



City of Brea / | Civic Center Circle, Brea, California 92821 / [www.cityofbrea.net](http://www.cityofbrea.net)

## ***Personal Non-Medical Use of Cannabis – Frequently Asked Questions***

**The following is provided for informational purposes only and not for the purpose of providing legal advice. You should contact an attorney to obtain advice with respect to any particular issue or problem or to answer any questions you may have regarding Proposition 64. Note: The following questions/answers do not apply to medical cannabis regulation. For information on medical cannabis regulation, please refer to the Orange County Health Care Agency.**

### ***What is Proposition 64?***

Proposition 64 is a state initiative, commonly known as the Adult Use of Marijuana Act, that was passed by California voters on November 8, 2016. Proposition 64 decriminalizes cannabis under state law, for use by adults 21 or older. Cannabis cannot be used in public, and adults 21 and over are limited to possession of 28.5 grams of cannabis or 8 grams of concentrate. Adults 21 and over can grow up to six plants in a private residence.

### ***Can a person smoke or ingest cannabis in public?***

No. Under Health and Safety Code section 11362.3 (a), a person cannot smoke or ingest cannabis in any public place. Cannabis use is allowed only on private property, not in parks or on sidewalks or anywhere where smoking tobacco is prohibited.

### ***Is it legal for persons 21 and over to possess cannabis?***

Yes. Under Health and Safety Code section 11362.1 (1), it is not a violation of local or state law for a person 21 years of age or older to possess, process, transport, purchase, obtain or give away to a person 21 years or older without any compensation whatsoever, not more than 28.5 grams of cannabis. Under Health and Safety Code section 11362.1 (2), it is not a violation of local or state law for a person 21 years of age or older to possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products.

### ***Is it legal under Proposition 64 for a person to grow cannabis?***

Yes. Subject to limitations, under Health and Safety Code section 11362.1 (3), a person 21 years or older can possess, plant, cultivate, harvest, dry or process not more than six living cannabis plants and possess the cannabis produced by the plants.

### ***Do cities that ban or regulate medical cannabis businesses need to update their ordinances to include non-medical cannabis?***

No. Proposition 64 prohibits state licensing authorities from issuing a license to a commercial non-medical cannabis business if operation of the business violates a local ordinance of the jurisdiction in which the business will operate. The City of Brea Zoning Code prohibits all commercial-related cannabis activity, including both medical and non-medical cannabis dispensaries.

***Are driving under the influence laws affected by Proposition 64?***

No. Proposition 64 does not change driving under the influence laws. Vehicle Code Section 23152 currently provides, in part, that:

(f) It is unlawful for a person who is under the influence of any drug to drive a vehicle.

(g) It is unlawful for a person who is under the combined influence of any alcoholic beverage and drug to drive a vehicle.

***How much and where can a person grow cannabis?***

Under Health and Safety Code section 11362.2 (a) (1), personal cultivation is subject to the following limitations: (1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any; (2) The living plants and any cannabis produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place; (3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

***Can an individual possess an open container or open package of marijuana in their vehicle?***

No. Possession of an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation is prohibited. Use of marijuana is not allowed while driving, operating a motor vehicle, boat vessel, aircraft, or other vehicle used for transportation. Smoking or ingesting marijuana is not allowed by passengers either, nor can any occupants possess an open container/package of marijuana. (Health & Safety § 11362.3)

***What if I believe someone is in violation of the law?***

If you believe someone is breaking the law, please call the Brea Police Department at (714) 990-7625. For additional questions on Proposition 64, please contact the City of Brea Planning Division.