

December 30, 2019



**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2019-01138**

REQUEST:

A request by Jackie Kingston, representing the property owner F9 Properties LLC, for an administrative interpretation to determine if a Medical Cannabis Pharmacy can be located at 1920 S 300 W.

DECISION:

The Zoning Administrator finds that as of the date of this letter, the proposed Medical Cannabis Pharmacy at 1920 S 300 W is a permitted use in accordance with the requirements in Utah Code §26-61a-507. This location appears to meet the proximity requirements in §26-61a-301(2)(c). Ultimately, it's the applicant's responsibility to ensure they are compliant with the proximity requirements.

FINDINGS:

The Salt Lake City Zoning Ordinance does not specifically define cannabis-related uses or address where they may be located. A Medical Cannabis Pharmacy is subject to all applicable regulations contained in Utah Code §26-61a, and the State definition is as follows:

"Medical cannabis pharmacy" means a person that:

- (a)(i) acquires or intends to acquire:
 - (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or*
 - (B) a medical cannabis device; or**
- (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and*
- (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.*

Utah Code §26-61a-507(1) (Local Control) includes the following language regarding where municipalities and counties shall allow operation of a medical cannabis pharmacy:

The operation of a medical cannabis pharmacy:

- (a) shall be a permitted use:
 - (i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and*
 - (ii) on land that the municipality or county has not zoned; and**
- (b) is subject to the land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, that apply in the underlying zone.*

The subject property is located in the CG (General Commercial) zoning district. The CG zoning district is not a primarily residential zone; it is considered a commercial zone, as described in the purpose statement:

The purpose of the CG General Commercial District is to provide an environment for a variety of commercial uses, some of which involve the outdoor display/storage of merchandise or materials. This district provides economic development opportunities through a mix of land uses, including retail sales and services, entertainment, office,

residential, heavy commercial and low intensities of manufacturing and warehouse uses. This district is appropriate in locations where supported by applicable master plans and along major arterials. Safe, convenient and inviting connections that provide access to businesses from public sidewalks, bike paths and streets are necessary. Access should follow a hierarchy that places the pedestrian first, bicycle second and automobile third. The standards are intended to create a safe and aesthetically pleasing commercial environment for all users.

Utah Code §26-61a-301(2)(c) **License Eligibility** includes the following proximity requirements for medical cannabis pharmacy is allowed:

- (i) *A person may not locate a medical cannabis pharmacy:
 - (A) within 200 feet of a community location; or
 - (B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.*
- (ii) *The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.*
- (iii) *The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.*
- (iv) *An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).*

Utah Code §26-61a-102(10) defines **community location** as:
a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

Based on Salt Lake City Business License records and land owners and tenants listed in Salt Lake City geographic information system records, the subject property does not appear to be located within 200 feet of a community location. Please note that nonprofit organizations, such as churches, are not required to obtain a business license from Salt Lake City, so verification of the proximity requirements was researched to the extent the information was available in Salt Lake City records. The applicant shall provide evidence of compliance with the proximity requirements to the Utah Department of Health when applying for a medical cannabis license in accordance with §26-61a-301(2)(c)(iv) as described above.

As of the date of this letter, the subject property is not located in or within 600 feet of a zoning district that is primarily residential.

In summary, the Zoning Administrator finds that the State has specifically defined a medical cannabis pharmacy and requires cities to ensure they are allowed in all zoning districts, except zones that are primarily residential, subject to meeting the proximity requirements for licensing in Utah Code §26-61a-301(2)(c). The proposed location for the medical cannabis pharmacy is not currently located in or within 600 feet of a zoning district that is primarily residential, and therefore would be permitted at the proposed location.

APPEAL PROCESS:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed

within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <https://www.sl.gov/planning/applications> along with information about the applicable fee. Appeals may be filed in person at the Planning Counter, 451 South State Street, Room 215 or by mail at Planning Counter PO BOX 145471, Salt Lake City, UT 84114-5471.

NOTICE:

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.



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