

ORDINANCE NUMBER 2019-07

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY ZONING ORDINANCE, ARTICLE XI, SPECIAL USES AND ADDITIONAL USE REGULATIONS

WHEREAS, Article III Amendments, Section 306, of the Zoning Ordinance establishes the authority and procedures for amending the Zoning Ordinance and the regulations thereunder; and

WHEREAS, the Town Council desires to make revisions to Article XI, Special Uses and Additional Use Regulations, of the Zoning Ordinance to revise the requirements for and processes related to the establishment of a medical marijuana dispensary location and spacing requirements within the Town boundaries with the intent to limit the establishment of medical marijuana dispensaries to the fullest extent permitted under any Federal, State or Local Law or Ordinance or rules and/or regulations lawfully promulgated in connection therewith (“Laws”); and

WHEREAS, A.R.S. §36-2806.01 permits the Town to make reasonable zoning regulations that limit the use of land within the Town for registered nonprofit medical marijuana dispensaries to specified areas in the manner provided in title 9, chapter 4, article 6.1, to the extent such dispensary is required to be located within the Town boundaries pursuant to any Laws; and

WHEREAS, this amendment to Article XI is intended to apply to any nonprofit medical marijuana dispensary, to the extent any Laws require such dispensary to be located within the Town boundaries;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Article XI, Special Uses and Additional Use Regulations, Section 1102.2 B. is hereby amended (with deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

Section 1102.2. Uses Permitted.

A. Resorts [remaining provisions to remain the same, but omitted here]

B. Medical Office, Kennels and Veterinary Clinics

1. Definition

A medical office, including a medical clinic, consists of a building or part of a building used solely for the purpose of consultation, diagnosis, and treatment of patients by one or more legally qualified physicians, dentists, optometrists, chiroprodists, chiropractors, osteopaths, and occupational therapists, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include reception areas, administrative offices, waiting rooms, consultation and treatment rooms, minor operating rooms, pharmacies and dispensaries directly associated with the medical office/clinic. A kennel, including a veterinary clinic, consists of a building or a part of a building used for reception areas, administrative offices, waiting rooms, play areas and animal retaining/caging units, consultation and treatment rooms, minor operating rooms, and rooms for the diagnosis and treatment of animals by one or more legal qualified veterinarians, together with their qualified assistants.

2. Allowed uses

- a. Offices for medical practitioners and veterinarians; and kennel uses.
- b. Outpatient surgical facilities where patient stays do not exceed 48 hours.
- c. Medical laboratories.
- d. Physical therapy facilities.
- e. Pharmacies, subject to specific approval of such use by the terms of an approved Special Use Permit, and pursuant to the following restrictions:
 - i. There shall be no external signage for a pharmacy other than a tenant identification sign for the surrounding medical office SUP complex.
 - ii. ~~The addition~~**Addition** of a pharmacy use within a Medical Office Special Use Permit Zone shall be permitted only upon the approval of an Intermediate Amendment to the Special Use Permit as provided for in Section 1102.7(C).
 - iii. Hours of operation shall be not earlier than 8:00 a.m. and not later than 6:00 p.m. – Monday through Saturday.
- f. Medical Marijuana Dispensaries, subject to the following **pre-conditions and** restrictions:
 - i. ~~—The number of medical marijuana dispensaries within the Town of Paradise Valley shall be limited to no more than one within the boundaries of the Town. Said dispensary shall be allowed only in the Medical Office SUP District and only upon the approval of an Intermediate Amendment to a Special Use Permit.~~
 - i. Preconditions to the Acceptance of an Application.**

1. Prior to and as a pre-condition to a Medical Marijuana Dispensary applicant submitting an application for or obtaining a Special Use Permit (“SUP”) in compliance with the requirements and limitations and conditions set forth below, the applicant shall determine whether any existing operating Medical Marijuana Dispensary(ies) is/are located within ten (10) miles from the approximate center of the Town, which is defined as the latitude 33°33'25.7"N and longitude 111°57'30.0"W, and whether such existing operating Medical Marijuana Dispensary(ies) is/are located within or without the boundaries of the Town (each an “Available Facility” and, if more than one, collectively “Available Facilities”).
2. If there is an existing Available Facility or Available Facilities an Application for a SUP Amendment for the operation of a Medical Marijuana Dispensary within the Town shall be refused.
3. If the applicant states in the submitted application that there are no Available Facilities but the Town has reasons for questioning such statement in the application, then the applicant shall be required, at applicant’s cost, to hire a consultant selected by the Town who will determine whether there are any Available Facilities. If the selected consultant determines that there is an existing Available Facility or Available Facilities, then the Application for a SUP Amendment for the operation of a Medical Marijuana Dispensary within the Town shall be refused.

ii. Processing of Valid Applications and Restrictions

1. The number of medical marijuana dispensaries within the Town of Paradise Valley, if any, shall be limited to no more than one within the boundaries of the Town. Said dispensary shall be allowed only in the Medical Office SUP District and only upon the approval of an Intermediate or Major Amendment to a Special Use Permit.
2. The minimum requirements of this section shall apply to all applications for a medical marijuana dispensary use in a SUP Medical Office District as well as proof of compliance with all DHS regulations related to medical marijuana dispensaries.
3. In addition to the foregoing requirements, applicants for a medical marijuana dispensary shall provide the following:
 - (1) Copy of the operating procedures adopted in compliance with A.R.S. § 36-2804(B)(1)(c).
 - (2) Proof of a valid registration certificate and identification number from DHS for the dispensary and its board members and agents.

- (3) A security plan showing a floor plan, type and description of and specifications for security measures that the medical marijuana dispensary will use to secure, enclose and lock the dispensary, as required by State law and DHS regulations.
- (4) Exterior site and parking plan; **and a traffic generation, route, and internal circulation plan prepared by a licensed traffic engineer with experience in this type of land use consideration.**

iviii. Additional Regulations and Standards for Medical Marijuana Dispensaries

- (1) Prior to Town approval of the occupancy of any tenant or operator of a medical marijuana dispensary, the owner of the medical office complex shall submit for Town Manager review and approval criminal background information and releases regarding the prospective tenant and all employees to be hired by the tenant; ;. audited financial statements evidencing that the entities or persons who will own or operate the medical marijuana dispensary have adequate assets, financing, and net worth to appropriately fund a safe and secure medical marijuana; and detailed operations evidencing appropriate policies, protocols and operations procedures to ensure that the medical marijuana dispensary will run and operate in a safe and secure manner. **The Town may request such additional information the Town deems reasonable and necessary.**
- (2) Medical marijuana dispensaries shall be limited to the use of dispensing medical marijuana products and shall be prohibited from any other or related use such as a bookstore, spa, restaurant, or coffee shop.
- (3) No drive-through service shall be allowed at any medical marijuana dispensary.
- (4) No on-site consumption of any product containing medical marijuana shall be allowed at any medical marijuana dispensary.
- (5) Medical marijuana dispensaries located within the Town of ~~Paradise Valley~~ shall be prohibited from making any home deliveries of marijuana **unless otherwise mandated by law.**
- (6) Medical marijuana dispensaries shall be prohibited from offering free or discounted samples of their merchandise.
- (7) Means of preventing smoke, odors, debris, dust fluids and other substances from exiting a medical marijuana dispensary shall be provided **with enhanced ventilation and filter systems.**
- (8) No ~~persons~~ **minors** under 21 years of age are permitted within a medical marijuana dispensary unless accompanied by a parent or guardian.

(9) ~~No A medical marijuana dispensary shall not be approved on a property that has existing~~ youth activities, including, but not limited to, outdoor basketball hoop structures, playgrounds, and skate parks, **shall be permitted on the same medical office complex site that has an approved medical marijuana dispensary use.**

(10) If the State prohibits any medical marijuana dispensary within the Town, any Amendment to a Special Use Permit adding a medical marijuana dispensary use shall be deemed immediately revoked by operation of law. The underlying Special Use Permit shall remain.

(11) A medical marijuana dispensary shall be: at least 1,500 feet from the following existing uses, as measured within the Paradise Valley municipal limits only: (a) educational institutions; (b) places of worship; (c) parks and recreational facilities; **or** (d) youth centers; ~~and at least 5,280 feet from any other medical marijuana dispensary; as measured within the Paradise Valley municipal limits only; and at least 300 feet from any residential use in any residential district or any resort or residential use under any Special Use Permit property that permits resort uses.~~ Measurements are taken from ~~nearest property lines of the medical office use and each of the uses noted above.~~ **All distances shall be measured from the wall of the office suite or space occupied by the medical marijuana dispensary nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.** ~~The location of the dispensary shall optimize distance from residentially zoned property. Residential spacing shall be the primary consideration for all reviews of intermediate SUP amendment applications for medical marijuana dispensaries.~~

(12) A medical marijuana dispensary shall have operating hours not earlier than 8:30 a.m. and not later than 2:30 p.m. – Monday through Friday, **unless longer hours are prescribed by any laws,** or as prescribed in an intermediate Special Use Permit amendment.

(13) There shall be no external signage including, but not limited to, any special event signage, for a medical marijuana dispensary other than a tenant identification sign for the surrounding medical office SUP complex, and no symbols, representations, or slang for the word “marijuana” or its components shall be used on any external signage.

(14) All activity related to medical marijuana dispensaries shall be conducted in compliance with Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq., DHS rules and regulations and other implementing state statutes and administrative regulations.

(15) An SUP amendment for a medical marijuana dispensary shall not become effective until the owner of a Medical Office SUP District property has completed all DHS requirements and obtained a license.

Section 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This Ordinance shall become effective in 30 days.

Section 4. In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this 22nd day of October, 2020.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM

Andrew M. Miller, Town Attorney