



City of El Centro
Community Development Department
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Cannabis Policy Interpretation November 4, 2020

The City of El Centro's Municipal Code, Chapter 13, Article X authorizes Commercial Cannabis facilities and provides for policies set and interpreted by the Community Development Director. Pursuant to Section 13.161(a), the Community Development Director has developed policies and procedures which are available to applicants. From time to time, the Community Development Director has provided interpretations and clarifications of the application of the ordinance and its policies. Those interpretations and clarifications are provided to all those who have requested applications and are posted on the Community Development Department of the City website.

1. Interpretation of the meaning of the term "youth center."

The Medicinal and Adult-Use Cannabis Regulation and Safety Act is set out at Business & Professions Code Section 26000 et seq. (the "Act"). The term "youth center" appears in Business & Professions Code Section 26054 (b) and provides:

"A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law."

City Code Section 13-155, "Location and distance requirements," repeats the same restriction: *"Storefront retail commercial cannabis businesses are permitted to engage in commercial cannabis activities subject to the following zoning and locational requirements:*

(b) The property on which the cannabis business is located must also meet all of the distance requirements listed below. All distances shall be measured in a straight line without regard to intervening structures, except as listed in subsection (b)(3).

(1) The building shall not be within fifty (50) feet of any residentially zoned or residentially used parcel in the city, a neighboring city, or unincorporated county. The distance shall be measured in a straight line from the closest exterior wall to the residential parcel boundary line.

(2) The parcel shall not be located within a six hundred (600) foot radius from any parcel in the city, a neighboring city, or unincorporated county containing any of the following:

A. A school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12) that is in existence at the time the permit is issued;

B. A commercial daycare center licensed by the city, another city, or county that is in existence at the time the permit is issued;

C. A youth center that is in existence at the time the permit is issued; or

D. A public park that is in existence at the time the permit is issued.

As defined in state law and the City Code, “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.”

The question is the definition of “youth center” and whether that includes commercial tutoring business, gymnastics, martial arts, or similar businesses. The brief answer, explained below, is that it was not intended to include those. Had they been included, specific language would have been added.

We have found no guidance from any case law the Bureau of Cannabis Control. Therefore, looking at the examples in the ordinance, the City interprets “youth center” to be a facility that has programs for minors similar to those provided by schools, i.e. a community youth center operated by a city or other public agency as well as by the YMCA/YWCA or a Boys and Girls Club. A logical reason for the restriction would be that youth spend a longer amount of time there (more similar to schools) rather than going in and out to short classes, unaccompanied by parents or guardians. Therefore, that would not include a gymnastics or martial arts studio or tutoring program/learning center which are relatively short term and specific programs and where parents may wait at the facility. In fact, some cities have added such programs with specific language, but El Centro has not.

2. Proximity of the cannabis retailer to businesses selling alcohol Cannabis Retailer

State law provides as follows in Business & Professions Code Section 26054: *(a) A licensee shall not sell alcoholic beverages or tobacco products on or at any premises licensed under this division.*

Business & Professions Code Section 26001 defines Premises as *“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 licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.”*

There is no definition of either of “property” or “parcel” in the State law concerning commercial cannabis activities.

The City Code provides as follows in Section 13-178: Restriction on alcohol and tobacco sales.

(a) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages to any person on the property occupied by the commercial cannabis business.

(b) No person shall cause or permit the sale of tobacco products to any person on the property occupied by the commercial cannabis business.

The question is whether “property” as used in Section 13-178 means “premises” or property as in parcel of land. Property is not defined in Article X, “Commercial Cannabis Activities.” The brief answer is that in reviewing the actual language of Section 13-178, the location refers to “property occupied by the commercial cannabis business” which means “premises” as defined in Article X.