

Definition and Use Descriptions

- **STOREFRONT RETAIL** (aka “dispensaries”)
- **NON-STOREFRONT RETAIL** (aka “delivery only”)

Pursuant to State Law, “dispensaries” is no longer used as a defined term. Instead, State Law now uses the broader term “Retailers.”¹ Section 26070 of the Business and Professions Code (“B&P Code”) provides in part:

(a) State licenses to be issued by the bureau related to the sale and distribution of cannabis and cannabis products are as follows:

(1) “Retailer,” for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

Therefore, under the B&P Code, “Retailers” can either have a physical store or conduct sales by delivery only. The California Code of Regulations (“CCRs”) clarifies “retailers” into two kinds of retailers: Storefront Retail and Non-storefront Retail².

STOREFRONT RETAIL

State Regulations – The CCRs³ provide several regulations pertaining to a storefront retail marijuana establishment, which include but are not limited to customer access to the retail area, hours of operation, requirements while not open for business, customers needing to provide proper identification, etc.

Desert Hot Springs Municipal Code (DHSMC) – The DHSMC does *not* have a definition of a storefront retail establishment, as per State Law. Instead, the DHSMC defines “dispensary” as *“Dispensary shall mean marijuana facilities licensed as a dispensary pursuant to California Business and Professions Code.”*⁴

Prior to the new State Law, “dispensary” was in fact defined by the Business and Professions Code. However, that has now changed, and currently no definition remains for “dispensary” in State Law. That said, “dispensaries” are allowed in the Commercial District with a conditional use permit and a regulatory permit.

As the City Council may recall, in 2014 the City Council deemed that nineteen (19) persons could apply for a marijuana dispensary conditional use permit. Of those nineteen (19) persons, three

¹ 16 CCR, Div. 42, 42 Sections 5400 et seq); B&P Code Sections 26013, 26070.

² 16 CCR 5414.

³ 16 CCR, Div. 42, Sections 5400 through 5414.

⁴ DHSMC Section 17.180.030.

(3) persons withdrew their applications. Sixteen (16) persons remain. Currently, there are a number of the initial dispensary applicants who have been duly issued a marijuana dispensary conditional use permit, by either the Planning Commission or the City Council. Further, there are also a number of dispensary applicants who have yet to apply for (or have been issued) a marijuana dispensary conditional use permit.

NON-STOREFRONT RETAIL

State Regulations - The CCRs⁵ provide that non-storefront retail (Type 9 State License) shall be authorized to conduct retail cannabis sales exclusively by delivery as defined in Business and Professions Code section 26001(p). B&P Section 26001(p) provides “(p) *“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform.*” The CCRs provide several regulations pertaining to a non-storefront retail marijuana establishment, which include but are not limited to regulations pertaining to employees, deliveries facilitated by technology platforms, deliveries to a physical address, delivery vehicles, etc.

DHSMC – The DHSMC does *not* have a definition of, nor does it allow, of a non-storefront retail establishment.

⁵ 16 CCR, Div. 42, Sections 5414 through 5427.