



## Planning and Zoning Board Report

**DATE:** May 17, 2017  
**TO:** Planning and Zoning Board  
**FROM:** John Wesley, Planning Director  
**SUBJECT:** **Medical Marijuana Facilities** – Proposed amendments to the Zoning Ordinance regarding separation from churches

### **PURPOSE AND RECOMMENDATION**

Consider an amendment to the zoning ordinance that would modify the required separation for a medical marijuana facility from a church. The proposed amendment would remove the setback for churches located in zoning districts other than a residential district; the 1,200' separation would remain for churches located in residential zoning districts (RS, RM, DR, T3N, T4N, and T5N Districts).

The impetus to make these changes is based on experience we are having in implementing the current separation of 1,200'. Because churches can locate in any zoning district and do not require any special permitting, they can easily locate in industrial and commercial centers without staff being aware they are there. We have had two instances where there has been a church with very little signage in a strip center that went unnoticed by staff and the applicant early in the review process.

### **BACKGROUND AND DISCUSSION**

In 2010 the voters in Arizona approved a ballot measure allowing for the use of medical marijuana in Arizona. Mesa, along with all other jurisdictions in Arizona, had to amend their local regulations to address this new use. Mesa's regulations are contained in Section 11-31-34 of our zoning ordinance. The ordinance approved by Council provides reasonable zoning regulations while still protecting citizens from potential negative impacts.

The zoning regulations for medical marijuana facilities include both cultivation facilities and dispensaries. The regulations, as adopted by Council, include restricting the use to industrial zoning districts and separation requirements from other uses (schools, churches, libraries, parks) where youth may congregate.

The requirements for both dispensaries and cultivation facilities are:

	Medical Marijuana Facility
Required zoning district	LI, GI
Separation requirements:	
Between dispensaries	5,280'
Between dispensaries and off-site cultivation facilities	2,400'
Between cultivation facilities	2,400'
From residential substance abuse, alcohol rehabilitation, or Correctional Transitional Housing facilities	2,400'
From public parks in LI or GI, churches, libraries, schools,	1,200'
From day-care centers, pre-schools, public parks (except in LI or GI), privately owned open space in HOA's	500'

Since the adoption of the ordinance we have had several years of actual application of the ordinance and operation of these facilities to learn from. Based on this experience we see the need to make some adjustments in the ordinance to address the actual impacts of the use and the operational process of implementing the ordinance. Staff believes it is time to do a thorough review of our ordinance, compare it with other jurisdictions, and evaluate the actual impacts we have experienced. This will take several months to complete.

In the meantime, staff is proposing a minor change to the regulation based on a one specific issue that we believe needs to be addressed now. In two instances, we have processed requests for medical marijuana dispensaries where there ended up being a conflict with a church. Churches are allowed by right in any zoning district. This makes it easy for churches to locate in industrial and commercial areas without being noticed. We have had two situations over the last couple of years where a church has gone undetected. In both cases the church was in a strip center with very little signage. In one case the church was found prior to the action on a rezoning case, in the other it was not discovered until after the dispensary was in operation.

To address this specific issue and still mitigate any potential adverse impacts, staff has reviewed a variety of options. These options have included everything from reducing the separation requirement for churches to 900 feet or 500 feet to eliminating the requirement in all districts. Given that the issue is finding the smaller churches that locate in non-residential areas, reducing the separation requirement would not solve the issue. Further, until we do the more thorough study we did want to remove the protection from the churches in residential areas.

#### **RECOMMENDATION**

Staff recommends amending the code to remove the setback for churches located in zoning districts other than a residential district; the 1,200' separation would remain for churches located in residential zoning districts (RS, RM, DR, T3N, T4N, and T5N Districts). The reason being if a church chooses to locate in a non-residential area they must expect and understand that there will be a variety of uses and activities around them, some that may be very intense. Typically, these are generally small churches that will generally be occupied during times when the dispensary or cultivation facility will be closed.