

ORDINANCE NO. 1161

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. (*1st Reading*)

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WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act (“MCRSA”), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single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 May 13, 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 or non-storefront retail cannabis business; and may not be located in the City’s Pueblo Viejo District. For purposes of this chapter, “Pueblo Viejo District” shall be that area in the city bounded by Cesar Chavez Street to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east.”

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 or non-storefront retail cannabis business; and may not be located in the City’s Pueblo Viejo District. For purposes of this chapter, “Pueblo Viejo District” shall be that area in the city bounded by Cesar Chavez Street to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east.”

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 to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east.”

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 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) 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 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."

“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 ~~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 to the south, 1st Street to the west, Grapefruit Boulevard to the north, and 9th Street to the east.”

~~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 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:

Steven A. Hernandez
Mayor

ATTEST:

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

Carlos Campos
City Attorney

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

I, Andrea J. Carranza, Deputy City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. 1162, introduced at a regular meeting held on the 13th day of May 2020, and duly adopted by the City Council of the City of Coachella, California at a regular meeting thereof held on the _____ day of _____, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

Andrea J. Carranza, MMC
Deputy City Clerk