



# Staff Report

Agenda Item No.

D-1

Date: December 8, 2017  
Item: Zoning Text Amendment  
Location: C-2 Zones  
Applicant: City of Imperial  
From: Othon Mora, Director of Community Development Department  
Case No.: ZTA 2017-01

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## SUMMARY

On July 10, 2017 the City Council gave direction to staff to initiate a Zone Text Amendment regarding subsection B of Zoning Code Section 24.05.120 (Permitted and Conditional Uses: Commercial Zones) to include “Medical Cannabis Dispensaries” and uses in C-2 zones subject to approval of a Conditional Use Permit and meeting the requirements set-forth in . The proposal is to allow “Medical Cannabis Dispensaries” and uses that are outlined in Chapter 15, Article XII “Medical Cannabis Dispensaries” of the City of Imperials’ Municipal Code, once approved.

The language that will be added in subsection B of the Zoning Code Section 24.05.120 (Permitted and Conditional Uses: Commercial Zones) will be: “Medical Cannabis Dispensaries”.

**Please reference attachment EXHIBIT A, subsection B. #35\*\*\***

The proposed Chapter 15 addition to the Municipal Code will govern the “Medical Cannabis Dispensaries” and uses. The separate ordinance will encompass the following details and topics:

- Definitions.
- Business Permits Required.
- On-Site Consumption Permits.
- Regulations.
- Performance and Operating Standards.
- Regulatory Fees; Seller’s Permit.
- Sales.
- Revocation, Suspension and Appeals.
- Prohibited Operations; Nonconforming Uses.
- Liability and Indemnification.
- Examination of Books, Records, Witnesses-Penalty.

## RECOMMENDATION:

Staff recommends the Planning Commission:

1. Open the Public Hearing and receive any testimony.
2. Adopt the attached draft resolution to Section 24.05.120 (B) of the City of Imperial Zoning Code, adding "Medical Cannabis Dispensary" and uses within C-2 zones contingent upon the approval of a Conditional Use Permit and meeting all the requirements set-forth in Chapter 15.

**City Background History:**

The City of Imperial currently has the following Ordinances relating to Cannabis activities in place:

- 766: An ordinance prohibiting medical marijuana dispensaries.
- 788: An interim urgency ordinance imposing a temporary moratorium on commercial and industrial cannabis activities.
- 793: An ordinance regulating personal indoor cultivation of marijuana, banning outdoor personal cultivation and banning marijuana use in city facilities.

These ordinances will be superseded if the proposed municipal code addition of "Chapter 15" is approved by the City Council.

**State Background History:**

The State of California has been involved with cannabis (marijuana) since 1996 with the passage of Proposition 215 the "Compassionate Use Act," the first medical cannabis regulation in the United States. In 2003, Senate Bill 420, developed the medical marijuana identification cards. The next significant change in regulation came twelve years later in 2015.

The Medical Cannabis Regulation and Safety Act ("MCRSA"), consisting of Assembly Bill (AB) 243, AB 266 and Senate Bill (SB) 643, was signed by the Governor on October 9, 2015. This legislation established a comprehensive framework for the regulation of commercial cannabis, covering a broad array of topics including cultivation, nurseries, delivery, transportation, manufacturing, environmental standards and enforcement, general enforcement, advertising and labeling, employer/workplace restrictions, appellation/organic standards, fees and taxation, safety standards, criminal penalties, and tracking and tracing systems. MCRSA also establishes a dual licensing scheme under which anyone engages in commercial cannabis activity must first obtain a local permit, anti then a state license. The state law defers to local land use authority and local jurisdiction may ban cannabis uses altogether or further limit the allowances under state law.

On November 8, 2016, California voters approved Proposition 64, which is the initiative known as the Adult Use of Marijuana Act ("AUMA"). AUMA would allow local jurisdictions to decide whether to allow nonmedical cannabis uses, except for personal use and cultivation, which must be permitted indoors with reasonable regulations. The proposed Ordinance only pertains to medical cannabis, consistent with current state law under MCRSA.

On June 27, 2017, the Governor signed into law, Senate Bill (SB) 94, which repealed the MCRSA, including certain provisions of the MCRSA in the licensing provision of the AUMA, and created a signal regulatory scheme for both medical and no-medical cannabis known as the **Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA")**. The MAUSCRSA retain the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether cannabis businesses could operate in a particular jurisdiction. Specifically, California Business and Provisions Code Section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction.

Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a cannabis business if approval of the State license will violate the provision of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to cannabis businesses beginning January 1, 2018.

## State Law and Licensing Requirements

Legislation under the Medical Cannabis Regulation and Safety Act (MCRSA) protects local control via dual licensing: all marijuana businesses must have both a state license, and a local license or permit, to operate legally in California. Jurisdictions that regulate or ban medical marijuana will be able to retain their regulations or ban. Local governments may enforce state law in addition to local ordinances, if they request that authority and if it is granted by the relevant state agency. The types of permits allowed under the MCRSA including commercial cultivation, dispensaries, manufacturing, testing labs, transporters, and distributors. Delivery services may occur if permitted by the local agency (or if the local jurisdiction does not explicitly prohibit delivery services) and must be associated to a dispensary.

## Land Use Subjects

The following items should be addressed in an ordinance that deals with cannabis related businesses:

1. Definitions for uses, activities, etc.
2. Permissive zoning vs. explicit bans.
3. Permitted zones.
4. Public hearing and noticing requirements.
5. Separation requirements from sensitive uses such as parks, schools, day cares and other marijuana related uses.
6. Parking requirements.
7. Hours of operation.
8. Signage and on-site advertisements.

## **ANALYSIS**

A proposed draft of a zone text amendment has been development. The changes therein are summarized as follows;

1. Subsection B: “Medical Cannabis Dispensaries and uses” in C-2 zones contingent upon acquisition of Conditional Use Permit and meeting all requirements in Chapter 15 of the Imperial Municipal Code.
2. Chapter 15 of the Municipal Code will govern this zoning usage.

Staff Analysis:

As requested by the Council, this amendment will add language to the current “Commercial Zones” section of the Imperial Zoning Code, to include language and reference information for “Medical Cannabis Dispensaries” and uses.

## **CONCLUSION:**

The proposed zone text amendment would:

- a. Provide accessible information for residents and others regarding cannabis uses in the City of Imperial.
- b. Provide for timely and efficient distribution of information.
- c. The Zone Text Amendment is part of formalizing this new use in the designated zone.

## **NOTICE:**

Notice was provided by advertisement in the Imperial Valley Press and mail-outs were sent to parcels within 300 feet of all the C-2 zones in the City of Imperial. No public comment has been received as of the writing of this report.

**ENVIRONMENTAL:**

Staff has reviewed the draft ordinance under the provisions of the California Environmental Quality Act (CEQA) and has determined that the proposed Zone Text Amendment is Categorically Exempt under Section 15305- Minor Alteration in Land Use Limitations- of the Guidelines for the Implementation of CEQA. The proposed amendment will not result in any significant change in land use or density.

**ATTATCHMENTS:**

- Draft Medical Cannabis Ordinance for review- Chapter 15- Imperial Municipal Code.
- Draft Zoning Text Amendment.
- City of Imperials Zoning Map

## **EXHIBIT A**

### **SECTION 24.05.110 PURPOSES**

In addition to the objectives outlined in Section 24.01 (Purposes and Scope), the Commercial Zones are included in the Zoning Regulations to achieve the following purposes:

- A. To provide appropriately located areas for office use, 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 of Imperial.

#### **C-1 Commercial Neighborhood Zone**

This zone is intended for professional, administrative offices, restaurant, theatre, health clubs, and for neighborhood shopping centers which provide limited retail business service and office facilities for the convenience of residents of the neighborhood. These stopping centers are intended to be compatible with residential environment as at locations indicated on the General Plan.

C-2 Commercial General Zone

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

V-C Village Commercial Zone

The Village Commercial Zone is intended as the social and civic heart of the City of Imperial with attractive housing, small retail shops, outdoor dining, parks, and civic facilities in a vibrant, pedestrian friendly and family-oriented atmosphere.

SECTION 2: Section 24.05.120 of Chapter 24 of the Imperial Municipal Code is hereby amended to read as follows:

**24.05.120 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.

<b><i>A. Administrative and Professional Services</i></b>	<b><i>C-1</i></b>	<b><i>C-2</i></b>	<b><i>VC</i></b>
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

<b><i>B. General Commercial Uses</i></b>	<b><i>C-1</i></b>	<b><i>C-2</i></b>	<b><i>VC</i></b>
1. Adult Businesses (see Section 24.11.800)	X	C	X
2. Antique shops (sale of previously owned goods)	X	P	X
3. Apparel stores	P	P	P
4. Art, music, and photographic studios and supply stores	P	P	P
5. Appliance stores and repair	C	P	P

<b><i>B. General Commercial Uses (cont.)</i></b>	<b><i>C-1</i></b>	<b><i>C-2</i></b>	<b><i>VC</i></b>
6. Arcades and electronic games (see Section 24.11.600)	C	C	X
7. Athletic and Health Club	P	P	P
8. Automobile and or truck services, including, but not limited to, sales, rental agencies, body repair, painting, and car washes.	C	P	X
9. Bakeries – retail only	P	P	P
10. Barber and beauty shops	P	P	P
11. Bicycle shops, non-motorized	P	P	P
12. Blueprint and photocopy services when operated in conjunction with a professional office of engineering, planning, surveying, architecture, drafting.	P	P	P
13. Boat and camper sales and services	X	C	X
14. Book, gift, and stationery stores	P	P	P
15. Candy stores and confectioneries	P	P	P
16. Carpet and flooring stores	P	P	P
17. Catering establishments	P	P	X
18. Cleaners including dry cleaning with or without cleaning machinery on-site	P	P	P
19. Commercial Recreation Facilities not otherwise listed	C	C	C
20. Eating and drinking establishments			
a. Bars (no entertainment)	X	C	C
b. Night Clubs, cabarets, restaurants, coffee shops, delicatessens:			
1. With alcoholic beverages and/or entertainment	C	C	C

<b><i>B. General Commercial Uses (cont.)</i></b>	<b><i>C-1</i></b>	<b><i>C-2</i></b>	<b><i>VC</i></b>
2. Without alcoholic beverage but including entertainment	C	C	C
3. Without alcoholic beverage	P	P	P
c. Snack bars, take-out only, refreshment stands contained within a building	P	P	P
d. Fast food restaurants with drive-in or drive through	C	C	X
e. Fast food restaurants with drive through in conjunction with a shopping center development	C	C	C
21. Equipment rental yards including, but not limited to, trucks, trailers, hitches, service thereof	C	C	X
22. Feed and tack stores (outdoor storage shall be consistent with Section 24.05.140)	C	P	C
23. Florist shops	P	P	P
24. Furniture stores, with or without repair and upholster	C	P	P
25. Hardware stores	P	P	C
26. Hobby shops	P	P	P
27. Hotels and motels with meeting rooms	C	P	P
28. Janitorial services and supplies	C	P	X
29. Jewelry stores	P	P	P
30. Junior department, department stores, discount department stores and membership stores	C	P	P
31. Food stores and supermarkets, drug stores with and/or without pharmacies, variety stores, sporting goods store, shoe stores (sales and/or repair ), toy stores	P	P	P

<b><i>B. General Commercial Uses (cont.)</i></b>	<b><i>C-1</i></b>	<b><i>C-2</i></b>	<b><i>VC</i></b>
32. Kiosks, including, but not limited to photo sales located in parking lots	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	X
34. Liquor stores	C	C	C
35. Medical Cannabis Dispensaries and uses outlined in Chapter 15, Article XII "Medical Cannabis Dispensaries" of the City of Imperials' Municipal Code.	X	C	X
36. Mortuaries	C	P	X
37. Motorcycle sales and services including motorized vehicles	C	C	X
38. Newspaper and magazine stores, including printing and publishing	P	P	P
39. Nurseries and garden supply stores; provided, all equipment and supplies shall be kept within an enclosed area	P	P	P
40. Parking facilities (commercial) where fees are charged	C	P	C
41. Pharmacies	P	P	P
42. Printing shop	C	P	X
43. Gasoline dispensing and/or automotive service stations	C	C	C
44. Sign painting shop within a completely enclosed building	C	P	X
45. Stamp and coin shops	P	P	P
46. Swap Meet (See City Code Chap. 12 Art. V)	X	P	C
47. Swimming pool supplies (outdoor storage shall comply with Section 24.05.140J)	P	P	P
48. Television, radio sales and repair	P	P	P
49. Theatres (motion picture and playhouse)	C	C	C
50. Tire sales and service	C	C	X

51. Travel agencies	P	P	P

<b><i>B. General Commercial Uses (cont.)</i></b>	<b><i>C-1</i></b>	<b><i>C-2</i></b>	<b><i>VC</i></b>
52. Animal hospitals or veterinary offices			
a. Small animal	C	C	X
b. Large animal	X	C	X
53. Vehicle storage yard	X	C	X

<b><i>C. Public and Semi-Public Uses</i></b>	<b><i>C-1</i></b>	<b><i>C-2</i></b>	<b><i>VC</i></b>
1. Day nurseries, day care schools	C	C	C
2. Convalescent homes and hospitals on sites two net acres or greater in size	X	C	X
3. Clubs and lodges including YMCA, YWCA, and similar youth group uses	C	C	C
4. Educational institutions, public or private, including vocational schools	C	C	C
5. Post office branch	P	P	P
6. Churches, convents, monasteries, and other religious institutions	C	C	C
7. Group care facilities and residential retirement hotels	X	C	C
8. Public facilities including, but not limited to City headquarters, libraries, public offices, sub-stations, reservoirs, pumping plants, and similar installations.	C	C	C

<b>D. Mixed Uses</b>	<b>C-1</b>	<b>C-2</b>	<b>VC</b>
<p>1. The mixing of residential uses with office and/or commercial uses is encouraged within the Village Commercial Zone. On any parcel within the Village Commercial Zone, the mixing of residential and nonresidential uses as outlined above under “Permitted Uses” shall be permitted by right subject to the following requirements:</p> <p style="padding-left: 40px;">a. All residential components of a mixed use project shall be located either above at least one story of a nonresidential use or to the rear of a nonresidential use building; residential uses shall not be permitted on the ground floor unless they are located behind a nonresidential use.</p>	X	X	P

<b>E. Accessory Uses</b>	<b>C-1</b>	<b>C-2</b>	<b>VC</b>
1. Accessory structures and uses located on the same site as a permitted use.	P	P	P
2. Accessory structures and uses located on the same site as a Conditional Use	C	C	C

<b>F. Temporary Uses</b>	<b>C-1</b>	<b>C-2</b>	<b>VC</b>
2. Temporary uses as prescribed in Section 24.11.120	P	P	P

SECTION 3: Section 24.05.130 of Chapter 24 of the Imperial Municipal Code is hereby amended to read as follows:

**24.05.130 PROPERTY DEVELOPMENT STANDARDS: C ZONES**

Prior to the construction of any building or structure on any lot within the C Zones a Site Plan Review is required, pursuant to Section 24.19.500. The following property development standards shall apply to all land and building permitted in their respective commercial zones. Any legal lot/parcel may be used as a building site, except no building permit shall be issues for

any lot having lot size of less than 3,000 square feet. Each building site shall have a minimum 20-foot wide vehicular access to a public street.

The following requirements are minimums unless otherwise stated.

<b>A. General Requirements</b>	<b>C-1</b>	<b>C-2</b>	<b>VC</b>
1. Lot area, sq. ft. or acres	N/A	N/A	N/A
2. Lot width, in feet	50	60	25
3. Lot depth, in feet	135	100	100
4. Front yard setback, in feet	12	12	0
5. Side yard setback each side, in feet. Total of combined side yard setbacks must equal 10 feet.	0/10	0/10	0
6. Side yard setback, street side, in feet	20	12	0
7. Rear yard, in feet	0	0	0
8. Side and rear yards abutting any residential zones	20	20	0
9. Lot coverage, maximum	60%	60%	40%
10. Building height	35 feet maximum or three stories whichever is less		
11. Off-street parking	<p>In all C-1 and C-2 Zones, all provisions of Section 24.13 shall apply. Within the VC Zones, 50% percent of the required parking for the same use under Section 24.13 shall apply. On-street parking and off-site parking may be counted towards the parking requirement for all uses within the VC Zone.</p>		
12. Signs	<p>In all C-1 and C-2 Zones, all provisions of Section 24.16 shall apply. Within the VC Zones, Section 24.16 shall also apply, except that projecting signs and hanging signs are permitted for ground floor uses. The size and location of projecting and hanging signs shall be reviewed by the Downtown Review Committee.</p>		

SECTION 4: Section 24.05.140 of Chapter 24 of the Imperial Municipal Code is hereby created to read as follows:

**24.05.140 SPECIAL REQUIREMENTS FOR THE VILLAGE COMMERCIAL ZONE**

The City recognizes that architectural design and treatment of buildings and structures, integrity of design, orientation and configuration of buildings and structures upon a site, compatibility of development with adjacent development, traffic circulation and parking, and landscaping and open areas are all factors which should be addressed with respect to development of any property within the City's downtown village area. The City's objective is to create attractive, desirable and healthy neighborhoods for work and residence by encouraging and to promoting development which is not only functional and attractive, but is also functionally and aesthetically compatible with surrounding development and enhancing to the area in which it is located.

- A. Downtown Imperial Redevelopment Master Plan.** The Downtown Imperial Redevelopment Master Plan is hereby incorporated as reference.
  
- B. Downtown Review Committee.** There is created a Downtown Review Committee consisting of members appointed by the Mayor; the City Manager; the Public Works Director; and the Planning Director; or their designated representatives. The purpose of the Downtown Review Committee is to promote and implement the Downtown Imperial Redevelopment Master Plan and to ensure diverse and high quality architecture in the Village Commercial Zone. The Committee shall meet regularly in open meetings at a time to be determined by the Downtown Review Committee. The decision of the Downtown Review Committee may be appealed to the City Council.
  
- C. Review Required.** No person shall construct any building or structure, or relocate, rebuild, alter, enlarge or modify any existing building or structure, until a development plan has been reviewed and approved by the Downtown Review Committee, and no building permit, relocation permit or business license shall be issued until the requirements of this chapter are met. In furtherance of the Downtown Imperial Master Plan, this Zoning Ordinance and other regulations of the City, the Downtown Review Committee may impose such conditions as the Committee deems necessary.
  
- D. Submission of Development Plan.** Application for any development activity in the Village Commercial Zone shall be filed with the Planning Director on a form prescribed by the Downtown Review Committee and shall include the following information:
  - 1. Parcel or lot dimensions;
  - 2. Walls and Fences: Location, height, materials and colors;

3. Off-Street Parking and Loading: Location, number of spaces, dimensions of parking area and loading facilities, internal circulation pattern;
4. Access and Circulation: Pedestrian, vehicular, service; points of ingress and egress, internal circulation;
5. Buildings and Structures: Location, floor plans, elevations, size, height, proposed use; type and pitch of roofs; size and spacing of windows, doors and other openings; materials, colors and architectural treatment;
6. Spaces Between Buildings: Location, size and dimension; yards and setbacks;
7. Open spaces, recreation areas or greenbelts; location, size and facilities;
8. Public improvements; street dedications and improvements; public utilities installations including poles, transformers, vaults and meters; design and location;
9. Signs: Location, size, color, design and materials;
10. Lighting: Location and general nature; hooding devices;
11. Towers, chimneys, roof structures, flagpoles, radio and television masts, all mechanical equipment external to main or accessory structures; location, design, size, height, materials, colors and architectural treatment;
12. Such other data as the planning staff or Committee may require to make necessary findings.

**E. Architectural Design Standards.** New construction and reconstruction or rehabilitation of existing buildings and/or sites shall be reflective of high quality in design. One or more of the following architectural styles shall be utilized: Mission, Spanish, Monterey, Western, and Traditional Downtown. Contemporary styles may be used where local materials are incorporated and design elements from surrounding structures are likewise incorporated. Creative interpretations of traditional design elements will be reviewed on a case-by-case basis. All development activity within the Village Commercial Zone shall adhere to the design guidelines outlined in the Downtown Imperial Redevelopment Master Plan as it relates to the following:

1. Site planning;
2. Architecture;
3. Architectural form and composition;
4. Compatibility;
5. Roof articulation;
6. Storefronts;
7. Porticos, colonnades, arcades, and awnings;
8. Rear entrances;
9. Lighting;
10. Building materials;

11. Building color; and
12. Landscaping and public spaces.

**F. Sidewalk Cafes, Porticos and Other Structures Located in the Public Right-of-Way**

1. The Downtown Review Committee may approve a sidewalk permit for sidewalk cafes and other structures located in the public right-of-way provided they are in compliance with the regulations of this Section. A sidewalk permit shall be a license to use the sidewalk and shall not grant nor shall it be construed or considered to grant any person any property right or interest in the sidewalk.
2. Sidewalk cafes and other structures located in the public right-of-way shall be located in a manner that promotes efficient and direct pedestrian movement. A minimum of one unobstructed pedestrian path at least five feet wide shall be maintained at all times. In areas of congested pedestrian activity, the Downtown Review Committee may require a wider pedestrian path.
3. The perimeter around the sidewalk cafe or permanent outdoor display area may be delineated using nonpermanent fixtures such as railings, potted plants, decorative chains, or other approved fixtures. Tables, chairs, umbrellas, canopies, awnings and any other fixtures shall be of uniform design and shall be made of quality materials and workmanship to ensure the safety and convenience of users and to enhance the visual quality of the urban environment.
4. By use of any permit granted hereunder, the permittee agrees to indemnify, defend, save, and hold harmless any government agency and its agents and employees from any and all claims, liability, lawsuits, damages and causes of action which may arise out of this permit or the permittee's activity regarding the sidewalk. The permittee shall enter into a written agreement with the City to evidence this indemnification.
5. Tables, chairs, and other fixtures located within the sidewalk must be secured or anchored to one another or removed from the sidewalk at the close of business to ensure that the fixtures will be stable during inclement weather conditions and to deter theft. No tables, chairs, or any other fixtures used in connection with a sidewalk permit shall be attached, chained, or in any manner affixed to any tree, post, sign, or other public fixture.
6. The sidewalk cafe or permanent outdoor display area including the area extending from the sidewalk cafe area to the street and five feet beyond either end, shall be maintained by the permittee in a neat and orderly appearance at all times and shall be cleared of all debris on a periodic basis during the day and at the close of each business day.
7. The permittee is responsible for repair of any damage to the sidewalk caused by the sidewalk cafe or permanent outdoor display.



# Zoning Map of The City of Imperial

**Fastest Growing City in California!**



**Population: 16,708**  
**Annual Growth Rate: 3.8% (9th in the State)**  
**County Population: 180,672**  
**Annual Growth Rate: 0.6%**  
**Median Age: 31**  
**Median Household Income: \$62,500**  
**Household Size: 3.46**  
**Miles to Metro San Diego**  
**Miles to Metro Los Angeles**

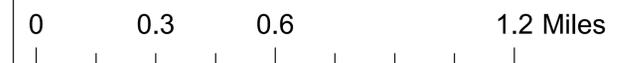
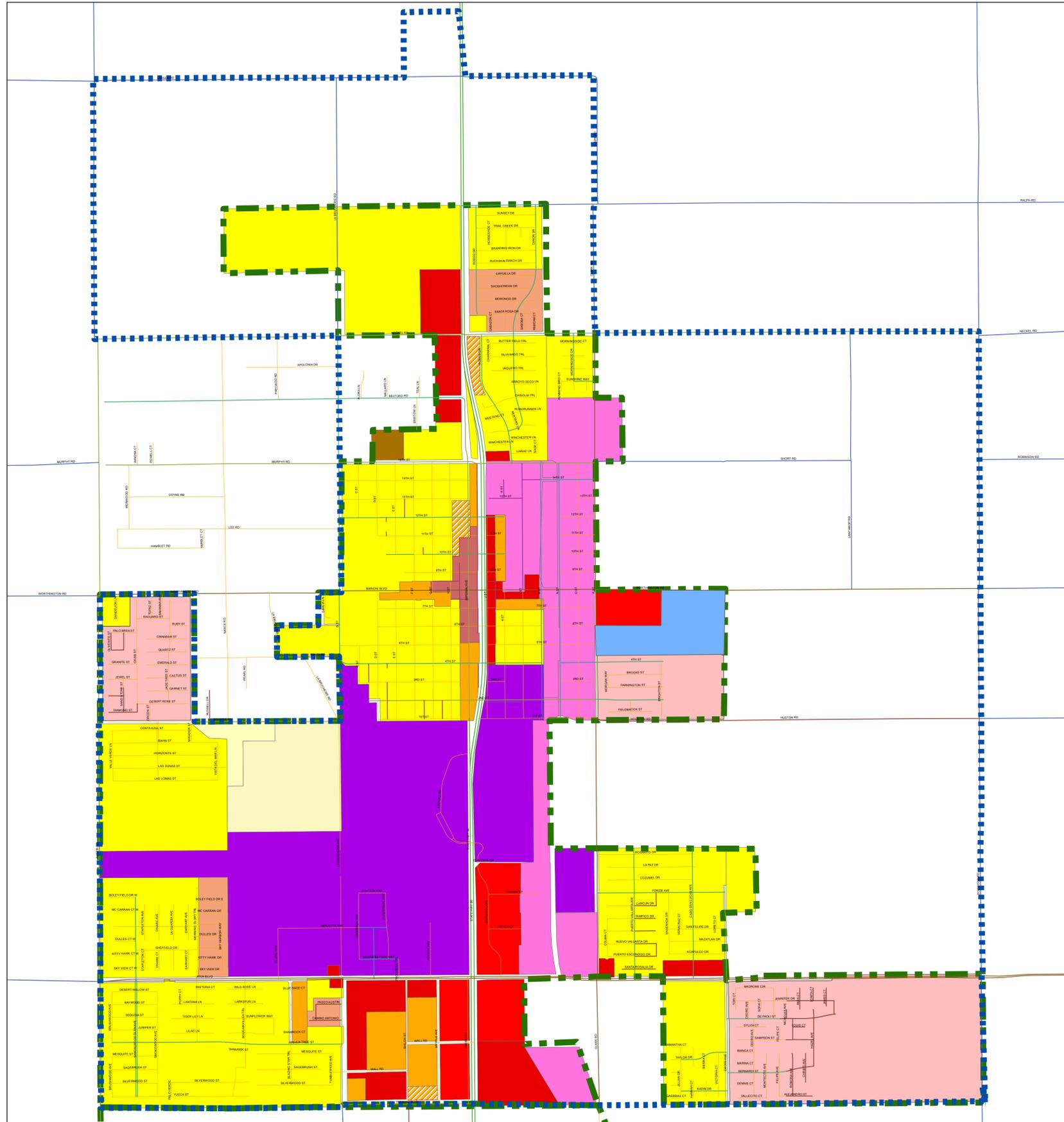
## Legend

-  Sphere Of Influence
-  City Limits

## Zoning

### Class

-  C-2 : Commercial General
-  I-1 : General Industrial
-  MHP : Mobile Home Park
-  C-1 : Commercial Neighborhood
-  PUD : Planned Unit Development
-  I-2 : Rail Served Industrial
-  RA : Residential Apartment
-  RC : Residential Condominium
-  RL : Residential Low Density
-  R-1 : Residential Single Family
-  RR : Residential Rural
-  SP : Specific Plan Overlay
-  VC : Commercial Village
-  PF: PUBLIC FACILITY



Prepared by:  
 City of Imperial  
 November 1, 2016  
 Data Source:  
 City of Imperial GIS  
 Stateplane NAD 83

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF IMPERIAL AMENDING  
THE CODIFIED ORDINANCES TO PROVIDE FOR  
MEDICINAL CANNABIS DISPENSARIES**

The City Council of the City of Imperial does ordain as follows:

Section 1: Article XII (Regulation of Marijuana Under Proposition 64) is hereby renumbered to be Article XIII.

Section 2: Article XII (Medical Marijuana Dispensaries) is hereby repealed and reenacted to read as follows:

Chapter 15, Article XII  
Medical Cannabis Dispensaries

- Section 15-85.1. Definitions.
- Section 15-85.2. Business Permit Required.
- Section 15-85.3. On-Site Consumption Permit.
- Section 15-85.4. Regulations.
- Section 15-85.5. Performance and Operating Standards.
- Section 15-85.6. Regulatory Fees; Seller's Permit.
- Section 15-85.7. Sales.
- Section 15-85.8. Revocation, Suspension and Appeals.
- Section 15-85.9. Prohibited Operations; Nonconforming Uses.
- Section 15-85.10. Liability and Indemnification.
- Section 15-85.11. Examination of Books, Records, Witnesses-Penalty.

15-85.1. Definitions.

The following words or phrases, whenever used in this Chapter, shall be given the following definitions:

- (a). "Cannabis" or "Marijuana" shall have the same definition as Business and Professions Code Section 19300.5(f), as may be amended, which, as of March 2016, defines "cannabis" as 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 marijuana. "Cannabis" also means marijuana as defined by 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 other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant which is incapable of germination. "Cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(b). "Cannabis dispensary" or "Dispensary" shall mean a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis and medical cannabis products as part of a retail sale.

(c). "City Manager" means the City Manager of the City of Imperial or his/her designee.

(d). "Collective" means any association, affiliation, or establishment jointly owned and operated by its members that facilitate the collaborative efforts of qualified patients and primary caregivers, as described in State law.

(e) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(f). "Delivery only dispensary" means a cannabis dispensary that provides medical cannabis or medical cannabis products to primary caregivers or qualified patients as defined in Section 11362.7 of the Health and Safety Code exclusively through delivery.

(g). "Medical marijuana" or "Medical cannabis" means marijuana authorized in strict compliance with Health and Safety Code Sections 11362.5, 11362.7 et seq., as such sections may be amended from time to time.

(h). "Parcel of land" means one piece of real property as identified by the county assessor's parcel number (APN) that is one contiguous parcel of real property, which is used to identify real property, its boundaries, and all the rights contained therein.

(i). "Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.7, as may be amended, which, as of March 2016, defines "Primary Caregiver" as an individual designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include a licensed health care facility, a residential care facility, a hospice, or a home health agency as allowed by California Health and Safety Code Section 11362.7(d)(1)-(3).

(j). "Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as may be amended, which, as of March 2016, means a person who is entitled to the protections of California Health and Safety Code Section 11362.5. For purposes of this ordinance, qualified patient shall include a person with an identification card, as that term is defined by California Health and Safety Code Section 11362.7 et seq.

(k). "Smoking" shall have the same definition as in the Imperial Municipal Code which as of March 2016 includes "inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, or other combustible substance."

(l) "Youth Center" means a community or recreation facility that primarily serves persons eighteen (18) years or younger.

(m). "General Application permit" shall mean all applications issued under the Imperial Municipal Code.

15-85.2. Business permit required and application for permit.

(a). Except for hospitals, research facilities, or an entity authorized pursuant to this Ordinance, it is unlawful for any owner, operator, or association to own, conduct, operate or maintain, or to participate therein, or to cause or to allow to be conducted, operated, or maintained, any dispensary, delivery or delivery only dispensary in or into the City unless there exists a valid business permit in compliance

with the provisions of this Ordinance and a permit issued under this Chapter. This Chapter, and the requirement to obtain a business permit, does not apply to the individual possession or cultivation of medical marijuana for personal use, nor does this Chapter apply to the usage, distribution, cultivation or processing of medical marijuana by qualified patients or primary caregivers when such group is of three (3) or less individuals, and distributing, cultivating or processing the marijuana from a residential unit or a single non-residential parcel of land. Associations of three (3) or less qualified patients or primary caregivers shall not be required to obtain a permit under this Ordinance, but must comply with applicable State law.

(b). The City Manager shall issue no more than                      new valid permits for the operation of dispensaries in the City per year. Delivery only dispensaries shall not be subject to this limit.

(c). In addition to the requirements specified in this Ordinance for business permits, the permit application for a dispensary shall set forth the following information:

1. Unless the City Manager in his/her discretion determines that the location will not impact the peace, order and welfare of the public evidence that the proposed location of such dispensary is not within six hundred (600) feet of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive (but not including any private school in which education is primarily conducted in private homes), or youth center. The proposed dispensary or delivery only dispensary must be located in a zone designated as C-2 by the City Ordinance, or its equivalent as may be amended, of the City. In addition to the other requirements of this Ordinance, a dispensary must also obtain a conditional use permit.

2. A plan of operations that will describe how the dispensary or delivery only dispensary will operate consistent

with State law and the provisions of this Chapter, including but not limited to:

- i. Controls to ensure medical marijuana will be dispensed only to qualified patients and primary caregivers, and
  - ii. Controls to acquire, possess, transport and distribute marijuana to and from State-licensed medical cannabis entities.
3. A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary, in accordance with minimum security measures required by State law. The security plan shall be reviewed by the Police Department and the Office of the City Manager and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).
4. Confirmation of the following criteria:
- i. That the dispensary or delivery only dispensary will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;
  - ii. That the dispensary or delivery only dispensary will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
  - iii. That the dispensary or delivery only dispensary will not interfere with the movement of people;
  - iv. That the dispensary or delivery only dispensary will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;
  - v. That the design will avoid unduly large or obtrusive signs, bleak unlandscaped parking areas, and an overall garish impression. All proposed signs and methods of on-site advertisement are to be formally submitted via application to the Community Development Department. All proposed signs and methods of on-site advertisement will be reviewed by the Development Review Committee and then taken to the Planning Commission for final approval;
  - vi. That adequate litter receptacles will be provided where appropriate;
  - vii. That where the dispensary or delivery only dispensary is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep;
  - viii. That no cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility.
5. Such other information deemed necessary to conduct any investigation or background check of the applicant, and for the City Manager to determine compliance with this Chapter, the City's Municipal Code and Zoning Code.

(d). Applications for dispensaries shall be subject to a hearing and must provide public notice of the hearing in accordance with City Ordinance. Applications for delivery only dispensaries shall not be subject to a hearing requirement. The City Manager shall be the investigating official referred to in this Ordinance to whom the application shall be referred. In recommending the granting or denying of such permit and in granting or denying the same, the City Manager shall give particular consideration to the capacity, capitalization, and complaint history of the applicant and any other factors that in the City Manager's discretion he/she deems necessary to the peace, order and welfare of the public. All applicants shall pay an application fee, a permit fee, and all inspection fees that may be required as part of the application process, as specified in the City's Fee Schedule.

(e). At the time of submission of dispensary permit application, the applicant shall pay a dispensary permit application fee. The fee amount shall be set in the City's Fee Schedule.

#### 15-85.3 Onsite consumption permit.

(a). An applicant must obtain a secondary onsite consumption permit in order for cannabis to be consumed on the premises of the dispensary.

(b). An onsite consumption permit may be issued at the discretion of the City Manager to a dispensary in good standing following a public hearing conducted according to the requirements of this Ordinance. The City Manager shall take into consideration the operating history and business practices of the applicant, and any other factors that are deemed necessary to promote the peace, order and welfare of the public. An application for an onsite consumption permit may be denied for failure to meet requirements of the City Building Code, City Fire Code, City Planning Code, this Chapter, and/or any violation of State or local law relevant to the operation of dispensaries.

(c). The City Manager shall establish conditions of approval for each onsite consumption permit, including but not limited to a parking plan, ventilation plan, anti-drug driving plan, and set hours of operation. Set hours of operation may only be adjusted by submitting a written request to and obtaining approval from the City Manager's Office.

(d). The permit shall be subject to suspension or revocation in accordance with this Ordinance, and the owner/operator shall be liable for excessive police costs related to enforcement.

(f). The application fee and annual fee for the onsite consumption permit shall be specified in the City's Fee Schedule.

(g). All onsite consumption permits shall be special business permits and shall be issued for a term of one year. No property interest, vested right, or entitlement to receive a future license to operate a medical marijuana business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the City Manager subject to this Ordinance.

#### 15-85.4. Regulations.

The City Manager shall establish administrative regulations for the permitting of dispensaries and delivery only dispensaries, and may set further standards for operation of dispensaries and delivery only dispensaries. The dispensary shall meet all the operating criteria for the dispensing of medical marijuana required pursuant to State law, the City Manager's administrative regulations, and this Chapter.

#### 15-85.5. Performance and operating standards.

The City Manager shall develop and implement performance and operating standards consistent with those set forth in Ordinance No. 12585 in the Office of the City Manager Guidelines and shall modify such Guidelines from time to time as required by applicable law and consistent with public health, welfare and safety. Noncompliance of such operating standards shall constitute a breach of the permit issued hereunder and may render such permit suspended or revoked based upon the City Manager's determination.

The following performance standards shall be included in the City Administrative regulations:

- (a). No cannabis shall be smoked inside the premises of the dispensary.
- (b). The dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
- (c). Dispensaries and delivery only dispensaries must implement a track and trace program that records the movement of medical cannabis and medical cannabis products in their custody and make these records available to the City Manager upon request.

#### Section 15-85.6. Regulatory fees; seller's permit.

- (a). In addition to the dispensary application fee, the dispensary shall pay an annual regulatory fee at the same as applying for the business tax certificate or renewal thereof. The dispensary shall post a copy of the business tax certificate issued pursuant to this Ordinance together with a copy of the dispensary permit and onsite consumption permit (if applicable) issued pursuant to this Chapter and ~~this Ordinance~~ in a conspicuous place in the premises approved as a dispensary at all times.
- (b). The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a seller's permit from the State Board of Equalization.
- (c). The fees referenced herein shall be set by the Fee Schedule, as modified from time to time.

#### 15-85.7. Sales.

Retail sales of medical marijuana that violate California law or this Ordinance are expressly prohibited.

#### 15-85.8. Revocation, suspension and appeals.

Any decision by the City Manager, except for the suspensions or revocations of permits, shall be final and conclusive, and there shall be no right of appeal to the City Council or any other appellate body.

For suspensions or revocations the City shall follow the procedures set forth in the City Ordinance involving appeals to City Council related to conditional use permits. Such request for appeal must be made in writing within fourteen (14) days of the City Manager's decision. The decision of the City Council shall be final and conclusive.

15-85.9. Prohibited operations; nonconforming uses.

(a). All dispensaries in violation of California Health and Safety Code Section 11326.7, et seq., 11362.5, and this Chapter are expressly prohibited. It is unlawful for any dispensary in the City, or any agent, employee or representative of such dispensary, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the dispensary or during the delivery of medical cannabis.

(b). No use which has not been duly permitted under this Ordinance shall be deemed to have been a legally established use under the provisions of the Imperial Planning Code, this Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

(c). Any violations of this Chapter, including administrative regulations authorized by this Chapter, may be subject to administrative citation and other applicable legal, injunctive or equitable remedies.

~~15-85.10.~~ Liability and indemnification.

(a). To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Chapter shall not become a personal liability of any public officer or employee of the City.

(b). To the maximum extent permitted by law, the permittees under this Chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Imperial, the Imperial City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called City) from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "action") against the City to attack, set aside, void or annul any medical cannabis related approvals and actions and comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.

(c). Within ten (10) calendar days of the service of the pleadings upon the City of any action as specified in Subsection B. above, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment or invalidation of the medical cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the City.

Section 15-85.11. Examination of books, records, witnesses-Penalty.

(a). Permittees must provide the City Manager with access to any licensed dispensary during normal business hours to verify compliance with this Chapter.

(b). Permittees must provide the City Manager with access to any and all financial information regarding the dispensary at any time, as needed to conduct an audit of the permittees under this Chapter to verify tax compliance under this Ordinance and/or gross receipts tax requirements.

(c). The City Manager is authorized to examine the books, papers, tax returns and records of any permittee for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax due.

(d). The City Manager is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax, registration or permit fees due under this Chapter. In order to ascertain the business tax, registration or permit fees due under this Chapter, the City Manager may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.

(e). Every permittee is directed and required to furnish to the City Manager, the means, facilities and opportunity for making such financial examinations and investigations.

(f). Any permittee refusal to comply with this section shall be deemed a violation of this Chapter, and administrative subpoenas shall be enforced pursuant to applicable law.

Section 3. Article XII.1 of Chapter 15 is hereby enacted to read as follows:

#### Chapter 15, Article XII.1

#### MEDICAL CANNABIS CULTIVATION, MANUFACTURING AND OTHER FACILITY PERMITS

Section 15-85.12. Findings and Purpose.

Section 15-85.13. Definitions.

Section 15-85.14. Permit Required.

Section 15.85.15. Cultivation, Distribution, Testing and Transporting of Medical Cannabis

Section 15.85.16. Application for Permit

Section 15.85.17. Operating and Performance Standards.

Section 15.85.18. Examination of Books, Records, Witnesses-Information Confidential-Penalty

Section 15.85.19. Liability and Indemnification.

#### 15-85.12. Findings and purpose.

(a). The City Council finds that the lack of regulation of medical cannabis facilities other than medical cannabis dispensaries, including unregulated cultivation, manufacturing and processing of medical cannabis in the City could cause impacts to the community. These impacts could include damage to buildings containing indoor medical cannabis cultivation facilities, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home-invasion robberies and similar crimes, and that many of these impacts ~~could~~ disproportionately on residential neighborhoods. These impacts ~~could~~ create an increase in response costs, including code enforcement, building, fire, and police staff time and expenses.

(a). The City Council further finds that the creation of a permitting process implementing public health and safety standards for medical cannabis facilities other than dispensaries will not only improve public health and safety but provide a measure of certainty for legitimate businesses and thus encourage them to situate in Imperial.

(b). The City acknowledges that the voters of the State have provided an exemption to prosecution for the cultivation, possession of cannabis for medical purposes under the Compassionate Use Act (CUA), but that the CUA does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the City.

(c). The City acknowledges that sales of medical marijuana are subject to taxation by both the City and the State and that the California State Board of Equalization (BOE) is also requiring that businesses engaging in such retail transactions hold a seller's permit.

(d). The primary purpose and intent of this Chapter is to regulate non-dispensary medical cannabis facilities, including the cultivation of medical cannabis, in a manner that protects the public health, safety and welfare of the community, as authorized by the Medical Marijuana Regulation and Safety Act.

#### 15-85.13 Definitions.

The following words or phrases, whenever used in this Chapter, shall be given the following definitions:

(a). "Applicant" as used only in this Chapter shall be any industrial cannabis cultivation, processing, manufacturing facility that applies for a permit required under this Chapter.

(b). "Batch" as used only in this Chapter shall be defined by the City Manager to mean a discrete quantity of dried cannabis produced and sold together.

(c). "Cannabis" or "Marijuana" as used only in this Chapter shall be the same, and as may be amended, as is defined in this Ordinance.

(d). "Cannabis concentrate" as used only in this Chapter shall mean manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency.

(e). "Cannabis Dispensary" as used only in this Chapter shall be the same, and as may be amended, as is defined in this Ordinance and is also referred to herein as "dispensary."

(f). "City Manager" as used only in this Chapter shall mean the City Manager for the City of Imperial and his or her designee.

(g). "Cultivate" as used only in this Chapter shall mean to plant, grow, harvest, dry, cure, grade or trim more than forty-eight (48) ounces of dried cannabis and/or to plant, grow, harvest, dry, cure, grade or trim cannabis in an area greater than ninety-six (96) square feet of total area within one parcel of land.

(h). "Distribute" as used only in this Chapter shall mean the procurement, sale, and transport of medical cannabis and medical cannabis products between State licensed medical cannabis entities.

(i). "Edible cannabis product" as used only in this Chapter shall mean manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum.

(j). "Manufactured cannabis" as used only in this Chapter shall mean raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

- (k). "Manufacture" as used only in this Chapter shall mean to produce, prepare, propagate, or compound manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- (l). "Medical cannabis collective" as used only in this Chapter shall be the same, and as may be amended, as is defined in Section 5.80.010.
- (m). "Medical marijuana" or "Medical cannabis" as used only in this Chapter shall be the same, and as may be amended, as is defined in this Ordinance.
- (n). "Parcel of land" as used only in this Chapter shall be the same, and as may be amended, as is defined in this Ordinance.
- (o). "Permittees" as used only in this Chapter are individuals or businesses that have obtained a permit under this Chapter to cultivate, distribute, manufacture, test or transport.
- (p). "Primary caregiver" as used only in this Chapter shall be the same, and as may be amended, as is defined in this Ordinance.
- (q). "Qualified patient" as used only in this Chapter shall be the same, and as may be amended, as is defined in this Ordinance.
- (r). "Testing" as used only in this Chapter shall mean the conducting of analytical testing of cannabis, cannabis-derived products, hemp, or hemp-derived products.
- (s). "Topical cannabis" as used only in this Chapter shall mean a product intended for external use such as with cannabis-enriched lotions, balms and salves.
- (t). "Transport" as used only in this Chapter means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity, as defined by State law.
- (u). "Transporter" as used only in this Chapter means a person licensed to transport medical cannabis or medical cannabis products between State licensed medical cannabis facilities.
- (v). "Volatile solvents" as used only in this Chapter shall mean those solvents used in the cannabis manufacturing process determined to be volatile by the California Department of Public Health or Imperial Fire Department.

15-85.14. Permit required.

- (a). Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to cultivate, distribute, manufacture, test or transport without a valid business permit issued pursuant to the provisions of this Chapter. Possession of other types of State or City permits or licenses does not exempt an applicant from the requirement of obtaining a permit under this Chapter.
- (b). The City Manager shall issue, as detailed below, special business permits for medical cannabis cultivation, distributing, manufacturing, testing and transporting. All applicants shall pay any necessary fees including without limitation application fees, inspection fees and regulatory fees that may be required hereunder.

- (c). All cultivation, distribution, manufacturing, testing and transporting permits shall be special business permits and shall be issued for a term of one year. No property interest, vested right, or entitlement to receive a future license to operate a medical marijuana business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the City Manager subject to his/her discretion.
- (d). Cultivation, distribution, manufacturing, testing, and transporting permits shall only be granted to entities operating legally according to State law.
- (e). More than one medical cannabis operator may situate on a single parcel of land, however, each operator will be required to obtain a permit for their applicable permit category.
- (f). No proposed use under this Chapter shall be located within a 600-foot radius of any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive (but not including any private school in which education is primarily conducted in private homes) nor situate in an area other than as prescribed below unless the City Manager in his/her discretion determines that the location will not impact the peace, order and welfare of the public.

15-85.15 Cultivation, distribution, testing and transporting of medical marijuana.

- (a). Proposed cultivation, distribution, testing or transporting locations shall be in areas where "light manufacturing industrial," "research and development," or their equivalent use, is permitted by right under the Imperial Planning Code, as may be amended; provided, however, that no vested or other right shall inure to the benefit of any cultivation, distribution, testing or transporting facility permittee.
- (b). The aforementioned location restrictions shall not apply to existing dispensary cultivation facilities located at a retail location if the City Manager in his/her discretion determines that the location will not impact the peace, order and welfare of the public.
- (c). The maximum size of any areas of cultivation shall not exceed any limitations or restrictions set forth in State law.

15-85.15. Manufacturing of medical marijuana.

- (a). Proposed locations for manufacturing of medical cannabis products using nonvolatile solvents shall be in areas where "custom manufacturing industrial," or its equivalent use, is permitted by right under the Imperial Planning Code, as may be amended, or in residential zones if the manufacturing is compliant with the restrictions imposed on cottage food operators under the California Homemade Food Act, Chapter 6.1 (commencing with Section 51035) of Part 1 of Division 1 of Title 5 of the Government Code.
- (b). Proposed locations for manufacturing of medical cannabis products using volatile solvents shall be in areas where C-2, or its equivalent use, is permitted by right pursuant to an appropriate overlay zone or other designation under the Imperial Zoning Code, as may be amended.

15-85.16. Application for permit.

- (a). All applicants shall pay an application fee as specified in the Fee Schedule.
- (b). All applicants shall submit written information to the City Manager that shall include, as applicable, plans for security, odor mitigation, waste disposal, pest management, product testing, worker safety and compensation, local hiring, non-diversion of product, facility location, capitalization, business plans, applicant complaint history, criminal background checks, plan for minimizing environmental impacts, compliance with City building and fire codes, and any additional information deemed necessary by the City Manager. The City Manager may design application forms specific to each permitted category and require inspections of proposed facilities before issuing a permit under this Chapter.
- (c). The City Manager shall establish criteria for minimizing the carbon footprint, environmental impact and resource needs of permitted facilities. Applicants that demonstrate they can satisfy this environmental criteria, such as cultivators seeking to operate greenhouse facilities, will be given preference in the processing of their application.
- (d). All applicants shall demonstrate compliance with State law, during the course of the permit application procedure described under this section, prior to issuing any permit, and upon the issuance of a permit, thereafter.

15-85.17. Operating and performance standards.

- (a). Facilities permitted under this Chapter shall not be open to the public. The City Manager shall establish operating and performance standards for permittees. The intent of these operating and performance standards is to minimize any negative effects and enhance the benefits of permitted facilities on the surrounding community.
- (b). The following standards shall be included in the City Manager's regulations:
  - 1. No cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility.
  - 2. Permitted facilities must install security cameras capable of documenting activity inside and outside the facility, as determined by the Imperial Police Department.
  - 3. Permitted facilities must implement a track and trace program that records the movement of medical cannabis and medical cannabis products in their custody and make these records available to the City Manager upon request.
- (c). Noncompliance of such operating standards shall constitute a breach of the permit issued hereunder and may render such permit suspended or revoked based upon the City Manager's determination.

15-85.18. Examination of Books, Records, witnesses-Information Confidential-Penalty

- (a). The City Manager shall be provided access to any licensed medical cannabis cultivation, manufacturing, and other facility during normal business hours to verify compliance with this Chapter.
- (b). The City Manager shall be provided access to any and all financial information at any time, as needed to conduct an audit of the permittees under this Chapter to verify tax compliance under this Ordinance and/or gross receipts tax requirements.

(c). The City Manager is authorized to examine the books, papers, tax returns and records of any permittee for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax due.

The City Manager is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax, registration or permit fees due under this Chapter. In order to ascertain the business tax, registration or permit fees due under this Chapter, the City Manager may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.

(d). Every permittee is directed and required to furnish to the City Manager, the means, facilities and opportunity for making such financial examinations and investigations.

(e). Any permittee refusal to comply with this Section shall be deemed a violation of this Chapter, and administrative subpoenas shall be enforced pursuant to applicable law.

~~15-85.19~~ 19. Liability and indemnification.

(a). To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Chapter shall not become a personal liability of any public officer or employee of the City.

(b). To the maximum extent permitted by law, the permittees under this Chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Imperial, the Imperial City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called "City") from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "action") against the City to attack, set aside, void or annul, any medical cannabis-related approvals and actions and strictly comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.

(c). Within ten (10) calendar days of the service of the pleadings upon the City of any action as specified in Subsection (b) above, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment or invalidation of the medical cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the City.

Section 4: Effective Date. This ordinance shall take effect and shall be in force thirty (30) days after the date of adoption, and prior to the expiration of fifteen (15) days from the passage thereof, shall be published at least once in a newspaper of general circulation printed and published in the County of Imperial, together with the names of the members of the City Council voting for and against the same.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Imperial, this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor of the City of Imperial

**ATTEST:**

\_\_\_\_\_  
City Clerk

**RESOLUTION NO PC2017-20**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL, CALIFORNIA, RECOMMENDING APPROVAL TO THE PLANNING COMMISSION FOR THE ZONING TEXT AMENDMENT TO THE IMPERIAL ZONING CODE FOR THE ADDITION OF "MEDICAL CANNABIS DISPENSARIES" AND USES SETFORTH IN CHAPTER 15, ARTICLE XII MEDICAL CANNABIS DISPENSARIES TO SECTION 24.05.120 OF THE IMPERIAL ZONING CODE- COMMERCIAL ZONES.**

**WHEREAS**, City of Imperial Community Development Department Staff have prepared a Zoning Text Amendment item, with direction from the City Council regarding "Medical Cannabis Dispensaries" and uses within the Commercial Zones, specifically the C-2 zones. The Zoning Text Amendment would allow the uses of "Medical Cannabis Dispensaries" and uses within C-2 zones contingent upon the approval of a Conditional Use Permit and meeting all the requirements set-forth in the proposed Chapter 15, Article XII "Medical Cannabis Dispensaries" of the City of Imperials Municipal Code, following the direction from the City of Imperials' Planning Commission; and

**WHEREAS**, a duly notified public hearing was held by the Planning Commission on December 13, 2017 and;

**WHEREAS**, upon hearing and considering all testimony and arguments, examining, the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the Zoning Text Amendment.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) That based on the evidence presented at the public hearing, the Planning Commission hereby **RECOMMENDS** the Zoning Text Amendment as shown in Exhibits A based on the following findings:
  - 1. The ordinance has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act.
  - 2. The proposed Zoning Text Amendment is consistent with the goals, objectives, policies, and intent of the Imperial General Plan.
  - 3. The proposed Zoning Text Amendment is consistent with the objective of the City of Imperial Zoning Ordinance.

RECOMMENDED by the Planning Commission of the City of Imperial, this 13<sup>th</sup> day of December 2017.

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Sam Ross, Planning Commission  
Chairman

ATTEST:

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Debra Jackson, City Clerk