



## CITY COUNCIL STAFF REPORT

DATE: October 5, 2011 PUBLIC HEARING

SUBJECT: CASE 5.1224 – ZONE TEXT AMENDMENT TO CONSOLIDATE CONDITIONS FOR SPECIFIC USES WITHIN A SINGLE CODE SECTION.

FROM: David H. Ready, City Manager

VIA: Craig A. Ewing, AICP, Director of Planning Services

---

### SUMMARY

This proposed Zone Text Amendment would consolidate conditions for specified uses into a single code section. Many of these conditions are located with the Conditional Use Permit section, but others are scattered throughout the Code. This Zone Text Amendment will establish a new section in the Code called, "Conditions for Specific Uses" and consolidate from elsewhere in the Code those mandatory standards and conditions. A more streamlined and user-friendly code structure would result. No specific changes to the standards or conditions themselves are proposed. A public hearing has been noticed for this item.

### RECOMMENDATION:

1. Open the public hearing and receive public testimony;
2. Waive the reading of the ordinance text in its entirety and read by title only; and
3. Introduce on first reading Ordinance no. \_\_\_\_, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ESTABLISHING ZONING CODE SECTION 93.23.00 'CONDITIONS FOR SPECIFIC USES' AND CONSOLIDATING VARIOUS SUBSECTIONS OF THE PALM SPRINGS ZONING CODE RELATING TO CONDITIONS FOR SPECIFIC USES INTO SECTION 93.23.00."

### PREVIOUS ACTIONS:

On April 9, 2009, the Planning Commission initiated a Zone Text Amendment to consolidate various code sections relating to Conditions for Specific Uses into one code section.

ITEM NO. 16

On September 8, 2010, the Planning Commission conducted a public hearing and considered a draft ordinance. At that hearing, the Commission voted 6-0-1 (Munger absent) to recommend approval of the draft ordinance to City Council.

### ANALYSIS:

The Zoning Code establishes zone districts and provides a list of uses for each zone, including those permitted “by right of zone”, those requiring a Land Use Permit and those subject to approval of a Conditional Use Permit. For most uses requiring a CUP, development standards are provided for each zone and then conditions are developed for each CUP to ensure harmonious development. Certain uses, however, are identified by the City as complex, unique, or potentially harmful. Regardless of location, therefore, these uses require additional development standards and conditions to assure compatibility with the community. This amendment proposes a new section within Chapter 93 “*General Conditions*” of the Zoning Code in order to consolidate the standards and conditions for these uses.

The conditions for several specific uses are currently located in the Conditional Use Permit Section (94.02.00) under the heading “94.02.00 (H) *Conditions for Specific Uses in the NCC Zones and CSC Zone*”. However, these uses may be proposed in many zones. Further, Quarries and Gravel Pits, Auto Wrecking, and Commercial Wind Energy Conversion Systems (WECS) are included in this section yet are not even permitted in the NCC and CSC zones. They are allowed in other zones subject to a CUP, and the heading is a legalistic defect in the Code. Staff has ignored this flaw in administering the regulations and it needs to be corrected.

Staff is proposing a new section entitled “Section 93.23.00 *Conditions for Specific Uses*”. Standards and conditions for specific uses currently scattered throughout the zoning code may be located in this section. Subsections would be arranged as follows:

- 93.23.00      Conditions for Specific Uses.  
(Proposed introductory text:) “*In addition to any conditions required by the underlying zone or imposed through a use permit, the following conditions are required for each of the following Specific Uses to protect the health, safety and general welfare, and to assure the orderly, efficient and harmonious development of these uses in the City.*”
- 93.23.01      Automobile Service Stations (formerly 94.02.00(H, 2))
- 93.23.02      Open Storage Yards for Junk, Auto Wrecking and Other Waste Products (formerly 94.02.00(H, 3))
- 93.23.03      Quarries, Sand Pits or Gravel Pits. (formerly 94.02.00(H, 4))
- 93.23.04      Recreation Vehicle Parks (formerly 94.02.00(H, 5))
- 93.23.05      Shopping Centers (formerly 94.02.00(H, 6))
- 93.23.06      Assisted Living Facilities & Convalescent Homes. (formerly 94.02.00(H, 7))
- 93.23.07      Commercial Wind Energy Conversion Systems. (formerly 94.02.00(H, 8))
- 93.23.08      Antennas (formerly 93.08.00)
- 93.23.09      Fall-out Shelters (formerly 93.12.00 through .04)
- 93.23.10      Child Care Facilities (formerly 93.14.00 through .04)
- 93.23.11      Timeshares, (formerly 93.15.00)

- 93.23.12 Condominium-hotels. (formerly 93.15.10)
- 93.23.13 Video Amusement Uses, (formerly 93.16.00)
- 93.23.14 Accessory Apartments (formerly 93.18.00)
- 93.23.15 Medical Marijuana, (formerly 93.22.00)

This ZTA does not amend or change any of the existing conditions for these specific uses. It simply deletes them from their current locations in the Zoning Code and places them in one section of the Code for easier reference and provides a better framework for the addition of conditions for new Specific Uses in the future. Therefore, Conditions for Specific Uses would remain consistent with the intent of the Zoning Code and the City's General Plan.

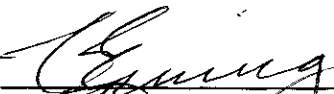
NOTICE


Notice was provided by advertisement in the Desert Sun. No written communications have been received at the writing of this report.

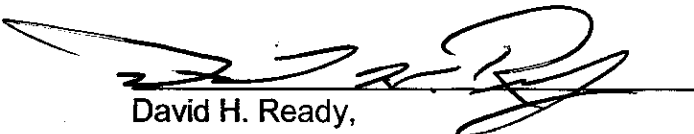
ENVIRONMENTAL:

Staff has evaluated the potential environmental impacts of the proposed Zoning Ordinance text amendment and determined that it is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act. The proposed amendment is to consolidate conditions for specific uses in one zoning code section and does not increase land use intensity in any way.

FISCAL IMPACT: None.

  
\_\_\_\_\_  
Craig A. Ewing, AICP,  
Director of Planning Services

  
\_\_\_\_\_  
Thomas J. Wilson,  
Assistant City Manager, Dev't Svcs

  
\_\_\_\_\_  
David H. Ready,  
City Manager

Attachments:

1. Draft Ordinance including Exhibit "A"; PSZC Section 93.23.00 Consolidated Conditions for Specific Uses
2. Planning Commission Minutes, September 8, 2010 (excerpt)
3. Planning Commission Resolution No. 6216
4. Planning Commission Staff Report, September 8, 2010
5. Minutes from Planning Commission study session of April 8, 2009.
6. Staff memo dated April 8, 2009.
7. PSZO 94.02.00(H) and related subsections with Conditions for Specific Uses

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 94.02.00 (H) "CONDITIONS FOR SPECIFIC USES", 93.08.00, 93.12.00 THROUGH 04, 93.12.00 THROUGH 04, 93.15.00, 93.15.10, 93.18.00, 93.22.00 OF THE PALM SPRINGS ZONING CODE RELATING CONDITIONS FOR SPECIFIC USES,.**

City Attorney's Summary

*This Ordinance consolidates in one Zoning Code section, Conditions for Specific Uses. This ZTA does not amend or change any of the existing conditions for these specific uses. It simply deletes them from their current scattered locations in the Zoning Code and places them in one section for easier reference and to provide a better framework for the addition of conditions for new Specific Uses in the future.*

**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:**

Section 1. The following Sections shall be deleted from the Zoning Code: 94.02.00 (H2 "Automobile Service Stations", H3 "Open Storage Yards for Junk, Auto Wrecking and Other Waste Products", and , H4 "Quarries, Sand Pits and Gravel Pits", H5 "Recreational Vehicle Parks", H6 "Shopping Centers", H7 "Assisted Living Facilities and Convalescent Homes", and H8 "Commercial Wind Energy Conversion Systems") "Conditions for Specific Uses", 93.08.00 "Antennas", 93.12.00 through 04 "Fall-out Shelters, 93.14.00 through 04 "Child Care Facilities", 93.15.00 "Timeshares", 93.15.10 "Condominium Hotels, 93.16.00 "Video Amusement Uses", 93.18.00 "Accessory Apartments", 93.22.00 "Medical Cannabis Collectives and Cooperatives",

Section 2. The following new Zoning Code sections shall be added to the Zoning Code (The full text of these sections are shown in Exhibit "A"): 93.23.00 "Introduction", 93.23.01 "Automobile Service Stations", 93.23.02 "Open Storage Yards for Junk Auto Wrecking and Other Waste Products", 93.23.03 "Quarries, Sand Pits, or Gravel Pits", 93.23.04 "Recreational Vehicle Parks", 93.23.05 "Shopping Centers", 93.23.06 "Assisted Living Facilities & Convalescent Homes", 93.23.07 "Commercial Wind Energy Conversion Systems", 93.23.08 "Antenna", 93.23.09 "Fall-out Shelters", 93.23.10 "Child Care Facilities", 93.23.11 "Timeshares", 93.23.12 "Condominium Hotels", 93.23.13

[Type text]

“Video Amusement Uses”, 93.23.14 “Accessory Apartments”, 93.23.15 “Medical Cannabis Collectives & Cooperatives”.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
DOUGLAS HOLLAND, CITY ATTORNEY



# City of Palm Springs

## EXHIBIT "A" PROPOSED ZONING CODE SECTIONS 93.23.00 THROUGH 93.23.15

- 93.23.00 Conditions for Specific Uses (Introduction).
- 93.23.01 Automobile Service Stations (formerly 94.02.00(H, 2))
- 93.23.02 Open Storage Yards for Junk, Auto Wrecking and Other Waste Products (formerly 94.02.00(H, 3))
- 93.23.03 Quarries, Sand Pits or Gravel Pits. (formerly 94.02.00(H, 4))
- 93.23.04 Recreation Vehicle Parks (formerly 94.02.00(H, 5))
- 93.23.05 Shopping Centers (formerly 94.02.00(H, 6))
- 93.23.06 Assisted Living Facilities & Convalescent Homes. (formerly 94.02.00(H, 7))
- 93.23.07 Commercial Wind Energy Conversion Systems. (formerly 94.02.00(H, 8))
- 93.23.08 Antennas (formerly 93.08.00)
- 93.23.09 Fall-out Shelters (formerly 93.12.00 through .04)
- 93.23.10 Child Care Facilities (formerly 93.14.00 through .04)
- 93.23.11 Timeshares, (formerly 93.15.00)
- 93.23.12 Condominium-hotels. (formerly 93.15.10)
- 93.23.13 Video Amusement Uses, (formerly 93.16.00)
- 93.23.14 Accessory Apartments (formerly 93.18.00)
- 93.23.15 Medical Marijuana, (formerly 93.22.00)

### 93.23.00 Conditions for Specific Uses.

(Proposed introductory text:) *"In addition to any conditions required by the underlying zone or imposed through a use permit, the following conditions are required for each of the Specific Uses listed herein to protect the health, safety and general welfare, and to assure the orderly, efficient and harmonious development of these uses in the City."*

### 93.23.01 Automobile Service Stations (formerly 94.02.00 (H,2))

Automobile Service Stations shall comply with the following provisions in addition to zone provisions and conditions imposed in a conditional use permit. Any amendment to the use of an automobile service station, or accessory use, shall require the previous approval of a new conditional use permit.

#### A. Location.

1. The site shall have two hundred (200) feet of frontage on a major or secondary highway.
2. The site shall not adjoin an existing hotel or residential use at the time of its establishment.
3. The minimum distance from the site to a property containing a school, park, playground, church, museum or similar use shall be two hundred fifty (250) feet. The minimum distance to a residential zone shall be one hundred seventy-five (175) feet.

4. The minimum distance between properties containing automobile service stations shall be five hundred (500) feet, except that service stations that are approved as part of a master plan are exempt from this requirement, and except that two (2) automobile service stations may be permitted at intersections formed by streets both of which have a forecasted average daily volume of twenty-five thousand (25,000) trips according to the adopted general plan or other subsequent city-approved comprehensive traffic study.

B. Site Area.

The minimum net site area shall be twenty thousand (20,000) square feet. Any proposal to expand activity to an existing use on a lot of less than twenty thousand (20,000) square feet shall not be permitted unless the planning commission, pursuant to a new conditional use permit, finds that the site can adequately support the increased use without adversely affecting public streets or surrounding land uses. For purposes of this section, "site" shall mean the same as "lot" or shall mean that portion of a lot that is dedicated solely for the purpose of accommodating the service station.

C. Access.

Access drives shall be at least thirty (30) feet from any street corner measured from the intersection of the ultimate right-of-way lines; the city engineer may require a greater distance based upon street and traffic characteristics. All drives shall be designed to provide vehicle queuing in a manner that minimizes possible hazard or slowing of vehicles on adjacent city streets. Reciprocal access/parking arrangements may be with adjacent properties to enhance public convenience and safety.

D. Number of Pumps.

One (1) gasoline pump shall be permitted per two thousand (2,000) square feet of site area. The number of pumps shall be the same as the number of sale transactions which may be conducted simultaneously at all of the pump stations.

E. Utility Trailers.

Utility trailers, not exceeding ten (10) in number, may be stored for rent on service stations only in the C-2, C-M and M-1 zones; provided, they are screened from view and occupy an area which is in excess of the two thousand (2,000) square feet of site area required per pump.

F. Walls.

A solid masonry wall six (6) feet in height shall be erected on all interior property lines which abut property in a residential zone or wherever else deemed necessary by the planning commission.

G. Paving.

The entire ground area shall be paved except that ten (10) percent of the site area shall be reserved for landscaping.

H. Lighting.

Lighting shall conform to the requirements of Section 93.06.00.

I. Outside Operation.

Operations outside permanent structures shall be limited to the dispensing of gasoline, oil, water, air, changing tires, and attaching and detaching trailers. There shall be no outside storage or display of tires, oil or other products and accessories. The sale of liquid propane gas (LPG) may be permitted if approved in connection with the conditional use permit and architectural review. After approval of the conditional use permit, the sale of LPG may be permitted if approved in conjunction with a land use permit.

J. Noise.

Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness, and the decibel level measured at property lines shall not exceed street background noise normally occurring at the site location.

K. Minimum Building Area.

The minimum gross floor area for each automobile service station building, not including the canopy area, shall be seven hundred fifty (750) square feet. Accessible public restrooms shall be provided.

L. Accessory Commercial Uses.

Accessory non-automotive commercial uses shall be limited to vending machine sales of soft drinks, coffee and tea, snacks, cigarettes, and maps within a sales area of not greater than twenty-five (25) square feet. Secondary retail sales of food, groceries and sundries, other than those from a vending machine, shall be contained within an indoor retail space of not less than seven hundred fifty (750) square feet, except that existing automobile service stations, at the time of the adoption of this Zoning Code, which convert space for such use are not limited by a minimum area requirement. Display and storage of accessory or secondary non-automotive commercial uses shall be totally within the principal building.

M. Sale of Beer, Wine, Liquor or Other Alcoholic Beverages.

Sales of beer, wine, liquor or other alcoholic beverages from the same location as gasoline and other motor vehicle fuel sales may be permitted under the following conditions:

1. Such sales must be offered only in conjunction with the secondary retail sale of food, groceries and sundries in which not less than fifty (50) percent by value of the retail sales of all products, other than gasoline and other motor vehicle fuels, comprises sales of products other than beer, wine, liquor and other alcoholic beverages.
2. Video recording surveillance cameras shall be used to record all purchases and attempted purchases of alcoholic beverages. Signs shall be posted, one (1) outside the building at or near the gasoline servicing area and another inside the building near the cash registers notifying the public that "all alcoholic beverage transactions are monitored in cooperation with the Palm Springs Police Department." The videotape equipment used shall be such as to record at least twenty-four (24) hours of operation, the tapes shall be maintained for the prior seventy-two (72) hours, and the film shall be made available to any representative of the Palm Springs Police Department within twenty-four (24) hours of a request. The tapes shall be made available for use in evidence against any person who purchased or attempted to purchase alcoholic beverages as well as for use in any court or administrative proceeding regardless of the type of criminal activity or the party or parties involved.

N. Signs.

All signing shall conform to the provisions of Section 93.20.00.



**93.23.02 Open Storage Yards for Junk, Auto Wrecking and Other Waste Products.**  
(formerly 94.02.00 (H,3))

Open storage yards for junk, auto wrecking and other waste products shall comply with the following provisions in addition to zone provisions and conditions imposed in a conditional use permit.

- A. **Site Area.**  
The minimum site area shall be twenty-five thousand (25,000) square feet.
- B. **Location.**  
The minimum distance from the site to a residential zone, school, park, playground, church, museum, or similar use shall be one thousand (1,000) feet.
- C. **Screening.**  
The entire perimeter of a storage site shall be screened with a masonry wall at least six (6) feet in height, except for necessary openings which shall have solid gates.

**93.23.03 Quarries, Sand Pits or Gravel Pits.** (formerly 94.02.00 (H,4))

- A. The application for a conditional use permit for a quarry, sand pit or gravel pit shall include a contour map indicating operating sites, blowsand abatement program, structures and all improvements including the extremities of the proposed quarry. The application shall further submit a report in detail indicating the method of quarry operation, which report shall include an outline of the sequence and pattern of mineral excavation. This shall include the number, spacing, depth of drill holes, and amount of explosives to be used per hole. The maximum size of quarry face for mining and blasting purposes shall be twenty-five (25) feet.
  - 1. The planning commission, upon receipt of this plan, may, at its discretion, require at the operator's expense a geophysical survey to determine the seismic effects of the proposed blasting pattern, which may be the basis for limiting the size of blast.
- B. Quarries, sand pits and gravel pits shall comply with the following provisions in addition to zone provisions and conditions imposed in a conditional use permit:
  - 1. No rock or mineral crushing or treatment of minerals shall be permitted.
  - 2. Accessory building shall be used solely for the storage and maintenance of equipment and operating offices.
  - 3. No building may be closer than one thousand (1,000) feet from any approved public street or highway.
  - 4. Quarry operations shall not be closer than one-half (½) mile from any residential zone and not closer than one hundred (100) feet to any property line.
  - 5. The hours of operation shall be limited to the hours of eight a.m. to six p.m., Monday through Friday, excluding national holidays.
  - 6. Removal of minerals pursuant to this section shall be conducted so as to limit the emanation of smoke and dust as provided by the standards set forth in Section 92.16.04(E) and (F).
  - 7. The noise from any operation shall not exceed the standards set forth in the noise ordinance.

8. All drill holes shall be tamped to minimize the sonic effects of blasts. No charges may be exposed to the air during detonation.
  9. All roads from the site to any public street or highway shall be paved with suitable asphaltic material on a prepared base as per specifications of the director of public works to a width of twenty-eight (28) feet to prevent the emanation of dust.
  10. During the operation of the quarry, sand or gravel pit, a blowsand abatement program shall be in effect to protect off-site properties.
  11. Upon completion of all operations, or operations at any one point, all excavations as well as mounds of waste material which may be seen from any public street or highway shall be graded and the premises restored as near as possible to original conditions and contours.
- C. All operations shall be covered by public liability and property damage insurance as required by the city of Palm Springs.
- D. Upon cessation of operations for a period of six (6) months, this permit shall terminate and all structures and equipment shall be removed.
- E. **Bond Requirement.**  
To guarantee compliance with conditions set forth in this section and in the conditional use permit, the operator shall post and maintain with the city of Palm Springs, a performance bond of not less than one million dollars (\$1,000,000.00), conditioned that the city may enter and restore the premises and recover all its costs. Performance bonds shall contain a clause to allow an annual inflation cost to be added to the original bond amount.

#### **93.23.04 Recreation Vehicle Park.** (formerly 94.02.00 (H,5))

RV parks or resorts are intended to provide for the accommodation of visitors to Palm Springs who travel to the community by recreational vehicle and reside in that vehicle for a period not to exceed one hundred eighty (180) days. This use is also intended to create a safe, healthful and beneficial environment for both occupants of the RV parks and to protect the character and integrity of surrounding uses. No RV use shall be located within any "N" zone.

- A. **Uses Permitted.**  
Buildings, structures and land shall be used and building and structures shall hereafter be erected, altered or enlarged only for the following uses. All uses shall be subject to the standards contained herein or approved by the planning commission and city council.
1. Recreational vehicles as defined in Section 91.00.09(A);
  2. Incidental uses operated primarily for the convenience of RV park occupants. There shall be no separate sign advertising such uses visible from the street and said use shall be located not less than one hundred (100) feet from any street. Incidental uses permitted shall include only the following:
    - (a) Barber and beauty shops,
    - (b) Dwellings for owner and/or managers and staff,
    - (c) Food markets,
    - (d) Golf courses,
    - (e) Indoor and outdoor recreational facilities,
    - (f) Laundry,

- (g) Office,
  - (h) Personal services including showers and restrooms,
  - (i) Restaurants, including dancing and alcoholic beverage sales,
  - (j) Sales of items related to maintenance and operation of recreational vehicles;
3. Storage of unoccupied recreational vehicles. Storage areas not to exceed five (5) percent of the gross area of the RV park. Storage areas shall be screened on all sides;
  4. Accessory uses customarily incidental to the above uses and located on the same lot therewith.

**B. Similar Uses Permitted by Commission Determination.**

The commission may, by resolution of record, permit any other uses which it may determine to be similar to those listed above, operated exclusively for the convenience of RV park residents, and not more obnoxious or detrimental to the public health, safety and welfare, or to other uses permitted in the park, as provided in Section 94.01.00. All uses shall be subject to the property development standards contained herein.

**C. Uses Prohibited.**

All uses and structures not permitted in Section 93.23.04(A) are deemed to be specifically prohibited. The following general classification of uses shall not be permitted in RV parks.

1. Recreational vehicle repair service,
2. Commercial uses except those described in Section 93.23.04(A) and approved by the planning commission on the development plans.

**D. Property Development Standards for RV Parks.**

The following property development standards shall apply for all RV Zones:

1. Size of RV Park.  
No parcel of land containing less than twenty (20) acres may be used for the purposes permitted in the RV zone.
2. Density.  
A minimum of two thousand four hundred (2,400) square feet of lot area shall be provided for each recreational vehicle in the RV park. This space ratio shall include access roads, automobile parking, accessory building space and recreational areas. Each RV space shall be equal to one (1) dwelling unit.
3. Building Height.  
Buildings and structures erected in this zone shall not exceed fifteen (15) feet at minimum setback requirements, or a three (3) to one (1) setback shall be provided for structures exceeding fifteen (15) feet to a maximum of twenty-four (24) feet.
4. Yards.
  - (a) General Provisions.
    - (i) Yards shall be measured perpendicular to the property line or from a future street or highway line, as shown on the general plan or setback ordinance.
    - (ii) Yard provisions shall apply to both main and accessory structures.
  - (b) Front Yard.  
Each recreational vehicle park shall have a front yard of forty (40) feet extending for the full width of the parcel devoted to such use.
  - (c) Side and Rear Yards.

Each recreational vehicle park shall have rear and side yards of not less than fifteen (15) feet, except where a side or rear yard abuts a street, the yard shall be not less than forty (40) feet. Where development sides or rears on existing single-family developments (R-1 zones) a one hundred (100) foot setback shall be provided for structures exceeding one story.

**E. Walls, Fences and Landscaping.**

1. Each recreational vehicle park shall be entirely enclosed at its exterior boundaries as follows:
  - (a) An eight (8) foot high decorative masonry wall shall be required on the perimeter of each RV park. For front yards, the wall shall be constructed within the forty (40) foot required setback, no closer than twenty-five (25) feet from a property line.
  - (b) Peripheral landscaping of not less than six (6) feet in height shall be provided adjacent to all walls.
  - (c) All required yards to be landscaped and maintained.
2. Permitted Fences and Walls.  
The provisions of Section 93.02.00 shall apply.

**F. Open Space.**

A minimum of forty-five (45) percent of the site area shall be developed as usable landscaped open space and outdoor living and recreation area.

**G. Signs.**

The provisions of Section 93.20.00 shall apply.

**H. Access.**

The provisions of Section 93.05.00 shall apply. Principal access to a recreational vehicle park shall be from a secondary or major thoroughfare. Emergency access may be permitted to any street.

**I. Off-Street Loading and Trash Areas.**

1. The provisions of Section 93.07.00 shall apply.
2. One (1) trash enclosure should be provided for each thirty (30) spaces or as approved by the planning commission.

**J. Antennas.**

The provisions of Section 93.08.00 shall apply.

**K. Property Development Standards within the Recreational Vehicle Park.**

1. Size of Space.  
The minimum size of each RV space shall be one thousand two hundred fifty (1,250) square feet.
2. Individual Space Improvements.
  - (a) Each recreational vehicle space shall be provided with a parking area paved with asphalt concrete (three (3) inches in thickness) or Portland cement concrete (six (6) inches in thickness) for parking of vehicles.

- (b) Each recreational vehicle space shall be provided with a one hundred twenty (120) square feet Portland cement concrete, brick or other decorative paving patio.
  - (c) All areas not in hard surface shall be landscaped unless otherwise approved by the planning commission.
- 3. Distance between Recreational Vehicles and Structures.
  - (a) There shall be not less than ten (10) feet between recreational vehicles.
  - (b) Where recreational vehicle spaces are located near any permitted building, the minimum space between the recreational vehicle and such building shall be fifteen (15) feet.
- 4. Electrical Service.
  - (a) Each recreational vehicle space shall be provided with electrical service.
  - (b) All electrical, telephone and television services within the recreational vehicle park shall be underground.
- 5. Water Service.

Each recreational vehicle space shall be provided with a fresh water connection.
- 6. Sewer Service.

Each recreational vehicle space (except tent areas) shall be provided with a connection to an approved sanitary sewer system.
- 7. Movement of Recreational Vehicles.

Wheels or similar devices shall not be removed from recreational vehicles, nor shall any fixture be added which will prevent the recreational vehicle from being moved under its own power or by a passenger vehicle within a one (1) hour period.
- 8. Accessory Structures.

No accessory structure shall be constructed as a permanent part of the recreational vehicle.
- 9. Access Roads.
  - (a) All access roads shall be paved with asphalt concrete with a minimum thickness of three (3) inches or Portland cement concrete with a thickness of six (6) inches.
  - (b) Access roads within the recreational vehicle park shall be paved to a width of not less than twenty-five (25) feet and, if paved to a width of less than thirty-two (32) feet, shall not be used for automobile parking at any time.
  - (c) One-way road systems may reduce the street cross section if approved by the planning commission.
  - (d) Where access roads are paved to a width of thirty-two (32) feet or more, the off-street parking provisions contained in this section are waived for the number of spaces provided and marked off in the parking lane on the street. Each marked space shall conform to the parking standards defined in this Zoning Code.
  - (e) Portland cement concrete pavement edge gutters or center gutters shall be installed on all access road(s) pursuant to approved grading and drainage plans.
  - (f) Each recreational vehicle space shall front on an access road.
- 10. Lighting.
  - (a) Lighting shall be indirect, hooded and positioned so as to reflect onto the access roads and away from the recreational vehicle spaces and adjoining property.

- (b) Light standards shall be a maximum of eighteen (18) feet in height. The height of all light standards shall be measured from the elevation of the adjoining pavement of the access roads.

11. Drainage.

- (a) The park shall be so graded that there will be no depressions in which surface water will accumulate.
- (b) The ground shall be sloped to provide storm drainage run-off by means of surface or subsurface drainage structures.
- (c) The area beneath the recreational vehicle shall be sloped to provide drainage from beneath the recreational vehicle to an outside surface drainage structure.

12. Off-Street Parking.

- (a) Each individual RV space shall provide one (1) parking space in addition to the RV space itself. All parking shall be provided in accordance with Section 93.06.00 (Off-street parking).
- (b) One (1) visitor parking space shall be provided for every ten (10) recreational vehicle spaces in addition to parking required in subsection K,12(a) of this section.
- (c) Parking for accessory uses shall comply with Section 93.06.00(D).

13. Park and Recreational Space.

There shall be provided a recreational area(s) having a minimum area of two hundred (200) square feet for each recreational vehicle space. Such spaces shall be consolidated into usable areas within minimum dimensions of not less than one hundred (100) feet. Open space, pool areas, game courts, etc., shall be considered recreation area.

14. Management.

- (a) A caretaker responsible for the maintenance of the park shall reside on the premises of the park at all times when the park is occupied.
- (b) Management Storage.  
All storage of supplies, maintenance, materials and equipment shall be provided within a storage area. Such storage care shall be located outside any required yard and completely screened from adjoining properties with a decorative masonry wall and landscape materials ten (10) feet in height.
- (c) Length of Occupancy.  
The intent of the recreational vehicle park is to allow standards for the transient occupancy of recreational vehicles as defined in this Zoning Code. It is not the intent of the recreational vehicle park to circumvent standards for a residential mobilehome space. The period of time that a recreational vehicle shall occupy a recreational vehicle park as defined by this Zoning Code, shall not exceed one hundred eighty (180) days.

15. Sanitary Facilities:

- (a) One (1) toilet, lavatory and shower for each sex for every twenty-five (25) recreational vehicle spaces or fraction thereof shall be provided within an enclosed building.
- (b) Toilets shall be of a water flushing type.
- (c) Hot and cold running water shall be provided for lavatories and showers.
- (d) Toilet, lavatory and shower facilities shall be located not more than three hundred (300) feet from any recreational vehicle space.
- (e) Laundry Facilities.

One (1) washing machine and dryer shall be provided for every fifty (50) recreational vehicle spaces or fraction thereof.

(f) Trailer Sanitation Station.

A sanitation station shall be provided to receive the discharge from sewage holding tanks of self-contained recreational vehicles.

(i) The sanitation station shall be constructed in accordance with specifications set forth in Chapter 5 (Mobilehome Parks, Special Occupancy Trailer Parks and Campgrounds), Title 25 (Housing and Planning & Building), of the California Administrative Code.

(ii) The sanitation station shall be located within the park in such a manner so as not to be obnoxious to the tenants of the park or and shall be set back one hundred (100) feet from adjoining residential development.

(iii) These requirements may be modified by the planning commission should each recreational vehicle space be provided with a sewer connection

16. Recreational Vehicle Storage Yard.

Recreational vehicle storage yards may be provided as an accessory use to a recreational vehicle park, they shall conform to the following standards:

(a) No storage yard shall be located in a required setback area.

(b) The area shall be graded and the surface paved with asphalt concrete with a minimum thickness of three (3) inches or other material approved by the planning commission.

(c) The storage yard shall be enclosed by a six (6) foot high solid masonry wall or a six (6) foot high chain link fence and landscaped to shield the interior of the area and the chain link fence from view on all sides. The wall or fence shall be broken only by a solid gate.

(d) Additional landscaping may be required within the storage yard.

(e) No sewer connection other than a standard trailer sanitation station shall be permitted within the storage yard.

(f) Electrical connections may be provided for maintaining the air conditioners in the recreational vehicles.

(g) RVs in the storage yard shall not be used for living purposes.

**93.23.05 Shopping Centers.** (formerly 94.02.00 (H,6))

A. Application.

A conditional use permit application for a shopping center shall include an application as described in this section.

B. Approval.

Approval of the CUP request by the city council shall establish a two (2) year time limit for the CUP.

C. Time Limits.

Requests for extensions of time shall be made to the planning commission. The applicant shall state the reasons for failure to comply with the timing conditions set forth in this section, and shall demonstrate his ability to proceed with the development if the extension

is granted. Upon recommendation by the planning commission, the city council may grant an extension of time.

**D. Bonds.**

The city council may require the posting of performance bonds to guarantee the installation of all site improvements which may include streets, paving, curbs, parking areas, landscaping, walls, lighting, sidewalks, sewers and utilities within the period of time specified by the conditional use permit. Such bond is to be posted prior to the issuance of the first building permit. Bonds shall contain a clause to allow an annual inflation cost to be added to the original bond amount.

**93.23.06 Assisted Living Facilities and Convalescent Homes (formerly 94.02.00 (H,7))**

Assisted living facilities and convalescent homes shall comply with the following zone provisions and conditions imposed in a conditional use permit:

**A. Density.**

The number of beds permitted in a facility shall be determined by multiplying the number of units permitted under the applicable zoning/general plan standards by the average household size for the city of Palm Springs according to the latest census figures.

**B. Parking.**

The number of off-street parking spaces shall be no less than the following, unless otherwise permitted by the planning commission:

1. Independent Living Facilities.  
Three-quarter (3/4) primary space per unit, plus one (1) designated guest space for each five (5) units.
2. Congregate Care, Assisted Living and Board and Care Facilities.  
One-half (1/2) primary space per bedroom, plus one (1) space for each three (3) employees.
3. Intermediate Care and Skilled Nursing Facilities.  
One-quarter (1/4) primary space per bedroom, plus one (1) space for each three (3) employees.

**C. Annual Review.**

The operator of the facility shall submit to the city of Palm Springs, on an annual basis, a copy of the facility's current state license. The city may require review of the CUP at the time of such review to determine continued compliance with the conditions.

**93.23.07 Commercial Wind Energy Conversion Systems (WECS). (formerly 94.02.00 (H,8))**

**A. Purposes.**

A conditional use permit for a commercial wind energy conversion system (WECS) is intended to regulate and provide for the installation of commercial WECS which are made feasible by the strong prevailing winds within certain areas of the city designated by the general plan. The conditions of the permit are meant to ensure that a safe and beneficial environment, for both the WECS development and the adjacent properties, is provided.



**B. Applicability.**

Commercial WECS or WECS arrays, and all other uses listed in subsection (C) of this section, are permitted in the following zone classifications; provided, the general plan designates the lot within the wind energy overlay and a conditional use permit is granted pursuant to this section:

1. Watercourse zone (W);
2. Open land zone (O-5);
3. Energy industrial zone (E-I);
4. Manufacturing zone (M-2).

**C. Uses Permitted With a Conditional Use Permit.**

1. Commercial WECS and WECS arrays with no limit as to rated power output;
2. Meteorological towers under two hundred (200) feet high;
3. Accessory Uses.

Parcels may be used for accessory uses; provided, such uses are established on the same parcel of land, are incidental or supplemental, to a permitted use, and do not substantially alter the character of any permitted use. Accessory uses include, but are not limited to:

- (a) Storage of trucks and other vehicles;
- (b) Storage of materials, inventory, tools and machinery;
- (c) Offices and maintenance shop structures;
- (d) Caretaker dwellings; provided, no compensation is received for the use of any such dwelling and the size of such dwelling is no greater than two thousand (2000) square feet;
- (e) Overhead and underground transmission and communications lines and facilities, including transformers, substations, control rooms, switching facilities and microwave towers;
- (f) Structures necessary for the conservation and development of water resources, such as dams, pipelines and pumping facilities, and aquaculture;
- (g) Cogeneration facilities;
- (h) Solar collectors and photovoltaic panels;
- (i) Energy storage facilities.

**D. Application.**

Every application for a conditional use permit shall be made in writing to the planning commission on the forms provided by the department of planning and building and shall be accompanied by the filing fee set forth by city council resolution. Applications shall be reviewed by the planning commission for conformance with this section. The application shall include the following information:

1. Name and address of the applicant;
2. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application;
3. A plot plan and development plan drawn in sufficient detail to clearly describe the following:
  - (a) Physical dimensions of the property,
  - (b) Location and physical dimensions of existing and proposed structures,
  - (c) Location of electrical lines and facilities,
  - (d) Existing topography,

- (e) Proposed grading and removal of natural vegetation,
  - (f) Wind characteristics and dominant wind direction at the site. Dominant wind direction is the direction from which fifty (50) percent or more of the energy contained in the wind flows,
  - (g) Setbacks,
  - (h) Circulation,
  - (i) Ingress and egress,
  - (j) Utilization of the property under the requested permit;
4. Utility interconnection data and a copy of written notification to the utility of the proposed interconnection;
  5. A photograph or detailed drawing of each model of WECS including the tower and foundation; and one (1) or more detailed perspective drawings showing the site fully-developed with all proposed WECS and accessory structures;
  6. Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of each model of WECS;
  7. Specific information on the type, height, material and safety of each model of tower;
  8. A site preparation and installation schedule;
  9. A geotechnical report;
  10. A vicinity map or aerial photograph describing the location, including distances from existing and proposed WECS, of all residences and other structures which are within one (1) mile of any property proposed for WECS installation;
  11. Drawings which show phase spacings, configurations and grounding practices of any proposed electrical distribution lines;
  12. An application including any WECS which is located within twenty thousand (20,000) feet of the runway of any airport shall be accompanied by a copy of written notification to the Federal Aviation Administration;
  13. If the application includes any WECS which requires the approval of a height limit greater than that allowed in Subsection (E,1,a) (300 feet) of this section, a variance application, pursuant to Section 94.06.00 of the Zoning Code, shall be filed concurrently;
  14. An application including any WECS with a rated power output of one hundred (100) kw or larger which is located within a state-designated Alquist-Priolo Act Special Study Zone shall be accompanied by a detailed fault hazard report prepared by a California registered geologist which shall address the potential for rotor tower failure calculated for the vertical and horizontal accelerations reasonably expected on the site in the event of a design earthquake;
  15. An application including any WECS which is located within two (2) miles of any microwave communications link shall be accompanied by a copy of a written notification to the operator of the link or evidence that no WECS are located in the microwave path;
  16. An application including any WECS which is located within a 100-year floodplain area, as such flood hazard areas are shown on the zoning map, shall be accompanied by a detailed report which shall address the potential for wind erosion, water erosion, sedimentation and flooding, and such report(s) shall propose mitigation measures for such impacts to the extent that such impacts are caused by the proposed WECS;
  17. Such additional building information as shall be reasonably required by the director of planning and building.

E. Standard and Development Criteria.

1. Height Limits.

- (a) No commercial WECS shall exceed three hundred (300) feet in height, measured at the top of the blade in the “twelve o’clock position.” Where unusual conditions warrant, a lower height limit may be imposed as a condition of a conditional use permit.
- (b) No other building or structure shall exceed thirty (30) feet in height, except for meteorological towers permitted by Subsection (C,2) of this section.

2. Setbacks.

All commercial WECS shall meet these general setback requirements as well as the other setbacks set forth below.

- (a) No building or structure shall be located closer than fifty (50) feet from any lot line.
- (b) No WECS shall be located closer than one thousand two hundred (1,200) feet from any residence, hotel, hospital, school, library or convalescent home unless the owner of such structure waives, in writing, the setback requirement.
- (c) Notwithstanding the one thousand two hundred (1,200) foot setback requirement specified in subsection (E,2) (“Setbacks”) of this section, a lesser setback may be permitted where due to factors of topography or the characteristics of the proposed WECS project, the approving entity finds that the noise, aesthetic or other environmental impacts of the project on adjacent properties will not be any more significant than if the one thousand two hundred (1,200) foot setback were applied. In the case of the replacement of WECS, pursuant to subsection (F,3) (“Replacement”) of this section, the standard for determining whether a reduction shall be approved is whether the replacement WECS will have a substantially reduced cumulative impact on surrounding property, as compared to the existing project, and whether adhering to the one thousand two hundred (1,200) foot setback will be an unreasonable economic hardship to the applicant. Wherever a setback reduction is proposed pursuant to this subsection, the setback reduction shall be included in all notices, and, if the WECS permit shall specifically state the required setback.

3. Safety Setbacks.

- (a) No commercial WECS shall be located where the center of the tower is within a distance of 1.25 times the total WECS height from any above-ground electrical transmission line of more than twelve (12) kV.
- (b) No commercial WECS shall be located where the center of the tower is within a distance of 1.25 times the total WECS height from any public highway or road, railroad or off-site building. The setback herein specified shall be measured from the boundary of the public right-of-way or railroad right-of-way.
- (c) No commercial WECS shall be located where the center of the tower is within a distance of 1.25 times the total WECS height from any lot line. No commercial WECS shall be located where the center of the tower is within two hundred (200) feet from any lot line of a lot which contains a dwelling.
- (d) Notwithstanding the provisions of subsections (E,3,b) and (E,3,c) (“Safety Setbacks”) of this section, the setbacks therein specified may be reduced to less than 1.25 times the total WECS height if the planning commission determines that the topography of, or other conditions related to, the adjacent

property or right-of-way eliminates or substantially reduces the potential safety hazards. Whenever a setback reduction is proposed pursuant to this subsection, the setback reduction shall be included in all notices regarding the conditional use permit, and, if granted, the conditional use permit shall specifically state the required setback.

4. Wind Access Setbacks.
  - (a) No commercial WECS shall be located where the center of the tower is within a distance of five (5) rotor diameters from a lot line that is perpendicular to and downwind of, or within forty-five (45) degrees of perpendicular to and downwind of, the dominant wind direction.
  - (b) Notwithstanding the provisions of subsection (4,a) (Wind access setbacks) of this section, such setbacks from lot lines do not apply if the application is accompanied by a legally enforceable agreement or waiver for a period of twenty-five (25) years or the life of the permit that the adjacent landowner agrees to the elimination of the setback, or if the planning commission determines that the characteristics of the downwind property eliminate the ability to develop said downwind property with commercial WECS.
5. Scenic Setbacks.
  - (a) No commercial WECS shall be located where the center of the tower is within one thousand three hundred fifteen (1,315) feet (one-quarter (¼) mile) of State Highway 62 and of that portion of Interstate 10 between State Highway 62 and the Whitewater River, commonly known as the Whitewater Grade.
  - (b) No commercial WECS shall be located where the center of the tower is within five hundred (500) feet of Indian Canyon Drive/Indian Avenue.
  - (c) No commercial WECS shall be located where the center of the tower is within five hundred (500) feet of Interstate 10, except as specified in subsection (5,a) (“Scenic Setbacks”) of this section.
  - (d) No commercial WECS shall be located where the center of the tower is within three thousand four hundred seventy-two (3,472) feet (two-thirds (2/3) mile) of State Highway 111.
  - (e) No commercial WECS shall be permitted south of State Highway 111.
  - (f) No commercial WECS shall be located where the center of the tower is within 1.25 times the total WECS height from Dillon Road.
  - (g) The setbacks specified in the subsections above shall be measured from the nearest boundary of the public right-of-way.
  - (h) Notwithstanding the provisions of the subsections (5) (“Scenic Setbacks”) of this section, the setbacks therein specified may be reduced if the planning commission determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value. Whenever a setback reduction is proposed pursuant to this subsection, the setback reduction shall be included in all notices regarding the conditional use permit, and, if granted, the conditional use permit shall specifically state the required setback.
6. Safety and Security.
  - (a) Fencing, or other appropriate measures, shall be required to prevent unauthorized access to the WECS or WECS array.
  - (b) Guy wires shall be distinctly marked.

- (c) Signs in English and Spanish warning of the electrical and other hazards associated with the WECS shall be posted at the base of each tower and at reasonable intervals on fences or barriers.
  - (d) Horizontal-axis WECS.  
The lowest extension of the rotor of a horizontal-axis WECS shall be at least twenty-five (25) feet from the ground.
  - (e) Vertical-axis WECS.  
A fence or other barrier shall be erected around a vertical-axis WECS whose rotors are less than fifteen (15) feet from the ground.
7. Seismic Safety.
- (a) All WECS shall comply with the requirements of the applicable seismic zone of the Uniform Building Code or with the seismic design recommendation in an approved geotechnical report on the project.
  - (b) Control facilities for commercial WECS or WECS arrays shall not be located within six hundred sixty (660) feet of any fault within a state-designated Alquist-Priolo Act Special Studies Zone.
8. Fire Protection.
- Upon recommendation of the city fire department, commercial WECS and WECS arrays may include fire control and prevention measures including, but not limited to, the following:
- (a) Fireproof or fire-resistant building materials;
  - (b) Buffers of fire-retardant landscaping;
  - (c) An automatic fire-extinguishing system;
  - (d) Fire breaks.
9. Interconnection and Electrical Distribution Facilities.
- Interconnection shall conform to procedures and standards established by the California Public Utilities Commission.
10. Unsafe and Inoperable WECS.
- (a) Whenever any existing commercial WECS are modified, or any new commercial WECS are installed, any commercial WECS on the site which are unsafe, inoperable or abandoned or for which the permit has expired shall be removed by the owner or brought into compliance with the provisions of this section. All safety hazards created by the installation and operation of the WECS shall be eliminated. Whenever the operation of any WECS is eliminated, the site shall be restored to its condition prior to installation. A bond, in an amount approved by the director of planning and building, or other appropriate form of security, in a form approved by the city attorney, may be required to cover the cost of removal and site restoration.
  - (b) Every unsafe or inoperable commercial WECS and every commercial WECS which has not generated power for twelve (12) consecutive months is declared to be a public nuisance which shall be abated by repair, rehabilitation, demolition or removal. The appropriate abatement method shall be determined by the director of planning and building based upon the cost of abatement and the degree to which the WECS will meet the requirements of this section following abatement. A commercial WECS which has not generated power for twelve (12) consecutive months shall not be considered a public nuisance; provided, the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and that a good faith effort is being made to return the WECS to service at the earliest practical date. If a

commercial WECS does not deliver power as a result of a curtailment whereby power is not accepted by the contracted utility, the period of curtailment shall be added to the minimum period defined above.

11. Interference with Navigational Systems.  
No commercial WECS shall be installed which do not comply with Federal Aviation Administration regulations for siting structures near an airport or VORTAC installation.
12. Site Disruption.  
Prior to the issuance of building permits for a commercial WECS development, all areas where significant site disruption is proposed shall be temporarily marked off. All construction activities shall be limited to the areas marked off.
13. Certification.
  - (a) The foundation, tower and compatibility of the tower with the rotor and rotor-related equipment shall be certified in writing by a structural engineer registered in California that they conform with good engineering practices and comply with the appropriate provisions of the Uniform Building Code that have been adopted by the city.
  - (b) The electrical system shall be certified in writing by an electrical engineer, registered in California, that it conforms with good engineering practices and complies with appropriate provisions of the National Electrical Code that have been adopted by the city.
  - (c) The rotor overspeed control system shall be certified in writing by a mechanical engineer, registered in any state, that it conforms to good engineering practices.
14. Noise.  
A commercial WECS or WECS array shall not be operated inconsistent with the provisions of Chapter 11.74, (Noise ordinance) of the Palm Springs Municipal Code.
15. Electrical Distribution Lines.
  - (a) To the extent economically prudent, as determined by the planning commission, electrical distribution lines on the project site shall be undergrounded up to the low voltage side of the step-up transformer or to the utility interface point of an on-site substation.
  - (b) Any electrical distribution line of less than thirty-four (34) kV, not subject to the jurisdiction of the California Public Utilities Commission, which is located within one (1) mile of State Highways 62 and 111, or within one (1) mile of the portion of Interstate 10 commonly known as the Whitewater Grade (between State Highway 62 and the Whitewater River) shall be installed underground if such installation is feasible, as determined by the director of planning and building.
  - (c) Electrical distribution lines shall be governed by the latest edition of "Suggested Practices for Raptor Protection on Powerlines" on file with the Bureau of Land Management. Use of this information should be made to design the proposed facilities with proper grounding, phase spacing and configuration such that it will prevent, to the best of the design engineer's ability, the electrocution of raptors. The use of designs other than those included in "Suggested Practices" that are, in the opinion of the director of planning and building, raptor safe, shall be permitted in public rights-of-way. The cost of such alternate designs shall be at the applicant's expense.
16. Monitoring.

- (a) Upon reasonable notice, and subject to the applicant's safety and security procedures, city officials or their designated representatives may enter a lot on which a conditional use permit has been granted for the purpose of monitoring noise and other environmental impacts. Twenty-four (24) hours advance notice shall be deemed reasonable notice.
- (b) The holder of a conditional use permit shall report to the city department of planning and building all dead birds found within five hundred (500) feet of a WECS and all sightings of the Coachella Valley Fringe-Toed Lizard on the WECS site.
- (c) The holder of a conditional use permit may be required to submit periodic monitoring reports containing data on the operations and environmental impacts.
- (d) A toll-free telephone number shall be maintained for each commercial WECS project and shall be distributed to surrounding property owners to facilitate the reporting of noise irregularities and equipment malfunctions.

17. Time-Related Conditions.

Where no operating data for the proposed turbines is available, the granting of a conditional use permit may be conditioned upon the installation and operation of one (1) or more WECS for a period not to exceed six (6) months in order to demonstrate performance characteristics of the WECS. If such a monitoring condition is imposed, the permit shall specify the standards which must be met in order to continue development. If a standard is not being met at the expiration of the required monitoring period, the applicant and the city may agree to an extension. The time within which the permit must be used shall be extended for the period of required monitoring.

18. Development Impacts.

A one-time or periodic fee and a requirement to provide public works or services may be imposed as a condition of a conditional use permit. Such exactions must be related to the public need created by the wind energy development. The purposes for which the permit exaction may be used include, but are not limited to, providing roads required by the wind development and establishing and operating a monitoring system.

19. Signs.

No advertising sign or logo shall be placed or painted on any commercial WECS. Unless otherwise approved by the planning commission, the conditional use permit may permit the placement of no more than one (1) project identification sign relating to the development on the project site, but no such sign shall exceed fifty (50) square feet in surface area or eight (8) feet in height.

20. Color and Finish of WECS.

All commercial WECS shall be either light environmental colors (such as off-white, gray, beige or tan) or darker fully-saturated colors (such as dark blue or green, maroon or rust red) or galvanized. All commercial WECS shall have a matte or galvanized finish unless the director of planning determines that such finish adversely affects the performance of the WECS or other good cause is shown to permit any other finish.

21. Contingent Approval.

A commercial WECS may be granted subject to necessary approvals from the Federal Aviation Administration or other approving authorities.

22. General Conditions.

The city may impose conditions on the granting of a conditional use permit in order to achieve the purposes of this Zoning Code and the general plan and to protect the health, safety or general welfare of the community.

23. Notification.

Upon approval of a conditional use permit, the city shall provide written notice to the California Public Utilities Commission, the California Energy Commission and the concerned utility.

F. Use of Permit.

1. Any conditional use permit that is granted shall be used within two (2) years from the effective date thereof or within such additional time as may be set in the conditions or approval, which shall not exceed a total of five (5) years; otherwise, the permit shall be null and void. Notwithstanding the foregoing, if a permit is required to be used within less than five (5) years, the permittee may, prior to its expiration, request an extension of time in which to use the permit. An extension of time may be granted by the commission upon a determination that valid reason exists for permittee not using the permit within the required period of time. If an extension is granted, the total time allowed for use of the permit shall not exceed a period of five (5) years, calculated from the effective date of the issuance of the permit. The term "use" shall mean the beginning of substantial construction of the use that is authorized, which construction must thereafter be pursued diligently to completion.
2. Life of Permit.  
A conditional use permit shall be valid for the useful life of the WECS included in the permit. The life of the permit shall be determined at the time of approval and shall not exceed thirty (30) years.
3. Replacement.
  - (a) Individual commercial WECS which have been installed pursuant to a conditional use, or other WECS, permit may be replaced with approval of a land use permit provided the replacement WECS meets the standards of subsection (E) on Standards and Development Criteria of this section. Such determination shall be made by the director of planning and building according to Section 94.02.01 (Land use permits).
  - (b) WECS arrays which have been installed pursuant to a conditional use, or other WECS, permit may be replaced with approval of a land use permit; provided, two (2) or more individual WECS shall be removed for each replacement WECS installed and the resultant array meets the standards of subsection "E" ("Standard and Development Criteria") of this section. Such determination shall be made by the director of planning and building according to Section 94.02.01 (Land use permits).
  - (c) WECS replacements not meeting the criteria above require approval of a subsequent conditional use permit.
  - (d) Any WECS on which the cost of alteration, restoration, repair or rebuilding in a twelve (12) month period exceeds seventy-five (75) percent of the replacement cost and shall be subject to subsections (E,3,a) through (E,3,c) ("Safety Setbacks") of this section.
  - (e) Existing WECS, upon adoption of this section, shall be considered to hold a valid conditional use permit under the conditions by which such WECS was originally approved; such WECS shall not be considered nonconforming by virtue of the provisions of this section.



G. Revocation or Voiding of Conditional Use Permit.

1. The council, with or without a recommendation from the planning commission, may, after notice and public hearing, revoke any conditional use permit for noncompliance with any of the conditions set forth in granting the permit.
2. Notice.
  - (a). Notice shall be mailed to the record owner and lessee of the subject property not less than twenty (20) days prior to holding a public hearing. Such notice shall state the complaint and shall request appearance of such owner and lessee at the time and place specified for the hearing to show cause why the permit should not be revoked.
  - (b). Notification of property owners shall be given as provided in Section 94.02.00(B)(4).
3. Within ten (10) days after the public hearing, the council may by resolution, revoke or modify the conditional use permit. After revocation, the subject property shall conform to all regulations of the zone in which it is located according to a time schedule determined by the city council.
4. If the time limit for development expires and development has not commenced, or the use permitted by the conditional use permit does not exist, the conditional use permit shall be considered void. No notice need be given nor hearing held. An extension of the time limit may be recommended by the commission and granted by the council upon written request by the applicant and a showing of good cause.
5. Termination of a use granted herein for a period of one (1) calendar year shall terminate the use rights granted without further notice or public hearing. An extension of the time limit may be approved by the planning commission, or the city council, upon written request by the applicant and a showing of good cause.

H. Reapplication.

Application may not be made for a similar conditional use permit on the same land, building or structure within a period of six (6) months from the date of the final decision on such previous application unless such decision is a denial without prejudice.

I. Existing Permits.

Any conditional use permit granted pursuant to any zoning ordinance enacted prior to the effective date of this Zoning Code shall be construed to be a conditional use permit under this Zoning Code subject to all conditions imposed in such permit. Such permit may, however, be revoked or voided as provided in Section 94.02.00(I) above.

(Ord. 1590 § 23, 2000; Ord. 1553 (part), 1998; Ord. 1551 (part), 1998; Ord. 1511 (part), 1995; Ord. 1502 (part), 1995; Ord. 1500 (part), 1995; Ord. 1472, 1994; Ord. 1418 (part), 1992; Ord. 1347 (part), 1990; Ord. 1307 (part), 1988; Ord. 1294 (part), 1988)

**93.23.08 Antennas.** (formerly 93.08.00)

(Editorially amended during codification; Ord. 1294 (part), 1988)

A. Purpose.

The purpose of this section is to regulate the height and placement of antennas which are located outside of buildings and which can be seen from public streets and neighboring

properties. The value of antennas is recognized and it is not the purpose of this section to prohibit their use through undue restrictions; however, it should be recognized that the uncontrolled installation of outside antennas can be detrimental to the appearance of a neighborhood and to the city of Palm Springs and is contrary to the city's policy of requiring utilities to be installed underground. Therefore, in considering the welfare of the citizens and property owners of the city of Palm Springs, the city council finds it desirable and necessary to regulate the height and location of antennas, and the following regulations are determined to be imperative. (Ord. 1294 (part), 1988)

**B. Definitions.**

As used in Subsections under 93.23.08, the following terms are defined in this section:

1. "Antenna" means a device for radiating and/or receiving radio waves.
2. "Antenna structure" refers collectively to an antenna and its supporting mast, if any.
3. "Array antenna" means an antenna consisting of two (2) or more radiating elements, generally similar, which are arranged and excited in such a manner as to obtain directional radiation patterns. It includes any structural members which are necessary to maintain the proper electrical relationships between the radiating elements, but does not include the mast or other structure used to support the array as a whole, nor does it include the transmission line which supplies energy to or receives energy from the array as a whole.
4. "Broadcast receiving antenna" means an outside antenna used for the reception of signals transmitted by stations licensed by the Federal Communications Commission in the radio broadcast services, including AM, FM and TV.
5. "Building inspector" means the director of planning and building of the city of Palm Springs, or any of his authorized assistants.
6. "Collinear antenna" means a linear array in which the radiating elements are disposed end-to-end in a substantially straight vertical line.
7. "Commercial communications antenna" means a telecommunications antenna designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC). The commercial communication antenna shall not include amateur radio operators' equipment, as licensed by the FCC, or home satellite/television antennas.
8. "Dipole" means a driven element in the form of a conductor approximately one-half ( $\frac{1}{2}$ ) wavelength long, split at its electrical center for connection to the transmission line feeding the antenna.
9. "Director element" means a parasitic element located forward of the driven element of an antenna, intended to increase the directive gain of the antenna in the forward direction.
10. Dish Antenna. See "Parabolic antenna."
11. "Driven element" means a radiating element coupled directly to the transmission line feeding the antenna.
12. "Inverted-V antenna" means an antenna consisting of a single dipole constructed of wire and supported at the center and ends in such a manner as to form an inverted "V" in a vertical plan.
13. "Linear array" means an array antenna having the centers of the radiating elements lying along a straight line.
14. "Mast" means a pole of wood or metal, or a tower fabricated of metal, used to support a broadcast receiving antenna or a communications antenna and maintain it at the proper elevation.

15. "Parabolic antenna" means an antenna consisting of a driven element and a reflector element, the latter having the shape of portion of a paraboloid of revolution.
16. "Parasitic element" means a radiating element which is not directly coupled to the transmission line feeding the antenna. It includes director elements and reflector elements.
17. "Radiating element" means a basic subdivision of an antenna which in itself is capable of effectively radiating or receiving radio waves. It includes driven elements and parasitic elements.
18. "Reflector element" means a parasitic element located in a direction other than forward of the driven element of an antenna, intended to increase the directive gain of the antenna in the forward direction.
19. "Whip antenna" means an antenna consisting of a single, slender, rod-like driven element, less than one (1) wave-length long, which is supported only at its base and is fed at or near its base. It may include at its base a group of conductors disposed horizontally, or substantially so, forming an artificial ground-plane.
20. "Yagi antenna" means a linear array in which the radiating elements are parallel to each other and are disposed along and perpendicular to a single supporting boom. The plane of the radiating elements may be vertical or horizontal.  
(Ord. 1553 (part), 1998; Ord. 1551 (part), 1988; Ord. 1294 (part), 1988)

C. Regulations.

Plans and Permits.

It is unlawful for any person to erect or cause to be erected within the city of Palm Springs any outside antenna without first submitting plans for such antenna to the director of planning and building for approval. The director of planning and building shall issue a permit for the erection of an antenna complying with the provisions of this section, and the permit fee shall be such amount as has been prescribed by resolution of the city council. The permit procedure shall be for the purpose of insuring that an antenna is installed in conformance to requirements of this section and in a location and manner which will not be detrimental to surrounding properties. The director of planning and building shall be guided by the following standards in the approval of the antenna plans:

1. Broadcast Receiving Antennas.
  - a. Permissible Types: Broadcast receiving antennas may be of any type
  - b. Maximum Allowable Dimensions.  
Broadcast receiving antennas may be of any size compatible with the height limitations hereinafter prescribed.
  - c. Height and Placement Limitations.  
The following limitations shall apply to broadcast receiving antennas in all areas in the city of Palm Springs:
    - (i) Whip Antennas.  
If the antenna is mounted on a building, the lower extremity of the driven element shall be located not more than three (3) feet above the surface of the roof, directly beneath the antenna. If the antenna is not mounted on a building, the lower extremity of the driven element shall be located not more than twelve (12) feet above ground level, or within any required yard except as permitted by Section 94.06.01.
    - (ii) Other Antennas.  
If the antenna is mounted on a building, no part of the antenna structure shall extend to a height of more than six (6) feet above the

surface of the roof directly beneath the antenna, unless screened from view. If the antenna is not mounted on a building, no part of the antenna structure shall extend to a height of more than fifteen (15) feet above ground level nor shall it be located within any required yard except as permitted by Section 94.06.01.

2. Communication Antennas.

a. Permissible Types.

The use of communications antennas shall be restricted to the following types:

- (i). Whip antennas;
- (ii). Inverted-V antennas;
- (iii). Collinear antennas;
- (iv). Yagi antennas;
- (v). Parabolic antennas.

b. Maximum Allowable Dimensions.

Dimensions of the several allowable types of communications antennas shall be limited as follows:

- (i). Whip Antennas.  
The antenna may be of any size compatible with the height limitations hereinafter prescribe.
- (ii). Inverted-V Antennas.  
The radiating element may be of any size compatible with the height and placement limitations hereinafter prescribed.
- (iii). Collinear Antennas.  
The antenna may be of any size compatible with the height limitations hereinafter prescribed.
- (iv). Yagi Antennas.  
The length of the single boom supporting the radiating elements shall not exceed twenty (20) feet. The length of the longest radiating element shall not exceed thirty (30) feet.

c. Height and Placement Limitations.

The following limitations shall apply to the several allowable types of communications antennas in the indicated areas of the city of Palm Springs:

- (i). Areas Zoned M-1.  
In areas zoned M-1, no part of the antenna structure shall extend to a height of more than sixty (60) feet above ground level.
- (ii). Commercial and Professional Zones.  
The provisions governing broadcast receiving antennas shall apply.
- (iii). Other Areas.  
In areas other than those zoned M-1, commercial or professional, not more than one (1) communications antenna shall be permitted on a property, except that two (2) antennas shall be permitted on a property if one (1) of the two (2) antennas is a whip antenna. No part of the antenna structure shall extend to a height of more than twenty-five (25) feet above the highest point of the roof of the principal building on the property. The mast supporting the antenna, or supporting the center of the antenna in the case of an inverted-V antenna, shall be of the self-supporting type, without guy wires. The maximum cross-sectional dimension of the mast shall not at any point along the axis of the mast exceed fifteen (15) inches, plus one-third (1/3) inch for each foot of

distance between such point and the top of the mast. The director of planning and building may, in approving a permit for the antenna, require the mast to be painted in such a manner as to render it less conspicuous. The location of the antenna on the property shall be such as to screen the antenna as much as possible from view from surrounding properties and streets, and the director of planning and building may, in approving a permit for the antenna, require additional landscaping to be provided for screening purposes. If the antenna structure (or, in the case of a whip antenna, that portion of the antenna structure below the base of the driven element) is screened by buildings or vegetation so that it is not visible to a person standing anywhere on adjacent property or standing anywhere in the same block on the closest street in any direction, the foregoing height limitations shall not apply. Antennas, exceeding six (6) feet in height, shall not be located within required setback areas, except in accordance with Section 94.06.01.

(iv). Commercial Communication Antennas.

A communication antenna in which the means for transmitting or receiving communications do not have a visual impact on the immediate area as determined by the director of planning and building are subject to Section 94.04.00 (Architectural review). These facilities shall be of a scale consistent with surrounding structures and shall be incorporated into the overall architectural design of the structures and/or the site. Commercial communication antennas that may have a visual impact in the surrounding area as determined by the director of planning and building shall be subject to Section 94.02.00 (Conditional use permit).

D. Variances.

Pursuant to the procedure set forth in Section 94.06.01 of the Zoning Code, the director of planning and building may grant variances to the above-specified limitations. In cases involving applications for height limit variances, no such variance shall be granted unless the director makes one (1) of the following findings in addition to those required in Section 94.06.01.

1. For Broadcast Receiving Antennas.

That in the area involved, reception is adversely affected by obstructions, and no qualified installer will be able to make a satisfactory installation within the specified height limitations;

2. For Communications Antennas.

That in the area involved, transmission or reception is adversely affected by obstructions and, as verified by at least one (1) person holding a valid radio-telephone first-class operator's license issued by the Federal Communications Commission, it is not feasible to achieve and maintain satisfactory communications within the specified height limitations.

E. Exceptions.

Nothing contained in this section shall prevent the installation and maintenance of antennas necessary for the operation of public authorities for the protection of the health, safety and welfare of the community. Plans for such antennas shall be reviewed by the director of planning and building before installation.

F. Authority to Inspect.

A building inspector is empowered to inspect or re-inspect any antenna installation for violation of this code and, if such installation is found in violation, shall notify the person owning or operating such antenna and require the correction of the condition within forty-eight (48) hours.

G. Failure to Correct.

Failure to correct violations within the time specified in Section “F” above shall subject the violator to the penalties provided in Section 1.01.140 through 1.04.165 inclusive of the Palm Springs Municipal Code. (Ord. 1553 (part), 1998; Ord. 1551 (part), 1998; Ord. 1347 (part), 1990; Ord. 1294 (part), 1988)

**93.23.09 Fall-out Shelters.** (formerly 93.12.00 through 93.12.04)

Fall-out shelters shall be permitted in all zone districts within the city, subject to the requirements found in this section. (Ord. 1294 (part), 1988)

A. Fall-out shelters located in the residential zone districts on a minor street, when the shelter is located entirely below the level of the ground, shall be located a minimum of five (5) feet from the property line or five (5) feet from the street right-of-way line, whichever requires the greater setback. Setbacks for shelters in front yards, or street side yards, on other than a minor street may be increased by the public works department to suit future street improvements. (Ord. 1294 (part), 1988)

B. Front yard and street side yard shelter requirements.

When a fall-out shelter is located in any front yard or any side street yard, the vents, shelter doors or other projections above the level of the ground shall be located a minimum of fifteen (15) feet from the front or street side yard property line. All vents shall be concealed from the street by landscaping. When the shelter door, or any part of the structure other than the vents, is more than eighteen (18) inches above the ground level, then that part above ground level shall receive architectural approval from the architectural advisory committee prior to erection of the structure. (Ord. 1294 (part), 1988)

C. Attachment to a building.

When a fall-out shelter is located above the ground and attached to the main dwelling or building, it shall meet all zoning requirements of the main building. (Ord. 1294 (part), 1988)

D. Accessory shelter.

When a fall-out shelter is located above the ground in a structure detached from the main building, it shall meet all zoning requirements of the main building or guest house. (Ord. 1294 (part), 1988)

**93.23.10 Child Care Facilities.** (formerly 93.14.00 through 93.14.04)

Ordinary day care in the home, of nonresident children needing supervision by reason of their youth, shall be permitted only when listed in a zone as a principal permitted use, land use or as a

conditional use. Where listed as a conditional use, no such use shall be made unless there is approved and in full force and effect a conditional use permit, as provided in Section 94.02.00. Where listed as a land use, no such use shall be made unless the following requirements are and have been met. (Ord. 1294 (part), 1988)

A. Permit required.

No such use shall be established or maintained until there has been issued and there is in full force and effect a land use permit therefore issued by the director of planning and zoning. Application for any such permit shall be in such form and shall provide such information as is required by the director as is deemed necessary to process the application. In addition to obtaining a local permit, the use shall be carried on pursuant to state and county licensing procedures. (Ord. 294 (part), 1988)

B. Hearings and conditions.

The director shall afford the applicant the opportunity for a due-process hearing before denying any such application or imposing any condition not agreed to in writing by the applicant. Conditions may be imposed which the director deems necessary in order to protect the peace, health, safety or welfare of other persons in the vicinity or of the general public, but he may deny a permit only in a case where he finds that the issuance thereof, even with conditions and restrictions, would be unduly detrimental to the peace, health, safety or welfare of other persons or properties, private or public, in the vicinity, or to the public interest. (Ord. 1294 (part), 1988)

C. Revocation of permits.

The planning commission or the director of planning and zoning in the case of land use permits, shall have the power and authority to revoke any permit issued pursuant hereto at any time when it is found, after due-process hearing, that:

1. The conditions imposed in connection with such permit have been violated or not adhered to; or
2. There exists any state of facts which would have been good reason to deny issuance of the permit when applied for regardless of when such state of facts arose; or
3. The protection of the peace, health or safety of any person or the general public, or the protection of the rights of any person to peaceable and unmolested enjoyment of his property, requires such revocation; or
4. The activities for which the permit was issued have substantially exceeded those represented at the time of application, or the activity has been conducted in violation or noncompliance with any applicable law or regulation.

(Ord. 1294 (part), 1988)

D. Appeals.

Any decision of the director hereunder may be appealed to the planning commission per the procedure, as applicable, prescribed in Section 94.02.00(D). Any decision of the planning commission hereunder may be appealed to the city council according to the procedure provided by Chapter 2.05 of the Palm Springs Municipal Code. (Ord. 1294 (part), 1988)

**93.23.11 Use or Occupancy of Land on a “Time-Share” Basis.** (formerly 93.15.00)

A. Definitions.

For the purposes of this section, a “time-share project” is one in which time-share rights or entitlement to use or occupy any real property or portion thereof has been divided as defined in Section 3.24.020(7) of the Palm Springs Municipal Code into twelve (12) or more time periods of such rights or entitlement.

B. Zones in Which Permitted—Conditional Use Permit Required.

A time-share project shall be permissible only in such zones and at the locations therein where a hotel use would be permitted as hereinafter provided. Unless otherwise provided elsewhere in this Zoning Code, the zones in which such projects are permissible are the R-3, R-4, R-4VP, C-B-D, C-1, C-1AA and C-2 zones. Time-share projects shall be permissible in the G-R-5 and R-2 zones whenever the subject site in either zone is located fronting on a major or secondary thoroughfare as indicated on the city’s general plan. No time-share project, use of occupancy shall be permitted in a planned development district unless expressly shown or described on the approved development plan for such district. No time-share project shall be allowed in any case wherein condominium by-laws, or covenants, conditions and restrictions expressly prohibit time-share uses. No time-share project shall be allowed in an “A” zone.

C. Application for Time-share Project Approval.

An applicant for approval of a proposed time-share project shall submit a complete application on a form as prescribed by the department of planning and zoning, in addition to any other application information or forms that may be necessary in the particular case.

D. Transient Occupancy Tax Applicable.

All time-share projects shall be subject to the provisions of Chapter 3.28 of the Palm Springs Municipal Code.

E. Time-share Conditional Use Permit.

In addition to other considerations of the conditional use permit for a time-share project, the following shall apply:

1. In the event an existing condominium project is proposed to be converted to a whole or partial time-share project, a verified description or statement of the number and percentage of the current condominium owners desiring or consenting to the proposed conversion of some or all of the units to a time-share basis shall be submitted. Also in such instance, there shall be submitted a verified statement of the number and percentage of owners who have received notification, either personally (proof by signature of the recipient or witness) or by receipted certified U.S. mail, that application to so convert the project would be submitted to the commission.
2. The commission may approve or deny an application for conditional use permit for a time-share project, in accordance with the general provisions regarding findings and conditions in Section 94.02.00. No application shall be approved unless, among other considerations, it appears that more than fifty (50) percent of the owners of condominium units (not including those owned by the applicant and/or developer or any person or entity affiliated therewith) have received notification, either personally or by receipted certified U.S. mail as referred in subsection (E)(1) of this section. The commission may impose such conditions as it determines are necessary to protect the public safety, health, peace and welfare. Each use permit shall be issued with a condition attached that no time-share rights or entitlement shall be sold or offered for



sale unless, at such time, there then exists a valid final subdivision public report for the sale of such time-share rights or entitlement, issued by the Department of Real Estate of the state of California. In determining whether, and under what conditions to issue any such conditional use permit, the commission, among other things, may consider:

- a. The impact of the time-sharing project on transient or permanent rental stock;
- b. The impact of time-sharing on present and future city services;
- c. Nonconformity with current zoning regulations and the general plan, and reasonable conditions to eliminate same;
- d. Nonconformity with existing uniform building and fire codes and reasonable conditions to eliminate same;
- e. The sign program proposed for the project;
- f. The landscaping proposed for the project;
- g. Traffic circulation and parking;
- h. The applicant's description of the methods proposed to be employed to guarantee the future adequacy, stability and continuity of a satisfactory level of management and maintenance of the time-share project;
- i. The desirability of requiring an office of the managing agent or agency be located locally or on-site, as appropriate;
- j. Any other factors deemed relevant and any other information which the commission or the applicant considers necessary or desirable to an appropriate and proper consideration of the application.

**F. Appeals.**

The provisions of Chapter 2.05 of the Palm Springs Municipal Code shall apply.

**G. Exceptions.**

This Zoning Code shall not affect time-share projects for which approved permits from the State Department of Real Estate have been issued prior to October 16, 1980, or projects in which units have been lawfully sold or offered for sale to the public prior to October 16, 1980.

**H. Severability.**

If any section, subsection, sentence, clause or phrase of this Zoning Code is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Zoning Code. (Ord. 1418 (part), 1992; Ord. 1294 (part), 1988)

**93.23.12 Condominium Hotels. (formerly 93.15.10)**

**A. Purpose.**

The specific purposes of this section are to implement general plan goals and policies; to provide sufficient hotel rooms to support the use of the city's convention and conference center facilities; to protect the residential housing supply; to assure that condominium hotel projects are conditioned upon development approval in such a way as to ensure appropriate public health, safety, welfare and land use classifications and standards; to mitigate potential impacts of condominium hotels on traffic congestion, parks, and recreation, air quality, building design and safety, police, fire and emergency services; to

assure the provision of other adequate public facilities; to provide hotel and resort hotel developers flexibility in the financing of new hotel and resort hotel projects; to prohibit conversion of existing hotels and resort hotels to condominium hotels; and to provide the city with appropriate regulation of licensing, taxation, operation, and ownership.

**B. Zones in Which Condominium Hotels are permitted—Planned Development District Application Required.**

A condominium hotel shall be permissible only in such zones and at such locations therein where a hotel use or resort hotel use would be permitted. Before an application for a condominium hotel may be approved, a planned development district application shall be prepared and adopted for the property on which the condominium hotel will be located and shall include a comprehensive land use plan that complies with the goals and policies of the general plan and the requirements of this section. The planned development district application shall include such components and elements necessary or appropriate to ensure the provision of services and improvements and the payment of fees, charges, and/or assessments to offset any negative or adverse financial or fiscal effects on the city or the city's ability to provide services to the project, neighboring properties, and the city as a whole. In approving a planned development district for a condominium hotel, the planning commission may impose reasonable conditions of approval. A tentative tract map may also be submitted for approval with the planned development district application.

**C. Findings Required.**

In approving a planned development district for a condominium hotel, the planning commission shall make the following findings:

1. CC&Rs and/or other documents satisfactory to the director of planning services and city attorney will be recorded to ensure the long term maintenance and operation of the condominium hotel in accordance with this chapter and the terms of any permits or approvals issued for the condominium hotel and to provide notice to future purchasers of the city's right to enforce the CC&Rs and/or other documents, this chapter, and the terms of any permits or approvals issued for the condo-hotel.
2. The proposed condominium hotel does not involve the conversion or the replacement of a hotel, resort hotel, or hotel or resort hotel units, constructed on or before July 1, 2007.

**D. Condominium Hotel Regulations.**

It is the intent of this section to ensure that condominium hotels are operated and governed in substantially the same manner as hotels and or resort hotels. The provisions of this section are designed to protect and preserve the density requirements mandated in districts where hotels and resort hotels are allowed, as well as preserving future land uses for short term transient accommodations made available to the general public, visitors, and tourists. The regulations in this section are intended to ensure that the land use and business operation of condominium hotels remain an exclusively commercial enterprise. The provisions of this section are in addition to the regulations relating to hotel or resort hotel development found elsewhere in the Zoning Code.

1. All units in a condominium hotel may be used only for short term transient accommodations.
2. Licensing will be required of all condominium hotels through all applicable state and local agencies. All licenses must be kept current.

3. A unified management operation shall be required as an integral part of the condominium hotel for all activities.
4. There shall be a lobby/front desk area where all guests and condo hotel unit owners must register with the hotel operator upon arrival and departure, as in a hotel or resort hotel.
5. There shall be a uniform key entry system operated by the condominium hotel manager to receive and disburse keys for each condominium hotel unit.
6. There must be one central telephone system operated by the condominium hotel manager in order to access each condominium hotel unit.
7. All condo hotel units shall be subject to the provisions of Chapter 3.28 of the Palm Springs Municipal Code relating to the imposition and collection of transient occupancy taxes. Each condo hotel owner that allows the rental of his or her condo hotel unit, either individually, through a rental agent, or through participation in a rental program, is subject to the provisions of Chapter 3.28 of the Palm Springs Municipal Code. The per diem transient occupancy tax constitutes a lien by the city of Palm Springs and the city has the right but not the duty to foreclose on a condo hotel unit for non-payment of taxes due.
8. Use of a condo hotel unit arising out of an exchange program with an affiliated hotel property or the redemption of brand-related rewards or loyalty points shall be subject to transient occupancy tax per Municipal Code Chapter 3.28 based on the equivalent daily rental value for that room exchanged free of charge or otherwise reduced in the program. Such use shall not be considered personal use by the condo-hotel owner.
9. Condo hotel units shall not be used for homesteading purposes, home occupational licensing, voter registration or vehicle registration.
10. As a commercial use, condominium hotels are to be entitled under the hotel land use standards in any zone that allows the development of a hotel or resort use; included in these standards are density, parking standards, payment of in-lieu park fees (“Quimby” fees), and assessment of the public safety community facilities district.
11. Nothing in this section allows for the creation of time-share or fractional interests in any condo hotel unit.
12. All condominium hotels must have approved signage viewable by the general public designating the property as a hotel or resort hotel.
13. A condo-hotel unit may be used for personal use of the condo-hotel unit owner. Such personal use shall not exceed seventy-five (75) days in any consecutive twelve (12) month period nor shall a condominium hotel unit be occupied by a condo-hotel unit owner for more than twenty-eight (28) consecutive days. Owners may delegate their right of use and occupancy directly or through an exchange program. At all other times, units shall be used for short term transient occupancy purposes only. If a condo hotel owner exceeds the seventy-five (75) days of personal use restrictions described in this subsection, the owner shall be subject to an assessment for each day in excess thereof payable to the city in an amount as the council may adopt and amend by resolution or as may be otherwise addressed as a condition of approval at the time of the planned development district approval.
14. Each condo-hotel unit owner, the owners’ association, and condominium hotel manager or any other rental entity shall maintain and regularly make available to city such information, books, records, and documentation, and also shall allow reasonable access to individual units, as the city finds necessary to have or review in order to ensure that city may determine the condominium hotel’s compliance with this section and other applicable city laws, regulations, project conditions, and

mitigation measures. The original and every subsequent condominium hotel manager or other rental entity renting condo-hotel units shall immediately advise the director of planning services of its name, qualifications, address, telephone number, and the name of a contact person.

15. Any change or amendment to the CC&Rs shall require the approval of the Palm Springs city council.
16. An owners' association shall be established to govern, maintain, and operate the condominium hotel and its services including but not limited to housekeeping for all public areas (including lobby and hallways), front desk, concierge services, and other hospitality services as provided in a hotel or resort hotel and in accordance with CC&Rs satisfactory to the city. The CC&Rs, as well as other relevant documents, shall require all portions of the condo-hotel including, but not limited to, landscape and open space areas; lobby; hallways; parking; banquet/ballroom facilities; conference; restaurant; retail; parking; recreational; and spa facilities; and other amenities and improvements (collectively "amenities"), as well as the individual condominium hotel units, their furniture, fixtures, equipment, to be maintained and operated in accordance with first class hotel standard.
17. The CC&Rs shall require the owners' association to hire a single qualified professional management entity to maintain and operate the condo-hotel. The initial management entity shall have at least five (5) consecutive years of experience in the hotel management business in hotels that meet the first class standard and have at least five (5) other properties (nationally or internationally) under current management. The city shall be provided appropriate documentation to demonstrate that the management entity meets the requirements of this section. The city council may modify the experience standards for the initial management, or any subsequent management entity upon finding that the management entity has substitute experience meeting the interests served by the standards. The CC&Rs shall give the owner's association and management entity the right, power, and obligation to enforce the first class standard including, without limitation, the right to enter any portion of the condominium hotel, including individual condo-hotel units, and cure any failure to meet the first class standard. The management entity shall offer transient rental services to all condo-hotel unit owners.
18. The CC&R's shall give the condominium hotel manager the exclusive right to provide to the condominium hotel, the property, and to unit owners, lessees, and other occupants, any or all "on property" services commonly provided at first class hotels, restaurants, and resorts, including without limitation, reservation programs, maid and housekeeping services, maintenance, laundry and dry cleaning, room service, catering and other food and beverage services, massage, and personal training and other spa services. The use of such services, if offered, shall be conditioned upon payment of such charges or fees as may be imposed on unit owners or hotel guests by the condominium hotel manager. The CC&Rs shall include mandatory and uniform maintenance requirements for condo-hotel units. The owners' association and its designees shall have the exclusive right to restrict and control access to any and all shared facilities within the condominium hotel, provided the same does not restrict a unit owner's right of access to its own unit. The condominium hotel manager shall monitor and document the use of each and all of the hotel units.
19. All condominium hotels must have customary daily maid services, back of house services, and other hospitality services.

20. In addition to any other prohibition at law, including, without limitation, any other provision of the Palm Springs Municipal Code or the Zoning Code, condominium hotels and/or condo-hotel units shall not be converted to any other use without the approval of the city council.

(Ord. 1729 § 2, 2008)

### **93.23.13 Video/Amusement Arcades. (formerly 93.16.00)**

#### **A. Definitions.**

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

1. “Video/amusement machine” means any machine, device or game upon which the insertion of a coin, slug, token, etc., or by paying therefore in advance or after use permits a person/persons to use the device as a game, contest of skill or amusement, whether or not registering a score which may cause a person/persons of the same to secure some amusement, enjoyment, entertainment or information and which is not a gambling device or a device which tends to encourage gambling. It shall include, but not be limited to, such devices as electronic or mechanic game machines, pinball machines, skillball, bowling machines, or any other mechanical or electronic or operation similar thereto under whatever name they may be indicated. This definition does not include coin-operated pool tables, merchandise vending machines, telephone or television.
2. “Primary” and “secondary uses” means any location where six (6) or more video/amusement machines are placed on a premises.
3. “Accessory use” means any location where five (5) or less video/amusement machines are placed on a premise.

#### **B. Video/amusement Arcades as a Primary or Secondary Use.**

##### **1. Zones in Which Permitted—Conditional Use Permit Required.**

Video/amusement arcades as a primary or secondary use shall be permitted in C-B-D, C-D-N, C-S-C, C-1, C-2, H-C, M-1-P, M-1, M-2, A and O zones subject to the requirements of a conditional use permit. Video/amusement arcades as a secondary use shall be permitted in conjunction with resort hotels in R-2, R-3, R-4, R-4VP, CBD and C-1AA zones subject to the approval of a conditional use permit.

##### **2. Video/amusement Arcade Conditional Use Permit.**

The requirements of a conditional use permit shall be met and for a video/amusement arcade, the following shall apply:

###### **a. Primary Uses.**

- i. There shall be permitted one (1) video/amusement machine for each fifteen (15) square feet of public floor space. Fifteen (15) square feet shall include the space occupied by the machine.
- ii. One (1) parking space shall be provided for every eight (8) video/amusement machines.
- iii. No noise or vibration that is detectable without the aid of any mechanical device or instrument shall be allowed beyond the outer perimeter of the building.
- iv. The operator shall furnish proof, satisfactory to the director of planning and building, that the Palm Springs Unified School District has been notified of the location of the video arcade and of the person

responsible for the management thereof; and such operator shall reasonably cooperate with school district authorities performing duties affected by operation of the video arcade.

- v. No arcade shall be located within a one thousand (1,000) foot radius to any public or private grade school (Grades K-12).
  - vi. On-site security shall be provided both in the arcade and in the parking lot serving the arcade. A security plan shall be submitted for review and approval by the planning commission.
  - vii. Any additional conditions of approval determined by the planning commission or city council shall be complied with.
- b. Secondary uses shall be subject to all conditions of a primary use and the following:
- i. There shall be no outdoor advertising or signing of the secondary use.
  - ii. The floor area devoted to the secondary use shall not exceed fifty (50) percent of the public floor area of the building.

**C. Video/amusement Machines as an Accessory Use.**

1. **Zones in Which Permitted—Director of Planning and Building Approval Required.**  
Video/amusement machines as an accessory use to a conforming, established use shall be permitted in all commercial and industrial zones, hotels, and private and public clubhouses except as provided herein. Accessory uses shall be approved in writing by the director of planning and building or his designee prior to the issuance of a business license. The following requirements shall also apply:
- a. There shall be no outdoor advertising or signing of the accessory use.
  - b. The floor area devoted to the accessory use shall not impinge or obstruct normal pedestrian traffic within the building and shall not exceed ten (10) percent of the public floor area of the primary business.
  - c. No noise or vibration that is detectable without the aid of any mechanical device or instrument will be allowed beyond the outer perimeter of the location.
  - d. No additional parking shall be required for an accessory use.
  - e. Any further conditions of approval reasonably determined by the director of planning and building to be necessary to conform the accessory use to the premises. A determination by director of planning and building pursuant to this section may be appealed to the planning commission.

**D. Amortization of Existing Uses.**

Any use which is nonconforming as defined by this chapter shall be removed or be brought into conformance with this chapter within one (1) year of the effective date of this section. (Ord. 1553 (part), 1998; Ord. 1551 (part), 1998; Ord. 1418 (part), 1992; Ord. 1294 (part), 1988)

**93.23.14 Accessory Apartment Housing. (formerly 93.18.00)**

**A. Definitions.**

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

An “accessory apartment” shall mean an efficiency dwelling unit as defined in the Uniform Housing Code incorporated within the living area of a primary single-family residence on a

parcel in a designated zoning district. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation.

**B. Accessory Apartment Units as a Allowable Use.**

**1. Zones in Which Permitted—Conditional Use Permit Required.**

Accessory apartments as a use shall be permitted in the G-R-5, R-1-AH, R-1-A, R-1-B, R-1-C, R-1-D, R-G-A(6), R-G-A(8) and R-2 zones subject to the requirements of a conditional use permit.

**2. Accessory apartments shall be prohibited in PD zones unless authorized in the originally approved plans.**

**3. Conditional Use Permit for Accessory Apartment.**

The requirements of a conditional use permit shall be met and for an accessory apartment the following shall apply:

- a. The accessory apartment shall be attached to the primary dwelling;
- b. The accessory apartment shall not contain more than fifteen (15) percent of the living area of the primary dwelling and shall not exceed six hundred forty (640) square feet in area.
- c. Square feet (Deleted by Ord. 1553);
- d. The accessory apartment shall not be in separate ownership from the primary dwelling;
- e. The accessory apartment shall be reserved for occupancy by no more than two (2) persons;
- f. Off-street parking (Deleted by Ord. 1553);
- g. Any new construction associated with the accessory apartment shall comply with all setbacks, coverage, height and design standards of the zoning district and shall not alter the general appearance of the primary dwelling as a single-family residence;
- h. The accessory apartment shall have adequate sewer and water services and shall not adversely impact traffic flow;
- i. No more than one (1) accessory apartment shall be allowed on a parcel;
- j. The accessory apartment shall be serviced through the same utility meters as the primary unit.

An accessory apartment which conforms to these requirements shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use consistent with the existing general plan and zoning ordinance designation for the lot.

**C. Existing Accessory Units.**

1. Legal pre-existing nonconforming accessory apartment units are subject to the provisions of Section 94.05.00 and other applicable law.
2. Illegally created accessory apartments shall be subject to compliance with this section or abatement.

(Ord. 1553 (part), 1998; Ord. 1347 (part), 1990; Ord. 1294 (part), 1988)

**93.23.15 Medical Cannabis Cooperative or Collective Special Standards. (formerly 93.23.00)**

- A. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a Medical Cannabis Cooperative shall be granted or permitted except in conformance with this Section.
- B. Medical Cannabis Cooperatives or Collectives shall be permitted, upon application and approval of a regulatory permit in accordance with the criteria and process set forth in this Section.
- C. No Medical Cannabis Cooperative or Collective shall be established, developed, or operated within five hundred (500) feet of a school, public playground or park, or any residential zone property, child care or day care facility, youth center, or church, or within one thousand (1000) feet of any other Medical Cannabis Cooperative or Collective, and shall not be located on any property that is occupied with a commercial retail use where such use is the primary use on such property. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Medical Cannabis Cooperative or Collective is, or will be located, to the nearest property line of those uses describe in this Subsection.
- D. A Medical Cannabis Cooperative or Collective is not and shall not be approved as an accessory use to any other use permitted by this Zoning Code.
- E. A Medical Cannabis Cooperative or Collective shall be parked at a rate of 1 space for every 250 gross square feet of the entire business space.
- F. No more than two Medical Cannabis Cooperatives and/or Collectives shall be maintained or operated in the City at any time. In the event more than two cooperatives or collectives are eligible for regulatory permits under this Section, the City Council shall review and evaluate all qualified applications and will approve issuance of regulatory permits to the most qualified as determined through the Allotment Process described below.
- G. Prior to initiating operations and as a continuing requisite to conducting operations, the legal representative of the persons wishing to operate a Medical Cannabis Cooperative or Collective shall obtain a regulatory permit from the City Manager under the terms and conditions set forth in this Section. The legal representative shall file an application with the City Manager upon a form provided by the City and shall pay a filing fee as established by resolution adopted by the City Council as amended from time to time. An application for a regulatory permit for a Medical Cannabis Cooperative or Collective shall include, but shall not be limited to, the following information:
  - 1. An estimate of the size of the group of primary caregivers and/or qualified patients who will be served by the non-profit cooperative; this description should include whether delivery service will be provide and the extent of such service.
  - 2. The address of the location from which the cooperative for which application is made will be operated;
  - 3. A site plan and floor plan of the premises denoting all the use of areas on the premises, including storage, cultivation areas, exterior lighting, restrooms, and signage.
  - 4. A security plan including the following measures:
    - a. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 120 concurrent hours of digitally



recorded documentation in a format approved by the City Manager. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, cultivation areas, all doors and windows, and any other areas as determined by the City Manager.

- b. The lease/business space shall be alarmed with an alarm system that is operated and monitored by a recognized security company.
  - c. Entrance to the dispensing area and any storage areas shall be locked at all times, and under the control of cooperative staff.
  - d. The business entrance(s) and all window areas shall be illuminated during evening hours. The applicant shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding, etc., and secure the necessary approvals and permits as needed.
  - e. All windows on the building that houses the cooperative or collective shall be appropriately secured and all marijuana securely stored, and a reliable, commercial alarm system shall be installed and maintained.
5. The name and address of any person who is managing or responsible for the Medical Cannabis Cooperative or Collective's activities, and the names and addresses of any employees, if any, and a statement as to whether such person or persons has or have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received for such conviction(s).
  6. The name and address of the owner and lessor of the real property upon which the business is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a Medical Cannabis Cooperative or Collective will be operated on his/her property.
  7. Authorization for the City Manager to seek verification of the information contained within the application.
  8. Evidence that the cooperative or collective is organized as a bona fide non-profit cooperative, affiliation, association, or collective of persons comprised exclusively and entirely of qualified patients and the primary caregivers of those patients in strict accordance with the Compassionate Use Act.
  9. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
  10. Any such additional and further information as is deemed necessary by the City Manager to administer this Section.
- H. The City Manager shall conduct a background check of any applicant for a regulatory permit, including any person who is managing or is otherwise responsible for the activities of the cooperative or collective, and any employee, and shall prepare a report on the acceptability of the applicant's background and the suitability of the proposed location. Upon completing the review process, the regulatory permit shall be deemed a qualified application subject to the final certification and approval by the City Council pursuant to the allotment process, unless the City Manager finds that the applicant:
1. Has made one or more false or misleading statements, or omissions on the application or during the application process; or
  2. The proposed cooperative or collective is not allowed by state or local law, statute, ordinance, or regulation, including this Code, at a particular location.

3. Is not a Primary Caregiver or Qualified Patient or the legal representative of the cooperative or collective; or
  4. The applicant, or any person who is managing or is otherwise responsible for the activities of the cooperative or collective, or any employee, if any, has been convicted of a felony, or convicted of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution or similar activities related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Compassionate Use Act. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
  5. The applicant. Or any person who is managing or is otherwise responsible for the activities of the cooperative or collective has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.
  6. Has not satisfied each and every requirement of this Section.  
Based on the information set forth in the application and the City Manager's report, the City Manager, or the City Council pursuant to the allotment process, may impose reasonable terms and conditions on the proposed operations in addition to those specified in this Section. A regulatory permit issued pursuant to this Section is not transferable.
- I. The City Manager will accept applications for Medical Cannabis Cooperatives or Collectives during a ninety (90) day period commencing on the effective date of this Section. Such 90 day time period plus an additional 30 days to complete the reviews and the preparation of the reports called for in this Section shall be considered the "Application Period." In the event there are no more than two qualified applications submitted during the Application Period and determined to be conditionally qualified by the City Manager, the City Manager shall refer the applications to the City Council with a recommendation that the City Council approve the issuance of a regulatory permit to the applicants, subject to full compliance with the provisions of this Section and any conditions of approval. In the event three or more applications have been determined to be qualified by the City Manager during the Application Period, the City Manager shall submit the qualified applications and the City Manager report on each application to the City Council for review and consideration. The qualified applications shall be considered concurrently by the City Council at a public hearing noticed and conducted pursuant to the provisions of Section 94.02.00 C of this Code. The City Council shall consider the qualified applications after evaluating the applications on their respective merits and the City Council may conditionally approve each qualified application or deny one or more of such applications if the Council makes one or more of the findings listed in Subsection H. The City Council shall rank all qualified applications in order of those that best satisfy the requirements of this Section and provide the highest level of service and opportunities for residents of Palm Springs. The two highest ranked qualified applications shall be granted regulatory permits pursuant to this Section.
- J. The obligations of the Medical Cannabis Cooperative or Collective, including all on-going and continuing obligations required pursuant to any provision of this Section or as may be provided in any conditional approval of the City Manager or the City Council, shall be set forth in a covenant running with the land or the leasehold interest, approved as to form by the City Attorney, and enforceable by the City. Such covenant shall also provide that the cooperative or collective shall annually provide to the City Manager an updated application

containing the information contained in Subsection G. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, and expressly does not waive sovereign immunity, with respect to medical cannabis, or for the activities of any Medical Cannabis Cooperative or Collective. Upon receiving possession of a regulatory permit as provided in this Section, the collective or cooperative shall

1. Execute an agreement indemnifying the City;
2. Carry insurance in the amounts and of the types that are acceptable to the City Manager;
3. Name the City as an additionally insured.
4. Agree to defend at its sole expense, any action against the City, its agents, officers, and employees because of the issues of such approval.
5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

K. No persons shall engage in, conduct, or be permitted to engage in or conduct a Medical Cannabis Cooperative or Collective (“cooperative”) unless each of the following requirements is continually met:

1. The cooperative or collective shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Attorney General Guidelines.
2. The cooperative shall only be open between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday.
3. Physician’s referrals shall be verified by the cooperative prior to inclusion into the cooperative and at least every six months thereafter.
4. Each member of the cooperative or collective shall be a patient or a qualified primary caregiver. The cooperative shall maintain patient records in a secure location within the City of Palm Springs, available to the City Manager to review upon demand. Such records shall include without limitation a copy of the physician’s referral and, if using a primary caregiver, a notarized written authorization from the patient to be represented by such primary caregiver.
5. Cannabis shall be kept in a secured manner during business and non-business hours.
6. If consumable Medical Cannabis products (including, but not limited to, lollipops, brownies, cookies, ice cream, etc.) are present on site or offered for distribution, then the applicant shall secure a County of Riverside Department of Health Services approval for handling food products.
7. No cooperative or collective shall conduct or engage in the commercial sale of any product, good, or service. All transactions between the cooperative or collective and its members or the members’ primary caregivers shall be made by check or credit card; no cash transactions shall be allowed.
8. Any Medical Cannabis Cooperative or Collective must pay any applicable sales tax pursuant to federal, state, and local law.
9. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited on the premises of the cooperative or collective. The term “premises” as used in this Subsection includes the actual building, as well as any accessory structures and parking areas. The building entrance to a cooperative or collective shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming

- marijuana on the premises or in the vicinity of the cooperative or collective is prohibited.
10. Signage for the cooperative shall be limited to name of business only, and no advertising of the goods and/or services shall be permitted.
  11. Alcoholic beverages shall not be sold, stored, distributed, or consumed on the premises. A cooperative or collective shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cooperative or collective.
  12. Except as provided in Subsection G-4, windows and/or entrances shall not be obstructed and must maintain a clear view into the premises during business hours.
  13. No one under 18 years of age shall be a member of a cooperative or a collective without written authorization of a parent or legal guardian.
  14. Physician services shall not be provided on the premises. "Physician services" does not include social services, including counseling, help with housing and meals, hospice and other care referrals which may be provided on site.
  15. The building in which the cooperative or collective is located as well as the operations as conducted therein shall fully comply with all applicable rules, regulations, and laws including, but not limited to, zoning and building codes, the City's business license ordinances, the Revenue and Taxation Code, the Americans with Disabilities Act, and the Compassionate Use Act.
  16. The cooperative or collective shall not distribute, sell, dispense, or administer cannabis to anyone other than qualified patient members of the cooperative or collective and their primary caregivers.
  17. A Medical Marijuana Cooperative or Collective shall distribute only cannabis cultivated on the premises or by a member of the cooperative or collective or the member's primary caregiver. The cooperative or collective shall do an inventory on the first business day of each month and shall record the total quantity of each form of cannabis on the premises. These records shall be maintained for two (2) years from the date created.
  18. Provide the City Manager with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom one can provide notice if there are operating problems associated with the Cooperative. The Cooperative shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police or planning departments.
  19. Fully comply with and meet all operating criteria required pursuant to the Compassionate Use Act, state law, the Attorney General Guidelines, the provisions of this Section, and any specific, additional operating procedures and measures as may be imposed as conditions of approval of the regulatory permit, and all requirements set forth in the covenant as described in Subsection J, in order to ensure that the operation of the cooperative or collective is consistent with the protection of the health, safety, and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.

L. Enforcement.

1. Recordings made by the security cameras shall be made available to the City Manager upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.
  2. The City Manager shall have the right to enter the Medical Cannabis Cooperative or Collective from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this Section and all laws of the City and State of California.
  3. Operation of the cooperative or collective in non-compliance with any conditions of approval or standards of this Section shall constitute a violation of the Municipal Code and shall be enforced pursuant to the provisions of this Code.
  4. The City Manager may revoke a medical marijuana regulatory permit if any of the following, singularly or in combination, occur:
    - a. The City Manager determines that the cooperative or collective has failed to comply with this Section, any condition or approval, or any agreement or covenant as required pursuant to this Section; or
    - b. Operations cease for more than 90 calendar days, including during change of ownership proceedings; or
    - c. Ownership is changed without securing a regulatory permit; or
    - d. The cooperative or collective fails to maintain 240 hours of security recordings; or
    - e. The cooperative or collective fails to allow inspection of the security recordings, the activity logs, or of the premise by authorized City officials.
  5. Any decision regarding the approval, conditional approval, denial, or revocation of a regulatory permit may be appealed to the City Council. Said appeal shall be made by a notice of appeal from the person appealing within thirty (30) days from the date of the decision. The appeal shall be accompanied by a fee, which shall be established by resolution of the City Council amended from time to time, and a written, verified declaration setting forth the basis for the claim that the permit was improperly approved, denied, conditioned or revoked. Filing of an appeal shall suspend the issuance of all regulatory permits until action is taken on the appeal.
- M. In the event a qualified cooperative or collective that receives an allotment under Subsection I of this Section ceases to operate for any reason, the City Manager shall reopen the allotment process and provide an opportunity for new applications to be submitted. The time periods and process provided in Subsection I shall be applied to the review and consideration of applications and the allotment of a regulatory permit. (Ord. 1758 § 5, 2009)

(end)

**2B. Case 5.1224 Zone Text Amendment - A zone text amendment consolidating conditions for Specific Uses into a single code section. (Planner: Ken Lyon, Associate Planner)**

Ken Lyon, Associate Planner, provided background information as outlined in the staff report dated September 8, 2010.

Chair Caffery opened the public hearing and no appearances coming forward the public hearing was closed.

M/S/C (Doug Donenfeld/Tracy Conrad, 6-0, 1 absent/Leslie Munger) To recommend approval of the Zone Text Amendment to the City Council.

RESOLUTION NO. 6216

OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND OF THE PALM SPRINGS ZONING CODE TO CREATE A NEW SECTION 93.23.00, TO CONSOLIDATE CONDITIONS FOR SPECIFIC USES.

WHEREAS, on April 8, 2009, the Planning Commission voted 7-0 to direct staff to initiate a Zoning Ordinance Text Amendment (Case 5.1224 - ZTA) to amend the Zoning Code to consolidate Conditions for Specific Uses, currently found in PSZO Section 94.02.00(H) and other sections into one new section; and

WHEREAS, on September 8, 2010, the Planning Commission conducted a duly noticed public hearing on the proposed amendment, at which hearing the Commission carefully reviewed and considered all of the evidence presented in connection with the project, including but not limited to the staff report and all written and oral testimony presented, and

WHEREAS, the Planning Commission hereby determines that the proposed Zoning Ordinance text amendment is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act and that the proposed amendment does not result in any changes in land use or density.

THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS;

Section 1: The Planning Commission hereby finds that adoption of the proposed Zoning Text Amendment would:

- a. Provide a simpler, correctly formatted and more user-friendly code structure for use by the Public, the Planning Commission and Staff.
- b. Eliminate conditions for specific uses that are not referenced correctly to the zone in which they are permitted.
- c. Create a code structure so that adding new Conditions for Specific Uses in the future can be made in a consistent and accurate manner.

Section 2: The adoption of the proposed Zone Text Amendment does not change the text for any of the Conditions for Specific Uses; they remain unchanged and thus remain consistent with the intent of the Zoning Code and General Plan. The adoption of this amendment does not add, delete or change any of the previously approved and adopted Conditions for Specific Uses.

Section 3: Based upon the foregoing, the Planning Commission does hereby recommend to the City Council amendment of the Palm Springs Zoning Code to establish a new section titled, "Section 93.23.00 Conditions for Specific Uses", as attached hereto and

made a part of this resolution as Exhibit A and move those existing sections and conditions as noted into this new section as follows:

<b>Proposed New Section and Title</b>	<b>Current Section</b>
93.23.00 Introduction	(none)
93.23.01 Automobile Service Stations	94.02.00 (H,2)
93.23.02 Open Storage Yards for Junk Auto Wrecking and Other Waste Products	94.02.00 (H,3)
93.23.03 Quarries, Sand Pits, or Gravel Pits	94.02.00 (H,4)
93.23.04 Recreation Vehicle Parks	94.02.00 (H,5)
93.23.05 Shopping Centers	94.02.00 (H,6)
93.23.06 Assisted Living Facilities & Convalescent Homes	94.02.00 (H,7)
93.23.07 Commercial Wind Energy Conversion Systems	94.02.00 (H,8)
93.23.08 Antenna	93.08.00 through.03
93.23.09 Fall out Shelters	93.12.00 through .04
93.23.10 Child Care Facilities	93.14.00 through .04
93.23.11 Timeshares	93.15.00
93.23.12 Condominium-hotels	93.15.10
93.23.13 Video Amusement Uses	93.16.00
93.23.14 Accessory Apartments	93,18.00
93.23.15 Medical Marijuana	93.22.00

ADOPTED this 8<sup>th</sup> day of September 2010.

AYES: 6, Donenfeld, Conrad, Hudson, Klatchko, Vice Chair Scott and Chair Caffery  
 NOES: None  
 ABSENT: 1, Munger  
 ABSTAIN: None

ATTEST: CITY OF PALM SPRINGS, CALIFORNIA

---

Craig A. Ewing, AICP  
 Director of Planning Services





## Planning Commission Staff Report

Date: September 8, 2010

Case No.: 5.1224 ZTA

Type: Zone Text Amendment

Location: City-wide

Applicant: City of Palm Springs

From: Craig A. Ewing, AICP, Director of Planning Services

Project Planner: Ken Lyon, Associate Planner

Subject: Zoning Ordinance Amendment Relating to Conditions for Specific Uses

---

### **PROJECT DESCRIPTION**

This is a proposed amendment to the Palm Springs Zoning Code to consolidate the conditions for Specific Uses into a single code section. Historically, the approval of Specific Uses, (such as wind turbines, quarries, automobile service stations, shopping centers and the like), requires that unique conditions be established to assure a harmonious integration into the community. Over time, as new conditions for Specific Uses have been created, it has become awkward and difficult to correctly fit them into the existing format of the Zoning Code. This ZTA will consolidate the conditions and create a simpler, correctly formatted, and user-friendly code structure for the public, the Planning Commission and staff.

### **RECOMMENDATION**

That the Planning Commission conduct a public hearing and forward to the City Council its recommendation for amending the Zoning Ordinance to consolidate into a single section the conditions for Specific Uses. A draft resolution is attached.

### **PRIOR ACTIONS**

On April 8, 2009, the Planning Commission conducted a study session on the subject and voted unanimously to direct staff to initiate a draft recommendation for a Zone Text Amendment regarding Conditions for Specific Uses. (staff memo attached).

## PROCEDURE

The Palm Springs Zoning Ordinance provides a procedure for processing amendments to the Ordinance which is outlined in Section 94.07.01:

*94.07.01 Zoning ordinance text amendment.*

*A. Procedure.*

*1. Initiation.*

- a. The planning commission may initiate proceedings by motion and then hold public hearings and make a recommendation as provided below.*

*2. Staff Investigation.*

*The planning department shall study the proposed Zoning Code amendment and shall provide information necessary to assure action consistent with the intent of this Zoning Code and the general plan and shall report the findings to the commission.*

Based on the direction provided at the Commission's study session of April 8, 2009, staff has prepared the following discussion and recommendation for a Zone Text Amendment regarding Conditions for Specific Uses. A public hearing has been noticed for this item.

## BACKGROUND AND ANALYSIS

The Zoning Code establishes land use zones throughout the City and then provides a list of uses (those permitted by "right of zone", with a Land Use Permit and with a Conditional Use permit) for each zone. For most uses requiring a CUP, the development standards that are provided for each zone and the site-specific conditions of the CUP are adequate to ensure harmonious development. Certain uses however, due to their complexity, unique nature, or potential for adverse impacts, require additional development standards to assure compatibility with the surrounding community. This ZTA proposes a new section within Chapter 93 "General Conditions" in which these special development standards ("conditions") can be located for ease of reference and simplicity of organization within the Code.

Currently, the conditions for several Specific Uses such as Quarries and Gravel Pits, Auto Wrecking, and Commercial Wind Energy Conversion Systems (WECS) are located in the "Procedures" chapter of the code under the heading "94.02.00 (H) Conditions for Specific Uses in the NCC Zones and CSC Zone", yet these specific uses are not even permitted in these zones.

The new section would be titled "Section 93.23.00 Conditions for Specific Uses" and would collect in one place the specific use standards currently found scattered throughout the zoning code. The subsections would be arranged as follows:

**93.23.00** Conditions for Specific Uses.

(Proposed introductory text:) *"In addition to any conditions required by the underlying zone or imposed through a use permit, the following conditions are*

*required for each of the following Specific Uses to protect the health, safety and general welfare, and to assure the orderly, efficient and harmonious development of these uses in the City."*

- 93.23.01 Automobile Service Stations (formerly 94.02.00(H, 2))
- 93.23.02 Open Storage Yards for Junk, Auto Wrecking and Other Waste Products (formerly 94.02.00(H, 3))
- 93.23.03 Quarries, Sand Pits or Gravel Pits. (formerly 94.02.00(H, 4))
- 93.23.04 Recreation Vehicle Parks (formerly 94.02.00(H, 5))
- 93.23.05 Shopping Centers (formerly 94.02.00(H, 6))
- 93.23.06 Assisted Living Facilities & Convalescent Homes. (formerly 94.02.00(H, 7))
- 93.23.07 Commercial Wind Energy Conversion Systems. (formerly 94.02.00(H, 8))
- 93.23.08 Antennas (formerly 93.08.00)
- 93.23.09 Fall-out Shelters (formerly 93.12.00 through .04)
- 93.23.10 Child Care Facilities (formerly 93.14.00 through .04)
- 93.23.11 Timeshares, (formerly 93.15.00)
- 93.23.12 Condominium-hotels. (formerly 93.15.10)
- 93.23.13 Video Amusement Uses, (formerly 93.16.00)
- 93.23.14 Accessory Apartments (formerly 93.18.00)
- 93.23.15 Medical Marijuana, (formerly 93.22.00)

This ZTA does not amend or change any of the existing conditions for these specific uses. It simply deletes them from their current locations in the Zoning Code and places them in one section of the Code for easier reference and provides a better framework for the addition of conditions for new Specific Uses in the future. Therefore, Conditions for Specific Uses would remain consistent with the intent of the Zoning Code and the City's General Plan.

## **ENVIRONMENTAL DETERMINATION**

Staff has evaluated the potential environmental impacts of the proposed Zoning Ordinance text amendment and determined that it is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act. The proposed amendment does not result in any changes in land use or density.

---

Ken Lyon,  
Associate Planner

---

Craig A. Ewing, AICP  
Director of Planning Services

### **Attachments:**

- 1 Draft Resolution, including draft zone text amendment.
- 2 Minutes from Planning Commission study session of April 8, 2009.
- 3 Staff memo dated April 8, 2009.

**4. STUDY SESSION:**

**4A. Discussion: Case 5.1224 ZTA -Initiation of a Zone Text Amendment - Conditions for Specific Uses in the NCC and CSC Zones (Project Planner: Ken Lyon, Associate Planner)**

Ken Lyon, Associate Planner, provided background information as outlined in the memorandum dated April 8, 2009.

M/S/C (Scott/Caffery, 6-0) Toi direct staff to prepare a Zone Text Amendment to revise subsection 94.02.00(H).



# CITY OF PALM SPRINGS

## DEPARTMENT OF PLANNING SERVICES

### MEMORANDUM

**Date:** April 8, 2009 STUDY SESSION

**To:** The Planning Commission

**From:** Craig A. Ewing, AICP, Director of Planning Services

**Subject:** Palm Springs Zoning Code – Initiation of an Amendment to Section 94.02.00 (H) “*Conditions for Specific Uses in the NCC and CSC Zones*”

---

**Summary:**

Section 94.02.00 provides procedures for the processing of Conditional Use Permits (CUP’s). Within this section, subsection “H” is titled “*Conditions for Specific Uses in the NCC Zones and CSC Zone*” and contains numerous development standards that are unique to “specific uses”, such as gas stations, RV parks, shopping centers, assisted living facilities.

Over time, this section has been amended to include conditions and development standards for numerous “Specific Uses” beyond those permitted in the NCC and CSC zones. For example, conditions for Wind Energy Conversion Systems (WECS) or wind turbines, junk yards, and quarries are also listed in Section H even though they are not permitted uses in the NCC or CSC zones.

What appears to have started as a section on development standards and conditions for uses within two particular zones, has become a “catch-all” section for placement of important conditions and development standards on uses for other zones. Furthermore, “NCC” (Neighborhood Community Commercial) is no longer a listed zone in the Ordinance. NCC now only refers to a land use classification in the General Plan.

**Recommendation:**

It is recommended that the Planning Commission direct staff to prepare a Zone Text Amendment (ZTA) to revise subsection 94.02.00 (H). The revised subsection would be re-titled “Conditions for Specific Uses” and relocated to Chapter 93 “*General Conditions*”.

Staff will provide a draft Zone Text Amendment for Planning Commission consideration and possible adoption.

**Procedure:**

The Palm Springs Zoning Ordinance provides a procedure for processing amendments to the Ordinance which is outlined in Section 94.07.01:

*94.07.01 Zoning ordinance text amendment.*

*A. Procedure.*

*1. Initiation.*

- a. The planning commission may initiate proceedings by motion and then hold public hearings and make a recommendation as provided below.*

*2. Staff Investigation.*

*The planning department shall study the proposed Zoning Code amendment and shall provide information necessary to assure action consistent with the intent of this Zoning Code and the general plan and shall report the findings to the commission.*

**Description of proposed ZTA:**

Each zone provides a list of uses that are only permitted in that zone with a Conditional Use Permit (CUP). For most uses requiring a CUP, the development standards that are provided for each zone and the site-specific conditions of the CUP are considered adequate.

Certain uses however, due to their complexity, unique nature, or potential for adverse impacts, require additional development standards to assure compatibility or harmony with the surrounding community. Currently the following uses requiring a CUP are included in Section 94.02.00 (H) “*Conditions for Specific Uses in the NCC and CSC Zones*”:

- 1 Automobile Service Stations
- 2 Open Storage Yards for Junk, Auto Wrecking and Other Waste Products.
- 3 Quarries, Sand Pits or Gravel Pits.
- 4 Recreation Vehicle Park
- 5 Shopping Centers
- 6 Assisted Living Facilities and Convalescent Homes.
- 7 Commercial Wind Energy Conversion Systems.

The proposed text amendment would delete the reference to “*in the NCC and CSC zones*” in the chapter heading and relocate the section to Chapter 93. Determining which uses are allowable with a CUP in any particular zone would still be found in Chapter 92 “*Zoning Regulations*”.

With regard to Recreational Vehicle and Mobilehome Parks, staff notes that development standards and conditions occur in three different places in the City’s Zoning Ordinance:

- Chapter 92.07.03 *Property Development Standards for Mobilehome Parks*,”
- Chapter 92.07. *Property Development Standards within the Mobilehome Park, and*
- 94.02.00(H) *Conditions for Specific Uses in the NCC and CSC Zones.*

Staff believes consolidating these within one area in the new section would be more usable and less confusing.

Staff recommends that this ZTA effort also include consolidation of other “Specific Uses” into this new chapter such as:

- 1 Medical Marijuana, (Ordinance 1758; PSZO Section 93.22.00)
- 2 Video Amusement Uses, (Section 93.16.00)
- 3 Timeshares, (Section 93.15.00)
- 4 Accessory Apartments (Section 93.18.00), and
- 5 Condo-hotels. (Section 93.15.10)

At this time, staff is not recommending changes to the development standards themselves – only to their placement in the Zoning Code. Also, the proposed zone text amendment would not change the required findings for Conditional Use Permits, nor add or delete any uses that are currently permitted with a CUP.

**Attachments:**

Excerpt from the Palm Springs Zoning Ordinance: Section 94.02.00 (H)

Exhibit “A”

H. Conditions for Specific Uses in the NCC Zones and CSC Zone.

**1. Adult Entertainment Establishments.**

(Deleted by Ord. 1511)

**2. Automobile service stations** shall comply with the following provisions in addition to zone provisions and conditions imposed in a conditional use permit. Any amendment to the use of an automobile service station, or accessory use, shall require the previous approval of a new conditional use permit.

a. Location.

i. The site shall have two hundred (200) feet of frontage on a major or secondary highway.

ii. The site shall not adjoin an existing hotel or residential use at the time of its establishment.

iii. The minimum distance from the site to a property containing a school, park, playground, church, museum or similar use shall be two hundred fifty (250) feet. The minimum distance to a residential zone shall be one hundred seventy-five (175) feet.

iv. The minimum distance between properties containing automobile service stations shall be five hundred (500) feet, except that service stations that are approved as part of a master plan are exempt from this requirement, and except that two (2) automobile service stations may be permitted at intersections formed by streets both of which have a forecasted average daily volume of twenty-five thousand (25,000) trips according to the adopted general plan or other subsequent city-approved comprehensive traffic study.

b. Site Area.

The minimum net site area shall be twenty thousand (20,000) square feet. Any proposal to expand activity to an existing use on a lot of less than twenty thousand (20,000) square feet shall not be permitted unless the planning commission, pursuant to a new conditional use permit, finds that the site can adequately support the increased use without adversely affecting public streets or surrounding land uses. For purposes of this section, “site” shall mean the same as “lot” or shall mean that portion of a lot that is dedicated solely for the purpose of accommodating the service station.

c. Access.

Access drives shall be at least thirty (30) feet from any street corner measured from the intersection of the ultimate right-of-way lines; the city engineer may require a greater distance based upon street and traffic characteristics. All drives shall be designed to provide vehicle queuing in a manner that minimizes possible hazard or slowing of vehicles on adjacent city streets. Reciprocal access/parking arrangements may be with adjacent properties to enhance public convenience and safety.

d. Number of Pumps.

One (1) gasoline pump shall be permitted per two thousand (2,000) square feet of site area. The number of pumps shall be the same as the number of sale transactions which may be conducted simultaneously at all of the pump stations.

e. Utility Trailers.

Utility trailers, not exceeding ten (10) in number, may be stored for rent on service stations only in the C-2, C-M and M-1 zones; provided, they are screened from view and occupy an area which is in excess of the two thousand (2,000) square feet of site area required per pump.



f. Walls.

A solid masonry wall six (6) feet in height shall be erected on all interior property lines which abut property in a residential zone or wherever else deemed necessary by the planning commission.

g. Paving.

The entire ground area shall be paved except that ten (10) percent of the site area shall be reserved for landscaping.

h. Lighting.

Lighting shall conform to the requirements of Section 93.06.00.

i. Outside Operation.

Operations outside permanent structures shall be limited to the dispensing of gasoline, oil, water, air, changing tires, and attaching and detaching trailers. There shall be no outside storage or display of tires, oil or other products and accessories. The sale of liquid propane gas (LPG) may be permitted if approved in connection with the conditional use permit and architectural review. After approval of the conditional use permit, the sale of LPG may be permitted if approved in conjunction with a land use permit.

j. Noise.

Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness, and the decibel level measured at property lines shall not exceed street background noise normally occurring at the site location.

k. Minimum Building Area.

The minimum gross floor area for each automobile service station building, not including the canopy area, shall be seven hundred fifty (750) square feet. Accessible public restrooms shall be provided.

l. Accessory Commercial Uses.

Accessory nonautomotive commercial uses shall be limited to vending machine sales of soft drinks, coffee and tea, snacks, cigarettes, and maps within a sales area of not greater than twenty-five (25) square feet. Secondary retail sales of food, groceries and sundries, other than those from a vending machine, shall be contained within an indoor retail space of not less than seven hundred fifty (750) square feet, except that existing automobile service stations, at the time of the adoption of this Zoning Code, which convert space for such use are not limited by a minimum area requirement. Display and storage of accessory or secondary nonautomotive commercial uses shall be totally within the principal building.

m. Sale of Beer, Wine, Liquor or Other Alcoholic Beverages.

Sales of beer, wine, liquor or other alcoholic beverages from the same location as gasoline and other motor vehicle fuel sales may be permitted under the following conditions:

i. Such sales must be offered only in conjunction with the secondary retail sale of food, groceries and sundries in which not less than fifty (50) percent by value of the retail sales of all products, other than gasoline and other motor vehicle fuels, comprises sales of products other than beer, wine, liquor and other alcoholic beverages.

ii. Video recording surveillance cameras shall be used to record all purchases and attempted purchases of alcoholic beverages. Signs shall be posted, one (1) outside the building at or near the gasoline servicing area and another inside the building near the cash registers notifying the public that “all alcoholic beverage transactions are monitored in cooperation with the Palm Springs Police Department.” The videotape equipment used shall be such as to record at least twenty-four (24) hours of operation, the tapes shall be maintained for the prior seventy-two (72) hours, and the film shall be made available to any representative of the Palm Springs Police Department within twenty-four (24) hours of a request. The tapes shall be made available

for use in evidence against any person who purchased or attempted to purchase alcoholic beverages as well as for use in any court or administrative proceeding regardless of the type of criminal activity or the party or parties involved.

n. Signs.

All signing shall conform to the provisions of Section 93.20.00.

**3. Open Storage Yards for Junk, Auto Wrecking and Other Waste Products.**

Open storage yards for junk, auto wrecking and other waste products shall comply with the following provisions in addition to zone provisions and conditions imposed in a conditional use permit.

a. Site Area.

The minimum site area shall be twenty-five thousand (25,000) square feet.

b. Location.

The minimum distance from the site to a residential zone, school, park, playground, church, museum, or similar use shall be one thousand (1,000) feet.

c. Screening.

The entire perimeter of a storage site shall be screened with a masonry wall at least six (6) feet in height, except for necessary openings which shall have solid gates.

**4. Quarries, Sand Pits or Gravel Pits.**

a. The application for a conditional use permit for a quarry, sand pit or gravel pit shall include a contour map indicating operating sites, blowsand abatement program, structures and all improvements including the extremities of the proposed quarry. The application shall further submit a report in detail indicating the method of quarry operation, which report shall include an outline of the sequence and pattern of mineral excavation. This shall include the number, spacing, depth of drill holes, and amount of explosives to be used per hole. The maximum size of quarry face for mining and blasting purposes shall be twenty-five (25) feet.

i. The planning commission, upon receipt of this plan, may, at its discretion, require at the operator's expense a geophysical survey to determine the seismic effects of the proposed blasting pattern, which may be the basis for limiting the size of blast.

b. Quarries, sand pits and gravel pits shall comply with the following provisions in addition to zone provisions and conditions imposed in a conditional use permit:

i. No rock or mineral crushing or treatment of minerals shall be permitted.

ii. Accessory building shall be used solely for the storage and maintenance of equipment and operating offices.

iii. No building may be closer than one thousand (1,000) feet from any approved public street or highway.

iv. Quarry operations shall not be closer than one-half (½) mile from any residential zone and not closer than one hundred (100) feet to any property line.

v. The hours of operation shall be limited to the hours of eight a.m. to six p.m., Monday through Friday, excluding national holidays.

vi. Removal of minerals pursuant to this section shall be conducted so as to limit the emanation of smoke and dust as provided by the standards set forth in Section 92.16.04(E) and (F).

vii. The noise from any operation shall not exceed the standards set forth in the noise ordinance.

viii. All drill holes shall be tamped to minimize the sonic effects of blasts. No charges may be exposed to the air during detonation.

ix. All roads from the site to any public street or highway shall be paved with suitable asphaltic material on a prepared base as per specifications of the director of public works to a width of twenty-eight (28) feet to prevent the emanation of dust.

x. During the operation of the quarry, sand or gravel pit, a blowsand abatement program shall be in effect to protect off-site properties.

xi. Upon completion of all operations, or operations at any one point, all excavations as well as mounds of waste material which may be seen from any public street or highway shall be graded and the premises restored as near as possible to original conditions and contours.

c. All operations shall be covered by public liability and property damage insurance as required by the city of Palm Springs.

d. Upon cessation of operations for a period of six (6) months, this permit shall terminate and all structures and equipment shall be removed.

e. Bond Requirement.

To guarantee compliance with conditions set forth in this section and in the conditional use permit, the operator shall post and maintain with the city of Palm Springs, a performance bond of not less than one million dollars (\$1,000,000.00), conditioned that the city may enter and restore the premises and recover all its costs. Performance bonds shall contain a clause to allow an annual inflation cost to be added to the original bond amount.

#### **5. Recreation Vehicle Park.**

RV parks or resorts are intended to provide for the accommodation of visitors to Palm Springs who travel to the community by recreational vehicle and reside in that vehicle for a period not to exceed one hundred eighty (180) days. This use is also intended to create a safe, healthful and beneficial environment for both occupants of the RV parks and to protect the character and integrity of surrounding uses. No RV use shall be located within any “N” zone.

a. Uses Permitted.

Buildings, structures and land shall be used and building and structures shall hereafter be erected, altered or enlarged only for the following uses. All uses shall be subject to the standards contained herein or approved by the planning commission and city council.

i. Recreational vehicles as defined in Section 91.00.09(A);

ii. Incidental uses operated primarily for the convenience of RV park occupants.

There shall be no separate sign advertising such uses visible from the street and said use shall be located not less than one hundred (100) feet from any street. Incidental uses permitted shall include only the following:

(A) Barber and beauty shops,

(B) Dwellings for owner and/or managers and staff,

(C) Food markets,

(D) Golf courses,

(E) Indoor and outdoor recreational facilities,

(F) Laundry,

(G) Office,

(H) Personal services including showers and restrooms,

(I) Restaurants, including dancing and alcoholic beverage sales,

(J) Sales of items related to maintenance and operation of recreational vehicles;

iii. Storage of unoccupied recreational vehicles. Storage areas not to exceed five (5) percent of the gross area of the RV park. Storage areas shall be screened on all sides;

iv. Accessory uses customarily incidental to the above uses and located on the same lot therewith.

b. Similar Uses Permitted by Commission Determination.

The commission may, by resolution of record, permit any other uses which it may determine to be similar to those listed above, operated exclusively for the convenience of RV park residents, and not more obnoxious or detrimental to the public health, safety and welfare, or to other uses permitted in the park, as provided in Section 94.01.00. All uses shall be subject to the property development standards contained herein.

c. Uses Prohibited.

All uses and structures not permitted in Section 94.02.00(H)(5)(a) are deemed to be specifically prohibited. The following general classification of uses shall not be permitted in RV parks.

- i. Recreational vehicle repair service,
- ii. Commercial uses except those described in Section 94.02.00(H)(5)(a)(ii) and approved by the planning commission on the development plans.

d. Property Development Standards for RV Parks.

The following property development standards shall apply for all RV Zones:

i. Size of RV Park.

No parcel of land containing less than twenty (20) acres may be used for the purposes permitted in the RV zone.

ii. Density.

A minimum of two thousand four hundred (2,400) square feet of lot area shall be provided for each recreational vehicle in the RV park. This space ratio shall include access roads, automobile parking, accessory building space and recreational areas. Each RV space shall be equal to one (1) dwelling unit.

iii. Building Height.

Buildings and structures erected in this zone shall not exceed fifteen (15) feet at minimum setback requirements, or a three (3) to one (1) setback shall be provided for structures exceeding fifteen (15) feet to a maximum of twenty-four (24) feet.

iv. Yards.

(A) General Provisions.

(1) Yards shall be measured perpendicular to the property line or from a future street or highway line, as shown on the general plan or setback ordinance.

(2) Yard provisions shall apply to both main and accessory structures.

(B) Front Yard.

Each recreational vehicle park shall have a front yard of forty (40) feet extending for the full width of the parcel devoted to such use.

(C) Side and Rear Yards.

Each recreational vehicle park shall have rear and side yards of not less than fifteen (15) feet, except where a side or rear yard abuts a street, the yard shall be not less than forty (40) feet. Where development sides or rears on existing single-family developments (R-1 zones) a one hundred (100) foot setback shall be provided for structures exceeding one story.

e. Walls, Fences and Landscaping.

i. Each recreational vehicle park shall be entirely enclosed at its exterior boundaries as follows:

(A) An eight (8) foot high decorative masonry wall shall be required on the perimeter of each RV park. For front yards, the wall shall be constructed within the forty (40) foot required setback, no closer than twenty-five (25) feet from a property line.

(B) Peripheral landscaping of not less than six (6) feet in height shall be provided adjacent to all walls.

(C) All required yards to be landscaped and maintained.

ii. Permitted Fences and Walls.

The provisions of Section 93.02.00 shall apply.

f. Open Space.

A minimum of forty-five (45) percent of the site area shall be developed as usable landscaped open space and outdoor living and recreation area.

g. Signs.

The provisions of Section 93.20.00 shall apply.

h. Access.

The provisions of Section 93.05.00 shall apply. Principal access to a recreational vehicle park shall be from a secondary or major thoroughfare. Emergency access may be permitted to any street.

i. Off-Street Loading and Trash Areas.

i. The provisions of Section 93.07.00 shall apply.

ii. One (1) trash enclosure should be provided for each thirty (30) spaces or as approved by the planning commission.

j. Antennas.

The provisions of Section 93.08.00 shall apply.

k. Property Development Standards Within the Recreational Vehicle Park.

i. Size of Space.

The minimum size of each RV space shall be one thousand two hundred fifty (1,250) square feet.

ii. Individual Space Improvements.

(A) Each recreational vehicle space shall be provided with a parking area paved with asphalt concrete (three (3) inches in thickness) or portland cement concrete (six (6) inches in thickness) for parking of vehicles.

(B) Each recreational vehicle space shall be provided with a one hundred twenty (120) square feet portland cement concrete, brick or other decorative paving patio.

(C) All areas not in hard surface shall be landscaped unless otherwise approved by the planning commission.

iii. Distance Between Recreational Vehicles and Structures.

(A) There shall be not less than ten (10) feet between recreational vehicles.

(B) Where recreational vehicle spaces are located near any permitted building, the minimum space between the recreational vehicle and such building shall be fifteen (15) feet.

iv. Electrical Service.

(A) Each recreational vehicle space shall be provided with electrical service.

(B) All electrical, telephone and television services within the recreational vehicle park shall be underground.

v. Water Service.

Each recreational vehicle space shall be provided with a fresh water connection.

vi. Sewer Service.

Each recreational vehicle space (except tent areas) shall be provided with a connection to an approved sanitary sewer system.

vii. Movement of Recreational Vehicles.

Wheels or similar devices shall not be removed from recreational vehicles, nor shall any fixture be added which will prevent the recreational vehicle from being moved under its own power or by a passenger vehicle within a one (1) hour period.

viii. Accessory Structures.

No accessory structure shall be constructed as a permanent part of the recreational vehicle.

ix. Access Roads.

(A) All access roads shall be paved with asphalt concrete with a minimum thickness of three (3) inches or portland cement concrete with a thickness of six (6) inches.

(B) Access roads within the recreational vehicle park shall be paved to a width of not less than twenty-five (25) feet and, if paved to a width of less than thirty-two (32) feet, shall not be used for automobile parking at any time.

(C) One-way road systems may reduce the street cross section if approved by the planning commission.

(D) Where access roads are paved to a width of thirty-two (32) feet or more, the off-street parking provisions contained in this section are waived for the number of spaces provided and marked off in the parking lane on the street. Each marked space shall conform to the parking standards defined in this Zoning Code.

(E) Portland cement concrete pavement edge gutters or center gutters shall be installed on all access road(s) pursuant to approved grading and drainage plans.

(F) Each recreational vehicle space shall front on an access road.

x. Lighting.

(A) Lighting shall be indirect, hooded and positioned so as to reflect onto the access roads and away from the recreational vehicle spaces and adjoining property.

(B) Light standards shall be a maximum of eighteen (18) feet in height. The height of all light standards shall be measured from the elevation of the adjoining pavement of the access roads.

xi. Drainage.

(A) The park shall be so graded that there will be no depressions in which surface water will accumulate.

(B) The ground shall be sloped to provide storm drainage run-off by means of surface or subsurface drainage structures.

(C) The area beneath the recreational vehicle shall be sloped to provide drainage from beneath the recreational vehicle to an outside surface drainage structure.

xii. Off-Street Parking.

(A) Each individual RV space shall provide one (1) parking space in addition to the RV space itself. All parking shall be provided in accordance with Section 93.06.00 (Off-street parking).

(B) One (1) visitor parking space shall be provided for every ten (10) recreational vehicle spaces in addition to parking required in subsection (H)(5)(k)(1) of this section.

(C) Parking for accessory uses shall comply with Section 93.06.00(D).

xiii. Park and Recreational Space.

There shall be provided a recreational area(s) having a minimum area of two hundred (200) square feet for each recreational vehicle space. Such spaces shall be consolidated into usable areas within minimum dimensions of not less than one hundred (100) feet. Open space, pool areas, game courts, etc., shall be considered recreation area.

xiv. Management.

(A) A caretaker responsible for the maintenance of the park shall reside on the premises of the park at all times when the park is occupied.

(B) Management Storage.

All storage of supplies, maintenance, materials and equipment shall be provided within a storage area. Such storage care shall be located outside any required yard and completely

screened from adjoining properties with a decorative masonry wall and landscape materials ten (10) feet in height.

(C) Length of Occupancy.

The intent of the recreational vehicle park is to allow standards for the transient occupancy of recreational vehicles as defined in this Zoning Code. It is not the intent of the recreational vehicle park to circumvent standards for a residential mobilehome space. The period of time that a recreational vehicle shall occupy a recreational vehicle park as defined by this Zoning Code, shall not exceed one hundred eighty (180) days.

xv. Sanitary Facilities:

(A) One (1) toilet, lavatory and shower for each sex for every twenty-five (25) recreational vehicle spaces or fraction thereof shall be provided within an enclosed building.

(B) Toilets shall be of a water flushing type.

(C) Hot and cold running water shall be provided for lavatories and showers.

(D) Toilet, lavatory and shower facilities shall be located not more than three hundred (300) feet from any recreational vehicle space.

(E) Laundry Facilities.

One (1) washing machine and dryer shall be provided for every fifty (50) recreational vehicle spaces or fraction thereof.

(F) Trailer Sanitation Station.

A sanitation station shall be provided to receive the discharge from sewage holding tanks of self-contained recreational vehicles.

(1) The sanitation station shall be constructed in accordance with specifications set forth in Chapter 5 (Mobilehome Parks, Special Occupancy Trailer Parks and Campgrounds), Title 25 (Housing and Planning & Building), of the California Administrative Code.

(2) The sanitation station shall be located within the park in such a manner so as not to be obnoxious to the tenants of the park or and shall be set back one hundred (100) feet from adjoining residential development.

(G) These requirements may be modified by the planning commission should each recreational vehicle space be provided with a sewer connection

xvi. Recreational Vehicle Storage Yard.

Recreational vehicle storage yards may be provided as an accessory use to a recreational vehicle park, they shall conform to the following standards:

(A) No storage yard shall be located in a required setback area.

(B) The area shall be graded and the surface paved with asphalt concrete with a minimum thickness of three (3) inches or other material approved by the planning commission.

(C) The storage yard shall be enclosed by a six (6) foot high solid masonry wall or a six (6) foot high chain link fence and landscaped to shield the interior of the area and the chain link fence from view on all sides. The wall or fence shall be broken only by a solid gate.

(D) Additional landscaping may be required within the storage yard.

(E) No sewer connection other than a standard trailer sanitation station shall be permitted within the storage yard.

(F) Electrical connections may be provided for maintaining the air conditioners in the recreational vehicles.

(G) RVs in the storage yard shall not be used for living purposes.

6. Shopping Centers.

a. Application.

A conditional use permit application for a shopping center shall include an application as described in this section.

b. Approval.

Approval of the CUP request by the city council shall establish a two (2) year time limit for the CUP.

c. Time Limits.

Requests for extensions of time shall be made to the planning commission. The applicant shall state the reasons for failure to comply with the timing conditions set forth in this section, and shall demonstrate his ability to proceed with the development if the extension is granted. Upon recommendation by the planning commission, the city council may grant an extension of time.

d. Bonds.

The city council may require the posting of performance bonds to guarantee the installation of all site improvements which may include streets, paving, curbs, parking areas, landscaping, walls, lighting, sidewalks, sewers and utilities within the period of time specified by the conditional use permit. Such bond is to be posted prior to the issuance of the first building permit. Bonds shall contain a clause to allow an annual inflation cost to be added to the original bond amount.

**7. Assisted living facilities and convalescent homes** shall comply with the following provisions to zone provisions and conditions imposed in a conditional use permit:

a. Density.

The number of beds permitted in a facility shall be determined by multiplying the number of units permitted under the applicable zoning/general plan standards by the average household size for the city of Palm Springs according to the latest census figures.

b. Parking.

The number of off-street parking spaces shall be no less than the following, unless otherwise permitted by the planning commission:

i. Independent Living Facilities.

Three-quarter (3/4) primary space per unit, plus one (1) designated guest space for each five (5) units.

ii. Congregate Care, Assisted Living and Board and Care Facilities.

One-half (1/2) primary space per bedroom, plus one (1) space for each three (3) employees.

iii. Intermediate Care and Skilled Nursing Facilities.

One-quarter (1/4) primary space per bedroom, plus one (1) space for each three (3) employees.

c. Annual Review.

The operator of the facility shall submit to the city of Palm Springs, on an annual basis, a copy of the facility's current state license. The city may require review of the CUP at the time of such review to determine continued compliance with the conditions.

**8. Commercial Wind Energy Conversion Systems (WECS).**

a. Purposes.

A conditional use permit for a commercial wind energy conversion system (WECS) is intended to regulate and provide for the installation of commercial WECS which are made feasible by the strong prevailing winds within certain areas of the city designated by the general plan. The conditions of the permit are meant to ensure that a safe and beneficial environment, for both the WECS development and the adjacent properties, is provided.

b. Applicability.



Commercial WECS or WECS arrays, and all other uses listed in subsection (H)(8)(c) of this section, are permitted in the following zone classifications; provided, the general plan designates the lot within the wind energy overlay and a conditional use permit is granted pursuant to this section:

- i. Watercourse zone (W);
- ii. Open land zone (O-5);
- iii. Energy industrial zone (E-I);
- iv. Manufacturing zone (M-2).
- c. Uses Permitted With a Conditional Use Permit.
  - i. Commercial WECS and WECS arrays with no limit as to rated power output;
  - ii. Meteorological towers under two hundred (200) feet high;
  - iii. Accessory Uses.

Parcels may be used for accessory uses; provided, such uses are established on the same parcel of land, are incidental or supplemental, to a permitted use, and do not substantially alter the character of any permitted use. Accessory uses include, but are not limited to:

- (A) Storage of trucks and other vehicles;
- (B) Storage of materials, inventory, tools and machinery;
- (C) Offices and maintenance shop structures;
- (D) Caretaker dwellings; provided, no compensation is received for the use of any such dwelling and the size of such dwelling is no greater than two thousand (2000) square feet;
- (E) Overhead and underground transmission and communications lines and facilities, including transformers, substations, control rooms, switching facilities and microwave towers;
- (F) Structures necessary for the conservation and development of water resources, such as dams, pipelines and pumping facilities, and aquaculture;
- (G) Cogeneration facilities;
- (H) Solar collectors and photovoltaic panels;
- (I) Energy storage facilities.
- d. Application.

Every application for a conditional use permit shall be made in writing to the planning commission on the forms provided by the department of planning and building and shall be accompanied by the filing fee set forth by city council resolution. Applications shall be reviewed by the planning commission for conformance with this section. The application shall include the following information:

- i. Name and address of the applicant;
- ii. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application;
- iii. A plot plan and development plan drawn in sufficient detail to clearly describe the following:
  - (A) Physical dimensions of the property,
  - (B) Location and physical dimensions of existing and proposed structures,
  - (C) Location of electrical lines and facilities,
  - (D) Existing topography,
  - (E) Proposed grading and removal of natural vegetation,
  - (F) Wind characteristics and dominant wind direction at the site. Dominant wind direction is the direction from which fifty (50) percent or more of the energy contained in the wind flows,
  - (G) Setbacks,
  - (H) Circulation,

- (I) Ingress and egress,
- (J) Utilization of the property under the requested permit;
- iv. Utility interconnection data and a copy of written notification to the utility of the proposed interconnection;
- v. A photograph or detailed drawing of each model of WECS including the tower and foundation; and one (1) or more detailed perspective drawings showing the site fully-developed with all proposed WECS and accessory structures;
- vi. Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of each model of WECS;
- vii. Specific information on the type, height, material and safety of each model of tower;
- viii. A site preparation and installation schedule;
- ix. A geotechnical report;
- x. A vicinity map or aerial photograph describing the location, including distances from existing and proposed WECS, of all residences and other structures which are within one (1) mile of any property proposed for WECS installation;
- xi. Drawings which show phase spacings, configurations and grounding practices of any proposed electrical distribution lines;
- xii. An application including any WECS which is located within twenty thousand (20,000) feet of the runway of any airport shall be accompanied by a copy of written notification to the Federal Aviation Administration;
- xiii. If the application includes any WECS which requires the approval of a height limit greater than that allowed in Section 94.02.00(H)(8)(e)(i)(A), a variance application, pursuant to Section 94.06.00 of the Zoning Code, shall be filed concurrently;
- xiv. An application including any WECS with a rated power output of one hundred (100) kw or larger which is located within a state-designated Alquist-Priolo Act Special Study Zone shall be accompanied by a detailed fault hazard report prepared by a California registered geologist which shall address the potential for rotor tower failure calculated for the vertical and horizontal accelerations reasonably expected on the site in the event of a design earthquake;
- xv. An application including any WECS which is located within two (2) miles of any microwave communications link shall be accompanied by a copy of a written notification to the operator of the link or evidence that no WECS are located in the microwave path;
- xvi. An application including any WECS which is located within a 100-year floodplain area, as such flood hazard areas are shown on the zoning map, shall be accompanied by a detailed report which shall address the potential for wind erosion, water erosion, sedimentation and flooding, and such report(s) shall propose mitigation measures for such impacts to the extent that such impacts are caused by the proposed WECS;
- xvii. Such additional information as shall be reasonably required by the director of planning and building.
- e. Standard and Development Criteria.
  - i. Height Limits.
    - (A) No commercial WECS shall exceed three hundred (300) feet in height, measured at the top of the blade in the “twelve o’clock position.” Where unusual conditions warrant, a lower height limit may be imposed as a condition of a conditional use permit.
    - (B) No other building or structure shall exceed thirty (30) feet in height, except for meteorological towers permitted by Section 94.02.00(H)(8)(c)(ii).
  - ii. Setbacks.
    - All commercial WECS shall meet these general setback requirements as well as the other setbacks set forth below.

(A) No building or structure shall be located closer than fifty (50) feet from any lot line.

(B) No WECS shall be located closer than one thousand two hundred (1,200) feet from any residence, hotel, hospital, school, library or convalescent home unless the owner of such structure waives, in writing, the setback requirement.

(C) Notwithstanding the one thousand two hundred (1,200) foot setback requirement specified in subsection (H)(8)(e)(ii) of this section, a lesser setback may be permitted where due to factors of topography or the characteristics of the proposed WECS project, the approving entity finds that the noise, aesthetic or other environmental impacts of the project on adjacent properties will not be any more significant than if the one thousand two hundred (1,200) foot setback were applied. In the case of the replacement of WECS, pursuant to subsection (H)(f)(iii) of this section, the standard for determining whether a reduction shall be approved is whether the replacement WECS will have a substantially reduced cumulative impact on surrounding property, as compared to the existing project, and whether adhering to the one thousand two hundred (1,200) foot setback will be an unreasonable economic hardship to the applicant. Wherever a setback reduction is proposed pursuant to this subsection, the setback reduction shall be included in all notices, and, if the WECS permit shall specifically state the required setback.

iii. Safety Setbacks.

(A) No commercial WECS shall be located where the center of the tower is within a distance of 1.25 times the total WECS height from any above-ground electrical transmission line of more than twelve (12) kV.

(B) No commercial WECS shall be located where the center of the tower is within a distance of 1.25 times the total WECS height from any public highway or road, railroad or off-site building. The setback herein specified shall be measured from the boundary of the public right-of-way or railroad right-of-way.

(C) No commercial WECS shall be located where the center of the tower is within a distance of 1.25 times the total WECS height from any lot line. No commercial WECS shall be located where the center of the tower is within two hundred (200) feet from any lot line of a lot which contains a dwelling.

(D) Notwithstanding the provisions of subsections (H)(8)(e)(iii)(B) and (H)(8)(e)(iii)(C) of this section, the setbacks therein specified may be reduced to less than 1.25 times the total WECS height if the planning commission determines that the topography of, or other conditions related to, the adjacent property or right-of-way eliminates or substantially reduces the potential safety hazards. Whenever a setback reduction is proposed pursuant to this subsection, the setback reduction shall be included in all notices regarding the conditional use permit, and, if granted, the conditional use permit shall specifically state the required setback.

iv. Wind Access Setbacks.

(A) No commercial WECS shall be located where the center of the tower is within a distance of five (5) rotor diameters from a lot line that is perpendicular to and downwind of, or within forty-five (45) degrees of perpendicular to and downwind of, the dominant wind direction.

(B) Notwithstanding the provisions of subsection (H)(8)(iv)(A) of this section, such setbacks from lot lines do not apply if the application is accompanied by a legally enforceable agreement or waiver for a period of twenty-five (25) years or the life of the permit that the adjacent landowner agrees to the elimination of the setback, or if the planning commission determines that the characteristics of the downwind property eliminate the ability to develop said downwind property with commercial WECS.

v. Scenic Setbacks.

(A) No commercial WECS shall be located where the center of the tower is within one thousand three hundred fifteen (1,315) feet (one-quarter ( $\frac{1}{4}$ ) mile) of State Highway 62 and of that portion of Interstate 10 between State Highway 62 and the Whitewater River, commonly known as the Whitewater Grade.

(B) No commercial WECS shall be located where the center of the tower is within five hundred (500) feet of Indian Canyon Drive/Indian Avenue.

(C) No commercial WECS shall be located where the center of the tower is within five hundred (500) feet of Interstate 10, except as specified in subsection (H)(8)(v)(A) of this section.

(D) No commercial WECS shall be located where the center of the tower is within three thousand four hundred seventy-two (3,472) feet (two-thirds ( $\frac{2}{3}$ ) mile) of State Highway 111.

(E) No commercial WECS shall be permitted south of State Highway 111.

(F) No commercial WECS shall be located where the center of the tower is within 1.25 times the total WECS height from Dillon Road.

(G) The setbacks specified in the subsections above shall be measured from the nearest boundary of the public right-of-way.

(H) Notwithstanding the provisions of the subsections (H)(8)(v) of this section, the setbacks therein specified may be reduced if the planning commission determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value. Whenever a setback reduction is proposed pursuant to this subsection, the setback reduction shall be included in all notices regarding the conditional use permit, and, if granted, the conditional use permit shall specifically state the required setback.

vi. Safety and Security.

(A) Fencing, or other appropriate measures, shall be required to prevent unauthorized access to the WECS or WECS array.

(B) Guy wires shall be distinctly marked.

(C) Signs in English and Spanish warning of the electrical and other hazards associated with the WECS shall be posted at the base of each tower and at reasonable intervals on fences or barriers.

(D) Horizontal-axis WECS.

The lowest extension of the rotor of a horizontal-axis WECS shall be at least twenty-five (25) feet from the ground.

(E) Vertical-axis WECS.

A fence or other barrier shall be erected around a vertical-axis WECS whose rotors are less than fifteen (15) feet from the ground.

vii. Seismic Safety.

(A) All WECS shall comply with the requirements of the applicable seismic zone of the Uniform Building Code or with the seismic design recommendation in an approved geotechnical report on the project.

(B) Control facilities for commercial WECS or WECS arrays shall not be located within six hundred sixty (660) feet of any fault within a state-designated Alquist-Priolo Act Special Studies Zone.

viii. Fire Protection.

Upon recommendation of the city fire department, commercial WECS and WECS arrays may include fire control and prevention measures including, but not limited to, the following:

(A) Fireproof or fire-resistant building materials;

(B) Buffers of fire-retardant landscaping;

(C) An automatic fire-extinguishing system;

(D) Fire breaks.

ix. Interconnection and Electrical Distribution Facilities.

Interconnection shall conform to procedures and standards established by the California Public Utilities Commission.

x. Unsafe and Inoperable WECS.

(A) Whenever any existing commercial WECS are modified, or any new commercial WECS are installed, any commercial WECS on the site which are unsafe, inoperable or abandoned or for which the permit has expired shall be removed by the owner or brought into compliance with the provisions of this section. All safety hazards created by the installation and operation of the WECS shall be eliminated. Whenever the operation of any WECS is eliminated, the site shall be restored to its condition prior to installation. A bond, in an amount approved by the director of planning and building, or other appropriate form of security, in a form approved by the city attorney, may be required to cover the cost of removal and site restoration.

(B) Every unsafe or inoperable commercial WECS and every commercial WECS which has not generated power for twelve (12) consecutive months is declared to be a public nuisance which shall be abated by repair, rehabilitation, demolition or removal. The appropriate abatement method shall be determined by the director of planning and building based upon the cost of abatement and the degree to which the WECS will meet the requirements of this section following abatement. A commercial WECS which has not generated power for twelve (12) consecutive months shall not be considered a public nuisance; provided, the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and that a good faith effort is being made to return the WECS to service at the earliest practical date. If a commercial WECS does not deliver power as a result of a curtailment whereby power is not accepted by the contracted utility, the period of curtailment shall be added to the minimum period defined above.

xi. Interference With Navigational Systems.

No commercial WECS shall be installed which do not comply with Federal Aviation Administration regulations for siting structures near an airport or VORTAC installation.

xii. Site Disruption.

Prior to the issuance of building permits for a commercial WECS development, all areas where significant site disruption is proposed shall be temporarily marked off. All construction activities shall be limited to the areas marked off.

xiii. Certification.

(A) The foundation, tower and compatibility of the tower with the rotor and rotor-related equipment shall be certified in writing by a structural engineer registered in California that they conform with good engineering practices and comply with the appropriate provisions of the Uniform Building Code that have been adopted by the city.

(B) The electrical system shall be certified in writing by an electrical engineer, registered in California, that it conforms with good engineering practices and complies with appropriate provisions of the National Electrical Code that have been adopted by the city.

(C) The rotor overspeed control system shall be certified in writing by a mechanical engineer, registered in any state, that it conforms with good engineering practices.

xiv. Noise.

A commercial WECS or WECS array shall not be operated inconsistent with the provisions of Chapter 11.74, (Noise ordinance) of the Palm Springs Municipal Code.

xv. Electrical Distribution Lines.

(A) To the extent economically prudent, as determined by the planning commission, electrical distribution lines on the project site shall be undergrounded up to the low voltage side of the step-up transformer or to the utility interface point of an on-site substation.

(B) Any electrical distribution line of less than thirty-four (34) kV, not subject to the jurisdiction of the California Public Utilities Commission, which is located within one (1) mile of State Highways 62 and 111, or within one (1) mile of the portion of Interstate 10 commonly known as the Whitewater Grade (between State Highway 62 and the Whitewater River) shall be installed underground if such installation is feasible, as determined by the director of planning and building.

(C) Electrical distribution lines shall be governed by the latest edition of “Suggested Practices for Raptor Protection on Powerlines” on file with the Bureau of Land Management. Use of this information should be made to design the proposed facilities with proper grounding, phase spacing and configuration such that it will prevent, to the best of the design engineer’s ability, the electrocution of raptors. The use of designs other than those included in “Suggested Practices” that are, in the opinion of the director of planning and building, raptor safe, shall be permitted in public rights-of-way. The cost of such alternate designs shall be at the applicant’s expense.

xvi. Monitoring.

(A) Upon reasonable notice, and subject to the applicant’s safety and security procedures, city officials or their designated representatives may enter a lot on which a conditional use permit has been granted for the purpose of monitoring noise and other environmental impacts. Twenty-four (24) hours advance notice shall be deemed reasonable notice.

(B) The holder of a conditional use permit shall report to the city department of planning and building all dead birds found within five hundred (500) feet of a WECS and all sightings of the Coachella Valley Fringe-Toed Lizard on the WECS site.

(C) The holder of a conditional use permit may be required to submit periodic monitoring reports containing data on the operations and environmental impacts.

(D) A toll-free telephone number shall be maintained for each commercial WECS project and shall be distributed to surrounding property owners to facilitate the reporting of noise irregularities and equipment malfunctions.

xvii. Time-Related Conditions.

Where no operating data for the proposed turbines is available, the granting of a conditional use permit may be conditioned upon the installation and operation of one (1) or more WECS for a period not to exceed six (6) months in order to demonstrate performance characteristics of the WECS. If such a monitoring condition is imposed, the permit shall specify the standards which must be met in order to continue development. If a standard is not being met at the expiration of the required monitoring period, the applicant and the city may agree to an extension. The time within which the permit must be used shall be extended for the period of required monitoring.

xviii. Development Impacts.

A one-time or periodic fee and a requirement to provide public works or services may be imposed as a condition of a conditional use permit. Such exactions must be related to the public need created by the wind energy development. The purposes for which the permit exaction may be used include, but are not limited to, providing roads required by the wind development and establishing and operating a monitoring system.

xix. Signs.

No advertising sign or logo shall be placed or painted on any commercial WECS. Unless otherwise approved by the planning commission, the conditional use permit may permit the placement of no more than one (1) project identification sign relating to the development on the

project site, but no such sign shall exceed fifty (50) square feet in surface area or eight (8) feet in height.

xx. Color and Finish of WECS.

All commercial WECS shall be either light environmental colors (such as off-white, gray, beige or tan) or darker fully-saturated colors (such as dark blue or green, maroon or rust red) or galvanized. All commercial WECS shall have a matte or galvanized finish unless the director of planning determines that such finish adversely affects the performance of the WECS or other good cause is shown to permit any other finish.

xxi. Contingent Approval.

A commercial WECS may be granted subject to necessary approvals from the Federal Aviation Administration or other approving authorities.

xxii. General Conditions.

The city may impose conditions on the granting of a conditional use permit in order to achieve the purposes of this Zoning Code and the general plan and to protect the health, safety or general welfare of the community.

xxiii. Notification.

Upon approval of a conditional use permit, the city shall provide written notice to the California Public Utilities Commission, the California Energy Commission and the concerned utility.

f. Use of Permit.

i. Any conditional use permit that is granted shall be used within two (2) years from the effective date thereof or within such additional time as may be set in the conditions or approval, which shall not exceed a total of five (5) years; otherwise, the permit shall be null and void. Notwithstanding the foregoing, if a permit is required to be used within less than five (5) years, the permittee may, prior to its expiration, request an extension of time in which to use the permit. An extension of time may be granted by the commission upon a determination that valid reason exists for permittee not using the permit within the required period of time. If an extension is granted, the total time allowed for use of the permit shall not exceed a period of five (5) years, calculated from the effective date of the issuance of the permit. The term “use” shall mean the beginning of substantial construction of the use that is authorized, which construction must thereafter be pursued diligently to completion.

ii. Life of Permit.

A conditional use permit shall be valid for the useful life of the WECS included in the permit. The life of the permit shall be determined at the time of approval and shall not exceed thirty (30) years.

iii. Replacement.

(A) Individual commercial WECS which have been installed pursuant to a conditional use, or other WECS, permit may be replaced with approval of a land use permit provided the replacement WECS meets the standards of subsection (H)(8)(e) of this section. Such determination shall be made by the director of planning and building according to Section 94.02.01 (Land use permits).

(B) WECS arrays which have been installed pursuant to a conditional use, or other WECS, permit may be replaced with approval of a land use permit; provided, two (2) or more individual WECS shall be removed for each replacement WECS installed and the resultant array meets the standards of subsection (H)(8)(e) of this section. Such determination shall be made by the director of planning and building according to Section 94.02.01 (Land use permits).

(C) WECS replacements not meeting the criteria above require approval of a subsequent conditional use permit.

(D) Any WECS on which the cost of alteration, restoration, repair or rebuilding in a twelve (12) month period exceeds seventy-five (75) percent of the replacement cost and shall be subject to subsections (H)(8)(e)(iii)(A) through (H)(8)(e)(iii)(C) of this section.

(E) Existing WECS, upon adoption of this section, shall be considered to hold a valid conditional use permit under the conditions by which such WECS was originally approved; such WECS shall not be considered nonconforming by virtue of the provisions of this section.

I. Revocation or Voiding of Conditional Use Permit.

1. The council, with or without a recommendation from the planning commission, may, after notice and public hearing, revoke any conditional use permit for noncompliance with any of the conditions set forth in granting the permit.

2. Notice.

a. Notice shall be mailed to the record owner and lessee of the subject property not less than twenty (20) days prior to holding a public hearing. Such notice shall state the complaint and shall request appearance of such owner and lessee at the time and place specified for the hearing to show cause why the permit should not be revoked.

b. Notification of property owners shall be given as provided in Section 94.02.00(B)(4).

3. Within ten (10) days after the public hearing, the council may by resolution, revoke or modify the conditional use permit. After revocation, the subject property shall conform to all regulations of the zone in which it is located according to a time schedule determined by the city council.

4. If the time limit for development expires and development has not commenced, or the use permitted by the conditional use permit does not exist, the conditional use permit shall be considered void. No notice need be given nor hearing held. An extension of the time limit may be recommended by the commission and granted by the council upon written request by the applicant and a showing of good cause.

5. Termination of a use granted herein for a period of one (1) calendar year shall terminate the use rights granted without further notice or public hearing. An extension of the time limit may be approved by the planning commission, or the city council, upon written request by the applicant and a showing of good cause.

J. Reapplication.

Application may not be made for a similar conditional use permit on the same land, building or structure within a period of six (6) months from the date of the final decision on such previous application unless such decision is a denial without prejudice.

K. Existing Permits.

Any conditional use permit granted pursuant to any zoning ordinance enacted prior to the effective date of this Zoning Code shall be construed to be a conditional use permit under this Zoning Code subject to all conditions imposed in such permit. Such permit may, however, be revoked or voided as provided in Section 94.02.00(I) above.

(Ord. 1590 § 23, 2000; Ord. 1553 (part), 1998; Ord. 1551 (part), 1998; Ord. 1511 (part), 1995; Ord. 1502 (part), 1995; Ord. 1500 (part), 1995; Ord. 1472, 1994; Ord. 1418 (part), 1992; Ord. 1347 (part), 1990; Ord. 1307 (part), 1988; Ord. 1294 (part), 1988)



**CITY OF PALM SPRINGS  
PUBLIC HEARING NOTIFICATION**



---

City Council

Meeting Date: October 5, 2011


Subject: ZONE TEXT AMENDMENT TO CONSOLIDATE CONDITIONS FOR  
SPECIFIC USES WITHIN A SINGLE CODE SECTION (CASE 5.1224)

---

**AFFIDAVIT OF MAILING**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person on the attached list on September 20, 2011, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California. (6 notices)

I declare under penalty of perjury that the foregoing is true and correct.



---

Kathie Hart, CMC  
Chief Deputy City Clerk

**AFFIDAVIT OF PUBLICATION**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was published in the Desert Sun as a 1/8 page display ad on September 24, 2011.

I declare under penalty of perjury that the foregoing is true and correct.



---

Kathie Hart, CMC  
Chief Deputy City Clerk

**AFFIDAVIT OF POSTING**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board and in the Office of the City Clerk on September 21, 2011.

I declare under penalty of perjury that the foregoing is true and correct.



---

Kathie Hart, CMC  
Chief Deputy City Clerk

NOTICE OF PUBLIC HEARING  
CITY COUNCIL  
CITY OF PALM SPRINGS

CASE 5.1224 ZTA - A PROPOSED ZONE TEXT AMENDMENT TO CREATE  
ZONING CODE SECTION 93.23.00 "GENERAL CONDITIONS"  
FOR THE CONSOLIDATION OF EXISTING CODE SECTIONS RELATING TO  
CONDITIONS FOR SPECIFIC USES CITYWIDE

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Palm Springs, California, will hold a Public Hearing at its meeting of October 5, 2011. The City Council meeting begins at 6:00 p.m., in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of this hearing is to consider a recommendation for a Zone Text Amendment (ZTA) to create Zoning Code Section (93.23.00) for the consolidation of existing code sections relating to Conditions for Specific Uses. The ZTA recommendation proposes moving Conditions for Specific Uses, currently found in various chapters and sections throughout the Zoning Code, to Section 93.23.00 in Chapter 93 "General Conditions". Consolidating these existing sections would provide more accurate referencing and allow standardization of the addition of Specific Uses in the future.

**ENVIRONMENTAL DETERMINATION:** The subject action has been evaluated under the California Environmental Quality Act (CEQA) guidelines and determined to be Categorically Exempt from further environmental analysis pursuant to Section 15305 "Minor Revisions in Land Use Limitations".

**REVIEW OF PROJECT INFORMATION:** The staff memorandum and other supporting documents regarding this are available for public review at City Hall between the hours of 8:00 a.m. to 11:00 a.m. and 2:00 p.m. to 6:00 p.m., Monday through Thursday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

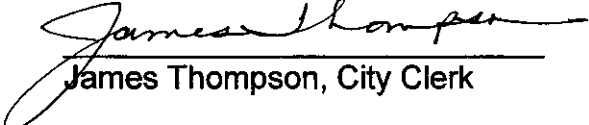
**COMMENT ON THIS APPLICATION:** Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the Planning Commission by letter (for mail or hand delivery) to:

James Thompson, City Clerk  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior, to the public hearing. (Government Code Section 65009[b][2]).

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Ken Lyon, Associate Planner, at (760) 323-8245.

Si necesita ayuda con esta carta, por favor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono (760) 323-8245.

  
James Thompson, City Clerk