

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST SACRAMENTO  
AMENDING REPEALING AND RE-ENACTING MUNICIPAL CODE CHAPTER 5.28  
(CANNABIS RETAIL) AND AMENDING TITLE 17 (ZONING) PERTAINING TO RETAIL  
CANNABIS SALES AND MICROBUSINESSES

Section 1. Purpose. The purpose of this Ordinance is to repeal and re-enact Municipal Code Chapter 5.28 (Cannabis Retail) and Amend Title 17 (Zoning) to facilitate retail cannabis sales and microbusinesses.

Section 2. Amendments. The following sections of the West Sacramento Municipal Code are hereby amended to read as follows:

Chapter 5.28  
CANNABIS RETAIL

Sections:

5.28.010 Purpose and intent.

5.28.020 Definitions.

5.28.030 City cannabis license required.

5.28.040 City cannabis license application.

5.28.050 Review of city cannabis license application and appeals.

5.28.060 City cannabis license term.

5.28.070 City cannabis license transfer or modification.

5.28.028 General conditions for all city cannabis licenses.

5.28.090 Conditions for specific city cannabis licenses.

5.28.100 Prohibited cannabis uses.

5.28.110 Fees.

5.28.120 Penalties.

5.28.130 Severability – Miscellaneous provisions.

5.28.010 Purpose and intent.

- (a) On October 9, 2015, Governor Brown approved a series of bills commonly referred to as the “Medical Cannabis Regulation and Safety Act” (MCRSA), effective January 1, 2016, which created a state licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical cannabis.
  - (b) In November 2016, California voters approved Proposition 64, known as the “Control, Regulate and Tax Adult Use of Marijuana Act,” referred to as the “Adult Use of Marijuana Act” (AUMA), which legalized, subject to certain restrictions, specified nonmedical or adult cannabis uses for purposes of state law.
  - (c) Thereafter, the state legislature passed the “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (MAUCRSA), which reconciled the differences between MCRSA and AUMA,
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and created a comprehensive state licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, delivery and sale of both adult and medicinal use of cannabis.

- (d) It is the purpose and the intent of the City Council to regulate cannabis businesses consistent with state law and to protect the health, safety, and welfare of the residents of West Sacramento. The regulations in this chapter do not interfere with a qualified patient's right to obtain and use cannabis as authorized by state law, nor do they criminalize the possession or cultivation of cannabis by certain individuals as allowed under state law.
- (e) Cannabis businesses shall comply with all provisions of the West Sacramento Municipal Code, state law, and all other applicable local codes and regulations, including all applicable land use and zoning regulations imposed on cannabis businesses. It is the intent of this chapter neither to condone or legitimize the illegal use or consumption of cannabis under federal, state, or local law, nor to authorize the operation of a legal business in an illegal manner.
- (f) It is the purpose and the intent of the City Council to afford opportunities for those parties negatively and disproportionately impacted by the War on Drugs and to advance social equity and opportunity.

#### 5.28.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

Accessory building or structure see West Sacramento Municipal Code §17.51.

Adult cannabis use or adult use means all uses of cannabis and cannabis products by adults 21 years of age and over, also referred to as "recreational" or "personal" cannabis use.

AUMA refers to the California State law entitled "Control, Regulate and Tax Adult Use of Marijuana Act of 2016," also known as Proposition 64, and any regulations promulgated thereunder.

Buffer area or buffer areas means the minimum separation distance between a particular commercial cannabis activity or use and a particular "sensitive land use" or activity, e.g., schools, child day care facility, or youth community centers, as designated by state laws or regulations, or as set forth in this chapter and in Title 17 (Zoning). The separation distance shall be the horizontal distance measured in a straight line from the property line of the sensitive use to the closest property line of the lot on which the commercial cannabis activity or use is to be located, without regard to intervening structures ("as the crow flies").

Cannabis includes the term "marijuana" and 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" 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, as defined by California Business and Professions Code §26001(f), or any successor statute thereto. For this chapter, "cannabis" does not mean "industrial hemp" as defined by §11018.5 of the Health and Safety Code, as that section may be amended or interpreted by the California courts or superseded by any successor statute.

Cannabis accessories means any equipment, products, materials or paraphernalia of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body, as defined by California Health and Safety Code §11018.2, or any successor statute thereto.

Cannabis business means any commercial operation engaged in the lawful sale, manufacture, distribution, processing, cultivation, and/or testing of cannabis and cannabis products.

Cannabis business owner or owner means a person who is entitled to a share of at least twenty percent of the profits of the commercial cannabis business, as defined by California Code of Regulations §15003.

Cannabis product means marijuana or cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, an edible, a topical product containing cannabis, or concentrated cannabis and other ingredients, as defined by Health and Safety Code §11018.1, or any successor statute thereto.

Cannabis regulation or cannabis regulations means, collectively, the regulations codified at: California Business and Professions Code §26000 et seq, “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (MAUCRSA); California Code of Regulations Title 4, Division 19, Department of Cannabis Control; and any successor regulations thereto. The generic terms “regulations” or “laws” include cannabis regulations.

CBD means the compound cannabidiol, as defined by the California Code of Regulations, Title 17, Division 1, Chapter 13, §40100, or any successor statute or regulation thereto.

Chief of Police means the City of West Sacramento Chief of Police or designee.

City approval means, collectively, any applicable local cannabis license, cannabis permit, stamp, signature, or other notation on approved plans, use permit, minor use permit, administrative permit, zoning clearance, variance, exception, building permit, business or other license, environmental permit, or other applicable entitlement or approval, and compliance with applicable state and local laws and regulations.

City cannabis license means a revocable license that is issued by the City Manager for a cannabis business or commercial activity, which is permitted under this chapter and licensed by the state, as identified in California Business Code §26050(a), or any successor statute therein.

City Manager means the City of West Sacramento City Manager or designee.

Customer means a natural person 21 years of age or older, a qualified patient, or a primary caregiver, as defined by California Business and Professions Code §26001(n), or any successor statute thereto, or anyone else authorized to purchase cannabis or cannabis accessories under California law.

Department of Cannabis Control (DCC) means the lead state agency or successor agency responsible for regulating and licensing commercial medicinal and adult use cannabis in California, which is also responsible for licensing retailers, distributors, testing laboratories, microbusinesses, and temporary cannabis events.

Delivery means the commercial transfer of cannabis or cannabis product or products to a customer, and includes the use by a cannabis retailer of any technology platform, as defined by California Business and Professions Code §26001(p), or any successor statute thereto.

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Dispensary. See “Retailer.”

Indoor means any location that is within a fully enclosed nonresidential building or structure, or private residence.

Industrial hemp means a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three tenths of one percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

MAUCRSA means the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code §26000 et seq.).

MCRSA means the Medical Cannabis Regulation and Safety Act.

Medicinal cannabis or medical cannabis use means the use of cannabis for the purposes set forth in the Compassionate Use Act and the Medical Marijuana Program Act, as defined in California Health and Safety Code §11362.5, or any successor statute thereto.

Microbusiness means a cannabis business allowed to engage in the cultivation of cannabis on an area less than 10,000 square feet, and to act as a licensed distributor, Level 1 manufacturer (Type 6 license), if duly licensed by the Department of Cannabis Control, as defined by California Business and Professions Code §26070(a)(3)(A), or any successor statute thereto. A microbusiness shall engage in at least three of the following commercial cannabis activities: non-storefront retail, distribution, distribution-transport only, manufacturing, and/or cultivation.

Minor means any person who is under 21 years of age.

Non-storefront retailer means a cannabis business or commercial activity that is closed to the public and only sells cannabis, cannabis products, and cannabis accessories exclusively through delivery, as defined by California Business and Professions Code §26001(p), or any successor statute thereto.

Outdoor means any location within the city that is not within a fully enclosed nonresidential building or structure, or within a private residence.

Parcel means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (California Government Code §66410 et seq.). A parcel may or may not be improved, including but not limited to buildings, structures, and/or private residences.

Person includes any individual, firm, entity, 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, as defined by California Business and Professions Code §26001(an), or any successor statute thereto.

Primary caregiver, as defined by California Health and Safety Code §11362.7(d), or successor statute thereto, means an individual, designated by a qualified patient or by the person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, including cases in which a qualified patient or person receives medical care or supportive services, or both, from: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; (3) a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the

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Health and Safety Code; and (5) the delivery, administration or provision of medical cannabis by a designated primary caregiver to the qualified patient of the primary caregiver or the person with an identification card who has designated the individual as a primary caregiver at the primary residence of the qualified patient or person with an identification card who has designated the individual as a primary caregiver.

Private residence means a legally permitted house, an apartment unit, a mobile home, an accessory dwelling unit, or other similar dwelling. To the extent allowed by law, a private residence must be currently, presently, and lawfully utilized as the primary dwelling of one or more natural persons.

Qualified patient means a patient that uses or ingests cannabis or cannabis products for medical purposes, as defined in California Health and Safety Code §11362.7, or any successor statutes thereto.

Regulatory approval means, collectively, any applicable state cannabis license, state or regional environmental permit, laws, rules, regulations, or other applicable entitlement or approval, and compliance with applicable state and local laws and regulations.

Retailer means a cannabis business, either “storefront retailer” or “non-storefront retailer,” which provides for the retail sale and/or delivery of cannabis, cannabis products, and cannabis accessories to customers from a physical location from which commercial cannabis activities are conducted, as that term is used in California Business and Professions Code §26070 et seq, or any successor statute thereto.

Sensitive land use means a legally established use within the city consisting of (1) a public or private school that provides on-site instruction from transitional kindergarten to grade 12 with an enrollment of at least 100 students; (2) a child day care facility, other than a large or small licensed family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers; or (3) a youth community center, which is defined as a public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities. Youth community center does not include martial arts studios, swim schools, music classes, painting classes, gymnastic studios, theatre companies, birthday party rooms, science and educational facilities, performing arts studios, and tutoring facilities.

State license means any license or permit issued by a state agency for a cannabis use, activity or type, as identified in California Business and Professions Code §26050(a), or any successor statute thereto.

Storefront retailer means a cannabis business or commercial activity that has premises with direct physical access for the public.

THC means the compound 9-tetrahydrocannabinol, as defined by the California Code of Regulations, Title 17, Division 1, Chapter 13, §40100, or any successor statute or regulation thereto.

#### 5.28.030 City cannabis license required for retail.

- (a) City cannabis license required. No retail cannabis business shall be allowed to operate within the city unless the cannabis business first obtains a city cannabis license from the City Manager. The city cannabis license shall be specific to the location where the cannabis
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business will operate and shall specify the type of commercial cannabis activity. Multiple operating locations for the same cannabis business will require separate city cannabis licenses. In addition, multiple cannabis activities shall require separate city cannabis licenses for each license type, as described in subsection (e) of this section.

- (b) Approvals required prior to commencing operation. No cannabis business may operate in the city until the business has obtained the following:
    - (1) The appropriate land use approval (development agreement, design review, administrative approval, and/or zoning clearance) from the city, including the appropriate environmental review under the California Environmental Quality Act (CEQA);
    - (2) The corresponding state license or regulatory approval for the specific cannabis use or activity.
    - (3) A city cannabis license from the city.
    - (4) A fully executed development agreement if required by the city.
  - (c) Revocable license. Any city cannabis license issued under this chapter is a revocable license; the issuance or granting of a license under this chapter expressly does not constitute or provide for a permanent right or vested land use right to conduct a cannabis business, use, or cannabis commercial activity with the city.
  - (d) Types of licenses. A cannabis business may apply for any of the following city cannabis licenses for cannabis businesses operating within city limits:
    - (1) City cannabis microbusiness license. A city cannabis microbusiness license is required for a cannabis business that conducts at least three of the following activities: (a) cultivation (indoor only) of cannabis in an area less than 10,000 square feet; (b) distribution; (c) manufacturing; (d) non-storefront retail; and/or (e) distribution-transport only.
    - (2) City cannabis non-storefront retailer license. A city cannabis non-storefront retailer license is required for a cannabis business or commercial activity which provides for the retail sale of cannabis and cannabis products to customers from a physical location via delivery and is closed to the public.
    - (3) City cannabis storefront retailer license. A city cannabis storefront retailer license is required for a cannabis business or commercial activity which provides for the retail sale of cannabis and cannabis products to customers from a fixed location with direct physical access for the public and includes delivery (see City cannabis non-storefront retailer license).
    - (4) Equity cannabis applicants. A person or party may apply for one or more of the above license types as an equity applicant. (Equity program approved through Administrative Regulation by Council resolution).
  - (e) Determination of city cannabis license type. As the state or the Department of Cannabis Control develops additional or amends existing state licenses for cannabis businesses or activities, the City Manager shall have the discretion to issue a city cannabis license to the extent the additional state license businesses or activities are like any of the city cannabis license types approved to be issued by the city.
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- (f) Exceptions to city cannabis license requirement. The following noncommercial activities are allowed and do not require a city cannabis license under this chapter, provided the use or activity does not constitute a commercial cannabis business or activity and complies with state and local laws:
- (1) Possession of not more than 28.5 grams of cannabis not in the form of concentrated cannabis by persons 21 years of age or older for personal consumption.
  - (2) Possession of no more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products, by persons 21 years of age or older for personal consumption.
  - (3) Possession, planting, cultivating, harvesting, drying, or processing of not more than six living cannabis plants by persons 21 years of age or older in a private residence or inside an accessory building or structure on a parcel developed with a private residence, within a fully enclosed, secure, locked space, for noncommercial use/purposes consistent with state law.
  - (4) Possession by a qualified patient or primary caregiver.

5.28.040 City cannabis license application.

- (a) The City Manager shall prepare Administrative Procedure Guidelines and Review Criteria for the City's evaluation of Cannabis Business permit applications and subsequent issuance including an equity pilot program as approved by the City Council;
- (b) The Administrative Procedure Guidelines shall provide the process for soliciting applications including timeframes, limitations, requirements, forms, and rules for completing applications;
- (c) The Review Criteria shall include detailed instructions on the methodology to be used to evaluate applications on a point, or other evaluation system, tied to particular sets of criteria;
- (d) The Review Criteria shall be applied to determine which candidates will be eligible to proceed to the final selection process as determined by the City Manager;
- (e) The City Manager shall be authorized to prepare any necessary forms and adopt any necessary rules to implement the Administrative Procedure Guidelines and Review Criteria.
- (f) In considering whether to deny a cannabis license application or refuse to renew a cannabis license, the City Manager may consider the same criteria the Department of Cannabis Control considers, as codified in 4 C.C.R. §15017.

5.28.050 Review of city cannabis license application and appeals.

- (a) Review of application. The City Manager shall consider the application, and the results from any investigation into the application, as deemed necessary by the City Manager.
  - (b) Notification of decision. The City Manager's notification of his or her decision on the application shall be made in writing and shall either include conditions of approval, if deemed necessary by the City Manager, or the reasons for the denial of the application. Notification of denial shall be delivered by first class mail to the applicant. If denied, no license shall be issued unless a successful appeal of the denial is made within the requisite time frame.
  - (c) Appeal of decision.
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- (1) Within ten calendar days after the date of the City Manager's decision, an applicant may appeal the decision by notifying the City Clerk in writing of the appeal, the reasons for the appeal, and paying any applicable fees.
  - (2) The City Clerk shall set a hearing on the appeal and shall fix a date and time certain, within 45 calendar days after the receipt of the applicant's appeal, unless the city and the applicant agree to a longer time, to consider the appeal. The City Clerk shall provide notice of the date, time, and place of hearing.
  - (3) The City Manager shall appoint a Hearing Officer to hear the appeal and determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and the City Manager shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses, and argue their respective positions. The proceeding shall be informal, and the strict rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.
  - (4) The Hearing Officer shall issue a written decision within fifteen calendar days after the close of the hearing. The decision of the Hearing Officer shall be final.
- (d) Grounds for denial, renewal denial, revocation, or suspension of license. The granting of a license or a renewal thereof may be denied, and an existing license revoked or suspended if:
- (1) The cannabis business owner has knowingly made a false statement in the application or in any reports or other documents furnished to the city.
  - (2) The cannabis business owner has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the cannabis business for which the application is made, which includes but is not limited to:
    - a. A violent felony conviction, as specified in Penal Code §667.5(c).
    - b. A serious felony conviction, as specified in Penal Code §1192.7.
    - c. A felony conviction involving fraud, deceit or embezzlement.
    - d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
    - e. A felony conviction for drug trafficking with an enhancement pursuant to Health and Safety Code §11370.4 or 11379.8.
  - (3) The cannabis business or a cannabis business owner has been sanctioned by a licensing authority or other city or county for unauthorized commercial cannabis activity.
  - (4) The granting or renewing of the license would perpetuate or encourage any of the following:
    - a. Providing or exposing cannabis or cannabis products to minors;
    - b. Generation of revenue from the sale of cannabis or cannabis products to fund criminal enterprises, gangs, cartels, and similar persons;
    - c. Diversion of cannabis or cannabis products to jurisdictions outside of the state;
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- d. Trafficking of other illegal drugs or facilitation of other illegal activity;
  - e. Violence or the use of firearms;
  - f. The illegal or unauthorized use of public lands in the cultivation of cannabis;  
or
  - g. The use of federal property for commercial cannabis activity.
- (5) For any other reason that would allow the state to deny a license or permit under AUMA, MCRSA, and/or MAUCRSA, or any other state law.
  - (6) Fails to pay required city fees and taxes.
  - (7) Violates any provision of AUMA, MCRSA, MAUCRSA, state license, city cannabis license, or the West Sacramento Municipal Code (including the zoning code).
  - (8) Except as provided in subsections (d)(2)(d) and (e) of this section, an application for a city cannabis license shall not be denied if the sole ground for denial is based upon a prior conviction of either § 11350 or § 11357 of the California Health and Safety Code. An application for a license also shall not be denied if the state would be prohibited from denying a license pursuant to either § 26057(b)(5) or § 26059 of the California Business and Professions Code. Conviction of any controlled substance felony after license issuance shall be grounds for revocation of a license or denial of the renewal of a license.
  - (9) The cannabis business is in violation of the West Sacramento Municipal Code (including Zoning Code).
  - (10) The cannabis business is in violation of applicable state and local laws and regulations.
  - (11) The cannabis business or cannabis business owner does not have current, valid state or regulatory approval or is in violation of a state or regulatory approval.
  - (12) The cannabis business is in violation of any city approval, including conditions imposed on the license for the commercial cannabis activity or use.
- (e) Suspension and revocation.
- (1) If the City Manager deems continuation of the operation of a cannabis business will cause a significant threat to the health, safety or welfare of the public, the Chief of Police may immediately suspend the city cannabis license and all rights and privileges thereunder until a Hearing Officer renders a written decision on the revocation of the city cannabis license.
  - (2) The City Manager shall give notice to the cannabis business of his or her intent to revoke a city cannabis license in the same manner as the notice of the application decision and provide the City Clerk with a copy of the notice.
  - (3) The hearing for the revocation of the city cannabis license shall be set and conducted in the same manner as an appeal of decision. The decision of the Hearing Officer shall be final.

5.28.060 City cannabis license term.

- (a) Duration. The city cannabis license shall be valid for one year from the date of issuance.
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- (b) **Renewal.** A license renewal application and any applicable fees must be submitted at least 60 days before the expiration of the license. Failure to submit a renewal application prior to the expiration date of the license will result in the automatic expiration of the license on the expiration date. License renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a license under this chapter.
- (c) **Application deemed withdrawn.** To promote efficient review and timely decisions, any cannabis license application governed under this chapter will be automatically deemed withdrawn by the applicant, without any further action by the city, if the applicant fails to tender a substantive response to the city within 45 calendar days after the Police Department deems the application incomplete in a written notice to the applicant. The Police Department may, in its sole and absolute discretion, grant a written extension for up to a total of 15 calendar days if the applicant submits a written request prior to the deemed-withdrawn date that shows good cause to grant the extension. Any extension shall be subject to additional fees.
- (d) **License expiration.** Any city cannabis license approved pursuant to this chapter or pursuant to a competitive selection process shall automatically expire and become null and void, without any further action by the city, unless the proposed cannabis use is established within twelve months from the date of approval by the decision-making body or if the cannabis use ceases for a period of twelve months, as determined by the City Manager, at any time after its commencement. The City Manager may, at its sole and absolute discretion, grant a written extension for an additional six months, if the applicant submits a written request prior to the expiration date that demonstrates that they have diligently attempted to exercise the license but were unable due to circumstances beyond their control. Any extension shall be subject to any additional fees.
- (e) **Resubmittal.**
  - (1) **Resubmittal prohibited within twelve months.** For a period of twelve months following expiration of a cannabis license application or expiration of a cannabis license, no application for the same or substantially similar license for the same site shall be submitted. If a new application is allowed pursuant to subsection (e)(2) of this section, a completely new application shall be filed, including all submittal requirements and current filing fees, in accordance with the requirements of this chapter.
  - (2) **City determination.** The Community Development Department shall determine whether the new application is the same or substantially similar to the expired application or license and shall issue a written determination to the applicant.
  - (3) **Appeal.** The determination of the Community Development Department may be appealed to the Administrative Hearing Officer within ten calendar days of the date of decision. The decision of the Administrative Hearing Officer shall be final.

5.28.070 City cannabis license transfer or modification.

- (a) A city cannabis license is nontransferable to another location, and no transfer to another cannabis businessowner or modifications to a permitted facility may be made unless the City Manager approves the transfer or modification. The City Manager may also refer the request for transfer or modification to the City Council for consideration.
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- (b) A request for change in license ownership or of key employees who make operational, or management decisions shall be submitted to the City Manager on a city form at least 60 days prior to the anticipated transfer of ownership, or, in the case of change of management employees, within 15 calendar days, together with any applicable fee(s). Requests submitted later than these time periods will be processed only in the city's discretion and may be subject to an expedited processing fee. A new owner(s) or key employees shall meet all requirements for applicants of an initial license. The request shall include the following information:
  - (1) Identifying information for the new cannabis business owner(s) and management as required in an initial city cannabis license application;
  - (2) A written certification by the new cannabis business owner as required in an initial license application;
  - (3) The specific date on which the transfer is to occur; and
  - (4) Acknowledgment of full responsibility for complying with the existing license.
- (c) Change in security plan. A request to modify the security plan shall be submitted to the City Manager in writing at least 30 days prior to the anticipated change, together with the applicable fee.
- (d) Change of contact information. A request for change in cannabis business contact information shall be submitted to the City Manager in writing at least 30 days prior to the anticipated change, together with the applicable fee.

5.28.080 General conditions for all city cannabis licenses.

- (a) State license. The cannabis business shall hold a valid state license for the equivalent state license type for the entire duration of the city cannabis license.
  - (b) Sensitive land use. No cannabis business shall be located within 250 feet of a sensitive land use, as defined in [§5.28.020](#).
  - (c) Prohibited products. No cannabis business may sell, store, distribute or allow the consumption of any alcoholic beverages or tobacco products on or at any premises where cannabis is sold.
  - (d) Cannabis consumption on site prohibited. No cannabis business may allow, permit, or provide for the consumption of cannabis products on site where the cannabis business is located, with or without compensation.
  - (e) Hours of operation. All permitted facilities, except for storefront retail, shall be closed to the general public. No direct sales of cannabis or cannabis products to the general public shall occur from businesses without a licensed retail component, except via delivery from a licensed business to a private residence. The City Manager may limit the hours for transporter deliveries and pick-ups. Storefront retail cannabis businesses shall not be open to customers outside of 7:00 a.m. to 10:00 p.m. daily without authorization from the City Manager.
  - (f) Odor control. Odors shall be contained within the licensed tenant space on which the commercial cannabis activity is located. Cannabis licensees shall prevent all odors generated from the cannabis use from escaping buildings to the extent that odor cannot be detected by a reasonable person of normal sensitivity outside the buildings, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the cannabis licensee, if the use only occupies a portion of a building. If the city receives any odor
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complaints and determines that cannabis odor is not being controlled as required by this Chapter, the cannabis business shall work with the city staff to correct odor concerns. Unresolved or repeated odor complaints may be the basis for suspension or revocation of the city cannabis license or denial of city cannabis license renewal.

- (g) Business conducted within building. No production, distribution, storage, display or wholesale of cannabis and cannabis products shall be visible from the exterior of the building where the commercial cannabis activity is being conducted, except as authorized by the City Manager.
  - (h) Protection of minors. No cannabis business shall employ anyone who is younger than 21 years of age. No cannabis business shall sell or advertise to sell any cannabis, cannabis product or cannabis accessory to minors, except in circumstances where the minor is over 18 years of age and is permitted or allowed by state law to purchase or possess medicinal cannabis, as set forth in California Business and Professions Code §26140, or any successor statute thereto.
  - (i) Security. All cannabis businesses shall maintain a commercial burglar alarm monitoring system, install a video surveillance system, and comply with the security plan approved by the City Manager. A cannabis business shall notify the City Manager and the Police Department immediately, and within 24 hours after discovering any of the following:
    - (1) Diversion, theft, loss, or any criminal activity involving the cannabis or cannabis products or any agent or employee of the licensee.
    - (2) The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualifying patients, primary caregivers or employees or agents.
    - (3) Significant discrepancies identified during inventory.
    - (4) Any other material breach of security.
  - (j) Labeling and packages. Labels and packages of cannabis and cannabis products shall meet all state and federal labeling and packaging requirements.
  - (k) Inspections. City representatives may enter and inspect the property of every cannabis business to ensure compliance and enforcement of the provisions of this chapter, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. Such inspections shall occur during normal regular business hours unless the city has provided prior written notice to the cannabis business for an after-hours inspection. Upon request, the cannabis business shall timely provide the city official with records related to the business, including, but not limited to, utility bills from the commercial energy provider for the premises, inventory, financial records, and inventory tracking records. This section shall not limit any inspection authorized under any other provision of law or regulation. Cannabis businesses shall make inspections available not less than every two months.
  - (l) Business license. Obtain and maintain a business license from the city.
  - (m) Insurance. Maintain at all times commercial general liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than \$2,000,000 per occurrence and comprehensive automobile liability (owned, non-owned, hired) providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal
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injury, with limits of not less than \$2,000,000. The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall include an endorsement that specifies the insurance coverage afforded to the city shall be primary and noncontributory, and shall name the city, its officials, and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for suspension of the city cannabis license immediately and, ultimately, revocation.

- (n) Indemnification. By accepting the city cannabis license and executing the application form, each licensee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law the city, its officers, officials, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with licensee's operations, except such liability caused by the active negligence, sole negligence or willful misconduct of the city, its officers, agents and employees.
- (o) Recordkeeping. Maintain, for a minimum of seven years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-kind contributions), as well as records of all operational expenditures and costs incurred by the licensee in accordance with generally accepted accounting practices and standards typically applicable to business records, which shall be made available to the city during business hours for inspection upon reasonable notice by the Chief of Police.
- (p) Notice of violations. Notify the City Manager within three calendar days of any notices of violations or other corrective action ordered by a state or other local licensing authority and provide copies of the relevant documents.
- (q) Building permits. The cannabis business shall obtain all building permits required pursuant to Title 15 for any electrical, plumbing, or other construction activities.
- (r) Planning permits. The cannabis business shall obtain all planning permits, as required by the city's zoning code. Cannabis businesses are required to upgrade any property that does not meet current development standards and shall submit a complete design and site review application for review and approval prior to occupancy.
- (s) Sewer discharge. No cannabis, cannabis byproducts, or associated hazardous materials may be discharged into the sanitary sewer system (including, but not limited to, sinks, toilets, or storm drains).
- (t) Secure trash receptacles. All indoor and outdoor trash receptacles shall be locked and secured in manner to prevent tampering, theft, and/or removal of any cannabis refuse or the trash receptacle.
- (u) Waste disposal. Disposal of cannabis, cannabis products, and cannabis waste shall occur in accordance with state law.
- (v) Temporary cannabis events. Temporary cannabis events are prohibited within the City.
- (w) Other agency approvals. The cannabis business shall be required to obtain approval from any other agencies having jurisdiction.

5.28.090 Conditions for specific city cannabis licenses.

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In addition to the general conditions included in [§5.28.028](#), the following city cannabis licenses approved or issued by the City Manager shall also be subject to the following conditions as deemed appropriate to the proposed commercial cannabis activity or use:

- (a) City cannabis microbusiness license. A city cannabis microbusiness license is subject to the following conditions:
    - (1) Storefront retail as part of a microbusiness license is prohibited.
    - (2) Submittal of a dimensioned floor plan showing location of separate components of microbusiness (type of cannabis uses) and their respective square footage.
    - (3) If non-storefront retail is proposed, the business shall comply with all conditions included in subsection (2) of this section.
    - (4) If cultivation is proposed:
      - a. Outdoor cultivation is prohibited.
      - b. Cultivation of cannabis shall be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).
      - c. All cultivation operations shall submit an odor control and mitigation plan with detailed information about the proposed ventilation system, including technical specifications indicating that the system can prevent the release of cannabis odors from the cultivation operation.
      - d. All cultivation operations shall submit a wastewater and water conservation plan.
  - (b) City cannabis non-storefront retailer license. A city cannabis retail non-storefront license is subject to all of the following conditions:
    - (1) All cannabis products shall be loaded and unloaded inside a building.
    - (2) The number, location, and hours of security guards shall be included in the application submittal.
    - (3) A theft prevention plan shall be reviewed and approved by the Chief of Police or designee.
    - (4) Any other specific conditions as directed by the City Council as part of a competitive selection process.
  - (c) City cannabis storefront retailer license. A city cannabis retail storefront license is subject to all of the following conditions:
    - (1) An applicant for a storefront retailer license shall be subject to a hybrid competitive merit-based evaluation and lottery process, as established by the City Council.
    - (2) A security plan must include procedures for verifying identification of customers both before entering the retail establishment and again before receiving cannabis or cannabis products.
    - (3) The number, location, and hours of security guards shall be included in the application submittal.
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- (4) A theft prevention plan shall be reviewed and approved by the Chief of Police or designee.
- (5) On-site security guard(s) shall monitor activity within 150 feet of building entrance to ensure no cannabis consumption is occurring in the vicinity of the business, including parking areas.
- (6) A neighborhood responsibility plan that demonstrates how the business will reduce adverse impacts to the surrounding neighborhood, including neighborhood outreach, methods for future communication, and dispute resolution, shall be submitted and approved by the city.
- (7) Cannabis and cannabis products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.
- (8) The business owner shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, "reasonable steps" shall include calling the police in a timely manner and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request.
- (9) The public entrance shall meet California accessibility criteria.
- (10) A storefront retail licensee shall not conduct sales exclusively by delivery.
- (11) The business owner shall remove litter on and in front of the premises and, if necessary, on public sidewalks within 100 feet of the facility two times, with a minimum of four-hour intervals, each operating day.

#### 5.28.100 Prohibited cannabis uses.

The following cannabis businesses, uses and activities are expressly prohibited in the city:

- (a) Cannabis commercial activity. No person shall engage in, conduct, operate, manage, or carry on, or permit to be engaged in, conducted or carried on, any commercial cannabis uses or activity, other than as expressly permitted by section 17.30.080 or by city licensing under this chapter.
- (b) Outdoor cultivation. No person owning, renting, leasing, occupying, or having charge or possession of any parcel shall cause or allow such parcel to be used for the outdoor cultivation of cannabis for personal, commercial, or any other purposes.
- (c) Industrial hemp cultivation. No person owning, renting, leasing, occupying or having charge or possession of any parcel shall cause or allow such parcel to be used for the outdoor cultivation of industrial hemp for personal, commercial, or any other purpose.
- (d) Special events, festivals, and/or fairs. The sale of cannabis is prohibited at special events, festivals, and/or fairs.

#### 5.28.110 Fees.

Applicants and city cannabis licensees shall pay all applicable fees as set forth in the City Council adopted resolution establishing fees and charges for municipal services. Applicants and city

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cannabis licensees shall also pay the amount as prescribed by the Department of Justice of the state of California for the processing of applicant's fingerprints. Fees shall not be prorated or refunded in the event of a denial, suspension, or revocation of the license.

5.28.120 Penalties.

- (a) As set forth in §1.12.010, any violation of this chapter or regulation promulgated under this chapter is a misdemeanor punishable pursuant to §1.12.020, except that a violation may be charged and prosecuted as an infraction in the discretion of the prosecuting attorney.
- (b) In addition to the penalties herein provided, any violation of this chapter or regulation promulgated under this chapter is hereby declared to be a public nuisance under Title 19, and subject to the remedies enumerated in §1.08.
- (c) Any person who willfully or knowingly engages in a violation of this chapter or who owns, possesses, controls, or has charge of any parcel of real property in the city upon which a violation of this chapter is maintained and who has actual knowledge of such violation (or would have actual knowledge of such violation after reasonable inquiry) shall be subject to the penalties and remedies provided by this chapter.
- (d) Any violation of this chapter shall constitute a separate offense for each day the violation occurs or persists and may be subject to an administrative citation and fine, as provided for in §1.12.040.
- (e) These penalties and remedies are cumulative and are in addition to any other penalties and remedies available to the city.

5.28.130 Severability – Miscellaneous provisions.

- (a) Severability. If any section, subsection, clause, phrase, or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted the ordinance codified in this chapter and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.
  - (b) Conflicts. In the event of any conflict with other provisions of the West Sacramento Municipal Code the more restrictive standards shall apply.
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Title 17 (Zoning)

TABLE 17.10.020: LAND USE REGULATIONS—EMPLOYMENT ZONES						
“P” = Permitted use                      “C” = Conditional Use Permit required “M” = Minor Use Permit                “-” Use not allowed required                                      “D” Development Agreement						
Use Classification	M-L	M-1	M-2	M-3	B-P	Additional Regulations
<b>Commercial Uses</b>						
Cannabis Retailer- Non-Storefront (Delivery Only)	D	D	D	D	D	See WSMC §5.28
Cannabis Microbusiness	D	D	D	D	D	See WSMC §5.28

Add to Appendix A: Master Land Use/Zoning Matrix

Chapter 17.12 Storefront Retail Cannabis Overlay Zones

17.12.010 Purpose and Applicability

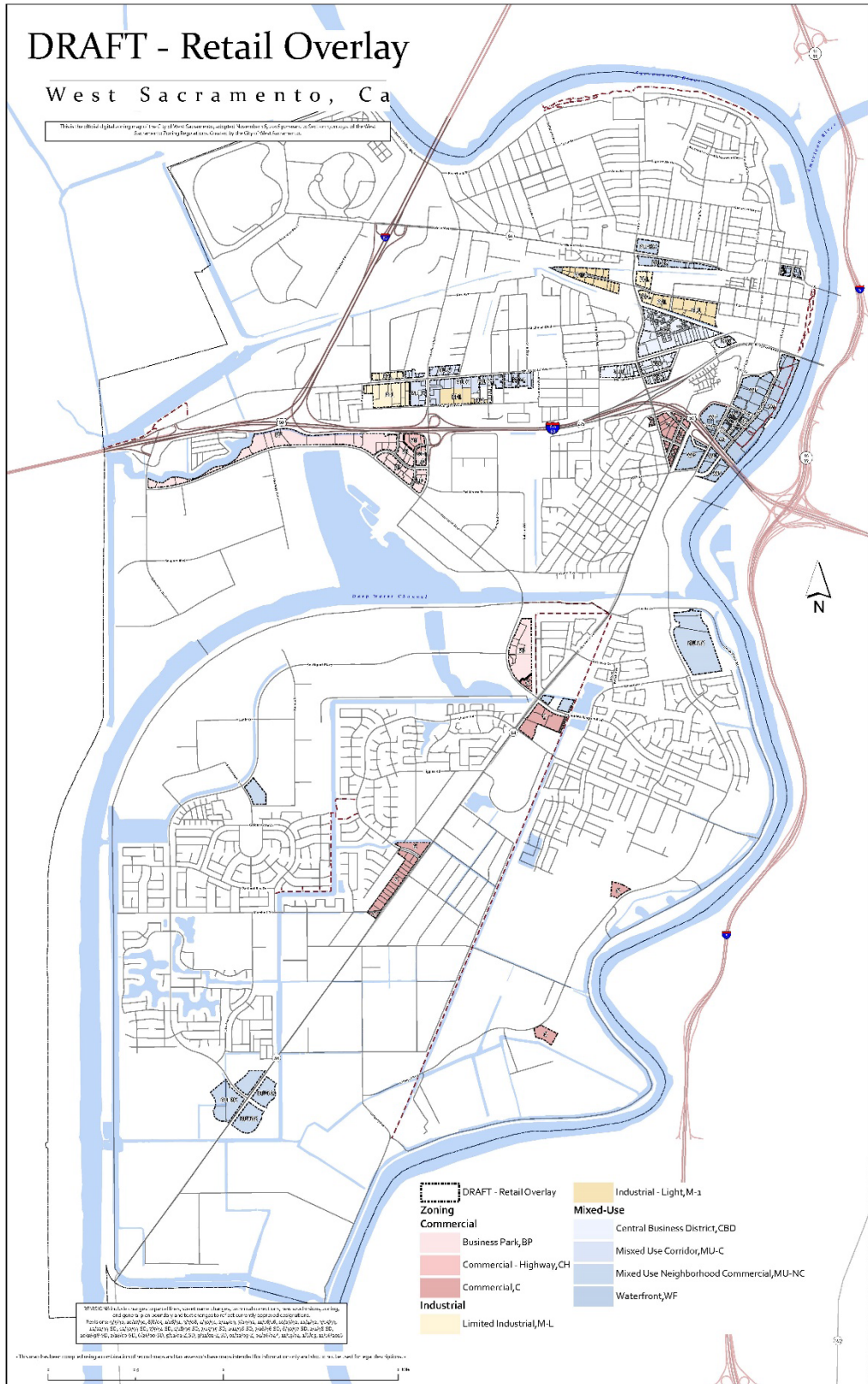
The Purpose of the Storefront Retail Cannabis Overlay Zones are to:

- A. Establish where storefront retail cannabis businesses may locate subject to all required approvals.
- B. Protect sensitive uses from potential incompatibilities with storefront retail cannabis businesses.

17.12.020 Land Use Regulations

- A. Storefront retail cannabis business on West Capitol Avenue must be at least 500 feet apart.
- B. Additional standards and requirements can be found in Chapter 5.28.

17.12.030 Map



17.30.080 Cannabis

(a) Cannabis Retail. Storefront cannabis retailers, microbusinesses and dispensaries are regulated pursuant to Chapter [5.28](#), Cannabis Retail.

Section 3. Effective Date and Publication. This Ordinance shall take effect 30 days following City Council Adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Sacramento on this 15th day of March 2023, by the following vote:

**AYES: Sulpizio Hull, Orozco, Early, Alcalá, Guerrero.**

**NOES: None.**

**ABSENT: None.**

DocuSigned by:

*Martha Guerrero*

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Martha Guerrero, Mayor

ATTEST:

DocuSigned by:

*Jennifer Cusmir*

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Jennifer Cusmir, City Clerk

Approved as to form:

DocuSigned by:

*Jeffrey Mitchell*

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Jeffrey Mitchell, City Attorney

CODIFY  UNCODIFY