



**STAFF REPORT**  
**4/15/2020**

**TO:** Planning Commission Chair and Commissioners

**FROM:** Luis Lopez, Development Services Director

**SUBJECT:** Revocation of Conditional Use Permit (CUP 312) that allowed a 3,250 sq. ft. Retail Cannabis Microbusiness on 20,000 square feet of land located at 84-161 Avenue 48 for "The Coachella Lighthouse, LLC". City- Initiated Revocation.

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**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission revoke Conditional Use Permit No. 312 (CUP 312) based upon numerous violations of the Conditions of Approval of CUP 312.

On February 27, 2019, the Planning Commission granted with conditions Conditional Use Permit No. 312 (CUP 312) for a 3,250 square foot retail cannabis microbusiness at the above location. Pursuant to Condition No. 3 of CUP 312, the Development Services Director conducted a 12-month review of CUP 312 and determined that the permittee failed to comply with the Conditions of Approval of CUP 312.

**REQUIRED FINDINGS**

Pursuant to Section 17.84.070 of the Coachella Municipal Code, the Planning Commission may consider a conditional use permit for revocation if the applicant or permittee or owner, its agent, employee, or any person connected or associated with the applicant or permittee:

- (1) Has knowingly made false statements in the applicant's application or in any reports or other supporting documents furnished by the applicant or permittee;
- (2) Has failed to maintain a valid state license;
- (3) 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;
- (4) Has failed to comply with any condition imposed on the conditional use permit; or
- (5) Has allowed the existence of or created a public nuisance in violation of the Coachella Municipal Code.

In addition, pursuant to Section 17.74.050(B)(1) of the Coachella Municipal Code, the Planning Commission may consider a conditional use permit for revocation if one or more conditions are not complied with.

## **DISCUSSION/ANALYSIS**

Several Conditions of Approval of CUP 312 have been violated. The following chart describes the Conditions of Approval of CUP 312 that are in violation:

| <b>CONDITIONS OF APPROVAL OF CUP 312</b>   | <b>VIOLATION OF CUP 312</b>  |
|--|--|
| Condition No. 2(a) of CUP 312 states: "Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule... The first phase of the Glenroy Resort Hotel shall be completed and open for business within 90 days of January 1, 2019."   | According to a review of City records and inspections of the property, as of the date of the public hearing on April 15, 2020, the first phase of the Glenroy Resort Hotel is not complete or open for business. There are numerous unfinished buildings on the property and construction activities for the Resort Hotel were halted approximately 12 months ago. |
| Condition No. 2(b) of CUP 312 states: "Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule... The perimeter landscaping and fencing improvements for the retail cannabis microbusiness shall be completed within 60 days of the effective date of Conditional Use Permit No. 296." | According to inspections of the property, as of the date of the public hearing on April 15, 2020, the perimeter fencing improvements for the retail cannabis microbusiness have not been completed. The front portion of the business currently has no fencing.  |
| Condition No. 2(c) of CUP 312 states: "Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule... The improvements required under Condition #5 of CUP 296 for additional glazing on the façade of the retail cannabis microbusiness shall be   | According to inspections of the property, as of the date of the public hearing on April 15, 2020, additional glazing on the façade of the retail cannabis microbusiness was not completed. The front of the building has large blank walls with minimal glazing and no plans have been submitted showing additional glazing to be installed.                       |

| CONDITIONS OF APPROVAL OF CUP 312  | VIOLATION OF CUP 312   |
|--|--|
| completed within 60 days of the effective date of Conditional Use Permit No. 296.”   |  |
| Condition No. 5 of CUP 312 states: “The applicant or successor in interest shall comply with all conditions of approval imposed upon Architectural Review No. 17-07. The front façade of the business shall incorporate additional glazing on the front façade, subject to review by the Development Services Director.”   | According to inspections of the property, as of the date of the public hearing on April 15, 2020, the front façade of the business did not incorporate additional glazing. The front of the building has large blank walls with minimal glazing and no plans have been submitted showing additional glazing to be installed. |
| Condition No. 6 of CUP 312 states: “A comprehensive sign program for the Glenroy Resort project must be reviewed and approved by the Planning Commission prior to the issuance of any sign permits for the retail cannabis microbusiness. The front façade of the retail cannabis microbusiness may have one identification sign and one secondary ‘logo sign’ placed on the front façade.”        | According to a review of City records, as of the date of the public hearing on April 15, 2020, no comprehensive sign program for the Glenroy Resort project was reviewed or approved by the Planning Commission.   |
| Condition No. 14 of CUP 312 states: “The owner shall install a conforming trash enclosure for solid waste and recyclables within 250 feet of the proposed cannabis retail microbusiness.”  | According to inspections of the property, as of April 8, 2020, no conforming trash enclosure for solid waste and recyclables has been installed within 250 feet of the cannabis retail microbusiness. The trash bin is stored in an open area adjacent to the southwest corner of the parking lot adjoining the business.    |
| Condition No. 15 of CUP 312 states: “The owner shall install a minimum of five bicycle racks in front of the retail cannabis microbusiness, or adjacent to the parking lot serving the proposed business.”   | According to inspections of the property, as of April 8, 2020, there are no bicycle racks in front of the retail cannabis microbusiness or adjacent to the parking lot serving the business.   |
| Condition No. 16 of CUP 312 states: “The fencing along Avenue 48 may consist of a decorative wrought iron fence with a maximum height of five feet. The parking lot security gates shall consist of low barrier, non-automated gates to remain open during all hours of business operation. All entry gates must be reviewed and approved by the Fire Marshal’s Office and the Building Official.” | According to inspections of the property, as of April 8, 2020, there is no fencing installed in front of the business and no fencing along the front portion of the adjoining parking lot serving the business.  |

Pursuant to Condition No. 3 of CUP 312, the Development Services Director conducted a 12-month review of CUP 312. As part of this review, on March 9, 2020, the Development Services Director mailed a letter to Quonset Partners LLC, care of Joseph Rubin, requesting written status of compliance with the Conditions of Approval. Quonset Partners LLC failed to respond to the

letter. The Development Services Director concluded his review and determined that the project failed to comply with the Conditions of Approval of CUP 312.

On March 24, 2020, the City issued a letter to all interested parties, Coachella Lighthouse, LLC, Quonset Partners LLC, and Inception RE Credit Holds, LLC, demanding compliance with the Conditions of Approval by April 14, 2020, which they failed to meet.

Staff conducted a site visit of The Lighthouse property and the adjoining parking area to the west on April 8, 2020. Staff observed the lack of compliance with several of the conditions of approval as noted above. Shown below are some of these photographs with a description of the violation of the condition of approval.



*Landscaping along Avenue 48 is missing the required "Perimeter Fencing"*



*“Blank Wall Façade” is missing required additional glazing*



*Front Entry is missing “Bicycle Racks”*





*“No Trash Enclosure” - Trash bin is stored in the open parking area.*

As noted above, numerous Conditions of Approval of CUP 312 are being violated. Due to this noncompliance, as authorized by Section 17.84.070(D) and Section 17.74.050(B)(1) of the Coachella Municipal Code, revocation of CUP 312 is determined the appropriate City response.

#### **CORRESPONDENCE:**

Attached to this letter is correspondence received from owners of The Lighthouse including a letter to the County Tax Collector asking for relief, and a letter from the owner’s attorney requesting to enter into an agreement with the City in order to avoid the CUP 312 revocation in consideration of upfront payments of hotel taxes (TOT – Transient Occupancy Tax) and a new promise to open the Glenroy Resort Hotel in a timely manner. This second matter is being negotiated with the City Council and City Attorney and may cause a stay on the Planning Commission’s revocation of CUP 312 if the City Council decides to execute this new agreement.

Additionally, staff received a phone call from a resident that lives on the corner of Avenue 48 and Luzon Street who registered a concern regarding traffic safety due to vehicles exiting the site onto Avenue 48. Staff explained to the caller that once the road is widened and a raised center median is installed along Avenue 48, as part of the Riverside County Avenue 48 Improvement project, and once a traffic signal is installed at Luzon Street and Avenue 48, these traffic concerns will be substantially mitigated.

### **ALTERNATIVES:**

1. Adopt Resolution No. 2020-03 and Terminate CUP 312
2. Direct Staff to Modify the Conditions of Approval of CUP 312
3. Continue this item and provide staff direction.
4. Take no action.

### **CONCLUSIONS AND RECOMMENDATIONS**

Based on the facts noted in this staff report and the documentation attached hereto, staff recommends Alternative #1, noted above, for the Planning Commission to adopt Resolution No. PC2020-03 and;

1. Determine that the project is Categorically Exempt pursuant to Section No. 15321 (Enforcement Actions by Regulatory Agencies) of the CEQA; and,
2. Revoke Conditional Use Permit No. 312.

Attachments:     Resolution No. PC2020-03  
                         CUP 312 (Coachella City Council Resolution 2019-07)  
                         March 9, 2020 Compliance Verification Letter  
                         March 24, 2020 Compliance Demand Letter  
                         Public Hearing Notice  
                         Correspondence

**RESOLUTION NO. PC2020-03**

**A RESOLUTION OF THE CITY OF COACHELLA PLANNING COMMISSION REVOKING CONDITIONAL USE PERMIT NO. 312, A CONDITIONAL USE PERMIT TO ALLOW A 3,250 SQUARE FOOT RETAIL CANNABIS MICROBUSINESS ON 0.29 ACRES OF LAND IN THE CG-RC (GENERAL COMMERCIAL – RETAIL CANNABIS OVERLAY) ZONE AT 84-161 AVENUE 48, AND MAKING FINDINGS IN SUPPORT THEREOF**

**WHEREAS**, on February 27, 2019, the City of Coachella Planning Commission (“Planning Commission”) issued Conditional Use Permit No. 312 (“CUP 312”) to allow a 3,250 square foot retail cannabis microbusiness with parking and security fencing to be located on 0.29 acres of land at 84-161 Avenue 48 within a commercial center located at the southeast corner of Avenue 48 and Van Buren Street (Assessor Parcel Numbers 603-220-063 and portions of 603-220-066); and,

**WHEREAS**, pursuant to Condition No. 3 of CUP 312, the Development Services Director conducted a 12-month review of CUP 312 and determined that the permittee failed to comply with the Conditions of Approval of CUP 312; and,

**WHEREAS**, the Development Services Director determined that the interested parties failed to comply with Conditions of Approval Nos. 2(a) - (c), 5, 6, and 14 – 16; and,

**WHEREAS**, pursuant to California Constitution Article XI, §7, the California Zoning and Planning Law (Government Code sections 65800–65912), Chapters 17.74 and 17.84 of the Coachella Municipal Code (“CMC”), the City of Coachella (“City”), through the Planning Commission is authorized to revoke CUP 312; and,

**WHEREAS**, CMC section 17.74.050 authorizes the Planning Commission to revoke a conditional use permit upon a finding that one or more conditions of the conditional use permit were not complied with; and,

**WHEREAS**, an application was initiated by the City for the revocation of CUP 312; and,

**WHEREAS**, interested parties were properly notified of a public hearing held on April 15, 2020, to determine whether the Planning Commission should revoke CUP 312; and,

**WHEREAS**, on April 15, 2020, the Planning Commission conducted a duly noticed regular public hearing in the Council Chambers, 1515 Sixth Street, Coachella, California, to consider testimony and evidence to determine whether the Planning Commission should revoke CUP 312;



**WHEREAS**, interested parties were afforded the opportunity to rebut the oral and written evidence that the applicant, City staff, presented in support of its position that revocation of CUP 312 was appropriate; and,

**WHEREAS**, members of the public were afforded an opportunity to testify regarding the revocation; and,

**WHEREAS**, the Planning Commission carefully considered all information pertaining to the revocation, including the staff report and attachments, and all of the information, evidence, and testimony presented at its public hearing on April 15, 2020; and,

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred; and,

**WHEREAS**, revocation is categorically exempt from environmental review pursuant to Title 14, California Code of Regulations, section 15321(a).

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Coachella, California does hereby resolve as follows:

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

**SECTION 2.** Based on the preponderance of the evidence presented to this Planning Commission at the above-referenced public hearing on April 15, 2020, including the staff report with attachments, and all related information presented to the Planning Commission, the following findings are made in accordance with Section 17.74.050 and Section 17.84.070 of the Coachella Municipal Code.

**Finding Number 1: One or more conditions of CUP 312 was violated.**

1. As set forth in the staff report and attached documents and the testimony at the revocation hearing on April 15, 2020, pursuant to Condition No. 3 of CUP 312, the Development Services Director conducted a 12-month review of CUP 312 and determined that the permittee failed to comply with the Conditions of Approval of CUP 312.
2. The permittee failed to comply with Condition No. 2(a) of CUP 312, which states: "Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule... The first phase of the Glenroy Resort Hotel shall be completed and open for business within 90 days of January 1, 2019." As of the date of the public hearing on April 15, 2020, the first phase of the Glenroy Resort Hotel is not complete nor open for business.

3. The permittee failed to comply with Condition No. 2(b) of CUP 312, which states: “Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule... The perimeter landscaping and fencing improvements for the retail cannabis microbusiness shall be completed within 60 days of the effective date of Conditional Use Permit No. 296.” As of April 8, 2020, the perimeter landscaping and fencing improvements for the retail cannabis microbusiness have not been completed.
4. The permittee failed to comply with Condition No. 2(c) of CUP 312, which states that “Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule... The improvements required under Condition #5 of CUP 296 for additional glazing on the façade of the retail cannabis microbusiness shall be completed within 60 days of the effective date of Conditional Use Permit No. 296.” As of April 8, 2020, additional glazing on the façade of the retail cannabis microbusiness was not completed.
5. The permittee failed to comply with Condition No. 5 of CUP 312, which states that “The applicant or successor in interest shall comply with all conditions of approval imposed upon Architectural Review No. 17-07. The front façade of the business shall incorporate additional glazing on the front façade, subject to review by the Development Services Director.” As of April 8, 2020, the front façade of the business did not incorporate additional glazing.
6. The permittee failed to comply with Condition No. 6 of CUP 312, which states: “A comprehensive sign program for the Glenroy Resort project must be reviewed and approved by the Planning Commission prior to the issuance of any sign permits for the retail cannabis microbusiness. The front façade of the retail cannabis microbusiness may have one identification sign and one secondary “logo sign” placed on the front façade.” As of April 8, 2020, no comprehensive sign program for the Glenroy Resort project was reviewed or approved by the Planning Commission.
7. The permittee failed to comply with Condition No. 14 of CUP 312, which states: “The owner shall install a conforming trash enclosure for solid waste and recyclables within 250 feet of the proposed cannabis retail microbusiness.” As of April 8, 2020, no conforming trash enclosure for solid waste and recyclables has been installed within 250 feet of the cannabis retail microbusiness.
8. The permittee failed to comply with Condition No. 15 of CUP 312, which states: “The owner shall install a minimum of five bicycle racks in front of the retail cannabis microbusiness, or adjacent to the parking lot serving the proposed business.” As of April 8, 2020, five bicycle racks were not installed in front of the retail cannabis microbusiness or adjacent to the parking lot serving the business.

9. The permittee failed to comply with Condition No. 16 of CUP 312, which states that “The fencing along Avenue 48 may consist of a decorative wrought iron fence with a maximum height of five feet. The parking lot security gates shall consist of low barrier, non-automated gates to remain open during all hours of business operation. All entry gates must be reviewed and approved by the Fire Marshal’s Office and the Building Official.” As of April 8, 2020, no perimeter fencing was installed along the Avenue 48 street frontage adjacent to the retail cannabis business and no perimeter fencing was installed adjacent to the parking area serving the retail cannabis business.
10. Based on the foregoing, the City of Coachella Planning Commission hereby finds that one or more Conditions of Approval of CUP 312 were violated, justifying the CUP 312’s revocation.

**SECTION 3.** Based upon the findings set forth in Sections 1 and 2 of this Resolution, the Planning Commission hereby revokes Conditional Use Permit No. 312 to allow a 3,250 square foot retail cannabis microbusiness with parking and security fencing to be located on 0.29 acres of land at 84-161 Avenue 48 within a commercial center located at the southeast corner of Avenue 48 and Van Buren Street (Assessor Parcel Numbers 603-220-063 and portions of 603-220-066).

**SECTION 4.** This Commission hereby finds and determines that the revocation is categorically exempt from the requirements of the California Environmental Quality Act, as amended, and the Guidelines promulgated thereunder, pursuant to Section 15321 of the State CEQA Guidelines.

**SECTION 5.** The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Development Services Department, Coachella Permit Center located at 53-990 Enterprise Way, Coachella, California 92236. This information is provided in compliance with Public Resources Code section 21081.6.

**SECTION 6.** This action by the Planning Commission shall be final unless appeal of the action is filed with the City Clerk’s office in writing, pursuant to Section 17.74.040 of the Coachella Municipal Code.

**SECTION 7.** The Secretary shall certify to the adoption of this Resolution.

**PASSED APPROVED and ADOPTED** by the Planning Commission of the City of Coachella, California, at a regular meeting held on this 15th day of April, 2020.

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Javier Soliz, Chairperson  
Coachella Planning Commission

**ATTEST:**

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Yesenia Becerril  
Planning Commission Secretary

**APPROVED AS TO FORM:**

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Carlos Campos  
City Attorney

I HEREBY CERTIFY that the foregoing Resolution No. PC2020-03, was duly adopted at a regular meeting of the Planning Commission of the City of Coachella, California, held on the 15th day of April, 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Yesenia Becerril  
Planning Commission Secretary





## CITY OF COACHELLA

53-990 ENTERPRISE WAY, COACHELLA, CALIFORNIA 92236

PHONE (760) 398-3502 • WWW.COACHELLA.ORG

March 9, 2020

Mr. Joseph Rubin  
1801 S. La Cienega Blvd Suite 302  
Los Angeles CA 90035

**Subject: Conditional Use Permit No. 312**  
**84-160 Avenue 48, Coachella, California**

Dear Mr. Rubin:

Pursuant to condition #3 of Conditional Use Permit No. 312 (CUP 312), this is to inform you that the Development Services Director is conducting a 12-month review in order to check compliance with the conditions of approval, related to "The Lighthouse" retail cannabis business. Attached for your convenience is City Council Resolution No. 2019-07 which included 19 conditions of approval.

Within seven (7) days of receipt of this letter, please provide to me a written status of compliance with each of the conditions of approval for CUP 312, as listed in Resolution No. 2019-07.

Please contact me at (760)398-3102 or by e-mail at [LLopez@coachella.org](mailto:LLopez@coachella.org) if you have any questions.

Sincerely,

  
Luis Lopez  
Development Services Director



## CITY OF COACHELLA

53-990 ENTERPRISE WAY, COACHELLA, CALIFORNIA 92236

PHONE (760) 398-3502 • WWW.COACHELLA.ORG

March 24, 2020

Coachella Lighthouse  
P.O. Box 420  
Coachella, California 92236

Coachella Lighthouse, LLC  
84160 Avenue 48  
Coachella, California 92236

Coachella Lighthouse, LLC  
% Joseph Rubin, Manager  
1801 South La Cienega Boulevard, Suite 301  
Los Angeles, California 90035

Quonset Partners LLC  
% Joseph Rubin, Agent for Service of Process  
1801 South La Cienega Boulevard, Suite 302  
Los Angeles, California 90035

Quonset Partners LLC  
% Zachary Werner, Manager  
383 South Beverly Glen Boulevard  
Los Angeles, California 90024

Inception RE Credit Holdings, LLC  
% Paracorp Incorporated, Agent for Service of Process  
2804 Gateway Oaks Drive, #100  
Sacramento, California 95833

**Subject: Conditional Use Permit No. 312**  
**84-160 Avenue 48, Coachella, California**

To Whom It May Concern:

Pursuant to Condition No. 3 of Conditional Use Permit No. 312 (CUP 312), the Development Services Director has conducted a 12-month review of CUP 312 and has determined that you have failed to comply with the Conditions of Approval of CUP 312. Attached for your convenience is City Council Resolution No. 2019-07, which includes 19 Conditions of Approval.

Specifically, you have failed to comply with Conditions of Approval Nos. 2(a)–(c), 5, 6, and 14–16. Please be advised a conditional use permit may be revoked or modified if the Planning Commission makes any finding that the Conditions of Approval have been violated. Revocation of CUP 312 will prohibit this

business from operating at this location. Revocation of CUP 312 may also lead to revocation of the business license for this business.

Given your failure to comply with the Conditions of Approval, the City is compelled to prescribe a compliance deadline. We strongly encourage you to comply with the following compliance deadline to avoid formal enforcement measures.

We will proceed with revocation proceedings unless you comply with the following corrective actions **within 21 calendar days from the date of this letter:**

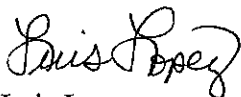
- (1) Complete the first phase of the Glenroy Resort Hotel and open for business, as required by Condition of Approval No. 2(a) and No. 16.
- (2) Complete perimeter landscaping and fencing improvements for the retail cannabis microbusiness, as required by Condition of Approval No. 2(b).
- (3) Complete the improvements required for additional glazing on the façade of the retail cannabis microbusiness, as required by Conditions of Approval Nos. 2(c) and 5.
- (4) Obtain Planning Commission approval of a comprehensive sign program for the Glenroy Resort Hotel project, as required by Condition of Approval No. 6.
- (5) Install a conforming trash enclosure for solid waste and recyclables within 250 feet of the cannabis retail microbusiness, as required by Condition of Approval No. 14.
- (6) Install a minimum of five bicycle racks in front of the retail cannabis microbusiness or adjacent to the parking lot, as required by Condition of Approval No. 15.

Thereafter, kindly remember that you have an ongoing responsibility to ensure that violations of the Conditions of Approval do not recur.

It is the policy of the City to obtain voluntary compliance with its laws, permits, and approvals whenever possible. And it is sincerely hoped that you take this opportunity to correct the violations. Please be advised that unless you comply with this notice, we will proceed with revocation proceedings without further warning or notice. Please act before the compliance deadline to avoid enforcement proceedings.

Please contact me at 760-398-3102 or by e-mail at [LLopez@coachella.org](mailto:LLopez@coachella.org) if you have any questions.

Sincerely,



Luis Lopez

Development Services Director

CITY OF COACHELLA  
PLANNING COMMISSION  
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Coachella will hold a Public Hearing at the Coachella Permit Center on Wednesday, April 15, 2020, to consider oral and written testimony regarding revocation of Conditional Use Permit No. 312.

This is a request by the City of Coachella to revoke Conditional Use Permit No. 312 for a retail cannabis microbusiness located at 84-161 Avenue 48, Coachella, California (formerly known as 84-160 Avenue 48, Coachella, California), on the grounds that various conditions of Conditional Use Permit No. 312 have been violated.

The City of Coachella has determined that the proposed revocation is categorically exempt from environmental review pursuant to Title 14, California Code of Regulations, CEQA Guidelines §15321(a).

The case files, evidence, and documents for the proposed revocation are available for public inspection Monday through Thursday, from 7:00 a.m. to 6:00 p.m. at the City of Coachella Development Services Department located at the address below. Please contact the Development Services Department in advance to schedule an appointment. Se Habla Español.

If any individual or group challenges this action in court, issues raised may be limited to those issues raised at the public hearing described in this notice or in written testimony. Any questions or comments may be directed to:

Luis Lopez  
City of Coachella Development Services Department  
53-990 Enterprise Way, Coachella CA 92236  
(760) 398-3102

TESTIMONY MAY BE GIVEN AT the Public Hearing, on Wednesday, April 15, 2020, at 6:00 p.m. in the Coachella Permit Center, 53-990 Enterprise Way, Coachella, CA 92236. Alternatively, any written comments may be submitted via e-mail to [LLopez@coachella.org](mailto:LLopez@coachella.org).

BY ORDER OF PLANNING COMMISSION SECRETARY  
PUBLISHED: April 5, 2020

April 8, 2020

Jordan Ferguson

T 310.229.0326

F 310.229.9901

JFerguson@Venable.com

**VIA ELECTRONIC MAIL**

William Pattison  
City Manager  
City of Coachella  
53-990 Enterprise Way  
Coachella, CA 92236

Re: Conditional Use Permit No. 312  
84-160 Avenue 48, Coachella, CA

Dear Mr. Pattison:

This firm represents The Coachella Lighthouse, LLC (“The Coachella Lighthouse”). Over the past several weeks, our clients have been in touch with you and several other City of Coachella (“City”) staff members and public officials to discuss compliance under the existing Glenroy Resort Hotel Development Agreement (the “Development Agreement”) and Conditional Use Permit No. 312 (the “CUP”). Based on those conversations, our clients are hopeful an agreement in principal will be reached, and I write today to memorialize our understanding of the material terms of such agreement, as well as to formally request upon the City’s receipt of the TOT Payment (as hereinafter defined) the cancellation of a proposed CUP revocation hearing currently tentatively scheduled for April 15, 2020.

We understand the City’s strong desire to see the Glenroy Resort Hotel (the “Resort”) up and running as soon as possible, and to begin receiving transient occupancy tax (“TOT”) revenue from the Resort, as is contemplated under the Development Agreement and the Coachella Municipal Code. As you are likely aware, a variety of issues have delayed completion of the Resort past the compliance deadline laid out in the Development Agreement. In the spirit of cooperation and the hopes of continuing a mutually beneficial partnership, and recognizing the loss the City faces based on this delay, our client proposes an annual payment to the City in the amount of Three Hundred Thousand Dollars and 00/100 (\$300,000.00) (the “TOT Payment”) to cover the TOT the City believes it is owed under the Development Agreement until such time as the Resort is open and operational. At that point, Glenroy Coachella will timely remit TOT as required under the Coachella Municipal Code, alongside all other hotel developments in the City.

In order to provide an injection of revenue to the City immediately, our clients propose a first payment in the amount of Fifty Thousand Dollars and 00/100 (\$50,000) to be paid upon the City’s written acceptance of the terms herein. Thereafter, our clients propose a monthly payment of Twenty Two Thousand Seven Hundred and Twenty Seven Dollars and 27/100 (\$22,727.27) until the Resort is open and operational, such that the City will receive the full TOT Payment over the course of the next twelve months.



The TOT Payment constitutes revenue the City would not receive should the proposed revocation proceedings move forward. This is also a proposal that involves Glenroy Coachella paying the City TOT at a time where the City is unlikely to receive TOT from any other establishment, due to Governor Newsom's stay-at-home order. The hotel industry is shuttered nationwide for an indefinite period, and it is impossible to say at present when revenues will return. Even if hotels were permitted to reopen tomorrow, it is highly unlikely they would have any customers to serve, given the current travel restrictions.

In recognition of the unimaginable circumstances currently facing the hotel industry, and Glenroy Coachella's proposed injection of TOT revenue to the City at a time where it is likely receiving no such revenue from other businesses, we respectfully request that the City ***respond in writing accepting the present offer and confirm it is rescinding its threat of proceeding with a CUP revocation hearing***. Recognizing this offer is proposed to settle any dispute over the Development Agreement or the CUP, we additionally request that the City ***confirm in writing that no revocation proceedings will be contemplated before May 1, 2021***.

We understand the City has also raised the issue of outstanding property taxes due on April 10, 2020. Due to the ongoing crisis and the economic harm our clients have already suffered, a formal deferral of those property taxes has already been requested. Attached you will find the deferral request for all relevant parcels. Should this request be granted, our clients intend to timely pay all outstanding property taxes as required by any deferral. We respectfully request that the City defer to Riverside County's determination here, and not separately threaten The Coachella Lighthouse based on property tax payments which are likely to be lawfully deferred in the coming days.

Separately, we request that the City promptly institute proceedings to decouple the CUP from the Development Agreement, allowing The Coachella Lighthouse to operate independently of the Resort. This request comes not from a desire to change the original terms of the agreement between Glenroy Coachella and the City, but rather out of recognition that a successful commercial cannabis business generating community benefits and substantial tax revenue to the City should not be under continuous existential threat based on the status of the Resort's development.

Throughout its history, The Coachella Lighthouse has been a model commercial cannabis business, providing critical services to the community and substantial tax revenue to the City. As you are likely aware, Governor Newsom has declared commercial cannabis businesses "essential" during the state-wide COVID-19 stay-at-home order, emphasizing that access to legal, regulated and safe cannabis is vital, especially for Californians who utilize cannabis for medical purposes.

This would make the City's timing on any compliance review unfortunate to say the least. We understand the City is well within its rights to conduct a 12-month compliance review, and to demand The Coachella Lighthouse operate within the conditions of approval laid out in the CUP; the Coachella Lighthouse has every intention of complying with those conditions. However, threatening the closure of an essential business during a global pandemic does not serve the best interests of the City or the community served by the Coachella Lighthouse. Any cessation of business would leave The Coachella Lighthouse's loyal customers and patients without access to cannabis during a period of widespread illness and growing mental health concerns based on the

stresses imposed by social isolation. This would by no means serve the public good, and in fact could result in direct harms to the citizens of the City and to the community as a whole.

Beyond that, shuttering one of the City's highest performing taxpayers during an economic recession that potentially rivals the Great Depression cannot possibly be in the best interests of the City at a time when the City is starved for reliable tax revenue.

Furthermore, the Coachella Lighthouse is a freestanding business, operating independently from the Resort. While its revenues will likely increase (alongside its tax payments to the City) when the Resort is open and operating, over the past several years, The Coachella Lighthouse has proven that it more than capably serves the community even in the absence of seasonal tourist traffic associated with a nearby resort hotel. It is fundamentally unfair for the City to continue to leverage the existence of The Coachella Lighthouse against the completion of the Resort, the construction and operation of which are handled by a different corporation with different investors and ownership.

We respectfully request that the City accept Glenroy Coachella's offer and respond in writing cancelling the proposed compliance hearing scheduled for April 15, 2020. We additionally entreat the City to recognize the independent value provided by The Coachella Lighthouse and to begin the process of decoupling the CUP from the Development Agreement, so that both businesses may continue to operate regardless of the legal status of the other.

If you have any questions about the proposed terms herein, or wish to discuss this matter further, please feel free to contact me directly at [jferguson@venable.com](mailto:jferguson@venable.com) or at (310) 229-0326. Thank you in advance for your time and careful consideration of this matter.

Sincerely,

Jordan E. A. Ferguson

Cc: Luis Lopez, Development Services Director (via email)  
Carlos Campos, City Attorney (via email)  
Stuart Rubin (via email)  
Joseph Rubin (via email)  
Matthew Portnoff, Venable LLP (via email)

April 6, 2020

Jon Christensen  
Riverside County  
33-868 El Cerrito Rd  
Palm Desert, CA 92211

Dear Riverside County Tax Assessor:

As a direct result of lost business from the COVID-19 crisis, I am requesting a deferral of property taxes due April 10, 2020, including a waiver of any fees, costs, or other charges resulting from a late payment.

This request is made pursuant to California Revenue and Taxation Code – Section 4985.2 which states:

Any penalty, costs, or other charges resulting from tax delinquency may be canceled by the auditor or the tax collector upon a finding of any of the following:

(a) Failure to make a timely payment is due to reasonable cause and circumstances beyond the taxpayer's control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect, provided the principal payment for the proper amount of the tax due is made no later than June 30 of the fourth fiscal year following the fiscal year in which the tax became delinquent.

Additionally, per the joint statement of the California State Association of Counties (CSAC) and the California Association of County Treasurers and Tax Collectors (CACTTC), I am requesting that the county *"use all existing authority to cancel penalties and other charges for homeowners, small businesses, and other property owners that are unable to pay their property taxes due to circumstances caused by COVID-19 on a case-by-case basis"*.

The hotel industry has been devastated by this crisis. The hotel industry is now forecast by STR and Tourism Economics to have its worst year ever, with revenue per available room expected to decline an average of 50.6% for the year. As of last week, a significant number of hotels in California have suspended operations and virtually all hotel operations have unfortunately reduced their workforce by furloughs, layoffs, and reductions in pay, benefits, and/or hours. The industry is struggling to maintain our remaining workforce.

As a result of COVID-19, my hotel has suffered a devastating loss of income resulting in a severe shortage of liquid assets. Consequently, I am unable to pay the property taxes owed at this time and ask for a waiver of any fees, costs, or other charges resulting from a late payment.

Thank you,



Stuart Rubin  
President  
Glenroy Coachella  
84141 Ave 48 Coachella  
Coachella, CA 92236

Parcel #: 603220061

April 6, 2020

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33-868 El Cerrito Rd  
Palm Desert, CA 92211

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Coachella, CA 92236

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Coachella, CA 92236

Parcel #: 603220069



**STAFF REPORT**  
**4/15/2020**

**TO:** Planning Commission Chair and Commissioners

**FROM:** Luis Lopez, Development Services Director

**SUBJECT:** Resolution No. PC2020-04 approving Zoning Ordinance Amendment (ZOA 20-01) and recommending approval of an Ordinance amending various sections of Title 17 (Zoning) of the Coachella Municipal Code to update and clarify provisions regarding retail cannabis businesses, specifically with regards to non-storefront retailers, non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses.

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**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission approve Zoning Ordinance Amendment (ZOA 20-01) and recommend to the City Council approval of a draft Ordinance amending Coachella Municipal Code Title 17 (Zoning), Chapters 17.26 C-G General Commercial Zone, 17.30 M-S Manufacturing Service Zone, 17.32 M-H Heavy Industrial Zone, 17.34 M-W Wrecking Yard Zone, 17.46 IP Industrial Park Overlay Zone, 17.47 RC Retail Cannabis Overlay Zone, 17.84 Retail Cannabis Businesses and 17.85 Commercial Cannabis Activity to Update Cannabis Business Zoning Regulations, including Regulations Specific to Non-Storefront Retail Cannabis Businesses and Microbusinesses, by adopting the attached resolution.

**BACKGROUND:**

In November of 2016, voters approved Proposition 64, otherwise known as the Control, Regulate, Tax Adult Use of Marijuana Act (“AUMA”) which legalized the adult use of cannabis and created a statutory framework for the state to regulate adult use of cannabis. Senate Bill 94, adopted on June 27, 2017, reconciled standards for medical cannabis with the standards for adult use cannabis activity under a single law, entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”).

The City of Coachella adopted Chapter 17.85 “Medical Cannabis Cultivation Facilities,” in January 2016, to allow commercial medicinal cannabis cultivation, manufacturing, testing, distribution, and transportation activities in the wrecking yard (M-W) zone with a conditional use permit (“CUP”). Since then, the City has allowed both medicinal and adult use cannabis cultivation, manufacturing, testing, distribution, and transportation activities in the M-W zone and IP Industrial Park Overlay Zone for all commercial cannabis activity, and general commercial C-G for testing laboratories only with a CUP. All such businesses also require a regulatory permit to operate.

A City Council study session was held on June 6, 2017 at which time City staff was given direction to prepare and present an ordinance regulating retail cannabis businesses. During the study session, the City Council discussed various potential zoning limitations, including areas within the City that would be suitable and would benefit by such uses, distance limitations between retail cannabis businesses themselves, and distance limitations between these businesses and schools. The City Council took public comment at the meeting, which was generally in favor of allowing such uses. Commenters asked that retail cannabis businesses be allowed in commercial areas, asked the Council to be “business friendly” when considering such uses, and to carefully think about and plan for revenue generated.

In February 2018, the City Council adopted an ordinance, which among other things, allowed five (5) retail cannabis businesses to operate within the City.

In April 2019, the City adopted new retail cannabis regulations, including updating the language to reflect changes in State law; reducing the “minimum project area” size from thirty (30) acres to ten (10) acres in the MS-IP (Manufacturing Service - Industrial Park) overlay zone; expanding area of Sub-Zone #1 *Pueblo Viejo*; adding a new Sub-Zone #3 *Dillon Road Corridor*; adding property development standards for microbusinesses; allowing ten (10) retail cannabis businesses to operate in the City; and allowing retail cannabis businesses in the M-W Wrecking Yard Zone and the IP Industrial Park Overlay Zone, in addition to the RC Retail Cannabis Overlay Zone.

Since that time, staff has been working to update the City’s zoning regulations for cannabis businesses based on City Council comments, public comments, internal review of the Zoning Map and General Plan, staff meetings, and current State law. City Council recently gave staff direction to pursue two code amendments to consider allowing “interim outdoor cannabis cultivation farms” and “non-storefront retail cannabis businesses”. Because the next growing season for outdoor cultivation is not imminent, that code amendment will be further studied and brought to the Commission in the summer months. This ordinance presented herein deals strictly with allowing “non-storefront retail cannabis businesses” in various commercial and industrial districts of the City.

## **DISCUSSION/ANALYSIS:**

### **I. SUMMARY**

The proposed Ordinance would amend Title 17 (Zoning), Chapters 17.26, 17.30, 17.32, 17.34, 17.46, 17.47, 17.84, and 17.85 to (i) allow non-storefront retailers in the C-G General Commercial Use Zone, M-S Manufacturing Service Zone, M-H Heavy Industrial Zone, M-W Wrecking Yard Zone, and RC Retail Cannabis Overlay Zone and subject to certain property development standards, (ii) clarify the different types of cannabis microbusinesses that may operate in different City zones, and (iii) comply with current City policies and State law.

### **II. NON-STOREFRONT RETAILERS**

#### **A. Non-storefront Retailer Defined**

Currently, the City does not allow non-storefront retailers. The proposed Zoning



Ordinance Amendment (“ZOA”) would allow non-storefront retailers to operate in certain zones in the City (described below) subject to certain development standards (described below). The City is not proposing to limit the number of non-storefront retailers, but these uses will be limited by land use restrictions, e.g. they will be limited to certain zones and have distancing/spacing restrictions, which are discussed below.

A “non-storefront retailer” means a cannabis retailer that provides cannabis **exclusively through delivery**. Like the name implies, these businesses do not have a retail storefront that is open to the public. Rather, the business will obtain cannabis and cannabis products, secure the merchandise on site, and then deliver it to customers. Customers do not come to the business location.

State law and regulations regarding cannabis delivery ensure documented transfer from the retailer to the customer. All deliveries of cannabis goods must be performed by a delivery employee (at least 21 years of age) who is directly employed by a licensed retailer and be made in person. The process of delivery begins when the delivery employee leaves the retailer’s licensed premises with the cannabis goods for delivery and ends when the delivery employee returns to the retailer’s licensed premises after delivering or attempting to deliver the cannabis goods. A delivery employee of a licensed retailer shall, during deliveries, carry a copy of the retailer’s current license, a copy of the QR Code certificate issued by the Bureau of Cannabis Control, the employee’s government-issued identification, and an identification badge provided by the employer. Prior to providing cannabis goods to a delivery customer, a delivery employee shall confirm the identity and age of the delivery customer. A delivery employee may not carry cannabis goods with a value in excess of \$5,000 at any time. (Bus. & Prof. Code, §§ 26013, 26090.) QR is short for “Quick Response” and these codes are used to take a piece of information from a transitory media and put it onto a person’s cell phone. Once on the cell phone, it gives the person information about the business.

In February 2020, new cannabis regulations were enacted requiring cannabis retailers and delivery services to post QR codes in their storefront windows and carry it with them while transporting or delivering cannabis products. These regulations are designed to help consumers identify licensed cannabis retail stores, assist law enforcement, and support the legal cannabis market. It has been reported that illicit cannabis sales in California in 2019 were estimated at \$8.3 billion, while legalized sales were expected to reach \$3 billion.

## **B. Zones Where Non-storefront Retailers are Allowed**

The ZOA proposes to allow non-storefront retailers in the following zones:

- C-G General Commercial Use Zone;
- M-S Manufacturing Service Zone;
- M-H Heavy Industrial Zone;
- M-W Wrecking Yard Zone; and

- RC Retail Cannabis Overlay Zone.

Non-storefront retailers would be permitted as conditional uses in the above zones, meaning that they must secure a conditional use permit (“CUP”) or development agreement prior to operating. Please note that these businesses must also obtain a regulatory permit pursuant to Coachella Municipal Code Chapter 5.69 *Cannabis Retailer and Retail Microbusiness Regulatory Permit*.

### **C. Property Development Standards**

The ZOA proposes that non-storefront retailers be subject to three property development standards:

- A minimum of one hundred (100) feet separation from any residential structure;
- 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.

The ZOA defines “Pueblo Viejo District” as that area in the city bounded by Cesar Chavez Street on the west, 1st Street on the north, Grapefruit Boulevard on the east, and 9th Street on the south.

## **III. MICROBUSINESSES**

The City’s current regulations distinguish between microbusinesses with a retail component and microbusinesses without a retail component. The proposed ZOA further clarifies the regulations related to microbusinesses.

### **A. Types of Microbusinesses**

The proposed ZOA adds new definitions to specify the three types of microbusinesses: non-retail, storefront retail, and non-storefront retail microbusinesses.

A “non-retail microbusiness” is 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. Like the name implies, there is no retail component to the business.

A “storefront retail microbusiness” is a commercial business that engages in storefront retail cannabis sales and at least two of the following: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution.

A “non-storefront retail microbusiness” is a commercial business that engages in non-storefront retail cannabis sales and at least two of the following: indoor cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, and distribution.

**B. Zones Where Microbusinesses are Allowed**

**1. Non-retail Microbusinesses**

The Municipal Code currently allows non-retail microbusinesses in the following zones:

- M-W Wrecking Yard Zone; and the
- IP Industrial Park Overlay Zone.

**2. Storefront Retail Microbusinesses**

The Municipal Code currently allows storefront retail microbusinesses in the following zones:

- M-W Wrecking Yard Zone;
- IP Industrial Park Overlay Zone; and the
- RC Retail Cannabis Overlay Zone.

**3. Non-storefront Retail Microbusinesses**

The ZOA proposes to allow non-storefront retail microbusinesses in the following zones:

- C-G General Commercial Use Zone;
- M-S Manufacturing Service Zone;
- M-H Heavy Industrial Zone;
- M-W Wrecking Yard Zone; and
- RC Retail Cannabis Overlay Zone.

**C. Microbusinesses Conditionally Permitted**

All microbusiness types are permitted as conditional uses in the above zones, meaning that they must secure a CUP or development agreement prior to operating. These businesses must also obtain a regulatory permit pursuant to Coachella Municipal Code Chapters 5.68 and 5.69.

**FISCAL IMPACT:**

None.

**ALTERNATIVES:**

- 1) Adopt Resolution No. PC2020-04 recommending approval of the attached Draft Ordinance.
- 2) Adopt Resolution No. PC2020-04 recommending approval of the attached Draft Ordinance with amendments.
- 3) Recommend denial of the attached Draft Ordinance.
- 4) Continue this item and provide staff with direction.

**RECOMMENDED ALTERNATIVE(S):**

Staff recommends Alternative #1 or Alternative #2 above.

Attachments:     Resolution No. PC2020-04  
                         Draft Ordinance Amending Coachella Municipal Code

**RESOLUTION NO. PC2020-04**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COACHELLA, CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING COACHELLA MUNICIPAL CODE TITLE 17 ZONING, CHAPTERS 17.26 C-G GENERAL COMMERCIAL USE ZONE, 17.30 M-S MANUFACTURING SERVICE ZONE, 17.32 M-H HEAVY INDUSTRIAL ZONE, 17.34 M-W WRECKING YARD ZONE, 17.46 IP INDUSTRIAL PARK OVERLAY ZONE, 17.47 RC RETAIL CANNABIS OVERLAY ZONE, 17.84 RETAIL CANNABIS BUSINESSES AND 17.85 COMMERCIAL CANNABIS ACTIVITY TO UPDATE CANNABIS BUSINESS ZONING REGULATIONS, INCLUDING REGULATIONS SPECIFIC TO NON-STOREFRONT RETAIL CANNABIS BUSINESSES AND MICROBUSINESSES.**

**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 17.26, 17.30, 17.32, 17.34, 17.46, 17.47, 17.84, and 17.85 to (i) allow non-storefront retailers in certain City zones and subject to certain property development standards, (ii) clarify the different types of cannabis microbusinesses that may operate in different City zones, and (iii) comply with current City policies and State law; 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 15, 2020 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;.

**NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF COACHELLA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1. Recommendation to City Council.** Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made in the staff report and this Resolution, the Planning Commission of the City of Coachella hereby recommends that the City Council adopt Ordinance No. \_\_\_\_\_ entitled: “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING COACHELLA MUNICIPAL CODE TITLE 17 ZONING, CHAPTERS 17.26 C-G GENERAL COMMERCIAL USE ZONE, 17.30 M-S MANUFACTURING SERVICE ZONE, 17.32 M-H HEAVY INDUSTRIAL ZONE, 17.34 M-W WRECKING YARD ZONE, 17.46 IP INDUSTRIAL PARK OVERLAY ZONE, 17.47 RC RETAIL CANNABIS OVERLAY ZONE, 17.84 RETAIL CANNABIS BUSINESSES AND 17.85 COMMERCIAL CANNABIS ACTIVITY TO UPDATE CANNABIS BUSINESS ZONING REGULATIONS, INCLUDING REGULATIONS SPECIFIC TO NON-STOREFRONT RETAIL

CANNABIS BUSINESSES AND MICROBUSINESSES” which is attached hereto as Attachment “A” and incorporated herein by reference.

**SECTION 2. Findings.** The Planning Commission finds that the amendments to the Coachella Municipal Code (Zoning) proposed by the above referenced ordinance are consistent with the goals and policies of all elements of the General Plan and exercise the City’s land use powers to protect the health, safety, and welfare of the public which would be put at risk if commercial cannabis activity is allowed to move forward in the City without local regulation and enforcement abilities.

The Planning Commission also finds that the proposed amendments to the Coachella Municipal Code (Zoning) would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that they will regulate commercial cannabis activity as a land use, by allowing the use with a conditional use permit in selected zoning districts and under certain restrictions.

The Planning Commission also finds that the proposed amendments to the Coachella Municipal Code (Zoning) are internally consistent with other applicable provisions of this Zoning Code, in that commercial cannabis activity would be subject to specified zoning districts and to findings necessary to grant a conditional use permit.

**SECTION 3. CEQA.** The Planning Commission finds that this Resolution is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**SECTION 4. Certification.** The Secretary shall certify to the adoption of this Resolution.

**APPROVED AND ADOPTED** by the members of the City of Coachella Planning Commission on this 15th day of April, 2020.

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Javier Soliz,  
Planning Commission Chair

ATTEST:

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Yesenia Becerril, Planning Commission Secretary

APPROVED AS TO FORM:

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Carlos Campos, City Attorney



I, Yesenia Becerril, Planning Secretary, City of Coachella, California, certify that the foregoing Resolution was adopted by the Planning Commission at a regular meeting of the Planning Commission held on the 15<sup>th</sup> day of April, 2020, and was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Yesenia Becerril  
Planning Commission Secretary

## **ATTACHMENT “A”**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING COACHELLA MUNICIPAL CODE TITLE 17 ZONING, CHAPTERS 17.26 C-G GENERAL COMMERCIAL USE ZONE, 17.30 M-S MANUFACTURING SERVICE ZONE, 17.32 M-H HEAVY INDUSTRIAL ZONE, 17.34 M-W WRECKING YARD ZONE, 17.46 IP INDUSTRIAL PARK OVERLAY ZONE, 17.47 RC RETAIL CANNABIS OVERLAY ZONE, 17.84 RETAIL CANNABIS BUSINESSES AND 17.85 COMMERCIAL CANNABIS ACTIVITY TO UPDATE CANNABIS BUSINESS ZONING REGULATIONS, INCLUDING REGULATIONS SPECIFIC TO NON-STOREFRONT RETAIL CANNABIS BUSINESSES AND MICROBUSINESSES

= DRAFT =

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING COACHELLA MUNICIPAL CODE TITLE 17 ZONING, CHAPTERS 17.26 C-G GENERAL COMMERCIAL USE ZONE, 17.30 M-S MANUFACTURING SERVICE ZONE, 17.32 M-H HEAVY INDUSTRIAL ZONE, 17.34 M-W WRECKING YARD ZONE, 17.46 IP INDUSTRIAL PARK OVERLAY ZONE, 17.47 RC RETAIL CANNABIS OVERLAY ZONE, 17.84 RETAIL CANNABIS BUSINESSES AND 17.85 COMMERCIAL CANNABIS ACTIVITY TO UPDATE CANNABIS BUSINESS ZONING REGULATIONS, INCLUDING REGULATIONS SPECIFIC TO NON-STOREFRONT RETAIL CANNABIS BUSINESSES AND MICROBUSINESSES.**

**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 17.26, 17.30, 17.32, 17.34, 17.46, 17.47, 17.84, and 17.85 to (i) allow non-storefront retailers in certain City zones and subject to certain property development standards, (ii) clarify the different types of cannabis microbusinesses that may operate in different City zones, and (iii) comply with current City policies and State law; 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 15, 2020 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 a properly noticed public hearing on \_\_\_\_\_, 2020 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 PEOPLE OF THE CITY OF COACHELLA DO ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council of the City of Coachella, California, hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

**SECTION 2. Amendment to Coachella Municipal Code.** Subsection 35 of Section 17.26.020(C) *Conditional Uses* of Chapter 17.26 *C-G General Commercial* of the Coachella Municipal Code is hereby added as follows:

“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.

...

35. Non-storefront cannabis retailers and non-storefront retail microbusinesses, pursuant to Chapter 17.84.”

**SECTION 3. Amendment to Coachella Municipal Code.** Subsection I of Section 17.26.030 *Property development standards* of Chapter 17.26 *C-G General Commercial Zone* of the Coachella Municipal Code is hereby added as follows:

**“17.26.030 - Property development standards.**

...

I. Non-storefront retailer and non-storefront retail microbusiness. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure; be at least five hundred (500) feet from any other storefront retail cannabis business 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 on the west, 1<sup>st</sup> Street on the north, Grapefruit Boulevard on the east, and 9<sup>th</sup> Street on the south.”

**SECTION 4. Amendment to Coachella Municipal Code.** Subsection 16 of Section 17.30.020(C) *Conditional Uses* of Chapter 17.30 *M-S Manufacturing Service Zone* of the Coachella Municipal Code is hereby added as follows:

“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.

...

16. Non-storefront cannabis retailers and non-storefront retail microbusinesses, pursuant to Chapter 17.84.”

**SECTION 5. Amendment to the Coachella Municipal Code.** Subsection I of Section 17.30.030 *Property development standards* of Chapter 17.30 *M-S Manufacturing Service Zone* of the Coachella Municipal Code is hereby added as follows:

**“17.30.030 - Property development standards.**

...

I. Non-storefront retailer and non-storefront retail microbusiness. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure; be at least five hundred (500) feet from any other storefront retail cannabis business 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 on the west, 1st Street on the north, Grapefruit Boulevard on the east, and 9th Street on the south.”

**SECTION 6. Amendment to the Coachella Municipal Code.** Subsection 29 of Section 17.32.020(C) *Conditional Uses* of Chapter 17.32 *M-H Heavy Industrial* is hereby added as follows:

“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.

...

29. Non-storefront cannabis retailers and non-storefront retail microbusinesses, pursuant to Chapter 17.84.”

**SECTION 7. Amendment to the Coachella Municipal Code.** Subsection 7 of Section 17.34.020(C) *Conditional Uses* of Chapter 17.34 *M-W Wrecking Yard Zone* is hereby amended to add the underlined text and delete the stricken text as follows:

“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.

...

7. Cannabis cultivation, manufacturing, distribution, testing, non-retail microbusiness, non-storefront retail, non-storefront retail microbusiness, and storefront retail, and storefront retail microbusiness, ~~(including microbusiness)~~ facilities, pursuant to Chapters 17.84 and 17.85.”

**SECTION 8. Amendment to the Coachella Municipal Code.** Subsection K of Section 17.34.030 *Property development standards* of Chapter 17.34 *M-W Wrecking Yard Zone* of the Coachella Municipal Code is hereby added as follows:

**“17.34.030 - Property development standards.**

...

K. Non-storefront retailer and non-storefront retail microbusiness. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure; 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 on the west, 1st Street on the north, Grapefruit Boulevard on the east, and 9th Street on the south.”

**SECTION 9. Amendment to the Coachella Municipal Code.** Section 17.46.023 *Conditional uses* of Chapter 17.46 *IP Industrial Park Overlay Zone* is hereby amended to include underlined text and delete stricken text as follows:

**“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, non-retail microbusiness, storefront retail microbusiness, non-storefront retail microbusiness, non-storefront retail and/or storefront 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, non-retail microbusiness, storefront retail microbusiness, non-storefront retail microbusiness, non-storefront retail and/or storefront 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).”

**SECTION 10. Amendment to the Coachella Municipal Code.** Subsection A *Project Area/ Lot Requirements* of Section 17.46.030 *Property development standards* of Chapter 17.46 *IP Industrial Park Overlay Zone* is hereby amended to include the underlined text 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: Five acres for any lot on which is located a cannabis cultivation, processing, testing, manufacturing or distribution use. For all other lots, 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.

6. No retail microbusiness or storefront 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.

...”

**SECTION 11. Amendment to the Coachella Municipal Code.** Subsection D *Distance Between Uses/Buildings* of Section 17.46.030 *Property development standards* of Chapter 17.46 *IP Industrial Park Overlay Zone* is hereby amended to include the underlined text and delete the text in strike-through, as follows:

**“17.46.030 - Property development standards.**

...

D. Distance Between Uses/Buildings. No cannabis cultivation, processing, testing, manufacture, distribution, non-retail microbusiness, retail microbusiness, or storefront retail use shall be located within ~~one thousand (1,000)~~ six hundred (600) 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.

...”

**SECTION 12. Amendment to the Coachella Municipal Code.** Section 17.47.040 *Conditional uses* of Chapter 17.47 *RC Retail Cannabis Overlay Zone* is hereby amended to include the underlined text and delete the stricken text as follows:

**“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 storefront retailers or retail 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 storefront retailers or retail microbusinesses, subject to obtaining a conditional use permit as specified in Section 17.74.010, 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.

C. In Sub-Zone #3: The retail sale, exchange, transaction or delivery of cannabis, including storefront retailers, non-storefront retailers, retail 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.”

**SECTION 13. Amendment to the Coachella Municipal Code.** Section 17.47.060 *Property development standards* of Chapter 17.47 *RC Retail Cannabis Overlay Zone* is hereby amended to include the underlined text and delete the stricken text as follows:

**“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.~~ Non-storefront retailers are permitted in Sub-Zone #3, but prohibited in Sub-Zones #1 and #2. No retail cannabis business within the RC overlay zone shall be operated as “non-storefront” or “delivery only”. In Sub-Zones #1 and #2, D delivery may only be approved as ancillary to the operation of a permitted cannabis retail business which is physically located within the Sub-Zone RC overlay zone and which primarily provides cannabis to customers on the premises. A non-storefront retail cannabis business 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 cannabis business or non-storefront retail cannabis business.

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. ~~M~~ Non-storefront retail microbusinesses, storefront retail microbusinesses, and non-retail microbusinesses are permitted in the RC cannabis overlay zone. To hold a CUP for a microbusiness, the permittee must engage in at least three 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. A 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.

**SECTION 14.** **Amendment to the Coachella Municipal Code.** Section 17.84.020 *Definitions* of Chapter 17.84 *Retail Cannabis Businesses* is hereby amended to include the underlined text and delete the stricken text 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 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 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.

“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 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.~~

“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” ~~or “retailer”~~ 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 M 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.

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 15. Amendment to the Coachella Municipal Code.** Section 17.84.030 *Development agreement or conditional use permit required* of Chapter 17.84 *Retail Cannabis Business* is hereby amended to include the underlined text and delete the stricken text as follows:

**“17.84.030 - Development agreement or conditional use permit required.**

A. The city may authorize a total of ten (10) storefront retailers and/or storefront retail microbusinesses ~~retail cannabis businesses~~ to operate in the city of Coachella. No more than five (5) storefront retailers and/or storefront retail microbusinesses ~~retail cannabis businesses~~ may operate in Sub-Zone #1 (as described in Chapter 17.47). No more than two (2) storefront retailers and/or storefront retail microbusinesses ~~retail cannabis business~~ may operate in Sub-Zone #2 (as described in Chapter 17.47), subject to a development agreement. The remaining storefront retailers and/or storefront retail microbusinesses, in addition to an unlimited number of non-storefront retailers and non-storefront retail microbusinesses that comply with the property development standards listed in Section 17.84.040(B), ~~retail cannabis businesses~~ may operate in Sub-Zone #3 and/or 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 non-storefront retail microbusiness, non-storefront retailer, storefront retailer, and storefront retail microbusiness, ~~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.”

**SECTION 16. Amendment to the Coachella Municipal Code.** Section 17.84.040 *Retail cannabis businesses—Permitted locations and standards* of Chapter 17.84 *Retail Cannabis Businesses* is hereby amended to include the underlined text and delete the stricken text as follows:

**“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. A non-storefront retailer or non-storefront retail microbusiness shall have a minimum of one hundred (100) feet separation from any residential structure; 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 on the west, 1st Street on the north, Grapefruit Boulevard on the west, and 9th Street on the south.

~~B.~~ C. 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.~~ D. 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.~~ E. 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.”

**SECTION 17. Amendment to the Coachella Municipal Code.** Section 17.84.060 *Prohibited operations* of Chapter 17.84 *Retail Cannabis Businesses* is hereby amended to delete the stricken text as follows:

“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.”~~

**SECTION 18. Amendment to the Coachella Municipal Code.** Section 17.85.020 *Definitions* of Chapter 17.85 *Commercial Cannabis Activity* is hereby amended to include the underlined text and delete the stricken text 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, 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 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. Zoning restrictions on retail cannabis businesses ~~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 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.

“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.~~

“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.

“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.

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

“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.

“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 19. Amendment to the Coachella Municipal Code.** Section 17.85.030 *Commercial cannabis activity permitted* of Chapter 17.85 *Commercial Cannabis Activity* is hereby amended to include the underlined text and delete the stricken text as follows:

**“17.85.030 - Commercial cannabis activity permitted.**

Commercial cannabis activity permitted under this chapter includes cultivation, manufacture (including shared-use facilities), distribution, ~~and testing, and non-retail microbusinesses~~ (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.”

**SECTION 20. Amendment to the Coachella Municipal Code.** Section 17.85.040 *Conditional use permit or development agreement required* of Chapter 17.85 *Commercial Cannabis Activity* is hereby amended to include the underlined text as follows:

**“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, non-retail microbusiness, or testing laboratory regulatory permit required by this code.

**SECTION 21. Effective Date.** This Ordinance shall take effect thirty (30) days after its adoption.

**SECTION 22. California Environmental Quality Act.** The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) and 15378 (the activity is not a project under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. This is because the prohibition adopted by this Ordinance merely prohibits uses that do have impacts on public health, safety, and welfare, and does not permit any development that could result in a significant change to the environment. In addition, the Ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, because this ordinance is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment.

**SECTION 23. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or

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unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 24. Certification and Publication.** The City Clerk of the City of Coachella shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Coachella, California on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Steven A. Hernandez, Mayor

ATTEST:

\_\_\_\_\_  
Angela M. Zepeda, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Carlos Campos, City Attorney

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State of California     )  
County of Riverside    ) s.s.  
City of Coachella     )

I, Angela M. Zepeda, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. \_\_\_\_\_, introduced at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2020, and duly adopted by the City Council of the City of Coachella, California at a regular meeting thereof held the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Angela M. Zepeda, City Clerk