

ORDINANCE NO. 1200

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING CHAPTERS 17.05, 17.07, AND 17.11 OF TITLE 17 (ZONING) OF THE CALEXICO MUNICIPAL CODE REGARDING CANNABIS TESTING LABORATORIES.

WHEREAS, pursuant to the authority granted to the City of Calexico (“City”) by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, adoption and enforcement of comprehensive zoning regulations and other land use regulations lies within the City’s police power; and,

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older; and,

WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act (“MCRSA”), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses, including, but not limited to, local zoning and land use requirements. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, City Council Ordinance No. 1177 established the Cannabis Overlay District and regulates the number and type of commercial cannabis activities allowed to operate within the City; and,

WHEREAS, the proposed Ordinance would amend three Chapters of Title 17 (Zoning) as follows: (i) Chapter 17.05 would be amended to allow cannabis testing laboratories as a conditional use in some commercial zones; (ii) Chapter 17.07 would be amended to allow

cannabis testing laboratories as a conditional use in all industrial zones, (iii) and Chapter 17.11, Article X to allow cannabis testing laboratories in designated commercial and industrial zones and remove the 600 foot distance limitation from schools for testing laboratories only; and,

WHEREAS, 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 of the California Public Resources Code, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant impact 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; and,

WHEREAS, the Planning Commission of the City of Calexico (“Planning Commission”) conducted a properly noticed public hearing on February 11, 2019 at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff, and other public testimony; and,

WHEREAS, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance; and,

WHEREAS, the City Council conducted a properly noticed public hearing on May 1, 2019 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 DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this ordinance.

SECTION 2. Amendment to Municipal Code. Section A of the table in Municipal Code Section 17.05.120 is hereby amended with additional underlined text as follows:

“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 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.

...

A. Administrative and Professional Services	CO	CN	CH	CS
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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.)	<u>C</u>	<u>X</u>	<u>C</u>	<u>C</u>

...”

SECTION 3. Amendment to Municipal Code. Section A of the table in Municipal Code Section 17.07.120 is hereby amended with additional underlined text as follows:

“17.07.120 - Permitted and conditional uses—I zones.

The following uses shall be permitted uses where the symbol “P” appears and shall be permitted 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 shall be prohibited.

			I	IL	BP
A. Manufacturing					
	<u>9.</u>	<u>Cannabis testing laboratories (See Chapter 17.11, Article X.)</u>	<u>C</u>	<u>C</u>	<u>C</u>

...”

SECTION 4. Amendment to Municipal Code. Section 17.11.1030 of the Municipal Code is hereby amended to include additional underlined text as follows:

“17.11.1030 - Commercial cannabis activity—Permitted locations and standards.

A. Commercial cannabis cultivation, manufacturing (including shared-use facilities), laboratory testing, distribution, retailers, non-storefront retailers, and microbusinesses may be located in the cannabis overlay district, upon either issuance of a CUP or full execution of a development agreement approved by city council and issuance of a regulatory permit, or as otherwise permitted in this code. Testing laboratories may be located in CO – Commercial Office, CH – Commercial Highway, CS – Commercial Specialty, BP – Industrial Business Park, I – Industrial, IR – Industrial Rail Served, and IL - Industrial Light Zones upon either issuance of a CUP or full execution of a development agreement approved by city council and issuance of a regulatory permit, or as otherwise permitted in this code.

D. Commercial cannabis activity shall be located a minimum distance of six hundred (600) feet away from any sensitive receptor. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the sensitive receptor. This six hundred (600) foot distance limitation shall not apply to cannabis testing laboratories.”

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

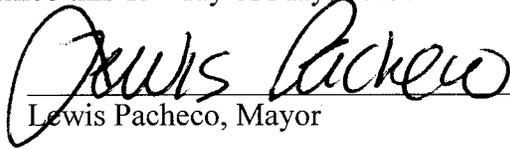
SECTION 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The 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 7. 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 8. 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 TITLE 17 (ZONING) of the Calexico Municipal Code.

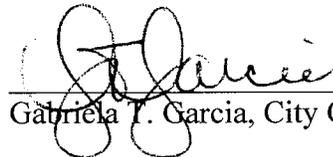
Specifically, the City Council finds that the subject Municipal Code Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable 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 APPROVED at a regular meeting of the City Council of the City of Calexico this 15th day of May, 2019.



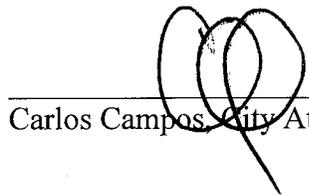
Lewis Pacheco, Mayor

ATTEST:



Gabriela T. Garcia, City Clerk

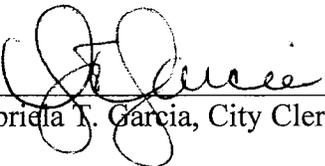
APPROVED AS TO FORM:



Carlos Campos, City Attorney

I, Gabriela T. Garcia, City Clerk, City of Calexico, California, certify that the foregoing Ordinance No. 1200 was adopted by the City Council at a regular meeting of the City Council held on the 15th day of May 2019 by the following vote:

AYES: Pacheco, Hodge, Romero, Arreola-Fernandez, Reisin
NOES: None
ABSENT: None
ABSTAIN: None



Gabriela T. Garcia, City Clerk