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**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

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Meeting Date: 09/22/2015  
Agenda Item: 3

**ACTION:** Request for a Code Text Amendment for **MEDICAL MARIJUANA CULTIVATION (PL150267)**, consisting of changes within the Code that regulate the location and operation requirements for cultivation facilities in Tempe. The applicant is Bryan McLaren, Zoned Properties, Inc.

**FISCAL IMPACT:** There is no fiscal impact on City funds.

**RECOMMENDATION:** Staff – Subject to conditions

**BACKGROUND INFORMATION:** **MEDICAL MARIJUANA AMENDED (PL150267)**, consisting of a request for changes within the existing regulations for dispensary and cultivation facilities. Changes proposed by the applicant would eliminate the separation requirements from a cultivation facility to another cultivation facility or dispensary, and to eliminate the size restrictions that require single entrance. Additional recommendations are proposed by staff that would provide further clarification to the proposed ordinance. The request includes the following:

1. A Code Text Amendment within the Zoning and Development Code, Section 3-426, Medical Marijuana.

Property Owner	Zoned Properties, Inc.
Property Addresses	410 & 422 South Madison Drive
Applicant	Bryan McLaren
Current Zoning District	GID, General Industrial District

**ATTACHMENTS:** Ordinance, Project File

**STAFF CONTACT(S):** Ryan Levesque, Deputy Community Development Director (480) 858-2393

Department Director: Dave Nakagawara, Community Development Director

Legal review by: N/A

Prepared by: Ryan Levesque, Deputy Community Development Director

## COMMENTS:

This is a request for a code text amendment within the Zoning and Development Code pertaining to the regulation of medical marijuana cultivation facilities within the City of Tempe.

In 2010, Proposition 203 cited as the "Arizona Medical Marijuana Act", is a voter-approved initiative that allows a "qualifying patient" who is registered with the Arizona Department of Health Services (ADHS), to legally obtain an "allowable amount of usable marijuana" from a "nonprofit medical marijuana dispensary" and possess and use marijuana to treat or alleviate symptoms associated with a "debilitating medical condition." With the adoption of Proposition 203, ADHS set forth rules which govern medical marijuana operating and application procedures. ADHS had initially given municipalities time to adopt zoning regulations before starting the permit process.

The City of Tempe requires a dispensary/cultivation business to apply for a "zoning clearance", an administrative review process that verifies compliance with the Code regulations and procedure requirements for a security plan. Applicants for medical marijuana then must apply to ADHS for a permit and must certify that their dispensary/cultivation facility location is in compliance with local ordinances.

## PROPOSED CHANGES BY APPLICANT:

The code text amendment request by Zoned Properties, as proposed in the draft ordinance, intends to make a change to the following: eliminate the separation requirements from one Cultivation Facility to another Cultivation Facility or Dispensary (1,320 feet) and would allow multiple tenants in one building. Additionally a request is proposed that would eliminate the one ingress/egress doorway for a dispensary or cultivation facility, and allow other entrances and bay doors that may be needed for operational and area needs of the business.

## TEMPE POLICE DEPARTMENT:

The Tempe Police Department has found the existence of medical marijuana dispensaries and cultivation sites within the City of Tempe to have a minimal impact on calls for service thus far. It is believed that the existing Zoning and Development Code has played an important role in ensuring that these locations do not negatively affect public safety. Should any changes be made to the Zoning and Development Code, related to medical marijuana dispensaries, the police department will continue to provide police services to these locations in the most efficient and effective manner possible.

## EVALUATION BY STAFF:

City staff, in coordination with an internal working group, including representatives from the City Attorney's Office, Community Development, and Police Department staff, has been evaluating our existing ordinance and proposed changes for Medical Marijuana. The Medical Marijuana Act gives cities and towns the ability to "...enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries to specified areas...". As a result of the proposed changes (eliminate the single entrance requirement and limit separation requirements for cultivation facilities) it was appropriate to respond to certain regulations in lieu of these requirements. Below you will find responses to the proposal that may require further amendments to the proposed code text amendment.

In addition to the proposed changes, staff is recommending the following items be addressed if the ordinance is accepted:

- 1. Separation requirements from cultivation to cultivation facility.**

This change has the result of allowing one cultivation facility to locate in either in the same building or in another building within close proximity to another cultivation facility, so long as other current separation requirements are satisfied. This change has the effect of maintaining the existing separation requirements that are identified on the map, but allow additional cultivation facilities to locate in those respective areas. Staff is recommending additional clarifying language that would not restrict the use of a dispensary from locating into an established business with other cultivation facilities. However, the addition of a dispensary business would limit/restrict another dispensary

from locating nearby or within any other cultivation facility in that area. The applicant was not aware of this possible scenario and is in support of the proposed modification.

Staff Proposed Revision: Amend Sec. 3-426(B)(1)(a) to read as follows: "FROM ONE DISPENSARY TO another *medical marijuana dispensary* ~~or cultivation facility~~;

## 2. Size limitation as a result of proposed elimination of single doorway.

Background: If the proposed changes to eliminate the single entrance requirement are adopted, staff recommends establishing a dispensary and cultivation size limit. The original intent of the access limitation was to provide a greater emphasis of security on the business entrance and also limit the overall maximum size of building and occupancy allowed, as regulated by the Uniform Building Code. As a result, the current typical size limitation is approximately 4,000 – 5,000 sf. based on occupancy and path of travel distances to safely exit a building. If the entrance limitation is removed, staff recommends establishing a maximum building area for a dispensary business at 5,000 square feet, consistent with the original intent of the ordinance. Staff also recommends adopting a 25,000 square feet area limitation for cultivation facilities, as identified in the justification statement and other municipalities that have adopted a size limit.

Staff Proposed Revision: Amend Sec. 3-426(C)(2),

THE MAXIMUM SIZE FOR A MEDICAL MARIJUANA DISPENSARY SHALL BE NO MORE THAN 5,000 SQUARE FEET. THE MAXIMUM SIZE FOR A CULTIVATION FACILITY SHALL BE NO MORE THAN 25,000 SQUARE FEET.

## Conclusion

Based on the information provided by the applicant and review from the City of Tempe staff, and if this ordinance is adopted, staff recommends additional modifications to the amendments that address the intent of the original language.

**SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.**

### CONDITIONS OF APPROVAL:

1. Amend Sec. 3-426(B)(1)(a) to read as follows: "FROM ONE DISPENSARY TO another *medical marijuana dispensary* ~~or cultivation facility~~;
2. Amend Sec. 3-426(C)(2) and add the following, "THE MAXIMUM SIZE FOR A MEDICAL MARIJUANA DISPENSARY SHALL BE NO MORE THAN 5,000 SQUARE FEET. THE MAXIMUM SIZE FOR A CULTIVATION FACILITY SHALL BE NO MORE THAN 25,000 SQUARE FEET."

### HISTORY & FACTS:

October 29, 2010      Staff provided City Council a Friday memo update outlining the City of Tempe's current involvement with the Arizona League of Cities and Towns with potential provisions for the proposed Proposition 203, cited as the Arizona Medical Marijuana Act.

November 2, 2010      Election date, including the ballot initiative for Proposition 203, Arizona Medical Marijuana Act.

November 23, 2010	Development Review Commission held a study session with staff presenting an outline of proposed draft amendments regarding the regulation of medical marijuana.
December 1, 2010	Neighborhood Advisory Commission received a presentation by staff of an outline of proposed draft amendments regarding the regulation of medical marijuana.
December 14, 2010	Development Review Commission recommended approval of a Code Text Amendment for AZ MEDICAL MARIJUANA ACT Ordinance No. 2011.01. (5-2 Vote, DiDomenico and Webb dissenting)
December 17, 2010	The Arizona Department of Health Services (ADHS) posts initial draft of rules governing the regulatory system for the medical marijuana program.
January 13, 2011	City Council introduced and held the first public hearing for MEDICAL MARIJUANA (PL100378).
January 27, 2011	City Council held the second and final public hearing and adopted an ordinance for MEDICAL MARIJUANA (PL100378).
August 11, 2015	Public hearing with the Development Review Commission, on behalf of recommendation by staff, continued this request to August 25 <sup>th</sup> .
August 25, 2015	Public hearing with the Development Review Commission, on behalf of recommendation by staff, continued this request to September 8 <sup>th</sup> . (Note: Hearing item pulled from 9/8 agenda)
September 22, 2015	Scheduled hearing with the Development Review Commission for this request.
October 15, 2015	Introduction and first public hearing with City Council for this request.
November 12, 2015	Second and final public hearing with City Council for this request.
December 12, 2015	Potential effective date of ordinance.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 6-304, Zoning Map Amendment and Code Text Amendments

ORDINANCE NO. O2015.xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY OF TEMPE ZONING AND DEVELOPMENT CODE, PART 3 – LAND USE, CHAPTER 4, SECTION 3-426, MEDICAL MARIJUANA.

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NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

**SECTION 1.** That Section 3-426 of the Zoning and Development Code, pertaining to Medical Marijuana, is hereby amended to read as follows:

**Section 3-426 Medical Marijuana.**

**A. Purpose.** The purpose of this section is to implement Arizona Revised Statutes, Title 36, Chapter 28.1; entitled "Arizona Medical Marijuana Act".

**Cross reference**—See also the following definitions in Part 7 of this Code: *medical marijuana, medical marijuana cultivation facility, and medical marijuana dispensary.*

**B. Location Requirements.** A *medical marijuana dispensary*, without *cultivation*, is allowed in the CSS, CC, PCC-1, PCC-2, RCC, and LID districts. A *medical marijuana dispensary* or *cultivation facility* is allowed in the GID and HID zoning districts. The locations are limited to the following:

1. A *medical marijuana dispensary* or *medical marijuana cultivation facility* shall not be operated or maintained on a parcel within 1,320 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing the following:
  - a. Another *medical marijuana dispensary* ~~or cultivation facility~~;
  - b. A child care facility;
  - c. A *charter school, private school, or public school*, which provides elementary or secondary education;
  - d. A *church, synagogue, temple or similar religious worship building*; or
  - e. A public park, library, or public community *building*.

2. A *medical marijuana dispensary* or *medical marijuana cultivation facility* shall not be operated or maintained on a parcel within five hundred (500) feet from a residential zoning district or the property line of a parcel solely devoted to a residential use in any zoning district, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing such use.
3. *Medical marijuana cultivation* for a caregiver or patient's residence in a residential district is not permitted, unless sufficient evidence exists that the location is greater than twenty-five (25) miles from a *medical marijuana dispensary* within the State of Arizona.

**C. Operation Requirements.** Any *medical marijuana dispensary* or *cultivation facility*, except within a residential home, shall comply with the following requirements, as well as those contained within Arizona Revised Statutes, Title 36, Chapter 28.1:

1. The business shall be located in a permanent building, with an engineered foundation that meets Tempe Building Code, and not located in a *mobile home, trailer, cargo container, motor vehicle, or similar personal property.*
2. ~~Only one (1) secured exterior doorway shall be allowed for the purpose of ingress or egress. The maximum size tenant space shall be limited to the square footage dedicated for such use with one exit. Any existing doorways beyond this allowance shall be permanently closed by removing the door and frame and filling in the opening with permanent construction to match the exterior wall.~~
3. The business and tenant space must comply with Tempe's applicable Building Code and Fire Code requirements.
4. Drive-through facilities are prohibited.
5. The *medical marijuana dispensary* is limited to the hours of operation not earlier than 8:00 a.m. and not later than 6:00 p.m.
6. *Medical marijuana* remnants or bi-products shall be disposed of according to an approved plan and not placed within the facilities exterior refuse containers.
7. There shall be no emission of dust, fumes, vapors, or odors into the environment from the premise.
8. A security plan is required, which shall include, but is not limited to, the following:
  - a. ~~The single~~ ALL EXTERIOR doorway(S) for the facility shall provide a security vision panel pursuant to Section 4-406, Employee Service Entrances and Exits, or a 180 degree rotatable viewer. If doorway is transparent, the door shall be designed with a material that is either impact resistant or restricts entry by means of a wrought iron gate;
  - b. Closed circuit television cameras, operating 24 hours a day, shall be provided at the building's exterior entrance(S) and inside the building at a designated service area;

- c. All lighting for the site shall be brought into conformance with the current lighting standards identified in Part 4, Chapter 8, Lighting. The building entrance of the business shall be illuminated from dusk till dawn activated by photocell relay to the lighting controller;
- d. No one under the age of twenty-one (21) shall enter the establishment; and
- e. Any person, prior to entering the establishment, shall remove all hats, sunglasses or other similar objects, to avoid obstruction of physical identification.

**D. Use Acceptance.** A zoning administrative application shall be processed, certifying that all City of Tempe regulations for the *medical marijuana dispensary or cultivation facility* are in compliance with the provisions set forth in Section 3-426 of this Code. The use shall not commence without the zoning administrator, or designee, acceptance letter. the application shall include, but is not limited to, the following items:

- 1. A project submittal form with applicable fee;
- 2. The property owner's letter of authorization for the use;
- 3. The name and location of the dispensary's off-site *medical marijuana cultivation facility*, if applicable;
- 4. A map showing the location in compliance with the separation requirements listed in Section 3-426(B);
- 5. A copy of operating procedures adopted in compliance with A.R.S. 36-2804(B)(1)(c);
- 6. A site plan;
- 7. A floor plan of the building or tenant space;
- 8. If applicable, Building permits (Separate submittal) in compliance with Tempe's Building Code and Fire Code; and
- 9. A Security Plan, in compliance with Section 3-426(C).

Section 2. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

**PASSED AND ADOPTED** BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this \_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mark W. Mitchell, Mayor

ATTEST:

\_\_\_\_\_  
Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Judith R. Baumann, City Attorney





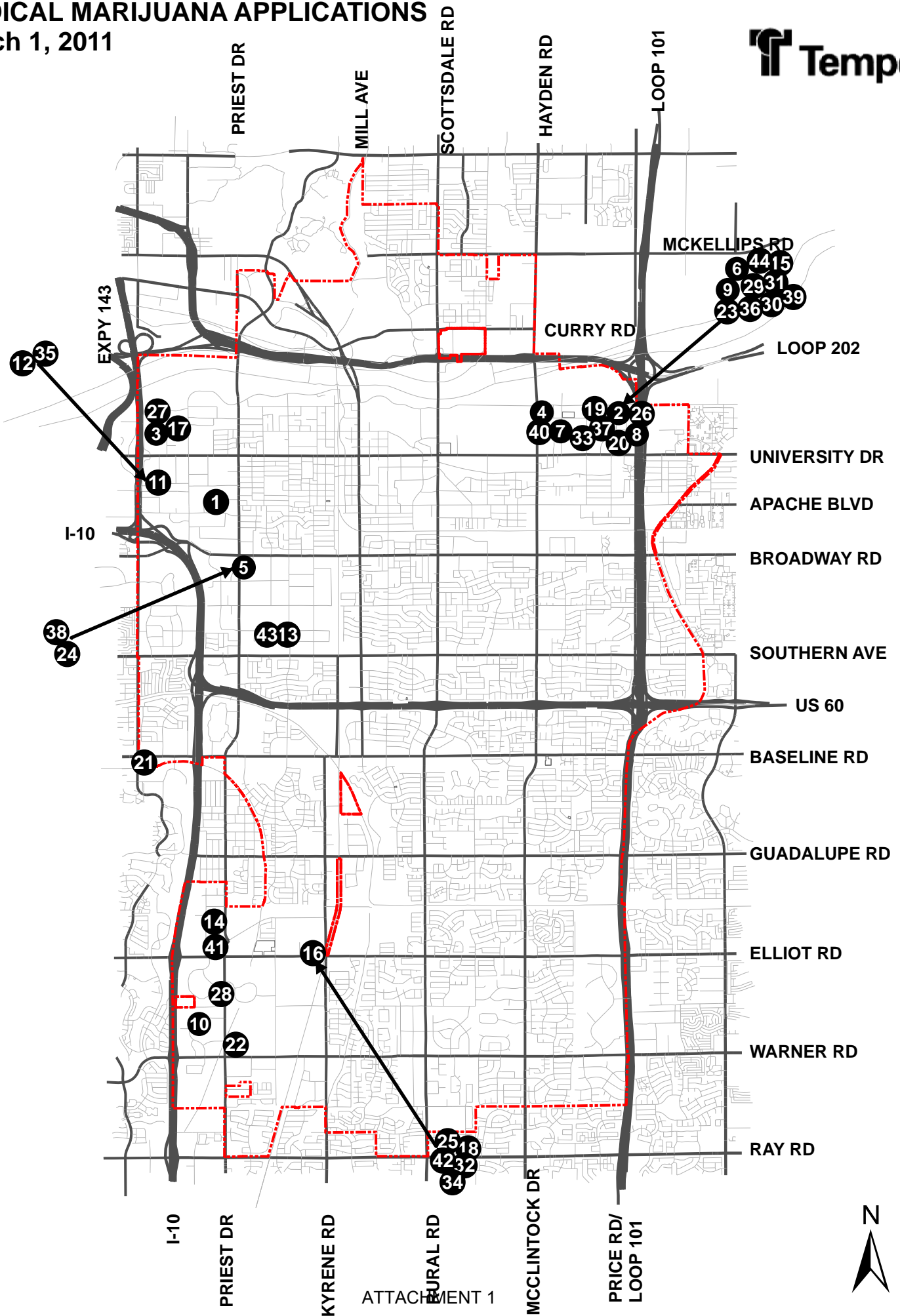
**PROJECT FILE**  
for  
**MEDICAL MARIJUANA AMENDED**  
**(PL150267)**

**ATTACHMENTS:**

1. Map of Initial Dispensary Applications (March 2011)
2. Map of Sites that received Zoning Clearance (May 2011)
3. Map of Potential Sites and Existing Dispensaries/Cultivation
- 4-7. Applicant Letter of Justification
- 8-41. Applicant's References to other Municipalities and Studies

# MEDICAL MARIJUANA APPLICATIONS

March 1, 2011



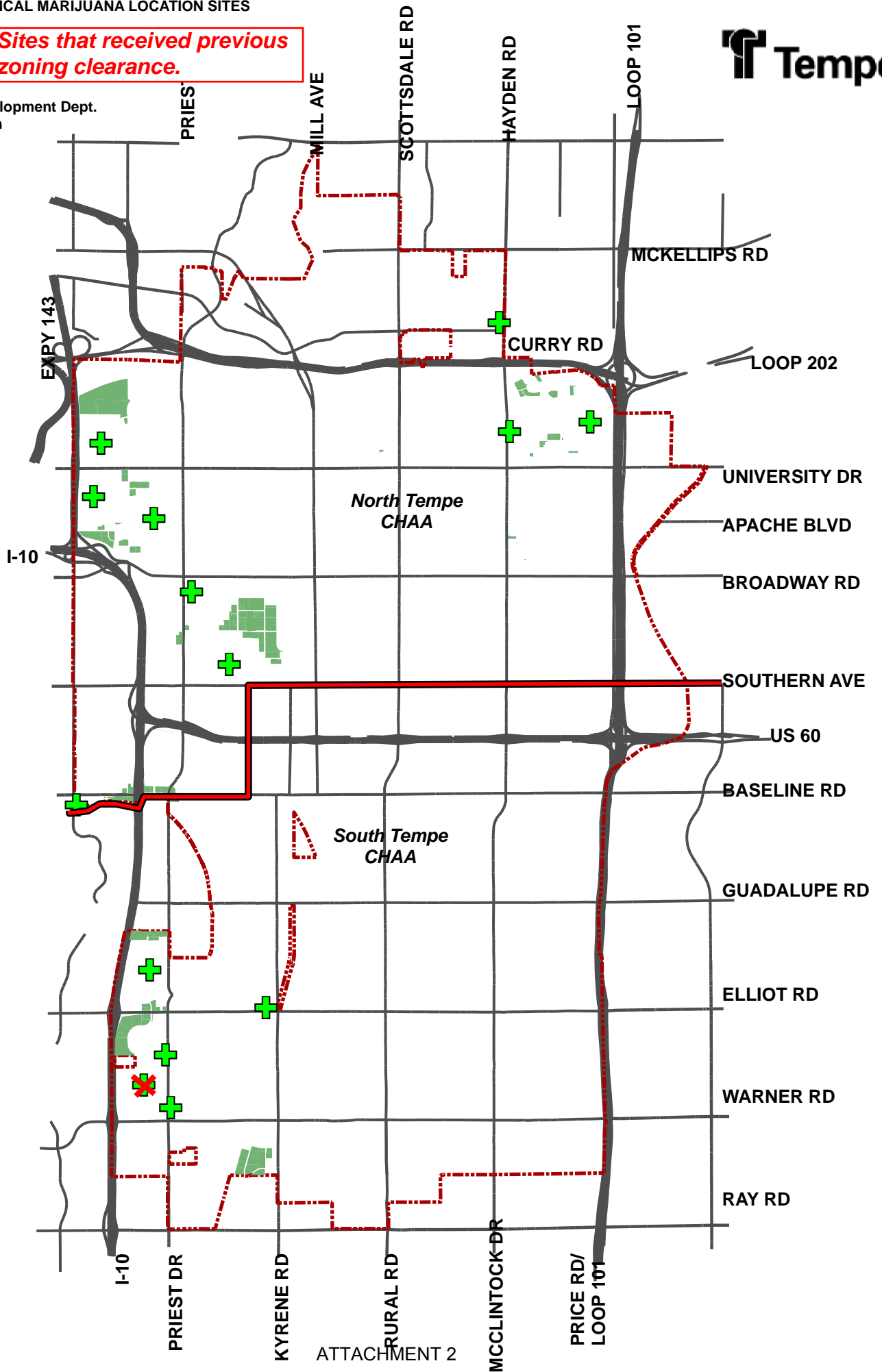
ATTACHMENT 1

POTENTIAL MEDICAL MARIJUANA LOCATION SITES

Updated:  
May 4, 2011

**Sites that received previous zoning clearance.**

Source:  
Community Development Dept.  
Planning Division

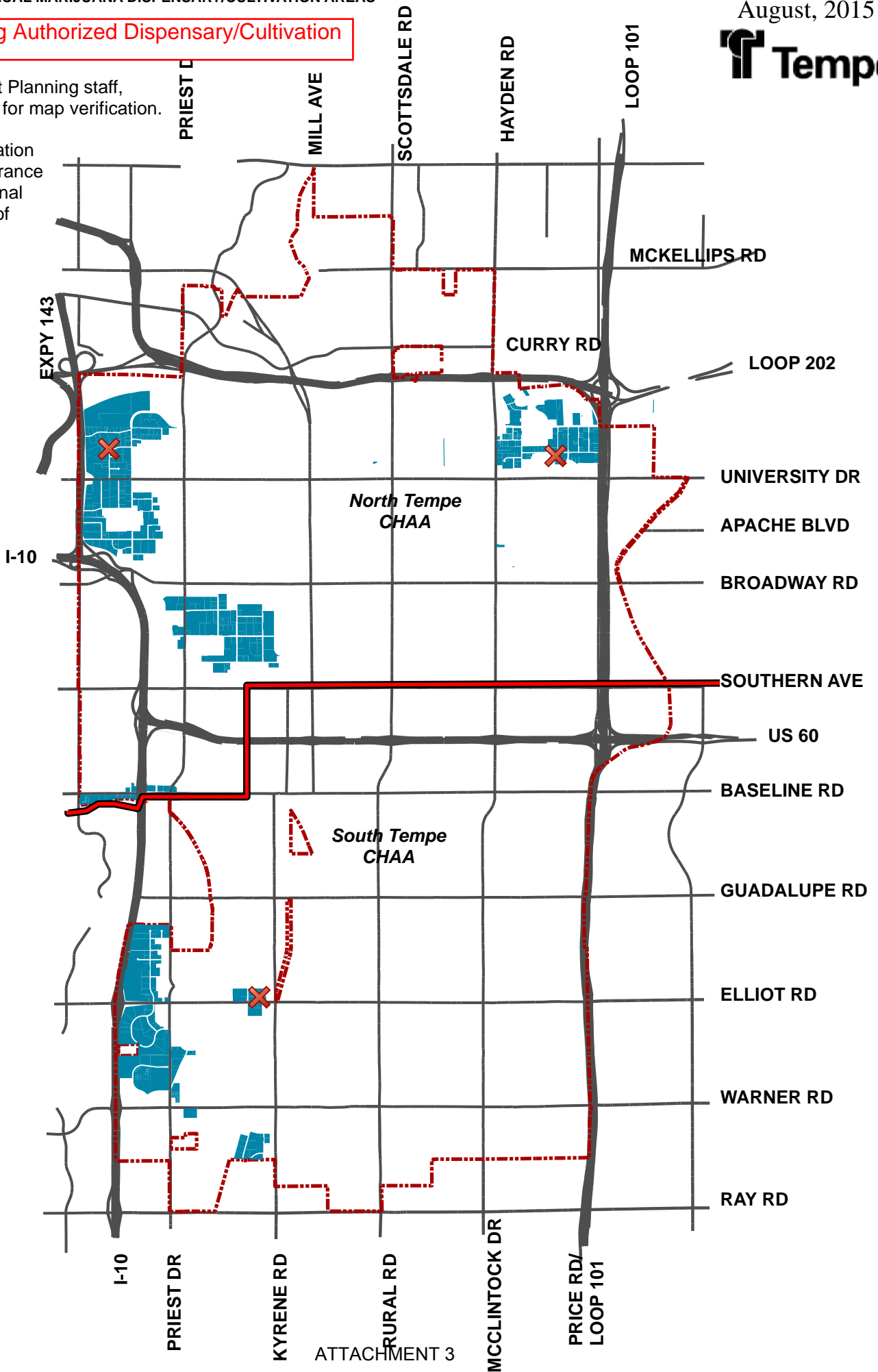




**X Existing Authorized Dispensary/Cultivation**

NOTE: Contact Planning staff,  
, for map verification.

Only an application  
for zoning clearance  
will provide a final  
determination of  
property site.



City of Tempe - Community Development

Attn: Ryan Levesque  
31 E. 5<sup>th</sup> Street  
Tempe, AZ 85281

Hand Delivered

Hon. Mark Mitchell, Mayor  
Mr. Ryan Levesque

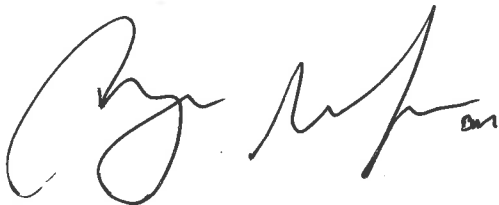
RE: Medical Marijuana City Ordinance Amendment Request

Dear Mr. Ryan Levesque,

Zoned Properties, Inc. owns two I-2 industrial-zoned buildings, located at 410 and 422 South Madison Drive, Tempe Arizona 85281. Our organization is in the business of financing, designing, and developing specialty real estate. Please find included in this package a Project Submittal Application regarding our request and recommendations for amendments to Tempe Ordinance No. 2011.01 and the submittal fee of \$2,437. In addition, we have included legal review, relevant research, and a case study from the City of Tucson.

Please do not hesitate to contact me with any questions or concerns in association with this submittal or our property development in the City of Tempe. We are excited to have the opportunity to develop and support such a great city in Arizona.

Sincerely,



Bryan McLaren; President & CEO  
Zoned Properties, Inc.

Bryan@zonedproperties.com  
(480) 351-8193

# Jeffrey S. Kaufman, Ltd.

*Attorney at Law*

JEFFREY S. KAUFMAN\*  
\*A PROFESSIONAL CORPORATION  
jeff@kaufmanesq.com  
Website: www.jeffkaufmanlaw.com

*Scottsdale Place*  
5725 NORTH SCOTTSDALE ROAD, SUITE 190  
SCOTTSDALE, ARIZONA 85250-5920  
TELEPHONE (480) 994-8000  
FAX (480) 994-8129

December 15, 2014

Hand Delivered

Hon. Mark Mitchell, Mayor  
Tempe City Council

Re: Medical Marijuana Cultivation Site Size Requirements

Dear Mr. Mitchell and Members of the City Council:

We represent Zoned Properties, Inc. Zoned Properties owns two I-2 industrial-zoned buildings, located at 410 and 422 South Madison Drive, Tempe, Arizona, near Sky Harbor airport. Zoned Properties has leased 5,000 square feet of its mostly-vacant building to a licensed medical marijuana dispensary for use as its cultivation site and kitchen. This site is limited to 5,000 square feet in size, due to a Tempe Zoning Ordinance which limits the size of a medical marijuana cultivation facility to the maximum size allowable, with only one entry/exit door. This calculates out to a 5,000 square foot maximum size.

We believe that due to practicalities as well as policies concerning your size restrictions, the zoning ordinance should be modified to allow at least a 25,000 square foot cultivation site. Tucson has recently done so. We also believe that it is practical and in the interest of everyone involve, including, but not limited to the City of Tempe, law enforcement, the public and business, to allow multiple dispensaries to establish cultivation sites within the same I-2 zoned building or industrial complex, rather than separating them by at least 1,320 feet. Tucson has also eliminated all separation requirements between cultivation locations in industrial-zoned properties.

If you have ever been inside of the cultivation facility at issue; and we would be happy to show it to you, you will undoubtedly struck by the realization that, due to the amount of equipment and the number of separate rooms within this cultivation site, if there was a fire or an emergency, it would be extremely difficult, if not impossible for persons working within the cultivation site, but not in close proximity to the one exit door, to escape injury or death. We believe that, under these circumstances, the 5,000 square foot requirement, with one exit, is unreasonable and is dangerous.

Increasing the permitted size of a medical marijuana cultivation facility to 25,000 square feet or more, with more than one exit, is the norm, rather than the exception. I have taken a considerable amount of time to research this issue and have prepared the attached summary of medical marijuana cultivation site size requirements. The City of Tucson recently changed all size restrictions for cultivation sites located in industrial zones from 3,000 square feet to no size restrictions whatsoever. Before doing so, the City of Tucson performed an excellent, detailed

*Jeffrey S. Kaufman, Ltd.*

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**December 15, 2014**

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analysis. That analysis is also enclosed for your review.

Mesa formerly has a 10,000 square foot requirement, but expanded it to a 25,000 square foot maximum. Glendale has a 25,000 square foot maximum as well. The following communities have no size restrictions: Chino Valley, Flagstaff, Kingman, Payson, Peoria and Phoenix. There are no size restrictions for medical marijuana cultivation sites in Coconino County, Gila County, Graham County, La Paz County, Maricopa County, Yavapai County and Yuma County. While I have not checked every county, the only counties that I know of that have size restrictions are Pima County and Pinal County for their unincorporated areas. Considering Tucson's recent elimination of size requirements, we expect that Pima County will also do the same.

As this legitimate industry has developed, dispensary owners, as well as county and municipal governments, have realized that it makes no economic sense to limit the size of medical marijuana facilities to less than 25,000 square feet because it simply is not economically feasible for dispensaries to locate their cultivation sites in communities with smaller size limitations.

In addition, we believe that sound public policy would warrant allowing medical marijuana cultivation to consolidate into smaller geographic areas, rather than requiring them to be 1,320 feet from each other. If this separation requirement is removed or reduced, we believe that the cultivation sites will congregate into "neighborhoods," rather than being spread out all over in industrial zones of Tempe. The owners and tenants of these cultivation sites cooperate with each other when they have certain needs, such as borrowing or buying nutrients, soils and other materials on an occasional basis. It would be easier to police consolidated cultivation locations.

In summary, we request your cooperation in re-examining your medical marijuana zoning ordinance, and exploring the possibility of increasing or totally eliminating cultivation site size requirements and/or allowing multiple dispensaries to construct or lease cultivation sites in closer proximity to each other than 1,320 feet. This may result in "specialty landlords," who are better equipped to deal with the few unusual circumstances surrounding medical marijuana cultivation. This consolidation is in the best interest of public safety, at least in our opinion.

Thank you for taking the time to read this letter. Please feel free to contact this office if you have any questions or comments. If you later plan upon considering a change in your

*Jeffrey S. Kaufman, Ltd.*

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**December 15, 2014**

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ordinance, we would most appreciate being advised of the same and given an opportunity to appear at all meetings and hearings.

Very Truly Yours,

Jeffrey S. Kaufman

JSK/alh



## MEDICAL MARIJUANA CULTIVATION SITE SIZE REQUIREMENTS

### Cities and Towns

Chino Valley-No size restrictions. Ordinance 13-779, section 431

Flagstaff-No size restrictions. Ordinance Section 24.9.

Glendale-25,000 square feet maximum. 10,000 square feet allowed for infusion facilities. Code of Ordinances, Section 7.801.

Kingman-No restrictions. Ordinance 13.100 under Medical Marijuana and 16.000 under Medical Marijuana.

Mesa-25,000 square feet maximum. Ordinance 11-31-34-B-4. Formerly 10,000 square feet. Ordinance 11-13-2W.

Payson-No size limitations Ordinance section 15-15.

Peoria-No size restrictions. TA 10-0239. Article 14-9-5 (3).

Phoenix-No size restrictions. Ordinance G-5573, Sections 3 and 5. Teresa Hillner 602-262-7142.

Prescott-No size limitations. City of Prescott Approach- The City is utilizing the "Similar Use Interpretation" (Section 11.1.1) of the Land Development Code (LDC). This allows uses not specifically identified, but which may be reasonably interpreted as being functionally equivalent to one or more of the listed land uses in Table 2.3. LDC land uses are classified "based on common functional, products or physical characteristics" (Sec 11.1.1A). Dispensaries can then be equated to drug stores (pharmacies), a cultivation facility to agricultural production (Section 11.1.7), and an infusion facility to chemical manufacturing (Sec. 11.1.6E). <http://www.prescott-az.gov/services/building/lcd.php>.

Scottsdale-No size restrictions. Medical Marijuana Text Amendment 8-TA-2010#2. Ordinance No. 3982 approving a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) to amend Article I. Confirmed by Ms. Kira Wauwie of Planning and Zoning. She is there chief medical marijuana liaison. Kira Wauwie, AICP Project Coordination Liaison 480-312-7898 E-mail: [kwauwie@ScottsdaleAZ.gov](mailto:kwauwie@ScottsdaleAZ.gov).

Tucson-No size restrictions in Industrial zones. 3,000 square feet in C-2 and C-3 zones. Ordinance 3.5.9.8 B (1). Changed in 2014.

Wickenburg-No size restrictions. Ordinance section 14-11-3 K.

## Counties

Coconino County- No size restrictions. Section 14:9

Gila County-No size restrictions. Ordinance 103.1 (C) (1).

Graham County-No size restrictions

La Paz County- No size restrictions. Section 404.00.

Maricopa County-No size restrictions. Chapter 9 of Zoning Ordinance. Per Darren Girard. See attached email. He is the Chief Zoning Administrator and testified for Maricopa County in *White Mountain Health Center v. County of Maricopa*.

Mohave County-No size restrictions.

Pima County-2,000 square feet. Title 18, Chapter 18.45 (E) (5) (k)/18 040(5) (k).

Pinal County-2,000 square feet. Ordinance 2.19.010 (5) (i).

Yavapai County-No size restrictions. Medical marijuana cultivation is not specifically addressed in its Planning and Zoning Ordinance. There are no size limitations on industrial or agricultural uses. They take the same approach as the City of Prescott.

Yuma County-No size restrictions. Ordinance 02011-06.

September 9, 2014

ORDINANCE NO. 11199

RELATING TO PLANNING AND ZONING; AMENDING CERTAIN PORTIONS OF THE UNIFIED DEVELOPMENT CODE, CHAPTER 23B, ARTICLE 4, ZONES; SECTION 4.9, USE SPECIFIC STANDARDS, SUBSECTION 4.9.9, RETAIL TRADE USE GROUP; ARTICLE 7, DEVELOPMENT STANDARDS, SECTION 7.4, MOTOR VEHICLE AND BICYCLE PARKING, SUBSECTIONS 7.4.4, REQUIRED NUMBER OF MOTOR VEHICLE PARKING SPACES; USE TABLE 7.4.4-1 AND 7.4.8, REQUIRED NUMBER OF BICYCLE PARKING SPACES, USE TABLE 7.4.8-1, DECLARING A SUNSET DATE; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Unified Development Code, Chapter 23B, Article 4, Zones, Section 9, Use-Specific Standards, Subsection 4.9.9 is hereby amended to read as follows:

**ARTICLE 4. ZONES**  
**SECTION 9. USE-SPECIFIC STANDARDS**

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**4.9.9 RETAIL TRADE USE GROUP.**

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**E. Medical Marijuana**

1. Medical Marijuana Dispensary
  - a. The total maximum floor area of a medical marijuana dispensary shall not exceed 4,000 square feet.
  - b. The secure storage area for the medical marijuana stored at the medical marijuana

dispensary shall not exceed 500 square feet of the total maximum floor area of a medical marijuana dispensary.

\* \* \*

- d. The permitted hours of operation of a medical marijuana dispensary are from 7:00 a.m. to 10:00 p.m.

\* \* \*

- h. A medical marijuana dispensary may deliver medical marijuana to qualifying patients and shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

\* \* \*

- j. A medical marijuana dispensary shall be setback a minimum of 1,000 feet from a K-12 public, private, or charter school or a licensed childcare center, measured in a straight and direct horizontal line from the closest exterior wall of the medical marijuana dispensary to the closest property line of a school or childcare center. Exception: For the purposes of this section, the following uses are not considered schools, and therefore, exempt from the setback requirement: 1) school administrative offices not located on or contiguous with a school site; and, 2) athletic fields or playgrounds used for school functions that are not contiguous with a school site, except as provided in Section 4.9.9.E.1.k.

\* \* \*

- l. A medical marijuana dispensary and associated uses such as infusion kitchens, shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

2. Medical Marijuana Dispensary Off-site Cultivation Location

- a. In the C-2 and C-3 zones, the total maximum floor area of a medical marijuana dispensary off-site cultivation location shall not exceed 3,000 square feet.
- b. In the I-1 and I-2 zones, there is no size limit.
- c. In the C-2 and C-3 zones, the secure storage area for the medical marijuana stored at the medical marijuana dispensary off-site cultivation location shall not exceed 1,000 square feet of the 3,000 square foot total maximum floor area of a medical marijuana dispensary off-site cultivation location.
- d. A medical marijuana dispensary off-site cultivation location shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle. "Building" shall have the meaning provided in Section 11.4.
- e. In the C-2 and C-3 zones, a medical marijuana dispensary off-site cultivation location shall be setback a minimum of 2,000 feet from any other medical marijuana dispensaries or medical marijuana dispensary off-site cultivation locations measured in a straight and direct horizontal line between the two closest exterior walls of medical marijuana dispensaries' cultivation locations.
- f. 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 K-12 public, private or charter school or a licensed childcare center measured in a straight and direct horizontal line from the closest exterior wall of the medical marijuana off-site cultivation location to the nearest property line of a school or childcare center. Exception. For the purposes of this section, the following uses are

not considered schools, and therefore, exempt from the setback requirement: 1) school administrative offices not located on or contiguous with a school site; and, 2) except as provided in Section 4.9.9.E.k, athletic fields or playgrounds used for school functions that are not contiguous with a school site.

- g. 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, a church or library and a minimum of 2,000 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility measured in a straight and direct horizontal line from the closest exterior wall of the medical marijuana dispensary off-site cultivation location to the closest property line of a church, library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation facility. A "church" means a building that is erected or converted for use as a church, 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.
- h. In the I-1 and I-2 zones, a medical marijuana dispensary off-site cultivation location shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior wall of the medical marijuana off-site cultivation location to the closest property line of a school.
- i. A medical marijuana off-site cultivation location and associated uses such as infusion kitchens, shall comply with all lawful, applicable health

regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

- j. A medical marijuana dispensary off-site cultivation location shall provide only wholesale products to other medical marijuana dispensaries or medical marijuana dispensary off-site cultivation locations.

\* \* \*

SECTION 2. The Unified Development Code, Chapter 23B, Article 7, Development Standards, Section 4, Motor Vehicle and Bicycle Parking, Subsections 7.4.4 and 7.4.8, Use Tables 7.4.4-1 and 7.4.8-1 are hereby amended to read as follows:

**ARTICLE 7. DEVELOPMENT STANDARDS  
SECTION 4. MOTOR VEHICLE AND BICYCLE PARKING**

\* \* \*

**7.4.4. REQUIRED NUMBER OF MOTOR VEHICLE PARKING SPACES**

\* \* \*

- B. Minimum Number of Motor Vehicle Parking Spaces Required

The minimum number of motor vehicle parking spaces required is provided in Table 7.4.4-1.

<b>TABLE 7.4.4-1: MINIMUM NUMBER OF MOTOR VEHICLE SPACES REQUIRED</b>	
Land Use Group/Class	Motor Vehicle Parking Required
	* * *
<b>RETAIL TRADE USE GROUP*</b>	<b>1 space per 300 sq. ft. GFA, except as follows:</b>
	* * *
Medical Marijuana Dispensary Off-Site Cultivation Location	1 space per 2,000 sq. ft. of storage area for the first 20,000 sq. ft. of storage area plus 1 space per 10,000 sq. ft. of storage area for over 20,000 sq. ft. of storage area, with a minimum of 2 spaces
	* * *

\* \* \*

**7.4.8. REQUIRED NUMBER OF BICYCLE PARKING SPACES**

\* \* \*

B. Minimum Number of Bicycle Parking Spaces Required

\* \* \*

2. Minimum Required Bicycle Parking Spaces

Table 7.4.8-1: Minimum Required Bicycle Parking Spaces		
Land Use Group/Class	Short-Term Bicycle Parking Required	Long-Term Bicycle Parking Required
* * *		
<b>RETAIL TRADE USE GROUP*</b>		
* * *		
Medical Marijuana Dispensary, Off-Site Cultivation Location	2 spaces	1 space per 40,000 sq. ft. GFA. Minimum requirement is 2 spaces. Maximum requirement is 10 spaces.
* * *		

\* \* \*

SECTION 3. The provisions of this Ordinance shall cease to be effective on January 31, 2019, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to this amending Ordinance. The purpose of this sunset clause is to give the City the opportunity to decide whether to continue to implement this Ordinance, as added or to revert to those provisions existing prior to this Ordinance.

SECTION 4. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance.

SECTION 5. If any provisions of this Ordinance, or of its application to any person or circumstance is declared invalid or unenforceable, as determined by a court of competent jurisdiction, the invalidity or unenforceability shall not affect other provisions or applications of this Ordinance which can be given effect without the

Option A

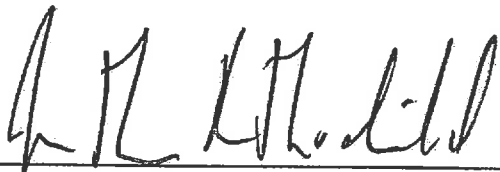


invalid provision or circumstance, and to this end, the provisions of this Ordinance are severable.

SECTION 6. Nothing in this Ordinance is intended to permit or assist in the violation of either the Federal Controlled Substances Act or the Arizona Controlled Substances Act. Furthermore, nothing in this ordinance is intended to prevent or frustrate Federal and State enforcement of any laws or regulations applicable to the possession, use or distribution of marijuana or act as a defense to the commission of any act prohibited by Federal or State law.

SECTION 7. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall become effective immediately upon its passage and adoption.

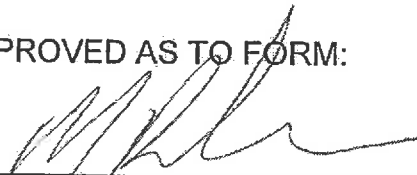
PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, September 9, 2014.

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY

REVIEWED BY:

  
\_\_\_\_\_  
CITY MANAGER

PG/tl  
8/25/14





# PLANNING COMMISSION

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

**Date:** May 21, 2014

Page 1 of 4

**To:** Planning Commission

**From:** Ernie Duarte, Director PDS

A handwritten signature in black ink, appearing to read 'Ernie Duarte', written over the printed name.

**Subject:** Medical Marijuana Zoning Text Amendment – Study Session  
(Citywide)

**Issue** – On April 8, 2014, the Mayor and Council initiated the following text amendments to the medical marijuana regulations:

1. Lift the size limitation of off-site cultivation locations for I-1 and I-2 zone parcels only;
2. Allow infusion kitchens to be permitted within the dispensaries and off-site cultivation locations; and,
3. Include a sunset clause of two years from final adoption.

Further, they wanted to know the impact of the proposal in the industrial zones.

This is a study session to allow the Planning Commission to deliberate on the proposed amendments (see Attachment A for details).

**Recommendation** – It is recommended that the Planning Commission set this item for a public hearing on July 16, 2014.

## **Background**

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

- November 2, 2010, the voters approved Proposition 203 legalizing the use of medical marijuana in Arizona;
- November 23, 2010, the Mayor and Council adopted medical marijuana zoning regulations; and,
- April 8, 2014, the Mayor and Council initiated a text amendment to revise the medical marijuana regulations.

## **Summary of the Proposed Amendments**

Pursuant to the Mayor and Council's direction, staff prepared the following draft amendments (see Attachment A for more details on proposed amendments):

**1. Lift the size limitation of off-site cultivation location for I-1 and I-2 zone parcels only.**

Current Regulation – Off-site cultivation locations are limited to a maximum floor area of 3,000 square feet in C-2, C-3, I-1 and I-2 zones.

Proposed Revision – No limit on floor area for off-site cultivation locations in the I-1 and I-2 zones. Limit remains for C-2 and C-3 zones.

Stakeholder Comments – According to dispensary and off-site cultivation location owners, the maximum floor area requirement is too restrictive. The existing off-site cultivation location in Tucson is 3,000 square feet and can only use 1,500 square feet for cultivation. Currently, two other 3,000 square foot sites are in some state of construction. The existing site is competing against several 30,000 square foot and greater cultivations sites located in the Phoenix area. Some dispensary owners are registered with or planning to register with cultivation locations in Phoenix. Note dispensaries can only buy from one cultivation site or buy from other dispensaries, usually at a retail rate.

**2. Allow infusion kitchens to be permitted within the dispensaries and off-site cultivation sites.**

Background – An infusion kitchen is a use associated with dispensaries and off-site cultivation locations. They prepare consumable medical marijuana products. The Arizona Department of Health Services is the agency that regulates their products and activities. This amendment intends to recognize them as a use permitted by zoning that is part of the legal distribution of medical marijuana.

Current Regulation – The Unified Development Code currently does not acknowledge infusion facilities.

Proposed Revision – Revise UDC Sec. 4.9.9.E (Medical Marijuana Use Specific Standards) to allow infusion kitchens in medical marijuana dispensaries and off-site cultivation locations.

**3. Include a sunset clause of two years from final adoption**

Proposal – The proposed amendment goes away on January 31, 2017, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections will revert to the original language prior to this amendment. The purpose of this sunset clause allows the City to evaluate the impact of large cultivations sites on the community and preserve the City's ability to prepare a more restrictive standard in the UDC in the future if it sees that as the more appropriate direction.

**4. Study the impact of the proposal on potential sites in the industrial zones.**

Background – In response to council members’ concern that the proposed amendment may lead to a large increase in the number of off-site cultivation locations, staff has attempted to analyze the impact of the amendment in industrial zones.

Currently, off-site cultivation locations are required to be at least 2,000 feet from other dispensaries or off-site cultivation locations.

Evaluation – Staff reviewed the number of potential sites where an off-site cultivation location may locate by: 1) identifying all I-1 and I-2 zoned properties; 2) placing the UDC required 1,000-foot buffer around schools, childcares, churches, libraries, and public parks; and, 3) placing the required 2,000-foot buffer around existing dispensaries and off-site cultivation location, substance abuse diagnostic and treatment facilities, and other licensed drug or alcohol rehabilitation facilities.

First, in evaluating vacant, industrial land, staff found there is about 500 acres. It is unclear if the land is on the market. Further, local medical marijuana businessmen are reluctant to spend the time and money constructing new buildings for medical marijuana cultivation. The preference is to find available warehouses. From meetings with medical marijuana stakeholders, staff has found the spacing requirements are a key limiting factor on obtaining a site. The May 14, 2014 stakeholder meeting confirmed the difficulty in finding available industrial lands.

Evaluation Outcome – Based on the criteria above, there are about twelve hypothetical I-1 or I-2 zoned sites available to an off-site cultivation location. However it is not clear whether these sites are on the market. Some will require new construction regardless. The 2,000-foot setback requirement appears to be the most limiting standard preventing off-site cultivation locations in the industrial zones. The increasing of the cultivation location’s size does not appear to affect the number of sites in the City. See Attachment B mapping information.

Setback Reduction – The Planning Commission may consider a refinement to the amendment to adjust the 2000-foot setback requirement between off-site cultivation locations. The medical marijuana stakeholders believe no setback should be required between off-site cultivation locations. Their argument is that these sites from the outside look like regular industrial warehouses and have no negative impact on their surroundings. If increasing the number of sites remains a concern, an alternative way to handle this issue is placing a City-wide cap on the total number of large off-site cultivation locations.

**Stakeholder Involvement** – On May 14, 2014, staff met with stakeholders to discuss the proposed amendments. Attendees included medical marijuana dispensary and off-site cultivation business owners, a developer, and a neighborhood advocate.

The stakeholders raised numerous issues (many outside the parameters of what was initiated by the Mayor and Council), including (see Attachment D for details):

- The difficulty in finding a location that meets all of the off-site cultivation location requirements. One stakeholder said she has looked at about 25 available industrial properties; however, none of the sites meet all of the required setbacks from affected uses.
- The maximum floor area requirement of 3,000 for dispensaries and off-site cultivation locations is too small to accommodate infusion kitchens;
- The floor area restriction and separation requirements is limiting the ability of dispensaries here in the City from purchasing their product locally;
- Requiring setbacks between off-site cultivation locations does not make sense. Off-site cultivation locations are highly secured and purposely nondescript. Allowing off-site cultivation to locate within 2,000 feet of one another in the industrial zones will not result in potential nuisances.
- The hours of operation requirement for dispensaries is too restrictive.

The attendees agreed on the following:

1. To remove the size limitation in industrial zones.
2. To allow infusion kitchens in dispensaries and cultivation sites.
3. To set a sunset date of 4 years (note: the Mayor and Council initiated a two year sunset).
4. Based on staff's findings from their study and other considerations, to remove the 2,000' separation requirement between cultivation sites.

**Attachments:**

- A. Medical Marijuana Zoning Text Amendment
- B. Preliminary Study of the impact of the proposal on potential sites in the industrial zones
- C. Statewide Comparison Table
- D. Summary of the May 14 stakeholder meeting
- E. Update Memorandum for Mayor & Council

# Attachment A

## PROPOSED AMENDMENTS TO THE MEDICAL MARIJUANA REGULATIONS

Background: On April 8, 2014, the Mayor and Council initiated the following amendments to the medical marijuana regulations:

- 1) Lift the size limitation of cultivation site for I-1 and I-2 zone parcels only;
- 2) Allow review and infusion facilities to be permitted within the dispensaries and offsite cultivation sites; and,
- 3) Include a sunset clause of two years from final adoption.

Accordingly, the following are the draft revisions to Section 4.9.9.E of the Unified Development Code.

### 4.9.9. RETAIL TRADE USE GROUP

\*\*\*

#### E. Medical Marijuana

##### 1. Medical Marijuana Dispensary

- a. The total maximum floor area of a medical marijuana dispensary shall not exceed 2,500 square feet.
- b. The secure storage area for the medical marijuana stored at the medical marijuana dispensary shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a medical marijuana dispensary.
- c. A medical marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle. "Building" shall have the same meaning provided in Section 11.4.3, *Definitions-B*.
- d. The permitted hours of operation of a medical marijuana dispensary are from 9:00 a.m. to 7:00 p.m.
- e. A medical marijuana dispensary shall have an interior customer waiting area equal to a minimum of 25% of the gross floor area.
- f. A medical marijuana dispensary shall not have a drive-through service.
- g. A medical marijuana dispensary shall not have outdoor seating areas.

- h. A medical marijuana dispensary shall not offer a service that provides off-site delivery of the medical marijuana.
- i. A medical marijuana dispensary shall be setback a minimum of 2,000 feet from any other medical marijuana dispensaries, measured in a straight and direct horizontal line between the two closest exterior walls of medical marijuana dispensaries.
- j. A medical marijuana dispensary shall be setback a minimum of 1,000 feet from a public, private or charter school or a licensed childcare center, measured in a straight and direct horizontal line from the closest exterior wall of the medical marijuana dispensary to the closest property line of a school or childcare center. Exception: For the purposes of this section, the following uses are not considered schools, and therefore, exempt from the setback requirement: 1) school administrative offices not located on or contiguous with a school site; and, 2) athletic fields or playgrounds used for school functions that are not contiguous with a school site, except as provided in Section 4.9.E.1.k.
- k. A medical marijuana dispensary 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, a church, or library and a minimum of 2,000 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility, measured in a straight and direct horizontal line from the closest wall of the medical marijuana dispensary to the closest property line of a church, library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation facility. A "church" means a building that is erected or converted for use as a church, 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.
- l. A medical marijuana dispensary and associated uses, such as infusion kitchens and off-site cultivation locations, shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

**2. Medical Marijuana Dispensary Off-Site Cultivation Location**

- a. In the C-2 and C-3 zones, the total maximum floor area of a medical marijuana dispensary off-site cultivation location shall not

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exceed 3,000 square feet. In the I-1 and I-2 zones, there is no size limit.

- b. In the C-2 and C-3 zones, the secure storage area for the medical marijuana stored at the medical marijuana dispensary off-site cultivation location shall not exceed 1,000 square feet of the 3,000 square foot total maximum floor area of a medical marijuana dispensary off-site cultivation location. In the I-1 and I-2 zones, the size of the secure storage area is not restricted.
- c. A medical marijuana dispensary off-site cultivation location shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle. "Building" shall have the meaning provided in Section 11.4.
- d. A medical marijuana dispensary off-site cultivation location shall be setback a minimum of 2,000 feet from any other medical marijuana dispensaries or medical marijuana dispensary off-site cultivation locations measured in a straight and direct horizontal line between the two closest exterior walls of medical marijuana dispensaries' cultivation locations.
- e. A medical marijuana dispensary off-site cultivation location shall be setback a minimum of 1,000 feet from a public, private or charter school or a licensed childcare center measured in a straight and direct horizontal line from the closest exterior wall of the medical marijuana off-site cultivation location to the nearest property line of a school or childcare center. Exception. For the purposes of this section, the following uses are not considered schools, and therefore, exempt from the setback requirement: 1) school administrative offices not located on or contiguous with a school site; and, 2) except as provided in Section 4.9.9.E.k, athletic fields or playgrounds used for school functions that are not contiguous with a school site.
- f. 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, a church or library and a minimum of 2,000 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility measured in a straight and direct horizontal line from the closest wall of the medical marijuana dispensary off-site cultivation location to the closest property line of a church, library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation facility. A "church" means a building that is erected or

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converted for use as a church, 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.

- g. A medical marijuana off-site cultivation location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
- h. Infusion kitchens are permitted in Medical Marijuana Dispensary Off-Site Cultivation Location.

\*\*\*

**7.4.4. REQUIRED NUMBER OF MOTOR VEHICLE PARKING SPACES**

\* \* \*

**B. Minimum Number of Motor Vehicle Parking Spaces Required**

The minimum number of motor vehicle parking spaces required is provided in Table 7.4.4-1.

TABLE 7.4.4-1: MINIMUM NUMBER OF MOTOR VEHICLE SPACES REQUIRED	
Land Use Group/Class	Motor Vehicle Parking Required
	***
RETAIL TRADE USE GROUP*	1 space per 300 sq. ft. GFA, except as follows: ***
<u>Medical Marijuana Dispensary Off-Site Cultivation Location</u>	<u>1 space per 2,000 sq. ft. of storage area for the first 20,000 sq. ft. of storage area plus 1 space per 10,000 sq. ft. of storage area for over 20,000 sq. ft. of storage area</u> ***

\* \* \*

**7.4.8. REQUIRED NUMBER OF BICYCLE PARKING SPACES**

\* \* \*

**B. Minimum Number of Bicycle Parking Spaces Required**

\* \* \*

**2. Minimum Required Bicycle Parking Spaces**

Table 7.4.8-1: Minimum Required Bicycle Parking Spaces		
Land Use Group/Class	Short-Term Bicycle Parking Required	Long-Term Bicycle Parking Required
	***	
RETAIL TRADE USE GROUP*		

* * *		
<u>Medical Marijuana Dispensary Off-Site Cultivation Location</u>	<u>2 spaces</u>	<u>1 space per 40,000 sq. ft. GFA. Minimum requirement is 2 spaces. Maximum requirement is 10 spaces.</u>
* * *		

\* \* \*

### SUNSET PROVISION

*Note: The proposed sunset provision will be implemented through a separate ordinance and will not be included in the Unified Development Code.*

The provisions of Ordinance X shall cease to be effective on January 31, 2017, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to this amending ordinance. The purpose of this sunset clause is to give the City the opportunity to decide whether to continue to implement Ordinance X, as added or to revert to those provisions existing prior to this ordinance.

## Attachment B

### Preliminary Evaluation

#### Potential Cultivation Sites in the Industrial Zones



#### **Application of Medical Marijuana Buffers and Setbacks on Industrial Zoned Land –**

Below are a set of criteria applied to industrial lands for finding complying off-site cultivation locations.

1. Identify all the light (I-1) and heavy (I-2) industrial zones;
2. Identify industrial vacant and developed parcels;
3. Set 2,000 foot buffer around existing medical marijuana dispensaries and cultivation sites;
4. Set 1,000 foot buffer around sensitive uses like schools, libraries and parks;
5. Identify unavailable industrial land not covered by buffers;

Regulatory buffers were applied to industrial lands illustrated on the attached map.

#### **Potential Cultivation Sites and Buffers –**

When you apply a 2,000-foot setback on vacant, industrial areas of the City, the impact is that it reduces the number of locations for potential cultivation sites to about 12 sites. We cannot confirm these sites are currently on the market and if they are they require new construction.

Most current medical marijuana stakeholders prefer existing developed warehouse sites. In the case of developed sites, most of the land is not on the market thus decreasing the number of potential sites. For sites on the market, staff has learned it is still very difficult to find available land that complies with all the spacing requirements. The May 14, 2014 stakeholder meeting confirmed the difficulty in finding available industrial lands.

#### **Stakeholders Account –**

Demitri Downing, a stakeholder, said the buffers from sensitive uses such as schools, childcare, churches, libraries, and parks are not a big problem but the 2,000 foot distance between setback for cultivation sites severely limits the availability of industrial land.

Vicky Puchi-Saavedra, a stakeholder, talked about the difficulty she has had in finding a place for an off-site cultivation site of 3,000 square feet. She said she has looked at about 25 available industrial properties and all fall on the 2,000 foot distance between rule.

#### **Summary –**

The 2,000-foot setback is the most limiting standard preventing off-site cultivation sites in the industrial zones. The increasing of the cultivation sites' size does not appear to affect the proliferation of sites City-wide.



## Statewide Comparison of Offsite Cultivation

	Permitted Zones	Approval Process	Max Floor Area Permitted (Square Feet)	Number of Offsite Cultivation Site
Phoenix	<ul style="list-style-type: none"> <li>•Suburban Ranch</li> <li>•Light Industrial</li> </ul>	Administrative	No space size limit	7
Flagstaff	<ul style="list-style-type: none"> <li>•Highway and Urban Commercial</li> <li>•Light and Heavy Industrial</li> </ul>	Administrative	No space size limit (previously 5,000)	1
Peoria	<ul style="list-style-type: none"> <li>•Business Park Industrial</li> <li>•Planned Light Industrial</li> <li>•Light and Heavy Industrial</li> </ul>	Conditional Use	No space size limit	1
Scottsdale	<ul style="list-style-type: none"> <li>•Special Campus</li> <li>•Industrial Park</li> </ul>	Conditional Use	No space size limit	0 (1 underway)
Mesa	<ul style="list-style-type: none"> <li>•Limited and General Industrial</li> </ul>	Administrative	25,000	3
Glendale	<ul style="list-style-type: none"> <li>•Light and Heavy Industrial</li> </ul>	Administrative	25,000	2
Tucson	<ul style="list-style-type: none"> <li>•General and Intensive Commercial</li> <li>•Light and Heavy Industrial</li> </ul>	Administrative	3,000	2
Oro Valley	<ul style="list-style-type: none"> <li>•Medium- and High-Intensity Commercial</li> </ul>	Administrative	2,000	0
Pima County	<ul style="list-style-type: none"> <li>•CB-2</li> </ul>	Conditional Use	2,000	0
Sahuarita	<ul style="list-style-type: none"> <li>•Transitional Zone</li> <li>•General Business Zone</li> </ul>	Administrative	2,000	0
Tempe	<ul style="list-style-type: none"> <li>•General and Heavy Industrial</li> </ul>	Administrative	Limited SF with one exit	1 (4,864 SF)
Marana	<ul style="list-style-type: none"> <li>•Residential, Commercial, Industrial, and Quasi-public Lot</li> <li>•Designated Flood Plain</li> <li>•Transportation Corridor</li> </ul>	Conditional Use	Offsite Cultivation Prohibited	0
Arizona	<ul style="list-style-type: none"> <li>•NA</li> </ul>	Approval to Operate	NA	25



**CITY OF  
TUCSON**

## Statewide Comparison of Dispensary

	Permitted Zones	Max Floor Area Permitted (Square Feet)	Number of Dispensary Site	Number of CHAA In City
Flagstaff	<ul style="list-style-type: none"> <li>Highway and Urban Commercial</li> <li>Light and Heavy Industrial</li> </ul>	No space size limit (previously 3,000)	2	2
Marana	<ul style="list-style-type: none"> <li>Residential, Commercial, Industrial, and Quasi-public Lot</li> <li>Designated Flood Plain</li> <li>Transportation Corridor</li> </ul>	No space size limit	2 (2 dispensary limit as per population)	5
Peoria	<ul style="list-style-type: none"> <li>Intermediate, General, and Regional Commercial</li> </ul>	No space size limit	2	5
Scottsdale	<ul style="list-style-type: none"> <li>Special Campus</li> <li>Commercial Office</li> <li>Industrial Park</li> </ul>	No space size limit	1	2 (1 developable)
<b>Tucson</b>	<ul style="list-style-type: none"> <li><b>General and Intensive Commercial</b></li> </ul>	2,500	8	8
Mesa	<ul style="list-style-type: none"> <li>Limited and General Industrial</li> </ul>	2,500	4	5
Phoenix	<ul style="list-style-type: none"> <li>Intermediate Commercial</li> <li>Light Industrial</li> </ul>	2,000	14	19
Glendale	<ul style="list-style-type: none"> <li>General Office</li> <li>General and Heavy Commercial</li> </ul>	2,000	2	6
Oro Valley	<ul style="list-style-type: none"> <li>Medium- and High-Intensity Commercial</li> </ul>	2,000	1	3 (2 developable)
Sahuarita	<ul style="list-style-type: none"> <li>Transitional Zone</li> <li>General Business Zone</li> </ul>	2,000	1	2
Pima County	<ul style="list-style-type: none"> <li>CB-2</li> </ul>	2,000	1	18
Tempe	<ul style="list-style-type: none"> <li>Planned, Regional, and Shopping/Service Commercial</li> <li>Light, General and Heavy Industrial</li> </ul>	Limited SF with one exit	2 (1,226 SF & 943 SF)	2
Arizona	<ul style="list-style-type: none"> <li>NA</li> </ul>	NA	99	126 (110 eligible)

Attachment C



**CITY OF  
TUCSON**

### Statewide Comparison of Offsite Cultivation Setback

	School	Childcare	Church	Library	Park	Substance Abuse	Other Medical Marijuana Site	Residential Zones
Phoenix*	1,320	1,320	500	NA	1,320	NA	5,280	1,000
Glendale	1,320	NA	NA	NA	NA	NA	5,280	1,320
Peoria	1,000	1,000	NA	NA	NA	NA	2,640	500
Mesa	1,200	NA	1,200	1,200	1,200	NA	2,400	NA
Tucson	1,000	1,000	1,000	1,000	1,000	2,000	2,000	NA
Marana	1,000	1,000	1,000	1,000	1,000	2,000	2,000	NA
Oro Valley	1,000	1,000	NA	NA	NA	NA	2,000	NA
Sahuarita	1,000	1,000	1,000	1,000	1,000	1,000	2,000	NA
Pima County	1,000	1,000	1,000	1,000	1,000	1,000	2,000	NA
Flagstaff	750	750	750	750	750	750	2,000	NA
Tempe	1,320	1,320	1,320	1,320	1,320	NA	1,320	NA
Scottsdale	500	NA	NA	NA	NA	NA	1,320	500
Arizona	500	NA	NA	NA	NA	NA	NA	NA

\*shall be setback 1,000 feet from all property lines

## Attachment D



### Proposed Revisions to the Medical Marijuana Regulations Stakeholder Meeting

Wednesday, May 14, 2014  
4<sup>th</sup> Floor Conference Room, Joel D. Valdez Main Library,  
101 N. Stone, Tucson, Arizona 85701.

Meeting started at 3:10 pm and ended at 4:20 pm.

#### **Meeting Attendants –**

Jim Campbell  
Ruth Beeker  
Demitri Downing  
Molly Thrasher – Ward 6 aide  
Diana Rhoades – Ward 1 aide  
Linda Morales  
Vicky Puchi-Saavedra  
Jean Paul Genet  
Michael Crawford  
David Basila  
Mohit Asnani

#### **Staff –**

Alexandra Hines, Adam Smith, Glenn Moyer, Jim Mazzocco

#### **Presentations –**

Staff distributed a draft of the proposed medical marijuana amendment. Adam Smith gave a presentation on the proposed amendment.

On April 8, 2014, the Mayor and Council initiated the following amendment to the medical marijuana regulations:

1. Lift the size limitation of cultivation sites for I-1 and I-2 zone parcels only.
2. Allow review and infusion kitchens to be permitted within the dispensaries and off-site cultivation sites.
3. Include a sunset clause of two years from final adoption.

In addition, Mayor and Council asked for a study on how the proposal might impact the City's industrial zones. Alexandra Hines gave an overview of the impact of cultivation sites on industrial zones. The presentation included:

1. Identifying all the I-1 and I-2 zones;
2. Identifying industrial vacant and developed parcels;
3. Setting buffers around sensitive uses like schools, day cares, churches, libraries, parks, and other medical marijuana dispensaries and cultivation sites;
4. Identifying unavailable industrial land covered by buffers;
5. Setting up 2,000 foot distance between buffers in a hypothetical available, vacant, industrial areas that produced the finding that the setbacks significantly reduce locations for off-site cultivation.

#### **Meeting Summary -**

Ruth Beeker asked who proposed the cultivation-site amendment?

Staff explained that medical marijuana (MM) stakeholders approached council members from Wards 2 and 5 and explained that the 3,000 square foot limitation on off-site cultivation sites was too small and placed Tucson businessmen at a disadvantage to Phoenix growers who had no limit on cultivation sites and thus had an advantage and left Tucson dispensary owners with only the option to buy products in Phoenix.

The Mayor and Council on April 8, 2014 directed staff to return with an amendment to lift the restriction of the size limitation of a cultivation site for I-1 and I-2 zoned parcels only, allow review and infusion kitchens to be permitted within the dispensaries and offsite cultivation sites, and include a sunset clause of two years from final adoption.

Demitri Downing explained his concerns about Tucson's MM regulations. He said the buffers from sensitive uses such as schools, childcare, churches, libraries, and parks is not a big problem but the 2,000 foot distance between cultivation sites standard severely limits the availability of industrial land. He added that the cultivation sites are discreet and, at most, may have some smell issues associated with them.

Mr. Downing further noted that some council members mentioned concerns about future setbacks for dispensaries once dispensaries can locate more than one dispensary in a particular CHAA (Community Health Analysis Area). He believed their concerns were correct and the City should consider at some point a standard that placed greater limits on local dispensary locations. Note Arizona Department of Health Services (ADHS) states *"if the state still has fewer dispensaries than state law allows [126], ADHS will consider dispensary applications for a location in a CHAA that already has a dispensary."* Thus such a future dispensary would only be limited by zoning district and zoning spacing requirements. However, cultivation sites were a different story, he said, in that they tended to be located in warehouses out of the public eye.

Jim Campbell agreed that dispensaries are visible and that one would not know that a cultivation sites was there.

Diana Rhoades mentioned that Councilmember Romero understood that there is value in allowing flexibility for cultivation sites so Tucson businesses do not have to turn to Phoenix.

Linda Morales replied that the distance between cultivation-site rule responds to controlling the proliferation of facilities.

It was mentioned that many MM business owners, like Vicky Puchi-Saavedra, favor empty warehouses rather than constructing a new building. However, Ms. Puchi-Saavedra cannot find an available building with a 2,000 foot distance from another MM facility. To supply her dispensary she said she may have to register with a cultivation facility in Phoenix.

In an ongoing search for the past 8 months, she has only been able to find one potential site meeting all the sensitive use buffers but it is 535 feet from another cultivation facility. She is considering asking for a Board of Adjustment variance. Ms. Puchi-Saavedra said that in contrast to popular belief most dispensary owners are just barely making it as commercial enterprises.

Mr. Campbell asked what the sunset clause entails. Staff replied that the Mayor and Council would decide prior to the sunset date whether to revert to the previous standard of a 3,000 square foot size limit or



continue the no limit to size for sites. If Mayor and Council decided to revert to the smaller size, the built structures would be grandfathered and become nonconforming uses.

Mr. Downing said that having more local control over the number of dispensaries will prevent the "Venice Beach" scenario of a large cluster of dispensaries in one place.

Jean-Paul Genet added, California does not regulate MM to the degree that Arizona does so there is no comparison. Regarding cultivation sites, he said, they go unnoticed, and thus, are a different entity than dispensaries. Initially, when drafting the 2010 ordinance, no one knew how the facilities would function and it was difficult to distinguish between dispensaries and cultivation sites.

Mr. Downing said the City needs to have the foresight to change the problematic first generation MM regulations including the 2,000-foot distance between cultivation sites standards.

Staff responded that the motion directing the text amendment was specific. The research on industrial-zoned lands showed that the 2,000-foot distance between standard had a strong impact on limiting cultivation sites. Whether the Planning Commission has the flexibility to add a text amendment addressing this issue was debatable and staff preferred getting legal advice on that matter before advising the Commission on the parameters of the amendment that they could consider.

Michael Crawford and several attendees asked if this matter could go back to the Mayor and Council to consider the distance-between cultivation-site standard. Staff said they would look into the matter with their legal advisors.

Ms. Rhoades said Councilmen Romero encourages increased business and no limit on the facility to make cultivation easier. Councilmen Romero is concerned about the CHAAs not being a control feature at some future date and its impact on the potential proliferation of dispensaries.

Mr. Campbell mentioned that the cultivation sites are already limited by actual land availability and there is no reason to be more restrictive.

Mr. Asnani stated that he is going to register with a cultivation location in Phoenix, because Tucson is taking too long to amend the MM regulations. Unfortunately, he said that he expected half of the Tucson dispensaries are going to choose to register with cultivation sites in other jurisdictions to accommodate their demand.

Mr. Genet said it is important that the City take steps for changes to MM regulations in the next few months because it is a burgeoning industry and business decisions need to be made quickly. He added the MM business owners are barely hanging in there. Ms. Puchi-Saavedra explained that the businesses are sinking and barely covering costs of goods.

Ms. Beeker said the stakeholders should take their case to the Planning Commission and not let this item be run by City staff. Citizens should initiate actions and that the Planning Commission should not be a "rubber stamp" of staff's recommendations. She said citizens should be represented and not rely on staff. She said this matter should not be done piecemeal but the whole list of concerns should be looked at together. Several attendees said they agreed with her on an enhanced citizens' role especially on looking at all the issues at once.

Mr. Genet added that there is justification for the increase in cultivation building size because the 3,000 square-foot limit cannot provide all MM strains or bring down the price.

Mr. Crawford said that the building size limit should also be lifted from C-2 and C-3 zones. Infusion kitchens, he said, do not fit in MM dispensaries which are limited to 2,500 square feet.

Ms. Rhoades said she can see that while the proposed no size limit for cultivation sites is helpful she can also understand why the stakeholders do not like the 2,000-foot setback between sites that the industrial zones study shows is an issue also.

Ms. Puchi-Saavedra asked about the text amendment's time frame. Staff answered that the proposed amendment would go to Planning Commission first for a study session, then return as a public hearing, and eventually go to Mayor and Council for approval in about September 2014. Upon its approval, the new regulations would take effect 30 days later.

Mr. Crawford brought up caregiver cultivation of MM and concerns with the continued necessity of such a standard and how it is a potential source of illegal activity.

Mr. Campbell asked how the sunset clause is handled. Staff said it is prepared as a separate ordinance and having a sunset clause is influenced by Proposition 207 provisions regarding making permanent provisions that the City may want to reconsider once it has some experience with them. Mr. Campbell said the sunset should be four years versus two years. He added it normally takes a new business about a year from permitting to get established and the two years does not give businesses enough time to go through the business and government processes.

There was some discussion about whether the Mayor and Council would renew a sunset provision. Ms. Beeker said in her experience they tend to be renewed.

Mr. Crawford said the 2,000-foot setback distance from existing MM facilities should be zero feet. Ms. Beeker agreed that industrial zones are appropriate for MM cultivation sites.

Mr. Downing said there are more issues that the MM stakeholders believe need to be addressed regarding the 2010 ordinance. They include hours of operation and handling of caregivers doing cultivation. In addition, Mr. Crawford mentioned home delivery especially in relation to hospice circumstances. Mr. Genet said there is no way under the current rules to convey the use of raw plants for consumption to patients. Another stakeholder said the 2,500 square foot dispensaries were too small to do infusion kitchens, which is a growing associated business.

Staff said that the directions from the Mayor and Council were specific on what could be amended but would discuss with its legal advisors the next steps prior to the June 4 Planning Commission study session.



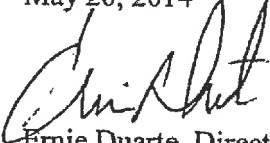
## Attachment E

# MEMORANDUM

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DATE: May 20, 2014

TO: Honorable Mayor and Council Members

FROM:   
Ernie Duarte, Director  
Planning & Development  
Services

SUBJECT: Update on the Medical Marijuana Zoning Text Amendment Process

Planning and Development Services Department (PDS) staff invited a group of medical marijuana stakeholders and members from our email list of citizens following zoning text amendments to a May 14, 2014 presentation on the proposed medical marijuana text amendment recently initiated by Mayor and Council on April 8, 2014.

The Mayor and Council voted approval of the following – *“Direct staff to return with an amendment to lift the restriction of the size limitation of a cultivation site for I-1 and I-2 zone parcels only, allow review and infusion facilities to be permitted within the dispensaries and offsite cultivation sites, and include a sunset clause of two years from final adoption.”*

At the study session, there was some discussion among the Mayor and Council on whether there would be a proliferation of these facilities and that there was a need to understand the impact the proposed text changes would have on the City’s industrial zones.

As part of the May 14 presentation, staff presented its preliminary findings on estimating the likelihood of new cultivation sites this text amendment might create in industrial zones. Our basic finding was that the size of the site was not as important as the current 2,000-foot distance between setbacks for cultivation sites. This setback significantly limits the industrial land available after determining the City-wide setbacks for various sensitive uses like schools, childcare, churches, libraries, and parks.

Attached is a summary of the May 14 stakeholder meeting.

One stakeholder talked about the difficulty she has had in finding a place for an off-site cultivation site of 3,000 square feet. She said she has looked at about 25 available industrial properties and all fail because of spacing requirements including the 2,000-foot distance between rule.

The medical marijuana stakeholders asked staff if: 1) can the distance between setback as well as the sunset date two-year limit be reviewed by the Planning Commission given the Mayor and Council's April 8 motion, or 2) can the issue be returned to Mayor and Council for their consideration prior to the June 4 Planning Commission study session on the item.

Between now and the June 4 Commission study session, there is one Mayor and Council public meeting on June 3.

Staff has asked the City Attorney's office for advice on whether the April 8 motion and general discussion about doing an industrial land study regarding the potential proliferation of cultivation sites would still allow the Commission to deliberate on the distance between setbacks.

Staff agrees with the advice that the distance between setback still is addressing the proliferation of sites which was a subject of the April 8 Mayor and Council study session discussion.

This memo is intended to inform the Mayor and Council that staff's industrial land study, that we will be presenting to the Planning Commission on June 4, will mention the setback appears to be a key standard preventing off-site cultivation sites in the industrial zones and that the increasing of the cultivation facility's size does not appear to substantially affect the proliferation of sites City-wide. The Commission may decide to recommend a change in the distance between setback. If proliferation of sites is a concern, an alternative way to handle this issue is placing a City-wide cap on the total number of large cultivation sites allowed.

If the Mayor and Council would prefer to review the industrial land study and deliberate on further direction to the Commission on this item, then PDSO can give a presentation at your request at the June 3, 2014 Mayor and Council study session.

In the May 14 meeting summary, there is a list of potential amendment issues raised by the participants that we believe go beyond the scope of Mayor and Council's original direction. For example, it was mentioned that the City needs to consider spacing of dispensaries in anticipation of the (Community Health Analysis Area) CHAA system of spacing going away in the next few years. Arizona Department of Health Services (ADHS) rules states, "*if the State still has fewer dispensaries than State law allows [126], ADHS will consider dispensary applications for a location in a CHAA that already has a dispensary.*" Thus, at least hypothetically, there could come a time where additional dispensaries could apply to locate in the City and only be controlled by zoning districts and spacing requirements.

Currently, there are eight dispensaries in the City that are limited by eight CHAAs located in the City. If there are still less than 126 dispensaries statewide in the next several years, then zoning rules will be the only rules limiting the spacing of the additional dispensaries that are not already in a CHAA. The stakeholders said it is important to prevent the garish cluster of dispensaries that has occurred in places like Venice Beach, CA.

Page 3

Unlike dispensaries, off-site cultivation sites, can be closer together because they look like generic industrial buildings. In other words, they do not want to draw attention to themselves.

If this item is set for the June 3 Mayor and Council study session, PDSO staff will be prepared to give an update on the issues related to industrial lands and the discussions held at the stakeholder meeting.

If you have any further questions on this matter, please feel free to call me at 837-4899.

cc:

Richard Miranda, City Manager

Mike Rankin, City Attorney

Jim Mazzocco, AICP, PDSO Deputy Director





Tom Guice, Director  
201 S. Cortez Street, Prescott, AZ 86303  
Phone: 928-777-1317 Fax: 928-777-1258  
tom.guice@prescott-az.gov

TO: Laurie Hadley, City Manager  
FOR: The Honorable Mayor and City Council Members  
Planning & Zoning Commission, Board of Adjustment and Preservation Commission  
FROM: Tom Guice, Community Development Director  
RE: **Medical Marijuana Similar Use Interpretation**  
DATE: March 30, 2011

### Background

With the voter approval in November of Proposition 203 (the Arizona Medical Marijuana Act), the Arizona Department of Health Services began working on licensing rules and local governments began working on amending their zoning regulations to implement the new State Law, ARS 36-2801. Prescott planning staff started with a review of what other jurisdictions were doing and then took the process to the next step by calling upon the Unified Development Code Committee (UDC) to consider the matter and provide further direction. Following the first UDC review on Dec. 8th, an alternative to amending the Land Development Code (LDC) came to the forefront. A review of the LDC provisions for making "Similar Use Interpretations" revealed that the LDC could readily address the three uses that result from the new Medical Marijuana law. The Similar Use Interpretation provisions were included in the code for the purpose of handling land uses not specifically included in the revised development code. The UDC Committee met a second time on January 5<sup>th</sup> and after approx. five hours discussion over the course of two meetings, voted unanimously to endorse the Similar Use Interpretation process. The Similar Use Interpretation is an administrative action by the Community Development Director that does not require City Council action.

### Similar Use Interpretation

Using the Similar Use Interpretation process, staff has determined that the three aspects of the new Medical Marijuana industry are equivalent to existing land uses, as follows:

- A Medical Marijuana Dispensary is equivalent to a Drug Store.
- Medical Marijuana Cultivation is equivalent to Agricultural Production.
- A Medical Marijuana Infusion operation\* is equivalent to Chemical-based Manufacturing.  
*\*Infusion is the cooking and/or blending of marijuana into an edible product.*

This results in these land uses being allowed in the following zoning districts:

A Dispensary would be allowed in the NOB, BG, BR, DTB, IT and IL districts.

A Cultivation facility would be allowed in the IL and IG districts and requires a Conditional Use Permit (CUP) in the RE-2 and IT districts.

An Infusion facility would be allowed in the IL and IG districts and requires a CUP in the IT district.

**Other Related Matters:** 1) In addition to local zoning regulations, the State Statute and Arizona Department of Health Services rules require Medical Marijuana facilities to be located at least 500 feet away from schools. State licensing by the ADHS is required for facilities. ADHS will also regulate and monitor licensed businesses for security, safety, personnel background checks, etc. 2) Due to an apparent scrivener's error in Section 2.4.2.B. I have determined that the text should be identical to the text of Section 2.4.3.B. which allows discretion in requiring these facilities to be located on collector or arterial streets. Such discretion is based upon alternative access and the scale of the proposed agricultural operations.



## Jeff Kaufman

---

**From:** Hall, Frank <frank.hall@prescott-az.gov>  
**Sent:** Friday, October 10, 2014 4:06 PM  
**To:** jeff@kaufmanesq.com  
**Subject:** Medical Marijuana Question Prescott  
**Attachments:** MM\_Similiar\_Use\_Interpretation\_Final\_Disseminated.doc

**Importance:** High

Dear Mr. Kaufman,

I am sorry it took some time for me to respond to your question regarding Medical Marijuana.

Attached is the memo that was prepared back in 2011 that should shed some light on your question. Cultivation of medical marijuana is permitted in the industrial zoning districts in Prescott and there is no size limitation except for the structure size limits and impervious coverage limits for any individual parcel. Additional information can be found on the City's website <http://www.cityofprescott.net/> under the City Services tab and then under the Planning tab. Scroll about half way down and you will see a PDF link for Medical Marijuana.

Otherwise, the state regulations apply.

Frank Hall  
Community Planner  
928-777-1319

## Jeff Kaufman

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**From:** Darren Gerard - PLANDEVX <DarrenGerard@mail.maricopa.gov>  
**Sent:** Thursday, October 2, 2014 11:01 AM  
**To:** jeff@kaufmanesq.com  
**Subject:** RE: Medical Marijuana Cultivation Size Limitations

**Sir: there is nothing in the county's zoning ordinance specifically limiting the size of a medical marijuana facility. Each zoning district does have a maximum building height, maximum lot coverage (cumulative area under roof), minimum setbacks, etc. that work to determine a building envelope for a lot. There may be state licensing rules in regard to maximum size of a medical marijuana facility but I must refer you to ADHS for any such information. Darren**

*Darren V. Gérard, AICP, Deputy Director*  
Maricopa County Planning & Development Department  
501 N. 44<sup>th</sup> St. # 200 Phoenix, AZ 85008  
602-506-7139, 602-506-3711 (fax)  
darrengerard@mail.maricopa.gov  
[www.maricopa.gov/planning](http://www.maricopa.gov/planning)

Your feedback is important - Click [HERE](#) to let us know!

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**From:** Jeffrey Kaufman [<mailto:jeff@kaufmanesq.com>]  
**Sent:** Thursday, October 02, 2014 10:24 AM  
**To:** pdcustomerservice  
**Subject:** Medical Marijuana Cultivation Size Limitations

Upon my review of your ordinances, I could not find any size limitation on medical marijuana cultivation facilities. Am I mistaken. If so, where are the limitations listed? Thank you very much. Jeff

Jeffrey S. Kaufman, Esq.  
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