

ORDINANCE NO. O2017.25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY OF TEMPE ZONING AND DEVELOPMENT CODE, PART 3 – LAND USE, CHAPTER 4, SECTION 3-426, MEDICAL MARIJUANA.

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**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,** as follows:

**SECTION 1.** That Section 3-426 of the Zoning and Development Code, pertaining to Medical Marijuana, is hereby amended to read as follows:

**Section 3-426 Medical Marijuana.**

**A. Purpose.** The purpose of this section is to implement Arizona Revised Statutes, Title 36, Chapter 28.1; entitled "Arizona Medical Marijuana Act".

**Cross reference**—See also the following definitions in Part 7 of this Code: *medical marijuana, medical marijuana cultivation facility, and medical marijuana dispensary.*

**B. Location Requirements.** A *medical marijuana dispensary*, without *cultivation*, is allowed in the CSS, CC, PCC-1, PCC-2, RCC, and LID districts. A *medical marijuana dispensary* or *cultivation facility* is allowed in the GID and HID zoning districts. The locations are limited to the following:

1. A MEDICAL MARIJUANA DISPENSARY SHALL NOT BE OPERATED OR MAINTAINED ON A PARCEL WITHIN 5,280 FEET (1 MILE) FROM ANOTHER MEDICAL MARIJUANA DISPENSARY, MEASURED BY A STRAIGHT LINE IN ALL DIRECTIONS, WITHOUT REGARD TO INTERVENING STRUCTURES OR OBJECTS, FROM THE NEAREST POINT OF THE PROPERTY LINE OF A PARCEL CONTAINING SUCH USE.

2. A MEDICAL MARIJUANA DISPENSARY SHALL NOT BE OPERATED OR MAINTAINED ON A PARCEL, MEASURED BY A STRAIGHT LINE IN ALL DIRECTIONS, WITHOUT REGARD TO INTERVENING STRUCTURES OR OBJECTS, FROM THE NEAREST POINT OF THE PROPERTY LINE OF A PARCEL CONTAINING THE FOLLOWING:

A. WITHIN 1,500 FEET FROM A CHILD CARE FACILITY;

B. WITHIN 1,500 FEET FROM A CHARTER SCHOOL, PRIVATE SCHOOL, OR PUBLIC SCHOOL, WHICH PROVIDES ELEMENTARY OR SECONDARY EDUCATION;

- C. WITHIN 1,320 FEET FROM A CHURCH, SYNAGOGUE, TEMPLE OR SIMILAR RELIGIOUS WORSHIP BUILDING;
- D. WITHIN 1,320 FEET FROM A PUBLIC PARK, LIBRARY, OR PUBLIC COMMUNITY BUILDING; OR
- E. WITHIN 1,320 FEET FROM A RESIDENTIAL ZONING DISTRICT OR THE PROPERTY LINE OF A PARCEL SOLELY DEVOTED TO A RESIDENTIAL USE IN ANY ZONING DISTRICT.

3. A ~~medical marijuana dispensary~~ or *medical marijuana cultivation facility* shall not be operated or maintained on a parcel within 1,320 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing the following:

~~a. From one dispensary to another medical marijuana dispensary;~~

a. A child care facility;

b. A *charter school, private school, or public school*, which provides elementary or secondary education;

c. A *church, synagogue, temple or similar religious worship building*; or

d. A public park, library, or public community *building*.

4. ~~A medical marijuana dispensary~~ or ~~A~~ *medical marijuana cultivation facility* shall not be operated or maintained on a parcel within five hundred (500) feet from a residential zoning district or the property line of a parcel solely devoted to a residential use in any zoning district measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing such use.

5. *Medical marijuana cultivation* for a caregiver or patient's residence in a residential district is not permitted, unless sufficient evidence exists that the location is greater than twenty-five (25) miles from a *medical marijuana dispensary* within the State of Arizona.

**C. Operation Requirements.** Any *medical marijuana dispensary* or *cultivation facility*, except within a residential home, shall comply with the following requirements, as well as those contained within Arizona Revised Statutes, Title 36, Chapter 28.1:

1. The business shall be located in a permanent building, with an engineered foundation that meets Tempe Building Code, and not located in a *mobile home, trailer, cargo container, motor vehicle, or similar personal property*.
2. The maximum size for a *medical marijuana dispensary* shall be no more than 5,000 square feet. The maximum size for a *cultivation facility* shall be no more than 25,000 square feet.

3. The business and tenant space must comply with Tempe's applicable Building Code and Fire Code requirements.
4. Drive-through facilities are prohibited.
5. The *medical marijuana dispensary* is limited to the hours of operation not earlier than 8:00 a.m. and not later than 8:00 p.m.
6. *Medical marijuana* remnants or bi-products shall be disposed of according to an approved plan and not placed within the facilities exterior refuse containers.
7. There shall be no emission of dust, fumes, vapors, or odors into the environment from the premise.
8. A security plan is required, which shall include, but is not limited to, the following:
  - a. All exterior doorways for the facility shall provide a security vision panel pursuant to Section 4-406, Employee Service Entrances and Exits, or a 180 degree rotatable viewer. If doorway is transparent, the door shall be designed with a material that is either impact resistant or restricts entry by means of a wrought iron gate;
  - b. Closed circuit television cameras, operating 24 hours a day, shall be provided at the building's exterior entrances and inside the building at a designated service area;
  - c. All lighting for the site shall be brought into conformance with the current lighting standards identified in Part 4, Chapter 8, Lighting. The building entrance of the business shall be illuminated from dusk till dawn activated by photocell relay to the lighting controller;
  - d. No one under the age of eighteen (18) shall enter the medical marijuana dispensary; and
  - e. Any person, prior to entering the establishment, shall remove all hats, sunglasses or other similar objects, to avoid obstruction of physical identification.

**D. Use Acceptance.** A zoning administrative application shall be processed, certifying that all City of Tempe regulations for the *medical marijuana dispensary or cultivation facility* are in compliance with the provisions set forth in Section 3-426 of this Code. The use shall not commence without the zoning administrator, or designee, acceptance letter. the application shall include, but is not limited to, the following items:

1. A project submittal form with applicable fee;
2. The property owner's letter of authorization for the use;
3. The name and location of the dispensary's off-site *medical marijuana cultivation facility*, if applicable;
4. A map showing the location in compliance with the separation requirements listed in Section 3-426(B);

5. A copy of operating procedures adopted in compliance with A.R.S. 36-2804(B)(1)(c);
6. A site plan;
7. A floor plan of the building or tenant space;
8. If applicable, Building permits (Separate submittal) in compliance with Tempe's Building Code and Fire Code; and
9. A Security Plan, in compliance with Section 3-426(C).

~~**E. Dispensary Limitations.** The maximum number of medical marijuana dispensaries within the Tempe city limits shall be two (2).~~

**SECTION 2.** Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 25<sup>th</sup> day of May, 2017.**

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Mark W. Mitchell, Mayor

ATTEST:

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Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

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Judith R. Baumann, City Attorney