

ORDINANCE NO. 1779

AN ORDINANCE OF THE CITY OF INDIO AMENDING CHAPTER 159 (ZONING REGULATIONS) OF THE INDIO MUNICIPAL CODE TO ALLOW CANNABIS STOREFRONT RETAILER AND CANNABIS NON-STOREFRONT RETAILER BUSINESSES IN COMMERCIAL LAND USE DISTRICTS EXCEPT FOR THE NEIGHBORHOOD COMMERCIAL ZONE, MIXED USE LAND USE DISTRICTS AND ON PROPERTIES REGULATED BY A SPECIFIC PLAN OR PROJECT MASTER PLAN THAT PERMIT COMMERCIAL LAND USES EXCLUDING ANY PROPERTIES DESIGNATED AS NEIGHBORHOOD COMMERCIAL; AMENDING THE SUBCHAPTER ENTITLED CANNABIS ACTIVITY (159.565 ET. SEQ.); AND MAKING A DETERMINATION THAT THE ORDINANCE IS EXEMPT FROM REVIEW UNDER CEQA PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3)

THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings. Pursuant to Indio Municipal Code Section 159.875, the City Council the City Council hereby determines and makes the following finding: the proposed change to the zoning code set forth in this Ordinance is consistent with the objectives of Title XV (Land Usage) of the Indio Municipal Code. In addition, the proposed zoning code amendment is consistent with the City of Indio 2040 General Plan Land Use Element Policy LU-2.2 (Balanced Land Uses), Economic Development Policy ED-6.1 (New Retailers) and Economic Development Policy ED-6.2 (Retail Development).

Section 2. Chapter 159 (Zoning Regulations) of Title XV (Land Usage) of the Indio Municipal Code is hereby amended by amending the title of the subchapter currently entitled "Cannabis Activity" and renaming said subchapter as "Commercial Cannabis."

Section 3. Section 159.565 of Chapter 159 (Zoning Regulations) of Title XV (Land Usage) of the Indio Municipal Code is hereby amended in its entirety to read as follows:

"§ 159.565. Permitted Commercial Cannabis Uses.

A. **Definitions.** The technical terms and phrases used in Sections 159.565 and 159.566 are defined in Section 123.06 of Chapter 123 (Cannabis Business Activities) of Title XI (Business Regulations) of the Indio Municipal Code.

B. **Uses Permitted.** Cannabis Storefront Retailer and Cannabis Non-Storefront Retailer businesses are permitted land uses in the following land use districts subject to the location requirements set forth herein:

1. All commercial land use districts except on properties zoned Neighborhood Commercial.

2. All Mixed-Use land use districts.

3. On properties regulated by a Specific Plan or Project Master Plan that permit commercial land uses except for properties zoned or designated as Neighborhood Commercial within the applicable Specific Plan or Project Master Plan.

All other commercial cannabis activities are expressly prohibited.

C. Location Requirement. A Cannabis Storefront Retailer and Cannabis Non-Storefront Retailer shall be no closer than six hundred (600) feet from any zoned parcel in the City designated as a sensitive use pursuant to Indio Municipal Code Section 123.32(B)(2) or 250 feet from any church located in a residential zone, that is in existence at the time the Cannabis Business Permit is issued. The distance shall be determined by the horizontal distance measured in a straight line from the closest property line of the sensitive use to the closest property line of the lot on which the Cannabis Business is to be located, without regard to intervening structures.

D. Regulatory Permit Required. In order to operate in the areas set forth in paragraph B, a Cannabis Storefront Retailer and a Cannabis Non-Storefront Retailer must obtain and maintain at all times the following permits and licenses: a valid Cannabis Business Permit as required by Chapter 123 of the Indio Municipal Code; a valid business license from the City; and a valid State of California Seller's Permit."

Section 4. Section 159.566 of Chapter 159 (Zoning Regulations) of Title XV (Land Usage) of the Indio Municipal Code is hereby amended in its entirety to read as follows:

"§ 159.566. Personal Indoor Cultivation.

A. Notwithstanding Section 159.565, engaging in the indoor cultivation of six or fewer live cannabis plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is a fully enclosed and secure structure, to the extent such cultivation is authorized by Cal. Health and Safety Code, §§ 11362.1 and 11362.2, as the same may be amended from time to time, is hereby permitted. The outdoor cultivation, however, of six or fewer live cannabis plants upon the grounds of a private residence is prohibited."

B. For purposes of this Section 159.566, the following definitions shall apply:

"Cultivation" shall mean any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

"Fully enclosed and secure structure" shall mean a space within a building, greenhouse or other structure which has a complete solid roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

“Indoor” shall mean within a fully enclosed and secure structure.

“Outdoor” shall mean any location that is not within a fully enclosed and secure structure.”

“Private residence” shall mean a house, an apartment unit, a condominium unit, a mobile home or other similar dwelling that is lawfully used as a residence.”

Section 5. Section 159.567 and Section 159.568 are hereby repealed in their entirety.

Section 6. The City Council, through an exercise of its independent judgement, finds and determines that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines. Adoption of this Ordinance is covered by the commonsense exemption in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, the Ordinance allows cannabis retailers as a permitted uses in commercial areas of the City including mixed use zones and in area regulated by a specific plan or project master plan that authorizes commercial land uses. These areas already allows for uses akin to cannabis retailers such as general retail outlets and drug stores and the like. Accordingly, the City Council directs City staff to file a Notice of Exemption.

Section 7. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or its application to any person or circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 8. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published in the manner prescribed by law.

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PASSED, APPROVED AND ADOPTED this 1st day of June, 2022.



WAYMOND FERMON
MAYOR

ATTEST:



CYNTHIA HERNANDEZ, CMC
CITY CLERK


CERTIFICATION

I, Sabdi Sanchez, City Clerk Administrator of the City of Indio, California, hereby certify that **Ordinance No. 1779** was duly and regularly adopted at a meeting of the City Council of said City at its meeting held on the 1st day of June 2022 by the following vote, to wit:

Ayes: Miller, Mayor Pro Tem Ortiz and Mayor Fermon

Noes: Holmes and Ramos Amith

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Indio, California, this 1st day of June 2022.



SABDI SANCHEZ, CMC
City Clerk Administrator
City of Indio



