gifts of any kind given to the applicant for its use in conducting commercial cannabis activity. For each gift the applicant shall provide the value of the gift or description of the gift, and the name, address, and phone number of the provider of the gift.

K. A copy of the applicant's completed application for electronic fingerprint images submitted to the Department of Justice and Federal Bureau of Investigation.

L. A list of each applicant's misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of *nolo contendere*.

M. A complete and detailed diagram of the proposed premises showing the boundaries of the property and the proposed premises to be permitted, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, doorways, and common or shared entryways, storage areas and exterior lighting. The diagram must show the areas in which all commercial cannabis activity will take place, including but not limited to, limited-access areas.

N. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the premises. As part of the security plan, a lighting plan is required that shows existing and proposed exterior and interior lighting that will provide adequate security lighting for the commercial cannabis activity and premises. The security plan must be prepared by a qualified professional and include provisions in compliance with the following:

1. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least two hundred forty (240) concurrent hours of digitally recorded documentation in a format approved by the city manager. The cameras shall be in use twenty-four (24) hours per day, seven days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the city manager.

2. The premises shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the city manager that is operated and monitored by a recognized security company, deemed acceptable by the city manager. Any change in the

security company shall be subject to the approval of the city manager. All current contact information regarding the security company shall be provided to the city manager.

3. Entrance to the cultivation, manufacturing, and testing areas and any storage areas shall be locked at all times, and under the control of cannabis facility staff.

4. All cannabis shall be securely stored, and a reliable, commercial alarm system shall be installed and maintained where the cannabis is secured.

5. A licensed security guard, licensed by the California Department of Consumer Affairs, shall be present at the premises during all hours of operation. If the security guard is to be armed, then the security guard shall possess at all times a valid security guard card and firearms permit issued by the California Department of Consumer Affairs.

6. A heavy-gauge chain-link (or other material as approved by the city manager) fence a minimum of 8-feet in height shall be constructed around the perimeter of the premises to prevent public access and obscure the cannabis cultivation facility from public view. Screening can include landscaping or vinyl slats, as permitted by law enforcement.

O. An odor control plan that describes the air treatment system or other methods that will be implemented to prevent odors generated by the commercial cannabis activity from being detected outside the building(s) on the premises.

P. A comprehensive business operations plan that includes the following:

1. Business plan. A plan describing how the commercial cannabis activity business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include plans for handling cash and transporting cannabis and cannabis products to and from the premises, if applicable.

2. Community relations plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.

3. Neighborhood responsibility plan. A plan addressing any adverse impacts of the proposed commercial cannabis activity on the surrounding area.

4. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the commercial cannabis activity.

5. Budget. A copy of the applicant's most recent annual budget for operations.

Q. The name and address of the owner and lessor of the real property upon which the commercial cannabis activity is to be operated. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a commercial cannabis activity will be operated on his or her property.

R. Authorization for the city manager to seek verification of the information contained within the application.

S. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

T. A full and complete copy of the applicant's most current application submitted to and approved by the applicable State licensing authority.

U. Any such additional and further information as is deemed necessary by the city manager to administer this chapter.

5.96.050 - Background check.

The City will provide each applicant, including any management personnel who are responsible for the day-to-day operations of the commercial cannabis activity, with a 'request for live scan service' form, which must be taken to a live scan operator for fingerprinting. Each applicant must submit their fingerprint images to the Calexico Police Department, California Department of Justice, and the Federal Bureau of Investigation for fingerprint-based criminal history records review and reporting to the City.

5.96.060 - Additional terms and conditions.

Based on the information set forth in the application, the city manager may impose reasonable terms and conditions on the proposed operations of the commercial cannabis activity in addition to those specified in this chapter.

5.96.070 - Regulatory permit denial.

The city manager may deny an application for a regulatory permit or renewal of a regulatory permit upon making any of the following findings:

A. The applicant or the premises for which a regulatory permit is applied does not qualify for a permit under this chapter.

B. The applicant fails to comply with the provisions of this chapter.

C. The applicant has failed to provide information required by the city manager.

D. The applicant or permittee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the city manager determines that the applicant or permittee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the city manager shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or permittee to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the city manager shall include, but not be limited to, the following:

1. A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

2. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

3. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the California Penal Code.

4. A felony conviction involving fraud, deceit, or embezzlement.

E. The applicant, or any of its officers, directors, or owners, has been sanctioned by a State licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a State license revoked in the three years immediately preceding the date the application is filed with the city manager.

F. The commercial cannabis activity is not properly organized or operating in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643), Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"), and any other applicable law, rules and regulations.

5.96.080 – Regulatory permit term.

A regulatory permit is valid for two (2) years from the date that the permit is issued, unless suspended or revoked sooner.

5.96.090 – Regulatory permit renewal process.

A. To renew a regulatory permit, a completed permit renewal form and renewal permit fee shall be received by the city manager from the permittee no earlier than sixty (60) calendar days before the expiration of the permit and no later than the last business day before the expiration of the permit.

B. In the event the regulatory permit is not renewed prior to the expiration date, the permittee must cease all commercial cannabis activity.

5.96.100 – Regulatory permit surrender.

Every permittee who surrenders, abandons, or quits the permitted premises after a certificate of occupancy is issued, or who closes the permitted premises for a period exceeding thirty (30) consecutive calendar days after a certificate of occupancy is issued, shall, within thirty (30) calendar days after closing, surrendering, quitting, or abandoning the permitted premises, surrender the permit to the city manager. The city manager may seize the permit of a permittee who fails to comply with the surrender provisions of this section and may proceed to revoke the permit.

5.96.110 – Regulatory permit suspension and revocation.

The city manager may suspend, modify, or revoke a cannabis cultivation permit issued pursuant to the provisions of this Chapter for any of the following reasons:

- A. One or more of the circumstances upon which a regulatory permit could be denied exists or has occurred;
- B. One or more conditions of the regulatory permit has been violated; or
- C. The permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this chapter.

5.96.120 – Appeals.

Any decision regarding the denial, suspension, or revocation of a regulatory permit may be appealed to a hearing officer. Notice of and the procedures governing such hearing shall be provided pursuant to Title 1, Chapter 1.26 of the code. The appellant shall request an appeal within thirty (30) calendar days from the date of the decision.

5.96.130 – Operating standards.

A. Indoor cultivation only. A permittee shall only cultivate cannabis in a fully enclosed and secure building. A permittee shall not allow cannabis or cannabis products on the premises to be visible from the public right of way, the unsecured areas surrounding the buildings on the premises, or the premises' main entrance and lobby.

B. Odor control. A permittee shall comply with the odor control plan that is submitted during the application process and approved by the city manager. Commercial cannabis activity premises shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the building(s) that is distinctive to its operation is not detected outside the premises, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the commercial cannabis activity. As such, applicants must install and maintain the following equipment or any other equipment which the city manager or designee determines has the same or better effectiveness:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or
2. An air system that creates negative air pressure between the cannabis facility's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.

Should compliance with the odor control plan fail to properly control odor, the city manager may impose additional or modified plan restrictions.

C. 'Seed to sale' or 'track and trace'. Commercial cannabis activity businesses shall have an electronic 'seed to sale' or 'track and trace' system that produces historical transactional data for review by the city manager for auditing purposes.

D. Records. A commercial cannabis activity business shall maintain the following records in printed format for at least three (3) years on the premises and shall produce them to the city within 24 hours after receipt of the city's request:

1. The name, address, and telephone numbers of the owner and landlord of the property.

2. The name, date of birth, address, and telephone number of each manager and staff of the commercial cannabis activity business; the date each was hired; and the nature of each manager's and staff's participation in the business.

3. A written accounting of all income and expenditures of the commercial cannabis activity business, including, but not limited to, cash and in-kind transactions.

4. A copy of the commercial cannabis activity business' commercial general liability insurance policy and all other insurance policies related to the operation of the business.

5. A copy of the commercial cannabis activity business' most recent year's financial statement and tax return.

6. An inventory record documenting the dates and amounts of cannabis received at the premises, the daily amounts of cannabis on the premises, and the daily amounts of cannabis transported from the premises.

A commercial cannabis activity business shall report any loss, damage, or destruction of these records to the City Manager within 24 hours of the loss, damage, or destruction.

E. Security. A permittee shall comply with the security plan that is submitted during the application process as approved by the city manager. A permittee shall report to the Calexico Police Department all criminal activity occurring on the premises. Should compliance with the security plan fail to properly secure the commercial cannabis activity premises, the city manager may impose additional or modified plan restrictions.

F. Retail sales prohibited. No person shall conduct any retail sales of any good or services on or from permitted premises.

G. Cannabis consumption prohibited. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 20 feet of, the premises.

H. Alcohol prohibited. No person shall possess, consume, or store any alcoholic beverage on the cultivation premises.

I. Juveniles prohibited. No one under the age of eighteen (18) shall be on the commercial cannabis activity premises or operate a commercial cannabis activity in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.

5.96.140 – Building standards.

A building that houses a commercial cannabis activity shall comply with the following requirements:

A. Entrances. All entrances into the buildings on the premises shall be locked at all times with entry controlled by the permittee's managers and staff. Codes for entry shall be provided to Law Enforcement and Fire Protection personnel to allow access to the buildings 24-hours a day, 7 days a week.

B. Main entrance and lobby. The premises shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the premises and to verify whether they are allowed in the building.

C. Activity area. All cultivation, manufacturing, or testing areas in any building on the premises shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee.

5.96.150 – Interested parties.

A. A permittee shall provide the city with names and addresses of all of the following interested parties:

1. Persons with at least a 10% interest in the commercial cannabis activity;

2. Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least 10% of the stock, capital, profits, voting rights, or membership interest of the commercial cannabis activity or that is one of the partners in the commercial cannabis activity;

3. The managers of the commercial cannabis activity; and

4. The staff of the commercial cannabis activity.

B. The permittee shall notify the city of any change in the information above within 30 calendar days of the change.

C. All interested parties, as described in subsection A, must submit to fingerprinting and a criminal background check by the city.

D. No person shall be an interested party, as described in subsection A of this Section, if he or she is charged with or convicted of a felony; has been charged with or convicted of a violation of California Penal Code section 186.22 (participation in a criminal street gang); or is currently on parole or probation for an offense relating to the sale or distribution of a controlled substance. "Convicted" within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law

where the expungement was granted. "Charged" within the meaning of this section means (1) an indictment was issued by a grand jury, or an information, complaint, or similar pleading was issued by the United States Attorney, district attorney, city attorney, or other governmental official or agency authorized to prosecute crimes, and (2) the criminal proceedings are currently pending.

5.96.160 -- Premises restricted.

- A. No permittee shall open their commercial cannabis activity premises to the public.
- B. No permittee shall allow anyone on the premises, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters.
- C. A manager must be on the premises at all times that any other person, except for security guards, is on the premises.

5.96.170 – Emergency contact manager.

A commercial cannabis activity permittee shall provide the city manager with the current name and primary and secondary telephone numbers of at least one 24-hour on-call manager to address and resolve complaints and to respond to operating problems or concerns associated with the commercial cannabis activity.

5.96.180 - Community relations manager.

Each cannabis facility shall provide the city manager with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the cannabis facility. Each cannabis facility shall also provide the above information to its business neighbors located within one hundred (100) feet of the cannabis facility as measured in a straight line without regard to intervening structures, between the front doors of each establishment.

5.96.190 – Display of regulatory permit.

The permittee shall display its current valid permit issued in accordance with this chapter inside the lobby or waiting area of the main entrance to the premises. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the premises.

5.96.200 – Inspections and enforcement.

- A. Recordings made by security cameras at any commercial cannabis activity business shall be made immediately available to the city manager upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

B. The city manager shall have the right to enter all cannabis facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter:

C. Operation of the cannabis facility in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this code.

D. The city manager may summarily suspend or revoke a cannabis regulatory permit if any of the following, singularly or in combination, occur:

1. The city manager or designee determines that the commercial cannabis activity business has failed to comply with this chapter or any condition of approval or a circumstance or situation has been created that would have permitted the city manager or designee to deny the permit under Section 5.96.070;

2. Operations cease for more than thirty (30) calendar days, including during change of ownership proceedings;

3. Ownership is changed without securing a regulatory permit;

4. The cannabis facility fails to maintain two hundred forty (240) continuous hours of security recordings; or

5. The cannabis facility fails to allow inspection of the records, security recordings, the activity logs, or the premises by authorized city officials.

5.96.210 - Permits not transferable.

Regulatory permits issued pursuant to this chapter are not transferable.

5.96.220 – Limitations on city's liability.

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any regulatory permit pursuant to this chapter or the operation of any commercial cannabis activity approved pursuant to this chapter. As a condition of approval a regulatory permit as provided in this chapter, the applicant or its legal representative shall:

A. Execute an agreement indemnifying the city from any claims, damages, etc., associated with the operation of the cannabis facility;

B. Maintain insurance in the amounts and of the types that are acceptable to the city manager or designee;

C. Name the city as an additionally insured on all city required insurance policies;

D. Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a regulatory permit; and

E. Agree to reimburse the city for any court costs and attorney fees that the city may be required to pay as a result of any legal challenge related to the city's approval of a regulatory permit. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

5.96.230 - Compliance with state law.

All commercial cannabis activity shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, the Medical Cannabis Regulation and Safety Act, and the Control, Regulate, and Tax Adult Use of Marijuana Act.

5.96.240 - Violations.

A. Any violation of any of the provisions of this chapter is unlawful and a public nuisance.

B. Any violation of any of the provisions of this chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

C. In lieu of issuing a misdemeanor citation, the city may issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars (\$1,000.00) for each violation of this chapter.

D. A separate offense occurs for each day any violation of this chapter is continued and/or maintained.

E. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the city may pursue any proceedings or remedies otherwise provided by law."

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

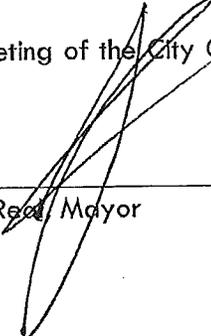
SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The 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.

SECTION 5. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof,

cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

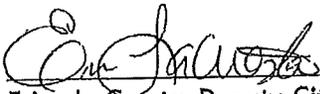
SECTION 6. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

ORDINANCE PASSED AND APPROVED at a regular meeting of the City Council of the City of Calexico this 5th day of July, 2017.



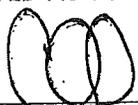
Armando G. Reed, Mayor

ATTEST:



Erica LaCuesta, Deputy City Clerk

APPROVED AS TO FORM:



Carlos Campos, Interim City Attorney

I, Erica LaCuesta, Deputy City Clerk, City of Calexico, California, certify that the foregoing Ordinance was adopted by the City Council at a regular meeting of the City Council held on the 5th day of July, 2017 and was adopted by the following vote:

AYES: REAL, HURTADO, PACHECO, ESCOBAR

NOES: NONE

ABSENT: HODGE

ABSTAIN: NONE


Erica LaCuesta, Deputy City Clerk