

ORDINANCE NO. 1140

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING VARIOUS SECTIONS OF TITLE 17 (ZONING) OF THE COACHELLA MUNICIPAL CODE IN ORDER TO AMEND ZONING REGULATIONS REGARDING COMMERCIAL CANNABIS ACTIVITY FACILITIES AND RETAIL CANNABIS BUSINESSES IN ORDER TO EXPAND THE ALLOWABLE LOCATIONS AND INCREASE THE NUMBER OF ALLOWABLE RETAILERS, MODIFY CURRENT ZONING REGULATIONS FOR CANNABIS ACTIVITY FACILITIES, AND MAKE CONFORMING AMENDMENTS.

WHEREAS, pursuant to the authority granted to the City of Coachella (“City”) by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and

WHEREAS, adoption and enforcement of comprehensive zoning regulations and other land use regulations lies within the City’s police power; and

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older; and

WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act (“MCRSA”), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA” or “Act”); and

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and

WHEREAS, the proposed Ordinance would amend Title 17 (Zoning), Chapters 17.34, 17.46, 17.47, 17.84, and 17.85 to (i) comply with current City policies and State law; (ii) to allow additional cannabis retail businesses in the City; (iii) to designate additional areas in the City where cannabis retail businesses may operate; and

WHEREAS, the subject Municipal Code Amendment is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378 of the California Public Resources Code, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant impact on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, the Planning Commission of the City of Coachella (“Planning Commission”) conducted a properly noticed public hearing on April 17, 2019 at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff, and other public testimony; and

WHEREAS, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance; and

WHEREAS, the City Council conducted properly noticed public hearings on May 8, 2019 and on June 26, 2019 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff, and other public testimony.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council hereby finds that all of the foregoing recitals are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 2. Amendment to the Coachella Municipal Code. Title 17 (Zoning), Sub-Section 17.34.020, and Chapters 17.46, 17.47, 17.84, and 17.85 are hereby deleted and replaced in their entirety as shown in **Exhibit “A”** attached hereto and incorporated herewith.

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.


SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed

section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 5. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

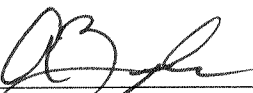
SECTION 6. CEQA. The City Council finds that the subject Municipal Code Amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378 of the California Public Resources Code, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant impact on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA

PASSED, APPROVED and ADOPTED this 10th day of July, 2019.




Steven A. Hernandez
Mayor

ATTEST:



Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:



Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)


I HEREBY CERTIFY that the foregoing Ordinance No. 1040 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on the 10th day of July, 2019, by the following vote of Council:

AYES: Councilmember Bautista, Councilmember Beaman Jacinto, Councilmember Gonzalez and Mayor Hernandez.

NOES: None.

ABSENT: None.

ABSTAIN: Mayor Pro Tem Martinez



Andrea J. Carranza, MMC
Deputy City Clerk

EXHIBIT “A”

Exhibit “A”

Chapter 17.34 – M-W Wrecking Yard Zone

17.34.020 - Permitted uses.

A. Primary Uses.

1. All uses permitted by Section 17.32.030(A) of the M-H zone;

B. Accessory Uses. The following buildings, structures, and uses are permitted when clearly incidental and accessory to a primary permitted use.

1. Those uses permitted by Section 17.32.020(B) of the M-H zone.

C. Conditional Uses. The following uses may be permitted in the M-W zone subject to obtaining a conditional use permit pursuant to Chapter 17.74 of this code.

1. Those conditional uses allowed by Section 17.32.020(C) in the M-H zone;
2. Automobile dismantling or wrecking yard;
3. Automobile impounding yard;
4. Community recycling collection facilities, pursuant to Chapter 17.90;
5. Construction and demo material recycling facilities pursuant to Chapter 17.90;
6. Wood and green waste recycling facilities, pursuant to Chapter 17.90.
7. Cannabis cultivation, manufacturing, distribution, testing, and retail (including microbusiness) facilities, pursuant to Chapters 17.84 and 17.85.

D. The following uses may be permitted in the M-W zone subject to obtaining a specific plan adoption pursuant to Chapter 17.36 of this code.

1. Transfer station, large scale, pursuant to Chapter 17.90.

Chapter 17.46 - IP INDUSTRIAL PARK OVERLAY ZONE

17.46.010 - Intent and purpose.

This overlay zone is intended to provide for the well-planned and orderly development of industrial parks within the community and to eliminate or adequately mitigate any adverse impacts on the community related to such types of development. The IP (industrial park) overlay zone designation may be applied to certain property described herein that is zoned M-S (manufacturing service). When the IP overlay zone designation is added to such property, the provisions of this article shall apply in addition to the regulations provided by the underlying M-S zone. Whenever there is a conflict or inconsistency between the provisions of this article and the underlying zone, the provisions of this chapter shall be controlling.

17.46.015 - Property eligible for IP industrial park overlay zone classification.

The IP industrial park overlay zone classification shall be limited to those projects that are:

- A. Located within Sub-Areas #6 (Downtown Expansion), #7 (South Employment District), or #10 (North Employment District) of the city of the Coachella General Plan; and
- B. Zoned as M-S (manufacturing service); and
- C. A minimum of ten (10) acres in project area (all lots developed according to common plan or scheme).

17.46.020 - Permitted uses.

- A. Except as expressly conditioned or prohibited in this chapter, all uses permitted in the underlying M-S zone shall be permitted in the IP overlay zone;
- B. Research and development;
- C. Professional office;
- D. Warehousing and distribution.

17.46.023 - Conditional uses.

The following uses may be permitted in the IP overlay zone subject to obtaining a conditional use permit as specific in Section 17.74.010:

- A. Cannabis cultivation, processing, testing, manufacturing, wholesale distribution and/or retail sale (including microbusinesses), subject to the regulatory requirements of Chapters 5.68 and 5.69 of this code.

1. For purposes of this subsection A., “cannabis cultivation, processing, testing, manufacturing, wholesale distribution and/or retail sale (including microbusinesses)” shall not be deemed as the permitted uses of “drugs manufacture”, “food products processing, manufacturing, canning, preserving and freezing”, “fruit and vegetable packing house”, or “testing laboratories” under Section 17.30.020(A).

17.46.026 - Prohibited uses.

The following uses are prohibited in the IP overlay zone:

- A. Outdoor storage yard;
- B. Automobile repair business;
- C. Automobile body and fender works;
- D. Any other conditional uses in the M-S zone, except as set forth in this chapter.

17.46.030 - Property development standards.

A. Project Area/Lot Requirements

- 1. Minimum Project Area. Ten (10) acres. For purposes of this paragraph, “project area” shall mean the combined area of all legally subdivided lots developed as a common plan or scheme by the same or affiliated developer(s).
- 2. Minimum individual Lot Size. Five (5) acres for any lot on which is located a cannabis cultivation, processing, testing, manufacturing or distribution use. For all other lots, one (1) acre.
- 3. Minimum Lot Width. One hundred eighty (180) feet.
- 4. Minimum Lot Depth. Two hundred twenty (220) feet.
- 5. Maximum Lot Coverage. Fifty (50) percent. The Development Services Director may allow individual lots within a project area to exceed this standard if he or she finds that: (i) it will result in more orderly development of the project area and (ii) the average lot coverage of all lots within the project area does not exceed fifty (50) percent.
- 6. No retail cannabis use shall be located within eight hundred (800) feet of Avenue 52. The distance shall be measured at the nearest point between any part of the building containing retail cannabis use and Avenue 52 street right-of-way line.

B. Front Yard Requirements.

- 1. Twenty-five (25) feet from the curb on all property fronting on Avenue 54 and Avenue 52.

2. Twenty (20) feet from the curb on all property fronting Industrial Way, Enterprise Way or Polk Street.
 3. Ten (10) feet from the curb on all property fronting any local street.
 4. All front setbacks shall be landscaped in a manner approved by the planning commission.
 5. No buildings, facilities or other improvements shall be allowed in a required front yard except for landscaping or block entryways approved by the planning commission. Notwithstanding the foregoing, required yards may be used for automobile parking; provided, that landscaping approved by the planning commission is provided along the frontage of the property.
- C. Height Limits. The maximum height of any building or structure shall be fifty (50) feet.
- D. Distance Between Uses/Buildings. No cannabis cultivation, processing, testing, manufacture distribution or retail use shall be located within one thousand (1,000) feet of any residentially zoned lot. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the residential use.
- E. On-Street/Off-Street Parking and Loading.
1. Off-Street Parking and Loading. Off-street parking and loading facilities shall be provided in accordance with the provisions of Section 17.54.010 of this title.
 2. On-Street Parking and Loading. On-street parking or loading shall be prohibited.
- F. Walls and Screening.
1. Each development on a lot or parcel of property shall be enclosed with decorative masonry walls and/or wrought iron fencing, subject to review by the planning commission.
 2. All parking lots and loading areas shall be screened from view to the street with low decorative masonry walls and landscaping, subject to review by the planning commission.
- G. Other Property Development Standards.
1. All utilities shall be underground, until such time as the power transmitted is greater than thirty-four (34) KV and then it shall be brought to the attention of the planning commission prior to any construction.
 2. All developments shall include an exterior lighting system to provide adequate are security. Such lighting system shall use high-pressure sodium lights or an equivalent type of light approved by the planning commission.

3. All developments shall be landscaped in a manner approved by the planning commission.

17.46.040 - Architectural review.

All developments shall be subject to architectural review in accordance with Section 17.72.010 of this title, including planning commission review of design guidelines and signs as described below. Any addition to or exterior alteration of an existing development also shall be subject to such architectural review.

A. Design Guidelines. Detailed architectural and/or artist renderings, or pictorial depictions, of allowable building types, architectural themes, and typical common-area landscaping and lighting shall be provided for all industrial park overlay zone developments. Conceptual design guidelines in text describing allowable architectural theming and exterior building materials, roofing and roof line treatments, window and door opening designs, and landscaping plant palettes, must accompany the industrial park overlay zone architectural review submittal. The use of green houses, butler buildings, or other pre-fabricated structures are prohibited unless they are treated architecturally to have the appearance of a contemporary concrete tilt-up building with parapet roof structures. All main buildings shall have variation in exterior wall planes and roof lines to limit massing and monotone design features, subject to review by the planning commission.

B. Signs. A comprehensive sign program shall be included as a part of architectural review for new industrial park overlay zone developments.

Chapter 17.47 - RC RETAIL CANNABIS OVERLAY ZONE

17.47.010 - Intent and purpose.

This overlay zone is intended to provide for the well-planned and orderly development of retail cannabis businesses within the community and to eliminate or adequately mitigate any adverse impacts on the community related to such types of development. The RC (retail cannabis) overlay zone designation may be applied to certain property described herein that is zoned C-G (general commercial), R-M (residential multi-family), and M-S (manufacturing service). When the RC overlay zone designation is added to such property, the provisions of this chapter shall apply in addition to the regulations provided by the underlying C-G zone, R-M, M-S zones. Whenever there is a conflict or inconsistency between the provisions of this article and the underlying zone, the provisions of this chapter shall be controlling.

17.47.020 - Property eligible for RC retail cannabis overlay zone classification.

The RC retail cannabis overlay zone shall be divided into three (3) sub-zones. This overlay classification shall be limited to those projects that:

A. Sub-Zone #1:

1. Are located either along the west side of Grapefruit Boulevard (State Highway 111) between 1st Street and 9th Street, on the east side of Grapefruit Boulevard between 4th Street and 9th Street, and
2. Have either a front or side lot line facing Grapefruit Boulevard, a front lot line facing 4th Street within 225 feet of Grapefruit Boulevard, a front lot line facing 5th Street within 225 feet of Grapefruit Boulevard, a front lot line facing 6th Street between Grapefruit Boulevard and Vine Street, a front lot line facing 7th Street within 225 feet of Grapefruit Boulevard, a front lot line facing 8th Street within 225 feet of Grapefruit Boulevard, a front lot line on the north side of 9th Street within 225 feet of Grapefruit Boulevard, and
3. Are zoned C-G (general commercial), R-M (residential multifamily), or M-S (manufacturing-service).

B. Sub-Zone #2:

1. Are located along the south side of Avenue 48, between Grapefruit Boulevard and Van Buren Street; and
2. Have either a front or side lot line fronting Avenue 48 or Grapefruit Boulevard; and
3. Are zoned C-G (general commercial).

C. Sub-Zone #3:

1. Are located along either side of Dillon Road, between State Highway 86 and Vista Del Norte, and shall also include properties on the south side of Vista Del Sur fronting on Camp Court; and
2. Have either a front or side lot line fronting Dillon Road or Camp Court; and
3. Are zoned C-G (general commercial).

17.47.030 - Permitted uses.

Any uses permitted in the underlying zoning district of the property.

17.47.040 - Conditional uses.

The following uses may be permitted in the RC overlay zone subject to obtaining the appropriate approval:

- A. In Sub-Zones #1, and 3: The retail sale, exchange, transaction or delivery of cannabis, including retailers or microbusinesses, subject to a conditional use permit as specified in Section 17.74.010, as well as the regulatory requirements of Chapters 5.69 and 17.84 of this code.
- B. In Sub-Zone #2: The retail sale, exchange, transaction or delivery of cannabis, including retailers or microbusinesses, subject to obtaining a conditional use permit as specified in Section 17.74.01, and subject to a development agreement as specified in Chapter 17.100, as well as the regulatory requirements of Chapters 5.69 and 17.84 of this code.

17.47.050 - Prohibited uses.

Any uses not identified as “permitted” or “conditionally permitted” by this ordinance or by the chapter of this code applicable to the site’s underlying zone are prohibited.

17.47.060 - Property development standards.

- A. Project Area/Lot/Building Height Requirements. Except as specified in the applicable development agreement, CUP, or regulatory permit, the project area, lot size, lot coverage and building height requirements of the underlying zone shall apply.
- B. No Drive-Thru Retail Cannabis Facilities. No retail cannabis business within the RC Overlay Zone shall operate “drive-thru”, “drive up”, “window service” or similar facilities whereby a customer can order, purchase and receive retail cannabis without leaving his or her vehicle.

- C. No Non-Storefront Retailers. No retail cannabis business within the RC overlay zone shall be operated as “non-storefront” or “delivery only”. Delivery may only be approved as ancillary to the operation of a permitted cannabis retail business which is physically located within the RC overlay zone and which primarily provides cannabis to customers on the premises.
- D. Distance Restrictions. No retail cannabis business within the RC overlay zone shall be located within two hundred fifty (250) feet of any public or private school (K-12), day care center or youth center. The distance shall be measured from the nearest point between any part of the building containing the retail cannabis business to any lot line of the other use. For purposes of this paragraph, the following definitions shall apply:
1. “Day care center” means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities and school age child care centers.
 2. “Youth center” means any public or private facility that is primarily used to house 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.
- E. Location of Customer Entrance. No retail cannabis business shall have a customer entrance that is adjacent to or directly across the street from a residentially zoned lot.
- F. On-Street/Off-Street Parking and Loading.
1. Off-Street Parking and Loading. Off-street parking and loading facilities for a retail cannabis business shall be provided in accordance with the provisions of Section 17.54.010-C(1) of this title.
 2. On-Street Parking and Loading. On-street parking or loading shall be prohibited for a retail cannabis business.
- G. Microbusinesses. Microbusinesses are permitted in the RC cannabis overlay zone. To hold a CUP for a microbusiness, the permittee must engage in at least three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail sale. Any cultivation at a microbusiness shall be limited to an area less than ten thousand (10,000) square feet. Any manufacturing at a microbusiness shall use nonvolatile solvents or no solvents.

17.47.070 - Architectural review.

All developments shall be subject to architectural review in accordance with Section 17.72.010 of this title, including planning commission review as described below. Any addition to or exterior alteration of a retail cannabis use in an existing development also shall be subject to such architectural review.

- A. Design Criteria. Detailed architectural and/or artist renderings, or pictorial depictions, of the architectural designs and/or theming of the business shall be submitted for planning commission review. All retail cannabis businesses shall be designed to have a storefront with glass door and windows facing the street, providing visibility into the front lobby or showroom of the business. The applicant shall submit information regarding proposed interior and exterior wall and roof finishes, windows and awnings, lighting fixtures, flooring materials, and paint colors for the business for review by the planning commission.

Chapter 17.84 - RETAIL CANNABIS BUSINESSES

17.84.010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the retail sale of medicinal cannabis and nonmedicinal cannabis for adult use (including cannabis products, cannabis concentrate, and edible cannabis products) within the city of Coachella.

The regulations and prohibitions in this chapter are enacted to ensure the health, safety, and welfare of the residents of the city. The regulations and prohibitions herein, which are in compliance with the Compassionate Use Act of 1996 (“CUA”), the Medical Marijuana Program Act (“MMP”), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) (collectively, “state law”), do not interfere with the use and possession of cannabis as authorized under state law.

Nothing in this chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow any activity relating to the retail sale or use of cannabis that is otherwise illegal under California state law, or (3) interfere with the use and possession of cannabis as authorized under MAUCRSA.

17.84.020 - Definitions.

For the purposes of this chapter, the following definitions shall apply.

“Applicant” means an owner that applies for a development agreement or conditional use permit under this chapter.

“Cannabis” means 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; 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 concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

“Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“City manager” means the city manager of the city of Coachella or designee.

“Conditional use permit” or “CUP” means a conditional use permit issued under this chapter.

“Customer” means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician’s recommendation, or a primary caregiver.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer.

“Development agreement” means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

“Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term “cannabis” is used in this chapter, it shall include “edible cannabis products.”

“Microbusiness,” for purposes of this chapter, means a commercial business that engages in retail cannabis sales and at least two of the following commercial cannabis activities: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

“Non-storefront retailer” means a cannabis retailer that provides cannabis exclusively through delivery.

“Owner” means any of the following:

- (1) A person with an aggregate ownership interest of twenty percent (20%) or more in the applicant, unless the interest is solely a security, lien, or encumbrance;
- (2) The chief executive officer of a nonprofit or other entity;
- (3) A member of the board of directors of a nonprofit;
- (4) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.
- (5) An individual entitled to a share of at least twenty percent (20%) of the profits of the commercial cannabis business;
- (6) An individual that will be participating in the direction, control, or management of the person applying for a permit. Such an individual includes any of the following: a general partner of a commercial cannabis business that is organized as a partnership; a non-member manager or

managing member of a commercial cannabis business that is organized as a limited liability company; an officer or director of a commercial cannabis business that is organized as a corporation.

“Permittee” means any person holding a valid permit under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

“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.

“Premises” means the designated structures and land specified in the conditional use permit application or development agreement that are in the possession of an used by the applicant or permittee to conduct the retail cannabis business. The premises must be a contiguous area and may only be occupied by one permittee.

“Retail cannabis business” or “retailer” means a business that sells and/or delivers cannabis or cannabis products to customers.

“Sell,” “sale,” and “to sell” include any transaction, whereby, for any consideration title to cannabis or cannabis products is 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 of cannabis or cannabis products by a permittee to the permittee from who the cannabis or cannabis product was purchased.

“State license” means a license issued by the state of California, as listed in California Business and Professions Code Section 26050.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

- A. The Compassionate Use Act of 1996 (“CUA”);
- B. The Medical Marijuana Program (“MMP”); and
- C. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”).

17.84.030 - Development agreement or conditional use permit required.

- A. The city may authorize a total of ten (10) retail cannabis businesses to operate in the city of Coachella. No more than five (5) retail cannabis businesses may operate in Sub-Zone #1 (as described in Chapter 17.47). No more than two (2) retail cannabis business may operate in Sub-Zone #2 (as described in Chapter 17.47), subject to a development agreement. The remaining retail cannabis businesses may operate in the M-W Wrecking Yard Zone (as described in Chapter 17.34), the IP Industrial Park Overlay Zone (as

described in Chapter 17.46), and Sub-Zone #3 (as described in Chapter 17.47). If applications are submitted for a greater number of conditional use permits than are permitted by this section, selection among the applicants may be made by a process, and subject to criteria, established by city council resolution. Conditional use permits for all retail cannabis businesses shall be issued in accordance with the requirements in this chapter and Chapters 17.34, 17.46, and 17.47, as applicable.

- B. Prior to initiating operations and as a continuing requisite to operating a retail cannabis business, including a retailer or microbusiness, the owner of the proposed retail cannabis business shall obtain (i) either an executed development agreement or a valid conditional use permit from the city as required by this code, (ii) a regulatory permit from the city manager and shall pay application fees as established by resolution adopted by the city council as amended from time to time, and (iii) a state license for each commercial cannabis activity use authorized under a development agreement or conditional use permit. Unless otherwise stated in this section, the provisions found in Chapter 17.74 entitled “Conditional Uses” shall apply.
- C. Changes in state license type, business owner, or operation will require an amendment to the approved conditional use permit.
- D. A retailer with a physical address outside of the city that wishes to deliver cannabis or cannabis products to a customer in the city is not required to obtain a conditional use permit under this chapter, but is required to obtain a city business license.
- E. This chapter does not apply to the individual possession of cannabis for personal adult use, as allowed by state law. Personal possession and use of cannabis in compliance with state law are permitted in the city of Coachella.

17.84.040 - Retail cannabis businesses—Permitted locations and standards.

- A. Retail cannabis businesses may be located in the M-W Wrecking Yard Zone, as described in Chapter 17.34, the IP Industrial Park Overlay Zone, as described in Chapter 17.46, and the RC retail cannabis overlay zone, as described in Chapter 17.47, upon issuance of (i) a fully executed development agreement between the city and owner or valid CUP, whichever is applicable, (ii) a regulatory permit as described in Chapter 5.69, and (iii) a valid state license, or as otherwise permitted in this code.
- B. Retail cannabis businesses shall comply with all regulations set forth in this chapter, Chapter 5.69, and Chapters 17.34, 17.46, and 17.47, as applicable.
- C. Every retail cannabis business shall submit to the city manager a copy of any and all of its state license(s) and local permits required for its operation. If any other applicable state license or local permit for a retail cannabis business is denied, suspended, modified, revoked, or expired, the permittee shall notify the city manager in writing within ten (10) calendar days.

- D. Each applicant for a development agreement or CUP issued under this chapter must submit, along with a development agreement/CUP application, a building façade plan. Building façade plans shall include renderings of the exterior building elevations for all sides of the building. All building façades shall be tastefully done and in keeping with the high architectural quality and standards of the City of Coachella. The retail cannabis business facade and building signs shall be compatible and complimentary to surrounding businesses and shall add visual quality to the area.
- E. Except as required in this chapter, development agreements shall be reviewed, issued, denied, suspended, revoked, and/or renewed in accordance with Chapter 17.100 entitled “Development Agreements”, and CUPs shall be reviewed, issued, denied, suspended, revoked, and/or renewed in accordance with Chapter 17.74 entitled “Conditional Uses”. If any provision of this chapter conflicts with any provision of Chapters 17.74 or 17.100 of this code, the provision in this chapter shall control.

17.84.050 - Application fee and reimbursement agreement.

At the time an applicant submits an application under this chapter, the applicant shall also supply an application fee in an amount to be determined by resolution by the city council, an executed reimbursement agreement on a form provided by the city to fully reimburse the city for all costs, expenses, and fees, including but not limited to attorney fees and consultant fees, incurred by the city related to the retail cannabis business, and a deposit in an amount as provided for in the reimbursement agreement terms.

17.84.055 – Payment of taxes.

All retail cannabis businesses are required to pay all applicable taxes, including a cannabis business tax pursuant to Chapter 4.31.

17.84.060 - Prohibited operations.

Any retail cannabis business that does not have (i) a development agreement or CUP, (ii) a regulatory permit required under this code, and (iii) a state license(s) is expressly prohibited in all city zones and is hereby declared a public nuisance that may be abated by the city and is subject to all available legal remedies, including, but not limited to civil injunctions. Non-storefront retailers are prohibited in all zones in the city.

17.84.065 – Permits not transferable.

CUPs may not be transferred, sold, assigned, or bequeathed expressly or by operation of law. Any attempt to directly or indirectly transfer a retail cannabis business CUP shall be unlawful and void, and shall automatically revoke the permit.

17.84.070 - Grounds for permit denial, suspension, and revocation

Any conditional use permit issued pursuant to the provisions of this chapter may be denied, suspended, or revoked by the planning commission upon receiving satisfactory evidence that the applicant or permittee or owner, its agent(s), employee(s), or any person connected or associated with the applicant or permittee:

- A. Has knowingly made false statements in the applicant's application or in any reports or other supporting documents furnished by the applicant or permittee;
- B. Has failed to maintain a valid state license;
- C. Has failed to comply with any applicable provision of the Coachella Municipal Code, including, but not limited to this chapter, the city's building, zoning, health, and public safety regulations;
- D. Has failed to comply with any condition imposed on the conditional use permit; or
- E. Has allowed the existence of or created a public nuisance in violation of the Coachella Municipal Code.

17.84.080 - Personal cultivation.

City residents are permitted to cultivate cannabis on private residential property for personal use and in accordance with state law, subject to the following standards:

- A. Outdoor Cultivation.
 - 1. Cultivation for personal use is only permitted on private residential property developed with at least one (1) residential dwelling unit. No more than six (6) cannabis plants are permitted to be cultivated at a private residence. Property owners retain the right to prohibit renters from cultivation and any renter choosing to cultivate shall first obtain written authorization from the property owner to cultivate on site.
 - 2. Outdoor cultivation is limited to rear and side yard areas and only if screened by a solid block wall no less than six (6) feet in height.
 - 3. Outdoor cultivation shall not be visible from surrounding public streets or adjoining properties. As such, cannabis plants may not grow above the height of the property line walls unless screened by another approved screening method.
 - 4. Outdoor cultivation within six hundred (600) feet of a school, daycare center, or youth center is prohibited.
- B. Indoor Cultivation.

1. Indoor cultivation must have adequate ventilation. Structural ventilation, electrical, gas, or plumbing changes to accommodate indoor cultivation are required to obtain a building permit from the city's building and safety department.
2. The use of volatile solvents, as defined in California Health and Safety Code Section 11362.3(d), including, but not limited to, butane, propane, xylene, gasoline, kerosene, and other dangerous and poisonous toxins or carcinogens, are prohibited for indoor cultivation at a private residence.

17.84.090 - Penalties for violations.

- A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, administrative penalties, permit suspension, and permit revocation.
- B. Violations of this chapter constitute an infraction or misdemeanor and may be enforced by any applicable law.
- C. Violations of this chapter are hereby declared to be public nuisances.
- D. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies.
- E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

Chapter 17.85 - COMMERCIAL CANNABIS ACTIVITY

17.85.010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the cultivation, manufacturing, testing, distribution, and transportation of medicinal and nonmedicinal cannabis (including cannabis products, cannabis concentrate, and edible cannabis products) within the city of Coachella.

The regulations in this chapter are enacted to ensure the health, safety, and welfare of the residents of the city. These regulations, in compliance with the Compassionate Use Act of 1996 (“CUA”), the Medical Marijuana Program (“MMP”), the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) (collectively, “state law”), do not interfere with the use and possession of cannabis, as authorized under state law.

Nothing in this chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow any activity relating to the cultivation, manufacturing, testing, or distribution of cannabis that is otherwise illegal under California state law, or (3) interfere with the use and possession of cannabis as authorized under MAUCRSA.

17.85.020 - Definitions.

Unless the particular provision or context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter:

“Applicant” means an owner applying for a conditional use permit, desiring to enter into a development agreement, or applying for any other applicable entitlement under this chapter.

“Cannabis” means 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” also means marijuana as defined by Section 11018 of the California Health and Safety Code. “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 chapter, “cannabis” does not mean “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.

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

“Cannabis products” has the same meaning as marijuana products in Section 11018.1 of the California Health and Safety Code. When the term “cannabis” is used in this chapter, it shall include “cannabis products.”

“City manager” means the city manager of the city of Coachella or designee.

“Commercial cannabis activity” includes the cultivation, manufacture, laboratory testing, and distribution (including possession, processing, storing, and labeling incidental to each activity, as applicable) of cannabis and cannabis products. For purposes of this chapter, “commercial cannabis activity” does not include delivery or retail sale of cannabis or cannabis products. Zoning restrictions on cannabis retailers and microbusinesses can be found in Chapters 17.34, 17.46, 17.47 and 17.84.

“Conditional Use Permit” or “CUP” means a conditional use permit issued under this chapter.

“Cultivate” or “cultivation” means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. A cannabis nursery is considered a “cultivation” use.

“Customer” means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician’s recommendation, or a primary caregiver.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer.

“Development agreement” means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

“Distribution” means the procurement, wholesale sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, or state law.

“Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term “cannabis” is used in this chapter, it shall include “edible cannabis products.”

“Indoor” means within a fully enclosed and secure building.

“Manufacture” means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product.

“Manufacturer” means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction

methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

“Microbusiness,” for purposes of this chapter, means a commercial business that engages in cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, and Level 1 manufacturers to the extent the permittee engages in such activities. Level 1 manufacturing means manufacturing with no solvents or with nonvolatile solvents.

“Nursery” means a permittee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

“Operation” means any act for which a permit is required under the provisions of this chapter, or any commercial transfer of cannabis or cannabis products.

“Owner” means any of the following:

- (1) A person with an aggregate ownership interest of twenty percent (20%) or more in the applicant, unless the interest is solely a security, lien, or encumbrance;
- (2) The chief executive officer of a nonprofit or other entity;
- (3) A member of the board of directors of a nonprofit;
- (4) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.
- (5) An individual entitled to a share of at least twenty percent (20%) of the profits of the commercial cannabis business;
- (6) An individual that will be participating in the direction, control, or management of the person applying for a permit. Such an individual includes any of the following: a general partner of a commercial cannabis business that is organized as a partnership; a non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company; an officer or director of a commercial cannabis business that is organized as a corporation.

“Permittee” means the individual or applicant to whom a conditional use permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

“Person” includes any individual, firm, co-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.

“Retailer” means a person or entity that sells cannabis or cannabis products to customers.

“Shared-use facility” means a premises registered by a primary manufacturing permittee at which multiple cannabis manufacturers may operate at separate times.

“Testing” means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

“Testing laboratory” means a laboratory, facility, or entity in California, 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 involved in commercial cannabis activity in the state; and (2) Licensed by the California Bureau of Marijuana (or Cannabis) Control within the California Department of Consumer Affairs (when such licenses begin to be issued).

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

- A. CUA (California Health and Safety Code Section 11362.5);
- B. MMP (California Health and Safety Code Sections 11362.7 through 11362.83); and
- C. MAUCRSA (California Business and Professions Code Sections 26000 et seq.).

17.85.030 - Commercial cannabis activity permitted.

Commercial cannabis activity permitted under this chapter includes cultivation, manufacture (including shared-use facilities), distribution, and testing (including possession, processing, storing, and labeling incidental to such activity). Prior to engaging in any such commercial cannabis activity in the city, one must obtain either a development agreement or conditional use permit (CUP), and a regulatory permit as required by this code, subject to the provisions of the CUA, MMP, MAUCRSA, and any other state laws pertaining to cannabis.

17.85.040 - Conditional use permit or development agreement required.

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the applicant shall obtain a validly issued CUP as provided in Chapter 17.74 entitled “Conditional Uses” of this municipal code or enter into a fully executed development agreement agreed to by the city council. If any provision of this chapter conflicts with any provision of Chapter 17.74 of this code, the provision in this chapter shall control. An applicant must obtain a separate CUP for each commercial cannabis activity the applicant wishes to operate. Each CUP will include a condition of approval requiring that the permittee also obtain and maintain a cultivation, manufacture, distribution, or testing laboratory regulatory permit required by this code.

17.85.050 - Commercial cannabis activity—Permitted locations and standards.

- A. Commercial cannabis activity may be located in any wrecking yard zone (M-W) or industrial park overlay zone (IP) in the city, upon issuance of a CUP and a regulatory permit.

- B. Commercial cannabis activity in the M-W zone should be restricted to a site having a minimum of five (5) acres in size, with a minimum paved street frontage of two hundred fifty (250) feet. Commercial cannabis activity in the IP zone is restricted to sites having a minimum project area of ten (10) acres and a minimum lot size or grouping of lots of at least five (5) acres.
- C. Commercial cannabis activity must be served by municipal water and sewer services.
- D. Commercial cannabis activity shall be located a minimum distance of six hundred (600) feet away from any residentially-zoned lot. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the residential use.
- E. Commercial cannabis activity may not be established in the M-W zone on a multi-tenant industrial park or business park site existing on the effective date of this ordinance. A CUP to develop a new stand-alone commercial cannabis activity facility or a multi-tenant facility within a minimum site area of five (5) acres may be pursued.
- F. Commercial cannabis activity shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of carbon filtration systems and other mitigation measures shall be used on all commercial cannabis activities that cause such odors.
- G. Testing laboratories may be located in the general commercial zone (C-G) in addition to the M-W zone and IP overlay zone with a CUP, but are not required to meet the two hundred fifty (250) foot paved street frontage requirement in subsection (B) or the restrictions set forth in subsections (D) and (E) of this section.

17.85.055 – Application fee and reimbursement agreement.

At the time an applicant submits an application under this chapter, the applicant shall also supply an application fee in an amount to be determined by resolution by the city council, an executed reimbursement agreement on a form provided by the city to fully reimburse the city for all fiscal impacts, costs, expenses, and fees, including but not limited to attorney fees and consultant fees, incurred by the city related to the commercial cannabis activity, and a deposit in an amount as provided for in the reimbursement agreement terms.

17.85.060 - State law compliance.

- A. No commercial cannabis activity shall operate unless it is in possession of all applicable state and local licenses or permits, except as otherwise permitted by state and/or local law.
- B. Every commercial cannabis activity shall submit to the city manager a copy of any and all of its state and local licenses and permits required for its operation.

- C. If any other applicable state or local license or permit for a commercial cannabis activity is denied, suspended, modified, revoked, or expired, the permittee shall notify the city manager in writing within ten (10) calendar days.

17.85.070 - Payment of taxes.

All commercial cannabis activity is required to pay all applicable taxes, including a cannabis business tax pursuant to Chapter 4.31.

17.85.075 – Permits not transferable.

CUPs may not be transferred, sold, assigned or bequeathed expressly or by operation by law. Any attempt to directly or indirectly transfer a cannabis business CUP shall be unlawful and void, and shall automatically revoke the permit.

17.85.080 - Prohibited operations.

Any commercial cannabis activity that does not have both (i) a development agreement or CUP and (ii) a regulatory permit required under this code is expressly prohibited in all city zones and is hereby declared a public nuisance that may be abated by the city and is subject to all available legal remedies, including but not limited to civil injunctions.

17.85.090 - Commercial cannabis cultivation, manufacturing, testing, processing—Interior only.

All commercial cannabis cultivation, manufacturing, processing and testing shall be conducted only in the interior of enclosed structures, facilities and buildings. All cultivation operations, including all cannabis plants, at any stage of growth, shall not be visible from the exterior of any structure, facility or building containing cultivation. All cultivation, manufacturing, testing and processing must take place indoors, within a permanent structure that is enclosed on all sides. Outdoor cultivation, manufacturing, testing, and processing are prohibited. Portable greenhouses and/or non-permanent enclosures shall not be used for cultivation unless they are placed inside of a permanent structure that is enclosed on all sides.

17.85.100 - Penalties for violations.

- A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions for injunctive relief or otherwise, and administrative penalties.
- B. Violations of this chapter constitute an infraction or misdemeanor and may be enforced by any applicable law.
- C. Violations of this chapter are hereby declared to be public nuisances.

- D. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies.
- E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.