

ORDINANCE NO. 23-O-2881

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING ARTICLE 47 OF CHAPTER 3 OF TITLE 10 OF
THE BEVERLY HILLS MUNICIPAL CODE ESTABLISHING
NON-STOREFRONT, DELIVERY-ONLY MEDICAL
CANNABIS RETAIL AS A CONDITIONALLY PERMITTED
USE FOR PROPERTIES LOCATED IN PORTIONS OF THE C-3
ZONE AND ADDING ARTICLE 23 TO CHAPTER 2 OF TITLE
4 OF THE BEVERLY HILLS MUNICIPAL CODE
ESTABLISHING REGULATORY AND OPERATIONAL
RESTRICTIONS FOR SUCH RETAILERS AND MAKING A
DETERMINATION OF EXEMPTION FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS
FOLLOWS:

Section 1. On November 6, 1996, California voters approved the Compassionate Use Act of 1996, an initiative measure enacted by Proposition 215, that declares that its purpose is, among other things, to ensure seriously ill Californians have the right to obtain and use marijuana for medical purposes and exempts from state criminal liability certain patients and their primary caregivers who possess or cultivate marijuana for the personal medical purposes of the patient. On October 9, 2015, Governor Brown signed Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA established a State regulatory and licensing scheme for commercial medical cannabis businesses. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”), an initiative measure enacted by Proposition 64. The AUMA made it lawful under State and local law for persons 21 years of age or older to possess and cultivate limited quantities of cannabis for personal use. The AUMA also established a State regulatory and licensing scheme for commercial adult-use cannabis

businesses. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retained the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether commercial cannabis activity could occur in a particular jurisdiction.

Section 2. Commencing with Section 10-3-4700, Article 47 of Chapter 3 of Title 10 of the City of Beverly Hills (“City”) Municipal Code (“BHMC”) currently prohibits all commercial cannabis activity in the City, with limited exceptions to allow cannabis activity, including allowing delivery of cannabis for medical purposes. On September 18, 2022, Governor Newsom signed into law Senate Bill 1186 (“SB 1186”), which enacted the Medicinal Cannabis Patients’ Right of Access Act. SB 1186 provides that a city cannot adopt or enforce regulations that prohibit the “retail sale by delivery” of medicinal cannabis. This includes any regulation that has the effect of prohibiting patients within the city or their caregivers from purchasing by delivery, sufficient medicinal cannabis to meet their demands in a timely and readily accessible manner. Examples of prohibited regulations include prohibiting retail sale by delivery of medicinal cannabis within the jurisdiction being conducted by a licensed non-storefront retailer. The City desires to amend the BHMC to reflect the requirements of SB 1186 and appropriately regulate the establishment of physical premises from which retail sale by delivery of medicinal cannabis within the City is conducted by a licensed non-storefront retailer.

Section 3. On August 24, 2023, the Planning Commission held a duly noticed public hearing after which it adopted Resolution No. 2036, recommending the City Council adopt an

ordinance to amend portions of Article 47 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to establish “non-storefront, delivery-only medical cannabis retail” as a conditionally permitted use for properties in portions of the C-3 zone and to add Article 23 to Chapter 2 of Title 4 of the Beverly Hills Municipal Code to establish regulatory and operational restrictions for such retailers (collectively, the “Amendments”). On October 3, 2023, the City Council held a duly noticed public hearing, received public testimony, and thereafter introduced this Ordinance.

Section 4. This Ordinance and the Amendments were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The Amendments would allow a non-storefront medical cannabis retail use on some lots within the City’s C-3 Zone, subject to issuance of a Conditional Use Permit with operations of the non-storefront medical cannabis retail business subject to a regulatory permit. The City Council hereby finds that the Ordinance and the Amendments are exempt from CEQA pursuant to State CEQA Guidelines sections 15060(c)(2) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA. The businesses authorized under this zone text amendment are similar to already existing permitted commercial uses such as retail, with the only difference being the product sold (i.e., medical cannabis and medical cannabis products). The Ordinance and the Amendments do not change the zoning for any properties, meaning that they do not create negative environmental impacts or result in physical changes to the environment. Furthermore, the adoption and

implementation of the Ordinance and Amendments is eligible for a Class 5 Categorical Exemption for minor changes in land use limitations and will not have a significant environmental impact. Thus, the Ordinance and Amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15305. City staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

Section 5. The Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Goal Land Use (LU) 2 – Community Character and Quality calls for a built environment that is distinguished by its high level of site planning and includes the General Plan Policy LU 2.9 – Public Safety which requires developments be located and designed to promote public safety. There are limited locations in the City where a cannabis-based business would not diminish public safety, and adequate buffers from sensitive uses are provided as a result. Additionally, General Plan Policy LU 5.8 – Encroachment of Incompatible Land Uses seeks to protect residential neighborhoods from the encroachment of incompatible nonresidential uses and disruptive traffic, to the greatest extent possible. General Plan Policy LU 11.1 – Preservation of Pedestrian-Oriented Retail Shopping Area seeks to preserve, protect, and enhance the character of pedestrian-oriented retail shopping areas to ensure the continuity of the pedestrian experience in the City’s commercial areas.

Section 6. The City Council hereby adds Article 23 of Chapter 2 of Title 4 of the Beverly Hills Municipal Code to read as follows:

“ARTICLE 23: NON-STOREFRONT, DELIVERY-ONLY MEDICAL CANNABIS
RETAIL

4-2-2301 PERMIT REQUIRED:

No person shall engage in, conduct, or carry on non-storefront, delivery-only medical cannabis retail activity without a permit issued under the provisions of chapter 1, article 1 of this title. All non-storefront, delivery-only medical cannabis retail operations must obtain and maintain a valid regulatory permit issued by the City and comply with all conditions of that permit at all times.

4-2-2302: DEFINITIONS:

For purposes of this article, the following definitions apply unless the context in which they are used clearly requires otherwise:

“Applicant” means a person or entity that submits an application for a non-storefront, delivery-only medical cannabis retail regulatory permit under this article.

“Day Care Center” has the same meaning as in Section 26001 of the Business and Professions Code. “Day care center” means a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, and child care centers licensed pursuant to Section 1596.951 of the Health and Safety Code.

“Fully enclosed and secure structure” means a space within a building or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors. The fully enclosed and secure structure must have valid electrical, plumbing, and building permits, if required by other provisions of this code.

“Non-storefront, delivery-only medical cannabis retail” or “retailer” means a commercial operation that is closed to the public but delivers medical cannabis and/or medical cannabis products as part of retail sale transactions to customers at fixed locations in accordance with state law. No on-site sales, nor public access to commercial facilities or delivery vehicles, is permitted. Non-storefront, delivery-only medical cannabis retailers must be authorized to engage in the retail sale by delivery of medicinal cannabis to medicinal cannabis patients pursuant to State License: Type M-Type 9, Non-Storefront Retailer.

“Owner” means any of the following: a person with an aggregate ownership interest of 20 percent or more in the non-storefront, delivery-only medical cannabis retail business, unless the interest is solely a security, lien or encumbrance; or an individual who manages, directs, or controls the operations of the non-storefront, delivery-only medical cannabis retail business, including but not limited to:

- (1) A member of the board of directors of a nonprofit.
- (2) A general partner of a non-storefront, delivery-only medical cannabis retail business that is organized as a partnership.
- (3) A non-member manager or manager of a non-storefront, delivery-only medical cannabis retail business that is organized as a limited liability company.
- (4) The trustee(s) and all persons who have control of the trust and/or the non-storefront, delivery-only medical cannabis retail business that is held in trust.
- (5) An individual with the authority to provide strategic direction and oversight for the overall operations of the non-storefront, delivery-only medical cannabis retail

business, such as the chief executive officer, president or their equivalent, or an officer, director, vice president, general manager, or their equivalent.

(6) An individual with the authority to execute contracts on behalf of the non-storefront, delivery-only medical cannabis retail business.

(7) When an entity is an owner in a non-storefront, delivery-only medical cannabis retail business, all entities and individuals with a financial interest in the entity shall be disclosed to the City and may be considered owners of the non-storefront, delivery-only medical cannabis retail business. For example, this includes all entities in a multi-layer business structure, as well as the chief executive officer, members of the board of directors, partners, trustees and all persons who have control of a trust and managing members or non-member managers of the entity. Each entity disclosed as having a financial interest must disclose the identities of persons holding financial interests until only individuals remain.

“Medical cannabis” or “medical cannabis product” or “medicinal cannabis” or “medicinal cannabis product”, as defined in subdivision (ak) of Section 26001 of the Business and Professions Code, meaning cannabis or a cannabis product, respectively, intended to be sold or donated for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found in Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

“Medicinal cannabis patient” means a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who possesses a physician’s recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business

and Professions Code, or a qualified patient or primary caregiver for a qualified patient issued a valid identification card pursuant to Section 11362.71 of the Health and Safety Code.

“Possession” means to have, own, control, or possess.

“Private residence” means a house, an apartment unit, a mobile home, or other similar dwelling that is lawfully permitted to be used as a residence.

“State license” means any license required by the State of California for the operation of a non-storefront retailer providing delivery of medicinal cannabis (State License of the type: M-Type 9 Non-Storefront Retailer), including but not limited to licenses issued under Division 10 of the Business & Professions Code.

“Youth center” means any of the following:

(1) Public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to: (a) Private youth membership organizations or clubs, (b) Social service teenage club facilities, (c) Video arcades where ten (10) or more video games or game machines or devices are operated, and where minors are legally permitted to enter the arcade, (d) amusement park facilities, (e) any facility used for youth activities at least sixty percent (60%) of the time in a calendar year; (f) a park, playground or recreational area located on a public or private school grounds or in City, county, or state park specifically designed to be used by children or which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility.

4-2-2303: APPLICATION INFORMATION

In addition to the application information required in section 4-1-102, the applicant must also submit:

A. Odor Mitigation Plan. Applicants shall submit an Odor Mitigation Plan certified by a professional engineer or industrial hygienist that includes the following:

1. Operational processes and maintenance plan, including activities to ensure the odor mitigation system remains adequate and functional;
2. Odor mitigation training and operational procedures for all employees; and
3. Engineering controls, which may include carbon filtration or other methods of air cleansing, and evidence that such controls are sufficient to effectively mitigate odors from all odor sources. All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry-specific technologies designed to effectively mitigate cannabis odors.

B. Safety and Security Plan as required under section 4-2-2304(G)(15).

C. Buffer Zone. The names and addresses of all libraries, schools, religious worship institutions, youth centers and day care centers and parks within six hundred (600) feet of the proposed location.

D. State License Information. The state license or the status of the state license application.

4-2-2304: OPERATING REQUIREMENTS:

- A. Non-storefront, delivery-only medical cannabis retail operations must obtain and maintain a valid conditional use permit pursuant to the provisions in section 10-3-4705 and comply with all conditions of approval at all times.
- B. Medical Cannabis, Delivery Only. Non-storefront, delivery-only medical cannabis retail operations licensed pursuant to this article may engage only in the sale and delivery of medical cannabis and medical cannabis products to customers and qualified patients and their caregivers.
- C. Fees. All non-storefront, delivery-only medical cannabis retail operations must pay all applicable fees in order to commence and continue operations.
- D. Visibility.
1. No cannabis or cannabis products may be visible from outside the non-storefront medical cannabis delivery-only operation's fixed location or delivery vehicles.
 2. No visual display, signage, or condition on the exterior of the non-storefront, delivery-only medical cannabis retail operation's fixed locations or delivery vehicles shall indicate the types of products being stored inside the fixed location or transported in the delivery vehicles.
 3. Signage shall be limited to the name of the business only and shall be in compliance with the City's sign code (Chapter 4 of Title 10 of the Beverly Hills Municipal Code), and shall contain no advertising of other companies, brands, goods, or services.

E. Compliance with Law. All non-storefront, delivery-only medical cannabis retail operations must be conducted in accordance with all local and state laws.

F. Hours of Operation. Non-storefront, delivery-only medical cannabis retail operations may only operate during the hours authorized by their state license and the Department of Cannabis Control regulations.

G. Safety and Security Requirements. All non-storefront, delivery-only medical cannabis retail operations must comply with the following security measures:

1. No Public Access. Non-storefront, delivery-only medical cannabis retail operations shall not permit public access to fixed locations or delivery vehicles. Only employees, operators, and owners of non-storefront, delivery-only medical cannabis retail operations may access businesses' fixed locations or delivery vehicles.

2. No On-Site Sales. Non-storefront, delivery-only medical cannabis retail operations shall only conduct sales via delivery. On-site sales are strictly prohibited.

3. No Cannabis Paraphernalia. No non-storefront, delivery-only medical cannabis retail operation shall sell or display any products other than medicinal cannabis or medicinal cannabis products. No cannabis-related paraphernalia or any other products, including but not limited to alcohol and tobacco products shall be allowed.

4. Surveillance Systems. Security surveillance cameras and video recording systems shall be installed, and maintained in good condition, to monitor the entire

interior (except bathrooms), main entrance, and exterior areas, including parking areas, of all non-storefront, delivery-only medical cannabis retail operations' fixed locations to discourage loitering, crime, and illegal or nuisance activities. The areas to be covered by the security cameras include, but are not limited to, the storage areas, dispensing areas, delivery areas, all doors and windows, and any other areas as determined by the City Manager or the City Manager's designee. The cameras shall be in use 24 hours per day, seven days per week. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present in the fixed locations of non-storefront, delivery-only medical cannabis retail operations. Any disruption in security camera images should be cured expeditiously.

5. Security Video Retention. Video from the security surveillance cameras shall be maintained for a period of not less than ninety (90) days and shall be made immediately available to City representatives upon request.

6. City Surveillance System. A non-storefront, delivery-only medical cannabis retail operation permitted under this article may elect to purchase all necessary equipment to integrate their video surveillance system into any comprehensive video surveillance system currently in place or implemented by the City.

7. Alarm System. Professionally and centrally monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition at the premises.

8. Right of Inspection. All vehicles and facilities permitted pursuant to this article are subject to inspection by City personnel any time the operator is exercising privileges under an operator permit. Prior notice of an inspection is not required.

9. Secure Storage. All medical cannabis and medical cannabis products shall be kept in a secured manner during business and non-business hours. Each non-storefront medical cannabis delivery-only operation shall have adequate locked storage at the fixed location for after-hours storage of cannabis and cannabis products. Medical cannabis shall be stored at the non-storefront, delivery-only medical cannabis retail operation location in secured rooms with limited or key-card access that are completely enclosed or in a safe that is bolted to the floor.

10. On-Site Security Guard. Non-storefront, delivery-only medical cannabis retail operations shall employ at least one (1) uniformed security guard to be present during normal business hours to include one-half (1/2) hour before and after normal business hours. The security guard shall be charged with preventing violations of the law, reporting suspicious persons, vehicles, circumstances and all criminal offenses to the Beverly Hills Police Department. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of the state law. The sole purpose of the security guard shall be to provide for the protection and safety of the business and its authorized personnel and said guard shall not be required to perform additional, non-security-related duties within the business. The Chief of Police, City Manager, or their respective

designee(s) reserve the right to review the number of guards and may require that the number of guards be increased as necessary.

11. Report of Criminal Activity. Non-storefront, delivery-only medical cannabis retailers shall immediately report to the Police Department: (A) any criminal conduct committed by owners, operators, agents, or employees, (B) any crimes that occur at the fixed location or in a vehicle owned or used by the business, (C) any crimes against any employee, agent, operator, or owner of the business during the performance of his/her duties, and/or (D) any crimes against any customer of the business during any transaction conducted by the business.

12. Delivery Vehicle Requirements.

a. All delivery vehicles shall be equipped with a Global Position System, hereinafter referred to as “GPS” tracking devices. Data from the GPS tracking system shall be retained for a period of thirty (30) days. GPS data shall be made available to the Police Department upon request.

b. All cannabis, cannabis products, and cash must be stored during transport in secure safes or lockboxes permanently affixed to the delivery vehicle.

c. All delivery vehicles must be registered with the Police Department or other City Department as designated by the City Manager, including the make, model, license plate, vehicle identification number, and registration number of such vehicles.

- d. All cannabis delivery vehicles shall be equipped with, and utilize, a vehicle alarm system.
- e. All medical cannabis delivery vehicles shall have and utilize a direct communication system with the non-storefront, delivery-only medical cannabis retailer.
- f. All medical cannabis delivery vehicles shall not carry more medical cannabis than allowed by State law and required to fulfill all immediate delivery requests.
- g. No visual display, signage, or condition on delivery vehicles shall indicate the types of products being transported in the delivery vehicles.

13. Owner/Employee Rosters and Notice of Change. Non-storefront medical cannabis delivery-only operations shall keep a roster on file with the Police Department with the names and birth dates of all current employees, operators, and owners of the delivery-only operation. Non-storefront medical cannabis delivery-only operations shall provide written notice to the Chief of Police, City Manager, or their respective designee(s) of any change in ownership or employees within thirty (30) days of such change.

14. Other Necessary Security Requirements. The Chief of Police, City Manager, or their respective designee(s) may prescribe additional safety or security measures that he or she deems reasonable and necessary in light of the nature and location of a specific operation or existing operational circumstances in order to (a) prevent the diversion of legal medical cannabis to the illegal market, (b) prevent

the intrusion of illegal cannabis into the non-storefront, delivery-only medical cannabis retail operation's business activities, (c) prevent robbery and theft in the course of the non-storefront, delivery-only medical cannabis retail operations business activities, (d) prevent quality of life issues in connection with the non-storefront, delivery-only medical cannabis retail operation, including odor, litter, loitering, and noise, and (e) ensure the safety and security of the operation, its employees, surrounding properties and the general community.

15. All non-storefront, delivery-only medical cannabis retail operations must implement and maintain a security plan approved by the Chief of Police, City Manager, or their respective designee(s). Such plan shall include, at a minimum, the above listed security measures.

H. Odor Control. All non-storefront, delivery-only medical cannabis retail operations shall incorporate and maintain adequate on-site odor control measures pursuant to an odor mitigation plan such that the odors as a result of storing or transport of cannabis and cannabis-related products cannot be readily detected from outside of the structure or vehicle in which the business operates.

I. In-Transit Requirements.

1. Only owners, operators, or employees of non-storefront, delivery-only medical cannabis retail operations may be present in vehicles during deliveries.

2. No more than the maximum amount of medical cannabis permitted under state law in total value of product and cash may be transported at any one time in an individual vehicle during deliveries.

3. Delivery vehicles may only travel between fixed locations of non-storefront, delivery-only medical cannabis retail operations and the residential addresses specified by customers while transporting medical cannabis and/or medical cannabis products.

4. All delivery drivers shall carry valid identification and proof of employment at a licensed non-storefront, delivery-only medical cannabis retail operation.

5. All delivery drivers shall carry a copy of the non-storefront, delivery-only medical cannabis retail regulatory permit, a copy of the delivery request, a form of government-issued identification, and all other information required by State law. The driver shall present these documents upon the request of law enforcement, the City Manager, or the City Manager's designee.

6. All drivers shall carry an inventory log of cannabis and cannabis products being transported.

7. Delivery drivers shall be trained in the process for verifying that medical cannabis and medical cannabis products are delivered to qualified patients and adult-use customers and that the delivery drivers are trained in the proper usage of medical cannabis.

J. Notification Requirements. A non-storefront, delivery-only medical cannabis retailer shall notify the Police Department within twenty-four (24) hours of discovering any of the following:

1. Significant discrepancies identified during inventory. The level of significance shall be determined by the Chief of Police or designee.

2. The loss or unauthorized alteration of records related to medical cannabis, medical cannabis products, registered qualifying patients, primary caregivers, or a non-storefront, delivery-only medical cannabis retail operation's agents, owners, operators, investors, partners, or employees.

3. Any other material breach of security.

K. **Contact Requirement.** Non-storefront, delivery-only medical cannabis retailers shall provide the City Manager or the City Manager's designee with the name, cell phone number, facsimile number, and email address of an on-site representative to whom the City and the public can provide notice if there are any operational problems associated with the non-storefront, delivery-only medical cannabis retailer. Each non-storefront, delivery-only medical cannabis retailer shall make every good faith effort to encourage residents and the public to call this representative to resolve any operational problems before any calls or complaints are made to the City or law enforcement.

L. **Owner, Operator, and Employee Requirements.** In order to be eligible to obtain a regulatory permit from the City, the non-storefront, delivery-only medical cannabis retail operations must meet the following criteria:

1. All owners, operators, partners, investors, employees, and agents must be twenty-one (21) years of age or older.

2. All owners, operators, partners, investors, employees, and agents must submit to a background search.

3. No owner, operator, investor, partner, employee, or agent of a non-storefront, delivery-only medical cannabis retail operation shall have been

convicted of a felony or crime of moral turpitude nor has been found by any State or local jurisdiction to have committed a violation of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). The Chief of Police, City Manager, or their respective designee(s) reserve the right, in his or her sole discretion, to waive this requirement in relation to violations of MAUCRSA, in the event that he or she determines that the violation of MAUCRSA was minor in nature and would not undermine the safe and effective operation of the proposed business in accordance with applicable laws.

M. Legal, fully enclosed and secure structure. Non-storefront, delivery-only medical cannabis retail operations must be within legal, fully enclosed and secure structure compliant with all applicable state and local laws.

N. No additional business. Non-storefront, delivery-only medical cannabis retailers shall not grow, cultivate, manufacture, test or process cannabis. A non-storefront, delivery-only medical cannabis retailer shall not be operated as a cannabis cultivation, manufacturing, or testing facility, unless expressly and affirmatively authorized by State and local law.

O. No loitering. Individuals shall not be allowed to remain on the premises unless they are engaging in activity expressly related to the operation of the non-storefront, delivery-only medical cannabis retail.

P. Delivery to medicinal cannabis patients or their primary caregivers only.

1. A non-storefront, delivery-only medical cannabis retailer shall not dispense or deliver medical cannabis to any person without a physician's recommendation. Physician recommendations may not be made on site.

2. Non-storefront, delivery-only medical cannabis retailers shall only deliver medical cannabis to individuals who provide government-issued identification and adequate documentation demonstrating qualification to purchase, obtain, or possess medical cannabis on their own behalf or as their primary caregiver.

3. Physician's recommendations shall be verified by a non-storefront, delivery-only medical cannabis retailer prior to dispensing or delivering any medical cannabis to a qualified patient or primary caregiver, and at least every six months thereafter.

Q. Inspected Products. Each non-storefront, delivery-only medical cannabis retailer shall deliver medical cannabis products only after those medical cannabis products have been inspected and quality tested by a qualified third-party testing facility as required by applicable State laws.

R. Labeling and Packaging. Prior to sale for a delivery, medical cannabis products shall be labeled and placed in tamper-evident package. Labels and packages of medical cannabis products shall, at minimum, meet the requirements specified under applicable State laws.

S. Tracking System. Non-storefront, delivery-only medical cannabis retail operations must be compliant in the state mandated California Cannabis Track and Trace system.

4-2-2305: RECORDKEEPING REQUIREMENTS.

A. Non-storefront, delivery-only medical cannabis retail operations shall keep the following records:

1. All delivery vehicle maintenance records.
2. All delivery vehicle ownership records.
3. All shipping manifests for completed and in-transit deliveries.
4. A contemporaneous inventory log.
5. Delivery log including location, time and delivery driver.
6. Quality-assurance details for all cannabis and cannabis products stored and/or delivered by the non-storefront, delivery-only medical cannabis retail operations.
7. A copy of the physician's recommendation and, if using a primary caregiver, a notarized written authorization from the patient to be represented by such primary caregiver.
8. Other records as needed to account for the total quantity of medical cannabis retained, sold, and delivered on or from the premises.

B. A non-storefront, delivery-only medical cannabis retailer shall maintain patient records in a secure location within the City, available for inspection upon demand by the City Manager, the City Manager's designee, or law enforcement.

C. These records shall be maintained for three years from the date created.

4-2-2306: PROMULGATION OF REGULATIONS, STANDARDS AND OTHER LEGAL DUTIES.

In addition to any regulations adopted by the City Council, the City Manager is authorized to establish any additional rules, regulations and standards governing the issuance, denial

or renewal of non-storefront, delivery-only medical cannabis retail permits, the ongoing operation of non-storefront, delivery-only medical cannabis retail businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this article. Regulations promulgated by the City Manager shall become effective upon date of publication.

4-2-2307: LIMITATION ON CITY'S LIABILITY

A. To the fullest extent permitted by law, the City does not assume any liability whatsoever, with respect to approving any permit pursuant to this article or the operation of any non-storefront, delivery-only medical cannabis retailer approved under to this article.

B. As a condition of approval of a permit as provided in this article, the applicant or its legal representative shall do the following:

1. Execute an agreement indemnifying the City from any claims, damages, injuries, or liabilities of any kind associated with the operation of the non-storefront, delivery-only medical cannabis retail business, issuance of a permit to a non-storefront, delivery-only medical cannabis retail business, or the prosecution of the non-storefront, delivery-only medical cannabis retail business or its owners, managers, directors, officers, employees, or its qualified patients or primary caregivers for violation of federal or state laws;

2. Maintain insurance in the amounts and of the types that are acceptable to the City Manager or designee; and

3 Reimburse the City for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of a conditional use permit or non-storefront, delivery-only medical cannabis retail regulatory permit or related to the City's approval of non-storefront, delivery-only medical cannabis retail activity. The City, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any of the obligations imposed hereunder.

4-2-2308: IDENTIFICATION CARD REQUIRED:

The permittee and all employees shall obtain an identification card issued under the provisions of chapter 1, article 2 of this title and shall have such identification card in their possession at all times while engaged in the activity regulated by this article.

4-2-2309: ENFORCEMENT:

A violation of this article is subject to the administrative penalty provisions of title 1, chapter 3 of this Code. Where the violation is of a continuing nature, each day or portion thereof wherein the violation continues to constitute a separate and distinct violation.

A permit to operate a non-storefront, delivery-only medical cannabis retail business may be revoked or suspended pursuant to the provisions of title 4, chapter 1, article 1 of this Code.

Section 7. The City Council hereby amends Section 10-3-1604 of Article 16 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add “Non-storefront, delivery-only

medical cannabis retail” as a conditionally permitted use to read as follows, with the remainder of Section 10-3-1604 to remain unchanged:

“Non-storefront, delivery-only medical cannabis retail, subject to the provisions in section 10-3-4705.”

Section 8. The City Council hereby adds paragraph “E” to Section 10-3-1654 of Article 16.5 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with the remainder of Section 10-3-1654 to remain unchanged:

“Non-storefront, delivery-only medical cannabis retail uses, as defined in Section 10-3-4701, shall be prohibited in a pedestrian oriented area.”

Section 9. The City Council hereby amends paragraph “B” of Section 10-3-3800 of Article 38 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows, with the remainder of Section 10-3-3800 to remain otherwise unchanged:

“Required Findings: The reviewing authority shall not issue a Conditional Use Permit unless the reviewing authority finds that the proposed location of any such use will not be detrimental to adjacent property or to the public welfare.

In addition, certain conditionally permitted uses have additional findings set forth in sections 10-3-1207 (Dining in Nonconforming Hotels), 10-3-1236 (Combined Uses), 10-3-1240 (Dining in Nonconforming Hotels), 10-3-1254 (Conditional Use Permits), 10-3-1282 (Permitted Areas), 10-3-1283 (Conditional Use Permit Requirements), 10-3-1604 (Conditionally Permitted Uses), 10-3-1611 (Mini-Shopping Centers), 10-3-1612 (Drive-Up, Drive-In, and Drive-Through Facilities), 10-3-1613 (Vehicle Sales, Service or Fuel Stations), 10-3-1617 (Exercise Clubs and Private Training Centers), 10-

3-1618 (Exercise Clubs and Private Training Centers), 10-3-1619 (Nightclubs), 10-3-1620.2 (Cosmetic Spas), 10-3-1655 (Pedestrian-Oriented Areas), 10-3-1702 (Conditionally Permitted Uses), 10-3-1802 (Conditional Uses Permitted), 10-3-2003 (Conditionally Permitted Uses), 10-3-2730.4 (Alternative Parking Facility), 10-3-2733 (Parking in Nonresidential Zones; Location and Shielding of Facilities), 10-3-2862 (Conditional Use Permits Required), 10-3-2866 (Parking Requirements), 10-3-2866.1 (Loading Restrictions), 10-3-2867 (Hotel Access Areas), 10-3-2868 (Regulations and Restrictions Applicable), 10-3-3800.1 (Convenience Store Conditional Use Permit), and 10-3-4705 (Non-storefront, delivery-only medical cannabis retail) of this chapter.”

Section 10. The City Council hereby amends Section 10-3-4701 of Article 47 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add a definitions for “Day Care Center,” “Non-storefront, delivery-only medical cannabis retail”, and “Youth Center” to read as follows, with the remainder of Section 10-3-4701 to remain unchanged:

“DAY CARE CENTER: As defined in Beverly Hills Municipal Code Section 4-2-2302.”

“NON-STOREFRONT, DELIVERY-ONLY MEDICAL CANNABIS RETAIL (OR RETAILER): As defined in Beverly Hills Municipal Code Section 4-2-2302.”

“YOUTH CENTER: As defined in Beverly Hills Municipal Code Section 4-2-2302.”

Section 11. The City Council hereby amends Section 10-3-4703 of Article 47 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to add paragraph “D” to read as follows, with the remainder of Section 10-3-4703 to remain unchanged:

“D. Notwithstanding section 10-3-4702 of this article, establishment of a physical premises from which retail sale by delivery of medicinal cannabis within the City is

conducted by a licensed non-storefront retailer, referred to herein as non-storefront, delivery-only medical cannabis retail, may be allowed subject to the requirements of Section 10-3-4705. The delivery of medical cannabis from a business authorized under Section 10-3-4705 and Article 23 of Chapter 2 of Title 4, shall be permitted in the City.”

Section 12. The City Council hereby adds Section 10-3-4705 to Article 47 of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to read as follows:

“10-3-4705: NON-STOREFRONT, DELIVERY-ONLY MEDICAL CANNABIS RETAIL:

A. This section specifies standards for the non-storefront retail sale of medical cannabis to ensure neighborhood compatibility, minimize potential environmental impacts, and to provide safe access to cannabis for medical use. This section shall be effective only if Business and Professions Code section 26322, or a successor statute requiring the City to authorize a physical premises from which retail sale by delivery of medicinal cannabis within the City is conducted by a licensed non-storefront retailer, remains in effect.

B. Non-storefront, delivery-only medical cannabis retail is a conditionally permitted use in the C-3 zone subject to the requirements herein.

C. Location requirements.

1. Non-storefront, delivery-only medical cannabis retail is prohibited in the Pedestrian Overlay Zone (Article 16.5).

2. No non-storefront, delivery-only medical cannabis retailer shall be established on any portion of a lot located within a 600-foot radius of a sensitive use

(herein defined to include the Beverly Hills Public Library, a school, a day care center, a youth center, a religious institution, or a public park) or another non-storefront, delivery-only medical cannabis retailer. The distance specified in this subsection shall be measured vertically. Additionally, the distance specified in this subsection shall be measured horizontally. The horizontal distance shall be measured in a straight line from the property line of where the non-storefront, delivery-only medical cannabis retailer is to be located to the closest property line of the lot on which the sensitive use or another non-storefront, delivery-only medical cannabis retailer is located without regard to intervening structures.

3. No non-storefront, delivery-only medical cannabis retail shall be permitted on the ground floor of any building.

D. Non-storefront, delivery-only medical cannabis retail use shall be permitted in the C-3 zone only if authorized by a conditional use permit issued pursuant to the provisions of article 38 of this chapter. In addition to the criteria set forth in article 38 of this chapter, the following criteria shall be considered by the planning commission when reviewing conditional use permit applications for non-storefront, delivery-only medical cannabis retail use:

1. The proposed use will have adequate buffering between the use and residential areas, and will not adversely interfere with the use and enjoyment of residential properties in the vicinity of the proposed development;

2. The proposed use will not result in detrimental impacts to existing or anticipated residential or commercial development in the vicinity of the project with

regard to traffic levels, traffic safety, pedestrian-vehicle conflicts, pedestrian safety hazards,, and loading or manner of operation;

3. The proposed use will not create excessive noise, unpleasant odors, noxious fumes, excessive lighting, increased litter, or substantial interference with neighboring properties or uses due to the activities associated with the proposed use or its hours of operation; and

4. The proposed use will not create an overconcentration of non-storefront, delivery-only medical cannabis retailers in the vicinity.

E. Operational Requirements. Non-storefront, delivery-only medical cannabis retailers shall comply with the licensing and operational requirements set forth in Article 23 of Chapter 2 of Title 4.

Section 13. No Amendments to Commercial Cannabis Prohibition. Nothing in this Ordinance shall be construed to limit or otherwise affect the ability of the City to adopt or enforce any regulations on commercial cannabis operations, other than non-storefront, delivery-only medical cannabis retailers in the City as required pursuant to Business and Professions Code Section 26322. Except as expressly amended in this Ordinance, the City's prohibition on commercial cannabis activities and uses in Article 47 of Chapter 3 of Title 10 of the BHMC remain in full force and effect.

Section 14. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

Section 15. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 16. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

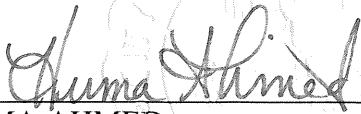
Adopted: October 17, 2023

Effective: November 17, 2023



JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills,
California

ATTEST:



HUMA AHMED
City Clerk

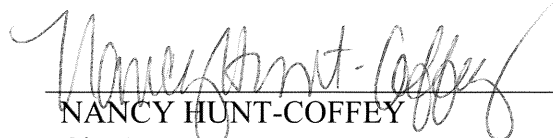
(SEAL)

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



NANCY HUNT-COFFEY
City Manager