



City Council Report

DATE: April 16, 2018
TO: Mayor and City Council
THROUGH: Karolyn Kent, Assistant City Manager
FROM: Christine Zielonka, Development Services Director
John Wesley, Planning Director
SUBJECT: **Medical Marijuana Facilities** – Proposed amendments to the Zoning Ordinance

PURPOSE AND RECOMMENDATION

Consider amendments to the zoning ordinance related to medical marijuana facilities to address several minor updates. There are several modifications proposed as outlined below. These proposed changes are being recommended to address issues that staff has encountered with application of the ordinance and to changes in the industry over time.

The Planning and Zoning Board considered this text amendment at their February 21, 2018 meeting. The Planning and Zoning Board recommends approval of all the changes as contained in the attached ordinance.

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.

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. Over the last several months staff has conducted a thorough review of our ordinance, compared it with other jurisdictions, and evaluated the actual impacts we have experienced. Based on this review, staff is proposing the modifications described below and shown in the attached draft ordinance.

1. Section 11-31-34 A. 1. This section is the introduction to the requirements for locating a dispensary. The first two sentences in this paragraph relate to the ultimate issuance of the Certificate of Occupancy and operation of the dispensary. The same information is contained in Section 11-31-34 E of the ordinance. Staff is recommending the first two sentences of this section be deleted.

2. Sections 11-31-34 A. 4. & 5., and B. 2 & 3. These sections provide for separation requirements for dispensaries and cultivation facilities. The distances are measured in a straight line from the exterior wall of the regulated use (dispensary or cultivation facility) to the property line of the protected use (church, school, park, etc.). In the industrial area along Broadway we have experienced several requests where the location for dispensary or cultivation facility is affected by the presence of the East Valley Institute of Technology (EVIT). In actuality, given the railroad tracks, there is no direct connection between the school and the proposed location of the medical marijuana facility and there is limited ability for the medical marijuana facility to impact those using the school.

As staff reviewed this situation it was noted that the same condition exists with canals. There are very limited opportunities to cross the railroad tracks or canals. Railroad and canal crossings are at least ½ mile apart and often a mile apart. Further, given the nature of these uses, there are typically walls that further limit the ability for a person to cross these areas and for there to be interactions directly between the two uses.

Therefore, to keep from unnecessarily limiting location opportunities staff is proposing to amend the language related to separations to allow an exception to the separation when there is an intervening canal or railroad, provided the street distance between the two uses meets the separation requirement.

3. Section 11-31-34 A. 10. This section prohibits the delivery of medical marijuana. Several other cities surrounding Mesa allow delivery services and patients in Mesa are taking their business to these other establishments. Therefore, deliveries are occurring in Mesa. State statutes allow for delivery. It is staff's recommendation that we drop this prohibition in favor of a statement that allows delivery consistent with State regulations and requirements.
4. Section 11-31-34 E. 4. One of the submission requirements we have in the ordinance is the security plan the facility files with the State. The State has the obligation to review and approve the plan and ensure that it is implemented. City of Mesa staff does not review this plan. However, once it is filed with us it becomes a public record that anyone could request a copy of for their review. Because we do not actually review these plans, and we do not want to have them on file for others to look at, it is staff's recommendation that we change is requirement to having the applicant just provide an acknowledgement that they have filed a plan with the State in accordance with the State Statute requirement and will operate consistent with that plan.

RECOMMENDATION

The Planning and Zoning Board and staff recommend amending the code with the changes described above and shown in the attached ordinance.