

City Council Meeting: November 14, 2023

Santa Monica, California

ORDINANCE NUMBER 2764 (CCS)
(City Council Series)

AN INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING THE TEXT OF THE ZONING ORDINANCE TO: (1) REPLACE THE TERM “MEDICAL MARIJUANA DISPENSARY” WITH “MEDICINAL CANNABIS RETAILER”; (2) REMOVE CERTAIN REQUIREMENTS FOR MEDICINAL CANNABIS RETAILERS FOR CONSISTENCY WITH STATE LAW; AND (3) PERMIT MEDICINAL CANNABIS RETAILERS TO SELL ADULT-USE CANNABIS OR ADULT-USE CANNABIS PRODUCTS TO PERSONS 21 YEARS OF AGE AND OVER

WHEREAS, the State of California has a long history of regulating cannabis uses within the State; and

WHEREAS, in 1996, California voters approved Proposition 215 (codified at Health and Safety Code section 11362.5 and titled the “Compassionate Use Act of 1996”), which provides criminal immunity for patients and primary caregivers for the cultivation and possession of cannabis if a doctor has recommended the cannabis for medical purposes; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified at Health and Safety Code section 11362.7 et seq. and titled the “Medical Marijuana Program Act”) to clarify the scope of the Compassionate Use Act of 1996; and

WHEREAS, the Medical Marijuana Program Act allows cities and other governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in 2015, Assembly Bills 243 and 266 and Senate Bill 643 were enacted (codified at Business and Professions Code section 19300 et seq. and titled the “Medical Marijuana Regulation and Safety Act”) and provided for enhanced statewide marijuana regulations; and

WHEREAS, In November 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (“AUMA”), which allows adults 21 years of age or older to legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions; and

WHEREAS, beginning on January 1, 2018, AUMA authorizes the sale and distribution of cannabis for nonmedicinal purposes through a licensed business; and

WHEREAS, in 2017, the State legislature enacted Senate Bill 94 which created the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) which establishes a robust set of regulations for the medicinal and adult use cannabis markets, aligns all permit types, and authorizes certain state agencies to establish rules governing cannabis operations and to implement the law; and

WHEREAS, MAUCRSA continues to preserve local control over cannabis-related uses by: (1) requiring medicinal cannabis businesses to obtain both a state license and a local license or permit, if required, to operate legally in California, (2) terminating the ability of a medicinal cannabis business to operate if its local license or permit is terminated, (3) continuing to authorize local governments to enforce local cannabis-related laws, (4) providing for penalties for unlicensed activities, and (5) expressly protecting local licensing practices, zoning and business regulation laws, and local actions taken under the constitutional police power; and

WHEREAS, consistent with State actions, the City Council, when adopting its comprehensive update to its Zoning Ordinance in 2015, contemplated authorizing two medicinal cannabis retailers within the City to serve local needs; and

WHEREAS, on October 24, 2017, the City Council adopted an Interim Zoning Ordinance (IZO) which replaced the term “medical marijuana dispensary” with “medicinal

cannabis retailer” throughout the Zoning Ordinance; created a definition for “medicinal cannabis retailer” to replace the definition for “medical marijuana dispensary” to conform with State law; removed certain requirements for medicinal cannabis retailers for consistency with State law and to allow for separate and more effective regulatory rulemaking; and modified the definition of “industry, limited” to allow for medicinal cannabis light manufacturing; and

WHEREAS, that IZO initially prohibited all adult-use commercial cannabis activities, including retail, cultivation, testing, distribution, and manufacturing;

WHEREAS, since then, the City has commenced a prolonged medicinal cannabis retailer selection process and issued two permits for the operation of medicinal cannabis retailers in the City; and

WHEREAS, the IZO was extended on several occasions and has since expired, causing the terminology, definitions, and other modified use standards to revert back to the previous outdated language in the Zoning Ordinance; and

WHEREAS, on March 13, 2020, the City Manager, as the Director of Emergency Services (“Director of Emergency Services”), proclaimed the existence of a local emergency pursuant to Chapter 2.16 of the Santa Monica Municipal Code to ensure the availability of mutual aid and effectuate the City’s response to the novel coronavirus (“COVID-19”), and this local emergency was restated on March 14, 2020, through a revised declaration of local emergency; and

WHEREAS, on March 16, 2020, the Director of Emergency Services issued a Third Supplement to the Executive Order, requiring the closure of a wide range of businesses including bars, nightclubs, on-premises restaurant service, movie theatres, live

performance venues, gyms, fitness centers, spas, hair salons, massage parlors, and nail salons; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20 directing all residents of the State of California to heed directives issued by the State Health Officer on the same date instructing all Californians to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 19, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of COVID-19, amending and superseding its earlier March 16, 2020 Order, closing all nonessential businesses, and limiting gatherings; and

WHEREAS, after March 19, 2020, the Los Angeles Department of Public Health, on multiple occasions, amended and modified its Health Officer Order, recognizing the issues posed by community transmission of COVID-19 in Los Angeles County, and, in response, maintaining public health measures that have, at differing times, included strict limitations on public gatherings, required closures of certain businesses, and strict limitations and protocols for the operations of businesses permitted to remain open; and

WHEREAS, the local, state, and federal COVID-19 emergency declarations have since concluded, but the economic impacts of the COVID-19 closures of, and limitations on, businesses have been and continue to be devastating to the local Santa Monica economy;

WHEREAS, as the commercial and economic landscape evolves, the City's economic recovery and competitive advantage will depend on its ability to deliver on a diverse range of unique dining, retail, commercial, and entertainment uses; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, on May 10, 2022, City Council requested that the City Manager schedule a study session as soon as practicable regarding whether to allow for the sale of nonmedicinal cannabis in the City of Santa Monica; and

WHEREAS, on July 26, 2022, in line with potential economic recovery efforts, the City Council voted to place a cannabis business license tax measure (Measure HMP) on the November 2022 ballot, imposing a tax on all commercial cannabis activities; and

WHEREAS, in the November 2022 election, the voters approved Measure HMP; and

WHEREAS, on June 13, 2023, City Council held a study session where it: (1) considered key policy considerations for allowing adult-use cannabis businesses and other non-retail cannabis business types within the City of Santa Monica; (2) discussed options for allowing adult-use cannabis sales and associated regulatory restrictions as may be appropriate; and (3) provided direction to staff on bringing back changes to the Municipal Code to allow for adult-use cannabis retail businesses and non-retail cannabis business types within the City; and

WHEREAS, at the June 13, 2023, study session, City Council directed allowing the previously approved medicinal cannabis retailers to also sell adult-use cannabis while

the permanent adult-use cannabis updates are pending, and the City desires to update the interim regulations in order to allow such use; and

WHEREAS, the proposed IZO would also make the same changes to the terminology, definitions, and use standards as the prior 2017 IZO to be consistent with State law and the cannabis industry; and

WHEREAS, the City Council finds and declares that there continues to exist a current and immediate threat to the public health, safety and general welfare that requires the proposed IZO to allow for economic recovery within the City by expanding permitted cannabis use and also to update the Zoning Ordinance to extinguish any inconsistencies with State law and the cannabis industry; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Interim Zoning Regulations. Santa Monica Municipal Code Chapters 9.01 through 9.52 are hereby amended as follows:

(a) The term “Medical Marijuana Dispensary” shall be replaced with “Medicinal Cannabis Retailer” throughout.

(b) Santa Monica Municipal Code Section 9.31.185 is hereby amended as follows:

9.31.185 Medicinal Cannabis Retailers

A. **Purpose.** The purpose of this subsection is to ensure that the development of Medicinal Cannabis Retailers does not adversely impact adjacent parcels or the surrounding neighborhoods in which they are located and that they will be developed in a manner that protects the health, safety, and general welfare of nearby residents and

businesses while providing for the needs of all segments of the community. Medicinal Cannabis Retailers shall be permitted, located, developed, and operated consistent with the following development standards:

B. **Conditional Use Permit.** Each Medicinal Cannabis Retailer shall be subject to the approval of a Conditional Use Permit by the Planning Commission, appealable to the City Council.

C. **Number and Location.** A maximum of 2 Medicinal Cannabis Retailers no larger than 2,500 square feet shall be permitted. Medicinal Cannabis Retailers are prohibited within 600 feet of a Child Care and Early Education or Family Day Care Facility, park, school, library, Social Service Center, or other Medicinal Cannabis Retailer. The distance shall be established on the date of application for the Conditional Use Permit.

D. **Hours of Operation.** Medicinal Cannabis Retailers may be operated between the hours of 10:00 a.m. and 8:00 p.m. Monday through Saturday and 12:00 p.m. to 7:00 p.m. on Sundays.

E. **Recommendations.** No recommendations for medicinal cannabis shall be issued on-site.

F. **Delivery.** Delivery of medicinal cannabis to patients or primary care givers as defined in Health and Safety Code Section 11362.5 et seq. is permitted.

G. **Source Requirement.** Only medicinal cannabis cultivated in California may be sold in a Medicinal Cannabis Retailer.

H. **On-Site Cultivation.** A maximum area of 15% of the total floor area may be used for on-site cultivation.

I. **Litter.** Outdoor trash receptacles shall be available near the entrances to and exits

from the establishment. The premises shall be continuously maintained in a safe, clean, and orderly condition with twice daily litter pick-up within 500 feet of the Medicinal Cannabis Retailer.

J. **Inspections.** A Medicinal Cannabis Retailer owner shall authorize reasonable City inspection of the property by Santa Monica Code Enforcement and Police staff or other agents or employees of the City to ensure compliance with the conditions of approval imposed by the City in approving this project and will bear the reasonable cost of these inspections as established by Santa Monica Municipal Code Section 2.72.010 and Resolution No. 9905 (CCS) or any successor legislation thereto. These inspections shall be no more intrusive than necessary to ensure compliance with conditions of approval.

K. **Enforcement Cooperation.** A Medicinal Cannabis Retailer, and all employees thereof, shall use best efforts to assist the police in investigating and prosecuting any violations of this Chapter consistent with constitutional provisions.

L. **Sale of Adult-Use Cannabis or Adult-Use Cannabis Products.** Notwithstanding anything to the contrary in this Section or Municipal Code, Medicinal Cannabis Retailers that have been issued a Conditional Use Permit as of October 10, 2023 shall be permitted to deliver and sell adult-use cannabis or adult-use cannabis products, as licensed and regulated by Business and Professions Code Section 26000 *et seq.*, to persons 21 years of age and over, only if a regulatory permit for adult-use cannabis has been obtained by June 1, 2024. Only cannabis cultivated within California may be sold in accordance with this subsection. Cannabis shall not be consumed or used at the subject property. Conditions of a Conditional Use Permit issued to a Medicinal Cannabis Retailer eligible

to sell adult-use cannabis or adult-use cannabis products under this subsection L that prohibit or otherwise interfere with the sale of adult-use cannabis or adult-use cannabis products shall not be enforced by the City in accordance with the permissions set forth in this subsection L. All remaining Conditional Use Permit conditions shall be subject to enforcement and will apply equally to adult-use cannabis.

(c) SMMC Section 9.51.030 is hereby amended to read as follows:

9.51.030 Nonresidential Use Classifications

A. Public and Semi-Public Use Classifications.

1. **Adult Day Care.** Establishments providing non-medical care for persons 18 years of age or older on a less than 24-hour basis licensed by the State of California.

2. **Cemetery.** Establishments primarily engaged in operating sites or structures reserved for the interment of human or animal remains, including mausoleums, burial places, and memorial gardens.

3. **Child Care and Early Education Facility.** Establishments providing non-medical care for persons less than 18 years of age on a less than 24-hour basis other than family day care (small and large). This classification includes commercial and nonprofit nursery schools, preschools, day care facilities for children, and any other day care facility licensed by the State of California. See Division 3, Section 9.31.120, Child Care and Early Education Facilities, for further details.

4. **College and Trade School.** Institutions of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees, including conference centers and academic retreats associated with such institutions. This classification includes junior colleges, business and computer schools,

management training, technical and trade schools, but excludes personal instructional services such as music lessons.

5. **Community Assembly.** A facility for public or private meetings including community centers, banquet centers, religious assembly facilities, civic auditoriums, union halls, meeting halls for clubs and other membership organizations. This classification includes functionally related facilities for the use of members and attendees such as kitchens, multi-purpose rooms, and storage. It does not include gymnasiums or other sports facilities, convention centers, or facilities, such as day care centers and schools that are separately classified and regulated. See Division 3, Section 9.31.100, Community Assembly, for further details.

6. **Community Garden.** An area of land managed and maintained by a public or nonprofit organization or a group of individuals to grow and harvest food crops and/or ornamental crops, such as flowers, for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. Community gardens may be accessory to public or institutional uses such as parks, schools, community centers, or religious assembly uses. This classification does not include gardens that are on a property in residential use when access is limited to those who reside on the property. Community gardens do not include medical marijuana collectives.

7. **Cultural Facility.** Facilities engaged in activities to serve and promote aesthetic and educational interest in the community that are open to the public on a regular basis. This classification includes performing arts centers for theater, music,

dance, and events; spaces for display or preservation of objects of interest in the arts or sciences; libraries; museums; historical sites; aquariums; art galleries; and zoos and botanical gardens. It does not include schools or institutions of higher education providing curricula of a general nature.

8. ***Hospitals and Clinics.*** State-licensed public, private, and nonprofit facilities providing medical, surgical, mental health, or emergency medical services. This classification includes facilities for inpatient or outpatient treatment, including substance-abuse programs, as well as training, research, and administrative services for patients and employees. This classification excludes veterinary services and animal hospitals (see Animal Care, Sales, and Services).

a. ***Hospital.*** A facility providing medical, surgical, mental health, or services primarily on an in-patient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.

b. ***Clinic.*** A facility providing medical, mental health, or surgical services exclusively on an out-patient basis, including emergency treatment, diagnostic services, administration, and related services to patients who are not lodged overnight. Services may be available without a prior appointment. This classification includes licensed facilities offering substance abuse treatment, blood banks, plasma, dialysis centers, and emergency medical services offered exclusively on an out-patient basis. This classification does not include private medical and dental offices that typically require appointments and are usually smaller scale (see Offices, Medical and Dental).

9. **Park and Recreation Facility.** Parks, playgrounds, recreation facilities, trails, wildlife preserves, and related open spaces, which are open to the general public. This classification also includes playing fields, courts, gymnasiums, swimming pools, picnic facilities, tennis courts, golf courses, and botanical gardens, as well as related food concessions or community centers within the facilities and restrooms within a primary structure or in an accessory structure on the same site.

10. **Public Safety Facility.** Facilities providing public-safety and emergency services, including police and fire protection and emergency medical services, with incidental storage, training and maintenance facilities.

11. **School.** Facilities for primary or secondary education, including public schools, charter schools, and private and parochial schools.

12. **Social Service Center.** Facilities providing a variety of supportive services for disabled and homeless individuals and other targeted groups on a less than 24-hour basis. Examples of services provided are counseling, meal programs, personal storage lockers, showers, instructional programs, television rooms, and meeting spaces. This classification is distinguished from licensed day care centers (see Adult Day Care and Child Care and Early Education Facility), clinics (see Clinic), and emergency shelters providing 24-hour or overnight care (see Emergency Shelter).

B. Commercial Use Classifications

1. **Adult-Oriented Business.** See Sexually-Oriented Businesses.

2. **Animal Care, Sales and Services.** Retail sales and services related to the boarding, grooming, and care of household pets, including:

a. **Grooming and Pet Store.** Retail sales of animals and/or services,

including grooming, for animals on a commercial basis. Typical uses include dog bathing and clipping salons, pet grooming shops, and pet stores and shops. This classification excludes dog walking and similar pet care services not carried out at a fixed location, and excludes pet supply stores that do not sell animals or provide on-site animal services (see General Retail Sales).

b. *Kennel.* A commercial, nonprofit, or governmental facility for keeping, boarding, training, breeding or maintaining 4 or more dogs, cats, or other household pets not owned by the kennel owner or operator on a 24-hour basis. This classification includes animal shelters and animal hospitals that provide boarding-only services for animals not receiving services on the site but excludes the provision by shops and hospitals of 24-hour accommodation of animals receiving medical services on site. This classification also includes kennels that, in addition to 24-hour accommodation, provide pet care for periods of less than 24 hours but it does not include facilities that provide pet day care exclusively or predominantly.

c. *Pet Day Care Service.* A commercial, nonprofit, or governmental facility for keeping 4 or more dogs, cats, or other household pets not owned by the kennel owner or operator primarily for periods of less than 24 hours.

d. *Veterinary Service.* Veterinary services for domesticated animals. This classification allows 24-hour accommodation of animals receiving medical services but does not include kennels.

3. ***Automobile/Vehicle Sales and Services.*** Retail or wholesale businesses that sell, rent, and/or repair automobiles, boats, recreational vehicles, trucks, vans,

trailers, and motorcycles, including the following:

a. *Alternative Fuels and Recharging Facility.* A facility offering motor vehicle fuels not customarily offered by commercial refueling stations (e.g., LPG) as well as equipment to recharge electric-powered vehicles. This classification does not include facilities within public garages or other stations that are accessory to a permitted use.

b. *Automobile Rental.* Rental of automobiles. Typical uses include car rental agencies. See Division 3, Section 9.31.050, Automobile Rental, for further details.

c. *Automobile Storage Parcel.* Any property used for short- or long-term parking of vehicles for sale or lease at an automobile dealership or rental agency on a separate parcel from such agency or dealership.

d. *Automobile/Vehicle Sales and Leasing.* Sale or lease, retail or wholesale, of new or used automobiles, light trucks, motorcycles, motor homes, and trailers, together with associated repair services and parts sales for vehicles sold or leased by the manufacturer associated with the dealership. (For auto repair, see Automobile/Vehicle Service and Repair, Major and Minor.) This classification includes on-site facilities for maintaining an inventory of vehicles for sale or lease but excludes buildings and property on a separate site that are used for storing vehicles (see Automobile Storage Parcel). Typical uses include automobile dealers and recreational vehicle sales agencies. This classification also includes minor on-site preparation, washing, buffing, waxing, and detailing of vehicles for sale or vehicles repaired at the facility. Any outdoor preparation, washing, buffing,

waxing, and detailing of vehicles shall comply with the standards of Section 9.31.080(C), (D), (M), (N), (P), and (Q). This classification does not include automobile brokerage and other establishments that solely provide services of arranging, negotiating, assisting, or effectuating the purchase of automobiles for others. See Division 3, Section 9.31.070, Automobile/Vehicle Sales, Leasing, and Storage, for further details.

e. *Automobile/Vehicle Repair, Major.* Repair of automobiles, trucks, motorcycles, motor homes, boats and recreational vehicles, including the incidental sale, installation, and servicing of related equipment and parts. This classification includes auto repair shops, body and fender shops, transmission shops, wheel and brake shops, auto glass services, vehicle painting, tire sales and installation, and installation of car alarms, sound, telecommunications, and navigation systems, but excludes vehicle dismantling or salvaging and tire retreading or recapping. See Division 3, Section 9.31.060, Automobile/Vehicle Repair, Major and Minor, for further details.

f. *Automobile/Vehicle Service and Repair, Minor.* The service and repair of automobiles, light-duty trucks, boats, and motorcycles, including the incidental sale, installation, and servicing of related equipment and parts. This classification includes the replacement of small automotive parts and liquids as an accessory use to a gasoline sales station or automotive accessories and supply store, as well as smog check quick-service oil, tune-up and brake and muffler shops where repairs are made or service provided in enclosed bays and no vehicles are stored overnight. This classification excludes disassembly, removal

or replacement of major components such as engines, drive trains, transmissions or axles; automotive body and fender work, vehicle painting or other operations that generate excessive noise, objectionable odors or hazardous materials, and towing services. It also excludes repair of heavy trucks, limousines or construction vehicles. See Division 3, Section 9.31.060, Automobile/Vehicle Repair, Major and Minor, for further details.

g. *Automobile/Vehicle Washing.* Washing, waxing, or cleaning of automobiles or similar light vehicles, that are the principal use of a building, structure, or site, including self-serve washing facilities. See Division 3, Section 9.31.080, Automobile/Vehicle Washing, for further details.

h. *Large Vehicle and Equipment Sales, Service, and Rental Sales,* servicing, rental, fueling, and washing of large trucks, trailers, tractors, and other equipment used for construction, moving, agricultural, or landscape gardening activities. Includes large vehicle operation training facilities.

i. *Service Station.* Establishments primarily engaged in retailing automotive fuels or retailing these fuels in combination with activities, such as providing minor automobile/vehicle repair services; selling automotive oils, replacement parts, and accessories; and/or providing accessory food and retail services. See Division 3, Section 9.31.320, Service Stations, for further details.

j. *Towing and Impound.* Establishments primarily engaged in towing light or heavy motor vehicles, both local and long distance. These establishments may provide incidental services, such as vehicle storage and emergency road repair services (for automobile dismantling, see Salvage and Wrecking). This

classification includes parcels used for storage of impounded vehicles.

4. ***Banks and Financial Institutions.***

a. ***Bank and Credit Union.*** Financial institutions providing retail banking services. This classification includes only those institutions engaged in the on-site circulation of money, including credit unions, but excluding check-cashing businesses. For administration, headquarters, or other offices of banks and credit unions without retail banking services/on-site circulation of money (see Offices, Business and Professional).

b. ***Check Cashing Business.*** Establishments that, for compensation, engage in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification also includes the business of deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33. Check Cashing Businesses do not include State or Federally chartered banks, savings associations, credit unions, or industrial loan companies. They also do not include retail sellers engaged primarily in the business of selling consumer goods, such as consumables to retail buyers that cash checks or issue money orders incidental to their main purpose or business.

5. ***Bar.*** See Eating and Drinking Establishments.

6. ***Business Service.*** Establishments providing goods and services to other businesses on a fee or contract basis, including printing and copying, blueprint services, mailbox services, equipment rental and leasing, office security, custodial services, film

processing, model building, and delivery services with 2 or fewer fleet vehicles on-site. (For 3 or more fleet vehicles, see Light Fleet-Based Services.)

7. ***Commercial Entertainment and Recreation.*** Provision of participant or spectator entertainment. This classification may include restaurants, snack bars, and other incidental food and beverage services to patrons.

a. *Cinema.* Facilities for indoor display of films and motion pictures.

b. *Theater.* Facilities designed and used for entertainment, including plays, comedy, and music, which typically contain a stage upon which movable scenery and theatrical appliances or musical instruments and equipment are used.

c. *Convention and Conference Centers.* Facilities designed and used for conventions, conferences, seminars, trade shows, product displays, and other events in which groups gather to promote and share common interests. Convention centers typically have at least one auditorium and may also contain concert halls, lecture halls, meeting rooms, and conference rooms, as well as accessory uses such as facilities for food preparation and serving and administrative offices. For conference facilities accessory to hotels, see Hotel and Motel.

d. *Large-Scale Facility.* This classification includes large outdoor facilities such as amusement and theme parks, sports stadiums and arenas, racetracks, amphitheaters, drive-in theaters, driving ranges, and golf courses. It also includes indoor facilities with 5,000 square feet or more in building area such as fitness centers, gymnasiums, handball, racquetball, or large tennis club facilities; ice or roller skating rinks; swimming or wave pools; miniature golf

courses; bowling alleys; archery or indoor shooting ranges; and riding stables.

e. ***Small-Scale Facility.*** This classification includes small, generally indoor facilities that occupy less than 5,000 square feet of building area, such as billiard parlors, card rooms, game arcades, dance halls, small tennis club facilities, poolrooms, and amusement arcades.

f. ***Fortunetelling.*** An establishment where a person or persons provide fortunetelling services and demand or receive, directly or indirectly, a fee or reward, or accept any donation for the exercise or exhibition of fortunetelling services, or give an exhibition of fortunetelling services at any place where a fee, donation or reward is charged or received, directly or indirectly as a condition of entry. Fortunetelling services shall include, but not be limited to, the telling of fortunes, forecasting of futures, or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty or force, psychic reading, occult reading, clairvoyance, clairaudience, cartomancy, psychometry, phrenology, spirits, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mindreading, tarot card readings, tea leaves, telepathy or other craft, art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, crystal gazing, or magic of any kind or nature.

8. ***Eating and Drinking Establishments.*** Businesses primarily engaged in selling and serving prepared food and/or beverages for consumption on or off the premises.

a. ***Bar/Night Club/Lounge.*** Businesses that are licensed by the State

to serve alcoholic beverages, including beer, wine and mixed drinks for consumption on the premises from a liquor service facility that is physically separate from the dining area and may be operated during hours when food is not served. See Division 3, Section 9.31.040, Alcoholic Beverage Sales, for further details.

b. *Restaurant, Full-Service.* Restaurants providing food and beverage services to patrons who order and are served while seated and pay after eating. Takeout service may also be provided. See Division 3, Section 9.31.040, Alcoholic Beverage Sales, where applicable, for further details.

c. *Restaurant, Limited-Service and Take-Out.* Establishments where food and beverages may be consumed on the premises, taken out, or delivered. This classification includes cafes, cafeterias, coffee shops, delicatessens, fast-food restaurants, sandwich shops, limited-service pizza parlors, self-service restaurants, ice cream and frozen yogurt shops, and snack bars with indoor or outdoor seating for customers. This classification includes bakeries that have tables for on-site consumption of products. It excludes catering services that do not sell food or beverages for on-site consumption (see Commercial Kitchen). See Division 3, Sections 9.31.040, Alcoholic Beverage Sales, and 9.31.280, Restaurants, Limited Service and Take Out Only, where applicable, for further details.

d. *Food Hall.* Establishments consisting of three or more individually licensed businesses within an enclosed building where food and beverages may be consumed on the premises, taken out, or delivered, and may also include small

retail venues. Patrons may be served while seated and pay after eating, or orders may be made at a walk-up window, counter, machine, or remotely, and payment made prior to food consumption. Characteristics of food halls include but are not limited to: shared entrance/lobby areas, compartmentalized spaces for individually licensed businesses, shared eating areas, shared restrooms, and shared “back of house” areas (e.g., storage, dishwashing, food preparation). Each compartmentalized space may have access to the exterior of the building, along with outdoor dining and seating areas, which may be shared with other businesses within the establishment.

e. *With Drive-Through Facility.* Establishments providing food and beverage services to patrons remaining in automobiles. Includes drive-up service.

f. *With Outdoor Dining and Seating Area.* Provision of outdoor dining facilities on the same property or in the adjacent public right-of-way. See Division 3, Section 9.31.200, Outdoor Dining and Seating, for further details.

9. ***Equipment Rental.*** Establishments whose primary activity is the rental of equipment, such as medical and party equipment, to individuals and business, and whose activities may include storage and delivery of items to customers.

10. ***Food and Beverage Sales.*** Retail sales of food and beverages for off-site preparation and consumption. Typical uses include food markets, groceries, and liquor stores.

a. *Convenience Market.* Retail establishments that sell a limited line of groceries, prepackaged food items, tobacco, magazines, and other household goods, primarily for off-premises consumption. These establishments typically

have long or late hours of operation and occupy a relatively small building. This classification includes small retail stores located on the same parcel as or operated in conjunction with a Service Station but does not include delicatessens or specialty food shops. It excludes establishments that offer a sizeable assortment of fresh fruits and vegetables or fresh-cut meat (see General Market). See Division 3, Section 9.31.040, Alcoholic Beverage Sales, for further details.

b. *Farmers Market.* A location where the primary activity is the sale of agricultural products by producers and certified producers. Sales of ancillary products may occur at the location. An open air farmers market may only be operated by a local government agency.

c. *General Market.* Retail food markets of food and grocery items primarily for offsite preparation and consumption. Typical uses include supermarkets and specialty food stores such as retail bakeries; candy, nuts and confectionary stores; meat or produce markets; vitamin and health food stores; cheese stores; and delicatessens. This classification may include small-scale specialty food production with retail sales such as pasta shops. See Division 3, Sections 9.31.040, Alcoholic Beverage Sales, and 9.31.150, General Markets in Residential Districts, where applicable, for further details.

d. *Liquor Store.* Establishments primarily engaged in selling packaged alcoholic beverages for off-site consumption. See Division 3, Section 9.31.040, Alcoholic Beverage Sales, for further details.

11. ***Funeral Parlor and Mortuary.*** An establishment primarily engaged in the provision of services involving the care, preparation, or disposition of human remains and

conducting memorial services. Typical uses include a crematory, columbarium, mausoleum, or mortuary.

12. **Home Occupation.** A use that is incidental and secondary to the primary residential use of a dwelling and compatible with surrounding residential uses. These uses include business, professional, and creative offices, food production, limited personal services, and urban agriculture. See Division 3, Section 9.31.160, Home Occupations for further details.

13. **Instructional Services.** Establishments that offer specialized programs in personal growth and development, typically in a classroom setting. Typical uses include classes or instruction in music, health, athletics, art, or academics. Instructional Services may include rehearsal studios as an accessory use. This use type excludes Colleges and Trade Schools and facilities that offer instructional services (see General Personal Services). This use type also excludes gyms, exercise clubs, or studios offering performing arts, martial arts, physical exercise, or yoga training and similar types of instruction. See Personal Services-Physical Training.

14. **Live-Work.** A unit that combines a work space and incidental residential space occupied and used by a single household in a structure that has been constructed for such use or converted from commercial or industrial use and structurally modified to accommodate residential occupancy and work activity in compliance with the Building Code. The working space is reserved for and regularly used by one or more occupants of the unit. See Division 3, Section 9.31.170, Live-Work Units, for further details.

15. **Lodging.** An establishment providing overnight accommodations to transient patrons who maintain a permanent place of residence elsewhere for payment

for periods of 30 consecutive calendar days or less.

a. *Bed and Breakfast.* A residential structure that is in residential use in which the property owner or manager lives on site and within which up to 4 bedrooms are rented for overnight lodging and where meals may be provided. See Division 3, Section 9.31.090, Bed and Breakfasts, for further details.

b. *Hotel and Motel.* An establishment providing temporary lodging to transient patrons. These establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This use classification includes motor lodges, motels, apartment hotels, hostels and tourist courts, but does not include rooming houses, boarding houses, or private residential clubs, single-room occupancy housing, or bed and breakfast establishments within a single-unit residence.

c. *Vacation Rental.* A property with a dwelling unit or guest house intended for permanent occupancy that is available for rent or hire for any person other than the primary owner for transient use for 30 days or less or is otherwise occupied or utilized on a transient basis for 30 days or less. Vacation rental does not include a Bed and Breakfast as defined above.

16. ***Maintenance and Repair Service.*** Establishments engaged in the maintenance or repair of office machines, household appliances, furniture, and similar items. This classification excludes maintenance and repair of motor vehicles or boats (see Automotive/Vehicle Sales and Services) and personal apparel (see Personal Services).

17. ***Mobile Food Truck Off-Street Venue.*** A location where the commercial vending of food occurs from parked vehicles.

18. ***Nursery and Garden Center.*** Establishments primarily engaged in retailing nursery and garden products—such as trees, shrubs, plants, seeds, bulbs, and sod—that are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves. Fertilizer and soil products are stored and sold in packaged form only.

19. ***Offices.*** Offices of firms, organizations (for-profit and nonprofit), and public agencies providing professional, executive, management, administrative or design services, such as accounting, architectural, computer software design, engineering, graphic design, interior design, investment, insurance, and legal offices, excluding banks and savings and loan associations with retail banking services (see Banks and Financial Institutions). This classification also includes offices where medical and dental services are provided by physicians, dentists, chiropractors, acupuncturists, optometrists, and similar medical professionals, including medical/dental laboratories within medical office buildings but excluding clinics or independent research laboratory facilities (see Research and Development) and hospitals (see Hospital and Clinic).

a. ***Business and Professional.*** Offices of firms, organizations, or agencies providing professional, executive, management, administrative, financial, accounting, or legal services, but excluding those that primarily provide direct services to patrons that visit the office (see Offices, Walk-In Clientele).

b. ***Creative.*** Offices, production spaces, and work spaces of establishments that are in the business of the development, publishing, production, or distribution of creative property, including, but not limited to, advertising, architectural services, broadcasting, communications, computer software design,

media content, entertainment, engineering, fashion design, film distribution, graphic design, interior design, internet content, landscape design, photography, and similar uses.

c. *Medical and Dental.* Offices providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors and dentists; medical and dental laboratories that see patients; and similar practitioners of medical and healing arts for humans licensed for such practice by the State of California. Incidental medical and/or dental research within the office is considered part of the office use if it supports the on-site patient services.

d. *Walk-In Clientele.* Offices predominantly providing direct services to patrons or clients and do not require appointments. This use classification includes employment agencies, insurance agent offices, real estate offices, travel agencies, utility company offices, and offices for elected officials. It does not include banks or check-cashing facilities, which are separately classified and regulated (see Banks and Financial Institutions).

20. ***Parking, Public or Private.*** Structures and surface lots offering parking for a fee when such use is not incidental to another on-site activity.

21. ***Personal Service.***

a. *General Personal Services.* Provision of recurrently needed services of a personal nature. This classification includes barber shops and beauty salons, seamstresses, tailors, dry cleaning agents (excluding large-scale bulk cleaning plants), shoe repair shops, self-service laundries, video rental stores, photocopying and photo finishing services, and travel agencies mainly intended

for the consumer. This classification also includes massage establishments that are in full compliance with the applicable provisions of Chapter 6.104, Massage Regulations, of the Santa Monica Municipal Code, and in which all persons engaged in the practice of massage are certified pursuant to the California Business and Professions Code Section 4612. This classification does not include gyms, exercise clubs, or studios offering performing arts, martial arts, physical exercise, or yoga training and similar types of instruction. See Division 3, Section 9.31.230, Personal Service, for further details.

b. *Personal Services, Physical Training.* Gyms, exercise clubs, or studios less than 5,000 square feet offering martial arts, physical exercise, yoga training and similar types of instruction to classes and groups. This classification also includes exclusively youth-serving studios of less than 3,000 square feet offering performing arts, dance, martial arts, physical exercise, and similar types of instruction to classes and groups of more than 5 persons.

c. *Tattoo or Body Modification Parlor.* An establishment whose principal business activity is one or more of the following: (i) using ink or other substances that result in the permanent coloration of the skin through the use of needles or other instruments designed to contact or puncture the skin; or (ii) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration. See Division 3, Section 9.31.230, Personal Service, for further details.

22. **Retail Sales**

(a) *Building Materials and Services.* Retail sales or rental of building

supplies or equipment. This classification includes lumberyards, tool and equipment sales or rental establishments, and includes establishments devoted principally to taxable retail sales to individuals for their own use. This definition does not include Construction and Material Yards, hardware stores less than 10,000 square feet or establishments engaged in the business of selling, leasing, or otherwise transferring any firearm or ammunitions.

(b) *General Retail Sales, Small-Scale.* The retail sale or rental of merchandise not specifically listed under another use classification. This classification includes retail establishments with 25,000 square feet or less of sales area; including department stores, clothing stores, furniture stores, pet supply stores, small hardware and garden supply/nurseries stores (with 10,000 square feet or less of floor area), and businesses retailing goods including, but not limited to, the following: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies and services (including portraiture and retail photo processing), medical supplies and equipment, pharmacies, electronic equipment, sporting goods, kitchen utensils, hardware, appliances, antiques, art galleries, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, video rental, and new automotive parts and accessories (excluding vehicle service and installation). Retail sales may be combined with other services such as office machine, computer, electronics, and similar small-item repairs. See Division 3, Sections 9.31.210, Outdoor Newsstands, and 9.31.220, Outdoor Retail Display and Sales, where applicable, for further details.

(c) *General Retail Sales, Medium-Scale.* The retail sale or rental of

merchandise not specifically listed under another use classification. This classification includes retail establishments with more than 25,000 square feet but not more than 80,000 square feet of sales area.

(d) *General Retail Sales, Large-Scale.* Retail establishments with over 80,000 square feet of sales area that sell merchandise and bulk goods for individual consumption, including membership warehouse clubs, where sales of grocery items do not occupy more than 25% of the floor area.

(e) *Medicinal Cannabis Retailer.* A licensed premises which is a physical location from which retail medicinal cannabis or medicinal cannabis products are intended to be sold for use, pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation. The premises may be closed to the public; sales may be made exclusively by delivery. Subject to the provisions of SMMC Section 9.31.185 Medicinal Cannabis Retailers shall be permitted to deliver, cultivate, or sell adult-use cannabis or adult-use cannabis products, as licensed and regulated by Business and Professions Code Section 26000 *et seq.* and as amended from time to time, to persons 21 years of age and over.

(f) *Pawn Shop.* Establishments engaged in the buying or selling of new or secondhand merchandise and offering loans in exchange for personal property.

(g) *Swap Meet.* Any indoor or outdoor place, in an approved location, or for an approved activity where new or used goods or secondhand personal property is offered for sale or exchange to the general public by a multitude of

individual licensed vendors, usually in compartmentalized spaces. The term swap meet is interchangeable with and applicable to: flea markets, auctions, open air markets, outdoor sales activities, or other similarly named or labeled activities; but does not include supermarket or department store retail operations. See Division 3, Sections 9.31.360, Swap Meets, and 9.31.220, Outdoor Retail Display and Sales, for further details.

SECTION 2. Any provision of the Santa Monica Municipal Code or any appendix thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. 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 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, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective thirty days after its adoption.

APPROVED AS TO FORM:

DocuSigned by:
DOUGLAS SLOAN
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DOUGLAS SLOAN
City Attorney

Approved and adopted this 14th day of November, 2023.

DocuSigned by:
Gleam Davis
8FE4004DAD0B40B...

Gleam Davis, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Esterlina Lugo, acting City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2764 (CCS) had its introduction on October 24, 2023 and was adopted at the Santa Monica City Council meeting held on November 14, 2023, by the following vote:

AYES: Councilmembers Zwick, Parra, Brock, Torosis, de la Torre
 Mayor Davis

NOES: None

ABSENT: Mayor Pro Tem Negrete

ATTEST:

DocuSigned by:
Esterlina Lugo
2674518F2E014C9...

Esterlina Lugo, Acting City Clerk

11/16/2023
Date

A summary of Ordinance No. 2764 (CCS) was duly published pursuant to California Government Code Section 40806.