

ORDINANCE NO. 727

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA ADDING SECTIONS TO CHAPTER 17.180 "CANNABIS HOTELS" OF TITLE 17 "ZONING" OF THE DESERT HOT SPRINGS MUNICIPAL CODE REGARDING REGULATION OF CANNABIS USE AT HOSPITALITY BUSINESSES

WHEREAS, the City of Desert Hot Springs ("City") is a charter city organized pursuant to Article XI of the California Constitution; and

WHEREAS, the City Council finds that social consumption of cannabis is growing in popularity and a desired activity; and

WHEREAS, the City Council finds that social consumption should be regulated to ensure the safety of customers and to maintain the public safety; and

WHEREAS, the City has allowed 16 authorize applicants to apply for conditional use permits for the Storefront Retail Facilities; and

WHEREAS, the City Council desires to authorize local hotels and motels, under specified conditions, to sell cannabis and cannabis products to patrons and allow consumption of such products on-site, which permits will be in addition to the 16 authorized applicants to apply for conditional use permits for the Storefront Retail Facilities; and

WHEREAS, the City Council finds that this Ordinance is consistent with the General Plan; and

WHEREAS, the City Council finds that this Ordinance would promote the public interest, health, safety, convenience, or welfare of the City; and

WHEREAS, the City's Planning Commission held a public hearing on October 13, 2020, considered this Ordinance, and made a positive recommendation to the City Council; and

WHEREAS, on December 1, 2020, the City Council concluded the public hearings and considered this Ordinance; and

WHEREAS, the City Council determines that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines, because this Ordinance does not have the potential for causing a significant effect on the environment and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Desert Hot Springs as follows:

Section 1. RECITALS

That the foregoing recitals are true and correct and are herein adopted by this reference.

Section 2. ADDITION OF SECTION 17.180.085 "CANNABIS HOTELS" OF TITLE 17 "ZONING" OF THE DESERT HOT SPRINGS MUNICIPAL CODE AND AMENDING SECTION 17.180.030 "DEFINITIONS"

Chapter 17.180.085 ("Cannabis Hotels") of Title 17 ("Zoning") is hereby added to read in its entirety as follows, and Section 17.180.030 "Definitions" shall be amended to add the following definition:

17.180.030 Definitions.

...

"Marijuana facility" means collectively any marijuana storefront retail facility, non-storefront retail facility, marijuana cultivation facility, marijuana distribution facility, marijuana testing facility, marijuana hotel facility, or marijuana manufacturing facility, as those terms are defined in this chapter.

"Marijuana Hotel Facility" means a hotel, motel, or other transient lodging facility as defined by Chapter 3.20 of this Code that possesses a permit issued pursuant to this chapter.

"Patron" means a registered guest of a hotel or motel or other transient lodging facility as defined by Chapter 3.20 of this Code. Patrons shall not include any visitors or customers who do not register as guests.

..

17.180.085 Marijuana Hotel Facilities

a. Permitted Locations. Marijuana Hotel Facilities shall be located in Commercial Districts (excluding the Downtown Commercial District), Mixed-Use Corridor District, or Visitor-Serving Mixed Use District in the City.

b. Marijuana Hotel Facilities shall not:

- 1. Allow any on-duty employee to consume any marijuana or marijuana products on the premises.**
- 2. Admit entry into the premises, including both indoors and outdoors, any person who is under twenty-one years of age.**
- 3. Sell, serve, or permit the sale or serving of marijuana or marijuana products to persons other than patrons.**
- 4. Distribute any free samples of marijuana or marijuana products on the premises.**

5. Sell, serve, or permit the sale or serving of marijuana or marijuana products to patrons who are visibly intoxicated.
6. Permit any public nuisances, including any noise violations or other offenses to the public peace and safety.
7. Allow smoking or vaping of any product outside of designated and marked smoking areas, consistent with all local and state law.

c. Marijuana Hotel Facilities shall:

1. Store marijuana-containing products out of sight and in accordance with state law.
2. Be allowed to display empty packages of marijuana containing products and/or provide a menu of marijuana-containing products to patrons.
3. Create and maintain an active account within the state's track and trace system required by Business and Professions Code Section 26067 prior to commencing any commercial marijuana activity.
4. Ensure that the consumption of marijuana or marijuana products is not visible from the outside of the business.
5. Comply with any other conditions specified in their Marijuana Hotel Facilities Conditional Use Permit and Regulatory Permit.
6. Ensure that marijuana consumption areas shall have adequate security and lighting for the safety of patrons and to protect the premises from theft at all times.
7. Comply with all state alcohol requirements.
8. Notify patrons verbally and through posting of a sign in a conspicuous location that entry into the premises by persons under the age of twenty-one is prohibited.
9. Provide marijuana or marijuana products to a patron in an amount reasonable for on-site consumption and consistent with personal possession and use limits allowed by state law.
10. For Marijuana Hotel Facilities with more than ten (10) rooms, employ a person to be on the premises to supervise employees and patrons at all times during business hours.
11. Install an odor absorbing ventilation and exhaust system so that odor generated inside the premises is not detected outside the premises.
12. Properly designate any and all smoking areas, if applicable, and in compliance with all local and state laws.

13. All designated smoking areas shall be 50 feet from any property line (or residential use).
14. Train its employees about the various marijuana or marijuana products it sells, including potency of the products, absorption time, and effects of the products.
15. Place and properly maintain solid waste receptacles and recycling bins, in sufficient numbers and locations to service the needs of the proposed use at peak business periods.
16. Properly re-package any and all cannabis or cannabis products that are partially consumed to be taken offsite.

d. Conditional Use Permit/Regulatory Permit Required. No hotel/motel or other transient lodging facility as defined in Chapter 3.20 may sell, offer to sell, prepare for sale, or otherwise provide marijuana or marijuana products to patrons, nor allow the onsite consumption of marijuana or marijuana products by patrons, without first obtaining both a City-issued conditional use permit and regulatory permit. The number of Conditional Use Permits issued for Marijuana Hotel Facilities shall be above and beyond the limited number of conditional use permits allowed for Storefront Retail Facilities.

e. Marijuana Hotel Facilities must comply with all provisions of this code and State law as it pertains to any and all uses at all times.

f. Marijuana Hotel Facilities shall be subject to all applicable local taxes, including but not limited to those in Chapter 3.34, which shall be in addition to any Transient Occupancy Taxes.

Section 3. SEVERABILITY

That, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 4. GENERAL PLAN CONSISTENCY FINDINGS

The City Council finds this amendment is consistent and compatible with the General Plan.

Section 5. GENERAL FINDINGS

The City Council finds this Ordinance is not detrimental to the public interest, health, safety, convenience, or welfare of the City.

Section 6. REPEAL OF CONFLICTING PROVISIONS

That all the provisions of the Municipal Code as heretofore adopted by the City of Desert Hot Springs that are in conflict with the provisions of this ordinance are hereby repealed.

Section 7. AMENDING OF BAIL SCHEDULE

That the City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 8. EFFECTIVE DATE

That this ordinance shall be effective thirty days after the second reading of the ordinance.

Section 9. CERTIFICATION

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the 19th day of January, 2021 by the following vote:

AYES: 4 – Betts; Gardner; Pye; and Mayor Matas.


NOES: None.

ABSTAIN: 1 – Nuñez.

ABSENT: None.


[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:



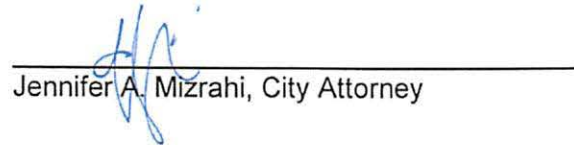
Jerryl Soriano, City Clerk

APPROVED:



Scott Matas, Mayor

APPROVED AS TO FORM:



Jennifer A. Mizrahi, City Attorney