

ARTICLE 77 MEDICAL CANNABIS FACILITIES REGULATIONS

Findings and Purpose.

(1) The *Darren Wesley ‘Ato’ Hall Compassion Act*, 2021 Alabama Laws Act 2021-450, (the “Act”) was enacted by the Alabama Legislature and codified in Code of Ala. 1975, Title 20, Chapter 2A, “to create within Alabama a wholly intrastate system for the cultivation, processing, and distribution of medical cannabis in the interest of protecting its own residents from the danger that recreational cannabis poses” (Code of Ala. 1975 § 20-2A-2).

(2) The Act legalizes and establishes a comprehensive regulatory framework for medical cannabis, including the licensing and strict regulation of the cultivation, processing, transporting, testing, and dispensing of medical cannabis.

(3) The Act specifically finds as follows: “Establishing a program providing for the administration of cannabis derivatives for medical use in this state will not only benefit patients by providing relief for pain and other debilitating symptoms, but also provide opportunities for patients with these debilitating conditions to function and have a better quality of life and provide employment and business opportunities for farmers and other residents of this state and revenue to state and local governments.” (Code of Ala. 1975 § 20-2A-2).

(4) The Act, and the rules promulgated thereunder, preserve the zoning authority of municipalities in this state. Medical cannabis facilities could be or are incompatible with certain other uses within the corporate limits of the city and due consideration should be given to the appropriate location for medical cannabis facilities within the community in order to preserve and promote the public health, safety and general welfare

(5) The purpose of this article is to accommodate the medical needs of patients in this community, provide local employment opportunities, and generate revenue, while protecting the public health, safety and general welfare, by establishing appropriate locations for the siting of duly licensed medical cannabis facilities, subject to applicable conditions as set forth in this article.

77.1 - Definitions

For the purpose of this article, the following words, terms and phrases shall have the meanings respectively ascribed to them within this section. Additional terms within this article that are utilized throughout the zoning ordinance may also be defined in article 3 of the zoning ordinance. See also the definitions and rules of construction set forth in section 1-2 of the Code of Ordinances of the City of Huntsville, which generally apply to all ordinances of the city.

Ancillary dispensing site facilities mean facilities that are ancillary to the operation of a dispensing site that is owned or leased and operated by a dispensary or an integrated facility, such as a business office and warehouse, where no medical cannabis products are offered for sale at such facilities. The term does not include those aspects of an integrated facility related to its activities as a cultivator, processor, or secure transporter.

Commission means the Alabama Medical Cannabis Commission created pursuant to Code of Ala. 1975 § 20-2A-20.

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Cultivator means an entity licensed by the commission (or as applicable, the Department of Agriculture and Industries) under Code of Ala. 1975 § 20-2A-62 authorized to grow cannabis pursuant to Code of Ala. 1975, Title 20, Chapter 2A, Article 4.

Dispensary means an entity licensed by the commission under Code of Ala. 1975 § 20-2A-64 authorized to dispense and sell medical cannabis at dispensing sites to registered qualified patients and registered caregivers pursuant to Code of Ala. 1975, Title 20, Chapter 2A, Article 4.

Dispensing site means a site operated by a dispensary licensee or an integrated facility licensee pursuant to Code of Ala. 1975, Title 20, Chapter 2A, Article 4; provided, however, the term does not include ancillary dispensing site facilities.

Integrated facility means an entity licensed under Code of Ala. 1975 § 20-2A-67 authorized to perform the functions of a cultivator, processor, secure transporter, and dispensary pursuant to Code of Ala. 1975, Title 20, Chapter 2A, Article 4.

Medical cannabis facility or facility means any facility, or land associated with a facility, of a cultivator, processor, secure transporter, state testing laboratory, dispensary, or integrated facility licensed by the commission under Code of Ala. 1975, Title 20, Chapter 2A, Article 4.

Premises means a structure, whether stand-alone or within a multi-use structure, strip mall or other such retail facility, housing a medical cannabis facility, all portions of the real property where a medical cannabis facility operates, including but not limited to the parking lot and any peripheral space outside the structure housing the facility.

Processor means an entity licensed by the commission under Code of Ala. 1975 § 20-2A-63 authorized to purchase cannabis from a cultivator and extract derivatives from the cannabis to produce a medical cannabis product or products for sale and transfer in packaged and labeled form to a dispensing site pursuant to Code of Ala. 1975, Title 20, Chapter 2A, Article 4.

Protected property means the real property on which a public or private school for students in any grade K-12 (not including a residence in which school-age children are being home-schooled) has actively operated within the last six months, or the real property on which a licensed daycare or childcare facility has actively operated within the last six months.

Secure transporter means an entity licensed by the commission under Code of Ala. 1975 § 20-2A-65 authorized to transport cannabis or medical cannabis from one licensed facility or site to another licensed facility or site.

State testing laboratory means an entity licensed under Code of Ala. 1975 § 20-2A-66 authorized to test cannabis and medical cannabis to ensure the product meets safety qualifications required under Code of Ala. 1975, Title 20, Chapter 2A.

77.2 - Measurements

(a) Where this article provides that a medical cannabis facility shall be at least a certain stated distance from a protected property or a residential zoning district, the distance shall be measured in a straight line from the property line of the medical cannabis facility premises to the property line of the protected property, or to the

district line of the residential zoning district; which measurement shall be measured at the nearest possible point between the two.

(b) Where this article provides that the main entry of a dispensary or integrated facility (dispensing site only) shall be at least a certain stated distance from the main entry of another dispensary or integrated facility (dispensing site only), the distance between main entries shall be measured in a straight line at the nearest possible point between the two. If a main entry is unclear, the final determination of what constitutes a main entry shall be as determined by the zoning administrator.

77.3 - Permitted Medical Cannabis Facilities by Districts

Subject to applicable provisions of this zoning ordinance, including applicable district regulations, medical cannabis facilities shall be permitted only in the following zoning districts, as hereinafter conditioned:

77.3.1 Medical District

Subject to section 77.6 below, dispensary and integrated facility operating a dispensing site only -- provided that such uses shall be subject to each of the following conditions:

- 1) The location of a dispensary or integrated facility (dispensing site only) must be at least one thousand (1000) feet from any protected property.
- 2) The location of a dispensary or integrated facility (dispensing site only) shall not abut a residential zoning district.
- 3) The main entry of a dispensary or integrated facility (dispensing site only) must be at least three hundred (300) feet from the main entry of another dispensary or integrated facility (dispensing site only), and may not occupy space in the same multi-use structure, strip mall or other such retail facility as another dispensary or integrated facility (dispensing site only). Priority (first-in-time) as to a location under this section shall be based on which facility is first to have recorded in the office of the judge of probate of the county in which the land is located an instrument, meeting the prerequisites of state law for such instruments, evidencing a current leasehold estate, fee estate, option to purchase, or real estate sales contract in the premises.

77.3.2 Heavy Industry District

Cultivator, integrated facility (with no dispensing site), processor, and secure transporter -- provided that such uses shall be subject to each of the following conditions:

- 1) The location of such facilities must be at least one thousand (1000) feet from any protected property.

- 2) The location of such facilities must be at least one thousand (1000) feet from any residential zoning district except where the premises are separated from said residential zoning district by an expressway or an interstate highway.
- 3) The emission of noxious or objectionable odors which are detectable without instruments at or beyond the property line are prohibited.
- 4) Except in the case of an integrated facility, the minimum lot size for a facility shall be not less than one (1) acre.
- 5) For an integrated facility, the minimum lot size for such facility shall not be less than two (2) acres, and the integrated facility shall not include a dispensing site.
- 6) Where a facility's premises abuts a residential use there shall be a buffer of screen planting.

State testing laboratory -- provided that such use shall be subject to each of the following conditions:

- 1) The location of such facility must be at least one thousand (1000) feet from any protected property.
- 2) The location of such facility must be at least five hundred (500) feet from any residential zoning district except where the premises are separated from said residential zoning district by an expressway or an interstate highway.

77.3.3 Research Park West and Commercial Industrial Park Districts

State testing laboratory -- provided that such use shall be subject to each of the following conditions:

- 1) The location of such facility must be at least one thousand (1000) feet from any protected property.
- 2) The location of such facility must be at least five hundred (500) feet from any residential zoning district except where the premises are separated from said residential zoning district by an expressway or an interstate highway.

77.4 Ancillary Dispensing Site Facilities.

Ancillary dispensing site facilities shall be allowed in the zoning districts where the particular type of use is generally allowed. For example, if the ancillary dispensing site facility is a warehouse, then the warehouse shall be allowed in the zoning district where warehouses are generally allowed, subject to applicable regulations.

77.5 State Law. Nothing in this article shall be construed to allow what the Act and the rules and regulations promulgated thereunder prohibit.

77.6 Authorization for Dispensing Sites. The Act prohibits the operation of dispensing sites by dispensaries or integrated facilities in municipalities in this state whose governing body has not adopted an ordinance authorizing the operation of dispensing sites within the corporate limits of the municipality. Nothing in this article shall be construed to constitute such an ordinance authorizing dispensing sites in the corporate limits of the city, and unless and until the city council adopts a separate ordinance authorizing the operation of dispensing sites in the city limits, then dispensaries or integrated facilities operating dispensing sites shall not be allowed under this article. Upon the passage of a separate ordinance of the city council authorizing the operation of dispensing sites in the city limits by dispensaries or integrated facilities, then such uses shall be allowed in accordance with and subject to the provisions of this article.

77.7 - Severability

Should any section or provision of this ordinance be held void or invalid, it shall not affect the validity of any other section or provision thereof which is not of itself void or invalid, it being the purpose and intention of the City Council to enact each separate section and/or sub-section separately.