

PDMC SECTION: 25.34.120 – Cannabis Use and Regulations

This Chapter shall be known as the “Cannabis 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 medicinal cannabis and non-medicinal 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 (MMPA), 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. It is the intent of the City to allow personal cultivation at residential properties and commercial cannabis permittees 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 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.

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. Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources: The California Business and Professions Code Section 19300.5 and Section 26001, The Compassionate Use Act of 1996 (CUA), The Medical Marijuana Program (MMPA), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

“Applicant” means a person applying for a Conditional Use Permit whom will be the primary owner and operator for any Commercial Cannabis Business.

“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.

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

“Cannabis manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured 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 medical cannabis or cannabis products or labels or re-labels its container.

“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.

“City” means the City of Palm Desert.

“Commercial Cannabis 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 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 for commercial use purposes.

“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.

“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 Business & Professions Code.

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

“Permittee” means any person granted a Conditional Use Permit under this Chapter.

“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 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 licensee to the licensee from whom such cannabis or cannabis product was purchased.

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

C. Permit Required and Exemptions

1. Required

- i. All Commercial Cannabis Businesses are required to obtain approval of a Conditional Use Permit, City business license, and license from the Bureau of Cannabis Control prior to operation of any cannabis facility within the City.
- ii. Building permits for improvements associated with a Commercial Cannabis Business may be issued once an applicant has obtained approval of a Conditional Use Permit; however, a certificate of occupancy to operate will not be issued until said Commercial Cannabis Business has obtained, and provided the City proof, of a license issued by the Bureau of Cannabis Control as part of the City’s Business License application.
- iii. Any Commercial Cannabis Business issued a Conditional Use Permit must provide the City with proof of a license issued by the Bureau of Cannabis Control prior to operation. Failure to maintain a license from the Bureau will result in revocation of the Conditional Use Permit and business license.
- iv. No Commercial Cannabis Business may operate in the City unless a license(s) from the Bureau of Cannabis Control has been issued and provided to the City’s Community Development Department and Business License Division.
- v. A copy of the Bureau of Cannabis Control license, and any updates to the license, shall be provided to the Business License Division at the time of business license renewal.
- vi. Changes in license type, business owner, or operation will require an amendment to the approved Conditional Use Permit.

2. Exemptions

- i. Personal use, and cultivation of cannabis for personal use, is permitted outright on residential properties and subject to Subsection E of this ordinance and in accordance with the MAUCRSA.
- ii. Primary Caregivers engaged in the transportation of cannabis and cannabis 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.

- iii. Any Cannabis Delivery operator, with a physical address outside the City is exempt from obtaining a Conditional Use Permit. The operator is required to obtain a business license with the City's Business License Division.

D. Prohibited Activity

1. No Commercial Cannabis Business shall operate without first obtaining approval of: a Conditional Use Permit from the Planning Commission, a City issued business license, and the required State issued cannabis license from the Bureau of Cannabis Control.
2. No Commercial Cannabis Business shall operate within 600-feet of a school, daycare facility, or youth center as defined by this Ordinance and the MAUCRSA.
3. A Commercial Cannabis Business shall operate in accordance with the conditions adopted in the approved Conditional Use Permit and all conditions imposed by the Bureau of Cannabis Control. Commercial Cannabis Businesses shall only operate in designated zoning districts as identified in Section 25.16.030, 25.18.040 and within a fully enclosed and secured structure.
4. The use of volatile solvents, as defined in Section 11362.3d of the California Business and Professions Code, including but not limited to butane, propane, xylene, gasoline, kerosene, and other dangerous and poisonous toxins or carcinogens, are prohibited for indoor cultivation at a private residence.
5. 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.
6. Any activity generally prohibited by the AUMA, MCRSA, or other applicable State provisions related to Commercial Cannabis Businesses, and local ordinances.

E. Personal Use and Cultivation

Persons 21 years and older are permitted to use cannabis in accordance with the MAUCRSA, and subject to the City's Smoking Ordinance (PDMC 8.36). 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. Qualified patients and persons of legal age permitted to use cannabis in accordance with AUMA or MCRSA, and MAUCRSA, when it goes into effect, 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 cannabis is prohibited on City property, including parks, common areas in City owned housing developments, and other public

places. Smoking or use of cannabis is prohibited within 1,000 feet of a school or childcare facility.

2. Personal Cultivation – Residents in the City are permitted to cultivate cannabis on private residential property for personal use and in accordance with AUMA, MCRSA, and then MAUCRSA, when it goes into effect; subject to the following standards:
 - i. Outdoor Cultivation
 - a. Cultivation for personal use is only permitted on private residential property developed with at least one residential dwelling unit. 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 and any renter choosing to cultivate shall first obtain written authorization from the property owner to cultivate on site.
 - b. 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.
 - c. Outdoor cultivation shall not be visible from surrounding public streets or adjoining properties. As such, cannabis plants may not grow above the height of the property line walls unless screened by another approved screening method.
 - d. Outdoor cultivation within 600 feet of a school, daycare center, or youth center is prohibited.
 - i. Indoor Cultivation
 - a. 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.
 - b. The use of volatile solvents, as defined in Section 11362.3d of the California Business and Professions Code, including but not limited to butane, propane, xylene, gasoline, kerosene, and other dangerous and poisonous toxins or carcinogens, are prohibited for indoor cultivation at a private residences.

F. Commercial Cannabis Businesses

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

1. Required Permits – All Commercial Cannabis Businesses are required to obtain approval of a Conditional Use Permit in accordance with PDMC Section 25.72.050 "*Conditional Use Permit*". Commercial Cannabis Businesses must also obtain a business license with the City's Business License Division and provide proof of a cannabis license issued by the Bureau of Cannabis Control in accordance with Section C of this Ordinance. Failure to provide proof of a state issued cannabis license within one year of Conditional Use Permit approval will render the Conditional Use Permit invalid.

2. Location –Commercial Cannabis 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 MAUCRSA, no Commercial Cannabis Business is permitted within 600 feet of a school, childcare facility, or youth center. Commercial Cannabis Businesses are prohibited from operating on properties that abut public parks, single-family residential properties, or are located within the City’s Downtown Core Overlay District.

3. Separation Requirement – Commercial Cannabis Businesses shall conform to the following separation requirements:

- a. No Conditional Use Permit shall be issued to a Commercial Retailer that is located within 1,500 feet of another approved Commercial Cannabis Business.
- b. Commercial Cannabis Businesses whose main business function is cannabis cultivation, distribution, manufacturing, transportation, or delivery, and whose location is limited to the City’s Service Industrial zoning district only, shall be separated by 1,500 feet from another approved Commercial Cannabis Business.
- c. Commercial Cannabis Businesses whose main business function is to operate as a testing laboratory are subject to a separation requirement of 500 feet and are exempt from the separation requirements listed above.
- d. No Conditional Use Permit will be issued for Commercial Cannabis Business located within 600 feet of a school, daycare center, youth center.
- e. With the exception of Commercial Cannabis Businesses whose business is located within a mixed-use building or whose primary business function is as a testing laboratory, no Conditional Use Permits shall be issued for commercial and industrial properties abutting public parks or private residences.
- f. All separation requirements will be measured from the outer extents of the Commercial Cannabis Businesses lease space to the outer extents of another Commercial Cannabis Businesses lease space, or to the property line of a school, daycare center and youth center.

4. Operational Requirements

- a. Commercial Cannabis Businesses shall be conducted only within a Fully Enclosed and Secured Structure that is not accessible to minors.
- b. Commercial Cannabis Businesses shall not create nuisance issues such

- a dust, glare, heat, noise, smoke, odor, and shall not be hazardous to use or storage of materials, processes, products, or wastes.
- c. All cannabis and cannabis products shall be kept in a secured manner during all business and nonbusiness hours.
 - d. Commercial Cannabis Businesses shall utilize product and inventory tracking software and accounting software that is in-line with reasonable business practices within the industry.
 - e. Commercial Cannabis Businesses shall install and operate security cameras at their place of business as follows:
 - i. Security cameras shall be installed and maintained in good condition at all times. The areas to be covered by the security cameras include, but are not limited to sale, cultivation, manufacturing, processing, transportation, and distribution areas, all doors and windows, and any other areas as reasonably determined by the Planning Commission.
 - ii. Cameras shall be in use 24 hours per day, seven days per week.
 - iii. Commercial Cannabis Business permittees shall maintain at least 120 concurrent hours of digitally recorded documentation.
 - iv. Any disruption in security camera images shall be cured expeditiously and in good faith.
 - f. Permittees shall install alarm systems that are operated and monitored by an independent third party security company.
 - g. All storage areas shall be locked at all times and under control by the permittee's staff.
 - h. All cannabis and cannabis products shall be securely stored and not accessible to the general public.
5. Conditional Use Permit Submittal Requirements – In addition to the requirements listed in the Conditional Use Permit, all Commercial Cannabis Businesses shall submit the following information in conjunction with the review of a Conditional Use Permit:
- a. Background Check. The applicant is required to provide names, addresses, and relevant criminal histories of those with an ownership interest of twenty-five percent (25%) or more, and for themselves and the highest ranking employee (manager, director, etc...) at the Commercial Cannabis 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.
 - b. Business Plan. To be submitted for operational, banking, and personal procedures to ensure adequate business knowledge, modeling and support.

- c. Exterior Façade. Renderings of the business façade shall be provided and reviewed as part of the Conditional Use Permit. Building façade plans shall include renderings of the exterior building elevations for all side of the building. All building facades shall be tastefully done and in keeping with the high architectural quality and standards of the City of Palm Desert. Because State Law limits certain advertising, the business façade and building signs shall be compatible and complimentary to surrounding businesses and shall add visual quality to the area.
- d. Open Premises Agreement. By receiving approval of a Conditional Use Permit the permittee of a Commercial Cannabis Business is agreeing to open the business to City officials at any time during business hours for inspection and to review that the permittee is operating in accordance with the conditions of this title and the Conditional Use Permit.
- e. Cultivation permittees shall supply energy and water assessments for review as part of the Conditional Use Permit process. These assessments shall estimate the total amount of annual electrical and water use required to operate the Commercial Cannabis Business. Review of the assessment may require the applicant to supplement electrical and water use at the site to minimize adverse environmental impacts.
- f. Security Plan. All Commercial Cannabis Businesses shall provide a security plan and demonstrate compliance with the security camera provisions outlined in Section F4 of this Ordinance.
- g. Access Plan and 24-hour Emergency Contact Information. The applicant shall provide contact information including name, email, and 24-hour accessible phone number to the Community Development Department and Sheriff's Department.
- h. Community Relations. The applicant shall provide a 24-hour contact number to surrounding property owners within 100-feet of the permittees location. By issuance of a Conditional Use Permit the permittees of a Commercial Cannabis Business agrees to respond to inquiries, concerns, and complaints by surrounding property owners.
- i. Odor Control. The applicant shall identify methods for ensuring odors emanating from a Commercial Cannabis Business do not interfere with surrounding businesses and the public realm. Odor control methods, include, but are not limited to, use of odor absorbing ventilation and exhaust systems, negative air pressure, and other treatments.
- j. Annual License Renewal All Commercial Cannabis Businesses are required to provide a valid license issued from the State Bureau of Cannabis Control at time of business license renewal. Business license are required to be renewed on an annual basis.

- k. Indemnification Agreement. All Commercial Cannabis 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 cannabis business operations.

G. Penalties for Violation

No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided under the Municipal Code or State Law, and may result in revocation of a Conditional Use Permit.

H. Grounds for Denial, Revocation or Suspension

The issuance of a Conditional Use Permit for the operation of a Commercial Cannabis Business may be denied, and an existing permit may be revoked or suspended, if the permittee or applicant:

- a. Has knowingly made false statements in the applicant's application or in any reports or other supporting documents furnished by the applicant.
- b. Has been convicted of any offense related to the use, sale, possession or transportation of narcotics or habit-forming drugs.
- c. 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.
- d. Failed to pay required taxes and business license fees.
- e. Failure to maintain a valid State issued license from the Bureau of Cannabis Control.
- f. Has failed to comply with the conditions imposed on the Conditional Use Permit.
- g. Has violated any provision of this chapter.