

ORDINANCE NO. 2022-003

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF SPRINGERVILLE, ARIZONA, RELATING TO THE REGULATION OF MARIJUANA; AMENDING TITLE 17 (ZONING) OF THE CODE OF SPRINGERVILLE, ARIZONA BY AMENDING CHAPTER 17.08 (DEFINITIONS); AMENDING CHAPTER 17.68 (C-1 ZONE, GENERAL COMMERCIAL); AMENDING TITLE 9 (TAX CODE) BY AMENDING CHAPTER 9A (PRIVILEGE AND EXCISE TAXES); PROHIBITING MARIJUANA ON PUBLIC PROPERTY; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, marijuana contains tetrahydrocannabinol (“THC”), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, allows the establishment and operation of nonprofit medical marijuana dispensaries according to a prescribed statutory and regulatory process;

WHEREAS, Proposition 207 authorized the adult use and retail sale of marijuana pursuant to applicable laws and rules; and,

WHEREAS, the Town of Springerville seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations relating to marijuana in the Town of Springerville;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Springerville, Arizona, as follows:

Section I. Title 17 (Zoning) Chapter 17.08 (Definitions) of the Code of the Town of Springerville, Arizona, is amended by revising current definitions and/or adding the following definitions:

Adult Use Marijuana: Means all parts of the genus cannabis whether growing or not, as well as the seeds of such plants, 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 that were approved pursuant to Proposition 207 for sale and use to persons over the age of 21.

Medical Marijuana: Means ~~of~~ all parts of the genus cannabis whether growing or not, ~~and~~ as well as the seeds of such plants, 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, that may be administered to treat or alleviate a qualifying patient’s

debilitating medical condition or symptoms associated with the patient's medical condition.

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 this is physically separate and off-site from a medical marijuana dispensary.

Medical Marijuana Dispensary: A not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to medical marijuana cardholders. A non-profit entity defined in A.R.S. 36-2801 (11), that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

Medical Marijuana Manufacturing Facility: A facility that incorporates medical marijuana (cannabis) by means of cooking, blending, or incorporation into consumable/edible goods.

Medical Marijuana Qualifying Patient: A person who has been diagnosed by a physician as having a debilitating medical condition as defined by A.R.S. 36-2801.15.13.

Section II. Title 17 (Zoning) Chapter 17.68 (C-1 Zone, General Commercial), of the Code of the Town of Springerville, Arizona, is amended by revising current language and/or by adding the following to Section 17.68.030(V):

V. ~~Medical~~ Marijuana Dispensary (No Cultivation), subject to the following conditions and limitations:

1. Applicant shall provide:
 - a. the name(s) and location(s) of the offsite ~~medical~~ marijuana cultivation operation dispensary associated with the dispensarycultivation operation.
 - b. a copy of the operating procedures adopted in compliance with this Title and applicable state law, including proof or documentation of compliance with applicable Department rules.~~a copy of the operating procedures adopted in compliance with A.R.S. 36-2804(B)(1)(e) and~~
 - e. ~~a survey sealed by a registered land surveyor showing the location of the nearest medical marijuana dispensary or cultivation location if within 200 feet.~~
 - d. a site plan, floor plan, building permits for occupancy change, and a security plan.
2. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
3. Shall not be larger than a maximum of 1000 gross square feet.
4. Shall ~~not be located within 200 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.~~be limited to one (1) marijuana dispensary within the jurisdictional boundaries of the Town.

5. Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the ~~cultivation~~-business is conducted or proposed to be conducted to the property line of the residentially zoned property.
6. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school; or 200 feet of a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the ~~cultivation~~-business is conducted or proposed to be conducted to the property line of the protected use.
7. Shall have operating hours not earlier than 10:00 a.m. and not later than 7:00 p.m.
8. Drive-through services are prohibited.
9. Cultivation of ~~medical~~ marijuana is prohibited.
10. Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers, Town trash can(s), bin(s), or other Town facility, or in any park refuse container.
11. Shall not allow a person to consume marijuana or marijuana products on the premises or provide outdoor seating areas.-
12. Shall not display or keep marijuana or marijuana products that are visible from outside the premises.
13. Shall comply with applicable health regulations for food preparation and handling.

Section III. Title 9 (Tax Code) Chapter 9A (Privilege and Excise Taxes), of the Code of the Town of Springerville, Arizona, is amended by revising current language and/or by adding the following to Section 9A-100 (General Definitions):

" Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-5106. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. Under no circumstances shall "food" include an edible product, beverage, or ingredient infused, mixed, or in any way combined with Medical or Adult Use Marijuana or an active ingredient of Medical or Adult Use Marijuana.

Section IV. Marijuana Prohibited on Public Property. The use, sale, cultivation, manufacture, production or distribution of Medical or Adult Use marijuana or Medical or Adult Use marijuana products is prohibited on property that is occupied, owned, controlled, or operated by the Town, unless an exception is approved by the Town Council.

Section V. Retail Sales from Marijuana and Marijuana Products. To the fullest extent allowable by law, the sale of marijuana and marijuana products is authorized within the Town from a marijuana dispensary and is tangible personal property as defined in A.R.S.

§ 42-5001 and subject to the transaction privilege tax in the retail classification and use tax.

Section VI. Fees. The fees for the permits shall be established by resolution and included in the Town Fee Schedule.

Section VII. Violations. It is unlawful for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules. The cultivation, dispensary, infusion, manufacturing, or testing permit may be revoked by the Town for violation of any provision of this Ordinance, for any violation of the requirements of the permit, or if the Department revokes the applicable license.

Section IX. Providing for Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section X. Recitals. The recitals above are fully incorporated in this Ordinance by reference.

Section XI. Effective Date, Emergency. Because of the urgent need for the implementation of the Town's regulations concerning recreational marijuana, the immediate operation of this Ordinance is necessary for the preservation of the health, safety, and general welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Council as required by law.

Section XII. Zoning Considerations. 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.

Section XIII. Preservation of Rights and Duties. This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section XIV. Providing for Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, 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 ADOPTED by the Common Council of the Town of Springerville, Arizona, this 15 day of June, 2022, by the following vote:

AYES: 3

NAYES: 2

EXCUSED: 0

ABSENT: 0

ABSTAINED: 0

APPROVED this 15 day of June, 2022.

Mayor P.P.J.H.P.

ATTEST:

Kelsi Miller
Kelsi Miller, Town Clerk

APPROVED AS TO FORM:

Tosca Henry
Tosca Henry, Town Attorney

I, KELSI MILLER, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THIS ORDINANCE NO. 2022-003, ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF SPRINGVILLE ON THE 15 DAY OF June, 2022, WAS POSTED IN THREE PLACES ON THE 22 DAY OF June, 2022.

Town Clerk