

August 11, 2020

**ADMINISTRATIVE INTERPRETATION  
DECISION AND FINDINGS  
PLNZAD2020-00548**



**REQUEST:**

A request by Maxwell Essary, who is representing the property owner, Richard Dohoney, for an administrative interpretation to determine if a Medical Cannabis Pharmacy is allowed on a property located at 730 South State Street.

**DECISION:**

The Zoning Administrator finds that as of the date of this letter, the proposed Medical Cannabis Pharmacy at 730 S. State Street is a permitted use in accordance with the requirements in City Code §21A.36.310 and in Utah Code §26-61a-507. Also, the subject property appears to meet the proximity requirements in City Code section 21A.36.010.C and in Utah Code §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 Code §21A.36.310 permits Medicinal Cannabis Pharmacies in all city zoning districts, except zoning districts that are primarily residential. The Salt Lake City Zoning Code references Utah Code §62.40 to define "Medicinal Cannabis Pharmacies" with the following:

***"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.*

The Salt Lake City Zoning Code also references Utah Code §26-61a-507(1) in regulating the location and citing proximity restrictions regarding where medical cannabis pharmacies may be permitted to operate. The following language regarding location restrictions found in Utah Code §26-61a-507(1) are as follows:

***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 D-2 (Downtown Support) zoning district. The Salt Lake City Zoning Code and the Utah Code permit medicinal cannabis pharmacies in all zoning districts, except zoning districts that are primarily residential. Section 21A36.310 establishes primarily residential zones as those zones established in Chapter 21A.24 Residential Districts as well as the FB-UN1, FP,

and the MH zoning districts. The D-2 zoning district which is established in §21A.30, is not a primarily residential zone.

Salt Lake City Zoning Code §21A.36.310 and Utah Code §26-61a-301(2)(c) includes the following proximity requirements for a medical cannabis pharmacy:

- (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 church, a public library, a public playground, or a public park.*

Based on Salt Lake City Business License records, landowners, 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 FT of a zoning district that is primarily residential when measured following the shortest route of ordinary pedestrian travel, per §26-61a-301(2)(c)(ii).

In summary, the Zoning Administrator finds that the Salt Lake City Zoning Code and Utah Code has specifically defined a medical cannabis pharmacy and established the operation may be permitted in primarily non-residential zoning districts, subject to meeting proximity requirements found in Salt Lake City Zoning Code 21A.36.310 and Utah Code 26.61a.301. The proposed location for the medical cannabis pharmacy is not currently located in or within 600 FT, following the shortest pedestrian route, of a zoning district that is primarily residential, and therefore would be permitted at the proposed location.

If you have any questions regarding this interpretation, please contact Nannette Larsen at (801) 535-7645 or by email at [nannette.larsen@slcgov.com](mailto:nannette.larsen@slcgov.com).

#### **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 <http://www.slcgov.com/planning/planning-applications> along with information about the applicable fee. Appeals may be filed online through our citizen access portal <https://www.slcgov/planning/applications/>.

**Online:**

Salt Lake City Corp

[Citizen Access Portal](#)

<https://citizenportal.slcgov.com/citizen/Default.aspx>

Dated this 11<sup>th</sup> day of August 2020.

*Nannette Larsen*

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Nannette Larsen  
Principal Planner

cc: Nick Norris, Planning Director  
Joel Paterson, Zoning Administrator  
Greg Mikolash, Building Services  
Applicable Recognized Organizations  
Posted to Web – [Zoning Interpretations](#)