

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: February 26, 2026

PREPARED BY: Pedro Rodriguez, Code Compliance & Support Services Manager

SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING CHAPTERS 8.34 AND 8.36 OF THE PALM DESERT MUNICIPAL CODE RELATING TO TOBACCO RETAILER LICENSING, SMOKING REGULATIONS AND REGULATION OF KRATOM SALES AND POSSESSION.

RECOMMENDATION:

Hold a public hearing and introduce an Ordinance entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, AMENDING CHAPTERS 8.34 AND 8.36 OF THE PALM DESERT MUNICIPAL CODE RELATING TO TOBACCO RETAILER LICENSING, SMOKING REGULATIONS, AND REGULATION OF KRATOM SALES AND POSSESSION AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.”

BACKGROUND/ANALYSIS:

In December 2009, the City Council adopted Ordinance No. 1200, which revised PDMC Chapter 8.36 concerning the regulation and prohibition of smoking. Since that time, smoking products and practices have evolved significantly, including the widespread use of electronic smoking devices and the introduction of substances beyond traditional tobacco. This item was initially brought forward to City Council at the August 22, 2024, study session. Staff has been working on a comprehensive cleanup of the chapter and addressing new legislation and products, including Kratom.

The proposed amendments to PDMC Chapters 8.34 and 8.36 are intended to modernize the Municipal Code, close regulatory gaps, clarify enforcement authority, and align local regulations with current public health objectives. Key components of the amendments include updated definitions, new licensing and sales prohibitions, regulation of kratom products, enhanced enforcement measures, and clarification of smoking restrictions within private country club communities.

PDMC Chapter 8.36 regulates smoking in public places, places of employment, and other specified locations to protect public health and reduce exposure to secondhand smoke. PDMC Chapter 8.34 establishes licensing requirements and operational standards for tobacco retailers.

Since the adoption of Ordinance No. 1200 in 2009, new smoking technologies and products such as electronic smoking devices and non-tobacco substances have emerged. Additionally, enforcement experience has identified ambiguities within the code, particularly regarding applicability to private country clubs and the sale of emerging substances such as kratom.

At that 2024 study session, staff requested direction on the intent of the smoking ordinance following a Code Compliance complaint related to smoking outside a restaurant located within a private country club community. Staff's review identified a potential conflict between the smoking prohibitions and the exclusion of private country clubs from the definition of "public place." As a result of the direction received by City Council, the amendments are being proposed to Chapter 8.34 and Chapter 8.36.

At the February 11, 2026, study session, the prohibition and regulation of kratom products were discussed. This amendment incorporated the prohibition of high-risk synthetic kratom products into Chapter 8.36.

Amendments to Chapter 8.34 – Tobacco Retailer License

General Cleanup

- Revise language throughout the chapter to improve clarity, consistency, and precision.
- Update terminology to reflect current usage and remove outdated or redundant provisions.

Amended Definitions

- Update definitions to encompass electronic smoking devices and non-tobacco substances.
- Add definitions and regulatory language related to kratom products.

Licensing Requirements and Prohibitions

- Prohibit the sale of electronic smoking devices.
- Prohibit the sale of flavored tobacco products.
- Prohibit the sale of tobacco products at pharmacies.

Kratom Regulations

- Prohibit the sale and possession of high-risk synthetic kratom products.
- Aligns clear enforcement standards for kratom retailers with existing tobacco laws.
- Establish clear authority for enforcement related to kratom violations and penalties.
- Aligns with regional public health concerns and regulatory enforcement practices across multiple valley cities.

Inspections and Enforcement

- Enhance enforcement provisions by allowing more frequent compliance monitoring.
- Increase penalties for operational violations.
- Authorize revocation of a tobacco retailer license for illegal kratom sales.

Amendments to Chapter 8.36 – Regulation and Prohibition of Smoking

General Cleanup and Definitions

- Revise ordinance language for clarity and consistency.
- Update definitions to include electronic smoking devices and non-tobacco substances.

Clarification of Smoking Restrictions

PDMC Chapter 8.36 currently prohibits smoking in unenclosed areas of:

- Public places, including within 20 feet of primary entrances to privately owned commercial, industrial, institutional, or professional office buildings.
- Places of employment.
- Businesses, including within 20 feet of dining area entrances.
- Common areas of multifamily residential properties owned by the City.

While smoking is prohibited in these locations, a private country club was previously excluded from the definition of “public place,” creating ambiguity in enforcement.

Private Country Clubs

- Amend the code to define a private country club as a “public place” for purposes of smoking regulation.
- Retain exceptions specifying that the following are not public places:
 - A private residence within a private country club.
 - The fairway or putting green of a golf course located within a private country club.

This clarification ensures consistent application of smoking regulations and aligns with the public health intent of the ordinance.

The amendments set forth in these two chapters are a reasonable and necessary exercise of the City’s police power to protect public health, safety, and welfare. Additionally, these amendments modernize the City’s smoking and tobacco retailer regulations, address emerging products and substances, and enhance enforcement authority.

Legal Review:

This report has been reviewed by the City Attorney’s Office.

FINANCIAL IMPACT:

There is no fiscal impact related to this item.

ATTACHMENTS:

1. Chapter 8.34 (w/ Kratom prohibition)
2. Draft Chapter 8.34 (w/ Kratom prohibition)
3. Chapter 8.36
4. Draft Chapter 8.36
5. Tobacco Retailer and Smoking Ordinance (w/ Kratom prohibition)
6. Presentation – will be provided prior to the meeting

CONFLICT OF INTEREST AWARENESS CHECKLIST:

- Site-Specific Property Interest** – Councilmembers should check if they own or lease real property within 1,000 feet of the project site (Gov. Code § 87103(b); FPPC Reg. 18702.2).

- SB 1439 Applicability (Campaign Contributions)** – Applies to licenses, permits, or other entitlements for use, and to contracts or franchise agreements other than competitively bid, labor, or personal employment contracts.

Applicant(s)/Appellant(s): Not Applicable

Councilmembers should review any campaign contributions received within the last 12 months from parties or participants to the proceeding and must not accept contributions over \$500 from those parties for 12 months following the final decision (Gov. Code § 84308).

Note: These indicators are informational and do not constitute a legal determination. Each Councilmember is responsible for identifying and disclosing any disqualifying interests in accordance with the Political Reform Act and FPPC regulations.