

ORDINANCE NO. 2020-1476

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING ARTICLE 2 (DEFINITIONS), ARTICLE 3-4-1 (LIGHT INDUSTRIAL PARK), AND ARTICLE 3-4-2 (GENERAL INDUSTRIAL PARK) OF THE CITY OF GOODYEAR ZONING ORDINANCE AND AMENDING ARTICLE 4-2 (USES REQUIRING ADDITIONAL EVALUATION) OF THE CITY OF GOODYEAR ZONING ORDINANCE TO ADD ARTICLE 4-2-17 (MARIJUANA DUAL FACILITY); ADOPTING GOODYEAR CHAA MAP; PROVIDING FOR CORRECTIONS; PROVIDING FOR AN EFFECTIVE DATE FOR AMENDMENTS TO THE ZONING CODE; PROVIDING AN EFFECTIVE DATE OF THE ORDINANCE; AND PROVIDING FOR PENALTIES.

WHEREAS, the City of Goodyear Zoning Ordinance regulates the development of all land within the City. Regulations set forth in the Zoning Ordinance may be amended when deemed necessary to best serve the public interest, health, comfort, convenience, safety, and general welfare of the citizens of the City; and

WHEREAS, the current Zoning Ordinance was originally adopted by the City Council in May 1999 and has been the subject of a number of amendments since that time; and

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.; and

WHEREAS, the Arizona Medical Marijuana Act, which was passed by voter initiative, and Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code enacted and adopted following the voter approval of the Arizona Medical Marijuana Act the state adopted rules and regulations for the establishment and operation of nonprofit medical marijuana dispensaries; and

WHEREAS, the City Council amended the City of Goodyear Zoning Ordinance to allow the establishment and operation of nonprofit medical marijuana dispensaries in the City of Goodyear according to a prescribed statutory and regulatory process; and

WHEREAS, the Arizona Department of Health Services distributed licenses for the establishment and operation of nonprofit medical marijuana dispensaries using designated areas referred to as CHAAs; and

WHEREAS, the use of CHAAs to distribute licenses for the establishment and operation of nonprofit medical marijuana dispensaries ensured there was not an overconcentration of establishments in any one area; and

WHEREAS, the Arizona Department of Health Services used Census data and Census geography to establish the CHAAs and has stated that in urbanized areas such as the City of Goodyear, each CHAA represents a population of approximately 100,000 persons; and

WHEREAS, the statewide ballot measure I-23-2020, known as “Smart and Safe Arizona Act” has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants; and

WHEREAS, this Ordinance should only become effective if and when the Smart and Safe Arizona Act is passed and becomes effective; and

WHEREAS, the City of Goodyear seeks to protect the public health, safety, and welfare by enacting reasonable zoning restrictions to limit the number of marijuana establishments in the City of Goodyear by limiting marijuana establishments allowed under the Smart and Safe Arizona Act to be co-located with nonprofit medical marijuana dispensaries (“Dual Facilities”); and

WHEREAS, the Smart and Safe Arizona Act defines a dual licensee as an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license; and

WHEREAS, the City of Goodyear finds that the CHAAs established by the State for the location of medical marijuana dispensaries, which has resulted in approximately 100,000 people within each CHAA, has served to protect the public health, safety, and welfare of the residents of the City of Goodyear by not allowing an overconcentration of facilities but still providing access to these facilities to serve the needs of the Goodyear residents; and

WHEREAS, there are ostensibly two areas within the City of Goodyear where medical marijuana dispensaries may be located within the City of Goodyear, but the location south of the El Paso gas line is in an area of the City of Goodyear that is sparsely populated and is part of a larger CHAA that incorporates other populated jurisdictions; and

WHEREAS, the City of Goodyear in this ordinance is adopting a Goodyear CHAA Map that establishes the areas where Dual Facilities may be located within Goodyear (“Goodyear CHAAs”); and

WHEREAS, the Goodyear CHAA Map provides for the establishment of one Goodyear CHAA, which is consistent with the state’s creation of CHAAs that resulted in approximately 100,000 persons within a CHAA area;

WHEREAS, the adoption of the Goodyear CHAA Map will result in one CHAA being located within the City of Goodyear where Dual Facilities can be located; and

WHEREAS, the intent is for there to be one Goodyear CHAA per 100,000 residents in the City of Goodyear; and

WHEREAS, the population of the City of Goodyear according to the latest U.S. Census data the population of the City of Goodyear is 77,476, and when the population of the City of Goodyear reaches 200,000, the Goodyear CHAA Map will be administratively revised to add an additional CHAA; and

WHEREAS, notice of a public hearing before the Planning and Zoning Commission on October 14, 2020 and before the City Council on October 26, 2020 to consider the amendments to Articles 2, 3, and 4 of the Goodyear Zoning Ordinance was published in the Arizona Republic on September 25, 2020 and information on the proposed text amendments was also posted to the current development applications section of the city's website; and

WHEREAS, the Planning and Zoning Commission considered the proposed amendments to Articles 2, 3, and 4 of the Goodyear Zoning Ordinance during its regular meeting on October 14, 2020 and the Commission voted 5-1 to recommend approval of the proposed amendments to Articles 2, 3, and 4; and

WHEREAS, the Mayor and Council of the City of Goodyear, Arizona find the adoption of this ordinance to be in the best interests of the public health, safety, and welfare of the residents of Goodyear.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. AMENDING ARTICLE 2-2 (DEFINITIONS) OF THE CITY OF GOODYEAR ZONING ORDINANCE.

Article 2-2 (Definitions) of the Goodyear Zoning Ordinance is hereby amended to add the following definitions:

GOODYEAR CHAA. Designated areas within the City of Goodyear where Marijuana Dual Facilities may be located.

GOODYEAR CHAA MAP. The map that identifies the Goodyear CHAA(s).

Marijuana Dual Facility. A **marijuana establishment** that is co-located with a non-profit **medical marijuana dispensary** and/or a **medical marijuana dispensary cultivation location**

Marijuana Dual Licensee. An entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.

Marijuana Establishment. An entity, other than a **medical marijuana dispensary and/or medical marijuana dispensary cultivation location**, licensed by the State of Arizona to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

Marijuana Products. Marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

Marijuana Testing Facility. The State of Arizona or another entity that is licensed by the State of Arizona to analyze the potency of marijuana and test marijuana for harmful contaminants.

SECTION 2. AMENDING ARTICLE 3-4-1 (LIGHT INDUSTRIAL PARK) OF THE CITY OF GOODYEAR ZONING ORDINANCE

Article 3-4-1(A) is amended to read as follows:

A. *PRINCIPAL PERMITTED USES.* Only listed use of structures or land shall be permitted.

1. **Manufacturing**, assembling, and processing.
2. **Marijuana Dual Facility** subject to the provisions of Article 4-2-17.
3. **Medical Marijuana Dispensary** subject to the provisions of Article [4-2-11](#).
4. **Medical Marijuana Cultivation Location** subject to the provisions of Article [4-2-12](#).
5. **Microbrewery**, producing 15,000 barrels of beer or less per year.
6. **Office buildings**.
7. Parking lot or garage.
8. Private business, professional, and trade schools.
9. **Public utility facilities**
10. Scientific or research laboratories.
11. Similar uses as determined by the **Zoning Administrator**, or his designee.
12. **Veterinary Offices**;

13. **Veterinary Hospitals** and animal boarding facilities, provided:
 - a. Activities at such facilities are conducted entirely indoors, except for supervised and controlled outdoor exercise areas;
 - b. The facilities are constructed to prevent objectionable noises and odors outside the walls of the office;
 - c. There shall be no outdoor kennels or runs; and
 - d. There shall be no direct outside exit from any room containing kennels.
14. Warehouse, wholesale, or distribution facility.

SECTION 3. AMENDING ARTICLE 3-4-2 (GENERAL LIGHT INDUSTRIAL PARK) OF THE CITY OF GOODYEAR ZONING ORDINANCE

Article 3-4-1(A) is amended to read as follows:

A. *PRINCIPAL PERMITTED USES*. Only listed use of **structures** or land shall be permitted.

1. Adult bookstore, adult novelty store and adult theater, subject to the conditions of subsection [4-2-1](#).
2. Food Bank.
3. Animal boarding, breeding, shelter, or pound.
4. Automotive repair including body and fender works.
5. **Brewery**, producing 40,000 barrels of beer or less per year.
6. Cement and paving material mixing plant.
7. Egg handling facility.
9. Parking lot or garage.
10. Private business, professional, and trade schools.
10. **Public utility facilities**, wastewater treatment plants, and water reclamation facilities.
11. Emissions testing and vehicle licensing.
12. Foundry or casting of metal which does not cause noxious odors or fumes.
13. Highway maintenance facilities.
14. Machine shop.
15. **Manufacturing**, assembling, and processing.
16. **Marijuana Dual Facility** subject to the provisions of Article 4-2-17.
17. Meat products, packing, smoking and curing, providing no objectionable fumes are emitted.
18. **Medical Marijuana Cultivation Location** subject to the provisions of Article [4-2-12](#).
19. **Medical Marijuana Dispensary** subject to the provisions of Article [4-2-11](#).
20. Monument Works
21. **Office buildings**.
22. Private Commercial Outdoor Entertainment Venue

23. Public works facilities.
24. Radio and television transmitting tower and facilities.
25. Sand blasting.
26. Scientific or research laboratories.
27. Sewage disposal and treatment plant.
28. Tire retreading and vulcanizing.
29. The following uses, provided they are conducted within a **building** or an area enclosed and screened from view by a solid masonry **wall** on all sides:
 - a. Contractors equipment storage **yard** or plant, or rental of equipment commonly used by contractors.
 - b. Lumber **yard**, planning mills.
 - c. Motion picture studio.
 - d. Transfer company, trucking terminal.
30. Similar uses as determined by the **Zoning Administrator**, or his designee.
31. **Veterinary Offices.**
32. **Veterinary Hospitals.**
33. Warehouse, wholesale or distribution facility.

SECTION 4. AMENDING ARTICLE 4-2 (USES REQUIRING ADDITIONAL EVALUATION) OF THE CITY OF GOODYEAR ZONING ORDINANCE TO ADD ARTICLE 4-2-17 (MARIJUANA DUAL FACILITY)

Article 4-2 (Uses Requiring Additional Evaluation) is hereby amended to add Article 4-2-17 as follows:

4-2-17 (Marijuana Dual Facility)

A **marijuana dual facility** as defined in Article [2-2](#) of this Ordinance is subject to the following regulations:

A. *GENERAL REQUIREMENTS:*

1. An application for the establishment of a **marijuana dual facility** must be submitted, reviewed and approved by the Development Services Department Director or his designee prior to the issuance of a Zoning Permit by the City for the proposed establishment.
2. The application shall include:
 - a. If the application is by someone other than the owner of the property, an authorization signed by the property owner must be submitted with the application and include an explicit acknowledgement that the property owner knows that the proposed use of the property is for a **marijuana dual facility**.
 - b. The address and legal name of the **marijuana dual facility**.

- c. The name and address of each of principal officer and board member of the **marijuana dual facility**, including their contact information and the emergency contact information.
 - d. A floor plan showing the layout and dimensions of the **marijuana dual facility** to demonstrate compliance with the development standards contained herein.
 - e. Any other documents necessary to ensure conformance with applicable codes and regulations.
3. A **marijuana dual facility** shall adhere to all applicable state, county and municipal laws, codes, ordinances, rules, and regulations and shall be operated in conformance with any rules adopted by the Arizona Department of Health Services pursuant said statutes.

B. *SEPARATION STANDARDS.*

1. There shall be one **marijuana dual facility** per CHAA.
2. A **marijuana dual facility** shall not be located within five hundred feet (500') measured in a straight line in any direction from the closest exterior **building** wall of the **marijuana dual facility** to the closest property line of any property in a residential **district** (not including residentially-zoned public street right-of-way), as described in Article [3-1](#) of this ordinance.
3. A **marijuana dual facility** shall not be located within one thousand feet (1,000') measured in a straight line in any direction from the closest exterior **building** wall of the **marijuana dual facility** to the closest property line of a public, private, parochial, or charter kindergarten, elementary, secondary or high school.
4. A **marijuana dual facility** shall not be located within one thousand feet (1,000') measured in a straight line in any direction from the closest exterior **building** wall of the **marijuana dual facility** to the closest property line of a licensed **preschool**, day care or childcare center.
5. A **marijuana dual facility** shall not be located within one thousand feet (1,000') measured in a straight line in any direction from the closest exterior **building** wall of the **marijuana dual facility** to the closest property line of a public park, library or public community center.
6. A **marijuana dual facility** shall not be located within one thousand feet (1,000') measured in a straight line in any direction from the closest exterior **building** wall of the **marijuana dual facility** to the closest property line of any church or place of worship.
7. A **marijuana dual facility** shall not be located within two thousand feet (2,000') measured in a straight line in any direction from the closest exterior **building** wall of the **marijuana dual facility** to the closest property line of any licensed residential substance abuse diagnostic and treatment facility or other licensed drug or alcohol rehabilitation facility.
8. A **marijuana dual facility** shall not be located within one thousand feet (1,000') measured in a straight line in any direction from the closest exterior **building** wall of the **marijuana dual facility** to the closest

property line of any adult businesses as defined in Article 2 of this ordinance.

C. *DEVELOPMENT STANDARDS.* Unless otherwise exempted by Arizona state law, the following standards shall apply:

1. If the **marijuana dual facility** contains a **medical marijuana dispensary**, the separation and development standards set forth in Article 4-2-11 also apply to the marijuana dual facility.
2. If the **marijuana dual facility** contains a **medical marijuana dispensary cultivation location**, the separation and development standards set forth in Article 4-2-12 also apply.
2. The **marijuana dual facility** must be located in a permanent **building** and shall not be located in a trailer, cargo container, mobile or modular **building**, mobile home, recreational vehicle or other motor vehicle.
2. The maximum **gross floor area** of a **marijuana dual facility** shall not exceed five thousand five hundred (5,000) square feet.
3. The secure storage area for the marijuana stored at the **marijuana dual facility** shall not exceed twenty percent (20%) of the maximum **gross floor area** of the **marijuana dual facility**.
4. The permitted hours of operation of a **marijuana dual facility** shall be limited to between 8:00 a.m. and 7:00 p.m.
5. The **marijuana dual facility** shall not have a drive-through service.
6. The **marijuana dual facility** shall not offer a service that provides off-site delivery of the medical marijuana.
8. The **marijuana dual facility** shall not provide outdoor seating areas.
9. The operator of the **marijuana dual facility** shall provide unrestricted access to City code enforcement officers or police officers who request admission for the purpose of determining compliance with these standards.
10. Within the **marijuana dual facility** there shall be a secure storage area which has a single point of access and whose walls and roof are constructed of materials (eight-inch concrete block or equal) sufficient to deter and prevent theft of marijuana being processed.
11. All **marijuana products** shall be placed within the secure storage area at any time when the dispensary is not open for business.
12. The operator of the **marijuana dual facility** shall provide for the proper disposal of marijuana remnants or by-products, and such material shall not be placed within the dispensary's exterior refuse containers.
13. The operator of the **marijuana dual facility** shall ensure that there is no emission of dust, fumes, vapors, or odors into the environment from the dispensary.
14. The operator of the **marijuana dual facility** shall not allow on-site consumption of marijuana.

15. The **marijuana dual facility** shall have only one secure entrance to the dispensary and any other doors required for exiting shall be locked to the outside and have an alarm that sound when opened from the inside;
16. The **marijuana dual facility** shall have an alarm system with a redundant power supply and circuitry to prevent deactivation.
17. The **marijuana dual facility** shall have a video surveillance system that at all times records all interior areas and the exterior perimeter.
18. The operator of the **marijuana dual facility** shall post and maintain “No Loitering” sign(s) in sufficient quantity, size and location so that they are clearly visible by anyone in the immediate vicinity of the entrance or premises.
19. The **marijuana dual facility** shall have adequate exterior security lighting, which also complies with Article [10](#) of this ordinance.
20. The operator of the **marijuana dual facility** shall develop and maintain a security plan which demonstrates compliance with all of the minimum standards specified herein

D. *AMENDMENT TO GOODYEAR CHAA MAP.* The Goodyear CHAA Map, which identifies the Goodyear CHAA(s) shall be amended administratively by the Zoning Administrator to add one additional Goodyear CHAA for each 100,000 residents of the City of Goodyear according to the decennial census. (By way of example, the next Goodyear CHAA will not be added until the population of Goodyear reaches 200,000.) The new Goodyear CHAAs shall be drawn so that there is a roughly equal population within each Goodyear CHAA.

SECTION 5. ADOPTION OF GOODYEAR CHAA MAP

That certain document titled Goodyear CHAA Map declared a public record by Resolution 2020-2113 is hereby adopted and incorporated herein by this reference and establishes the areas within the City of Goodyear where Marijuana Dual Facilities may be located.

SECTION 6. CORRECTIONS

The Zoning Administrator, City Clerk, and the codifiers of this Ordinance are authorized to make necessary clerical corrections to this Ordinance, including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 7. EFFECTIVE DATE OF AMENDMENTS TO ZONING ORDINANCE

The amendments to Articles 2-2, 3-4-1, 3-4-2 and 4-2 and the adoption of the Goodyear CHAA Map are conditioned upon the passage of the statewide ballot measure I-23-2020 known as “Smart and Safe Arizona Act” certified as Proposition 207 and placed on the November 3, 2020 general election. If the ballot measure I-23-2020 known as “Smart and Safe Arizona Act” certified as Proposition 207 and placed on the November 3, 2020 general election fails to

pass, the amendments Articles 2-2, 3-4-1, 3-4-2 and 4-2 set forth above shall not become effective and the current provisions of Articles 2-2, 3-4-1, 3-4-2 and 4-2 of the City of Goodyear Zoning Ordinance shall remain in full force and effect. If the ballot measure I-23-2020 known as “Smart and Safe Arizona Act” certified as Proposition 207 and placed on the November 3, 2020 general election passes and becomes law, the amendments Articles 2-2, 3-4-1, 3-4-2 and 4-2 set forth above shall become effective at the later of the following: the Effective Date set forth in Section 8 below or the date the and the ballot measure I-23-2020 known as “Smart and Safe Arizona Act” certified as Proposition 207 becomes effective.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective as prescribed by law.

SECTION 9. PENALTIES

Any person who violates any provision of this Ordinance shall be subject to penalties set forth in Section 1-2-3 of the City of Goodyear Zoning Ordinance as it may be amended from time to time and which currently provides:

Section 1-2-3 Violations and Penalties

- A. It is unlawful to construct, erect, install, alter, change, maintain, use or to permit the construction, erection, installation, alteration, change, maintenance, or use of any house, building, structure, sign, landscaped area, parking lot or fence, or to permit the use of any lot or land contrary to, or in violation of any provisions of this Ordinance, or of any conditions, stipulations or requirements included as a condition of any applicable approval. Any land use that is specifically prohibited by this Ordinance or is unspecified and not classified by the Zoning Administrator is prohibited in any district.
- B. Responsible Party. The responsible party for any violations hereunder is the owner of personal property improvements or real property and/or person in possession or control of any personal property improvements or real property (Person). The responsible party shall be responsible for any violations hereunder whether or not the responsible party or its agent committed the prohibited act(s) or neglected to prevent the commission of the prohibited act(s) by another.
- C. Every Responsible Party shall be deemed responsible or guilty of a separate offense for each and every day during which any violation is committed or continued.
- D. Penalty. Any Person who violates any of the provisions of this Ordinance and any amendments there to and/or any conditions,

stipulations or requirements included as a condition of any applicable approval shall be:

1. Subject to civil sanctions of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per offense; or
2. Guilty of a class 1 misdemeanor, punishable by a fine not exceeding two thousand five hundred dollars (\$2,500), or by a term of probation not exceeding three (3) years, or imprisonment for a term not exceeding six (6) months, or punishable by a combination of fine, probation or imprisonment. The City Prosecutor is authorized to file a criminal misdemeanor complaint in the City of Goodyear Municipal Court for violations hereunder.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this _____ day of _____, 20_____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Ordinance No. 2020-1476 is a true, correct and accurate copy of Ordinance No. 2020-1476, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the _____ day of _____, 20____, at which a quorum was present and, by a _____ vote, _____ voted in favor of said ordinance.

Given under my hand and sealed this _____ day of _____, 20____.

seal

City Clerk