



OFFICE OF THE  
MAYOR  
CITY OF SOMERTON

# *Ordinance*

## *No. 2011-003*

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL, AMENDING THE SOMERTON ZONING ORDINANCE BY THE ADDITION OF A NEW APPENDIX C ENTITLED “MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION SITES; CONDITIONAL USE PERMIT REQUIRED” THERETO; REPEALING ANY AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREOF.**

**WHEREAS**, Proposition 203 imposes a set of new statutes authorizing the medical use of marijuana; and

**WHEREAS**, said statutes also authorize medical marijuana dispensaries; and

**WHEREAS**, said statutes also authorize medical marijuana cultivation sites; and

**WHEREAS**, said statutes authorize cities to adopt certain interim zoning regulations for medical marijuana dispensaries and cultivation sites; and

**WHEREAS**, it is the intent of this Ordinance to adopt certain interim zoning regulations for medical marijuana dispensaries.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Common Council of the City of Somerton, Arizona as follows:

**Section 1** That the City of Somerton Zoning Ordinance is hereby amended by the addition of a new Appendix C thereto, entitled “Medical Marijuana Dispensaries and Cultivation Sites; Conditional Use Permit Required” to read as follows:

**APPENDIX C: Medical Marijuana Dispensaries and Cultivation Sites;  
Conditional Use Permit Required**

A. Purpose

Marijuana in any form, including Medical Marijuana, is illegal under federal law pursuant to the Controlled substances Act (21 U. S. C. § 811). However, the Arizona Medical Act (Proposition 203, passed by Arizona voters in 2010) states that under state law, a qualifying patient who has a debilitating medical condition to obtain and use marijuana to treat or alleviate the qualifying debilitating medical condition or its associated symptoms. Proposition 203 also contains provisions for dispensaries and cultivation sites to provide medical marijuana to qualifying patients. Because this change in state law means that it is possible that medical marijuana dispensaries and cultivation sites will be operating in the City of Somerton, the City has a duty to ensure that the dispensaries and cultivation sites are located and operated in a manner that least harms the health, safety and general welfare of its citizens. Furthermore, the City of Somerton does not condone the use of medical marijuana or violation of federal law.

B. Requirements to Obtain a Conditional Use Permit

A medical marijuana dispensary and/or cultivation site shall obtain a Conditional Use Permit from the City of Somerton prior to beginning operations. A fee of two thousand, five hundred (\$2,500) dollars shall be paid at the time of submitting application.

C. Application

An applicant for a Conditional Use Permit allowing for the operation of a medical marijuana dispensary and/or cultivation site must complete a supplemental application that includes all of the following information:

- a) If the applicant is by an agent for the owner, the authorization must include a signed affidavit from the owner stating that the owner knows the proposed use of the property is for a medical marijuana dispensary and/or cultivation site.
- b) A copy of the operating procedures adopted in compliance with A. R. S. § 36-2804 (B)(1)(c).
- c) If the proposed medical marijuana dispensary includes the cultivation of medical marijuana as part of its operations, a site plan shall be submitted demonstrating how the proposed cultivation site meets all security requirements of A. R. S. § 36-2806 (E).

D. Mandatory Conditions of Approval

All Conditional Use Permits must address and abide by the following conditions of approval. The Planning and Zoning Commission and/or City Council may impose conditions of approval

that are more restrictive than those required by this section. All Conditional Use Permits providing for the operation of a medical marijuana dispensary and/or cultivation site must:

- a) Provide to the Community Development Department a copy of the registration certificate issued by the State of Arizona under A. R. S. § 36-2804 prior to commencing operations.
- b) Meet all requirements for a medical marijuana dispensary and/or cultivation site to qualify for and maintain its certificate of registration as set forth A. R. S. § 36-2804.
- c) Comply with operating procedures pursuant to A. R. S. § 36-2804 (B)(1)(c).
- d) Prohibit anyone from consuming medical marijuana on the premises.
- e) Prohibit anyone under the age of eighteen years of age on the premises.
- f) Prohibit signage or advertising using the word “marijuana” or “cannabis” or any other word, phrase or symbol commonly understood to refer to marijuana unless said word, phrase or symbol is immediately preceded by the word “medical” in type and font that is at least as readily visible as all other words, phrases or symbols. Such signage and advertising must clearly indicate that the products and services are offered only for a medical marijuana patients and primary caregivers.
- g) Post a legible sign stating that:
  1. The use or distribution of marijuana is a violation of federal law.
  2. The possession, use or distribution of marijuana for non-medical purposes is a violation of state law.
  3. Consumption of marijuana on the premises is prohibited.
  4. No one under the age of eighteen years is permitted on the premises.
- h) Prohibit medical marijuana dispensary activities including, without limitation, cultivating, growing, processing, displaying, selling and storing from being conducted outdoors.
- i) Operate only between the hours of 8:00 AM and 5:00 PM.
- j) Prevent medical marijuana or paraphernalia from being displayed or kept in a manner that is visible from outside the subject dispensary.
- k) Shall provide for proper disposal of medical marijuana remnants or by-products and not to be placed within the facility’s exterior refuse containers.
- l) There shall be no emission of dust, fumes, vapors or odors into the environment from the facility.
- m) Install security surveillance cameras that monitor all entrances, along with the interior and exterior of the premises. Recordings from these cameras must be maintained in a retrievable manner for at least 90 days from the date recorded.
- n) Install and maintain in good working condition a robbery and burglary alarm system.

- o) Drive-through and delivery services are prohibited.
- p) A city of Somerton Business License shall be obtained prior to commencing operations.
- q) Record a notarized affidavit in which the applicant acknowledges that the operation of medical marijuana dispensary is a violation of federal law.
- r) Record a notarized waiver in which the applicant agrees to hold the City of Somerton harmless against any federal law enforcement actions that may result from the activities of the medical marijuana dispensary/cultivation site being that is the subject of the Conditional Use Permit.

E. Additional Conditions of Approval

In addition to the mandatory conditions of approval as set forth in Subsection D above, the City may add other conditions of approval appropriate to the application considering the location, building, surroundings, adjacent land uses, topography, security and safety considerations, as many be necessary to achieve a compatible land use with the surrounding community as authorized by the City Code or Arizona law.

F. Medical Marijuana Dispensary Location Restrictions

- a) A Medical Marijuana Dispensary may be not located within any Residential District within the City.
- b) A Medical Marijuana Dispensary may not be operated as a Home Occupation anywhere within the City.
- c) A Medical Marijuana Dispensary shall be located in a permanent building and may not locate in a trailer, cargo container or motor vehicle.
- d) A Medical Marijuana Dispensary may only be located in L-1 (Light Industrial) Zoning District pursuant to a Conditional Use Permit, except that the decision of the Planning and Zoning Commission shall also be reviewed and approved by the City Council prior to the issuance of a Conditional Use Permit for a Medical Marijuana Dispensary.
- e) A Medical Marijuana Dispensary shall be located a distance of not closer than One Thousand (1,000') feet from a property line of a parcel that has an established residence, public park, educational facility, library, bar or restaurant dispensing alcoholic beverages, adult oriented business or another medical marijuana dispensary.

G. Medical Marijuana Cultivation Site Location Restrictions

- a) A Medical Marijuana Cultivation Site shall only be located on the premises of an authorized medical marijuana dispensary.
- b) The primary residence of an individual who is a qualifying patient or designated caregiver as defined under A. R. S. § 36-2806 and is authorized to cultivate medical marijuana at their residence by the State of Arizona.

- c) Medical marijuana may only be cultivated in an indoor area equipped with locks or other security devices that permit access only by those authorized by state law to cultivate medical marijuana.
- d) Medical marijuana is not allowed to be cultivated in a location or manner that is visible from any area normally accessible to the general public or from any point off the parcel.
- e) All requirements, standards and conditions for the cultivation of medical marijuana in State statute and regulations must be met at all times.

#### H. Definitions

**Medical Marijuana:** Means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

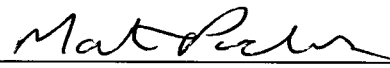
**Medical Marijuana Dispensary:** A non-profit entity defined in A. R. S. § 36-2801 (1), that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

**Medical Marijuana Cultivation:** The process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana that is physically separate and/or off-site from a medical marijuana dispensary.

**Medical Marijuana Qualifying patient:** A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A. R. S. § 36-2801.13.

**SECTION TWO:** 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.

**PASSED AND ORDAINED** by mayor and Council of the City of Somerton Arizona this 5th day of April, 2011.

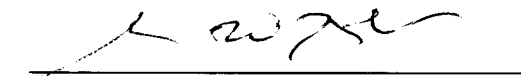
  
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Martin Porchas, Mayor

**ATTEST:**

A handwritten signature in cursive script, appearing to read "Bill Lee", is written above a horizontal line.

Bill Lee, City Manager

**APPROVED AS TO FORM:**

A handwritten signature in cursive script, appearing to read "Gerald W. Hunt", is written above a horizontal line.

Gerald W. Hunt, City Attorney