

ORDINANCE NO. XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, ADDING CHAPTER 8.65 (“SMOKE-FREE AREAS”) TO TITLE VIII OF THE COACHELLA MUNICIPAL CODE AND ESTABLISHING SMOKE-FREE AREAS TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT, AND DETERMINING THAT THE PROPOSED IS EXEMPT FROM CEQA PURSUANT TO CEQA GUIDELINES SECTION 15378

WHEREAS, use of tobacco products causes death and disease and continues to be an urgent public health challenge; and

WHEREAS, the United States Surgeon General has determined there is no safe level of exposure to secondhand smoke; and

WHEREAS, secondhand smoke contains more than 7,000 chemicals, including hundreds that are toxic and approximately 70 that cause cancer; and

WHEREAS, secondhand-smoke exposure can reach hazardous levels in outdoor areas depending on proximity, wind direction, and the presence of barriers or enclosures; and

WHEREAS, California Health and Safety Code section 104495 authorizes cities to enact restrictions on smoking that are more stringent than state law; and

WHEREAS, discarded cigarette and cigar butts are non-biodegradable litter, toxic to wildlife, and a common cause of outdoor fires; and

WHEREAS, electronic smoking devices are not a safe alternative to smoking because they also contain high levels of toxic chemicals; and

WHEREAS, prohibiting the use of electronic smoking devices in designated areas also provides an identifiable public health benefit; and

WHEREAS, laws restricting smoking and the use of tobacco products, including electronic smoking devices, have recognizable benefits to public health; and

WHEREAS, this ordinance is exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15061(b)(3), because it has no potential for resulting in physical changes to the environment, directly or indirectly; and

WHEREAS, the City of Coachella City Council finds and determines that regulating smoking and the use of tobacco products, including electronic smoking devices, is necessary to protect the health, safety, and welfare of residents, workers, and visitors.

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

SECTION 1. INCORPORATION OF RECITALS. The City Council hereby finds that all of the foregoing recitals presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council.

SECTION 2. CHAPTER 8.65 ADDED TO COACHELLA MUNICIPAL CODE TITLE VIII.

Title VIII of the Coachella Municipal Code is amended to add Chapter 8.65 to read in its entirety as follows:

CHAPTER 8.65

8.65.010 – Purpose

The purpose of this chapter is to safeguard the public health, comfort, and environment by regulating smoking, and reducing exposure to secondhand smoke, in public places and multi-unit residences.

8.65.020 – Definitions

- A. “Administrator” means the City Manager or their designee.
- B. “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 that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.”
- C. “Cannabis product” means any product containing, made of, or derived from cannabis, natural or synthetic, that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, and any component or accessory of such a product.
- D. “Electronic smoking device” means any device that can be used to aerosolize, vaporize, or otherwise deliver nicotine or any other substance to the person inhaling from the device, including, but not limited to, an e-cigarette, vape pen, or electronic cigar, and any component, part, or accessory of such a device.
- E. “Enclosed area” means an area in which outside air cannot circulate freely to all

parts of the area, and includes an area that has either

1. any type of overhead cover whether or not that cover includes vents or other openings and at least three (3) walls or other vertical constraint to airflow including, but not limited to, vegetation of any height, whether or not those boundaries include vents or other openings; or
 2. four (4) walls or other vertical constraints to airflow including, but not limited to, vegetation that exceed six (6) feet in height, whether or not those boundaries include vents or other openings.
- F. “Multi-unit residence” means a property containing two or more residential units, including apartments, condominiums, townhomes, senior-living facilities, and long-term-care homes, regardless of ownership pattern.
- G. “Public place” means any place, public or private, that is open and accessible to the general public, including but not limited to streets, sidewalks, plazas, parks, recreational areas, outdoor dining areas, public buildings, public event venues, and service areas.
- H. “Recreational area” means any park, playground, sports field, trail, or similar facility open to the public for recreational purposes; provided, however, that golf-course grounds are excluded from this definition for purposes of this chapter.
- I. “Service area” means any area where a service is offered or where one or more persons wait to obtain a service, whether or not such service includes the exchange of money, including but not limited to bus stops, rideshare pick-up zones, cab stands, ATM lines, and ticket or retail queues.
- J. “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated tobacco, cannabis, or other plant product intended for inhalation, whether natural or synthetic, and whether in cigarettes, cigars, pipes, hookahs, or any other form. “Smoking” includes the use of an electronic smoking device.
- K. “Tobacco product” means any product containing, made of, or derived from tobacco or nicotine, natural or synthetic, that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, and any component or accessory of such a product.
- L. “Unenclosed area” means any area that is not an enclosed area.

8.65.030 – Prohibitions

Smoking and the use of any tobacco product or cannabis product are prohibited in the following locations and within twenty-five (25) feet thereof unless a greater distance is required by this chapter or state law:

- A. All public places.
- B. Any public place during a City-permitted special event or assembly.
- C. All health care facilities and hospitals, as defined in Section 1250 of the California Health and Safety Code, including waiting rooms, public hallways and lobbies, smoking is prohibited, excluding any specially designated smoking areas.
- D. All child care facilities, including those in private homes, during operating hours in rooms where children are present.
- E. All public meeting rooms, hearing rooms, conference rooms, chambers and places of public assembly in which public business is conducted, when the public business

- requires or provides direct participation or observation by the general public.
- F. All theaters, auditoriums, or other enclosed facilities which are open to the public for the primary purpose of exhibiting any motion picture, stage drama, musical recital, athletic events or any other performance or event, excluding any specially designated smoking areas.
 - G. All eating establishments, excluding any specially designated smoking areas.
 - H. All buildings and structures intended for use by business entities for professional services, excluding any specially designated smoking areas.
 - I. Within twenty-five (25) feet of any entrance, exit, operable window, or air-intake vent of any building, including a multi-unit residence.
 - J. Within any multi-unit residence in accordance with Section 8.65.060.
 - K. Any other unenclosed area that the Administrator designates as smoke-free to protect the public health.

8.65.040 – Smoking Waste

No person shall discard any tobacco product, cannabis product, ash, electronic smoking device, or other smoking waste in any public place or on any private property not the person's own except in a non-combustible, closed receptacle designed for that purpose.

8.65.050 – Exemptions

- A. Unenclosed areas of single-family detached residences when such areas are not open to the public or being used for a business purpose.
- B. A moving private passenger vehicle that is not parked or idling in a service area.
- C. The ceremonial use of tobacco or other plant products by Indigenous persons as part of their traditional spiritual or cultural practices.
- D. Outdoor areas of golf courses while the course is in use for the game of golf, provided that smoking waste is disposed of in non-combustible receptacles and no other smoking prohibition under state law applies.
- E. Private Smoking Events. Smoking may occur solely within the boundaries of a private smoking event when all of the following requirements are satisfied. This exemption is self-effectuating and applies only if each condition is met at all times during the event.
 - 1. Private, Invitation-Only Attendance. The event is not open to the general public. Attendance is by invitation or pre-registration only, with controlled access at all entry points.
 - 2. Age Restrictions.
 - a) Cigar/Tobacco Events: All attendees must be at least eighteen (18) years of age, unless a higher minimum applies under state law.
 - b) Cannabis Events: All attendees, workers, and vendors must be twenty-one (21) years of age or older.
 - 3. Location, Enclosure, and Visibility.
 - a) Smoking shall occur only within an enclosed or clearly barricaded event area delineated by temporary fencing, stanchions, walls, or equivalent barriers, with monitored entry points.
 - b) Smoking shall not be visible from any public place or non-

- participant area at ground level.
4. Odor, Ventilation, and Setbacks. The organizer shall implement measures sufficient to prevent detectable smoke or odor at the property line and to protect occupants of adjacent properties.

8.65.060 – Smoke-Free Multi-Unit Residences

- A. All leases for units in multi-unit residences entered into on and after January 1, 2027 must contain the prohibitions set forth in this section.
- B. Smoking and the use of any tobacco product or cannabis product is prohibited in every unit of a multi-unit residence, whether the unit is rented or owned.
- C. Smoking and the use of any tobacco product or cannabis product is prohibited in all indoor and outdoor common areas of a multi-unit residence, including but not limited to hallways, lobbies, laundry rooms, parking areas, recreation rooms, pools, courtyards, balconies, patios, and porches.
- D. Smoking and the use of any tobacco product or cannabis product is prohibited within twenty-five (25) feet of any doorway, window, opening, or vent of a multi-unit residence.

8.65.070 – Property Owner and Operator Responsibilities

- A. Every property owner, manager, or controlling agent shall ensure compliance with this chapter on the premises under their control.
- B. Required measures include, but are not limited to:
 1. Removing all ashtrays and other smoking paraphernalia from any area where smoking is prohibited;
 2. Conspicuously posting "No Smoking" or "Smoke-Free Area" signs, at a minimum, at every primary entrance and in sufficient number to give reasonable notice; and
 3. Providing tenants, employees, and event patrons with written notice of the prohibitions.
- C. A property owner or operator may request the Administrator's written approval of a designated smoking area at a large outdoor venue, subject to conditions necessary to protect public health and prevent litter.

8.65.080 – Enforcement; Penalties

- A. This chapter shall be enforced by any code enforcement officer or other authorized enforcement agent.
- B. It is unlawful for any person to violate any provision or fail to comply with any requirement of this chapter. Any person violating any provision of this chapter or failing to comply with any requirement is deemed guilty of an infraction in accordance with Chapter 1.08 of the municipal code.
- C. The Administrator may adopt rules and regulations and approve forms to implement and enforce this chapter.

8.65.090 – Non-Retaliation

No person shall discharge, refuse to hire, or in any manner retaliate against any individual who exercises any right under this chapter or who seeks to enforce its provisions.

8.65.100 – Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

SECTION 3. CEQA DETERMINATION. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“Public Resources Code section 21000 *et seq.*) (“CEQA”) because it does not qualify as a “project” under CEQA. The State CEQA Guidelines provide that “[a]n activity is not subject to CEQA if ... the activity is not a project as defined in Section 15378.” (State CEQA Guidelines, § 15060(c).) Here, the Ordinance does not qualify as a “project” as defined in State CEQA Guidelines section 15378 for at least two reasons:

First, Section 15378 defines a project as an activity that “has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (State CEQA Guidelines, § 15378(a).) The proposed Ordinance adds commercial cannabis and retail cannabis regulatory permit definitions and updates to provisions regarding background checks and regulatory permit denials. These amendments merely clarify terminology and establish regulatory consistency with state law. Therefore, the proposed amendments are not a “project” subject to CEQA. (State CEQA Guidelines, § 15060(c).)

Second, Section 15378 explicitly excludes from the definition of “project” “[o]rganizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.” (State CEQA Guidelines, § 15378(b)(5).) This Ordinance is organizational in nature, as it simply updates definitions and standards to clarify the City’s cannabis regulatory permit procedures. These activities are administrative in nature and do not have any direct or indirect physical environmental impacts. Accordingly, they are not subject to CEQA.

Even if the proposed Ordinance was considered a “project” subject to CEQA, it would qualify for the “common sense exemption” set forth in State CEQA Guidelines section 15061(b)(3). This exemption applies where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Here, the Ordinance does not authorize or directly result in any physical development or changes to the environment. Instead, it serves to define terms and establish standards for cannabis business background checks and permitting, ensuring future compliance with applicable regulations. As a result, it can be seen with certainty that the Ordinance will not have a significant environmental effect.

SECTION 13. SEVERABILITY. If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the

validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from its adoption.

SECTION 5. PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published in a newspaper of general circulation printed and published within the City of Coachella, pursuant to all legal requirements.

I hereby certify that the foregoing Ordinance was **PASSED, APPROVED AND ADOPTED** by the City Council of the City of Coachella on the XX day of XX, XXXX.

DR. FRANK FIGUEROA
MAYOR

ATTEST:

ANGELA M. ZEPEDA
CITY CLERK

APPROVED AS TO FORM:

RYAN GUIBOA
CITY ATTORNEY

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

I HEREBY CERTIFY that the foregoing Ordinance No. XX was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on this XX day of XX, XXXX by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Delia Granados
Deputy City Clerk