



MAYOR & COUNCIL MEMORANDUM

August 8, 2018

Subject: C8-18-04 Medical Marijuana Sunset Date (City Wide)

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Issue – The intent of this study session is to receive direction from Mayor and Council to conduct stakeholder outreach and begin the process to address the upcoming January 31, 2019 Medical Marijuana Ordinance sunset date.

On February 23, 2016, Mayor and Council adopted the following amendments to the Unified Development Code (UDC) related to Medical Marijuana (MMJ): (1) placing a cap on the number of dispensaries, (2) increasing the permitted size of off-site cultivation locations in the C-2 and C-3 zones from 3,000 to 4,000 square feet, and (3) adjusting the setback for expansion of existing dispensaries to be in conformance with the Arizona Department of Health Services (ADHS) standards. At that time, the ordinance (see Attachment A) was given a sunset date of January 31, 2019 to review whether the amendments cause a significant change in the uses impact on surrounding areas. After this date, the amendments will not continue in effect unless the Mayor and Council deletes the sunset provision from the ordinance or creates a new sunset date.

Since the adoption of the most recent amendments to the MMJ ordinance, Staff has received inquiries from stakeholders to explore additional amendments related to the following: (1) addition of odor mitigation requirements for medical marijuana facilities, and (2) changing where applicants can view a list of public parks from the Technical Standards Manual to MapTucson, a more comprehensive and current GIS based list.

City Manager's Office Recommendation – Staff recommends that Mayor and Council initiate the process to address the upcoming sunset date of the Medical Marijuana Ordinance.

Background – The following is a chronology of dates affecting medical marijuana in Arizona and Tucson:

- November 2, 2010, voters approved Proposition 203 legalizing the use of medical marijuana in Arizona.
- November 23, 2010, Mayor and Council adopted medical marijuana zoning regulations (Ordinance 10850).
- September 9, 2014, Mayor and Council adopted revisions to the medical marijuana zoning regulations (Ordinance 11199). These revisions included the removal of the size limit on medical marijuana off-site cultivation locations in the I-1 and I-2 zones, permitting infusion kitchens as an associated use to dispensaries, and the establishment of a sunset date of two years for the amendments.

- February 23, 2016, Mayor and Council adopted revisions to the medical marijuana zoning regulations (Ordinance 11346) related to (1) placing a cap on the number of dispensaries, (2) increasing the permitted size of off-site cultivation locations in the C-2 and C-3 zones from 3,000 to 4,000 square feet, and (3) adjusting the setback for expansion of existing dispensaries to be in conformance with the Arizona Department of Health Services (ADHS) standards. These amendments have a sunset date of January 31, 2019.

Present Consideration(s) – The following is a brief description of the amendments for PDSO to explore:

- (1) ***Include odor mitigation requirements.*** – By requiring dispensaries to control odor emissions created by medical marijuana dispensaries or medical marijuana dispensary off-site cultivation locations, PDSO intends to mitigate hazards and nuisances to surrounding properties.

Current Regulation – There is no mention of odor mitigation in the current ordinance. Odor mitigation is a standard practice of the industry and is currently included as a condition of approval for all medical marijuana facilities in Tucson. The addition of an odor mitigation clause to the UDC would codify what is already enforced through conditions.

Potential Revision – Revise UDC Section 4.9.9.E.1 and Section 4.9.9.E.2 (Medical Marijuana Use-Specific Standards) to include the requirement of odor control by medical marijuana dispensaries and off-site cultivation locations.

- (2) ***Revise the given source of public parks from the Technical Standards Manual to MapTucson.***

The current regulation in UDC Section 4.9.9.E.1.k (Medical Marijuana Use-Specific Standards) requires medical marijuana dispensaries to be setback a minimum of 1,000 feet from public parks listed in Section 6-01.0.0 of the Technical Standards Manual. This list is static and does not include some County parks and newly added City parks. MapTucson is a regularly updated comprehensive database of all City and non-City parks in the Tucson area. PDSO became aware of this issue when a dispensary applied for a permit inside of the required setback distance of a County park not listed in the Technical Standards Manual.

Current Regulation – In the C-2 and C-3 zones, a medical marijuana dispensary off-site cultivation location shall be setback a minimum of 1,000 feet from a public park listed in Section 6: *Medical Marijuana Dispensary and Dispensary Off-Site Cultivation Uses - Required Setback from Certain Parks*, of the Technical Standards Manual.

Potential Revision - Revise UDC Section 4.9.9.E.1.k to list MapTucson as the source of all public parks from which medical marijuana facilities must be setback a minimum of 1,000 feet.

Respectfully submitted,

A handwritten signature in black ink that reads "Albert Elias". The signature is written in a cursive, flowing style.

Albert Elias
Assistant City Manager

Attachment: A – Ordinance 11346 related to Medical Marijuana