

ORDINANCE NO. 1195

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING COACHELLA MUNICIPAL CODE CHAPTERS 5.69, 17.24, 17.26, 17.28, 17.30, 17.32, 17.34, 17.46, 17.47, 17.72, 17.74, 17.84, 17.85 REGARDING CANNABIS BUSINESS ZONING AND OPERATION IN THE CITY AND CONDITIONAL USE PERMIT PROCEDURE (*First Reading*)

The City Council of the City of Coachella, California, does hereby ordain as follows:

SECTION 1. Amendment to Municipal Code. Chapter 5.69 *Retail Cannabis Business Regulatory Permit*, Section 5.69.020 *Regulatory permit required*, subsection (A) is hereby amended as follows:

“5.69.020 Regulatory permit required.

A. Prior to initiating operations and as a continuing request to operating a retail cannabis business, the owner of the proposed retail cannabis business shall obtain (i) 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 (ii) a conditional use permit from the city as required by this code.”

SECTION 2. Amendment to Municipal Code. Chapter 5.69 *Retail Cannabis Business Regulatory Permit*, Section 5.69.120 *Onsite consumption permit*, subsection (A) is hereby amendment as follows:

“5.69.120 Onsite consumption permit.

A. A storefront retailer or storefront retail microbusiness must obtain an onsite consumption permit (in addition to a regulatory permit under this chapter, and a conditional use permit under Chapter 17) in order for cannabis to be consumed on the premises of the storefront retailer or storefront retail microbusiness.”

SECTION 3. Amendment to Municipal Code. Chapter 17.24 *C-N Neighborhood Commercial Zone*, Section 17.24.010 *Permitted uses* is hereby amended as follows:

“17.24.020 Permitted uses.

The following uses are permitted in the C-N zone, subject to all provisions of this chapter:

A. Primary Uses.

1. Local retail businesses primarily intended to serve the immediate neighborhood, provided that no one use shall exceed five thousand (5,000) square feet of floor area, including the following:

- a. Grocery, fruit, or vegetable store; meat market;
- b. Meat, fish, or dressed poultry (no live poultry) sales;
- c. Bakery;
- d. Drugstore;
- e. Reserved;
- f. Hardware store; and
- g. Restaurant, cafe or soda fountain, not including entertainment, dancing, sale of liquor, beer or other alcoholic beverages.

2. Local service business primarily intended to serve the immediate neighborhood, including the following:

- a. Barber or beauty shop;
- b. Child care centers;
- c. Clothes cleaning and laundry pickup stations, laundromat, coin-operated dry cleaning establishment;
- d. Offices of physicians, dentists, optometrists, chiropractors, accountants and realtors; and
- e. Tailor, dressmaker.

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

1. Signs as follows, subject to all provisions of Section 17.56.010 of this title.
 - a. One unlighted sign pertaining to the rental, sale or lease of the premises, not to exceed twenty (20) square feet in area.
 - b. Advertising signs pertaining only to the goods and services sold on the premises, or to the name of the establishment. The total aggregate area of all signs pertaining to any one establishment shall be eighty (80) square feet.
2. Canopies, arcades, carports or similar shading devices.
3. Other accessory buildings, structures and uses customarily appurtenant to a primary permitted use.

C. Conditional Uses. The following uses may be permitted in the C-N zone, subject to obtaining a conditional use permit as specified in Section 17.74.010 of this title.

1. Those uses allowed as conditional uses by Section 17.16.020(C) of the R-S zone;
2. Lodges, fraternal organizations, and clubs;
3. Automobile service stations;
4. Dwelling units, multiple-family, limited to second story;
5. Liquor sales, subject to Section 17.74.015; and
6. Automotive repair garage as an accessory to automobile service station.
7. Retail cannabis businesses, including storefront retailers, storefront retail microbusinesses, non-storefront retailers and non-storefront retail microbusinesses, pursuant to Chapter 17.84. The conditional uses allowed in this subsection shall not be interpreted to include any primary uses listed in Section 17.24.020(A).”

SECTION 4. Amendment to Municipal Code. Chapter 17.26 *C-G General Commercial Use Zone*, Section 17.26.020 *Permitted uses*, Subsection (C) is hereby amended as follows:

“17.26.020 Permitted uses.

The following uses are permitted in the C-G zone, subject to all provisions of this chapter:

...

C. Conditional Uses. The following uses may be permitted in all sectors of the CG zone subject to obtaining a conditional use permit pursuant to Chapter 17.74.

1. Drive-in, walk-up or other fast-food establishments;
2. Bus terminals, depots, and similar transit facilities;
3. Reconditioned or used merchandise sales;
4. Ambulance services;
5. Car washes;
6. Pawn shops;
7. Bowling, pool or billiard centers;
8. Commercial parking lots;
9. Tourist camps;
10. Automotive repair garage as an accessory to automobile service station;

11. Commercial psychic activities;
12. Liquor sales, subject to Section 17.74.015;
13. Automobile accessories and parts;
14. New and used automobile sales and mobilehome sales;
15. Multi-bay auto repair;
16. Engineering research and testing firms and laboratories;
17. Truck, farm implement and machinery sales and rental, sale of parts;
18. Laundromat/coin operated laundry so long as a full time attendant is provided;
19. Plumbing shop, provided all outside storage is completely screened;
20. Sign manufacture;
21. Parcel or overnight delivery services;
22. Photocopying, photo processing and blueprinting;
23. Ceramic products manufacture;
24. Printing establishments;
25. Drycleaners;
26. Mattress manufacture;
27. Bookstore;
28. Mortuaries;
29. Swap meet, indoor;
30. Swap meet, outdoor;
31. Multi-tenant retail;
32. Tattoo and body piercing parlors;
33. Neighborhood recycling centers, pursuant to Chapter 17.90;
34. Commercial cannabis testing laboratories, pursuant to Chapter 17.85;
35. Retail cannabis businesses, including storefront retailers, storefront retail microbusinesses, non-storefront retailers and non-storefront retail microbusinesses, pursuant to

Chapter 17.84. The conditional uses allowed in this subsection shall not be interpreted to include any primary uses listed in Section 17.26.020(A).”

SECTION 5. Amendment to Municipal Code. Chapter 17.26 *C-G General Commercial Use Zone*, Section 17.26.030 *Property development standards*, Subsection (I) is hereby removed in its entirety.

SECTION 6. Amendment to Municipal Code. Chapter 17.28 *C-T Tourist Commercial Zone*, Section 17.28.020 *Permitted uses*, subsection (D) is hereby amended as follows:

“17.28.020 Permitted uses.

The following uses are permitted in the C-T zone, subject to all provisions of this chapter:

...

D. Conditional Uses. The following uses may be permitted the C-T zone subject to obtaining a conditional use permit as specified in Section 17.74.010.

1. Theater, including drive-in;
2. Drive-in or walk-up or other fast-food service establishments;
3. Bowling alley;
4. Billiard parlor;
5. Skating rinks;
6. Liquor sales, subject to Section 17.74.015;
7. Bus terminals, depots, and similar transit facilities;
8. Car washes;
9. Tourist camps;
10. Automotive repair garage as an accessory to automobile service station.

11. Retail cannabis businesses, including storefront retailers, storefront retail microbusinesses, non-storefront retailers and non-storefront retail microbusinesses, pursuant to Chapter 17.84. The conditional uses allowed in this subsection shall not be interpreted to include any primary or tourist-related uses listed in Section 17.28.020(A) and (B).”

SECTION 7. Amendment to Municipal Code. Chapter 17.30 *M-S Manufacturing Service Zone*, Sections 17.30.020 *Permitted uses*, subsection (C) are hereby amended as follows:

“17.30.020 Permitted uses.

The following uses are permitted in the M-S zone subject to all provisions of this chapter.

...

C. Conditional Uses. The following uses may be permitted in the M-S zone subject to obtaining a conditional use permit as specified in Section 17.74.010.

1. Restaurant with cocktail lounge;
2. Stone monument works;
3. Exterminating or disinfecting service firm;
4. Cotton gins, oil mills, vegetable oil plants;
5. Oil cloth or linoleum manufacture;
6. Paint, oil, shellac, turpentine, or varnish manufacture;
7. Plastic manufacture;
8. Planing mills;
9. Poultry dressing and packaging;
10. Wire and wire products manufacture;
11. Service stations;
12. Metal plating;
13. Automotive repair garage as an accessory to automobile service station;
14. Mini storage warehouse;
15. Tattoo and body piercing parlors; and
16. Indoor commercial cannabis cultivation, manufacturing, testing, distribution, retail cannabis businesses (storefront and non-storefront, including microbusinesses) and non-retail microbusinesses pursuant to Chapters 17.84 and 17.85. The conditional uses allowed in this subsection shall not be interpreted to include any primary uses listed in Section 17.30.020(A)."

SECTION 8. Amendment to Municipal Code. Chapter 17.30 *M-S Manufacturing Service Zone*, Section 17.30.030 *Property development standards*, subsection (I) is hereby removed in its entirety.

SECTION 9. Amendment to Municipal Code. Chapter 17.32 *M-H Heavy Industrial Zone*, Section 17.32.020 *Permitted uses*, Subsection (C) is hereby amended as follows:

“17.32.020 Permitted uses.

The following uses are permitted in the M-H zone subject to all provisions of this chapter.

...

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

1. Acid manufacture;
2. Animal (including fish) products manufacture or processing;
3. Asphalt or asphaltic concrete manufacturing plants;
4. Borrow pits;
5. Brick yards;
6. Breweries and alcoholic beverage manufacture;
7. Bulk distributing stations—Hazardous materials;
8. Cement block, concrete block manufacture, storage yards;
9. Concrete ready-mix plants;
10. Community recycling collection facilities, pursuant to Chapter 17.90;
11. Creosote manufacture;
12. Distillation of alcohol, bones, coal, coal tar, coke, wood;
13. Drop forge industries;
14. Explosives or fireworks manufacture;
15. Feed yards, feed mills;
16. Foundry;
17. Gas manufacture, including but not limited to chlorine and other noxious gases;
18. Glue manufacture;
19. Livestock sales and feed yards;
20. Lamp black manufacture;
21. Prison, jail, correctional facility or detention facility;

22. Quarries;
23. Rock crushing operations;
24. Smelting operations;
25. Tannery;
26. Tar distillation or tar products manufacture;
27. Transfer station, small scale, pursuant to Chapter 17.90;
28. Winery;
29. Indoor commercial cultivation, manufacturing, testing laboratory, distribution, retail cannabis businesses (storefront and non-storefront, including microbusinesses) and non-retail microbusiness, to Chapters 17.84 and 17.85. The conditional uses allowed in this subsection shall not be interpreted to include any primary uses listed in Section 17.32.020(A).”

SECTION 10. Amendment to Municipal Code. Chapter 17.34 M-W *Wrecking Yard Zone*, Section 17.34.020 *Permitted Uses*, Subsection (C) is hereby removed as follows:

“17.34.020 - Permitted uses.

...

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. Indoor commercial cannabis cultivation, manufacturing, distribution, testing, non-retail microbusiness, non-storefront retail, non-storefront retail microbusiness, storefront retail, and storefront retail microbusiness, facilities, pursuant to Chapters 17.84 and 17.85.”

SECTION 11. Amendment to Municipal Code. Chapter 17.34 M-W *Wrecking Yard Zone*, Section 17.34.030 *Property development standards*, Subsection (K) is hereby removed in its entirety.

SECTION 12. Amendment to Municipal Code. Chapter 17.46 *IP Industrial Park Overlay Zone*, Section 17.46.023 *Conditional uses* is hereby removed in its entirety.

SECTION 13. Amendment to Municipal Code. Chapter 17.46 *IP Industrial Park Overlay Zone*, Section 17.46.030 *Property development standards* is hereby amended as follows:

“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: One 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.

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 Buildings. Buildings not actually adjoining shall be provided with a minimum eight-foot separation.

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.”

SECTION 14. Amendment to Municipal Code. Chapter 17.47 *RC Retail Cannabis Overlay Zone* is hereby repealed in its entirety.

SECTION 15. Amendment to Municipal Code. Chapter 17.72 *Architectural Review*, Section 17.72.010 *Architectural Review*, subsection (G) is hereby amended as follows:

“J. Expiration of Architectural Approval.

1. Architectural approval shall expire two (2) years from approval unless the applicant has: obtained a building permit; paid all applicable fees; commenced construction; and is diligently pursuing completion. A cessation of construction for a period of more than thirty (30) consecutive days shall be presumed to be nondiligent.

2. The architectural review approval that has been granted, but not been exercised within two years, may be renewed for three one year time extensions only if an application stating reasons for renewal is filed with the planning director at least ten (10) days prior to one two years after the effective date of the architectural review approval. The original approving authority for the architectural review (planning director or planning commission) shall render a decision regarding an extension. In the event that the planning director or planning commission acts to grant a time extension for the architectural approval, the planning director or planning commission may

impose any reasonable conditions on the architectural approval as a condition of its renewal. In the event that such additional conditions are not acceptable to the applicant and/or owner, the planning director or planning commission shall deny the time extension request.

3. The criteria for granting a two (2) year extension are:
 - a. No significant change has occurred in the surrounding neighborhood;
 - b. The project conforms to existing and any new building and zone requirements;
 - c. A request for the extension is properly filed with the planning director ten (10) days or more prior to expiration; and
 - d. The applicant states upon affidavit the reasons requiring an extension and such other criteria as the planning department shall set forth in the application.
4. The planning director or planning commission shall grant the extension if good cause is set forth in the application.”

SECTION 16. Amendment to Municipal Code. Chapter 17.74 *Conditional Uses*, Section 17.74.050 *Post-determination procedures*, subsections (A) and (B) is hereby amended as follows:

“A. Expiration of Conditional Use.

1. A conditional use shall expire and shall become void two years following the date on which the conditional use became effective, unless prior to the expiration of two years a building permit is issued and construction is commenced and diligently pursued toward completion, or a certificate of occupancy is issued.

2. A conditional use that has been granted, but not been exercised within two years may be renewed for three one-year time extensions only if an application stating reasons for renewal is filed prior to one year after the effective date of the conditional use approval by the planning commission. In the event that the planning commission acts to approve a time extension for the conditional use permit, the planning commission may impose any reasonable conditions on the conditional use permit as a condition of the time extension, provided a modification to the conditional use permit is processed. In the event that such additional conditions are not acceptable to the applicant and/or owner, the planning commission shall deny the time extension request.

3. Conditional uses for public utilities, public health facilities, or governmental enterprises, including but not limited to elementary or high schools, libraries, museums, fire or police stations are exempt from the expiration provision provided acquisition or legal proceeding for acquisition of the site is commenced within two years.

B. Revocation of Conditional Use.

1. Review authority. The planning commission may recommend revocation or modification and the city council may revoke or modify the conditional use permit.

2. Planning commission review. The planning commission shall hold a public hearing on the proposed modification or revocation of the conditional use permit at which the then current holder of the conditional use permit (the applicant for the conditional use permit or the applicant's successor in interest) shall be given opportunity to present evidence as to why the conditional use permit should not be modified or revoked. Notice of the hearing shall be given to the holder either by personal service or by registered mail, postage prepaid, return receipt requested; provided, however, that should such notice not be able to be given in such means after three attempts, such notice may be given by posting on the property for which the conditional use permit was issued. The commission may for any reason, when it deems such action necessary or desirable, continue such hearing to a time and place certain. After the hearing, the commission shall recommend that the conditional use permit be revoked, modified or allowed to remain unchanged and shall cause a written report of its recommendation to be transmitted to the city council; provided, however, if the commission has held such hearing on its own motion and is of the opinion that the use permit should neither be revoked or modified, the commission need not report its recommendation.

3. City council review. At the next regular meeting of the city council after the planning commission has acted, any reported recommendation of the planning commission shall be deemed filed with the city council. Within thirty days thereafter, the city council shall hold a public hearing upon the question of the revocation or modification of the conditional use permit. The city council may for any reason, when it deems such action necessary or desirable, continue such hearing to a time and place certain. After the hearing, the city council may revoke or modify the conditional use permit or allow the permit to remain unchanged. The action of the city council shall be final.

4. Required findings. The review authority shall meet one or more of the following findings to modify or revoke a conditional use permit:

a. One or more conditions of approval of the conditional use permit are being violated or are not being satisfied.

b. The conditional use is being operated or maintained in a manner that constitutes a public nuisance.

c. The conditional use is being operated or maintained in a manner that is inconsistent with the use for which the permit was approved.

d. The use has ceased or been suspended for a year or more.

e. The use has not been exercised within the validation time period.

f. The conditional use permit was obtained by fraud in that the original application contained incorrect, false, or misleading information.”

SECTION 17. Amendment to Municipal Code. Chapter 17.84 *Retail Cannabis Businesses*, Section 17.84.020 *Definitions* is hereby amended as follows:

“17.84.020 Definitions.

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

“Applicant” means an owner that applies for a 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 twenty-one (21) years of age or older or a natural person eighteen (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.

“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.”

“Non-retail microbusiness” means a commercial business that engages in 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 retail microbusiness” means a commercial business that engages in non-storefront 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” means a business that sells and/or delivers cannabis or cannabis products to customers, and includes the following business types: non-storefront retail microbusiness, non-storefront retailer, storefront retailer, and storefront retail microbusiness.

“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.

“Storefront retailer” means a business that has a storefront open to the public where cannabis or cannabis products are offered for retail sale to consumers, where delivery may or may not be included as part of the business’s operation.

“Storefront retail microbusiness” 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.

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”).”

SECTION 18. Amendment to Municipal Code. Chapter 17.84 *Retail Cannabis Businesses*, Section 17.84.030 *Conditional use permit required* is hereby amended as follows:

“17.84.030 Conditional use permit required.

A. The city may authorize a total of ten (10) storefront retailers and/or storefront retail microbusinesses and an unlimited number of non-storefront retailers and non-storefront retail microbusinesses to operate in the city of Coachella pursuant to section 17.84.040. 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.

B. Prior to initiating operations and as a continuing requisite to operating a retail cannabis business, the owner shall obtain (i) conditional use permit from the city, (ii) a regulatory

permit from the city manager and shall pay application fees as established by resolution adopted by the city council as amended, and (iii) a state license for each cannabis use authorized in the conditional use permit. Unless otherwise stated herein 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 retail cannabis business 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.”

SECTION 19. Amendment to Municipal Code. Chapter 17.84 *Retail Cannabis Businesses*, Section 17.84.040 *Permitted locations and standards* is hereby amended as follows:

“17.84.040 Permitted locations and standards.

A. Location Restrictions. Retail cannabis businesses may be located in the following zones: C-N Neighborhood Commercial (Chapter 17.24), C-G General Commercial Use (Chapter 17.26), C-T Tourist Commercial (Chapter 17.28), M-S Manufacturing Service (Chapter 17.30), M-H Heavy Industrial (Chapter 17.32) and M-W Wrecking Yard (Chapter 17.34).

B. Distance Restrictions.

1. Non-storefront businesses. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure and be at least five hundred (500) feet from any other storefront retail or non-storefront retail cannabis business; and may not be located in the City’s Pueblo Viejo District. For purposes of this chapter, “Pueblo Viejo District” shall be that area in the city bounded by Cesar Chavez Street to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east.

2. Storefront businesses. A storefront retailer or storefront retail microbusiness shall be located a minimum distance of eight hundred (800) feet away from Avenue 52. The distance shall be measured at the nearest point between any part of the building containing retail cannabis business and the Avenue 52 street right-of-way.

3. Separation from schools. No retail cannabis business 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:

a. “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.

b. “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.

C. No Drive-Thru Retail Cannabis Facilities. No retail cannabis business 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.

D. 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.

E. State license(s). Every retail cannabis business shall submit to the city manager a copy of any and all of its state license(s). If any state license is suspended, modified, revoked, or expired, the permittee shall notify the city manager in writing within ten (10) calendar days.

F. Building façade plan. Each CUP applicant must submit 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.

G. Compliance with Chapter 17.74. Except as required in this chapter, 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 of this code, the provision in this chapter shall control.”

SECTION 20. Amendment to Municipal Code. Chapter 17.84 *Retail Cannabis Businesses*, Section 17.84.060 *Prohibited operations* is hereby amended as follows:

“17.84.060 Prohibited operations.

Any retail cannabis business that does not have a CUP, regulatory permit required under this code, and 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.”

SECTION 21. Amendment to Municipal Code. Chapter 17.84 *Retail Cannabis Businesses*, Section 17.84.070 *Grounds for permit denial, suspension, and revocation* is hereby amended as follows:

“17.84.070 Grounds for permit denial, suspension, and revocation.

Any conditional use permit considered or 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.”

SECTION 22. Amendment to Municipal Code. Chapter 17.85 *Commercial Cannabis Activity*, Section 17.85.020 *Definitions* is hereby amended as follows:

“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 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 non-retail microbusinesses, (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.

“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 twenty-one (21) years of age or older or a natural person eighteen (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.

“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.

“Non-retail microbusiness” means a commercial business that engages in 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, and Level 1 manufacturers.

“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 (20) percent 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 (20) percent 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.

“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.).”

SECTION 23. Amendment to Municipal Code. Chapter 17.85 *Commercial Cannabis Activity*, Section 17.85.030 *Commercial cannabis activity permitted* is hereby amended as follows:

“17.85.030 - Commercial cannabis activity permitted.

Commercial cannabis activity permitted under this chapter includes indoor cultivation, interim outdoor cultivation, manufacture (including shared-use facilities), distribution, testing, and non-retail microbusinesses (including possession, processing, storing, and labeling incidental to such activity).”

SECTION 24. Amendment to Municipal Code. Chapter 17.85 *Commercial Cannabis Activity*, Section 17.85.040 *Conditional use permit required* is hereby amended as follows:

“17.85.040 - Conditional use permit required.

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the applicant shall obtain a CUP as provided in Chapter 17.74 entitled “Conditional Uses” and a regulatory permit and a state license for each use authorized in the CUP. 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. Separate CUPs may be issued for indoor cannabis cultivation versus interim outdoor cannabis cultivation. Each CUP will include a condition of approval requiring that the permittee also obtain and maintain an indoor cultivation, interim outdoor cultivation, manufacture, distribution, non-retail microbusiness, or testing laboratory regulatory permit required by this code. Each CUP for interim outdoor cultivation may include a condition of approval that limits outdoor cultivation activities to a specified duration not to exceed the sooner of forty eight (48) months, or the first phase of construction establishing a new residential or commercial use. If the condition is accepted by the applicant, the City may thereafter record a covenant memorializing this restriction against the property, which shall include a reference to the approved CUP. The City Manager or his/her designee shall make efforts to notify the permittee a year prior to CUP expiration of the need to renew the CUP.”

SECTION 25. Amendment to Municipal Code. Chapter 17.85 *Commercial Cannabis Activity*, Section 17.85.050 *Permitted locations and standards* is hereby amended as follows:

“17.85.050 - Permitted locations and standards.

A. Indoor commercial cultivation, manufacturing, testing laboratory, and distribution activities.

1. Location. Indoor commercial cultivation, manufacturing, testing laboratory, distribution, and non-retail microbusiness uses may be located in any manufacturing service (M-S) zone, heavy industrial (M-H) zone, and wrecking yard (M-W) zone upon issuance of a conditional use permit and regulatory permit.

2. Indoor only. All uses shall be conducted only in the interior of enclosed structures, facilities, and buildings. All indoor 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 indoor cultivation, manufacturing, testing and processing must take place indoors, within a permanent structure that is enclosed on all sides. Outdoor 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.

3. Odor control. Uses 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.

4. Water and sewer. Indoor commercial cannabis activity must be served by municipal water and sewer services. Interim outdoor cannabis cultivation uses need only be served by a private water well or municipal water.

5. Distance restriction. Indoor 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 property lines containing the commercial cannabis use and any lot line of the residential use.

6. Testing laboratories. Testing laboratories may be located in the general commercial (C-G) zone in addition to the M-W zone and IP overlay zone with a CUP, but are not required to meet the requirement in subsection (A)(5) of this section.

B. Interim outdoor commercial cannabis cultivation.

1. Location. Interim outdoor commercial cannabis cultivation be located in any agricultural reserve (A-R) zone, agricultural transition (A-T) zone, residential single-family (R-S) zone, multiple-family residential (R-M) zone, and general commercial (C-G) zone that is located within the geographic area bounded by Vista Del Sur on the north, the All-American Canal on the east, Avenue 52 on the south, and the 86 Expressway on the west, upon issuance of a conditional use permit CUP and a regulatory permit.

2. Property development standards. All interim outdoor commercial cannabis cultivation sites:

(a) shall be located on a site having a minimum of one (1) acre in size.

(b) shall have a maximum canopy size that is no larger than the maximum size authorized by the State license for that business.

(c) shall provide a minimum twenty-foot (20 ft.) setback on all sides with an opaque fencing material, subject to review and approval by the Planning Director, to screen the outdoor grow areas from view to public streets.

3. Distance Restrictions. No interim outdoor commercial cannabis cultivation shall be located within one thousand (1,000) 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 the property line containing the interim outdoor commercial cannabis cultivation use to any lot line of the other use. “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. “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.”

SECTION 26. Amendment to Municipal Code. Chapter 17.85 *Commercial Cannabis Activity*, Section 17.85.080 *Prohibited operations* is hereby amended as follows:

“17.85.080 Prohibited operations.

Any commercial cannabis activity that does not have both a CUP and 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.”

SECTION 27. CEQA Analysis. This Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(2) of the State’s CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3), as the action will not result in either a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) of the CEQA Guidelines, as the action is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly because this Ordinance does not involve any commitment to a specific project which may result in potentially significant physical impact on the environment.

SECTION 28. 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 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof. The City Council hereby declares that it would have passed each 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 would be subsequently declared invalid or unconstitutional.

SECTION 29. Publication and Effective Date. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published or posted as required by law, which shall take full force and effect thirty (30) days from its adoption.

PASSED, APPROVED, AND ADOPTED this _____ of _____, 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven Hernandez, Mayor
City of Coachella

ATTEST:

Angela M. Zepeda, City Clerk
City of Coachella

APPROVED AS TO FORM:

Carlos Campos, Best Best & Krieger LLP
City Attorney