



**PLANNING COMMISSION**  
MARK HAMMERNESS, CHAIRPERSON  
STACY MENDOZA, VICE CHAIRPERSON  
ALICE ABATTI, COMMISSIONER  
VERONICA HARVEY, COMMISSIONER  
RUBEN RIVERA, COMMISSIONER

# AGENDA

**PLANNING COMMISSION  
TRAFFIC COMMISSION  
REGULAR MEETING**

**220 West 9<sup>th</sup> Street  
IMPERIAL, CA 92251**

**WEDNESDAY, MARCH 23, 2022  
6:30PM**

*The Imperial Planning Commission Meetings, including public comments, are being Livestreamed on the City's social media pages. If attending in person, by remaining in the room, you are giving your permission to be recorded.*

1. You are encouraged to observe the City Council meetings via Livestream at the City of Imperial Facebook page.
2. Email public comments to [publicinformation@cityofimperial.org](mailto:publicinformation@cityofimperial.org) by 5:00 pm on Wednesday, March 23, 2022. Comments received by 5:00 pm will be read into the record during the regular meeting.

**IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT (760) 355-4373. NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28CFR 35.102-35.104 ADA TITLE II]**

**A. PLANNING COMMISSION CALL TO ORDER:**

**6:30 PM  
ROLL CALL  
PLEDGE OF ALLEGIANCE  
ADJUSTMENTS TO THE AGENDA**

**B. PUBLIC APPEARANCES**

B-1. Matters not appearing on the agenda. If you wish to address the Planning Commission concerning any item within the Commission's jurisdiction, please raise your hand and be acknowledged by the Chairperson, and at that time state your name and address for the record. The Chairperson reserves the right to place a time limit on each person's presentation of three (3) minutes. It is requested that longer presentations be submitted to the Commission in writing.

B-2. Matters appearing on the agenda. If you wish to address the Planning Commission concerning any item within the Commission's jurisdiction, please raise your hand and be acknowledged by the Chairperson, and at that time state your name and address for the record. The Chairperson reserves the right to place a time limit on each person's presentation of three (3) minutes. It is requested that longer presentations be submitted to the Commission in writing.

**C. CONSENT CALENDAR**

C-1: Approve Planning Commission Meeting December 22, 2021 and March 2, 2022

**D. PLANNING COMMISSION OLD BUSINESS: (RECOMMEND/DENY)**

**D-1: Public Hearing- Discussion/Action: Amendment to Ordinance 795 Relating to Cannabis in the City of Imperial**

1. Approval of **Resolution No. PC2022-03** recommending to the Imperial City Council Approval and Adoption of Ordinance No. 815 to amend Ordinance 795 of Chapter 15 of the Imperial Municipal Code to allow for expansion from one (1) all-exclusive permit of Adult Cannabis uses, to two (2) all-exclusive permit(s); the second permit will only be for cultivation and manufacturing/extraction as defined by the CA Bureau of Cannabis Control.

**E. REPORTS:**

F-1: Commissioners Reports

F-2: Staff Reports

**ADJOURN PLANNING COMMISSION MEETING UNTIL NEXT REGULARLY SCHEDULED MEETING  
WEDNESDAY APRIL 13, 2022 AT 06:30PM.**

NOTE: Any documents produced by the city and distributed to a majority of the Planning Commission regarding any item on this agenda will be made available at the front counter at City Hall, located at 420 South Imperial Avenue, during normal business hours.



# staff report

Agenda Item No. D -1

**To:** City of Imperial Planning Commission

**From:** Alexis Brown, Assistant City Manager

**Date:** MARCH 18, 2022

**Subject:** Public Hearing – Discussion/Action: Amendment to Ordinance 795 Relating to Cannabis in the City of Imperial

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## **Summary/Background**

Whereas the City of Imperial City Council has directed City staff to initiate the amendment process of Ordinance 795 as it relates to medical and adult use cannabis in the City of Imperial. Currently, the City's Ordinance allows for one all-exclusive permit to operate a cannabis facility within the City of Imperial. Specifically, within a C-2 Zone, pending the operation site is not with 1000 sq. ft of a sensitive zone as defined by the California Bureau of Cannabis Control. The current permit allows for uses within all seven categories allowed in the Statue of California. The proposed ordinance 815 to amend would expand from one (1) all-exclusive permit to two (2) all-exclusive permits, with the second only being for cultivation and manufacturing.

Whereas A Public Hearing was held on March 9, 2022 by the Imperial Planning Commission. As part of the discussion it was requested that Staff address concerns raised by the Planning Commission and bring back proposed language for the Commission's consideration that addresses the zoning and design standards of the proposed project area. The Hearing was continued until March 23, 2022. Attached for your review is the amended language of Resolution No. 2022-03, Ordinance 795, and Amending Ordinances 807 and 808 for your review and reference.

## **Recommendation:**

Upon review of the existing ordinance, permitted uses, and proposed changes, staff recommends Planning Commission take the following action.

1. Approval of **Resolution No. PC2022-03** recommending to the Imperial City Council Approval and Adoption of Ordinance No. 815 to amend Ordinance 795 of Chapter 15 of the Imperial Municipal Code to allow for expansion from one (1) all-exclusive permit of Adult Cannabis uses, to two (2) all-exclusive permit(s); the second permit will only be for cultivation and manufacturing/extraction as defined by the CA Bureau of Cannabis Control.

**RESOLUTION NO. PC2022-03**

**A RESOLUTION OF THE IMPERIAL PLANNING COMMISSION, RECOMMENDING  
TO THE IMPERIAL CITY COUNCIL APPROVAL AND ADOPTION OF ORDINANCE NO.  
815 TO AMEND ORDINANCE 795 OF CHAPTER 15 OF THE IMPERIAL MUNICIPAL CODE**

**WHEREAS**, a duly notified public hearing was held by the Planning Commission on March 9, 2022, and continued to March 23, 2022.

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

Section 1: The City of Imperial City Code section 15.85.2(b) Business Permit Required” is hereby amended to read as follows:

“(b). The City Manager may issue one (1) new valid permit for the operation of a dispensary in the City per year. Additionally, the City Manager may issue one (1) additional permit for the operation of a business engaging in a commercial cannabis activity in the City which is limited solely to cultivation and manufacture as provided for in Chapter 15, Article XII.1. Delivery only dispensaries shall not be subject to this limit.”

Section 2: The City of Imperial City Code shall be amended to provide that the additional permit (“Additional Permit”) for the operation of a business engaging in a commercial cannabis activity in the City which is limited solely to cultivation and manufacture shall be subject to the following:

- a. The business subject to the Additional Permit shall not be located on a major arterial, as identified in the Circulation Element of the City’s most current General Plan;
- b. The business subject to the Additional Permit shall be conditionally permitted in a zone designated as either I-2 and C-2; and
- c. The business subject to the Additional Permit shall be required to conduct its commercial cannabis activity within an indoor setting, except that the use of greenhouses shall be prohibited.

**PASSED, ADOPTED, AND APPROVED** by the Imperial Planning Commission of the City of Imperial, this 23<sup>rd</sup> day of March, 2022.

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Mark Hammerness, Chairman

ATTEST:

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City Clerk

**ORDINANCE NO 815**

**AN ORDINANCE OF THE CITY OF IMPERIAL AMENDING  
THE CODIFIED ORDINANCES RELATED TO CANNABIS  
DISPENSARIES**

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

Section 1: The City of Imperial City Code section 15.85.2(b) Business Permit Required” is hereby amended to read as follows:

“(b). The City Manager may issue one (1) new valid permit for the operation of a dispensary in the City per year. Additionally, the City Manager may issue one (1) additional permit for the operation of a business engaging in a commercial cannabis activity in the City which is limited solely to cultivation and manufacture as provided for in Chapter 15, Article XII.1. Delivery only dispensaries shall not be subject to this limit.”

Section 2: 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 \_\_\_\_\_, 2022.

\_\_\_\_\_  
Geoff Dale, Mayor

ATTEST:

\_\_\_\_\_  
Dennis Morita, City Clerk

**ORDINANCE NO 795**

**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; Non-comforming 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). "E-Cigarettes" or "Electronic cigarette" means a device used to simulate the experience of smoking, having a cartridge with a heater that vaporizes liquid instead of burning.

(h). "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.

(i). "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.

(j). "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)

(k). "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.

(l). "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 1 (one) 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:

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 centers, churches/places of assembly, other medical cannabis facilities, daycare services and residential zoning districts. 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.

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.

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).

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 where the "delivery only" dispensary operator is in close proximity to residential uses it follow the rules set forth in this ordinance and rules set forth in Section 24.11.200 "Home Occupations" on a case by case basis.

ix. That no cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility.

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.

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

#### 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, operating 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). 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.

(b). 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 and 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  | Manufacturing of Medical Marijuana                                        |
| Section 15.85.17. | Application for Permit                                                    |
| Section 15.85.18. | Operating and Performance Standards.                                      |
| Section 15.85.19  | Examination of Books, Records, Witnesses-Information Confidential-Penalty |
| Section 15.85.20  | 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 fall disproportionately on residential neighborhoods. These impacts could create an increase in response costs, including code enforcement, building, fire, and police staff time and expenses.

(b). 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.

(c). 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.

(d). 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.

(e). 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 our without cause by the City Manager subject to this ordinance.

(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 near "daycare facilities" 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.

#### 15-85.16. 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 the acquisition of a Conditional Use Permit or other designations under the Imperial Zoning code, as may be amended.

#### 15-85.17 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 the 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.

15-85.18. 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:

No cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility.

Permitted facilities must install security cameras capable of documenting activity inside and outside the facility, as determined by the Imperial Police Department. 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. 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.

15-85.19 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.

15-85.20. 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 3<sup>rd</sup> day of January, 2018.

//s\_\_\_\_\_

Geoff Dale, Mayor

ATTEST:

//s\_\_\_\_\_

Debra Jackson, City Clerk

ORDINANCE NO. 807

**AN ORDINANCE OF THE CITY OF IMPERIAL AMENDING  
THE CODIFIED ORDINANCES TO PROVIDE FOR  
SPECIFIED COMMERCIAL CANNABIS ACTIVITY**

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

Section 1: Article XII of Chapter 15 is hereby amended to include Sections 15-90 through 15-90.9.

Chapter 15, Article XII  
Adult Use Cannabis  
Dispensaries

Article XII

|                   |                                                                                                                                |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------|
| Section 15-90     | Purpose and Intent.                                                                                                            |
| Section 15-90.1.  | Legal Authority.                                                                                                               |
| Section 15-90.2.  | Commercial Cannabis.<br>Activities Prohibited unless<br>Specifically Authorized by<br>this Chapter.                            |
| Section 15-90.3.  | Compliance with Laws.                                                                                                          |
| Section 15-90.4.  | Definitions.                                                                                                                   |
| Section 15-90.5.  | Commercial Cannabis Business<br>Permit Required to Engage in<br>Commercial Cannabis Business.                                  |
| Section 15-90.6.  | Eligibility to Seek a Commercial Cannabis Business Permit.                                                                     |
| Section 15-90.7.  | Process to Obtain Permit.                                                                                                      |
| Section 15-90.8.  | Term and Conditions of the Permit.                                                                                             |
| Section 15-90.9.  | State License Suspension, Revocation, or Termination.                                                                          |
| Section 15-90.10. | City's Reservation of Rights                                                                                                   |
| Section 15-90.11. | Persons Prohibited from holding commercial cannabis<br>business permit or being employed by a commercial<br>cannabis business. |
| Section 15-90.12. | Cannabis Employee Requirements.                                                                                                |
| Section 15-90.13. | Change in Ownership.                                                                                                           |
| Section 15-90.14. | Change of Location.                                                                                                            |
| Section 15-90.15. | Business License.                                                                                                              |
| Section 15-90.16. | Limitations on City's Liability.                                                                                               |
| Section 15-90.17. | Restrictions on Alcohol and Tobacco Sales.                                                                                     |
| Section 15-90.18. | Operating Requirements.                                                                                                        |
| Section 15-90.19. | Promulgation of Regulations, Standards, and other legal<br>duties.                                                             |
| Section 15-90.20. | Fees and Charges.                                                                                                              |
| Section 15-90.21. | Community Benefit Fee; Community Relations.                                                                                    |

|                   |                                        |
|-------------------|----------------------------------------|
| Section 15-90.22. | Permittee Responsible for Violations.  |
| Section 15-90.23. | Inspections and Enforcement.           |
| Section 15-90.24. | Violations Declared a Public Nuisance. |
| Section 15-90.25. | Each Violation a Separate Offense.     |
| Section 15-90.26. | Criminal Penalties.                    |

## **Sec. 15-90. Purpose and Intent**

( a ) It is the purpose and intent of this Chapter to Implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to provide access to adult-use of cannabis for persons over the age of 21 as authorized by the Control, Tax & Regulate the Adult Use Cannabis Act (“AUMA” or “Proposition 64” passed by California voters in 2016) and by the final regulations adopted by the Bureau of Cannabis Control, while imposing regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionate and potentially negative impacts.

( b ) As such, it is the purpose and intent of this Chapter to regulate storefront retail, commercial cannabis sales so as to protect the health, safety and welfare of the residents of the City of Imperial and to enforce rules and regulations consistent with State law.

( c ) It is the further purpose and intent of this Chapter to require all commercial cannabis operators to obtain and renew, annually, a permit to operate within the City. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purpose, or in any manner, that violates state or federal law.

( d ) The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under State, City or other law.

( e ) Except as otherwise provided, nothing in his Chapter regulates the personal use of cannabis as set out in this Ordinance.

### **Sec. 15-90.1 Legal Authority**

Any standards, requirements, and regulations regarding health and safety, security, reporting and worker protections established by the State of California, or any of its departments or divisions, shall be minimum standards applicable in the City to all Commercial cannabis activity. It is the intent of this Chapter to regulate Commercial cannabis activity in the City in Compliance with all provisions of MAUCRSA and any subsequent state legislation and regulation as well as the provisions of this Chapter.

**Sec. 15-90.2 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter**

Except as specifically authorized in this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, delivery from a non-storefront retailer, distribution or transportation (other than as provided under Section 26090(e) of the Business and Professions Code) of or special events involving cannabis or cannabis product or special events are expressly prohibited in the City.

**Sec. 15-90.3 Compliance with Laws**

Nothing in this Chapter shall be construed as authorizing any actions that violate federal, State or local laws with respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners, the operators, and the employees of the Commercial cannabis business to ensure that the Commercial cannabis business is, at all times, operating in a manner compliant with all applicable federal, State and local laws and regulations, specifically including those promulgated by the Bureau of Cannabis Control, and any subsequently enacted State law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the Commercial cannabis business permit.

**Sec. 15-90.4 Definitions**

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

(a) “*Act*” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as that may be amended from time -to- time (MAUCRSA).

(b) “*Applicant*” means a person applying for a permit pursuant to this Chapter.

(c) “*Branded merchandise*” means clothing, hats, pencils, pens, key chains, mugs, water bottles, beverage glasses, notepads, lanyards, cannabis accessories, or other types of merchandise approved by the Bureau with the name or logo of a commercial cannabis business licensed pursuant to the Act. Branded merchandise does not include items containing cannabis or any items that are considered food as defined by Health and Safety Code section 109935.

(d) “*Bureau*” means the Bureau of Cannabis Control, previously named the Bureau of Marijuana Control, Bureau of Medical Cannabis Regulation, and Bureau of Medical Marijuana Regulation.

(e) “*Business day*” is a day Monday through Friday from 8:00 a.m. to 5:00 p.m. Pacific Time, excluding state holidays, during which the Bureau is closed for business.

(f) “*Cannabis*” means all parts of the 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; any every compound, manufacture, salt, derivative, mixture, or preparation of the plant, it seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “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, derivate, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

(g) "*Cannabis accessories*" has the same meaning as in health and Safety Code Section 11018.2

(h) "*Cannabis product*" means a product containing cannabis, including, but not limited to, manufactured cannabis, intended to be sold for use by cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time to time) or pursuant to the Adult Use of Cannabis Act. For purposes of this Chapter, "cannabis" does not include industrial hemp as defined by Section 81000 of the California food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

(i) "*City*" means the City of Imperial

(j) "*Commercial cannabis activity*" as allowed by this ordinance means the retail sale of commercial cannabis and cannabis products only at a storefront location and associated delivery of retail products from such storefront location as provided in this Chapter and excludes the delivery, delivery from a non-storefront retailer, cultivation, manufacture, special events, distribution, processing, storing, laboratory testing, packaging, labeling, or transportation of cannabis as well as the consumption of cannabis on the retail premises, except as otherwise provided in this Code or state law and regulations for personal use.

(k) "*Commercial cannabis business*" or "*cannabis business*" means any person or entity which engages in commercial cannabis activity as defined herein.

(l) "*Commercial cannabis business permit*" means a regulatory permit issued by the City to a commercial cannabis business pursuant to this Chapter; the commercial cannabis business permit is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit are made expressly contingent upon the business' ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the commercial cannabis activity to issue.

(m) "*Community Development Director*" means the City Community Development Director or his or her designee

(n) "*Cultivation*" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(o) "*Customer*" means a natural person at least 21 years of age.

(p) "*Day care center*" has the same meaning as in Section 1596.76 of the Health and Safety Code.

(q) "*Delivery*" means the commercial transfer of cannabis or cannabis

products from a retail location to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer. Delivery from a non-storefront retailer or any location other than a licensed and permitted commercial cannabis business or prohibited.

(r) "*Delivery employee*" means an individual employed by a licensed storefront retailer authorized to engage in retail sales who delivers cannabis goods from the licensed retailer to a customer at a physical address pursuant to state regulations.

(s) "*Dispensing*" means any activity involving the retail sale of cannabis or cannabis products from a retailer.

(t) "*Distribution*" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(u) "*Employee*" means any natural person who is employed or retained as an independent contractor by any permittee in consideration for direct or indirect monetary wages or profit, or any natural person who volunteers his or hers services for an employer.

(v) "*Free cannabis goods*" means any amount of cannabis goods provided to any person without cost or payment or exchange of any other thing of value.

(w) "*License*" means a permit or license issued by the State of California, or one of its departments or divisions, under Division 10 of the Business and Professions Code to engage in commercial cannabis activity as that may be amended from time-to-time.

(x) "*Licensee*" means any person holding a state license under Division 10 of the Business and Professions Code as that may be amended from time-to-time.

(y) "*Licensing authority*" means the Bureau of Cannabis Control or any other state agency responsible for the issuance, renewal or reinstatement of the License, or the state agency authorized to take disciplinary action against the Licensee

(z) "*Limited-access are*" means an area in which cannabis goods are stored or held and is only accessible to a Licensee and its employees and authorized individuals.

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

(ab) "*Operation*" means any act for which a commercial cannabis business permit is under the provisions of the Chapter.

(ac) "*Owner*" means any of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a permit, license or a licensee, unless the interest is solely a security interest, lien, or encumbrance.

(2) The Executive Director of a nonprofit or other entity.

(3) A member of the board of directors of a nonprofit.

(4) An individual who will be participating in the direction, control, or management of the person applying for a commercial cannabis business permit or

who has a financial interest in the commercial cannabis business other than a fixed lease of real property or security interest, lien or encumbrance.

(ad) *"Package"* and *"Packaging"* means any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. *"Package"* and *"packaging"* does not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a licensee.

(ae) *"Permit"* means a commercial cannabis business permit issued by the City only for the purpose authorized by this Chapter.

(af) *"Permittee"* means any person holding a permit under this Chapter.

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

(ah) *"Premises"* means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

(ai) *"Promotional materials"* means any form, letter, circular, pamphlet, publication or other written material directed to a customer or prospective customer to induce retail sales. Promotional material does not include permitted signs, displays, decorations, cannabis accessories, or cannabis goods furnished by a licensed cultivator, licensed manufacturer, licensed distributor, licensed microbusiness, or licensed cannabis event organizer to a retail licensee for advertising purposes. Promotional materials shall have no intrinsic or secondary value.

(aj) *"Publicly owned land"* means any building or real property that is owned, leased, or occupied by a city, county, state, federal, or other government entity.

(ak) *"Purchaser"* means the customer who is engaged in a transaction with a permittee for purposes of obtaining cannabis or cannabis products.

(al) *"Residential area"* is an area that is within 600 feet of any single-family or multifamily residence, other than commercial hotels, motels, and similar establishments for temporary lodging.

(am) *"Retail area"* means a building, room, or other area that is open to the public, upon the licensed retailer premises authorized to engage in retail sales in which cannabis goods are sold or displayed.

(an) *"Retailer"* means a storefront commercial cannabis business that offers cannabis, cannabis products, or devices for the use of cannabis or cannabis products, either individually or in any combination, for retail sales, including delivery from that storefront location, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit for the City Authorizing that operation of a retailer and a valid state license as required by state law to operate a retail cannabis business.

(ao) *"Sell," "sale," and "to sell"* include any transaction whereby, for any

consideration, title to cannabis or cannabis products are transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return by the original purchaser to the location where the products was purchased.

(ap) "*Sublet*" means to lease or rent all or part of a leased or rented property.

(aq) "*Testing laboratory*" means a laboratory, facility, or entity in that state that offers or performs tests of cannabis or cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involving in commercial cannabis activity in that State; and
- (2) Holds a valid commercial cannabis business permit from the City and a State license required.

(ar) "*Transport*" means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purpose of conducting commercial cannabis activity.

(as) "*Vehicle alarm system*" is a device installed to discourage theft of the vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the vehicle.

(at) "*Youth center*" means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

#### **Sec. 15-90.5 Commercial Cannabis Business Permit Required to Engage in Commercial Cannabis Business**

(a) No person may engage in any commercial cannabis business or in any commercial cannabis activity within the City, including but not limited to cultivation, manufacture, processing, laboratory testing, transporting, dispensing, special events, distribution, or sale of cannabis or a cannabis product unless the person (1) has a valid, current commercial cannabis business permit from the City; (2) has a valid, current State Seller's Permit; and (3) is currently in compliance with all applicable state or local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activities, including the duty to obtain a City business permit and business license and any required state license. Engaging in a commercial cannabis business or in any commercial cannabis activity includes establishing, owning, managing, conducting, leasing to, operating, causing, permitting, aiding, abetting, suffering or concealing that fact of such an act.

(b) The requirements for issuance of a City permit are in addition to all those required for a state license as provided by state law and Chapter 3 of the final regulations issued by the Bureau of Cannabis Control, as those may be amended from time to time. Location and design of a Commercial cannabis shall be in accordance with the terms of this Chapter.

#### **Sec. 15-90.6 Eligibility to Seek a Commercial Cannabis Business Permit**

(a) The Community Development Director shall develop and make available written procedures, rules and forms to govern that application process for a City permit, the manner in which the decision will ultimately be made regarding ranking of applications for such permit as well as the nature of and steps for issuance of any commercial cannabis business permit(s). Such procedures will set out the detailed, objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria. The criteria shall include provisions for payment of a community benefit fee to the City.

(b) Based upon review criteria, a preliminary determination of eligibility will be made by the Community Development Director based upon completion and submission of an application and payment of the application fee during a defined application period. Late and incomplete applications will not qualify. Applications which do not meet the requirements of this chapter shall be returned without consideration. No fees will be returned.

(c) Those applicants remaining after the preliminary review will be asked to submit additional, more detailed information such as (by way of example only) a business plan and structure of a community benefit fee in order to continue in the eligibility process. There will be an additional city fee charges for the review of the more detailed submission. Such submission shall be made during a defined period. At the end of that period, the Community Development Director, Police Chief and Finance shall review, rank and recommend to the City Manager the top two applicants.

(d) The City Manager shall determine the final two applicants. The City Manager may determine there is only one final applicant or that there are no such applicants. The City Manager may designate applicants eligible if one or more of the two applicants does not apply for or receive a commercial cannabis permit. The City Manager's determination may be appealed pursuant to Section 13-163, below.

(e) Each applicant also must execute an agreement, in a form approved by the City Attorney, indemnifying, defending (at applicant's sole cost and expense with counsel chosen by the City), and holding the City, its elected officials, officers, employees, representatives, attorneys, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities, fines, penalties or losses which arise out of, or which are in any way related to, the City's review or issuance of a commercial cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, including but not limited to the process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its officers, employees or agents.

#### **Sec. 15-90.7 Process to Obtain Commercial Cannabis Permit**

(a) An applicant determined to be eligible to obtain a commercial cannabis permit shall have ninety (90) calendar days to file a complete application for the commercial cannabis business permit and pay the fee to begin that entitlement process.

(b) The application for a commercial cannabis permit shall be processed in the same manner as a conditional use permit pursuant to the Imperial Municipal Code. Official issuance of the commercial cannabis business permit(s), however, is conditioned upon the prevailing applicant(s) obtaining all required land use approvals with associated environmental review as well as agreeing to all terms and conditions of the permit.

(c) An applicant which already holds a Medicinal Cannabis Dispensary permit issued pursuant to this Chapter and that is in good standing may, in the discretion of the Community Development Director, proceed by to operate as both a medicinal and adult use dispensary with the existing conditional use permit, which can be subject to additionally imposed Conditions of Approval at the discretion of the Community Development Director; provided the City Manager determines the applicant is in full and complete compliance with its already existing permit.

**Sec. 15-90.8 Terms and Conditions of the Commercial Cannabis Permit.**

(a) The permit shall include all requirements of the state law and regulations and of this Chapter and specifically those regarding recordkeeping, security measures, minors, hours of operation and other matters.

(b) The commercial cannabis business permit shall only be for a term of one year and shall expire at the end of each one-year period unless renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulation, including but not limited to the requirements of this Chapter, applicable building permits, and conditions of the commercial cannabis business permit, have been met.

(c) Commercial cannabis business permits may be renewed annually as provided in this Chapter.

**Sec. 15-90.9 Effect of State License Suspension, Revocation, or Termination**

Suspension of a license issued by the State of California, or by any of its department or divisions, shall immediately suspend the ability of a commercial cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or division, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also immediately revoke or terminate the ability of a commercial cannabis business to operate within the City without further action by the Community Development Director other than notice of such automatic termination.

**Sec. 15-90.10 City's Reservation of Rights**

The City's determination is discretionary. The City reserves the right to reject any and all initial applications. Prior to permit issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted by law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other justification provided, including a failure to comply with other requirements in this Chapter, an application RISKS BEING REJECTED for any of the following reasons:

- (1) The application was received after the designated time and date;
- (2) The application did not contain the required elements, exhibits, or was not organized in the required format; or
- (3) The application was not considered fully responsive to the request for permit application.

Notwithstanding anything in this Chapter to the contrary, the City Council reserves the right to reject any and all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a commercial cannabis business permit until a permit is actually issued, and then only for the duration of the permit term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter or otherwise revise, amend, or repeal this Chapter.

**Sec. 15-90.11 Persons Prohibited from Holding a Commercial Cannabis Business Permit or Being Employed by a Commercial Cannabis Business**

- (a) No person may hold a commercial cannabis business permit, or be employed by a commercial cannabis business in the City if any of the following conditions exist:
  - (1) The applicant, permittee, or employee has been denied a commercial cannabis business permit, or similar license, or has such a permit or license suspended or revoked by any city, county, city, and county or any state cannabis licensing authority, or is in violation of the terms of such license or of state law or regulations, whether or not the license has been denied, suspended or revoked;
  - (2) The applicant, permittee, or employee, or the owner of the property upon which the proposed commercial cannabis activity is to occur, was found by the appropriate taxing agency to have been in non-compliance with federal, state or local tax laws or failed to report income from commercial cannabis activities to federal, state, or local government in violation of law.

Within fifteen (15) calendar days of any other change in the information provided in the application form or any change in status of compliance with the provisions of this Chapter, including any change in the commercial cannabis business location or ownership or management members, the applicant shall file an updated application form with the Community Development Director for review along with an application amendment fee. Failure to provide such information is a violation of this Chapter.

**Sec. 15-90.12 Cannabis Employee Requirements**

- (a) Any person who is an employee within a commercial cannabis business must be legally authorized to do so under applicable state law. Additional requirements of state law and regulations shall be applicable to delivery employees.
- (b) A commercial cannabis business shall keep the following records of each of its employees on file at the premises of the business:

- (1) Name, address, and phone number of the employee;
- (2) Age and verification of employee. A copy of a birth certificate, driver's license, government issued identification card, passport or other proof that the applicant is at least twenty-one (21) years of age must be on file with the business;
- (3) A list of any crimes enumerated in California Business and Professions Code Section 26057(b)(4) for which the employee has been convicted;
- (4) Name, address, and contact person for all previous employers of the employee for the last ten (10) years, including, but not limited to, all employers from which the applicant was fired, resigned, or asked to leave and the reason for such dismissal or firing;
- (5) The fingerprints and a recent photograph of the employee;
- (6) An annual reporting system for monitoring employee status.

(c ) The permittee shall provide to the Chief of Police or his/her designee, upon request, the records described above in subsection (b). The Chief of Police or his/her designee may review the records and may require and/or conduct a background check (at the expense of the applicant) to determine whether the employee has been convicted of a crime that shows the employee:

- (1) Is dishonest; or
- (2) Has committed a felony or misdemeanor involving fraud, deceit, embezzlement; or
- (3) Was convicted of a violent felony, a crime of moral turpitude; or
- (4) The illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, except for cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.

#### **Sec. 15-90.13**

#### **Change in Ownership**

(a) The person granted a commercial cannabis business permit shall not transfer ownership or control of the permit to another person unless and until the transferee obtains an amendment to the permit from the Community Development Director stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Community Development in accordance with all provisions of this Chapter (as though the transferee were applying for an original commercial cannabis business permit) accompanied by a transfer fee in amount set by Resolution of the City Council (or if not set, shall be the same amount as the application fee), and the Community Development Director determines in accordance with this Chapter that the transferee passed the background check required for permittees and meets all other requirements of this

Chapter. No transfer of ownership may occur within year (1) of the date the commercial cannabis business permit is originally issued, except as provided below in subsection (d).

(b) Commercial cannabis business permits issued through the grant of a transfer by the City Manager or his/her designee shall be valid for a period of one year beginning on the day the City Manager or his/her designee approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.

(c) Changes in ownership of a permittees business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership,) must be approved by the Community Development Director through the transfer process contained in subsection (a). Failure to comply with the provisions is grounds for permit revocation.

(d) A permittee may change the form of business entity without applying to the Community Development for a transfer of permit; provided that the membership of the new business entity is substantially similar to the original permit holder business entity (at least 51% of the membership is identical). The permit holder is required to notify the City Manager in writing of the change within ten (10) calendar days of the change. Failure to comply with this provision is ground for permit revocation.

(e) No commercial cannabis business permit may be transferred when the City has notified the permittee that the permit has been or may be suspended or revoked.

(f) Any attempt to transfer a commercial cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a violation of this Chapter as well as grounds for revocation of the permit.

#### **Sec. 15-90.14 Change of Location**

The location specified in the commercial cannabis business permit may not change without a amendment to the permit, processed in the same manner as an initial permit pursuant to the process and fees set forth in this Chapter.

#### **Sec. 15-90.15 Business License**

Notwithstanding any other requirements of this Chapter, prior to commencing operations, and at all times thereafter, a commercial; cannabis business shall maintain a valid City business license, renewable annually.

#### **Sec. 15-90.16 Limitations on City's Liability**

To the fullest extent permitted by law, the City does not and shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any commercial cannabis business permit, the applicant shall be required to meet all of the following conditions before receipt of the commercial cannabis business permit:

(a) Provide evidence of commercial liability, workers' compensation and other insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the Risk Manager.

(b) Reimburse the City for all direct and indirect costs and expenses, including but not limited to legal fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial cannabis business permit, or related to the City's approval of a commercial cannabis activity.

#### **Sec. 15-90.17 Restrictions on Alcohol & Tobacco Sales**

(a) No person shall cause or permit the sale, dispensing, or consuming of alcoholic beverages to any person, including minors, on or about the property occupied by the commercial cannabis business

(b) No person shall cause or permit the sale of tobacco products to any person, including minors, on or about the property occupied by the commercial cannabis business.

#### **Sec. 15-90.18 Operating Requirements**

(a) No more than one (1) retailer may operate within the City at any one time and no more than that number shall be issued a permit by the City. Only a retailer offering storefront purchase (customer purchase and obtain cannabis onsite) may deliver such products. There is no obligation for the City to issue that number or any commercial cannabis permits.

(b) Commercial cannabis businesses may operate only during the hours specified in the commercial cannabis business permit issued by the City or as specified by state regulations (open for sale and delivery between 6:00 a.m. and 10:00 pm. PST)

(c) Adult Use on-site consumption of cannabis is prohibited at all times by all individuals on the property and will be grounds for city permit revocation.

(d) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business. No outdoor or storage of cannabis or cannabis products is permitted at any time.

(e) Reporting and tracking of Product and of Gross Sales. Each commercial cannabis business shall comply with state laws and regulations regarding tracking and tracing the movement of cannabis. The commercial cannabis business shall ensure that such information is either compatible with the City's record-keeping systems or provided to the City at the same time as to the Bureau of Cannabis Control. Such information shall include but is not limited to the identification of the delivery vehicles used, including the number and type of delivery vehicles used.

(f) All cannabis and cannabis products sold or delivered shall be solid and delivered in full conformance with the State and local regulations. No cannabis or cannabis products may be sold, distributed, or transferred out of the State.

(g) **Emergency Contact.** Each commercial cannabis business shall provide the Community Development Director and Police Chief with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day. The commercial cannabis business shall notify the Community Development Director and Police Chief within 24 hours of any changes in such designation and provided updated contact information.

(i) **Signage and Notices.**

- (1) In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of this sub-section as well as those of Chapter 22.1 of this Code, including, but not limited to, seeking the issuance of the City sign permit if and when required.
- (2) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
- (3) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited
- (4) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
- (5) Advertising shall meet the requirements of federal, state and local laws regulations specifically including those of the Bureau of Cannabis Control.

(h) **Minors.**

- (1) As set out in state regulations, persons under the age of twenty-one (21) years shall not be allowed on the Premises of a commercial cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.
- (2) The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
- (3) Retailers must verify the age of customers to ensure persons under the age of twenty-one (21) are not permitted.

(j) **Display of Permit and City Business License.** The original copy of

the commercial cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the commercial cannabis business at all times in a location readily visible to the public.

(k) Littering and loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises and shall be responsible for removing debris, litter and other discarded materials from that area, and keeping it clean.

(l) The interior and exterior of the premises of the commercial cannabis business shall be well lit at all times. The windows of the building shall provide an unobstructed view into the interior.

(m) Entrances into the retailer shall be locked at all times with entry strictly controlled so that there is no entry without verification the customer is authorized to enter based upon a confirmation of age and identity based upon a valid form of identification as provided by the final regulations of the Bureau. A “buzz-in” electronic/mechanical entry system may be utilized to limit access to and entry to the retailer to separate it from the reception/lobby area.

(n) Retailers may sell only those amounts of cannabis products authorized by state regulations, as those may be amended from time to time.

(o) Retailers may have only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale on-site in the retail sales area of the retailer accessible to the public.

(p) All restroom facilities shall remain locked and under the control of management.

(q) Any graffiti on the property must be removed within 24 hours of discovery.

**Sec. 15-90.19      Promulgation of Regulations. Standards and Other Legal Duties**

(a) The City Manager is authorized to establish any additional rules, regulations, interpretations and standards governing the issuance, denial or renewal of commercial cannabis business and the City’s oversight, or concerning any other subject determined to be necessary to carry out the purpose of this Chapter.

(b) Regulations shall be provided to all commercial cannabis businesses permit applicants and published on the City’s website.

(c) Regulations shall become effective upon date of posting. Commercial cannabis businesses shall be required to comply with all state and

local laws and regulations, including but not limited to such rules, regulations or standards adopted pursuant to this Section.

#### **Sec. 15-90.20 Fees and Charges**

(a) No person may commence or continue any commercial cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by Resolution of this City Council which may be amended from time to time. Such fees and charges may include, but are not limited to, a regulatory fee imposed for the reasonable regulatory costs to the City for issuing licenses and permits, performing investigations, inspections, and audits, and the administrative and criminal enforcement and adjudication thereof.

(b) The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City that is recoverable via an authorized administrative process as set forth by ordinance, or in any court of competent jurisdiction, or in the other manner authorized by law.

(c) All commercial cannabis business authorized to operate under this Chapter shall pay all sales, use, business, employment and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with City with respect to audit the commercial cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

#### **Sec. 15-90.21 Community Benefit Fee; Community Relations**

(a) The City has determined that it is not in the interest of a commercial cannabis business to seek approval of an additional local tax on cannabis sales. Therefore, the City seeks to negotiate a community benefit fee with the successful commercial cannabis business.

(b) Upon request of the Police Chief, Community Development Director, or other City staff, the owner, manager, and community relations representative from each commercial cannabis business holding a permit issued pursuant to this Chapter shall attend meeting with the City staff and other interested parties as requested to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter.

(c) Commercial cannabis businesses to which a permit is issued pursuant to this Chapter shall develop a public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

#### **Sec. 15-90.22 Permittee Responsible for Violations**

The person to whom a permit is issued pursuant to this Chapter shall be

responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial business whether or not said violations occur within the permittees presence.

#### **Sec. 15.90-23      Inspections and Enforcement**

(a)            The Community Development Director, Building Official, and Chief of Police are charged with enforcing the provisions of this Chapter, and any provision hereof, and may enter the location of a commercial cannabis business at any time, without notice, and inspect the location of any commercial cannabis business as well a any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.

(b)            It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law. It is unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law.

(c)            The Community Development Director, Building Official or Chief of Police charges with enforcing the provisions of this Chapter may enter the location of a commercial cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purpose. Any samples obtained by the City shall be logged, recorded, and maintained in accordance with established procedures by the Police Department or regulations adopted pursuant to the authority if this Chapter.

#### **Sec. 15.-90.24      Violations Declared a Public Nuisance**

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance and may be abated as provided by the City Code and the costs of such abatement and enforcement recovered. Such violations also may be the subject of administrative citations.

#### **Sec. 15.-90.25      Each Violation a Separate Offense**

Each and every violation of this Chapter shall constitute a separate violation. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorneys fees, and any other relief or remedy available at

law or in equity. The City may also pursue any and all remedies and action available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, Community Development Director, or Chief of Police may, take immediate action to temporarily suspend a commercial cannabis business permit issued by the City, pending an appeal hearing as provided in this Chapter. The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

#### **Sec. 15-90.26                      Criminal Penalties**

Any person causing, permitting, aiding, abetting, suffering or concealing a violation of this Chapter shall be guilty of a misdemeanor, and may, in the discretion of the City Attorney, be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the city or county jail for a period of not more than six (6) months or by both such fine and imprisonment. The City Attorney, in his or her sound discretion, may prosecute a violation of this Chapter as an infraction, rather than a misdemeanor, or reduce or agree to the reduction of a previously filed misdemeanor to an infraction.

Any person convicted of an infraction under this provision of this Chapter shall be punished by a fine not exceeding one hundred dollars (\$100) for the first violation, a fine not exceeding two hundred dollars (\$200) for a second violation within one year, and a fine not exceeding five hundred dollars (\$500) for a third violation within one year. A fourth violation of this Chapter within one year shall be charged as a misdemeanor and may not be reduced to an infraction. Each day a violation is committed or permitted to continue shall constitute a separate offense. Alternatively, the City finds and declares that the maximum administrative fines allowed by law are necessary to protect the public health, safety and welfare and that a fine in the amount of \$1000 per violation may be levied.

#### **SECTION 3. EFFECTIVE DATE**

This Ordinance shall be effective 30 days from the date of its adoption.

#### **SECTION 4. SEVERABILITY**

While it is the intent of the City Council to adopt a comprehensive regulatory system for commercial cannabis activities within the City, if any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect other provisions or application of this Ordinance which can be given in effect without the valid provisions or application, and to this end, the provisions of this Ordinance are severable. The City Council declares that they would

have adopted this Ordinance irrespective of that invalidity of any particular portion thereof.

I HEREBY CERTIFY that the foregoing Ordinance was duly adopted by the City Council of the City of Imperial at a \_\_\_\_\_ meeting thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote, to wit:

| <u>AYES</u> | <u>NAYS</u> | <u>ABSTAIN</u> | <u>ABSENT</u> |
|-------------|-------------|----------------|---------------|
| _____       | _____       | _____          | _____         |
| _____       | _____       | _____          | _____         |
| _____       | _____       | _____          | _____         |
| _____       | _____       | _____          | _____         |
| _____       | _____       | _____          | _____         |

\_\_\_\_\_  
Debra Jackson, City Clerk

The foregoing Ordinance is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Darrell Pechtl, Mayor

ATTEST:

\_\_\_\_\_  
Debra Jackson, City Clerk

**ORDINANCE NO. 868**

AN ORDINANCE OF THE CITY OF IMPERIAL AMENDING THE ZONING TEXT IN SECTION 24.05.120 #35 WITHIN THE COMMERCIAL ZONING ORDINANCE CONDITIONALLY ALLOWING FOR ADULT-USE CANNABIS DISPENSARY WITHIN A C-2

The City Council of the City of imperial does ordain 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.

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

| <i>B. General Commercial Uses</i>                         | <i>C-1</i> | <i>C-2</i> | <i>VC</i> |
|-----------------------------------------------------------|------------|------------|-----------|
| 1. Adult Businesses<br>(see Section 24.11.800)            | X          | C          | X         |
| 2. Antique shops<br>(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>B. General Commercial Uses (cont.)</b>                                                                                                                       | <b>C-1</b> | <b>C-2</b> | <b>VC</b> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|-----------|
| 6. Arcades and electronic games<br>(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,<br>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<br>with a professional office of engineering, planning, surveying,<br>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<br>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<br>shops, delicatessens:                                                                                          |            |            |           |
| 1. With alcoholic beverages and/or<br>entertainment                                                                                                             | C          | C          | C         |

| <i>B. General Commercial Uses (cont.)</i>                                                                                                                          | <i>C-1</i> | <i>C-2</i> | <i>VC</i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|-----------|
| 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>B. General Commercial Uses (cont.)</b>                                                                                                                              | <b>C-1</b> | <b>C-2</b> | <b>VC</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 and Adult Use 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>B. General Commercial Uses (cont.)</b>  | <b>C-1</b> | <b>C-2</b> | <b>VC</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>C. Public and Semi-Public Uses</b>                                                                                                                                 | <b>C-1</b> | <b>C-2</b> | <b>VC</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><i>D. Mixed Uses</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b><i>C-1</i></b> | <b><i>C-2</i></b> | <b><i>VC</i></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>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><i>E. Accessory Uses</i></b>                                                | <b><i>C-1</i></b> | <b><i>C-2</i></b> | <b><i>VC</i></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><i>F. Temporary Uses</i></b>                      | <b><i>C-1</i></b> | <b><i>C-2</i></b> | <b><i>VC</i></b> |
|------------------------------------------------------|-------------------|-------------------|------------------|
| 2. Temporary uses as prescribed in Section 24.11.120 | P                 | P                 | P                |

**PASSED AND ADOPTED** by the City Council of the City of Imperial at a regular meeting duly held on July 1, 2020.

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Mayor

**ATTEST:**

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City Clerk



**PLANNING COMMISSION**  
MARK HAMMERNESS, CHAIRPERSON  
STACY MENDOZA, VICE CHAIRPERSON  
ALICE ABATTI, COMMISSIONER  
VERONICA HARVEY, COMMISSIONER  
RUBEN RIVERA, COMMISSIONER

# MINUTES

**PLANNING COMMISSION  
TRAFFIC COMMISSION  
REGULAR MEETING**

**WEDNESDAY, DECEMBER 22, 2021  
6:30PM**

## **A. PLANNING COMMISSION CALLED TO ORDER:**

**CHAIRMAN HAMMERNESS CALLED MEETING TO ORDER AT 06:31PM.**

COMMISSIONERS PRESENT:

ABATTI, HAMMERNESS, MENDOZA, AND RIVERA.

ABSENT: HARVEY

CITY STAFF PRESENT:

MORITA, BROWN, HOLBROOK, MORA, CORDERO, AND MEHDIPOUR,

**PLEDGE OF ALLEGIANCE WAS LED BY COMMISSIONER RIVERA**

## **ADJUSTMENTS TO THIS AGENDA:**

BROWN STATED THAT THERE WERE SEVERAL ADJUSTMENTS TO THE AGENDA.

ADJUSTMENTS TO ITEM C-1 DECEMBER 22, 2021 MINUTE APPROVAL AND ITEM E1  
PULLED FROM AGENDA

## **B. PUBLIC APPEARANCES:**

B-1. Matters not appearing on the agenda.

None

B-2. Matters appearing on the agenda.

None

## **C. CONSENT CALENDAR:**

C-1 Approve Planning Commission Meeting Minutes for September 8, 2021, and Special Joint Meeting of the City Council and Imperial Planning Commission Feb 2, 2022.

## **ACTION:**

MOTIONED BY MENDOZA TO APPROVE AMENDED CONSENT CALENDAR.

SECONDED BY RIVERA

AYES: HAMMERNESS, MENDOZA, AND RIVERA  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: HARVEY  
**MOTION CARRIED: 3-0**

**D. PLANNING COMMISSION NEW BUSINESS: (DISCUSSION/ACTION – APPROVE-DISAPPROVE)**

**D-1. SUBJECT: Public Hearing- Discussion/Action: Conditional Use Permit (CUP 21-09)**

PUBLIC HEARING WAS OPENED AT: **06:34 PM.**

**DISCUSSION:**

CORDERO presented the item on behalf of the City Planning and Development. In review of the information CORDERO introduced f Resolution No. PC2022-02 Approving the Conditional Use Permit (CUP 21-09) to allow for the use and operation of an auto body shop with a paint booth facility at the following address: 302 S. N Street, Imperial, CA 92251, APN#:064-082-011. The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines. RIVERA wanted to know if the applicant has had any previous issues their business with fire code hazard materials years of business. Applicant stated he operated for 10 years and no issues. HAMMERNESS wanted to know if the facility was larger. Applicant, yes. MENDOZA, how much larger? Applicant, previous location only one bay the new location has two bays. HAMMERNESS: how many cars were you able to kick out at the last location? Applicant: roughly 20 a month. HAMMERNESS: how many do you think you will be able to work on a month? Applicant: once the we are full I will start to schedule cars. MENDOZA: does the paint book get locked after hours. Applicant: yes, after hours, there is no current lock but I can install one. HAMMERNESS wanted to know if he has been doing work and how long since he stopped working at the last location. Applicant stated he does not have a permit so little to no work and the last location closed two years ago and was unable to resume due to COVID. MORA informed the commission the last location was 7,622 sqft. and the new location is 10,454 sqft.

CHAIRMAN HAMMERNESS CLOSED THE PUBLIC HEARING AT **06:47 PM**

ACTION: **MOTION BY MENDOZA, SECOND BY RIVERA** Approving the Conditional Use Permit (CUP 21-09) to allow for the use and operation of an auto body shop with a paint booth facility at the following address: 302 S. N Street, Imperial, CA 92251, APN#:064-082-011.

AYES: HAMMERNESS, MENDOZA AND RIVERA  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: HARVEY AND ABATTI

**MOTION CARRIED: 3-0**

**D-2. SUBJECT: Public Hearing- Discussion/Action: Amendment to Ordinance 795 Relating to Cannabis in the City of Imperial**

**PUBLIC HEARING WAS OPENED AT 06:49 PM**

**DISCUSSION:**

BROWN Resolution No. PC2022-03 recommending to the Imperial City Council Approval and Adoption of Ordinance No. 815 to amend Ordinance 795 of Chapter 15 of the Imperial Municipal Code to allow for expansion from one (1) all-exclusive permit of Adult Cannabis uses, to two (2) all-exclusive permit(s); the second permit will only be for cultivation and manufacturing/extraction as defined by the CA Bureau of Cannabis Control. HAMMERNESS AND MENDOZA, to know if a permit is pulled and how one is selected and confirm this is an amendment of the existing ordinance. BROWN advised it would be a complete process for selections for new and revoked permits the process and this would allow a second permit for cultivation. MENDOZA wanted to know if the current can apply for the second permit was well. BROWN stated this was the amendment the current holder just completed the process for it. HOLBROOK advised the only amendment to the ordinance was the second sentence with additionally. HAMMERNESS wanted to know why we are saying new and not using renewed on permits. BROWN stated the process is annually along will a review of the permit that does not guarantee a continuation of the current permit. HAMMERNESS, wanted to know why there was apart about delivery.

**ABATTI JOINED THE MEETING AT 6:52 PM.**

**DISCUSSION CONTINUED...**

BROWN informed that the City Attorney can explain more but it in reference to the state law allows no moratorium on delivery. MORTIA stated the permit for delivery of cannabis is honored stated wide. BROWN added the permit does not control outside deliveries just those who apply for a ware house or operation in the city limits, the second permit would not be able to sell with in the city limits only the current permit holder. The measure passed by the voters grants the \$6.00 per sqft. of canopy space would be paid to the City of Imperial at whole sale no tax. ABATTI wanted to know if this is what the current holder is requesting. BROWN informed the current permit had already updated their CUP to include cultivation this would allow a second permit for cultivation only not sales. ABATTI wanted to know what is purpose of this and if it was for money and why do we need more drugs in the city. BROWN advised this was sent to commission form council for amending. RIVERA wanted to know the difference for second facility. BROWN informed this would be a facility for cultivation and the product would be sold to another entity outside of the city and not distributed inside the city form the that facility. HAMMERNESS wanted to know what is possibility the second permit will want to amend their permit to include distribution. BROWN stated that is a possibility but that is not the current intent for the request for review. HAMMERNESS is there a city, county or state law that limits the amount of these types of facilities are allowed in an area. BROWN, no it just a local control. MORTIA, stated we are not requesting zone changes and the process will remain the same for review and placement and to keep in mind that state laws are changing and not the same they were years ago. HAMMERNESS, will this allow out door growing. BROWN, not is this area.

**CHAIRMAN HAMMERNESS CLOSED THE PUBLIC HEARING AT 07:09 PM**

**ACTION:**

**MOTION BY MENDOZA, SECOND BY RIVERA** continuation for an amendment to Ordinance 795 Relating to Cannabis in the City of Imperial till the next PC meeting on March 23rd, 2022.

AYES: ABATTI, HAMMERNESS, MENDOZA AND RIVERA

NOES: NONE

ABSTAIN: NONE

ABSENT: HARVEY

**MOTION CARRIED: 4-0**

**E. REPORTS:**

**E-1. Commissioners Reports.**

ABATTI: Wanted to know if the city can look in to a traffic light at Aten and Austin rd. Complemented the improvements the Aten road landscaping.

RIVERA: Wanted to know why the painting for the middle school stripe painting was costly. Commented on the completion of 2<sup>nd</sup> street and a thank you to the Boy Scouts for their work at Evans Park.

HAMMERNESS: Remarked on market days and the permits, inquired about the sidewalks on Imperial Ave. along the vacant lot across from the Subway having them restored due to hazard.

MENDOZA: Thank you to all the staff that help with Market days.

**E-2. Staff Reports.**

MORTIA: None

BROWN: Thank you to all that helped with the Tri Tip cook off.

HOLBROOK: None

MORA: None

MEHDIPOUR: None

CORDERO: None

**CHAIRPERSON HAMMERNESS ADJOURNED THE MEETING AT 07:41 PM UNTIL THE NEXT REGULARLY SCHEDULED MEETING, WEDNESDAY MARCH 23<sup>RD</sup> AT 06:30 PM**



**PLANNING COMMISSION**  
MARK HAMMERNESS, CHAIRPERSON  
STACY MENDOZA, VICE CHAIRPERSON  
ALICE ABATTI, COMMISSIONER  
VERONICA HARVEY, COMMISSIONER  
RUBEN RIVERA, COMMISSIONER

# MINUTES

**PLANNING COMMISSION  
TRAFFIC COMMISSION  
REGULAR MEETING**

**WEDNESDAY, DECEMBER 22, 2021  
6:30PM**

**A. PLANNING COMMISSION CALL TO ORDER:**

**CHAIRMAN HAMMERNESS CALLED THE MEETING TO ORDER AT 6:30 PM**

COMMISSIONERS PRESENT: ABATTI, HARVEY, RIVERA, MENDOZA AND HAMMERNESS

STAFF PRESENT: MORITA, BROWN, HOLBROOK, MORA, AND CAPT. LOPER

**PLEDGE OF ALLEGIANCE LED BY CHAIRMAN HAMMERNESS**

**B. PUBLIC APPEARANCES**

B-1. Matters not appearing on the agenda.

**NONE**

B-2. Matters appearing on the agenda.

**NONE**

**C. CONSENT CALENDAR**

a. Approve Planning Commission Meeting Minutes for November 10, 2021.

**ACTION:**

VICE CHAIR MENDOZA MOTIONED TO APPROVE CONSENT CALENDAR AS PRESENTED. SECONDED BY RIVERA.

AYES: HARVEY, RIVERA, MENDOZA AND HAMMERNESS  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: ABATTI

**MOTION CARRIED: 4-0**

**D. PLANNING COMMISSION NEW BUSINESS: (DISCUSSION/ACTION –RECOMMEND/DENY)**

D-1: Public Hearing, Discussion/Action: Conditional Use Permit (CUP 21-11) to allow for the use and operation of an indoor/outdoor restaurant and bar including serving alcohol for on-site consumption, cigar lounge and occasional indoor/outdoor live entertainment at the following address: 2393 Highway 86, Imperial, CA 92251, APN#:064-352-004.

CHAIRMAN HAMMERNESS OPENED THE PUBLIC HEARING AT 6:34 PM.

MORA introduced Yvonne Cordero “CORDERO” Planner I for the City of Imperial. CORDERO presented a summary of the proposed project’s conditional use project. MENDOZA asked if the parking lot was only going to be dirt and if there was going to be striping. MORA clarified there was asphalt but it needs repair. MENDOZA further asked if there was onsite drainage as she could recall pooling of water during heavy rain. MENDOZA asked for clarification on item no. 1 states that the business is a “nightclub” but that it in fact is presented as a nightclub restaurant. MORA referenced the revised agenda lists the appropriate business entity. HOLBROOK stated that the updated resolution referenced by MORA also includes cigar lounge as additional language. MENDOZA asked for clarification on Imperial County’s comments as to what additional conditions would be proposed because the were not included in the CUP or IC Fire response letter. LOPER informed the Commission that additional improvements would include fire sprinklers, ventilation and furnishings would need to be a certain standards and fire would require a plan as to how the owner would dispose of the ashes from the cigar lounge. HAMMERNESS asked if that was in accordance with a State Code. LOPER stated the comments are only a recommendation of Imperial County Fire.

ABATTI JOINED THE COMMISSION MEETING at 6:43 PM

HARVEY asked for clarification as to what a Cigar Lounge is. STEWART (applicant) provided information as to what a cigar lounge is. ABATTI asked if the lounge was going to be separated from the restaurant so the smoke doesn’t interfere with the restaurant. STEWART stated that the lounge must be separated In accordance with ABC. HARVEY asked what will be the hours of the restaurant and what is the concept of the business. STEWART clarified that the intent is to provide an upscale experience serving lunch and dinner with artisan foods and drinks. STEWART provided examples of restaurants in San Diego with similar concepts and stressed that this would be safe environment and no a sports bar concept. MENDOZA asked why Fire doesn’t want the business. LOPER stated the recommendation is based on the current mitigation measures in place. The installation of fire sprinklers would make the department much more comfortable. MENDOZA expressed concerns of the price tag to add a sprinkler system. STEWART stated that at this time they are not seeking a cigar lounge because of the additional costs. HOLBROOK provided direction to the Commission as to the options they had in amending the CUP. MARCO (applicant) stated that they are working through the process and right now the are concentrating on the restaurant and bar. HAMMERNESS referenced that the

plans show an outdoor area and in the interim patrons can smoke outside. MENDOZA asked if it is possible to move forward with the approval of the CUP to include a cigar lounge with the contingent that if the applicant proceeds that they incorporate the recommendations included in Fire's comment letter. MORITA clarified that the staff's recommendation is to approve the CUP and include the Fire Departments recommendation as a condition on should the applicant pursue the cigar lounge use. HARVEY asked if there was also a sprinkler system in the kitchen. LOPER confirmed there was a sprinkler system, but it needs to be brought up to code. RIVERA asked if further amendments were necessary to the Resolution or CUP. MORITA clarified that the resolution to be amended to include all uses identified by the applicant. No further discussion was held by the Commission.

CHAIRMAN HAMMERNESS CLOSED THE PUBLIC HEARING AT 7:03 PM.

**ACTION:**

VICE CHAIR MENDOZA MOTIONED TO APPROVE RESOLUTION NO. PC 2021-16 APPROVING CONDITIONAL USE PERMIT (CUP) 21-11 TO ALLOW FOR THE USE AND OPERATION OF A RESTAURANT/BAR AND CIGAR LOUNGE AT 2393 HIGHWAY 86, IMPERIAL CA WITH THE FOLLOWING CONDITIONS: AMEND CUP TO REPLACE "NIGHTCLUB" WITH "RESTAURANT/BAR AND CIGAR LOUNGE" AND INCLUDE REQUIREMENT OF A FIRE SPRINKLER/SUPPRESSION SYSTEM AS PROPOSED BY IMPERIAL COUNTY FIRE BE IMPOSED SHOULD THE LOUNGE BECOME OPERATIONAL. SECONDED BY ABATTI.

AYES: HARVEY, RIVERA, ABATTI, MENDOZA AND HAMMERNESS  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: NONE

**MOTION CARRIED: 5-0**

**E. REPORTS:**

**E-1: Commissioners Reports.**

ABATTI – Commented on the history at the location of the new business and expressed her enthusiasm for the concept presented this evening.

MENDOZA – wished everyone a safe and wonderful time during the Christmas holiday.

RIVERA – looking forward to serving on the arts commission and Merry Christmas and Happy New Year to all.

HAMMERNESS – Expressed his appreciation to everyone on the Commission.

HARVEY – Merry Christmas to all and thank you to the City staff for supporting the Commission and keeping everyone informed. Welcome to our City Planner.

**E-2: Staff Reports.**

HOLBROOK – None

MORA – Merry Christmas Everyone

MORITA – Happy Holidays

BROWN – provided an update on the Paseo Del Sol work party, Arts District and SR 86 Stakeholders Group Meeting and next steps with those related projects.

**ADJOURNED THE PLANNING COMMISSION MEETING AT 7:13 PM UNTIL NEXT REGULARLY SCHEDULED MEETING ON JANUARY 12, 2022.**