

PDMC SECTION: 25.34.120 – Marijuana Use and Regulations

This Chapter shall be known as the “Marijuana Use and Regulation Ordinance” for the City of Palm Desert.

A. Purpose and Intent

It is the purpose and intent of this section to regulate the commercial cultivation, personal cultivation, manufacturing, testing, distribution, transportation, delivery, dispensing, retail sale, and personal adult use of medical cannabis and nonmedical marijuana within the City of Palm Desert. This section has been prepared in accordance with the Compassionate Use Act of 1996 (CUA), the Medical Marijuana Program Act (MMPA), the Medical Cannabis Regulation and Safety Act (MCRA), and the Control, Regulate, Tax Adult Use of Marijuana Act (AUMA) (collectively, “State Law”), which give local jurisdictions the authority to establish land use regulations related to the personal and commercial uses of marijuana. It is the intent of the City to allow personal cultivation at residential properties and commercial marijuana operators within city boundaries, subject to approval of special permitting, terms, conditions, confirmation of a state issued license, and in accordance with the provisions of this title.

Nothing in this chapter shall be construed to (1) permit persons to engage in conduct that endangers others or causes a public nuisance, (2) permit the use or cultivation of marijuana beyond the limits established in State Law related to marijuana, or (3) permit any activity relating to the dispensing, cultivation, processing, or distribution of marijuana that is illegal under state law, generally.

B. Definitions

Unless the particular provision or context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter:

“City” The City of Palm Desert.

“Commercial Marijuana Business” means any commercial operation associated, in whole or in part, with the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transporting, sale, dispensing, delivery or transport of marijuana and marijuana products.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

“Delivery” means the commercial transfer of marijuana or marijuana products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law, which enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

“Distribution” means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.

“Licensee” means the holder of any state issued license related to Commercial Marijuana Businesses, including but not limited to licenses issued under Division 10 of the Business & Professions Code.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

“Marijuana” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Marijuana” also means the separated resin, whether crude or purified, obtained from cannabis. “Marijuana” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

“Marijuana accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

“Marijuana dispensary” means a facility where marijuana, marijuana products, or devices for the use of marijuana or marijuana products are offered, either individually or in any combination, for retail sale, including an establishment that delivers marijuana and marijuana products as part of a retail sale.

“Marijuana manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured marijuana, or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical marijuana or marijuana products or labels or re-labels its container.

“Marijuana products” means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

“Private Residence” means a house, an apartment unit, mobile home, or other similar dwelling unit.

“Sale” includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

C. Permit Required and Exemptions

1. Required

- i. Any Commercial Marijuana Business is required to obtain approval of a Conditional Use Permit, City business license, and license from the Bureau of Marijuana Control prior to operation of any marijuana facility within the City of Palm Desert.
- ii. No building permits for improvements associated with a Commercial Marijuana Business will be issued until said Commercial Marijuana Business has complied with the section above.

2. Exemptions

- i. Personal use, and cultivation of marijuana for personal use, is permitted outright on residential properties and subject to Subsection E of this ordinance.
- ii. Primary Caregivers engaged in the transportation of marijuana and marijuana related products to Qualified Patients for which they are the Primary Caregiver are exempt from the requirement to obtain any special licensing from the City.

D. Prohibited Activity

1. No Commercial Marijuana Businesses shall operate without first obtaining approval of a Conditional Use Permit from the City, City business license, and the required State issued marijuana license from the Bureau of Marijuana Control.
2. The use of butane, CO₂, or other fueling sources is prohibited for personal indoor cultivation.
3. Any activity generally prohibited by the AUMA, MCRSA, or other applicable State provisions and local ordinances.

E. Personal Use and Cultivation

Persons 21 years and older are permitted to use marijuana in accordance with the AUMA or MCRSA. No special land use or business permits are required from the City for personal use and cultivation at or within a private residence. The following standards shall regulate personal use and cultivation:

1. **Personal Use.** Persons of legal age permitted to use marijuana in accordance with the AUMA or MCRSA may do so on private property, out of public view, and in accordance with the City's "Regulations and Prohibitions of Smoking" Ordinance (PDMC 8.36). Generally, the use of marijuana is prohibited on City property, including parks, common areas in City owned housing developments, and other public places. Smoking of marijuana is prohibited within 600 feet of a school or childcare facility.

2. Personal Cultivation – Residents in the City are permitted to cultivate marijuana on private residential property for personal use and in accordance with the AUMA or MMRSA; subject to the following standards:
 - i. Cultivation for personal use only is permitted at private residences. Under the AUMA no more than six (6) plants are permitted to be cultivated at a private residence. Property owners retain the ability to prohibit renters from cultivation.
 - ii. Outdoor cultivation is limited to rear and side yard areas and only if screened by a solid block wall no less than six (6) feet in height.
 - iii. Outdoor cultivation shall not be visible from surrounding public street or adjoining properties. As such, marijuana plants may not grow above the height of the property line walls unless screened by another approved screening method.
 - iv. Indoor cultivation must have adequate ventilation. Structural, ventilation, electrical, gas, or plumbing changes to accommodate indoor cultivation are required to obtain a building permit from the City’s Building and Safety Department.
 - v. Indoor cultivation is prohibited from using butane, CO₂, or other combustible fueling inside private residences.

F. Commercial Marijuana Businesses

Commercial Marijuana Businesses, are defined in Subsection B of this Ordinance, and do not include businesses that only sell marijuana related paraphernalia. All Commercial Marijuana Businesses shall be regulated by the following:

1. Required Permits – All commercial marijuana businesses are required to obtain approval of a Conditional Use Permit in accordance with PDMC Section 25.72.050 “*Conditional Use Permit*”. Commercial marijuana business must also obtain a business license with the City and provide proof of a marijuana license issued by the Bureau of Marijuana Control prior to obtaining building permits or operation.
2. Location – Specific Commercial Marijuana Businesses are permitted in the City’s commercial, industrial, and downtown zoning districts as identified in Section 25.16.030 “*Allowed Land Uses and Permits Requirements*” and Section 25.18.040 “*Land Use and Permit Requirements*” of the Palm Desert Municipal Code.

In accordance with the AUMA no Commercial Marijuana Business is permitted within 600 feet of a school or childcare facility. Commercial marijuana businesses are prohibited from operating on properties that abut public parks.

3. Separation Requirement – No Conditional Use Permit shall be issued to a Commercial Marijuana Business located within 500 feet of another approved commercial marijuana business.

Commercial Marijuana Business whose main business function is marijuana cultivation shall be separated by 1,000 feet from another approved Commercial

Marijuana Business.

4. Special Requirements – In addition to the requirements listed in the Conditional Use Permit, all Commercial Marijuana Businesses shall submit the following information in conjunction with the review of a Conditional Use Permit:
 - i. Background Check. The owner is required to submit a background check for themselves and for their highest ranking employee (manager, director, etc...) at the Commercial Marijuana Business. The background check must be submitted on a form prescribed by the City and can be obtained at the City's Business Licensing Division.
 - ii. Open Premises Agreement. By receiving approval of a Conditional Use Permit the operator of a Commercial Marijuana Business is agreeing to open the business to City officials at anytime for inspection and to review that the operator is operating in accordance with the conditions of this title and the Conditional Use Permit.
 - iii. Cultivation operators shall supply an energy and water assessments for review as part of the Conditional Use Permit process. Review of the assessment may require the applicant to supplement electrical and water use at the site to minimize adverse environmental impacts.
 - iv. Security Plan and 24hr Emergency Contact Information
Banking Plan – **FOR DISCUSSION - how does the business operator handle its funds and do we care enough to put it into an ordinance?**
 - v. Indemnification Agreement. All commercial marijuana businesses that obtain a Conditional Use Permit shall, and by acceptance of the permit, agree to hereby indemnify and hold harmless the City, its officers, agents and employees from any and all damages, claims, liabilities, costs including attorney fees, suits or other expenses resulting from and arising out of said commercial marijuana business operations.

G. Penalties for Violation

FOR DISCUSSION

H. Grounds for Denial, Revocation or Suspension

The granting of a Conditional Use Permit for the operation of a Commercial Marijuana Business may be denied and an existing license may be revoked or suspended if the license holder or applicant:

- A. Has knowingly made false statements in their application or in any reports or other supporting documents furnished by the applicant.
- B. Is required to register as a sex offender under the provisions of Section 290 of the California Penal Code.
- C. Has been convicted of any offense related to the use, sale, possession or transportation of narcotics or habit-forming drugs.
- D. Within a three year period immediately preceding the application has been under suspension, revocation or probation by the Department of Motor Vehicles for a cause involving the safe operation of a motor vehicle, or has been convicted of any

of the following offenses: driving while intoxicated, or reckless driving involving bodily injury.

- E. Has been convicted of any offense punishable as a felony, or has been convicted within a 10 year period immediately preceding the crime of theft in either degree.
- F. Has been convicted of any offense involving moral turpitude.
- G. Has been involved within the two years immediately preceding the application in any motor vehicle accident causing death or personal injury.
- H. Has been involved in three or more motor vehicles accidents within the year immediately preceding the application.
- I. Failed to pay required license fees.
- J. Has violated any provision of this chapter.