

ORDINANCE NO.

AN ORDINANCE AMENDING CANNABIS REGULATIONS
IN ARTICLE V, DIVISION 2, AND ARTICLE VI, DIVISIONS 2 AND 3,
OF CHAPTER 36 TO AMEND LAND USE AND PERMITTING REQUIREMENTS
TO PROHIBIT STOREFRONT RETAIL CANNABIS BUSINESSES WITHIN THE CITY

WHEREAS, Chapter 36 in the Mountain View City Code sets forth a procedure whereby the City can adopt Zoning Text Amendments; and

WHEREAS, said Chapter 36 of the Mountain View City Code requires that both the City's Environmental Planning Commission and City Council hold a duly noticed public hearing before the Zoning Text Amendments are adopted; and

WHEREAS, on April 24, 2019, the Environmental Planning Commission held a duly noticed public hearing and thereafter forwarded its recommendation to the City Council to adopt the Zoning Text Amendments; and

WHEREAS, on May 23, 2019, having given notice as required by Chapter 36 of the Mountain View City Code, the City Council held a public hearing to consider the Zoning Text Amendments;

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Council Findings. The City Council finds and determines, at a duly noticed public hearing on May 23, 2019, that the following Zoning Text Amendments are consistent with the General Plan of the City of Mountain View based upon the following findings made pursuant to Section 36.52.60 of the City Code:

a. The Zoning Text Amendments are consistent with the General Plan because establishing land use and permitting requirements for nonstorefront cannabis businesses furthers the policy of minimizing conflicts between different land uses (Policy LUD 3.4); and

b. The Zoning Text Amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the City because the adoption of these amendments is consistent with Proposition 64 and State law regarding cannabis businesses; and

c. The Zoning Text Amendments are internally consistent with Chapter 36 of the Mountain View City Code; and

d. The Zoning Text Amendments are exempt from the California Environmental Quality Act (CEQA) per Section 26055(h) of the Business and Professions Code, which states, "Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity"; and

e. The following Zoning Text Amendments are in conformity with the procedures set forth in Chapter 36, Article XVI, Division 13, of the Mountain View City Code whereby the City may amend the City's Zoning Ordinance.

Section 2. Article V, Division 2 of Chapter 36 of the Mountain View City Code is hereby amended to read as follows:

"DIVISION 2. - LAND USES

SEC. 36.18.05. - Commercial zone land use permit requirements.

The uses of land allowed by this chapter in each commercial zoning district are identified in the following tables as being:

a. Permitted subject to compliance with all applicable provisions of this chapter, including development review and parking requirements, and subject to obtaining any building permit or other permit required by the City Code ("P" uses on the tables). Per Sec. 36.44.45, development review approval is required for changes from one (1) permitted use to another, including changes in property or building use that involve exterior modifications or change the development's required parking.

b. Allowed subject to approval of a conditional use permit ("CUP") (Sec. 36.48).

c. Allowed subject to approval of a temporary use permit ("TUP") (Sec. 36.46).

d. Land uses listed, as specifically defined in this chapter, and on the tables in a particular zoning district(s) shall only be allowed in the specific zoning district(s) in which it is listed. Such uses can only be allowed in other zoning district(s) upon approval of a text amendment as provided by Sec. 36.52.35 (Zoning Amendments). These uses cannot be named as similar uses as determined by the zoning administrator through the conditional use permit process or Sec. 36.58.30 (Procedures for Interpretation).

e. Land uses that are not listed on the tables are not allowed, except where otherwise provided by Sec. 36.06.40 (Determination of Allowable Land Uses) or Sec. 36.06.50 (Exemptions from Zoning Permit Requirements).

LAND USES AND PERMIT REQUIREMENTS BY COMMERCIAL DISTRICT

NOTE 1: Where the last column on the following tables (“See Section”) includes a section number, there are specific regulations and/or a specific definition in the referenced section that apply to the use; however, provisions in other sections may apply as well.

NOTE 2: Changes from one (1) permitted use to another require development review approval.

Land Use	Permit Requirement by Zone				
	CN	CS	CO	CRA	See Section
Manufacturing and Processing					
Food products		P			36.60.15
Furniture and fixtures		P			
Laundry and dry cleaning plants		P			
Printing and publishing		P			
Recycling – Reverse vending machines	CUP	CUP	CUP	CUP	36.60.39
Recycling – Small collection facility	CUP	CUP	CUP	CUP	36.60.39
Wholesaling and distribution		P			36.60.49
Recreation, Education, Public Assembly					
Adult entertainment establishments				CUP	36.28.10
Child day-care facilities	CUP	CUP	CUP	CUP	36.28.20

Churches	CUP		CUP	P	
Community centers	CUP		CUP	CUP	
Indoor recreation and fitness centers	CUP	CUP		P	
Libraries and museums	CUP		CUP	CUP	
Membership organization facilities and meeting halls			CUP	CUP	
Outdoor commercial recreation				CUP	
Pool and billiard rooms				CUP	
Public schools	CUP	CUP	CUP	CUP	
Private schools	CUP		CUP	CUP	
Schools – Specialized education and training	CUP	CUP	CUP	CUP	
Studios for dance, art, music, photography, martial arts, etc.	CUP	CUP	CUP	P	
Theaters				CUP	
Residential					
Home occupations				P	36.28.75
Multi-family housing, townhouses, rowhouses or mixed-use commercial/housing				CUP	36.18.50
Residential accessory use structures				P	36.12.35

Efficiency studios				CUP	36.28.40
Retail Trade					
Accessory retail uses	P	P	P	P	36.28.05
Auto, mobile home, trailer and boat sales		P		CUP	36.30.25
Bars and drinking places		CUP		CUP	
Building material stores (not including concrete)		P		CUP	
Cannabis business, storefront retail	CUP			CUP	36.50.55, 36.60.03 and Chapter 9
Certified farmer's markets				CUP	
Drive-in and drive-through sales	CUP	CUP		CUP	36.28.30
Fuel and ice dealers		P		CUP	
Furniture, furnishings and home equipment stores		CUP		P	
Grocery stores	P	CUP		P	
Liquor stores	CUP			P	
Outdoor merchandise and activities		CUP		CUP	36.28.95
Outdoor retail sales, temporary	TUP	TUP	TUP	TUP	36.46
Restaurants serving liquor, with entertainment				CUP	

Restaurants serving liquor, without entertainment	CUP	CUP		P	
Restaurants with or without beer and wine	P	CUP		P	
Restaurants, take-out	P	CUP		P	
Retail stores, general merchandise	P	CUP		P	36.60.39
Second hand stores		CUP		CUP	
Shopping centers	P			CUP	36.60.41
Significant tobacco retailer				CUP	36.30.20 and 36.30.30
Warehouse retail stores		CUP			36.30.40
Services					
Animal service establishments	CUP	CUP	CUP	CUP	36.30.35
Automatic teller machines (ATMs)	P	P	P	P	
Banks and financial services	P		P	P	
Business support services		P		P	36.60.07
Cannabis business, nonstorefront retail		CUP			36.30.55, 36.60.03 and Chapter 9
Cemeteries, columbariums and mortuaries			CUP	P	36.28.15
Commercial parking lots		CUP		CUP	
Contractors equipment: storage, sales or rental		P			

Drive-in and drive-through services	CUP	CUP	CUP	CUP	36.28.30
Hotels and motels				CUP	36.18.50
Plant nursery		P		CUP	
Medical services					
Medical services – <3,000 square feet	P		P	P	36.60.29
Medical services – 3,000 to 20,000 square feet	CUP		P	P	36.60.29
Medical services – >20,000 square feet			CUP	CUP	36.60.29
Medical services – Hospitals and extended care			CUP	CUP	36.60.29
Offices					
Offices	CUP	P	P	P	CN District: 36.18.15 b CS District: 36.18.20
Administrative and executive			P	P	
Research and development/light testing and assembly		P		CUP	CS District: 36.18.20 CRA District: 36.18.25
Personal services	P	CUP		P	36.60.35
Public safety and utility facilities	CUP	P	CUP	CUP	
Repair and maintenance – Consumer products	P	P		P	36.60.39

Repair and maintenance – Vehicle, major work		P			36.30.25, 36.60.39 and Chapter 39
Repair and maintenance – Vehicle, minor work		P		CUP	36.30.25, 36.60.39 and Chapter 39
Service stations	CUP	CUP		CUP	36.30.15
Storage, accessory	P	P	P	P	36.60.41
Tow yards		CUP			
Electrical, plumbing and carpenter shops		P			
Warehousing		P			
Transportation and Communications					
Pipelines and utility lines	P	P	P	P	
Transit stations and terminals		CUP		CUP	
Vehicle storage		P			36.60.47
Other Uses					
Other uses not named but similar to listed uses as determined by the zoning administrator	CUP	CUP	CUP	CUP	36.18.05.d

Key to Permit Requirements	Symbol	See Section
Permitted use, zoning compliance and Development Review required	P	36.44.45

Conditional use, Conditional Use Permit required	CUP	36.48
Temporary use, Temporary Use Permit required	TUP	36.46
Use not allowed		(Blank)
See Article XVII for definitions of land uses“		

Section 3. Article VI, Divisions 2 and 3 of Chapter 36 of the Mountain View City Code are hereby amended as follows:

“DIVISION 2. - LAND USES

SEC. 36.20.05. - Industrial zone land use permit requirements.

The uses of land allowed by this chapter in each industrial zoning district are identified in the following tables as being:

a. Permitted subject to compliance with all applicable provisions of this chapter, including development review and parking requirements, and subject to obtaining any building permit or other permit required by the City Code (“P” uses on the tables). Per Sec. 36.44.45, development review approval is required for changes from one (1) permitted use to another, including changes in property or building use that involve exterior modifications or change the development's required parking.

b. Allowed subject to approval of a conditional use permit (“CUP”) (Sec. 36.48).

c. Allowed subject to approval of a temporary use permit (“TUP”) (Sec. 36.46).

d. Land uses listed, as specifically defined in this chapter, and on the tables in a particular zoning district(s) shall only be allowed in the specific zoning district(s) in which it is listed. Such uses can only be allowed in other zoning district(s) upon approval of a text amendment as provided by Sec. 36.52.35 (Zoning Amendments). These uses cannot be named as similar uses as determined by the zoning administrator through the conditional use permit process or Sec. 36.58.30 (Procedures for Interpretation).

e. Land uses that are not listed on the tables are not allowed, except where otherwise provided by Sec. 36.06.40 (Determination of Allowable Land Uses) or Sec. 36.06.50 (Exemptions from Zoning Permit Requirements).

LAND USES AND PERMIT REQUIREMENTS BY INDUSTRIAL DISTRICT

NOTE 1: Where the last column on the following tables (“See Section”) includes a section number, there are specific regulations in the referenced section that apply to the use and/or a specific definition of the use; however, provisions in other sections may apply as well.

NOTE 2: Changes from one (1) permitted use to another require development review approval.

Land Use	Permit Requirements by Zone		
	ML	MM	See Section
Manufacturing and Processing			
Assembly or packaging of previously prepared materials (i.e., cloth, plastic, paper, leather, precious or semiprecious metals/stones)	P		
Experimental, film or testing laboratories	P		
Food products	P		36.60.15
General manufacturing, including processing and assembly		P	
Industrial controls, motors, and generators		P	
Instruments for measurement, testing, analysis and control		P	
Manufacture of electric and electronic instruments and devices (i.e., television, radio and phonographic equipment)	P	P	
Optical instruments and lenses		P	
Pharmaceuticals	P		

Photographic equipment and supplies		P	
Primary production of wood, metal or chemical products from raw materials or any use listed as a conditional use in the ML district	P		
Printing, publishing and lithography	P		
Processing of products, assembly or creation of machinery, apparatus and supplies for the generation, storage, transmission and use of electrical energy and related industries		P	
Semiconductor fabrication		P	
Telephone apparatus		P	
Wholesaling and distribution	P	P	36.60.49, ML District: 36.20.15 a.2
Recreation, Education and Public Assembly			
Educational, public or quasi-public	CUP	CUP	MM District: 36.20.20.a.2
Child-care center	CUP	CUP	36.28.20, 36.20.10.g
Churches	CUP	CUP	36.20.10.e
Membership organization facilities and meeting halls, public halls	CUP	CUP	
Recreational, public or quasi-public	CUP	CUP	MM District: 36.20.20.a.2

Retail Trade			
Cannabis business, storefront retail		CUP	36.20.10h, 36.3.55, 36.60.03 and Chapter 9
Drive-in and drive-through services	CUP	CUP	36.28.30, 36.20.10.f
Restaurants without beer and wine	P	CUP	36.20.10.b, ML District: 36.20.15.a.1
Restaurants serving liquor, without live entertainment	P	CUP	36.20.10.b
Restaurants serving liquor, with live entertainment, dancing	CUP	CUP	36.20.10.b
Retail stores, general merchandise	CUP	CUP	36.60.39 and 36.20.10.c
Warehouse retail	CUP	CUP	36.20.10.d and 36.30.40
Transportation and Communication			
Public and quasi-public utility and services	CUP	P	
Service station	CUP	CUP	36.30.15
Services			
Animal service establishments		CUP	36.30.35
Auto wrecking yard		CUP	36.60.23
Business support services		CUP	36.60.07

Cannabis business, nonstorefront retail	CUP	CUP	36.30.55, 36.60.03 and Chapter 9
Concrete mixing and asphalt mixing yards		CUP	
Data centers	P	P	ML District: 36.20.15.a.2
Junk yard, auto wrecking yard, tow yard		CUP	36.60.23
Office			36.60.33, MM District: 36.20.20.a.1
Administrative and executive	P	CUP	
Financial	P	CUP	
Research and development	P	CUP	MM District: 36.20.20.a.3
Personal storage facility		P	36.60.35
Repair and maintenance – Vehicle, minor repair		CUP	36.30.25, 36.60.39 and Chapter 39
Repair and maintenance – Vehicle, major repair		CUP	36.30.25, 36.60.39 and Chapter 39
Storage		P	
Warehousing	P	P	ML District: 36.20.15.a.2
Other Uses			
Crop, tree farming, livestock	P	P	36.20.10.a

Emergency shelters	P		36.28.60
Railroad yards, freight stations, trucking and motor freight stations		P	
Other uses not named but similar to listed uses as determined by the zoning administrator	CUP	CUP	

Key to Permit Requirements	Symbol	See Section
Permitted use, zoning compliance and development review required	P	36.44.45
Conditional use, conditional use permit required	CUP	36.48
Temporary use, temporary use permit required	TUP	36.46
Use not allowed		(Blank)
See Sec. 36.60.03 for definitions of land uses		

DIVISION 3. - STANDARDS FOR SPECIFIC LAND USES

SEC. 36.20.10. - General.

The following land uses have specific regulations pertaining to operations and development standards applicable to both the ML and MM zoning districts:

a. **Crop, tree farming, livestock.** Crop and tree farming and livestock of the cow, horse, sheep or goat species is permitted in the ML and MM districts, where at least ninety (90) percent of the acreage required by Chapter 5 of the City Code is open and unimproved, and subject to the provisions of that chapter.

b. **Restaurants with or without liquor or live entertainment.** Restaurants and other establishments providing entertainment, or permitting dancing or serving liquor

for consumption on the premises which will not impair the present or potential use of adjacent or nearby properties are conditionally permitted in the ML and MM districts.

c. **Retail commercial.** Appropriate retail commercial and service uses are conditionally permitted in the ML and MM districts, such as cafés or service stations necessary to serve those districts.

d. **Warehouse retail.** Warehouse retail stores which meet the following criteria are conditionally permitted in the ML and MM districts:

1. The building and site design shall complement the surrounding industrial development. It shall be comparable to the architectural and design quality expected of new buildings in the area, including quality of materials, building design, building orientation, site design, landscaping and buffering. The building shall reflect the retail aspect of the use by incorporating storefront features such as facade ornamentation and special detailing which identify the entryway and provide pedestrian-level interest to the facade.

2. Warehouse retail uses shall comply with the basic site development regulations of the ML or MM district, regarding area and yard requirements, landscaping, screening, etc., unless otherwise described in this section. The zoning administrator shall evaluate sign needs and determine the size, height, lighting, shape, color, number and location of signs based on the CRA standards in Sec. 36.36.55.

3. Warehouse retail buildings and facilities shall be screened or buffered, as appropriate, to ensure compatibility with adjacent land uses. Particular attention shall be given to screening or providing buffers for parking, loading and storage areas, trash containers, auto service areas, areas with high noise levels, and other features that are visible or can be heard from off-site.

4. When evaluating applications for warehouse retail uses near residential areas, particular attention shall be given to the potential traffic, noise, visual and other effects of warehouse retail uses on the residential uses.

5. Retail commercial parking requirements, including number and design standards, shall apply unless the zoning administrator grants exceptions or imposes special requirements based on the nature of this use. The zoning administrator shall specifically consider the impacts of the use and parking of shopping carts on the parking lot design.

6. The zoning administrator may approve shared parking with an adjoining industrial use if compatible hours of operation can be proven and deed

restrictions, long-term parking agreements or other legally binding instruments are recorded.

7. Because of high on-site pedestrian and auto activity, the design shall include clearly defined building entrances, specially designated areas to accommodate customer pickup, and pedestrian walks from the parking areas to the building.

8. The use shall be allowed in P (planned community) districts that reference the ML or MM district, provided that the applicable precise plan specifically lists warehouse retail as a conditional or provisional use.

9. The use shall be located only on streets where there is adequate traffic capacity.

e. **Churches.** Churches and religious uses where it is demonstrated that they are convenient and in close proximity to residential neighborhoods are conditionally permitted in the ML and MM districts.

f. **Drive-up or drive-in services.** Any use which has as a part of its design or function drive-up or drive-in services are conditionally permitted in the ML and MM districts, where special attention has been given to mitigate problems of noise, air pollution, excessive pavement, congestion, litter, unsightliness and access to the disabled.

g. **Child-care centers and highly sensitive uses .** No new child-care facility(ies) or highly sensitive use(s) shall be permitted in the ML or MM districts with the following exception where both subsection 1.a. and 1.b. can be met:

1. A child-care facility may be permitted if it meets all of the following requirements:

(a) **Operation.** The child-care facility is owned, operated and located on a company's site and exclusively serves parents employed in the company.

(b) **Adjacent uses.** The child-care facility is located at least one thousand (1,000) feet from the boundaries with adjacent properties zoned for industrial use or the adjacent property owner(s) agree(s) in writing to prohibit the use of extremely hazardous material on their property and notify any tenants of this restriction.

(c) **Conditional use permit.** The child-care facility received conditional use permit approval as provided in City Code Sec. 36.48. The conditional use permit shall be in effect only while the same company occupies the site.

2. **Specific district requirement for the ML district only.** The portion of the ML district along Polaris Avenue and Wright Avenue may be considered for highly sensitive uses subject to a conditional use permit as provided in Sec. 36.48, except that all ML properties in the vicinity must receive public notice of the hearing in addition to standard noticing requirements.”

~~h. Cannabis business, storefront retail. Storefront retail businesses shall only be permitted in the MM zoning district within existing shopping centers.”~~

Section 4. The provisions of this ordinance shall be effective on July 25, 2019.

Section 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 6. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

KC/2/ORD
011-06-11-19o-so