

Exhibit “D”

PDMC SECTION 5.101 – Commercial Cannabis Business Regulatory Permits

A. Purpose and Intent

It is the purpose and intent of this section to regulate the commercial cultivation, manufacturing, testing and research, distribution, delivery, and retail sale of medicinal cannabis and non-medicinal adult-use cannabis within the City of Palm Desert. This section is prepared in accordance with the Compassionate Use Act of 1996 (“CUA”), the Medical Marijuana Program Act (“MMP”), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) (collectively, “State law”), which give local jurisdictions the authority to establish land use regulations related to the personal and commercial uses of cannabis.

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 cannabis beyond the limits established in state law related to cannabis, or (3) permit any activity relating to the cultivation, processing, sale, or distribution of cannabis that is illegal under state law, generally.

Nothing in this chapter shall be construed to prohibit primary caregivers and qualified patients to lawfully act under State law.

B. Definitions

For the purpose of this chapter, the following definitions shall apply:

“Applicant” means an owner that applies for a regulatory permit under this chapter.

“Cannabis” 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. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

“Cannabis products” means cannabis 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 cannabis or concentrated cannabis and other ingredients.

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“City” means the City of Palm Desert.

“City manager” means city manager or designee.

“Commercial cannabis business” means any commercial operation associated, in whole or in part, with the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing and research, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products.

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

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities permitted or licensed by the City and/or State of California.

“Fully enclosed and secured structure” means a space within a building, greenhouse, or other approved structure which has a complete roof enclosure supported by connecting walls extending from the ground to the floor, which is reasonably secure against unauthorized entry, provides complete visual screening or is behind fencing or other features providing complete visual screening, and which is accessible only through one of more lockable doors and is inaccessible to minors.

“Retail cannabis business” or “retailer” means a business that sells and/or delivers cannabis or cannabis products to customers and does not include cannabis cultivation or manufacturing on the premises.

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

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

“Manufacturer” means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis 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 cannabis or cannabis products or labels or relabels its container.

“Owner” means any of the following: (1) a person with an aggregate ownership interest of 20 percent (20%) or more in the person applying for the permit, unless such interest is solely a security, lien, or encumbrance; (2) the chief executive officer of a nonprofit or other

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entity; (3) a member of the board of directors of a nonprofit; or (4) an individual who will be participating in the direction, control, or management of the person applying for the permit.

“Permittee” means any person granted a regulatory permit under this chapter.

“Person” means any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Retail cannabis business” or “retailer” means a business that sells and/or delivers cannabis or cannabis products to customers.

“Sell,” sale,” and “to sell” include any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis 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 cannabis or cannabis products by a permittee or licensee to the permittee or licensee from whom such cannabis or cannabis product was purchased.

“State license” means a state license issued under Division 10 of the California Business and Professions Code.

“Testing or Research Laboratory” means a laboratory, facility, or entity in the City that offers or performs tests or research of cannabis or cannabis products and meets the licensing requirements found in MAUCRSA.

C. Regulatory Permit Required.

1. Prior to initiating operations and as a continuing requisite to operating a commercial cannabis business in the City, an applicant must obtain and maintain a valid conditional use permit as required under Section 25.34.120, regulatory permit, and a State license for each commercial cannabis business use authorized under the conditional use permit.

2. Building permits for improvements associated with a commercial cannabis business may be issued once an applicant has obtained a conditional use permit and regulatory permit; however, a certificate of occupancy to operate will not be issued until said commercial cannabis business has obtained and provided proof of a State license for each commercial cannabis business use authorized under the conditional use permit.

3. Changes in State license type, business owner, or operation will require an amendment to the approved regulatory permit.

4. This chapter does not apply to cannabis possession or use, as allowed by State law. Regulations on personal cultivation can be found in Chapter 8.38.

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5. A cannabis delivery service business with a physical address outside the City is not required to obtain a regulatory permit under this chapter, but is required to obtain a City business license.

D. Regulatory Permit Application Requirements.

An application for a regulatory permit shall include, but shall not be limited to, the following information:

1. The name, address, and telephone number of the applicant.
2. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement operating agreement, and fictitious business name statement.
3. The name, address, telephone number, title, and function of each of the interested parties described in subsection N., below.
4. A legible copy of each applicant's photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.
5. A list of the license or permit types (including license or permit numbers) held by the applicant that involve the operation of a commercial cannabis business, including the date the license or permit was issued and the jurisdiction or State license authority that issued the license or permit.
6. Whether the applicant has been denied a license or permit by the City, any other jurisdiction, and/or the State that involves the operation of a commercial cannabis business. The applicant shall provide a description of the license or permit applied for, the name of the jurisdiction or State license authority that reviewed the license or permit application, and the date of denial.
7. The proposed commercial cannabis business's physical address, telephone number, website address, and e-mail address.
8. Contact information for the applicant's designated primary contact person including the name, title, address, phone number, and e-mail address of the individual.
9. A list of every fictitious business name the applicant is operating under including the address where the business is located.
10. Financial information including the following:
 - a. A list of funds belonging to the commercial cannabis business held in savings, checking, or other accounts maintained by a financial institution. The

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applicant shall provide for each account, the financial institution's name, the financial institution's address, account type, account number, and the amount of money in the account.

b. A list of loans made to the commercial cannabis business. For each loan, the applicant shall provide the amount of the loan, the date of the loan, term(s) of the loan, security provided for the loan, and the name, address, and phone number of the lender.

c. A list of investments made into the commercial cannabis business. For each investment, the applicant shall provide the amount of the investment, the date of the investment, term(s) of the investment, and the name, address, and phone number of the investor.

d. A list of all gifts of any kind given to the applicant for its use in conducting commercial cannabis business. For each gift the applicant shall provide the value of the gift or description of the gift, and the name, address, and phone number of the provider of the gift.

11. A list of each applicant's misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of *nolo contendere*.

12. A complete and detailed diagram of the proposed premises showing the boundaries of the property and the proposed premises to be permitted, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, doorways, and common or shared entryways, storage areas and exterior lighting. The diagram must show the areas in which all commercial cannabis business will take place, including but not limited to, limited-access areas.

13. A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into limited access areas and theft of cannabis, in accordance with minimum security measures required by state law. The security plan shall be reviewed by the Palm Desert Police Department and the city manager and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

14. A comprehensive business operations plan that includes the following:

a. Business plan. A plan describing how the commercial cannabis business will operate in accordance with this code, state law, and other applicable regulations. The plan shall include operational, banking, and personnel procedures to ensure adequate business knowledge, modeling and support.

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b. Community relations plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.

c. Neighborhood responsibility plan. A plan addressing any adverse impacts of the proposed commercial cannabis business on the surrounding area.

d. Odor control plan. A plan identifying odor control methods, including, but not limited to, use of odor absorbing ventilation and exhaust systems, negative air pressure, and other treatments.

e. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the commercial cannabis business.

f. Budget. A copy of the applicant's most recent annual budget for operations.

15. The name and address of the owner and lessor of the real property upon which the commercial cannabis business is to be operated. 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 commercial cannabis business will be operated on his or her property.

16. Authorization for the city manager to seek verification of the information contained within the application.

17. 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.

18. A full and complete copy of the applicant's most current application submitted to and approved by the applicable State licensing authority.

19. Any such additional and further information as is deemed necessary by the city manager to administer this chapter.

E. Background Check.

The City will provide each applicant and interested parties, as described in Section N., below, with a 'request for live scan service' form, which must be taken to a live scan operator for fingerprinting. Each applicant must submit their fingerprint images to the Palm Desert Police Department, California Department of Justice, and the Federal Bureau of Investigation for fingerprint-based criminal history records review and reporting to the City.

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F. Additional Terms and Conditions.

Based on the information set forth in the application, the city manager may impose reasonable terms and conditions on the proposed operations of the commercial cannabis business in addition to those specified in this chapter.

G. Regulatory Permit Denial.

The city manager may deny an application for a regulatory permit or renewal of a regulatory permit upon making any of the following findings:

1. The applicant or the premises for which a regulatory permit is applied does not qualify for a permit under this chapter.
2. The applicant fails to comply with the provisions of this chapter.
3. The applicant has failed to provide information required by the city manager.
4. The applicant or permittee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the city manager determines that the applicant or permittee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the city manager shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or permittee to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the city manager shall include, but not be limited to, the following:
 5. A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
 6. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
 8. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the California Penal Code.
 9. A felony conviction involving fraud, deceit, or embezzlement.
10. The applicant, or any of its officers, directors, or owners, has been sanctioned by a State licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a State license revoked in the three years immediately preceding the date the application is filed with the city manager.
11. The commercial cannabis business is not properly organized or operating in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act ("MMP"), Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), and any other applicable law, rules and regulations.

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H. Regulatory Permit Term.

A regulatory permit is valid for one (1) year from the date that the permit is issued, unless suspended or revoked sooner.

I. Regulatory Permit Renewal Process.

1. To renew a regulatory permit, a completed permit renewal form and renewal permit fee shall be received by the city manager from the permittee no earlier than sixty (60) calendar days before the expiration of the permit and no later than the last business day before the expiration of the permit.

2. In the event the regulatory permit is not renewed prior to the expiration date, the permittee must cease all commercial cannabis business.

J. Regulatory Permit Surrender.

Every permittee who surrenders, abandons, or quits the permitted premises after a certificate of occupancy is issued, or who closes the permitted premises for a period exceeding sixty (60) consecutive calendar days after a certificate of occupancy is issued, shall, within sixty (60) calendar days after closing, surrendering, quitting, or abandoning the permitted premises, surrender the permit to the city manager. The city manager may seize the permit of a permittee who fails to comply with the surrender provisions of this section and may proceed to revoke the permit. If a permittee wishes to close a commercial cannabis business for repair or refurbishment for a period of longer than sixty (60) calendar days, the permittee shall notify the city manager of same in writing.

K. Regulatory Permit Suspension and Revocation.

The city manager may suspend, modify, or revoke a regulatory permit issued pursuant to the provisions of this Chapter for any of the following reasons:

1. One or more of the circumstances upon which a regulatory permit could be denied exists or has occurred;

2. One or more conditions of the regulatory permit has been violated; or

3. The permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this chapter or State law.

L. Appeals.

Any decision regarding the denial, suspension, or revocation of a regulatory permit may be appealed to the city council. All appeals shall be in writing and filed with the city clerk within ten calendar days of any decision or action that is the subject of the appeal. After receiving the written appeal, the city clerk shall schedule a hearing before the city council. The city council may refer the matter to a hearing officer. The city council may decide the matter based on the recommendations and findings of the hearing officer, if it so chooses. The decision of the city council or hearing officer shall be final.

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M. Operational Requirements.

All commercial cannabis businesses are subject to the following operational requirements:

1. Commercial cannabis businesses shall maintain compliance with the security plan, business plan, community relations plan, neighborhood responsibility plan, odor control plan, and insurance requirements submitted with their application, unless modifications are accepted in writing by the city manager.

2. Commercial cultivation, possession, manufacture, processing, storing, laboratory testing and research, packaging, and labeling, shall be conducted only within a fully enclosed and secured structure that is not accessible to minors.

3. Commercial cannabis businesses shall not create nuisances such a dust, glare, heat, noise, smoke, odor, and shall not be used to store hazardous materials, products, or wastes.

4. Commercial cannabis businesses shall utilize product and inventory tracking software and accounting software that is in-line with reasonable business practices within the industry.

5. As part of the security plan, permittees shall:

a. Install and maintain security cameras that shall cover, but not be limited to covering sale, cultivation, manufacturing, processing, transportation, distribution areas, all doors and windows, and any other areas as reasonably determined by the Planning Commission.

b. Operate cameras 24 hours per day, seven days per week.

c. Maintain at least 120 concurrent hours of digitally recorded documentation.

d. Cure any disruption in security camera images expeditiously and in good faith.

e. Install alarm systems that are operated and monitored by an independent third party security company.

f. Shall lock all storage areas and give access to such storage areas only to permittee and permittee's staff. No cannabis products shall be accessible to the general public.

6. Commercial cannabis businesses shall not advertise or promote cannabis or cannabis products that encourage use by persons under the age of 21, or promote cannabis and cannabis products within 1,000 feet of a school, daycare, park, or youth center.

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N. Interested Parties.

1. A permittee shall provide the city with names and addresses of all of the following interested parties:

a. Persons with at least a 10% interest in the commercial cannabis business;

b. Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least 10% of the stock, capital, profits, voting rights, or membership interest of the commercial cannabis business or that is one of the partners in the commercial cannabis business;

c. The managers of the commercial cannabis business; and

d. The staff of the commercial cannabis business.

2. The permittee shall notify the city of any change in the information above within 30 calendar days of the change.

3. All interested parties, as described in subsection 1, must submit to fingerprinting and a criminal background check by the city.

4. No person shall be an interested party, as described in subsection A of this Section, if he or she is charged with or convicted of a felony; has been charged with or convicted of a violation of California Penal Code section 186.22 (participation in a criminal street gang); or is currently on parole or probation for an offense relating to the sale or distribution of a controlled substance. "Convicted" within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law where the expungement was granted. "Charged" within the meaning of this section means (1) an indictment was issued by a grand jury, or an information, complaint, or similar pleading was issued by the United States Attorney, district attorney, city attorney, or other governmental official or agency authorized to prosecute crimes, and (2) the criminal proceedings are currently pending.

O. Emergency Contact Manager.

A commercial cannabis business permittee shall provide the city manager with the current name and primary and secondary telephone numbers of at least one 24-hour on-call manager to address and resolve complaints and to respond to operating problems or concerns associated with the commercial cannabis business.

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P. Community Relations Manager.

Each commercial cannabis business shall provide the city manager with the name, phone number, facsimile number, and e-mail address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the commercial cannabis business or refer members of the public who may have any concerns or complaints regarding the operation of the commercial cannabis business. Each commercial cannabis business shall also provide the above information to its business neighbors located within one hundred (100) feet of the commercial cannabis business as measured in a straight line without regard to intervening structures, between the front doors of each establishment.

Q. Display of Regulatory Permit.

The permittee shall display its current valid permit issued in accordance with this chapter inside the lobby or waiting area of the main entrance to the premises. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the premises.

R. Inspections and Enforcement.

1. Recordings made by security cameras at any commercial cannabis business shall be made immediately 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 all commercial cannabis businesses from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter.

3. Operation of the commercial cannabis business in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this code.

4. The city manager may summarily suspend or revoke a cannabis regulatory permit if any of the following, singularly or in combination, occur:

a. The city manager or designee determines that the commercial cannabis business has failed to comply with this chapter or any condition of approval or a circumstance or situation has been created that would have permitted the city manager or designee to deny the permit under subsection F., above.

b. Operations cease for more than sixty (60) calendar days, including during change of ownership proceedings, unless otherwise authorized by the city manager;

c. Ownership is changed without securing a regulatory permit; or

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d. The commercial cannabis business fails to allow inspection of the records, security recordings, the activity logs, or the premises by authorized city officials.

S. Liability and Indemnification.

1. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the City.

2. To the maximum extent permitted by law, the permittees under this chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Palm Desert, the Palm Desert City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called City) from any liability damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs (collectively called "action") against the City to attack, set aside, void or annul, any cannabis-related approvals and actions and comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.

3. Within ten (10) calendar days of the service of the pleadings upon the City of any action as specified in Subsection 2., above, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment or invalidation of the cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the City.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any regulatory permit pursuant to this chapter or the operation of any commercial cannabis business approved pursuant to this chapter.

T. Compliance with State Law.

All commercial cannabis businesses shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Compassionate Use Act of 1996 ("CUA"), the Medical Marijuana Program Act ("MMP"), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

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U. Violations and Penalties.

1. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, administrative penalties, permit suspension, and permit revocation.

2. Violations of this chapter constitute an infraction or misdemeanor and may be enforced by any applicable law.

3. Violations of this chapter are hereby declared to be public nuisances.

4. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies.

5. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.