



PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

DATE: September 22, 2010

TO: Planning Commission

FROM: Ernie Duarte
Executive Secretary

SUBJECT: Land Use Code (LUC) Amendment – Medical Marijuana Dispensaries and Cultivation Locations

Issue – This item is for discussion by the Planning Commission in a Study Session. On September 8, 2010, Mayor and Council directed staff to prepare a Land Use Code amendment to address Medical Marijuana Dispensaries and Cultivation Locations. The amendment adds a new land use class for Medical Marijuana Dispensaries and Cultivation Locations in Article II *Zones*, Divisions 5, *Commercial Zones*, and Division 7, *Industrial Zones* providing new regulations and review processes. The amendment also provides a new definition for Medical Marijuana Dispensaries and Medical Marijuana Cultivation Locations in Article VI *Definitions*, Division 3 *Land Use Groups* and new performance criteria for Medical Marijuana Dispensaries and Cultivation Locations in Article III *Development Regulations*, Division 5 *Performance Criteria*. A dispensary and a cultivation location will be considered a new land use class in the Retail Trade Use Group.

Recommendation – Staff recommends that the Planning Commission set this text amendment for public hearing on October 6, 2010. The Mayor and Council would like to hear these items no later than October 26, 2010..

Background – Proposed provisions of Proposition 203 in the November 2, 2010 general election, the Arizona Medical Marijuana Act, A.R.S. § 36-2806.01, allows Cities and Counties to enact zoning regulations of Medical Marijuana Dispensaries and Cultivation locations. Medical Marijuana Dispensaries and Medical Marijuana Cultivation locations are not currently a permitted use of land in the City of Tucson and are not addressed by any regulations of the Tucson Land Use Code.

The proposed amendment will allow for the use of property as a Medical Marijuana Dispensary or Medical Marijuana Cultivation location if the provisions of Proposition 203, the Arizona Medical Marijuana Act, are approved and remain in full force and effect.

Attachments: Medical Marijuana Dispensaries and Cultivation Locations Draft

**ARTICLE II, ZONES
DIVISION 5, COMMERCIAL ZONES**

2.5.4 “C-2” COMMERCIAL ZONE.

2.5.4.2 Permitted Land Uses.

B. Retail Trade Use Group, Sec. 6.3.10

4. Heavy Equipment Sales “30”, subject to: Sec. 3.5.9.3
5. Medical Marijuana Designated Caregiver Cultivation Location “30”, subject to: Sec. 3.5.9.8.B. and .C.
6. Medical Marijuana Dispensary “30”, subject to: Sec. 3.5.9.8.A
7. Medical Marijuana Dispensary Offsite Cultivation Location “30”, subject to: Sec. 3.5.9.8.B.
8. Medical Marijuana Qualifying Patient Cultivation Location “30”, subject to: Sec. 3.5.9.8.D.
59. Swap Meets and Auctions “30”, subject to: Sec. 3.5.9.4
610. Vehicle Rental and Sales “31”, subject to: Sec. 3.5.9.5.A and .B

2.5.5 “C-3” COMMERCIAL ZONE.

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B. Retail Trade Use Group, Sec. 6.3.10

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ARTICLE II, ZONES
DIVISION 7, INDUSTRIAL ZONES

2.7.2 “I-1” LIGHT INDUSTRIAL ZONE.

2.7.2.2 Permitted Land Uses.

G. Retail Trade Use Group, Sec. 6.3.10

- 4. Heavy Equipment Sales “34”, subject to: Sec. 3.5.9.3
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- ~~59.~~ Swap Meets and Auctions “34”, subject to: Sec. 3.5.9.4 (limited to Auctions only)
- ~~610.~~ Vehicle Rental and Sales “34”, subject to: Sec. 3.5.9.5.A

2.7.3 “I-2” HEAVY INDUSTRIAL ZONE.

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C. Retail Trade Use Group, Sec. 6.3.10

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- ~~10.~~ Vehicle Rental and Sales “35”, subject to: Sec. 3.5.9.5.A

6.3.10 RETAIL TRADE USE GROUP.

6.3.10.5 Heavy Equipment Sales.

6.3.10.6 Medical Marijuana Designated Caregiver Cultivation Location. A Medical Marijuana Designated Caregiver Cultivation Location or Cultivation by a Designated Caregiver refers to cultivation of Medical Marijuana by a Designated Caregiver and Cardholder whose registration card indicates that the cardholder has been authorized to cultivate marijuana plants for a qualifying patient(s)’ medical use pursuant to The Arizona Medical Marijuana Act A.R.S. § 36-2804.A.7

6.3.10.7 Medical Marijuana Dispensary. A Medical Marijuana Dispensary shall have the same meaning as ‘Nonprofit Medical Marijuana Dispensary’ set forth in The Arizona Medical Marijuana Act A.R.S. § 36-2801.11.

6.3.10.8 Medical Marijuana Dispensary Offsite Cultivation Location. A Medical Marijuana Dispensary Off Site Cultivation Location means the additional location, if any, where marijuana may be cultivated for the use of a

Medical Marijuana Dispensary as disclosed pursuant to The Arizona Medical Marijuana Act A.R.S. § 36-2804 .B.1.b.ii.

6.3.10.9 Medical Marijuana Qualifying Patient Cultivation Location. A Medical Marijuana Qualifying Patient Cultivation Location shall mean cultivation of medical marijuana by a qualifying patient pursuant to The Arizona Medical Marijuana Act A.R.S. § 36-2801.1.a.ii but shall only include a Qualifying Patient who is also a Cardholder, authorized to cultivate marijuana plants pursuant to the provisions of § 36-2804.02.A.3.f.

6.3.10.610 Swap Meets and Auctions.

6.2.10.711 Vehicle Rental and Sales.

ARTICLE III, DEVELOPMENT REGULATIONS DIVISION 5, PERFORMANCE CRITERIA

3.5.9 RETAIL TRADE USE GROUP.

3.5.9.8 Medical Marijuana.

A. Medical Marijuana Dispensary.

1. The maximum floor area of a medical marijuana dispensary shall be 2,000 square feet.
2. The secure storage area for the medical marijuana stored at the medical marijuana dispensary shall not exceed 400 square feet.
3. A medical marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container or motor vehicle.
4. The permitted hours of operation of a medical marijuana dispensary shall be from 9:00 am to 5:00 pm.
5. A medical marijuana dispensary shall have an interior customer waiting area equal to twenty-five (25) percent of the gross floor area.
6. A medical marijuana dispensary shall not have a drive-through service.

7. A medical marijuana dispensary shall not have outdoor seating areas.
8. A medical marijuana dispensary shall not offer a service that provides offsite delivery of the medical marijuana.
9. A medical marijuana dispensary shall be setback a minimum of 2,000 feet from any other medical marijuana dispensaries measured from the parcel boundaries.
10. A medical marijuana dispensary shall be setback a minimum of 1,000 feet from a public, private, parochial, charter, dramatic, dancing, music or other similar school, a childcare center, or any other educational or activity facility where children may be enrolled.
11. A medical marijuana dispensary shall be setback a minimum of 1,000 from a designated public, private, parochial, or charter school bus stop.
12. A medical marijuana dispensary shall be setback a minimum of 1,000 feet from a church, library, public park or residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.

B. Medical Marijuana Dispensary Offsite Cultivation Location.

1. The maximum floor area of a medical marijuana dispensary offsite cultivation location shall be 2,000 square feet.
2. The secure storage area for the medical marijuana stored at the medical marijuana dispensary offsite cultivation location shall not exceed 1,000 square feet.
3. A medical marijuana dispensary offsite cultivation location must be located in a permanent building and shall not be located in a trailer, cargo container or motor vehicle.
4. A medical marijuana dispensary offsite cultivation location shall be setback a minimum of 2,000 feet from any other medical marijuana dispensaries or medical marijuana dispensary offsite cultivation locations measured from the parcel boundary to the parcel boundaries.

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C. Medical Marijuana Designated Caregiver Cultivation Location.

1. All conditions and restrictions for medical marijuana dispensary offsite cultivation locations apply except that the designated caregiver cultivation location cultivation area is limited to 250 square feet maximum, including storage areas.
2. A designated caregiver may cultivate at their residence for a single qualifying patient subject to compliance with §A.R.S. 36-2806.01.
3. More than one designated caregiver may co-locate cultivation locations as long as the total cultivation area does not exceed 250 square feet maximum, including storage areas.

D. Medical Marijuana Qualifying Patient Cultivation Location.

1. A qualifying patient may cultivate at their place of residence subject to compliance with §A.R.S. 36-2806.01.

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