

ORDINANCE NO. 18-765

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALIFORNIA CITY
AMENDING ARTICLE 29 TITLE 9 CANNABIS BUSINESSES AND DISPENSARIES**

WHEREAS, the City has received applications for development of cannabis businesses, cannabis manufacturing facilities, and cannabis dispensaries, and;

WHEREAS, the City currently limits development of such uses to medical marijuana and desires to amend the City Municipal Code to provide for zoning and use controls and regulations on such uses to allow both medical and adult use cannabis businesses and dispensaries, and

WHEREAS, Approval of the proposed amendments to City of California City Land Use and Development Code and Municipal Code would be exempt based on the following:

- (1) This ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.
- (2) This ordinance is not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

WHEREAS, the Planning Commission has duly called, advertised and conducted a Public Hearing required by law concerning proposed, said municipal code and zoning amendments; and

WHEREAS, the City of California City Planning Commission has considered public and staff input the July 17, 2018 regular City of California City Planning Commission meeting and by resolution recommended that the City Council of the City of California City adopt the following zoning code amendment to Title 9, Article 29 of the California City Land Use and Development Code, attached and incorporated herein; and

WHEREAS, the City Council has duly called, advertised and conducted a Public Hearing required by law concerning proposed, said municipal code and zoning amendments; and

NOW, THEREFORE, the City Council of the City does ordain as follows:

SECTION 1. TITLE 9, ARTICLE 29 of the California City Land Use and Development Code, is hereby amended to read as follows:

ARTICLE 29. - CANNABIS BUSINESSES AND CANNABIS DISPENSARIES
Sec. 9-2.2900. – Purpose and General Prohibitions.

(a) The purpose of this Article is to further fulfill the purposes and intents set forth in Title 5, Chapter 6 of the California City Municipal Code.

(b) The operation of any cannabis business within the City is strictly prohibited, unless the owner and/or operator first obtains a cannabis business or dispensary permit, issued by the City pursuant the requirements of Title 5, Chapter 6 of the City's Municipal Code. Owners and operators shall at all time remain in compliance with the requirements of Title 5, Chapter 6, and with all applicable State laws, and shall further be required to obtain a state issued cannabis business permit as soon as those permits are available for issuance.

Sec. 9-2.2901. - Applicability.

(a) Nothing in this Article is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Compassionate Use Act or other state law.

(b) All the provisions of this Article shall apply to all property, public and private, within the City.

(c) All the provisions of this Article shall apply indoors and outdoors.

Sec. 9-2.2902. - Definitions. Unless otherwise provided herein, the terms used in this Article shall have the meanings ascribed to them in Title 5, Chapter 6 of the California City Municipal Code, unless otherwise indicated.

Sec. 9-2.2903. - Location and Design of Cannabis businesses. Cannabis businesses including those permitted to engage in cultivation, manufacturing, testing, distribution, and dispensing of cannabis and cannabis products are subject to the following zoning and locational requirements:

(a) Cannabis businesses are permitted uses on property zoned M-1 (Light Industrial) or M-2 (Heavy Industrial) only, and must meet all of the requirements for developments in those zones; and

(b) The property on which the cannabis business is located must also meet all of the following distance requirements:

(1) It shall be no closer than two hundred (200) feet of any residentially zoned parcel in the City, including any legal non-conforming residential uses as of the date the cannabis business permit is issued. The distance between cannabis business and the residential parcel shall be measured from the outer boundaries of the residential parcel to the first structure on the property seeking the cannabis permit.

(2) It shall be no closer than one thousand (1000) feet from any parcel containing any of the following:

A. A school, college or university (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).;

B. A church or other house of worship.

C. A daycare facility serving nine or more children and is licensed by the county.

D. A drug or alcohol rehabilitation facility providing on-site medical treatment.

(c) Each proposed cannabis business project shall:

- (1) Conform with the City's general plan, any applicable specific plans, master plans, and design requirements.
- (2) Comply with all applicable zoning and related development standards.
- (3) Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.
- (4) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
- (5) Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
- (6) Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.

For the purposes of this Article, the distance between parcels shall be the horizontal distance measured in a straight line from the property line where the sensitive use is located to the first structure on the lot seeking the cannabis business permit, without regard to any intervening structures.

Sec. 9-2.2904. - Location and Design of Cannabis Dispensaries.

- (a) Cannabis Dispensaries, both storefront retail and delivery only, are permitted uses on property zoned M-1 (Light Industrial) or M-2 (Heavy Industrial).
- (b) Cannabis Dispensaries, both storefront retail and delivery only, are conditionally permitted uses on property zoned C2 Community Commercial District or C4 Service Commercial District or C5 Regional Commercial District, with the issuance of a conditional use permit.
- (c) Cannabis Dispensaries must meet all of the requirements for developments in those zones and comply with all requirements for Cannabis Businesses set forth in section 9-2.2903.

Sec. 9-2.2905. - Certification from Building Department. Prior to commencing operations, a cannabis business must obtain a certification from the Building Department certifying that the business is located on a site that meets all of the requirements of this Title.

Sec. 9-2.2906. - Cultivation of Cannabis. All cannabis cultivation, whether indoors or outdoors, is prohibited within the City of California City, except as may be specifically authorized through the issuance of a cannabis business permit pursuant to the requirements of Title 5, Chapter 6, of this Code or a maximum of six plants grown indoors as authorized by State law for personnel use.

Sec. 9-2.2907. - Declaration of Public Nuisance. Any use, structure, or property that is altered, enlarged, erected, established, maintained, moved, or operated contrary to the provisions of this Article, is hereby declared to be unlawful and a public nuisance and may be abated by the City through civil proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances.

Sec. 9-2.2908. - Violations.

(a) Violations of this Article shall be punishable pursuant to Title 1, Chapter 3, of this Code, as it may be amended from time to time, and as permitted by State law.

(b) This Article is not the exclusive means for the abatement of illegal cannabis businesses or illegal cannabis dispensaries within the City of California City. The remedies set forth pursuant to this section shall be in addition to any other existing remedies for violations of the Zoning Code, including but not limited to, any action at law or equity.

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. Effective Date. This Ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in the Mojave Desert News, a newspaper of general circulation printed and published in the County of Kern and circulated in the City of California City and hereby designated for that purpose by the City Council.

This Ordinance was introduced and read by title only on the 14th day of August 2018 and was passed and adopted on this the 28th day of August 2018, by the following vote:

AYES: McGuire, Stump, Wood

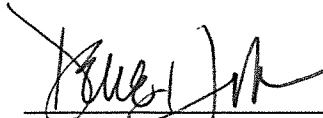
NOES: Parris

ABSENT: None


ABSTAIN: Gomez


Jennifer Wood, Mayor

ATTEST:


Denise Hilliker, City Clerk

APPROVED AS TO FORM

 on behalf of
Christian Bettenhausen, City Attorney