



## City of Palm Springs CANNABIS RELATED BUSINESS AND ACTIVITIES

**SUBJECT: Cannabis Facilities Odor Control Enforcement Protocol**

**REGULATION NO. 2019-02**

### **I. Purpose**

To establish a regulation providing for mitigation, tracking, control, and enforcement with respect to cannabis odors that emanate from facilities occupied and used by Cannabis Related Business and Activities permit holders under Palm Springs Municipal Code (PSMC) Chapters 5.45. (medical) and 5.55 (adult-use), Medical and Adult-Use Cannabis Related Business and Activities.

### **II. Authority**

PSMC Sections 5.45.400 (medical) and 5.55.040 (adult-use) authorize the City Manager to establish administrative rules and regulations for the purpose of implementing, interpreting, clarifying and carrying out, furthering and enforcing the requirements of the provisions of PSMC Chapter 5.45 and 5.55 respectively. In addition, Section 403, Subdivision (g) of the Charter of the City of Palm Springs authorizes the City Manager to “[p]rescribe such general rules and regulations as he or she may deem necessary or proper for the general conduct of the administrative offices and departments of the City.”

PSMC Sections 5.45.200.A.18 (medical) and 5.55.200A.17 (adult-use) require each permittee to use odor prevention devices and techniques. PSMC Sections 5.45.095.A.4 (medical) and 5.55.055.A.4 (adult-use) require minimization of odors detectable from cannabis dispensaries at offsite locations. Cannabis Related Business and Activities Regulation No. 2018-06 requires that each applicant for a cannabis permit submit and file with their initial application for that permit an odor control and mitigation plan. Conditions caused or allowed to exist in violation of PSMC Chapters 5.45 and 5.55 and regulations adopted under those Chapters such as this regulation are a public nuisance. See Section 5.45.430.C (medical) and 5.55.430.C (adult-use). Finally, pursuant to PSMC Sections 5.45.410.A.10 (medical) and 5.55.410.A.10 (adult-use) the City has the authority to suspend a cannabis permit issued when the operation of a permitted business constitutes a nuisance that a permittee fails to abate.

Palm Springs Zoning Code (PSZC) section 93.23.15.F.h mandates air filtration to prevent detectable odors outside each cannabis lounge, and provides odor control compliance and enforcement provisions unique to cannabis lounges.

This administrative regulation is an interim matter. The City anticipates that matters addressed herein will be the subject of an amendment to PSMC Chapters 5.45 (medical) and 5.55 (adult-use).

### **III. Application**

The City Manager has determined that delineation of an enforcement protocol that addresses odor control issues will serve to implement and carry out the odor control provisions in PSMC Chapters 5.45 and 5.55, and will advance the City and advance the public health, safety and welfare.

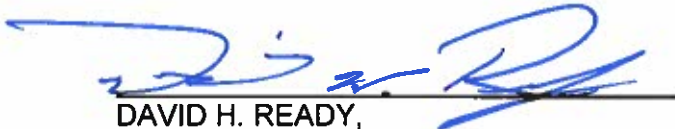
- A. This administrative regulation does not limit the applicability of PSZC Section 93.23.15.F.h, or any portion thereof to cannabis lounges. Rather, the regulation enumerates supplemental elements of enforcement that the City may, in an exercise of discretion, use with respect to cannabis lounges on a case-by-case basis.
- B. The City shall establish and provide information to the community, including without limitation information posted on the City's website, a cannabis odor-control hotline.
- C. The City will evaluate odor control complaints at cannabis facilities based upon frequency, duration, intensity, and offensiveness as evidenced by random testing inspections conducted by the City, and by verified complaints. The City shall maintain a record regarding each verified odor complaint that shall include the:
  1. name, address, and telephone number of a complainant, which information shall be maintained as confidential to the maximum extent allowed by law;
  2. time and date of the complaint, whether that complaint originated *via* the hotline or a direct contact between the complainant and City staff; and a
  3. description of the odor nuisance, including the estimated location or source of the odor, and if possible, noting the prevailing wind and/or weather conditions observed.
- D. The City will respond to each verified odor complaint, conduct random weekly testing of permitted cannabis facilities, and conduct random daily testing of any cannabis facility that the City has identified as problematic with respect to odor control.
- E. Each instance of City response to a verified complaint and other City testing shall include at least three (3) specific odor measurement locations:
  1. the location where the complaint originated,
  2. at a property boundary accessible from public right-of-way, and
  3. on the property where the odor is originating from.
- F. The maximum threshold for odor control is the dilution-to-threshold (D/T) ratio of seven parts clean or filtered air to one-part odorous air (7:1). To "pass" an odor control test, a cannabis facility must yield a test result that is LESS than the maximum threshold at all three (3) odor measurement locations. A single test from any location resulting in a D/T ration in excess of 7:1 equates to a "failure" of the odor control test.
- G. The City shall utilize the "Nasal Ranger Field Olfactometer," and/or any other device identified by the City's odor control consultant and approved by the City Manager in implementing this administrative regulation.

- H. Any cannabis facility that "fails" a random odor control testing inspection and/or receives five (5) or more verified complaints that result in from individuals representing separate households or businesses within the city within a 30-day period relating to a single odor description will result in administrative penalties and/or revocation or suspension of the City cannabis permit issued in relation thereto.
- I. To ensure awareness of this regulation in the City's commercial cannabis community, City staff shall:
  - 1. distribute a true and correct copy of this administrative regulation to all cannabis permittees in the City, and all applicants for cannabis permits with applications pending,
  - 2. post a copy of this regulation on the City's website, along with all other cannabis regulations adopted to date, and
  - 3. promptly respond to any permittee, applicant, and general citizen inquiries about the regulation.

**IV. Effective Date**

This administrative regulation shall be effective on 02/19/19.

APPROVED:



DAVID H. READY,  
City Manager, Esq. Ph.D.

AS TO FORM:



EDWARD Z. KOTKIN  
City Attorney