

ORDINANCE NO. 1108

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING CHAPTERS 17.26, 17.46, AND 17.85 OF TITLE 17 (ZONING) OF THE COACHELLA MUNICIPAL CODE REGARDING COMMERCIAL CANNABIS ACTIVITY ZONING.

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 October 9, 2015, Governor Brown signed the “Medical Cannabis Regulation and Safety Act” (“MCRSA”) into law; and

WHEREAS, MCRSA became effective January 1, 2016 and contains provisions which allow for local governments to regulate licenses and certain activities thereunder; and

WHEREAS, California has adopted, through ballot initiative, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”) to regulate the adult personal and commercial use of marijuana, pursuant to local authority preserved in AUMA; and

WHEREAS, Chapter 17.46 of the Coachella Zoning Code has established the “IP Industrial Park Overlay Zone” which sets certain regulations for special uses within the City’s “M-S (manufacturing service)” and M-H (heavy manufacturing)” zones; and

WHEREAS, the City Council recently amended the regulations for the “IP Industrial Park Overlay Zone” to allow medical cannabis cultivation, processing, testing, manufacturing, and distribution by conditional use permit; and

WHEREAS, the City Council desires to remove the requirement in Chapter 17.46 that prohibits cannabis projects in the “IP Industrial Park Overlay Zone” that use more than sixty-five percent (65%) of the gross floor area for cannabis cultivation, processing, testing, distribution, and manufacturing uses; and

WHEREAS, Chapter 17.85 of the Coachella Zoning Code has established regulations on certain medical cannabis activities and businesses in the City’s “M-W (wrecking yard)” zone; and

WHEREAS, the City Council desires to amend the regulations in Chapter 17.85 in order to (i) to conform to current City policies and state law, (ii) allow both medicinal

and recreational adult use cannabis cultivation, processing, testing, manufacturing, and distribution by conditional use permit, (iii) allow cannabis testing laboratories and certain distribution dispatch offices to operate in the “C-G (general commercial)” zone with a conditional use permit, and (iv) amend other development standards regarding commercial cannabis activity; and

WHEREAS, the City Council also desires to amend Chapter 17.26 of the Coachella Zoning Code to specifically allow commercial cannabis testing laboratories in the C-G zone as a conditional use such that Chapters 17.26 and 17.85 are consistent; and

WHEREAS, the Planning Commission conducted a properly noticed public hearing on May 17, 2017 at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff and public testimony; and

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

WHEREAS, the City Council conducted a properly noticed public hearing on June 14, 2017 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff and public testimony.

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

SECTION 1. Amendment to Chapter 17.26 of Zoning Code. Sub-Section 34 of Section 17.26.020(c) is hereby added as follows:

“34. Commercial cannabis testing laboratories, pursuant to Chapter 17.85.”

SECTION 2. Amendment to Chapter 17.46 of Zoning Code. Sub-Section 6 of Section 17.46.030(A) is hereby deleted in its entirety.

SECTION 3. Amendment to Chapter 17.85 of Zoning Code. Chapter 17.85 of Title 17 of the Coachella Municipal Code is hereby amended to read as follows:

“Chapter 17.85 - COMMERCIAL CANNABIS ACTIVITY

17.85.010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the cultivation, manufacturing, testing, distribution, and transportation of medicinal and nonmedicinal cannabis (including cannabis products and edible cannabis products) within the City of Coachella. Delivery of cannabis within the city is prohibited. Additionally, cannabis dispensaries and retail sales are prohibited in the city.

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

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

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:

“Adult use conditional use permit” or “adult use CUP” means a conditional use permit issued under this chapter for cannabis or cannabis products that are intended for adults 21 years of age or over who do not possess a physician’s recommendation.

“Applicant” means a person who is applying for a CUP 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 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 cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transportation and distribution of cannabis, and cannabis products. For purposes of this chapter, “commercial cannabis activity” does not include delivery, dispensing, or retail sale of cannabis or cannabis products.

“Conditional use permit” means a conditional use permit issued under this chapter and includes both an adult use conditional use permit and a medicinal use conditional use permit. “Conditional use permit” may be abbreviated as “CUP”.

“Cultivation” means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

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

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

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

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

“Medicinal use conditional use permit” or “medicinal use CUP” means a CUP issued under this chapter for cannabis or cannabis products that are intended for use solely by an individual who possesses a physician’s recommendation.

“Permittee” means any person or entity holding a CUP under this chapter, regardless of whether it is an adult use CUP or a medicinal use CUP.

“Person” includes any individual, firm, co-partnership, joint venture, association, corporation, Limited Liability Company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Retailer” means a person or entity that sells cannabis or cannabis products to customers. The term “retailer” shall also include the term “dispensary,” as defined under MCRSA.

“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).

“Transportation” means transferring cannabis and/or cannabis products from one person or entity permitted under this chapter, permitted by another local California jurisdiction, and/or licensed under State Law to another person or entity permitted under this chapter, permitted by another local California jurisdiction, and/or licensed under State Law.

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);
- C. MCRSA (California Business and Professions Code Sections 19300 et seq.); and
- D. AUMA (California Business and Professions Code Sections 26000 et seq.).

17.85.030 - Commercial cannabis activity permitted.

Commercial cannabis activity permitted under this chapter includes cultivation, manufacture, distribution, testing, and transportation (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 a conditional use permit (CUP) pursuant to this chapter, and a regulatory permit as required by this code, subject to the

provisions of the CUA, MMP, MCRSA, AUMA and any other state laws pertaining to cannabis. Cannabis dispensaries, deliveries, and retailers are prohibited in all city zones.

17.85.040 - Conditional use permit required.

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the applicant wishing to operate the above-listed commercial cannabis activity shall obtain and maintain a validly issued adult use CUP and/or medicinal use CUP from the city pursuant to chapter 17.74 of this code. 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, testing, and/or transportation regulatory permit required by this code.

17.85.050 - Commercial cannabis activity —Permitted locations and standards.

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

B. Commercial cannabis activity in the M-W zone should be restricted to a site having a minimum of five acres in size, with a minimum paved street frontage of two hundred fifty (250) feet. Commercial cannabis activity in the IP zone is restricted to sites having a minimum project area of thirty (30) acres and a minimum lot size or grouping of lots of at least five (5) acres.

C. Commercial cannabis activity must be served by municipal water and sewer services.

D. Commercial cannabis activity shall be located a minimum distance of six hundred (600) feet away from any residentially-zoned lot. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the residential use.

E. Commercial cannabis activity may not be established in the M-W zone on a multi-tenant industrial park or business park site existing on the effective date of this ordinance. A CUP to develop a new stand-alone commercial cannabis activity facility or a multi-tenant facility within a minimum site area of five (5) acres may be pursued.

F. Commercial cannabis activity shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of carbon filtration

systems and other mitigation measures shall be used on all commercial cannabis activities that cause such odors.

G. Testing laboratories may be located in the General Commercial zone (C-G) in addition to the M-W zone and IP overlay zone with a CUP, but are not required to meet the two hundred fifty (250) foot paved street frontage requirement in subsection (B) or the restrictions set forth in subsections (D) and (E) of this section.

17.85.060 – State law compliance.

A. No commercial cannabis activity shall operate unless it is in possession of all applicable state and local licenses or permits, except as otherwise permitted by state and/or local law.

B. Every commercial cannabis activity shall submit to the city manager a copy of any and all of its state and local licenses and permits required for its operation.

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

17.85.070 – Payment of taxes.

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

17.85.080 – Prohibited operations.

Any commercial cannabis activity that does not have both a CUP and a regulatory permit required under this code is expressly prohibited in all city zones and is hereby declared a public nuisance that may be abated by the city and is subject to all available legal remedies, including but not limited to civil injunctions. Cannabis delivery, dispensaries, and retailers are prohibited in all city zones.

17.85.090 – Commercial cannabis cultivation—Interior only.

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

17.85.100 - Penalties for violations.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties.

B. Violations of this chapter constitute an infraction or misdemeanor and may be enforced by any applicable law.

C. Violations of this chapter are hereby declared to be public nuisances.

D. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies.

E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.”

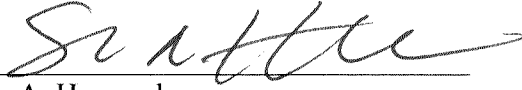
SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 6. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

SECTION 7. CEQA. The City Council finds that this Ordinance 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.

PASSED, APPROVED and ADOPTED this 12th day of July, 2017.



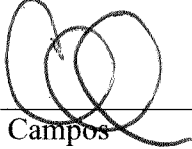
Steven A. Hernandez
Mayor

ATTEST:



Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:



Carlos Campos
City Attorney

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


I HEREBY CERTIFY that the foregoing Ordinance No. 1108 was duly and regularly introduced at a meeting of the City Council on the 14th day of June, 2017, and that thereafter the said ordinance was duly passed and adopted at a regular meeting of the City Council on the 12th day of July, 2017.

AYES: Councilmember Bautista, Councilmember Sanchez, Councilmember Perez,
 and Mayor Hernandez.

NOES: None.

ABSENT: Mayor Pro Tem Martinez

ABSTAIN: None.



Andrea J. Carranza
Deputy City Clerk