



CITY OF SOUTH TUCSON ORDINANCE NO: 22-05

ORDINANCE NO. 22-05 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, AMMENDING 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.

Marijuana:

1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
2. Includes cannabis as defined in A.R.S. § 13-3401.
3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Concentrate:

1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

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

Marijuana Establishment means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

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.

Marijuana Testing Facility means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

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 or Establishment provided:
- a) The maximum floor area of the marijuana dispensary or establishment shall not exceed 2,500 square feet
 - b) The secure storage area for the marijuana stored at the marijuana dispensary or establishment shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a marijuana dispensary.
 - c) A marijuana dispensary or establishment 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 or establishment shall be from 7:00 am to 10:00 pm.

- e) The marijuana dispensary or establishment shall have an indoor customer waiting space area equal to twenty-five (25) percent of the gross floor area.
- f) A marijuana dispensary or establishment shall not have drive-through service and shall not have outdoor seating areas.
- g) A marijuana dispensary or establishment shall not provide for offsite delivery of the marijuana.
- h) A marijuana dispensary establishment shall be setback a minimum of 1,000 feet from any other marijuana dispensaries measured from parcel boundaries.
- i) A marijuana dispensary or establishment 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 or establishment 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:
 - (44) Marijuana Dispensary or Establishment provided:
 - a) The maximum floor area of the marijuana dispensary or establishment shall not exceed 2,500 square feet
 - b) The secure storage area for the marijuana stored at the marijuana dispensary or establishment shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a marijuana dispensary.
 - c) A marijuana dispensary or establishment 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 or establishment shall be from 7:00 am to 10:00 pm.
 - e) The marijuana dispensary or establishment shall have an indoor customer waiting space area equal to twenty-five (25) percent of the gross floor area.
 - f) A marijuana dispensary or establishment shall not have drive-through service and shall not have outdoor seating areas.
 - g) A marijuana dispensary or establishment shall not provide for offsite delivery of the marijuana.
 - h) A marijuana dispensary or establishment shall be setback a

minimum of 1,000 feet from any other marijuana dispensaries measured from parcel boundaries.

- i) A marijuana dispensary or establishment 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 or establishment shall be setback a minimum of 500 feet from a church, library, or public park.
- (45) Marijuana Dispensary or Establishment Offsite Cultivation Location , provided:
- a) The maximum floor area of a marijuana dispensary or establishment offsite cultivation location shall not exceed 10,000 square feet.
 - b) The secure storage area for the marijuana stored at the marijuana dispensary or establishment offsite cultivation location shall not exceed 1,000 square feet of the floor area of a marijuana dispensary or establishment offsite cultivation location .
 - c) A marijuana dispensary or establishment 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 or establishment offsite cultivation location shall be setback a minimum of 1,000 feet from any other marijuana dispensaries or marijuana dispensary or establishment offsite cultivation locations measured from the parcel boundary to the parcel boundaries.
 - e) A marijuana dispensary, or establishment 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 or establishment 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 or establishment 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.

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.

- (44) Marijuana Dispensary or Establishment provided:
- a) The maximum floor area of the marijuana dispensary or establishment shall not exceed 2,500 square feet
 - b) The secure storage area for the marijuana stored at the marijuana dispensary or establishment shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a marijuana dispensary.
 - c) A marijuana dispensary or establishment 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 or establishment shall be from 7:00 am to 10:00 pm.
 - e) The marijuana dispensary or establishment shall have an indoor customer waiting space area equal to twenty-five (25) percent of the gross floor area.
 - f) A marijuana dispensary or establishment shall not have drive-through service and shall not have outdoor seating areas.
 - g) A marijuana dispensary or establishment shall not provide for offsite delivery of the marijuana.
 - h) A marijuana dispensary or establishment shall be setback a minimum of 1,000 feet from any other marijuana dispensaries measured from parcel boundaries.
 - i) A marijuana dispensary or establishment 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 or establishment shall be setback a minimum of 500 feet from a church, library, or public park.
- (45) Marijuana Dispensary or Establishment Offsite Cultivation Location , provided:
- a) The maximum floor area of a marijuana dispensary or establishment offsite cultivation location shall not exceed 10,000 square feet.
 - b) The secure storage area for the marijuana stored at the marijuana dispensary or establishment offsite cultivation location shall not exceed 1,000 square feet of the floor area of a marijuana dispensary or establishment offsite cultivation location, .

- c) A marijuana dispensary or establishment 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 or establishment offsite cultivation location shall be setback a minimum of 1,000 feet from any other marijuana dispensaries or marijuana dispensary or establishment offsite cultivation locations measured from the parcel boundary to the parcel boundaries.
 - e) A marijuana dispensary, or establishment 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 or establishment 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 or establishment 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.

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, February 18, 2022.

PASSED AND ADOPTED by the Mayor and Council of the City of South Tucson, Arizona this 18TH, day of January 2022.

APPROVED/EXECUTED


MAYOR, BOB TESO


ATTEST:


CITY CLERK, VERONICA MORENO

APPROVED AS TO FORM:

REVIEWED BY:


CITY ATTORNEY, HECTOR M. FIGUEROA


INTERIM CITY MANAGER,
VERONICA MORENO