



Date: May 12, 2021
To: Planning and Zoning Board
From: Rachel Prelog, Principal Planner
Through: Nana Appiah, Planning Director
Subject: Mesa Zoning Ordinance text amendment (**Marijuana Facilities Standard Amendments**)- Proposed amendments to Chapter 7: Employment Districts, Chapter 31: Standards for Specific Uses and Activities, Chapter 86: Use Types, and Chapter 87: Definitions

PURPOSE AND BACKGROUND:

On November 3, 2020, voters passed proposition 207 also known as the “Smart and Safe Arizona Act,” legalizing the use of recreational marijuana for persons 21 years of age and older in the State of Arizona.

Proposition 207 allowed local municipalities to enact reasonable zoning regulations that: (1) Limit the use of land for marijuana establishments and marijuana testing facilities to specific areas; (2) Limit the number of marijuana establishments or testing facilities, or both, or; (3) Prohibit marijuana establishments or testing facilities, or both; (4) Regulate the time, place, and manner of marijuana establishment and marijuana testing facilities operations; (5) Enact reasonable restrictions on public signage regarding marijuana; and (6) Prohibit or restrict delivery within its jurisdiction.

On December 8, 2020, the City of Mesa’s City Council adopted an amendment to Title 6 of the Mesa City Code (Police Regulations) adding Chapter 25, entitled “Marijuana Prohibitions.” This addition prohibited certain activities and facilities related to marijuana including: (1) Recreational marijuana retail establishments, except for retail sales at state issued dual licensee locations; (2) Marijuana testing facilities; (3) Delivery of marijuana unless delivered by a nonprofit medical marijuana dispensary in accordance with state regulations; and (4) The consumption of marijuana on City property, certain prohibited property, and in vehicles/transportation.

Currently, per the Zoning Ordinance, the sale of recreational marijuana is not an allowed use in the City of Mesa. After the adoption of Chapter 25 of the Police Ordinance, the Planning Division discussed with City Council and the Planning and Zoning Board possible revisions to the City’s Zoning Ordinance. The consensus of the City Council and the Planning and Zoning Board was to proceed to amend the Zoning Ordinance to be uniform with the recently adopted police ordinance, allowing for the sale of recreational marijuana at dual licensee facilities.

The proposed revisions described herein amend Section 11-31-34: Medical Marijuana Facilities, of Title 11 of the Zoning Ordinance to allow the sale of recreational marijuana at dual licensee facilities. Specifically, the proposed text amendments include: (1) Updating terminology and definitions related to the sale, operations, and consumption of marijuana; (2) Updating land use tables to include dual licensee facilities as a use in the table, (3) Modifying development standards

to include dual licensee facilities and improve the organization of Section 11-31-34 of the Zoning Code for improved readability, and (4) Strengthening the City’s registration requirements by providing a revocation process by which the City can terminate its issued registration to marijuana facilities that violate the City’s regulations.

SUMMARY OF THE AMENDMENTS AND EXPLANATION:

1) Updating terminology and definitions related to the sale, operations, and consumption of marijuana

With the passing of Proposition 207, the State adopted several new definitions related to the sale, operations, and consumption of marijuana. These amended definitions prompted the need for the City to revise Chapter 86: Use Types and Chapter 87: Definitions to reflect those changes by the State. The specific definitions are shown below:

Table 1: Summary of Zoning Ordinance Definition Changes

TERMONOLOGY / DEFINITIONS		
<i>Removed</i>	<i>Modified</i>	<i>Added</i>
medical marijuana designated caregiver	medical marijuana cultivation	dual licensee facility
medical marijuana qualifying patient	medical marijuana cultivation facility	marijuana
	medical marijuana infusion facility	marijuana concentrate
		marijuana establishment
		marijuana manufacturing
		marijuana processing
		marijuana products

2) Updating land use tables to include dual licensee facilities as a use in the table

Changes in the text of the Zoning Ordinance, as proposed and outlined in Section 11-31-34 of the Zoning Code, is being amended to include the sale of recreational marijuana at dual licensee facilities. The amendment does not allow marijuana facilities in any zoning district that currently prohibits such use. The changes allow the sale of recreational marijuana as part of a dual license facilities. As illustrated in Table 2 below, marijuana facilities are permitted in the Limited Industrial (LI) and General Industrial (GI) zoning districts so long as such use conforms to all City development standards.

Table 2: Summary of Zoning District Land Use Table Modifications

MARIJUANA FACILITIES		
Land Use	Limited Industrial (LI)	General Industrial (GI)
Dual Licensee Facility	P	P
Medical Marijuana Dispensary	P	P
Marijuana Cultivation and Infusion Facility (<i>Accessory to Medical Marijuana or Dual Licensee Facilities</i>)	P	P
Marijuana Cultivation Facility	P	P
Marijuana Infusion Facility	P	P

3) *Modifying development standards to include dual licensee facilities and improve the organization of Section 11-31-34 of the Zoning Code for improved readability*

Currently Section 11-31-34 of the Zoning Ordinance contains development standards for development and operation of medical marijuana facilities. The standards regulate the location of medical marijuana facilities including permitted zoning districts and separation distance of such uses from other land uses (e.g., schools, parks, and other medical marijuana facilities). The development standards further outline the allowed maximum area and size of marijuana facilities, including storage and customer waiting areas, as well as hours of operation.

As part of the subject amendments to the City's standards for marijuana facilities, staff is recommending repealing and replacing Section 11-31-34 of the Zoning Ordinance. The purpose for this change is to improve the organization and readability of the section of the Code. The changes do not alter spacing requirements between marijuana facilities and other land uses, size limits, or permissible hours of operations.

4) *Strengthening the City's registration requirements by providing a revocation process by which the City can terminate its issued registration to marijuana facilities that violate the City's regulations*

The changes to the City Zoning Ordinance also include modifications to the marijuana facility registration process to provide clarity in application requirements, and a process by which the City can revoke a marijuana facilities City registration.

Specifically, the amendments allow the City's Zoning Administrator to revoke a marijuana facility's City registration upon finding that: (1) The applicant provided false or misleading information on their application or required application fees and charges have not been paid; or (2) The required ADHS dispensary registration certificate or ATO was denied, suspended, or revoked.

With the proposed revocation process, a registration for a marijuana facility will terminate 15 days after the City provides a written notification to an applicant. Once the notified is sent, the marijuana facility must then cease all operations within 45 days from the date of issuing the written notification.

RECOMMENDATION

After thorough evaluation of current state law, processes, and research of best practices from other jurisdictions, staff is recommending approval of the proposed amendments to the Mesa Zoning Ordinance.