



Ordinance

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

No. 413

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING THE SAN LUIS CITY CODE, CHAPTER ON 110 TO INCLUDE MARIJUANA BUSINESSES IN THE GENERAL FEE FOR BUSINESS LICENSES; SETTING AN EFFECTIVE DATE; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, on November 3, 2020, the voters of Arizona passed Proposition 207, allowing for non-medical marijuana businesses.

WHEREAS, A.R.S. § 36-2864 allows cities to charge a fee on marijuana businesses if the fee is of general applicability to individuals or businesses that are not engaged in the sale of marijuana or marijuana products; and

WHEREAS, A.R.S. § 36-2857(C)(1) prohibits cities from enacting anything more restrictive to marijuana establishments (which sell and support non-medical marijuana sales) than a comparable ordinance, regulation or rule that applies to medical marijuana dispensaries and their cultivation sites.

WHEREAS, the purpose of this ordinance is to clarify that the business, occupational or professional licenses ("BOP licenses") and the fee of general applicability required for businesses under San Luis City Code § 110.02 extends to "marijuana establishments" as defined under Proposition 207 (as codified in A.R.S. § 36-2850(18)); and

WHEREAS, A.R.S. §§ 36-2801(12) and 36-2806(A) require medical marijuana dispensaries and their cultivation sites to operate on a not-for-profit basis, but they need not be recognized as tax-exempt by the internal revenue service; and

WHEREAS, the San Luis City Code requires federal tax-exempt status to exempt a nonprofit from paying the BOP license fee; and

WHEREAS, this ordinance clarifies that medical marijuana dispensaries and their cultivation sites are not exempt from the BOP fee of general applicability;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of San Luis, Arizona:

Section 1. San Luis City Code Chapter 110 is amended to add a new Section, § 110.02.05 to read:

§ 110.02.05 MARIJUANA BUSINESSES

- (A) Medical marijuana dispensaries and medical marijuana dispensary offsite cultivation locations shall be charged the BOP license fee at the rate set for businesses generally and by resolution as authorized by City Code § 110.04 and Arizona law.
- (B) Marijuana establishments shall be charged the BOP license fee at the rate set for businesses generally and by resolution as authorized by City Code § 110.04, City Code § 133.08 and Arizona law.

Section 2. § 110.03(B) is amended to read:

- (1) Any nonprofit entity which has tax-exempt status under the Internal Revenue Code § 501(c)(3), as certified by the Internal Revenue Service, and which is not exempt from obtaining a BOP license under § 110.02 (B), is required to obtain a BOP license. Upon the nonprofit entity submitting a copy of its tax-exempt certification with its BOP license application, the nonprofit entity shall not be charged a license fee.
- (2) A nonprofit medical marijuana dispensary or a medical marijuana dispensary offsite cultivation location shall be charged a BOP license fee.

Section 3. §110.11 DEFINITIONS is amended to add:

MARIJUANA ESTABLISHMENT. Has the same meaning as defined by A.R.S.

§ 36-2850(18), an entity licensed by the department 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.

Section 4. This ordinance is effective retroactively as of November 30, 2020 with the Governor's Proclamation making Proposition 207 law.

Section 5. In the event of a conflict between the provisions of this ordinance and any other ordinance, resolution, order, regulation, or policy of the City of San Luis, the conflicting provisions are repealed, superseded, and replaced, and the provisions of this ordinance shall govern.

Section 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 of this ordinance.

PASSED, ADOPTED and APPROVED by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this ____ day of February 2021.

Gerardo Sanchez, Mayor

ATTEST:

APPROVED AS TO FORM:

Sonia Cornelio, City Clerk

Kay Marion Macuil, City Attorney