



CITY OF SOUTH TUCSON ORDINANCE NO: 19-15

AN ORDINANCE OF THE CITY OF SOUTH TUCSON, ARIZONA RELATING TO ZONING; APPROVING AMENDMENTS TO CHAPTER 24 ("ZONING") OF THE SOUTH TUCSON CITY CODE, THE ZONING CODE, AMENDING THE DEFINITIONS FOR MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION LOCATIONS UNDER ARTICLE IV ("ZONING DISTRICT REGULATIONS"), DIVISION 12 ("SB-2A LOCAL RETAIL CENTER DISTRICT"), DIVISION 13 ("SB-2 BUSINESS DISTRICT") AND DIVISION 17 ("SI-1 LIGHT INDUSTRIAL DISTRICT")

WHEREAS, the City of South Tucson regularly engages in comprehensive land use planning and regulation through the adoption of a general plan, specific plans, and a comprehensive zoning code; and

WHEREAS, the primary purposes of the amendment to Chapter 24, Article IV of the Zoning Code are to preserve and protect the public health, public welfare, and public safety by promoting the location of dispensaries in highly visible zones which leads to more accessible law enforcement, easier access to ill patients, and reduction of the number of patients and caregivers who need to cultivate their own marijuana plants; and

WHEREAS, provisions of Proposition 203 (Arizona Medical Marijuana Act, A.R.S. § 36-2806.01) in the November 2, 2010 election allow cities to enact zoning regulations of medical marijuana dispensaries; and

WHEREAS, the possession, delivery, manufacture, cultivation and sale of marijuana is illegal under the Federal Controlled Substances Act; and

WHEREAS: Proposition 203, the Arizona Medical Marijuana Act, may be preempted or limited by the federal Controlled Substances Act or preempted; and

WHEREAS, nothing in this ordinance is intended to permit or assist in the violation of either the federal Controlled Substances Act; and

WHEREAS, medical marijuana dispensaries and marijuana cultivation are currently a permitted use of land in the City of South Tucson, Arizona; and

WHEREAS, the amendments in this ordinance will allow for the use of property as a dispensary or cultivation location; and

WHEREAS, the amendments in this ordinance do not create new restrictions on the use of the property, and this ordinance is not intended to, nor should it be construed to, reduce any existing rights to use, divide, sell, or possess private real property.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA:

Section 1: Chapter 24 of the South Tucson Code hereby is amended by modifying said Chapter 24 amendments to Article I Sec. 24-1. Definitions to read as follows:

Sec. 24-1: Definitions.

Medical Marijuana Designated Caregiver Cultivation Location means cultivation of Medical Marijuana by a Designated Caregiver and Cardholder whose registration card indicates the cardholder has been authorized to cultivate marijuana plants for a qualifying patient's medical use pursuant to the provisions of A.R.S. § 36-2804.03.

Marijuana Dispensary shall have the same meaning as 'Nonprofit Medical Marijuana Dispensary or other dispensary definition as defined by A.R.S. § 36-2801.

Marijuana Dispensary Offsite Cultivation Location means the additional location, if any, where marijuana may be cultivated for the use of a Marijuana Dispensary as disclosed pursuant to A.R.S. § 36-2804.

Medical Marijuana Qualifying Patient Cultivation Location means cultivation of medical marijuana by a qualifying patient pursuant to A.R.S. § 36-2801 but shall only include a Qualifying Patient who is also a Cardholder, authorized to cultivate marijuana plants pursuant to the provisions of A.R.S. § 36-2804.02.

Section 2: Chapter 24 of the South Tucson Code is amended by adding said Chapter 24 amendments to Article IV, Division 12 (SB-2A Local Business Center District) Sec. 24-382 (Permitted Uses) as follows:

Sec. 24-372. Permitted uses.

(d) *Local business uses.*

(42) Marijuana Dispensary provided:

- a) The maximum floor area of the marijuana dispensary shall not exceed 2,500 square feet
- b) The secure storage area for the marijuana stored at the marijuana dispensary shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a marijuana dispensary.
- c) A marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle

- d) The permitted hours of operation of a marijuana dispensary shall be from 7:00 am to 10:00 pm.
- e) The marijuana dispensary shall have an indoor customer waiting space area equal to twenty-five (25) percent of the gross floor area.
- f) A marijuana dispensary shall not have drive-through service and shall not have outdoor seating areas.
- g) A marijuana dispensary shall not provide for offsite delivery of the marijuana.
- h) A marijuana dispensary shall be setback a minimum of 1,000 feet from any other marijuana dispensaries measured from parcel boundaries.
- i) A marijuana dispensary shall be setback a minimum of 1,000 feet from a public, private, parochial, charter facility where children may be enrolled.
- j) A marijuana dispensary shall be setback a minimum of 500 feet from a church, library, or public park.

Section 3: Chapter 24 of the South Tucson Code is amended by adding said Chapter 24 amendments to Article IV, Division 13 (SB-2 Business District) Sec. 24-387 (Permitted Uses) as follows:

Sec. 24-387: Permitted uses.

- (d) *Local business uses.* The following local business uses are allowed:
 - (41) Liquor store.
 - (42) Locksmith, tool or cutlery sharpening, lawnmower repair, fix-it or handyman shop.
 - (43) Massage establishment, reducing salon.
 - (44) Marijuana Dispensary provided:
 - a) The maximum floor area of the marijuana dispensary shall not exceed 2,500 square feet
 - b) The secure storage area for the marijuana stored at the marijuana dispensary shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a marijuana dispensary.
 - c) A marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle
 - d) The permitted hours of operation of a marijuana dispensary shall be from 7:00 am to 10:00 pm.
 - e) The marijuana dispensary shall have an indoor customer waiting space area equal to twenty-five (25) percent of the gross floor area.
 - f) A marijuana dispensary shall not have drive-through service and shall not have outdoor seating areas.

- g) A marijuana dispensary shall not provide for offsite delivery of the marijuana.
- h) A marijuana dispensary shall be setback a minimum of 1,000 feet from any other marijuana dispensaries measured from parcel boundaries.
- i) A marijuana dispensary shall be setback a minimum of 1,000 feet from a public, private, parochial, charter facility where children may be enrolled.
- j) A marijuana dispensary shall be setback a minimum of 500 feet from a church, library, or public park.

(45) Multigraphing, mimeographing, duplicating Addressographing.

(46) Music, phonograph or radio store.

Section 4: Chapter 24 of the South Tucson Code hereby is amended by adding said Chapter 24 amendments to Article IV, Division 17 (SI-1 Light Industrial District) Sec. 24-387 (Permitted Uses) as follows:

Sec. 24-473: Permitted uses.

(a) *Generally.* No building, structure or land shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any other than one (1) or more of the purposes specified in this section.

(b) *Permitted residential uses.* The following uses are allowed:
One (1) dwelling unit for a watchman or caretaker employed on the premises and members of the watchman's or caretaker's family.

(c) *Local business uses.* The following uses are also allowed:

(41) Liquor store.

(42) Locksmith, tool or cutlery sharpening, lawnmower repair, fix-it or handyman shop.

(43) Massage establishment, reducing salon.

(44) Marijuana Dispensary provided:

a) The maximum floor area of the marijuana dispensary shall not exceed 2,500 square feet

b) The secure storage area for the marijuana stored at the marijuana dispensary shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a marijuana dispensary.

c) A marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle

d) The permitted hours of operation of a marijuana dispensary shall be from 7:00 am to 10:00 pm.

e) The marijuana dispensary shall have an indoor customer waiting

space area equal to twenty-five (25) percent of the gross floor area.

- f) A marijuana dispensary shall not have drive-through service and shall not have outdoor seating areas.
- g) A marijuana dispensary shall not provide for offsite delivery of the marijuana.
- h) A marijuana dispensary shall be setback a minimum of 1,000 feet from any other marijuana dispensaries measured from parcel boundaries.
- i) A marijuana dispensary shall be setback a minimum of 1,000 feet from a public, private, parochial, charter facility where children may be enrolled.
- j) A marijuana dispensary shall be setback a minimum of 500 feet from a church, library, or public park.

(45) Marijuana Dispensary Offsite Cultivation Location, provided:

- a) The maximum floor area of a marijuana dispensary offsite cultivation location shall not exceed 10,000 square feet.
- b) The secure storage area for the marijuana stored at the marijuana dispensary offsite cultivation location shall not exceed 1,000 square feet of the floor area of a marijuana dispensary offsite cultivation location.
- c) A marijuana dispensary offsite cultivation location must be located in a permanent building and shall not be located in a trailer, cargo container mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
- d) A marijuana dispensary offsite cultivation location shall be setback a minimum of 1,000 feet from any other marijuana dispensaries or marijuana dispensary offsite cultivation locations measured from the parcel boundary to the parcel boundaries.
- e) A marijuana dispensary offsite cultivation location shall be setback a minimum of 1,000 feet from a public, private, parochial, charter facility where children may be enrolled.
- f) A marijuana dispensary offsite cultivation location shall be setback a minimum of 500 feet from a church, or library.

(46) Marijuana Designated Caregiver Cultivation Location, provided:

- a) All conditions and restrictions for marijuana dispensary offsite cultivation locations apply.
- b) A designated caregiver may cultivate at their residence for a single qualifying patient subject to compliance with A.R.S. § 36-2806.01.
- c) More than one designated caregiver may co-locate cultivation locations.

(47) Multigraphing, mimeographing, duplicating, addressographing.

(48) Music, phonograph or radio store.

Section 5. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

Section 6. If any provision of this ordinance is found to be invalid, or the application thereof to any person or circumstance is found to be invalid, the invalidity shall not effect other provisions or applications of this ordinance, which can be given the effect without the invalid provision, or application, and to this end the provisions of this ordinance are severable.

Section 7. This Ordinance is effective 30 days after its adoption by the Mayor and Council of the City of South Tucson, Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of South Tucson, Arizona this 3rd day of December 2019.

APPROVED/EXECUTED



MAYOR, BOB TESO

ATTEST:



CITY CLERK, VERONICA MORENO

APPROVED AS TO FORM:

REVIEWED BY:



CITY ATTORNEY, BOBBY YU

CITY MANAGER, JOHN VIDAURRI