

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, ADDING CHAPTER 17.315 TO AND AMENDING SECTIONS 17.12.040, 17.12.050, 17.72.010, 17.76.010, 17.88.010, AND 17.92.010 OF THE WILDOMAR MUNICIPAL CODE ESTABLISHING CANNABIS BUSINESS ZONING REGULATIONS

WHEREAS,; and

WHEREAS,; and

WHEREAS,; and,

WHEREAS,.

THE CITY COUNCIL OF THE CITY OF WILDOMAR DOES ORDAIN AS FOLLOWS:

SECTION 1. CEQA Findings.

SECTION 2. Zoning Ordinance Amendment Findings.

A. The proposed amendment is consistent with the City of Wildomar General Plan and zoning ordinance.

[insert findings]

SECTION 3. Addition of Chapter 17.315

Chapter 17.315 (Cannabis Businesses) is hereby added to the Wildomar Municipal Code to read as shown in Exhibit A.

SECTION 4. Amendment of Section 17.72.010(C). Section 17.72.010(C) is amended to add the following uses to the list of uses conditionally permitted in the C-1 and C-P general commercial zoning district:

“18. Cannabis retailers, subject to the requirements of Chapter 17.315 (Cannabis businesses)”

SECTION 5. Amendment of Section 17.76.010(B). Section 17.76.010(B) is amended to add the following uses to the list of uses conditionally permitted in the C-P-S scenic highway commercial zoning district:

“24. Cannabis retailers, subject to the requirements of Chapter 17.315 (Cannabis businesses)”

SECTION 6. Amendment of Section 17.88.010(C). Section 17.88.010(C) is amended to add the following uses to the list of uses conditionally permitted in the I-P industrial park zoning district:

“4. Cannabis cultivation, manufacturing, distribution, and testing laboratories, subject to the requirements of Chapter 17.315 (Cannabis businesses)”

SECTION 7. Amendment of Section 17.92.020(C). Section 17.92.020(C) is amended to add the following uses to the list of uses conditionally permitted in the M-S-C manufacturing-service commercial zoning district:

“19. Cannabis cultivation, manufacturing, distribution, and testing laboratories, subject to the requirements of Chapter 17.315 (Cannabis businesses)”

SECTION 8. Amendment of Section 17.12.040. Section 17.12.040 of the Wildomar Municipal Code is amended to read as follows:

“17.12.040 Uses allowed in zone classifications.

The terminology used in Section 17.12.010 of this chapter is general only and is not intended to be descriptive of all uses allowed in the zone classifications. The zone classifications are specifically set forth in subsequent articles of the ordinance codified in this chapter to which reference should be made to determine all the uses permitted therein. When a use is not specifically listed as permitted or conditionally permitted in a zone classification, the use is prohibited unless, in circumstances where this section empowers him or her to do so, the Planning Director makes a determination that the use is substantially the same in character and intensity as those uses permitted or conditionally permitted in the zone classification.”

SECTION 9. Amendment of Section 17.12.050. Section 17.12.050 of the Wildomar Municipal Code is amended to read as follows:

“17.12.050 Commercial Cannabis Activities and Noncommercial Cannabis Cultivation.

A. Commercial Cannabis Activities and Facilities. Commercial cannabis activity, as defined in Business and Professions Code section 26001(k), is permitted in the City in compliance with chapters 5.76 and 17.315 of this code. It shall be a violation of this code to engage in any commercial cannabis activity that is not in full compliance with the requirements of chapters 5.76 and 17.315 of this code. It is a violation of this code for any building, facility, establishment, property, or location to be utilized by any person to establish, commence, engage in, conduct, or carry on, or permit another person to establish, commence, engage in, conduct, or carry on any commercial cannabis activity that is not in full compliance with the requirements of chapters 5.76 and 17.315 of this code.

B. Noncommercial Cannabis Cultivation. A person may cultivate no more than six living cannabis plants inside his or her private residence, or inside an accessory

structure to his or her private residence located upon the grounds of that private residence that is fully enclosed and secured against unauthorized entry, provided that the owner of the property provides written consent expressly allowing the cannabis cultivation to occur, the person conducting the cannabis cultivation complies with all applicable Building Code requirements set forth in Title 17 of this code, there is no use of gas products (CO2, butane, propane, natural gas, etc.) on the property for purposes of cannabis cultivation, and the cannabis cultivation complies with Health and Safety Code section 11362.2(a)(3).

C. Enforcement. Any violation of this section shall be enforced pursuant to Chapter 1.16.”

SECTION 10. **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 competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 11. **Effective Date.** This ordinance shall take effect thirty (30) days after its passage by the City Council.

SECTION 12. **Publication.** The City Clerk shall cause this ordinance to be published or posted in accordance with Government Code section 36933.

Mayor

APPROVED AS TO FORM:

ATTEST:

Thomas D. Jex
City Attorney

City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF WILDOMAR)

I, _____, City Clerk of the City of Wildomar, California, do hereby certify that the foregoing Ordinance No. ____ was duly introduced at a meeting of the City Council of the City of Wildomar, California, on _____, 20__, and adopted at a regular meeting of the City Council of the City of Wildomar, California, on _____, 20__, by the City Council of the City of Wildomar, California, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

City Clerk
City of Wildomar

EXHIBIT A

CHAPTER 17.315 COMMERCIAL CANNABIS

17.315.010 Purpose.

A. The purpose of this chapter is to regulate cannabis business land uses, as permitted by the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Section 26200 of the California Business and Professions Code), in a manner designed to minimize negative impacts on the city and neighboring uses, and promote the health, safety, morals, and general welfare of residents and businesses within the city.

B. This chapter is further adopted and established pursuant to the specific authority granted to Wildomar in Section 7 of Article XI of the California Constitution and Section 26200 of the California Business and Professions Code. This chapter shall govern all cannabis businesses within the jurisdiction of Wildomar.

17.315.020 Relationship to other laws.

A. In the event of any conflict between the provisions of this chapter and the provisions of Medicinal and Adult-Use Cannabis Regulation and Safety Act or any other applicable state or local law, the more restrictive provision shall control.

B. Except as expressly stated herein, cannabis businesses must comply with all other city codes and regulations. Nothing in this chapter shall be construed as permitting a cannabis business to operate at any time in a manner that is in violation of all other applicable state and local laws.

17.315.030 Definitions.

Unless otherwise defined herein, the terms in this chapter shall have the same meaning as set forth in Medicinal and Adult-Use Cannabis Regulation and Safety Act and any rules promulgated pursuant thereto. In addition, the following terms shall be defined as follows:

"Cannabis business" means any person engaged in commercial cannabis activity as defined in California Business and Professions Code Section 26001.

"Distribution site" means a facility where cannabis and cannabis products are stored or inspected by a licensed cannabis distributor for the purposes of distribution and transportation between licensed cannabis businesses.

"Enclosed locked structure," means a structure that: (1) does not allow for the visibility of the interior cultivation and manufacturing areas from the outside; (2) is secured with a lock; (3) is completely surrounded on all sides by a wall; and (4) is roofed. Enclosed locked structures may include greenhouses, provided that only the roof of the greenhouse is made of transparent glass.

"Limited access area" means a building, room or other area that is part of the premises where cannabis is grown, cultivated, stored, weighed, displayed, packaged, or sold to other cannabis businesses with limited access to only authorized personnel.

"Local license" means a license granted by the local licensing authority pursuant to Chapter 5.76 of this code.

"Local licensing authority" means the city manager or designee.

"Manufacturing site" means a premises where a licensed cannabis manufacturer engages in the manufacture of cannabis products.

"Medicinal and Adult-Use Cannabis Regulation and Safety Act" or "MAUCRSA" means Division 10 of the California Business and Professions Code.

"Outdoors" means any location within the city that is not within an enclosed locked structure.

"State law(s)" shall mean and include California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 to 11362.85 (Medical Marijuana Program Act); MAUCRSA, and all other applicable laws and regulations of the state of California.

17.315.040 Conditional use permit and Development Agreement required.

A. No person may operate a cannabis business of any type in the city unless the following are complied with:

1. The business is located in a zoning district where a cannabis businesses of that type are conditionally permitted and a conditional use permit has been approved for the operation of a cannabis business of that type for the property; and
2. The person has entered into a development agreement with the City for the operation of the cannabis business; and
3. The person has valid State and local licenses to operate a cannabis business within the City.

B. Each cannabis business shall enter into a development agreement pursuant to Government Code Section 65864 et seq. with the city setting forth the terms and conditions under which the cannabis business will operate that are in addition to the requirements of this chapter and chapter 5.76, including, but not limited to, public outreach and education, community service, payment of fees and other charges, and such other terms and conditions that will protect and promote the public health, safety, and welfare. The execution and recordation of the development agreement shall be a condition of approval for the conditional use permit for the cannabis business. The planning commission shall make a recommendation to the city council on whether to approve a development agreement submitted to it by city staff. The city council shall make a final decision on whether to approve a development agreement recommended to the city council by the planning commission.

C. The planning director is authorized to make policies and procedures consistent with the intent and spirit of this chapter concerning the applications, the application process, the information required of applicants, the application procedures and the administration and procedures to be used and followed in the application and hearing process for cannabis business conditional use permits and development agreements.

D. Chapter 17.200 of this code shall govern and apply to conditional use permits for cannabis businesses applied for or obtained pursuant to this chapter unless this chapter expressly states otherwise. All requirements contained in this chapter shall be in addition to the applicable requirements of Chapter 17.200.

17.315.050 Conditional use permit application.

A. All applications for a conditional use permit shall be filed with the planning director on the official form supplied by the city and shall be accompanied by the application fee established by resolution of the city council, as may be amended from time to time.

B. An application for a conditional use permit shall include, but shall not be limited to, the following information:

1. Proof that the applicant has received a local license for the proposed premises, and the local license is in good standing, or a statement that the applicant is applying for a local license for the proposed premises concurrently with the conditional use permit application.

2. Confirmation that the proposed premises is not currently permitted by the state or county for the production of non-cannabis infused food products.

3. The address of the proposed cannabis business.

4. A site plan and floor plan of the cannabis business denoting all the use of areas of the cannabis business, including storage, employee areas, exterior lighting, restrooms, security cameras, areas of ingress and egress, signage, limited access areas, and restricted access areas, if included.

5. Plans and specifications for the interior of the proposed premises if the building to be occupied is in existence at the time of the application. If the building is not in existence or alteration to the building is required at the time of the application, the applicant shall file a plot plan and a detailed sketch for the interior and shall further submit an architect's drawing of the building to be constructed.

6. The name and address of the person that owns the real property upon which the cannabis business is to be operated. In the event the applicant does not legally own the property, the application must be accompanied by a notarized acknowledgement from the person that owns the property that a cannabis business will be operated on his or her property.

7. A description of the design of the proposed premises evidencing that the design conforms to applicable city laws.

8. For a Cultivation Site or Manufacturing Site.

a. An environmental plan indicating how cultivation and/or manufacturing will be conducted in accordance with state and local laws related to hazardous material disposal, land conversion, grading, electricity usage, water usage, and agricultural discharges.

b. An emergency response plan which complies with Title 8 of this code and California Fire Code Section 401, and sets out standard operating procedures to be

followed by all individuals in case of a fire, chemical release, chemical spill, or other emergency.

c. A description of the source of power (electric utility company, solar, diesel generators), the size of the electrical service or system, and the total demand to be placed on the system by all proposed uses on-site.

d. For a cultivation site, verification of all water sources used by the proposed premises and verification that the proposed premises does not utilize water that has been or is illegally diverted from any stream, creek, or river.

e. For a manufacturing site, a report from a professional engineer that details the type of equipment that will be used to extract cannabinoids from cannabis. If flammable gas, flammable liquefied gas, flammable and combustible liquids, or compressed carbon dioxide (CO₂) are used for extraction, then the report must certify that only closed-loop extraction system(s), that are UL or ETL listed or have a sign off by a professional engineer, capable of recovering the solvent are utilized.

f. For a manufacturing site, a separate diagram of any room where extraction occurs that details the location of the extraction equipment, areas of ingress and egress, emergency eye-wash station, any other fire suppression or emergency equipment required by Title 8 of this code, city and California building codes, fire codes, electrical codes and all other applicable laws.

9. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

10. Authorization for the planning director to seek verification of the information contained within the application.

11. Any such additional and further information as is deemed necessary by the planning director to administer this section or this chapter.

C. The planning director and appropriate city staff shall review, verify and investigate all information on the application and prepare a report for the planning commission incorporating the findings of such investigation and verification, including, but not limited to, the suitability of the proposed location, and the applicant's compliance with the requirements of this chapter, Chapter 5.76 and Chapter 17.200.

17.315.060 Findings for approval of conditional use permit.

A. The planning commission shall not hold a public hearing on or approve any application for a conditional use permit to operate a cannabis business unless the applicant holds a local license in good standing.

B. In addition to the findings set forth in Section 17.200.050 of this code, a conditional use permit for a cannabis business shall only be granted subject to the following additional findings:

1. The cannabis business as well as all operations as conducted therein, fully comply with all applicable building, electrical, zoning and fire codes, accessibility requirements of the Americans with Disability Act, and all relevant city and state law; and

2. The cannabis business fully complies with and meets all operating criteria required pursuant to state laws, Chapter 5.88 of this code, any other provisions of this code, and any specific, additional operating procedures and measures as may be imposed as conditions of approval in the conditional use permit; and

3. The cannabis business will be located in a zoning district where cannabis businesses of the type proposed are conditionally permitted, and all of the applicable locational restrictions in Section 17.315.070 are satisfied.

C. The planning commission may deny an application for a conditional use permit if it determines that one or more of the findings required by Section 17.200.050 or 17.315.060.B of this code cannot be made.

D. Based on the information set forth in the application and city staff's report and testimony presented at the public hearing, the planning commission may impose reasonable terms and conditions on the proposed cannabis business in addition to those specified in and required to be included in every conditional use permit granted under this chapter.

17.315.070 Locational requirements.

A conditional use permit for a cannabis business shall not be approved unless the proposed cannabis business will be located in a zoning district in which cannabis businesses of the type proposed are conditionally permitted. In addition, a conditional use permit shall not be approved for a cannabis business unless all of the following locational requirements applicable to the type of cannabis business proposed are satisfied:

A. No cannabis business shall be located within 600 feet of a public/private school (providing instruction in kindergarten or grades 1 through 12), a commercial day care center (excluding small/large family day care centers), park or youth center.

B. All distances specified in this section shall be measured in a straight line, without regard to intervening structures or topography, from the nearest point of the building or structure in which the cannabis business is, or will be located, to the nearest property line of the parcel where such use is located. If the cannabis business is, or will be located, in a multi-unit building, the distances shall be measured from the nearest point of the suite in which the cannabis business is or will be located.

C. For the purposes of this section the following definitions apply:

1. "Day care center" is as defined in Business & Professions Code section 26001(o) and Health & Safety Code section 1596.76.

2. "Youth center" means any facility that is operated by a public agency or non-profit entity with the sole purpose of providing educational and/or recreational services to minors. Dance studios, gymnasiums, martial arts studios, or other similar uses that provide services to both adults and minors shall not be considered a youth center.

17.315.080 Conditions of approval.

A. All Cannabis Businesses. Every conditional use permit for a cannabis business shall be subject to the following conditions of approval.

1. The premises must be equipped with an odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside the cannabis business, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breeze-ways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the cannabis business. As such, cannabis businesses must install and maintain the following equipment or any other equipment which local licensing authority determines has the same or better effectiveness:

a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or

b. An air system that creates negative air pressure between the cannabis businesses' interior and exterior so that the odors generated inside the cannabis business are not detectable outside the cannabis business.

2. The applicant or its legal representative shall:

a. Indemnify and hold the city harmless from any and all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation of federal law associated with the operation of the cannabis business; defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a conditional use permit or the operation of the cannabis business; reimburse the city for any court costs and attorney fees that the city may be required to pay as a result of any legal challenge (or federal enforcement action) related to the city's approval of a conditional use.

b. Maintain insurance in the amounts and of the types that are acceptable to the city pursuant to guidelines and policies set forth by the local licensing authority and name the city as an additionally insured on all city-required insurance policies.

3. All windows on the premises of the cannabis business shall be appropriately secured and cannabis securely stored.

4. All cannabis businesses shall comply with the city's lighting standards including, without limitation, fixture type, wattage, illumination levels, shielding, and secure the necessary approvals and permits as needed.

5. All cannabis businesses and all equipment used in the conduct of the business, must be operated in compliance with all applicable state and local laws and regulations, including all building, electrical, and fire codes, and in compliance with the businesses' state and local licenses.

6. From a public right-of-way, there should be no exterior evidence of the cannabis business except for any permitted on-site signage.

7. A development agreement for the cannabis business must be executed and recorded against the property.

B. Manufacturing Sites. Every conditional use permit for a manufacturing site shall include the following conditions of approval:

1. All manufacturing of cannabis products shall occur in an enclosed locked structure.
2. Manufacturing activities shall only occur in the areas depicted on the floor plan submitted by the applicant and shall not exceed the square footage authorized pursuant to the conditional use permit.
3. If hazardous materials, flammable gas, flammable liquefied gas, flammable and combustible liquids, or other flammable material, as those terms are defined in CFC Section 202, are to be used in the processing of cannabis, then the provisions of CFC Section 407 shall be applicable where hazardous materials subject to permits under CFC Section 50 (Hazardous Materials) are located on the premises or where required by the fire department official.
4. Storage, use and handling of compressed gases in compressed gas containers, cylinders, tanks and systems shall comply with CFC Chapter 53, including those gases regulated elsewhere in the Wildomar Municipal Code. Partially full compressed gas containers, cylinders or tanks containing residual gases shall be considered as full for the purposes of the controls required. Compressed gases classified as hazardous materials shall also comply with CFC Chapter 50 for general requirements and CFC Chapter 53 addressing specific hazards, including CFC Chapter 58 (Flammable Gases), CFC Chapter 60 (Highly Toxic and Toxic Materials), CFC Chapter 63 (Oxidizers, Oxidizing Gases and Oxidizing Cryogenic Fluids) and CFC Chapter 64 (Pyrophoric Materials). Prevention, control and mitigation of dangerous conditions related to storage, use, dispensing, mixing and handling of flammable and combustible liquids shall be in accordance with CFC Chapters 50 and 57.
5. Manufacturing sites are a Group F-1 (Factory Industrial Moderate-Hazard) Occupancy under the Fire Code. All new construction is required to be fire sprinkled per the Fire Code. For manufacturing sites that will be sited in an existing structure, an automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

- a. A Group F-1 fire area exceeds twelve thousand square feet.
- b. A Group F-1 fire area is located more than three stories above grade plane.
- c. The combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds twenty-four thousand square feet.

C. Cultivation Sites. Every conditional use permit for a cultivation site shall include the following conditions of approval:

1. All cultivation of cannabis shall occur in an enclosed locked structure. Outdoor cultivation is prohibited.
2. Cultivation activities shall only occur in the areas shown on the floor plan submitted by the applicant, and shall not exceed the square footage authorized pursuant to the conditional use permit.

3. Areas where cannabis is cultivated are wet locations, and the electrical system in such areas must comply with Article 300.6(D) of the National Electric Code, city and California building codes, fire codes, electrical codes and all other applicable laws.

4. Cultivation sites are a Group F-1 (Factory Industrial Moderate-Hazard) Occupancy under the Fire Code. All new construction is required to be fire sprinkled per the Fire Code. For cultivation sites that will be sited in an existing structure, an automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

- a. A Group F-1 fire area exceeds twelve thousand square feet.
- b. A Group F-1 fire area is located more than three stories above grade plane.
- c. The combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds twenty-four thousand square feet.

D. Distribution Sites. Every conditional use permit for a distribution site shall include the following conditions of approval

1. Distribution sites shall store all cannabis and cannabis products in a locked safe room, safe, or vault and in a manner to prevent diversion, theft, and loss.
2. The storage of cannabis and cannabis products shall only occur in the areas shown on the floor plan submitted by the applicant, and shall not exceed the square footage authorized pursuant to the conditional use permit.

17.315.090 Limitations on City's liability.

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any conditional use permit pursuant to this chapter or the operation of any cannabis business approved for such permit pursuant to this chapter.

17.315.100 Inspections.

A. Recordings made by security cameras at any cannabis business shall be made immediately available to the planning director upon verbal request for the purposes of determining compliance with this chapter and the cannabis business' conditional use permit.

B. The planning director shall have the right to enter all cannabis businesses from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter and the cannabis business' conditional use permit. Such inspections shall be limited to observing the premises for purposes of determining whether the cannabis business is being operated or maintained in compliance with this code, state law, and other applicable laws and regulations.

C. Applicants and permittees must cooperate with employees and investigators of the city who are conducting inspections or investigations relevant to the enforcement of this chapter. No applicant or permittee shall by any means interfere with, obstruct or

impede the any city official from exercising their duties under the provisions of this chapter and all rules promulgated pursuant to it.

17.315.130 Enforcement.

The operation of a cannabis business in violation of any conditions of approval or the provisions of this chapter or Chapter 17.200 is a violation of this code, and a public nuisance. The city may seek to remedy such violations by any means provided for in law or equity, including but not limited to the enforcement mechanisms and remedies provided for in Chapter 1.16 of this code, or take action to revoke the conditional use permit pursuant to Section 17200.070 of this code.

End