

**ORDINANCE NO. MC-1601**

**ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, APPROVING DEVELOPMENT CODE AMENDMENT 22-05 AMENDING SECTION 19.02.020 (DEFINITIONS), CHAPTER 19.06 (COMMERCIAL ZONES), AND CHAPTER 19.10 (INDUSTRIAL ZONES) OF THE CITY OF SAN BERNARDINO MUNICIPAL CODE (TITLE 19) TO UPDATE DEVELOPMENT STANDARDS FOR COMMERCIAL CANNABIS ACTIVITIES IN ACCORDANCE WITH CHAPTER 5.10 (COMMERCIAL CANNABIS ACTIVITIES) OF THE CITY OF SAN BERNARDINO MUNICIPAL CODE; AND FINDING THAT THE AMENDMENT IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

**WHEREAS**, on March 7, 2018, the Mayor and City Council adopted Ordinance No. MC-1464 approving Chapter 5.10 of the City of San Bernardino Municipal Code to regulate Commercial Cannabis Activities; and

**WHEREAS**, on September 5, 2018, the Mayor and City Council adopted Ordinance No. MC-1503, amending Chapter 5.10 of the City of San Bernardino Municipal Code related to the regulation of Commercial Cannabis Activities; which was subsequently approved by the registered voters on November 6, 2018; and

**WHEREAS**, on June 19, 2019, the Mayor and City Council adopted Ordinance No. MC-1519, amending Chapter 19.02 (Basic Provisions), Chapter 19.06 (Commercial Zones), Chapter 19.10 (Industrial Zones) and Chapter 19.70 (Temporary Use Permits) in order to ensure consistency with Chapter 5.10 (Commercial Cannabis Activities) of the City of San Bernardino Municipal Code; and

**WHEREAS**, Development Code Amendment 22-05, is a City-initiated amendment to Section 19.02.020 (Definitions), Chapter 19.06 (Commercial Zones), and Chapter 19.10 (Industrial Zones) of the City of San Bernardino Municipal Code (Title 19) to update development standards for Commercial Cannabis Activities in accordance with Chapter 5.10 (Commercial Cannabis Activities) City of San Bernardino Municipal Code; and

**WHEREAS**, the Planning Division of the Community and Economic Development Department of the City of San Bernardino has prepared Development Code Amendment 22-05 consistent with the City of San Bernardino General Plan, compliance with the City of San Bernardino Municipal Code, and compliance with the City of San Bernardino Development Code; and

**WHEREAS**, on August 9, 2022, the Planning Commission of the City of San Bernardino held a duly noticed public hearing to consider public testimony and the staff report, and adopted Resolution 2022-040 recommending to the Mayor and City Council the approval of Development Code Amendment 22-05 amending Section 19.02.020 (Definitions), Chapter 19.06 (Commercial

Zones), and Chapter 19.10 (Industrial Zones) of the City of San Bernardino Municipal Code (Title 19) to update development standards for Commercial Cannabis Activities in accordance with Chapter 5.10 (Commercial Cannabis Activities) City of San Bernardino Municipal Code; and

**WHEREAS**, on November 5, 2022, pursuant to the requirements Section 19.52.020 of the City of San Bernardino Development Code, the City gave public notice by advertising in the San Bernardino Sun, a newspaper of general circulation within the City of San Bernardino of the holding of a public hearing for the Mayor and City Council's consideration of this proposed Ordinance for Development Code Amendment 22-05; and

**WHEREAS**, pursuant to Section 19.42.040, the Mayor and City Council have the authority to take action on Development Code Amendment 22-05 based upon findings of fact.

**NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, DO ORDAIN AS FOLLOWS:**

**SECTION 1. Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein.

**SECTION 2. Compliance with the California Environmental Quality Act.** The Mayor and City Council having independently reviewed and analyzed the record before it, including written and oral testimony, and having exercised their independent judgment, finds that there is no substantial evidence supporting a fair argument that approval of Development Code Amendment 22-05 and this Ordinance No. MC-1601 will result in a significant effect on the environment, and thus the project is exempt pursuant to Section 15061(b) of the California Environmental Quality Act guidelines due to the fact that the activity does not result in a direct or reasonably foreseeable indirect physical change in the environment.

**SECTION 3. Finding of Facts – Development Code Amendment 22-05**

Finding No. 1: The proposed amendment is consistent with the General Plan.

Finding of Fact: The proposed amendment is consistent with the General Plan goals and policies including the following:

*General Plan Land Use Element Policy 2.1.2: Require that new development with potentially adverse impacts on existing neighborhoods or residents such as noise, traffic, emissions, and storm water runoff, be located and designed so that quality of life and safety in existing neighborhoods are preserved.*

*General Plan Land Use Element Policy 2.2.1: Ensure compatibility between land uses and quality design through adherence to the standards and regulations in the Development Code and policies and guidelines in the Community Design Element.*

General Plan Land Use Element Policy 2.2.8: *Control the Location and number of community-sensitive uses, such as alcohol sales, adult bookstores, and businesses, game arcades, and similar uses based on proximity to residences, schools, religious facilities, and parks.*

Land Use Element Policy 2.2.10: *The protection of the quality of life shall take precedence during the review of new projects. Accordingly, the City shall utilize its discretion to deny or require mitigation of projects that result in impacts that outweigh benefits to the public.*

The City of San Bernardino has a mixture of residential, industrial, commercial, and entertainment land uses. A number of these uses to include commercial and industrial uses can potentially have an adverse effect upon a residential neighborhood and community-sensitive uses. However, such industrial and commercial uses provide a vital role to the City's economy. Thus, it is important to maintain consistency between new land uses that may bring new economic growth to the City and existing residential neighborhoods. The amendment to the Land Use Regulations (Title 19) of the City of San Bernardino Municipal Code would be consistent with the City's General Plan as it would ensure that commercial cannabis activity types are located within zone designations that have comparable land uses in order to protect residential zone from incompatible cannabis activities. Additionally, the City would be able to ensure that the various types of cannabis activity comply with all applicable zoning and development standards in order to protect and maintain the quality of life of the City.

Finding No. 2: The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Finding of Fact: The amendment would update Title 19 (Land Use) of the City of San Bernardino Municipal Code for the purpose of ensuring that commercial cannabis activity types are comparable to existing land use designations based on the type of use each cannabis operation undertakes. Additionally, in order to ensure that the quality of life for the City's residents is maintained and not affected by the type of use each cannabis operation is undertaking, it will maintain that only qualified patients and persons over 21 years of age have safe access to cannabis. Therefore, the amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

**SECTION 4. Adoption of Ordinance.** Development Code Amendment 22-05 to amend Section 19.02.020 (Definitions), Chapter 19.06 (Commercial Zones), and Chapter 19.10 (Industrial Zones) of the City of San Bernardino Municipal Code (Title 19), attached hereto and incorporated herein by reference as Exhibit "A" through "D", is hereby approved.

**SECTION 6. Notice of Exemption:** The Planning Division of the Community and Economic Development Department is hereby directed to file a Notice of Exemption with the County Clerk of the County of San Bernardino within five (5) working days of final approval certifying the City's compliance with the California Environmental Quality Act in approving Development Code Amendment 22-05.

**SECTION 7. Severability:** If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

**SECTION 8. Effective Date.** This Ordinance shall become effective thirty (30) days after the date of its adoption.

**SECTION 9. Notice of Adoption.** The City Clerk of the City of San Bernardino shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under section 36933 of the Government Code of the State of California.

**APPROVED** and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this 7<sup>th</sup> day of December, 2022.

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John Valdivia, Mayor  
City of San Bernardino

Attest:

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Genoveva Rocha, CMC, City Clerk

Approved as to form:

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Sonia Carvalho, City Attorney

**CERTIFICATION**

STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
CITY OF SAN BERNARDINO

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC- 1601, introduced on November 16, 2022, and adopted by the City Council of the City of San Bernardino, California, at a regular meeting held at the 7<sup>th</sup> day of December, 2022 by the following vote:

<u><b>Council Members:</b></u>	<u><b>AYES</b></u>	<u><b>NAYS</b></u>	<u><b>ABSTAIN</b></u>	<u><b>ABSENT</b></u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
REYNOSO	_____	_____	_____	_____
CALVIN	_____	_____	_____	_____
ALEXANDER	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this \_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Genoveva Rocha, CMC, City Clerk