

ORDINANCE NO. 934

AN ORDINANCE OF THE CITY OF BELL GARDENS, CALIFORNIA AMENDING TITLE 5 (BUSINESS LICENSES, REGULATIONS AND TAXES) OF THE BELL GARDENS MUNICIPAL CODE TO ADD LICENSING AND PERMIT REQUIREMENTS FOR CANNABIS RETAIL BUSINESS, AND AMENDING TITLE 9 (ZONING AND PLANNING REGULATIONS) TO CONDITIONALLY PERMIT A CANNABIS RETAIL USE IN COMMERCIAL ZONES

WHEREAS, the City of Bell Gardens ("City") is a general law city, incorporated under the laws of the State of California;

WHEREAS, pursuant to its police power, the City may enact and enforce laws within its boundaries which promote the public health, morals, safety, or general welfare of the community, and are not in conflict with general laws;

WHEREAS, the City's General Plan ("General Plan") articulates the community's vision and is underscored by an effective Zoning Code in compliance with state law that protects the public health, safety and welfare, enacts regulatory and enforcement controls to defend safe neighborhood character and minimize potential for negative impacts on people, the community, and the environment;

WHEREAS, Chapter 9.21 (Prohibited Uses) of Title 9 (Zoning and Planning Regulations) of the Bell Gardens Municipal Code ("BGMC") expressly prohibits all commercial cannabis activities within City limits;

WHEREAS, the City finds it necessary to amend the BGMC to remove certain prohibitions and add language to enact provisions that authorize appropriate use standards for commercial cannabis activities, specifically, cannabis retail activities through proposed Ordinance No. 934 ("Ordinance");

WHEREAS, the proposed Ordinance establishes land use and zoning regulations for Cannabis Retail, as specified, that are legal within the state, subject to strict compliance with state and local laws and regulations;

WHEREAS, the proposed Ordinance would streamline review and processing of entitlement requests and promote accessibility and a convenient, safe, and sustainable way to connect customers to a desired commodified product and ensure community compatibility;

WHEREAS, the purpose of the Ordinance is to ensure the incorporation of regulations and development standards of such businesses in certain zones within the City through the use of the public hearing process for both conditional use permits and negotiated development agreements;

WHEREAS, the proposed Ordinance would be consistent with the General Plan;

WHEREAS, Policy No. 1 of the General Plan's Land Use Element emphasizes the City's commitment to open communication and seeking public input;

WHEREAS, the deliberation of the Ordinance has been subject to a public hearing process that has been duly noticed for the purpose of seeking public input and participation and community members will continue to provide public input for individual projects resulting from ordinance implementation and is therefore consistent with Policy No. 1;

WHEREAS, Policy No. 3 of the General Plan's Land Use Element promotes compatible commercial development to emphasize commercial identity and to enhance the appearance, potential economic vitality, and revitalization of commercial areas in the City;

WHEREAS, a cannabis retail use will be limited to commercial and industrial zones only and subject to certain development standards and other siting requirements to enhance the economic viability of the surrounding commercial areas and is therefore consistent with Policy No. 3;

WHEREAS, Policy No. 4 of the General Plan's Land Use Element asserts that the City shall encourage private investment in the City's industrial economic base while ensuring compliance with necessary environmental requirements;

WHEREAS, Ordinance No. 934 encourages investment by permitting a cannabis retail use that would be subject to a discretionary approval process and would be required to comply with all applicable state and local environmental requirements and is therefore consistent with Policy No. 4;

WHEREAS, Policy No. 5 of the General Plan's Land Use Element emphasizes the provision of an environment to stimulate local employment, property values, community stability, and the economic vitality of existing local businesses;

WHEREAS, the introduction of a new use will promote an economic diversity of the City's commercial and industrial zones and provide local employment opportunities while still regulating the use in order to ensure community stability and economic vitality of existing businesses and is therefore consistent with Policy No. 5;

WHEREAS, pursuant to California Government Code Section 65854, the Planning Commission conducted a duly noticed public hearing on this matter on May 30, 2023, wherein the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the relevant staff report, and all other pertinent documents regarding the proposed Ordinance No. 934;

WHEREAS, at the close of the public hearing, the Planning Commission voted to recommend denial of the proposed ordinance by a 4-1-0 vote due to the desire to conduct more public hearings and for further input on the properties that may potentially be zoned to conditionally permit a Cannabis Retail use;

WHEREAS, the City Council may approve, modify, or disapprove the Planning Commission's recommendation pursuant to Government Code Section 65857;

WHEREAS, on June 12, 2023, the City Council held a duly noticed public hearing regarding the proposed Ordinance, considered all public comments received before and during the public hearing, the presentation by City Staff, the relevant staff report inclusive of the Planning Commission's recommendation, and all other pertinent documents regarding the proposed ordinance;

WHEREAS, the proposed Ordinance would preserve the ability for the input and participation for any proposed Cannabis Retail use through the conditional use permit process and, if applicable, through the development agreement process; and

WHEREAS, cannabis retail operations often take place in existing commercial or industrial buildings, and operate similarly to other retail operations, and would be subject to the same development standards as other commercial operations, including but not limited to height, setbacks, and parking; but subject to more restrictive siting requirements and thus, it can be seen with certainty that the regulation of cannabis retail sales will not cause a direct or indirect impact on the environment pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code § 21000 *et seq.*) and the CEQA Guidelines (Cal. Code Regs., Title 14, § 15000 *et seq.*).

NOW THEREFORE, the people of the City of Bell Gardens do ordain as follows (unless otherwise noted, changes are shown in **bold** or ~~strikethrough~~ text):

SECTION 1. The recitals set forth above are true and correct and are hereby incorporated by reference in full herein.

SECTION 2. Chapter 9.21 (Prohibited Uses) of Title 9 (Zoning and Planning) of the Bell Gardens Municipal Code is repealed in its entirety.

SECTION 3. The alphabetical list of definitions provided in Chapter 9.04 (Definitions) of Title 9 (Zoning and Planning Regulations) of the BGMC, is amended to add the following definitions:

Section 9.04.030 "C" definitions.

"Cannabis" shall mean all parts of the plant Cannabis Sativa Linnaeus, Cannabis Indica, or Cannabis Ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from 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 or 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.

"Cannabis Cultivation" shall have the same meaning as Section 26001(m) of the Business and Professions Code, and includes any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Cannabis Cultivation, as defined herein, does not include the personal cultivation at a private residence of up to six (6) plants as authorized by state law for personal use.

"Cannabis Manufacturing" shall have the same meaning as Section 26001(aj) of the Business and Professions Code, and includes activities that compound, blend, extract, infuse, package, label or otherwise make or prepare a cannabis product.

"Cannabis Products" shall have the same meaning as in Section 11018.1 of the Health and Safety Code, and includes such products that are intended for use on, or consumption by, an animal. Cannabis products are not considered food, as defined by Section 109935 of the Health and Safety Code, a drug, as defined by Section 109925 of the Health and Safety Code, or a cosmetic, as defined by Section 109900 of the Health and Safety Code.

"Cannabis Retail" shall have the same meaning as Section 26001(av) of the Business and Professions Code, and includes a person who is engaged in the retail sale and delivery of cannabis or cannabis products to customers. Delivery of Cannabis and Cannabis Products shall also include the use of a technology platform by a Cannabis Retailer to conduct the commercial transfer of Cannabis and Cannabis Products.

"Cannabis State Licensee" shall have the same meaning as Section 26001(ac) of the Business and Professions Code, and includes a person holding a license pursuant to the Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") whether the holder of an A-license or M-license, as defined in Section 26001 of the Business and Professions Code.

"Cannabis Testing Laboratory" shall have the same meaning as Section 26001(ax) of the Business and Professions Code, and includes a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is: (a) accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state; and (b) licensed by the California Department of Cannabis Control, or statewide body charged with regulating commercial cannabis activities.

Section 9.04.250 "Y" definitions.

“Youth center” shall have the same meaning as Section 11353.1(e)(2) of the Health and Safety Code, and includes any public or private facility that is primarily used to host recreation 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.

SECTION 4. The alphabetical list of land uses in Table 9.12A of Section 9.12.030 (Permitted land uses) of Chapter 9.12 (Commercial Zones) of Title 9 (Zoning and Planning Regulations) of the BGMC is amended to add the following new land use categories to the alphabetical list to read as follows:

Table 9.12A: Commercial Land Use Matrix

Uses	M-U Zone	C-S Zone	C-3 Zone	C-4 Zone	C-M Zone	Special Requirements
Cannabis Cultivation¹						
Cannabis Manufacturing						
Cannabis Retail²	C	C	C	C	C	<p>Refer to BGMC, Chapter 9.20 for additional development standards for Cannabis Retail.</p> <p>Refer to BGMC, Chapter 5.12 for business regulatory permit and operating standards for Cannabis Retail.</p>
Cannabis Testing Laboratory						

SECTION 5. The alphabetical list of land uses in Table 9.14A of Section 9.14.030 (Permitted land uses) of Chapter 9.14 (Industrial Zones) of Title 9 (Zoning and Planning Regulations) of the BGMC is amended to add the following new land use categories of the alphabetical list to read as follows:

¹ This use excludes the cultivation of up to six (6) cannabis plants, as permitted by state law, for personal use.

² A Cannabis Retail use is prohibited within the Civic Center Overlay District (“CCOD”) as indicated on the City’s Zoning Map, irrespective of the underlying zoning.

Table 9.14A: Industrial Land Use Matrix

<u>Uses</u>	M-1	Special Requirements
Cannabis Cultivation¹		
Cannabis Manufacturing		
Cannabis Retail²	C	<p>Refer to BGMC, Chapter 9.20 for additional development standards for Cannabis Retail.</p> <p>Refer to BGMC, Chapter 5.12 for business regulatory permit and operating standards for Cannabis Retail.</p>
Cannabis Testing Laboratory		

SECTION 6. Section 9.20.160 of Chapter 9.20 (Special Uses and Applicable Standards) of Title 9 (Zoning and Planning Regulations) of the BGMC, is added to read:

Chapter 9.20 Special Uses and Applicable Standards

9.20.160 Cannabis Retail – Conditional use.

In addition to compliance with all other state and local statutes, ordinances and regulations, the following regulations shall apply to Cannabis Retailers where they are permitted by conditional use permit:

A. Location. The following locational requirements shall apply to all Cannabis Retailers:

1. Use Prohibited in the Civic Center Overlay District. A Cannabis Retail use shall not be permitted within the Civic Center Overlay District (“CCOD”), as indicated on the City’s Zoning Map, irrespective of the underlying zoning.

2. Use Prohibited within the boundaries of the Interstate 710 (I-710) Freeway to the west, Lubec Avenue to the north, Ajax Avenue to the east (between Lubec Avenue and E. Florence Avenue), Florence Avenue to the south (between Ajax Avenue and Eastern Avenue) and Eastern Avenue to the east (between E. Florence Avenue and Live Oak Street), and from the southwest

¹ This use excludes the cultivation of up to six cannabis plants, as permitted by state law, for personal use.

² A Cannabis Retail use is prohibited within the Civic Center Overlay District (“CCOD”) as indicated on the City’s Zoning Map, irrespective of the underlying zoning.

corner of Eastern Avenue and Live Oak Street due west to the I-710 Freeway, irrespective of the zoning.

3. Proximity to Sensitive Uses. A Cannabis Retail use shall not be located within a 600-foot radius of a day care center, youth center, school, or parks as defined in Chapter 9.04 of the BGMC, that is existing at the time an application for a conditional use permit is submitted.

4. Proximity to Cannabis Retailers. A Cannabis Retailer shall not be located within a 500-foot radius of another Cannabis Retailer that is existing at the time an application for a conditional use permit is submitted.

B. Additional Development and Design Standards for Cannabis Retailers. The following development and design standards shall apply to all Cannabis Retailers unless more restrictive conditions are imposed as a condition of approval:

1. Parking. A Cannabis Retail use shall be subject to the "Business general" parking requirements, as set forth in Section 9.38.050(C)(2) of the BGMC.

2. Signage. All signage shall comply with the requirements set forth in Chapter 9.40 of the BGMC.

3. Windows. Windows facing the street frontage shall be clear untinted glass. Mirrored, reflective, or tinted glass shall only be permitted as an architectural or decorative accent and shall not comprise more than twenty percent (20%) of the window.

4. Decorative Railings and Grilles. Decorative railings and grilles that are placed in front of or behind windows shall be at least seventy-five percent (75%) open to perpendicular view and no more than six (6) feet in height. Security gates and grilles shall be prohibited on the exterior of any structure.

C. Additional Application Requirements. Applications for a conditional use permit to permit a Cannabis Retail use shall also provide the following documentation, in addition to the requirements set forth in Section 9.50.030 of the BGMC:

1. A signed affidavit stating that upon a conditional approval of the Cannabis Retail use, that applicant will apply for and obtain a business regulatory permit for Cannabis Retailer, pursuant to Chapter 5.12 of the BGMC, prior to commencing operations of the Cannabis Retail use.

2. A radius map indicating the location of all Cannabis Retailers, day care centers, youth centers, and schools existing within a one thousand five hundred (1,500) foot radius of the subject site at the time of application submittal. Radius maps must be generated within thirty (30) days of submittal to the City.

D. Duration. The life of a conditional use permit shall not exceed eighteen (18) months from the date of issuance of the first building permit. For the purposes of this section, a "building permit" shall mean a permit issued by the Building and Safety Division for the development of a property or structure, inclusive of demolition; grading; building; electrical, plumbing, or mechanical upgrades; or change of occupancy. An applicant who wishes to obtain an approval for a Cannabis Retail use in exceedance of eighteen (18) months may request a development agreement.

E. Upon consideration of the conditional use permit, the planning commission may also impose additional conditions of approval.

SECTION 7. The alphabetical list of definitions provided in Section 5.12.015 (Permit – Designation of business requiring) of Chapter 5.12 (Permits – Issuance and Revocation) of Title 5 (Business Licenses, Regulations and Taxes) of the BGMC, is amended to add the following definitions:

G. Cannabis Retail. As defined in Section 9.04.030 of the Bell Gardens Zoning Code;

H. Cannabis Products. As defined in Section 9.04.030 of the Bell Gardens Zoning Code;

K. Head shop. A business is deemed to be a head shop if it sells or displays for the purpose of sale any device, contrivance, instrument or paraphernalia for smoking or injecting, or consuming marijuana cannabis, hashish, PCP or any controlled substance, as defined in the Business and Professions Code or the Health and Safety Code of the state of California, other than prescription drugs and devices to ingest or inject prescription drugs, as well as roach clips, and cigarette papers and rollers designed for the smoking of the foregoing;

SECTION 8. Section 5.14.010 (Application) of Chapter 5.14 (Business Regulations Generally) of the BGMC is amended to read:

The following regulations in Chapters 5.22 through 5.60 and 5.64 of the BGMC, in addition to any other regulations imposed by this code or by state law, shall apply to all business licenses and trades licensed under the provisions of the business license law.

SECTION 9. Chapter 5.64 (Retail Cannabis Business Permit) is added to Title 5 (Business Licenses, Regulations and Taxes) of the BGMC to read:

5.64.010 Purpose and intent.

It is the purpose and intent of this Chapter to regulate the operations of Cannabis Retail businesses, which may pose public safety risk and quality of life concerns if not properly regulated. It is the City's goal to address concerns related to the business aspect of commercial cannabis activities through the

City's police powers. Therefore, the City imposes the following objective standards for applications, approvals, denials, and permit revocations, as well as terms for security, odor, inspection, and grounds for revocation of a Cannabis Retail business regulatory permit.

5.64.020 Retail Cannabis Permit Required.

A. All Cannabis Retail businesses are subject to the business regulatory permit requirements of this Chapter and Chapter 5.12 of the BGMC, as well as all other applicable ordinances of the City and laws of the state of California.

B. It shall be unlawful for any person to establish, operate, engage in, conduct, or carry on any Cannabis Retail within the City unless the person first obtains, and continues to maintain in full force and effect, a Cannabis Retail business regulatory permit, as required herein.

5.64.030 Permit Application Contents.

In addition to the application requirements in Section 5.12.020, an application for a Cannabis Retailer permit shall submit:

A. A planning commission Resolution and associated conditions of approval, and development agreement (if applicable), for a Cannabis Retailer use at the location proposed for the Cannabis Retailer business regulatory permit.

B. A site plan and floor plan for the associated approved conditional use permit.

C. A valid license (Type 9 or Type 10, as defined in the California Code of Regulations, Title 4, Division 19) issued by the Department of Cannabis Control ("DCC"), accompanied by a statement signed under penalty of perjury, affirming that the license is valid and is in good standing with the DCC, and is not subject to pending or active enforcement action, including but not limited to including unpaid fines, outstanding citations, license suspension, or license revocation.

D. A security plan indicating the Cannabis Retailer shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times in conformance with the security plan.

E. A permit application shall not be processed until all of the foregoing documentation and application requirements set forth in BGMC Section 5.12.020 and this Section 5.64.030 have been satisfied.

5.64.040 Operating Standards.

All Cannabis Retail businesses in the City shall operate in conformance with the following operating requirements ("Operating Standards"):

A. No Cannabis Retailer may commence operations without obtaining a business regulatory permit required by this Chapter; a conditional use permit

for a Cannabis Retailer use pursuant to Chapter 9.50 of the BGMC; the issuance of a certificate of occupancy, finalized Building Job Card, or equivalent document signed by the Building Official; the appropriate state licenses issued by the DCC; and any other applicable governmental agency approvals. In the event that a Cannabis Retailer does not request a building permit, the Cannabis Retailer shall not commence operations until the Planning Department has inspected the site to confirm that all applicable conditions of approval and/or applicable terms within an executed development agreement have been satisfied.

B. Cannabis Retail businesses shall provide adequate security and lighting on site to ensure the safety of persons and protect the premises from theft at all times in conformance with the security plan submitted with the business license application.

C. All security guards employed by a Cannabis Retail business shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times.

D. Cannabis Retailer shall strictly comply with the state requirements, including but not limited to the Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") and related regulations as enacted by the DCC and amended from time to time.

E. An odor absorbing ventilation and exhaust system shall be installed so that odor generated inside the business is not detected inside the business.

F. Cannabis Retailers shall not engage in Cannabis Cultivation, Cannabis Manufacturing, Cannabis Laboratory Testing, as defined in Chapter 9.04 of the BGMC. All such business uses are strictly prohibited within City limits and are subject to enforcement action pursuant to Section 5.64.060 of the BGMC.

G. On-site consumption of Cannabis and Cannabis Products shall be prohibited.

H. Cannabis Retail businesses shall post a notice in a conspicuous location, readily visible to persons entering the premises notifying patrons that entry onto the premises by persons under the age of twenty-one (21) is prohibited.

I. Cannabis Retail businesses shall comply with all conditions of approval stated in the conditional use permit permitting the Cannabis Retail use issued pursuant to Chapter 9.50 of the BGMC.

J. City Code Compliance Officers, the Bell Gardens Police Department, Los Angeles County Fire Department staff, or other agents and employees of the City shall be granted access to the site for the purpose of determining compliance with the Operating Standards contained herein.

K. A Cannabis Retail business shall commence operations within one year of issuance of a business regulatory permit.

5.64.050 Suspension or Revocation – Grounds.

A. In addition to the grounds in Chapter 5.12 of the BGMC, a permit may be suspended or revoked if any of the following conditions exist:

- 1. Failure to comply with the Operating Standards contained in Section 5.64.040 of the BGMC.**
- 2. Failure to pay all applicable taxes and fees to the City for a consecutive three-month period.**
- 3. The assignment or attempt to assign or transfer any business regulatory permit issued pursuant to this Chapter.**
- 4. Failure to obtain and/or maintain all of the required state permits for a Cannabis Retail business, including but not limited to licenses from the Department of Cannabis Control and a seller's permit from the State Department of Tax and Fee Administration.**
- 5. Failure to maintain and post all state- and locally-issued licenses and permits in a conspicuous place.**

B. The hearing and appeal procedures for a suspension or revocation of a permit shall be in accordance with the procedures pursuant to Chapter 5.12 of the BGMC.

5.64.060 Unauthorized Cannabis Operations – Enforcement.

A. Any person or entity engaged in a Cannabis Retailer operation, as defined in Chapter 9.04 of the BGMC, without a regulatory business permit, shall be considered a nuisance per se and shall be subject to enforcement action, including but not limited to prosecution of a misdemeanor.

B. Any person or entity, including a licensed Cannabis Retailer, engaged in Cannabis Cultivation, Cannabis Manufacturing, or Cannabis Laboratory Testing, as defined in Chapter 9.04 of the BGMC, shall be considered a nuisance per se and shall be subject to enforcement action, including but not limited to prosecution of a misdemeanor.

5.64.070 Violations.

A. Each and every violation of the provisions of this Title 5 of the BGMC is hereby deemed unlawful and a public nuisance and may be prosecuted as a misdemeanor. Each day a violation is committed or permitted to continue shall constitute a separate offense.

B. The remedies provided herein are not to be construed as exclusive remedies. The remedies set forth in Title 5 of the BGMC shall be in addition to any other remedies for violations of the Municipal Code, including but not limited to Title 6 and Title 9 of the BGMC.

5.64.080 City Fees.

The City Council may adopt fees related to the review, issuance, and enforcement of Cannabis Retail business regulatory permits.

SECTION 10. In accordance with CEQA and CEQA Guidelines Section 15061(b)(3), it can be seen with certainty that the adoption of Ordinance No. 934 would not result in a significant environmental impact and is therefore exempt from CEQA.

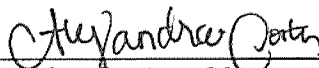
SECTION 11. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions might subsequently be declared invalid or unconstitutional.

SECTION 12. The City Clerk shall certify the passage and adoption of this Ordinance and shall cause this Ordinance to be published and/or posted as required by law, which shall take full force and effect thirty days from its adoption.

[Signatures on the following page]

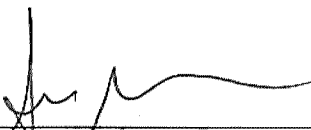
PASSED, APPROVED AND ADOPTED this 26th day of June, 2023.

THE CITY OF BELL GARDENS



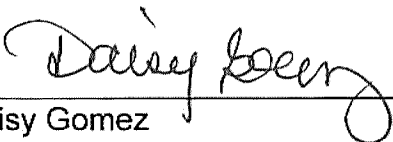
Alejandra Cortez, Mayor

APPROVED AS TO FORM:



Stephanie Vasquez
City Attorney

ATTEST:



Daisy Gomez
City Clerk

I, DAISY GOMEZ, City Clerk of the City of Bell Gardens, hereby CERTIFY that **Ordinance No. 934** was introduced and placed upon its first reading at a regular meeting of the Bell Gardens City Council held on **Monday, June 12, 2023**, and that thereafter said ordinance was duly adopted at a regular meeting of the Bell Gardens City Council held on **Monday, June 26, 2023** and was approved and passed by the following vote:

- AYES: Council Members Barcena, Mayor Pro Tem De Leon Sanchez, Mayor Cortez
- NOES: Council Member Chavez
- ABSTAIN: None
- ABSENT: Council Member Pulido



Daisy Gomez, City Clerk