

CHAPTER 5.91 is added to the La Quinta Municipal Code, to read:

CHAPTER 5.91 MEDICAL CANNABIS DELIVERY SERVICES

5.91.010 Definitions.

“Cannabis” shall have the same meaning as set forth in Section 5.90.010 of this code.

“Cannabis accessories” shall have the same meanings as set forth in Section 5.90.010 of this code.

“Cannabis products” shall have the same meanings as set forth in Section 5.90.010 of this code.

“Caregiver” and “primary caregiver” shall have the same meaning as set forth in Section 5.90.010 of this code.

“Commercial Cannabis Activities” shall have the same meaning as set forth in Section 5.90.010 of this code.

The “Control, Regulate and Tax Adult Use of Marijuana Act” or “Adult Use Act” shall have the same meaning set forth in Section 5.90.010 of this code.

“Delivery Driver” shall mean any person who drives or operates a Delivery Vehicle for a Delivery Service in which Medical Cannabis is delivered.

“Delivery Service” shall mean a person engaged in the business, whether for profit or nonprofit, of owning, controlling and/or operating one or more Delivery Vehicles which transport, carry, distribute, and/or deliver Medical Cannabis anywhere in the city. “Delivery Service” also includes the use of any technology platform owned, controlled, or operated by any person that enables Qualified Patients or Primary Caregivers to arrange for or facilitate the commercial transfer of Medical Cannabis. “Delivery Service” also includes any dispensary that provides for the delivery of Medical Cannabis as described in Section 19300.5(m) of the California Business and Professions Code.

“Delivery Vehicle” shall mean a motor vehicle, as that term is defined in the California Vehicle Code, used for the transportation of Medical Cannabis.

“Medical Cannabis” shall have the same meaning as set forth in Section 19300.5(ag) of the California Business and Professions Code, as may be amended from time to time. “Medical Cannabis” also means “medical cannabis products” as described in Section 19300.5(ag) of the California Business and Professions Code.

“Medical Cannabis Delivery Service License” and “license” shall mean a license issued pursuant to this chapter to a Delivery Service.

“Person” shall mean any individual person, firm, association, organization, partnership, joint venture, business trust, corporation, company, or entity of any kind whatsoever.

“Qualified Patient” shall have the meaning set forth in California Health and Safety Code section 11362.7, as may be amended from time to time.

5.91.020 Medical Cannabis Delivery Service License.

A. All Commercial Cannabis Activities are prohibited in the city except for:

1. A Delivery Service to deliver Medical Cannabis to a Qualified Patient from a Delivery Vehicle authorized pursuant to this chapter;

2. Personal use pursuant to Sections 11362.1(a)(3) and 11362.2(b)(2) of the California Health and Safety Code, as may be amended from time to time; and

3. Transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with the Adult Use Act, pursuant to Section 26080(b) of the California Business and Professions Code, as may be amended from time to time.

B. Every Delivery Service shall obtain a Medical Cannabis Delivery Service License and business license from the city prior to any operation within the city.

C. A Delivery Service shall comply with restrictions and conditions applicable to Delivery Services under validly issued Medical Cannabis Delivery Service Licenses.

5.91.030 Medical Cannabis Delivery Service License Exemption.

A Qualified Patient or Caregiver engaged in the transportation of Medical Cannabis for his or her own personal use is exempt from the requirement of obtaining a Medical Cannabis Delivery Service License.

5.91.040 Fees and Term.

A. Every Delivery Service shall first apply for a Medical Cannabis Delivery Service License, and pay a license application review and processing fee as established by resolution of the City Council from time to time. Upon approval of the Medical Cannabis Delivery Service License application, the Delivery Service shall pay to the city

a fee per Delivery Vehicle as established by resolution of the City Council from time to time, and the city shall issue a Delivery Vehicle authorization placard for each properly insured Delivery Vehicle. The annual Medical Cannabis Delivery Service License renewal fee shall be as established by resolution of the City Council from time to time. For purposes of completing a criminal background check, the city may adopt by resolution a procedure by which each applicant shall present to the city the prescribed amount set by the Department of Justice of the State of California for the processing of the applicant's fingerprints against any duly established fingerprint data base that may be used for purposes of lawfully conducting a background check.

B. All licenses issued to Delivery Services shall be valid for a term of one calendar year.

C. None of the fees established pursuant to this section may be prorated or refunded by the city to an applicant.

5.91.050 Application for License and Renewal.

A. Every application for a Medical Cannabis Delivery Service License shall be signed by the applicant and shall contain:

1. Name and address of the applicant. If the applicant is an entity, such as a corporation, the application shall have names (such as trade names) and address(es) for the business and/or service of legal process and other notices to the entity. Any applicant and recipient of a Medical Cannabis Delivery Service License shall have an obligation to continuously provide updated and current names and address(es).

2. Kind and amount of public liability and property damage insurance covering each Delivery Vehicle.

3. Valid driver's license for any Delivery Driver and current registration for any and all Delivery Vehicle(s).

4. Whether the applicant has been cited or fined by any other city or a county for a violation of that city's or county's municipal code regulations concerning cannabis related uses or commercial cannabis activities.

5. All information required of applicants for a business license in the city.

B. Whenever a Delivery Service submits an application for a Medical Cannabis Delivery Service License, or renewal thereof, the Delivery Service shall identify the number of Delivery Vehicles that will operate under a Medical Cannabis Delivery Service License. Each Delivery Vehicle shall have an authorization placard

that may be presented upon request whenever the Delivery Vehicle is providing services authorized pursuant to this chapter. No delivery of Medical Cannabis is authorized for any vehicle except for a Delivery Vehicle with an authorization placard issued pursuant to a valid Medical Cannabis Delivery Service License.

5.91.060 Investigation of Application; Decision and Notification.

A. Each application shall be referred to the city manager or his or her designee or designated department in the city for review.

B. The city manager, or his or her designee or designated department in the city, shall notify the applicant in writing of a decision on an application. A decision on an application (or renewal of a license) shall be to issue a valid Medical Cannabis Delivery Service License (or renewal thereof) or deny the application and not issue a license. A decision from the city manager, or his or her designee or designated department in the city, shall be made within 7 business days of receipt of a complete (or deemed complete) application; provided, however, that the inability of the city to decide an application within such timeframe shall not be grounds for any administrative or judicial action or liability whatsoever against the city.

C. A decision for denial of an application shall include the reasons therefor, and shall advise the applicant of the right to appeal. No license shall be issued unless a successful appeal of the denial is made.

D. If an application for a Medical Cannabis Delivery Service License (or renewal thereof) is approved, an authorization placard for each Delivery Vehicle allowed to operate under the Medical Cannabis Delivery Service License shall be issued, and each authorization placard shall be specific to the Delivery Vehicle by unique vehicle identification method, such as the valid registration for the Delivery Vehicle or other unique identifying method.

5.91.070 Appeal of Denial of Application.

An appeal of a denial of an application for a Medical Cannabis Delivery Service License shall be processed as an appeal to the city manager pursuant to Chapter 2.08 of the code. An appeal of the decision of the city manager may be processed pursuant to Section 2.08.230 as an appeal to the city council.

5.91.080 Revocation and Suspension of License.

A. The city may give notice to a Delivery Service of its intention to revoke a Medical Cannabis Delivery Service License. If deemed there is a risk to the general public's health, safety or welfare for the Delivery Service to continue operations pending a revocation hearing, the city may suspend immediately the license and all rights and privileges thereunder until the hearing on revocation.

B. The notice shall specify the reasons for the proposed revocation in sufficient detail so as to fully inform the Delivery Service of the reasons which have caused the notice to be given, and if the license has been suspended, the reasons for such suspension.

C. The notice shall specify a time and place at which a revocation hearing will be held before the city manager. The hearing before the city manager shall be processed like an appeal to the city manager pursuant to Chapter 2.08 of the code. An appeal of the decision of the city manager may be processed pursuant to Section 2.08.230 as an appeal to the city council.

5.91.090 Grounds for Denial, Revocation or Suspension.

A. A Medical Cannabis Delivery Service License (or renewal thereof) may be denied, and an existing license may be revoked or suspended, if a Delivery Driver, license holder, or applicant:

1. Has knowingly made a false statement in a material matter either in his or her application (or renewal of a license) or in any reports or other documents furnished by him or her to the city.

2. Does not maintain and operate a Delivery Vehicle and other equipment in the manner and in the condition required by law and applicable state and city regulations.

3. Is or has been required to register as a sex offender under the provisions of Section 290 of the California Penal Code.

4. Within 5 years immediately preceding the application submittal date (or renewal of a license), has been convicted of any offense relating to the unlawful use, sale, possession or transportation of narcotics or habit-forming drugs, other than Cannabis, prohibited by any federal or state law.

5. Within 5 years immediately preceding the application submittal date (or renewal of a license), has been convicted of any offense punishable as a felony or has been convicted of the crime of theft in any degree.

6. Within 3 years immediately preceding the application submittal date (or renewal of a license), has been under suspension, revocation or probation by the California Department of Motor Vehicles for a cause involving the safe operation of a motor vehicle, or has been convicted of driving under the influence involving bodily injury or reckless driving involving bodily injury.

7. Within 3 years immediately preceding the application submittal date (or renewal of a license), has been found responsible for a motor vehicle accident causing death or personal injury.

8. Within 1 year immediately preceding the application submittal date (or renewal of a license), has been involved in three or more motor vehicle accidents unless evidence shows that none of the accidents were caused by or the fault of the Delivery Driver, license holder, or applicant.

9. Has been convicted of any felony offense involving moral turpitude, "depraved conduct," or similar vile conduct that "shocks the public conscience."

10. Has failed to pay the required license fees.

11. Has violated any condition of a Medical Cannabis Delivery Service License issued to a Delivery Driver, license holder, or applicant.

12. Has violated any provision of this chapter, Chapter 5.90, or any other provisions of the city's code or any state law concerning the regulation of Cannabis.

B. The grounds for denial identified above are based on the powers of the city under its general police power and obligation to protect and promote the public health, safety, and welfare. Nothing in this section shall preclude the police chief or other city or law enforcement official from providing a grounds for the denial of an application, or a revocation or suspension of an existing license, based on relevant facts and circumstances that affect the ability of Delivery Driver or Delivery Service to comply with this chapter.

5.91.100 Delivery Service Compliance.

A. Each Delivery Service shall comply with all local and state laws.

B. Each Delivery Service shall obtain a Medical Cannabis Delivery Service License from the city, and any other license required by the code for operation of the Delivery Service in the city, such as a business license.

C. Each Delivery Service shall maintain a written record of every request for Medical Cannabis, including the name of the requestor, the address for the delivery, the quantity and type of Cannabis requested, the date and time the delivery request is received, the Delivery Vehicle that is assigned to make the delivery, and the Delivery Driver who is assigned to make the delivery.

D. Each Delivery Service shall assure that every Delivery Driver shall have a copy of the record of the delivery request during the delivery of any Medical Cannabis in the city.

E. Whenever a Delivery Vehicle is making a delivery pursuant to this chapter, no Delivery Service shall permit any person other than a Delivery Driver, licensed in accordance with this chapter, to operate its Delivery Vehicles in the city.

F. No Delivery Service shall deliver or authorize the delivery of any Cannabis other than Medical Cannabis to a Qualified Patient or Caregiver.

G. Whenever a Delivery Vehicle is making a delivery pursuant to this chapter, the Delivery Service shall have and may present upon request a current and valid recommendation from a doctor licensed by the state to issue a recommendation for use of Medical Cannabis to a Qualified Patient in the city.

H. Deliveries of Medical Cannabis shall be only to private residences and Residential Care Facilities for the Elderly (RCFEs) operating pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the California Health and Safety Code (as may be amended from time to time) and only if the RCFE authorizes delivery of Medical Cannabis to its facility.

I. A Delivery Driver may possess no more than 8 ounces per patient of dried Cannabis, and no more than 50 packages of non-flower processed Medical Cannabis. All Medical Cannabis must be clearly packaged and labeled.

J. Delivery Drivers shall be at least 21 years of age and shall be employees of the Delivery Service or an independent contractor under binding agreement with the Delivery Service as a Delivery Driver.

K. A list of the names and contact information of each Delivery Driver shall be maintained by the Delivery Service, and the Delivery Service shall immediately provide the names and contact information of Delivery Drivers to the city upon request.

L. Delivery Drivers shall not have more than \$1,000 cash on their person or in a Delivery Vehicle at any one time.

M. Medical Cannabis shall be stored in a secured case in the trunk portion of a Delivery Vehicle. No Medical Cannabis is permitted within any other portion of a Delivery Vehicle.

N. All Medical Cannabis shall be tested for potency, pesticides, and micro-biological ingredients to ensure products are safe for use by Qualified Patients.

O. Testing information and credentials for Medical Cannabis shall be readily available for inspection by code enforcement and police officers, and delivered within 24 hours if not immediately available.

P. Each Delivery Service shall maintain, for a minimum of 3 years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements, (including any in-kind contributions) as well as records of all operational expenditures and costs incurred by the Delivery Service in accordance with generally accepted accounting practices and standards typically applicable to business records.

Q. Each Delivery Service shall pay any applicable state and local taxes for the delivery of Medical Cannabis within the city.

5.91.110 Insurance and Hold Harmless Requirements.

A. Any holder of a Medical Cannabis Delivery Service License shall hold harmless and protect the city and its officials, officers, employees and agents, from any loss or damage that allegedly arises under or may result to any person or property from any activity authorized under this chapter, including the operation of a Delivery Vehicle used by a Delivery Service. As a condition of approval for a license issued under this chapter, the City may require automobile insurance or other policies of insurance as would be reasonable to request of a Delivery Service operating pursuant to this chapter.

B. If insurance is a condition of approval, no Medical Cannabis Delivery Service License shall be issued until the applicant first files with the city a certificate of insurance, on a form acceptable by the city. The certificate shall provide evidence of insurance in amounts and with conditions acceptable to the city and shall be approved by the city manager or his or her authorized designee.

C. Each Delivery Service shall, and by acceptance of the license, does agree to indemnify, defend, and hold harmless the city, its officers, agents and employees from any and all damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of the Delivery Service's operations.

5.91.120 Delivery Driver Requirements.

A. Every Deliver Driver shall have a valid California Driver's License when any delivery of Medical Cannabis is made.

B. Every Delivery Driver shall have any applicable state license required for state authorization to operate the Delivery Service of Medical Cannabis.

5.91.130 Fee Authorization.

The city may adopt by resolution fees, service charges, or assessments in amounts sufficient to pay for the costs of carrying out the provisions of this chapter.

5.91.140 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this chapter shall be, and is hereby declared to be, a public nuisance and may be summarily abated by the city pursuant to Section 731 of the California Code of Civil Procedure or any other remedy at law.

5.91.150 Violations.

A. In addition to any other enforcement permitted by the La Quinta Municipal Code or state law, the city attorney may bring a civil action for injunctive relief and civil penalties against any person who violates any provision of this chapter. In any civil action that is brought pursuant to this chapter, a court of competent jurisdiction may award civil penalties and costs to the prevailing party.

B. In addition to any other enforcement permitted by the La Quinta Municipal Code or state law, a violation or violations under this chapter may result in the following fines:

1. A fine of one thousand dollars for a first violation;
2. A fine of two thousand dollars for a second violation of the same ordinance or permit within one year from the date of the first violation; and
3. A fine of three thousand dollars for each additional violation of the same ordinance or permit within one year from the date of the first violation.

C. In addition to any other enforcement permitted by the La Quinta Municipal Code or state law, the City Manager or his/her designee may summarily deny, suspend, or revoke any current or pending Medical Cannabis Delivery Service License and/or business license pursuant to the provisions set forth in Section 2.04.100 (Appeals to Council) of Chapter 2.04, or other applicable procedural provisions in the municipal code, for any violation of this chapter. In addition to any other penalty imposed as part of a suspension or revocation of any license, a suspension or revocation of a Medical Cannabis Delivery Service License and/or business license pursuant to this section, after notice and public hearing and final determination for suspension or revocation, may result in the applicant, Delivery Driver, Delivery Service, and/or Delivery Vehicle operating under the suspended or

revoked permit, (1) being ineligible to deliver Medical Cannabis in the city for up to 12 months from the decision to suspend or revoke a license, and (2) being ineligible to apply or re-apply for a Medical Cannabis Delivery Service License or business license related thereto for at least one year if the prior license was revoked.

5.91.160 Provisions in Chapter Cumulative.

The prohibitions and provisions in this chapter are cumulative to any and all other prohibitions and regulations in the La Quinta Municipal Code concerning Cannabis, Medical Cannabis, and cannabis in general, and nothing in this chapter supersedes or shall be construed to conflict with any other prohibitions and regulations in the La Quinta Municipal Code, including Section 9.20.050, as may be amended from time to time.