

**ORDINANCE NO. 322**

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF MIAMI, ARIZONA, AMENDING THE CODE OF MIAMI, ARIZONA, TITLE 17 ZONING, BY AMENDING (1) CHAPTER 17.04 INTRODUCTORY PROVISIONS AND DEFINITIONS, SECTION 17.04.030 DEFINITIONS; (2) CHAPTER 17.32 C COMMERCIAL DISTRICT, SECTION 17.32.020 USE REGULATIONS AND ADDING NEW SECTION 17.32.060 MEDICAL MARIJUANA FACILITIES REGULATIONS; AND (3) CHAPTER 17.36 L-I LIGHT INDUSTRIAL DISTRICT, BY ADDING NEW SECTION 17.36.050 MEDICAL MARIJUANA FACILITIES REGULATIONS ALL RELATED TO PROVIDING REASONABLE ZONING REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES AND OFFSITE CULTIVATION SITES PURSUANT TO STATE LAW; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

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

Section I. In General.

The Code of Miami, Arizona, Title 17 Zoning, Chapter 17.04 Introductory Provisions and Definitions is hereby amended by amending Section 17.04.030 Definitions to read as follows (deletions in ~~strikeout~~; additions in ALL CAPS):

**17.04.030 Definitions.**

\* \* \*

“Maintenance” means replacing of a part or parts of a building which have been made unusable by ordinary wear or tear, or by the weather.

“MEDICAL MARIJUANA” MEANS THOSE PORTIONS OF THE PLANT OF THE GENUS CANNABIS ADMINISTERED AND USED BY A REGISTERED QUALIFYING PATIENT, AS THAT TERM IS DEFINED IN A.R.S. SECTION 36-2801, SOLELY FOR THE PURPOSE OF TREATING OR ALLEVIATING THE PATIENT’S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THAT DEBILITATING MEDICAL CONDITION.

“MEDICAL MARIJUANA DISPENSARY” MEANS A NOT-FOR-PROFIT FACILITY THAT, PURSUANT TO A.R.S. § 36-2804, IS REGISTERED WITH

AND CERTIFIED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES TO ACQUIRE, POSSESS, CULTIVATE, MANUFACTURE OR INFUSE, DELIVER, TRANSFER, TRANSPORT, SUPPLY, SELL OR DISPENSE MEDICAL MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO CARDHOLDERS, AS THAT TERM IS DEFINED IN A.R.S § 36-2801.

“MEDICAL MARIJUANA FACILITIES” MEANS MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA OFFSITE CULTIVATION SITES.

“MEDICAL MARIJUANA OFFSITE CULTIVATION SITE” MEANS THE ENCLOSED, LOCKED FACILITY, AT A DIFFERENT LOCATION FROM AND IDENTIFIED BY A MEDICAL MARIJUANA DISPENSARY PURSUANT TO A.R.S. SECTION 36-2806 (E), WHERE THE MEDICAL MARIJUANA DISPENSED BY SAID DISPENSARY IS GROWN OR STORED.

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The Code of Miami, Arizona, Title 17 Zoning, Chapter 17.32 C Commercial District is hereby amended by amending Section 17.32.020 Use Regulations to read as follows (deletions in ~~strikeout~~; additions in ALL CAPS):

**17.32.020 Use Regulations.**

A. Uses Permitted. Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

\* \* \*

2. Retail Sales.

\* \* \*

- q. Liquor store;
- r. MEDICAL MARIJUANA FACILITIES, SUBJECT TO THE REGULATIONS SET FORTH IN SECTION 17.32.060 AND THE ARIZONA DEPARTMENT OF HEALTH SERVICES;
- rs. Pet shop, not involving the treatment or boarding of cats or dogs;
- st. Variety store, including toy store.

\* \* \*

The Code of Miami, Arizona, Title 17 Zoning, Chapter 17.32 C Commercial District is hereby amended by adding new Section 17.32.060 Medical Marijuana Facilities Regulations to read as follows (deletions in ~~strikeout~~; additions in ALL CAPS):

**17.32.060 MEDICAL MARIJUANA FACILITIES REGULATIONS**

MEDICAL MARIJUANA FACILITIES SHALL BE LOCATED, DEVELOPED, AND OPERATED IN COMPLIANCE WITH THE FOLLOWING STANDARDS:

- A. **APPLICABILITY.** THE MINIMUM REQUIREMENTS OF THIS SECTION SHALL APPLY TO ALL MEDICAL MARIJUANA DISPENSARY AND MEDICAL MARIJUANA OFFSITE CULTIVATION SITE USES LOCATED IN ANY ZONING DISTRICT.
- B. **GENERAL.** ALL MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA OFFSITE CULTIVATION SITES SHALL:
  - 1. BE LOCATED IN THE C COMMERCIAL DISTRICT OR THE L-I LIGHT INDUSTRIAL DISTRICT AND SHALL NOT BE LOCATED IN ANY RESIDENTIAL DISTRICT WITHIN THE TOWN.
  - 2. NOT BE OPERATED AS A HOME OCCUPATION ANYWHERE WITHIN THE TOWN.
  - 3. SUPPLY PROOF THAT THE DISPENSARY IS STATE-APPROVED, CERTIFIED AND REGISTERED WITH THE ARIZONA DEPARTMENT OF HEALTH SERVICES PURSUANT TO ARIZONA REVISED STATUTES, TITLE 36, CHAPTER 28.1.
  - 4. COMPLY WITH ALL REGISTRATION AND RECORDKEEPING REQUIRED BY THE TOWN, GILA COUNTY AND ARIZONA LAW.
  - 5. OBTAIN, MAINTAIN AND DISPLAY A VALID TOWN OF MIAMI BUSINESS LICENSE AS REQUIRED BY CHAPTER 5.04 OF THIS CODE.
  - 6. SUPPLY THE NAME OF THE DISPENSARY WITH WHICH IT IS AFFILIATED IF OFFSITE CULTIVATION IS PROPOSED.
  - 7. IF MEDICAL MARIJUANA IS SUPPLIED TO THE DISPENSARY BY A QUALIFIED PATIENT OR CAREGIVER,

PROVIDE THE NAME AND CONTACT INFORMATION OF THE QUALIFIED PATIENT OR CAREGIVER.

8. BE LOCATED IN A PERMANENT BUILDING AND SHALL NOT BE LOCATED IN A TEMPORARY STRUCTURE, TRAILER, CARGO CONTAINER, MOTOR VEHICLE, OR OTHER SIMILAR NON-PERMANENT ENCLOSURE.
9. NOT HAVE DRIVE-THROUGH FACILITIES OR TAKE-OUT WINDOWS.
10. NOT EMIT DUST, FUMES, VAPORS OR ODORS INTO THE ENVIRONMENT.
11. PROHIBIT CONSUMPTION OF MEDICAL MARIJUANA ON THE PREMISES AND SHALL NOT PERMIT OR PROVIDE INDOOR OR OUTDOOR SEATING AREAS OR FACILITIES FOR THE CONSUMPTION OF MEDICAL MARIJUANA ANYWHERE ON THE SITE.
12. COMPLY WITH ALL APPLICABLE BUILDING, FIRE AND SAFETY CODES AND PERMIT INSPECTIONS AS MAY BE REQUIRED BY THOSE CODES.
13. BE DESIGNED AND CONSTRUCTED TO PROVIDE AN ENTRANCE FROM A PUBLIC STREET AND PREVENT VISIBILITY OF MEDICAL MARIJUANA FROM THE EXTERIOR.
14. PROHIBIT ENTRY BY ANY PERSON UNDER EIGHTEEN (18) YEARS OF AGE, EXCEPT WITH PRIOR APPROVAL FROM THE CHIEF OF POLICE, OR HIS DESIGNEE, AND FOR GOOD CAUSE SHOWN.
15. POST A NOTICE IN A CONSPICUOUS PLACE THAT ADMISSION TO THE FACILITY BY ANYONE OTHER THAN A REGISTERED CARDHOLDER, AS THAT TERM IS DEFINED IN A.R.S. § 36-2801, AND BY ALL PERSONS UNDER THE AGE OF 18 IS PROHIBITED

C. **LOCATION.** MEDICAL MARIJUANA FACILITIES SHALL BE A MINIMUM DISTANCE FROM THE USES SET FORTH IN THE TABLE BELOW. MEASUREMENTS SHALL BE MADE IN A STRAIGHT LINE IN ANY DIRECTION FROM THE CLOSEST PERIMETER BUSINESS WALLS.

<i>USE OR USE CLASSIFICATION</i>	<i>SEPARATION REQUIREMENT (FEET)</i>
ANOTHER MEDICAL MARIJUANA DISPENSARY OR OFFSITE CULTIVATION SITE	500
DAY CARE CENTER, PUBLIC OR PRIVATE	500
PUBLIC OR PRIVATE PARK	500
SCHOOLS, PUBLIC OR PRIVATE	500
RESIDENTIAL DISTRICT BOUNDARY	500

D. **HOURS OF OPERATION.** A MEDICAL MARIJUANA FACILITY SHALL HAVE OPERATING HOURS NOT EARLIER THAN 8:00 A.M. AND NOT LATER THAN 8:00 P.M.

E. **SECURITY PLAN REQUIREMENTS.** A MEDICAL MARIJUANA FACILITY SHALL SUBMIT A SECURITY PLAN TO THE TOWN CONTAINING THE FOLLOWING INFORMATION:

1. PROOF THAT THE “NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT,” AS THAT TERM IS DEFINED IN A.R.S. § 26-2801, IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS SATISFIED ALL REQUIREMENTS OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES TO ACT AS A MEDICAL MARIJUANA DISPENSARY AGENT.
2. PROOF THAT ALL CULTIVATION AND STORAGE OF MEDICAL MARIJUANA WILL TAKE PLACE IN AN ENCLOSED, LOCKED FACILITY EQUIPPED WITH LOCKS OR OTHER SECURITY DEVICES THAT PERMIT ACCESS ONLY BY PERSONS AUTHORIZED TO ENTER PURSUANT TO STATE AND LOCAL LAW.
3. A FLOOR PLAN THAT DETAILS THE SECURITY MEASURES REQUIRED BY ARIZONA LAW INCLUDING AN ON-SITE ALARM SYSTEM AND A SINGLE SECURE ENTRANCE.
4. ADDITIONAL PROTECTIONS, IF ANY, AGAINST MEDICAL MARIJUANA DIVERSION AND THEFT.
5. PROVIDE AND KEEP UP TO DATE A LIST OF THE NAMES AND CONTACT INFORMATION FOR ALL PERSONS WHO ARE AUTHORIZED TO ACCESS THE DISPENSARY AND OFFSITE CULTIVATION SITE.

The Code of Miami, Arizona, Title 17 Zoning, Chapter 17.36 L-I Light Industrial District is hereby amended by adding new Section 17.36.050 Medical Marijuana Facilities Regulations to read as follows (deletions in ~~strikeout~~; additions in ALL CAPS):

**17.36.050 MEDICAL MARIJUANA FACILITIES REGULATIONS.**

MEDICAL MARIJUANA DISPENSARIES AND OFFSITE CULTIVATION FACILITIES SHALL BE LOCATED, DEVELOPED, AND OPERATED IN COMPLIANCE WITH THE STANDARDS SET FORTH IN SECTION 17.32.060 MEDICAL MARIJUANA FACILITIES REGULATIONS.

Section II. 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 III. 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.

Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

PASSED AND ADOPTED by the Common Council of the Town of Miami, Arizona, this 7th day of February, 2011, by the following vote:

AYES: 5

NAYES: 1 ABSENT: 1

EXCUSED: 0 ABSTAINED: 0

APPROVED this 7<sup>th</sup> day of February, 2011.

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Rosemary Castaneda, Mayor

ATTEST:

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Richard G. Canizales, Town Clerk

APPROVED AS TO FORM:

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Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.  
Town Attorneys  
By: Phyllis L.N. Smiley

I, RICHARD G. CANIZALES, TOWN CLERK PRO TEM, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 322 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF MIAMI, ARIZONA, ON THE 7<sup>th</sup> DAY OF FEBRUARY, 2011, WAS POSTED IN THREE PLACES AND ON THE WEBSITE OF THE LEAGUE OF ARIZONA CITIES AND TOWNS ON THE 8<sup>th</sup> DAY OF FEBRUARY, 2011.

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Richard G. Canizales, Town Clerk