

Item #4 C8-18-04
Medical Marijuana Sunset Date
UDC Text Amendment

*Review of the Medical Marijuana Ordinance to determine its effectiveness
and if any amendments are needed prior to its scheduled Sunset Date of
January 31, 2018*

Planning Commission
Study Session
October 24, 2018

Background

- **November 2010:** Prop 203 - AZ Medical Marijuana Act
- **November 2010:** M&C adopted medical marijuana zoning regulations (Ordinance 10850)
 - Allowing dispensaries in C-2 and C-3 zones w/ standards
 - Allowing cultivation in C-2, C-3, I-1 and I-2 zones w/ standards
- **September 2014:** M+C adopted revisions to the medical marijuana zoning regulations (Ordinance 11199)
 - Addressing size limit on off-site cultivation,
 - Infusion kitchens as accessory use
- **February 2016:** M+C adopted revisions to the medical marijuana zoning regulations (Ordinance 11346)
 - Placing cap on number of dispensaries
 - Addressing size of off-site cultivation in C-2 and C-3
 - **Placing Sunset Date: 1/31/2019**

Direction from Mayor and Council

- **At the August 8, 2018 M&C Study Session meeting, Staff was directed to do the following:**

...to begin the process to extend the provisions of the Medical Marijuana Ordinance for another 3 years, while incorporating input from stakeholders and owners of the 11 existing dispensary sites related to odor mitigation requirements and revising the data source used to identify the location of public parks.

Background on AZ Regulations

Prop 203 - AZ Medical Marijuana Act was passed in November 2010

- Arizona Department of Health Services (ADHS) is responsible for registry id cards or certificates for:
 - qualifying patients
 - designated caregivers
 - dispensaries
 - dispensary agents

<https://www.azdhs.gov/licensing/medical-marijuana/index.php>

Background on AZ Regulations

- Dispensaries
 - Number is limited to one dispensary to every ten pharmacy permits issued by the Arizona State Board of Pharmacy
 - Location limited by its Community Health Analysis Area (CHAA)
 - Must adhere to local zoning regulations
 - Certificates are non-transferable
 - Have state mandated security requirements

Background on AZ Regulations

- Cultivation
 - Must be done by either a dispensary or a qualifying patient or caregiver if they live greater than 25 miles from a dispensary
 - Must be in compliance with local zoning regulations
 - Must be done in an enclosed, locked area defined as:
 - Facilities must be equipped with "locks or other security devices that permit access only by a cardholder" or surrounded by "solid 10-foot walls constructed of metal, concrete, or stone that prevent any viewing of the marijuana plants, with a one-inch thick metal gate.
 - Have state mandated security requirements

Overview of City Regulations



Two categories – Dispensaries and Cultivation Facilities

Dispensary Regulations

- Allowed in C-2 and C-3 commercial zones
- 4000 sf limit
- 2000 ft separation from another dispensary
- 1000 ft separation from schools, child-care, parks, churches, & libraries
- 2000 ft separation from treatment facility or rehab

Cultivation Regulations

- Allowed in C-2, C-3, I-1, and I-2 zones
- 4000 sf limit in C-2 and C-3
- No size limit in I-1 and I-2
- C-2 and C-3 have 1000ft separation from schools, child-care, parks, churches & libraries
- I-1 and I-2 have 500ft separation from schools

Overview of City Regulations



Two categories – Dispensaries and Cultivation Facilities

Dispensary Regulations

- Allowed in C-2 and C-3 commercial zones
- 4000 sf limit
- 2000 ft separation from another dispensary
- 1000 ft separation from schools, parks, churches & libraries
- 2000 ft separation from treatment facility or rehab

Cultivation Regulations

- Allowed in C-2, C-3, L-2, and L-3 zones
- 4000 sf limit
- C-2 and C-3 have 1000ft separation from schools, parks churches & libraries
- I-1 and I-2 have 500ft separation from schools

ALL FACILITIES MUST UNDERGO A ZONING COMPLIANCE REVIEW WHERE SITE-SPECIFIC ZONING CONDITIONS MAY BE ADDED

Feedback from Stakeholders



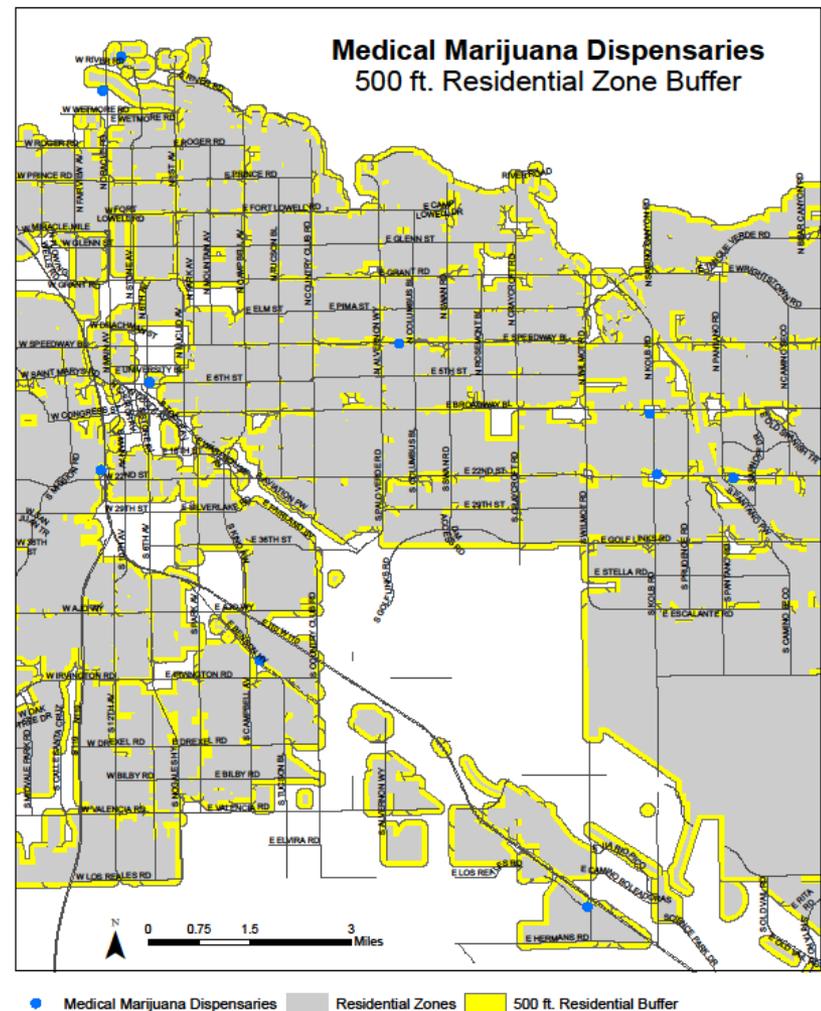
- Held three stakeholder meetings between July and September with a group that included:
 - **Business interests, neighborhood representatives, ward offices, and developers**
- Feedback received on:
 - **Odor Mitigation**
 - **Parks**
 - **Dispensary Size**
 - **Churches**
 - **Restrooms**
 - **Recreational Use**

Feedback from Public Meetings

- Held two Public Meetings on October 17th & 19th:
 - **Business interests, neighborhood representatives, ward offices, members of the public**
- Feedback received on:
 - **Regulations for Cultivation Facilities**
 - **Regulations for Dispensary Facilities**
 - **Setbacks from Residential Zones and other sensitive uses**
 - **Required notification for facilities**
 - **Odor Mitigation**
 - **Parks**

Research on Residential Setbacks

- Results of adding setbacks similar to Phoenix.
 - 500 feet for dispensaries
 - 1000 feet for cultivation
- 8 of 11 dispensary sites become non-conforming
- 6 of 7 cultivation sites become non-conforming



Proposed Text Amendments



- **Parks**
 - Update the list in the Technical Standards Manual
 - Allow for determination by Zoning Administrator

The parks on this list are ones that are a City of Tucson owned and operated park, not including greenways and river park trails. In the case where a park has been added to the City of Tucson Parks, but is not on this list, the Zoning Administrator shall make a determination as to whether it meets the necessary criteria and triggers the required setback from medical marijuana facilities.

Proposed Text Amendments



- **Odor Mitigation**

- **Add language to codify a zoning condition already being added through the Zoning Compliance Review**

- n. Odor mitigation devices and techniques shall be incorporated in all medical marijuana facilities to ensure that odors are mitigated. As such, this may be done through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices deemed adequate for odor mitigation as determined by the Zoning Administrator.
- o. An odor mitigation plan shall be submitted demonstrating compliance with odor control requirements.

Proposed Text Amendments



- **Size of lobby for dispensaries**

- **Revise code so that required lobby size is 25% of sales floor area instead of gross floor area.**

e. A medical marijuana dispensary shall have an interior customer waiting area equal to a minimum of 25% of the ~~gross sales~~ floor area. For purposes of this section, sales floor area is defined as any area open to customers for the sale of products. This does not include waiting areas, areas for production and storing of products, or offices.

- **Clarification of churches**

A “church” means a building that is erected or converted for use as a church, temple or synagogue, where services are regularly convened that is used primarily for religious worship and schooling and that a reasonable person would conclude is a church by reason of design, signs, or other architectural features.

Recommendation



- **Staff recommends that the Planning Commission set this amendment to the UDC for a public hearing on December 5, 2018.**