

DATE SUBMITTED 9/10/2021
 SUBMITTED BY ACM
 DATE ACTION REQUIRED 9/15/2021

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS em

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION ONLY: ORDINANCE 795 RELATING TO ADULT USE CANNABIS IN THE CITY OF IMPERIAL	
DEPARTMENT INVOLVED:	
BACKGROUND/SUMMARY: At the direction of the City Council, staff presents Ordinance 795 for City Council review and discussion. Ordinance 795 was established in 2018 by the Imperial City Council allowing for one all exclusive permit for adult use and medical cannabis to be allowed in the City of Imperial. Attached for review is that ordinance.	
FISCAL IMPACT: N/A	ADMIN SERV INITIALS _____
STAFF RECOMMENDATION: N/A	DEPT. INITIALS _____
MANAGER'S RECOMMENDATION: N/A	CITY MANAGER'S INITIALS _____
MOTION:	
SECONDED:	APPROVED () REJECTED ()
AYES:	DISAPPROVED () DEFERRED ()
NAYES:	REFERRED TO:
ABSENT:	_____

DATE SUBMITTED 07-10-2020
 SUBMITTED BY Community Dev.
 DATE ACTION REQUIRED 07-15-2020

Agenda Item No 15-2
 CITY COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING (X)
 CITY CLERK'S INITIALS () *6*

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: ADULT-USE CANNABIS DISPENSARY ORDINANCE AND ZONING TEXT AMENDMENT.													
<ol style="list-style-type: none"> 1. APPROVAL TO WAIVE READING IN FULL AND ADOPT ORDINANCE NO. 807, AN ORDINANCE OF THE CITY OF IMPERIAL AMENDING THE CODIFIED ORDINANCES TO PROVIDE FOR SPECIFIED COMMERCIAL CANNABIS ACTIVITY. 2. APPROVAL TO WAIVE READING IN FULL AND ADOPT ORDINANCE NO. 808 AMENDING THE ZONING TEXT SECTION IN SECTION 24.05.120 WITHIN THE COMMERCIAL ZONING ORDINANCE CONDITIONALLY ALLOWING FOR ADULT USE CANNABIS DISPENSARY WITHIN A C-2 ZONE. 													
BACKGROUND/SUMMARY: Ordinance No. 807 and Ordinance No. 808 were introduced at the July 1, 2020 City Council meeting. During the meeting council directed staff to prepare a summary of the ordinances for publication. The summary was submitted to the Holtville Tribune for publication to meet legal requirements. Both ordinances are presented for the second reading and adoption. If adopted another summary will be published identifying adoption and votes for and against it.													
FISCAL IMPACT:													
STAFF RECOMMENDATION:													
MANAGER'S RECOMMENDATION:	MANAGER'S INITIAL _____												
MOTION: <table style="width:100%; border: none;"> <tr> <td style="width: 33%;">SECONDED:</td> <td style="width: 33%;">APPROVED ()</td> <td style="width: 33%;">REJECTED ()</td> </tr> <tr> <td>AYES:</td> <td>DISAPPROVED ()</td> <td>DEFERRED ()</td> </tr> <tr> <td>NAYES:</td> <td></td> <td></td> </tr> <tr> <td>ABSENT:</td> <td>REFERRED TO:</td> <td></td> </tr> </table>		SECONDED:	APPROVED ()	REJECTED ()	AYES:	DISAPPROVED ()	DEFERRED ()	NAYES:			ABSENT:	REFERRED TO:	
SECONDED:	APPROVED ()	REJECTED ()											
AYES:	DISAPPROVED ()	DEFERRED ()											
NAYES:													
ABSENT:	REFERRED TO:												

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. Activities Prohibited unless Specifically Authorized by this Chapter.
Section 15-90.3.	Compliance with Laws.
Section 15-90.4.	Definitions.
Section 15-90.5.	Commercial Cannabis Business Permit Required to Engage in 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 business permit or being employed by a commercial 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 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, derivative, 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 an 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 Pecht, 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 (see Section 24.11.800)	X	C	X
2. Antique shops (sale of previously owned goods)	X	P	X
3. Apparel stores	P	P	P
4. Art, music, and photographic studios and supply stores	P	P	P
5. Appliance stores and repair	C	P	P

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

<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. General Commercial Uses (cont.)	C-1	C-2	VC
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

<i>B. General Commercial Uses (cont.)</i>	<i>C-1</i>	<i>C-2</i>	<i>VC</i>
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

<i>C. Public and Semi-Public Uses</i>	<i>C-1</i>	<i>C-2</i>	<i>VC</i>
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

<i>D. Mixed Uses</i>	<i>C-1</i>	<i>C-2</i>	<i>VC</i>
<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

<i>E. Accessory Uses</i>	<i>C-1</i>	<i>C-2</i>	<i>VC</i>
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

<i>F. Temporary Uses</i>	<i>C-1</i>	<i>C-2</i>	<i>VC</i>
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.

Mayor

ATTEST:

City Clerk

DATE SUBMITTED 07/08/2020
 SUBMITTED BY Public Services
 DATE ACTION REQUIRED 07/15/2020

COUNCIL ACTION
 PUBLIC HEARING REQUIRED
 RESOLUTION
 ORDINANCE 1ST READING
 ORDINANCE 2ND READING
 CITY CLERK'S INITIALS B

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: STATUS OF EMERGENCY OF THE SINKHOLE – MANHOLE REPAIRS AT NANCE RD. & WORTHINGTON RD. 1. SUSPEND THE EMERGENCY FOR THE REPAIRS TO THE SINKHOLE-MANHOLE	
DEPARTMENT INVOLVED: Public Services - WW	
BACKGROUND/SUMMARY: On the evening of Monday, June 22, 2020, it was discovered that there was a sink hole that had developed on Nance Rd. near the intersection of Worthington Rd. The manhole was partially collapsed, causing the formation of a sinkhole. Council declared an emergency on July 1, 2020 authorizing necessary repairs without formal bidding process. A & R Construction has performed the necessary work to repair the sinkhole and affected manhole. This was completed on Monday, June 29, 2020. Staff is requesting council suspend the emergency. The cost of repairs has been received.	
FISCAL IMPACT: \$64,206.88 A&R Construction	FINANCE INITIALS <u>[Signature]</u>
STAFF RECOMMENDATION: City Council suspend the emergency.	DEPT. INITIALS <u>[Signature]</u>
MANAGER'S RECOMMENDATION:	CITY MANAGER'S INITIALS _____
MOTION: SECONDED: _____ APPROVED <input type="checkbox"/> REJECTED <input type="checkbox"/> AYES: _____ DISAPPROVED <input type="checkbox"/> DEFERRED <input type="checkbox"/> NAYES: _____ REFERRED TO: _____ ABSENT: _____	



TERRY ROBERTSON, INC., dba
 OFFICE (760) 344-4653 • FAX (760) 344-4146
 1631 RIVER DRIVE • BRAWLEY, CA 92227-1747

CONTRACT INVOICE

TO: City of Imperial
 420 South Imperial Ave.
 Imperial CA 92251

Invoice#: 2007
Invoice Date: 07/07/2020
Due Date: 08/06/2020
Phase# 0

Description	Amount
-------------	--------

JOB# 2020-61

JOB NAME: Manhole Repair City of Imperial

JOB LOCATION: Nance & Worthington

JOB DESCRIPTION: Per your request we mobilized men, equipment & Traffic Control to secure off the Manhole and street failure. Rain for rent was contacted to by pass the sewage around the failed Manhole, with all equipment in place the old manhole was removed the shoring was installed and the rebuilding was done, the new manhole was stacked and then backfilled & compacted to grade. The failed road section was removed recompacted and a new base and asphalt section installed. The new manhole was coated with Epoxy then released for service.

Mobilization	2,500.00
Materials:	
La Brucherie Irrigation	312.97
12 Ton 3/4 Rock @ \$16.50	198.00
25 Ton Crusher Fines @ \$12.25	306.25

Non-Taxable Amount:	62,043.93
Taxable Amount:	2,007.38
Sales Tax:	155.57
Retention:	0.00
Amount Due:	64,206.88

Please Pay This Amount

\$64,206.88

*A service charge of 0.00 % per annum will be charged on all amounts overdue on regular statement dates.
 Please make check payable to Terry Robertson, Inc. dba: A&R Construction
 Thank You for your prompt payment!*

Contract Invoice

Continued...

Invoice # 2007
Page # 2 of 2

Description	Amount
50 Ton CL II Base @ \$18.25	912.50
11 VF 48" ID Manhole Shaft @ \$125 VF	1,375.00
Sub Contractors:	
Masters Construction Paving	11,118.78
Donahue Painting & Coatings	3,270.00
ACME Barracades	5,350.00
Rentals:	
Rain For Rent (Pipe & Pump for Sewage By Pass)	2,007.38
Rain For Rent Service for Sewage By Pass	4,753.68
Trebor Shoring & Rentals Trench Shield	544.98
Clairmont Equipment (Compactor)	371.55
Freight	1,950.00
Equipment:	
330 Excavator 11 hrs @ \$245.00	2,695.00
210 Skiploader 10.5 hrs @ \$120.00	1,260.00
938 Loader 9 hrs @ \$160.00	1,440.00
Water Truck 4.5 hrs @ \$130.00	585.00
Asphalt Zipper 3 hrs @ \$95.00	285.00
Service Truck 40.5 hrs @ \$65.00	2,632.50
Labor:	
Foreman Reg 22 hrs @ \$110.00	2,420.00
Foreman OT 16.5 hrs @ \$135.00	2,227.50
Labor Reg 64.5 hrs @ \$95.00	6,127.50
Labor OT \$28.00 hrs @ \$108.00	3,024.00
5% Overhead & Profit on Subcontractors	986.93
15% Overhead & Profit on \$35,978.79	5,396.81



TERRY ROBERTSON, INC., dba
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1631 RIVER DRIVE • BRAWLEY, CA 92227-1747

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT
California Civil Code Section 8136

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

IDENTIFYING INFORMATION:

Name of Claimant: Terry Robertson, Inc. dba: A&R Construction
Name of Customer: City of Imperial
Job Location: Nance & Worthington Manhole Repair
Owner: City of Imperial

CONDITIONAL WAIVER AND RELEASE

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn.

Maker of Check: City of Imperial
Amount of Check: 64,206.88
Check Payable To: Terry Robertson, Inc. dba: A&R Construction

EXCEPTIONS:

This document does not affect any of the following:

Disputed claims for extras in the amount of: _____

SIGNATURE:

Claimant's Signature: Melissa Plunkett

Claimant's Title: Office Personnel

Date of Signature: 07/07/2020