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FEB 24 2011

ORDINANCE NO. 4278

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING SECTIONS 35-200 OF ARTICLE II, SECTION 35-305 OF ARTICLE III, AND SECTION 35-2100 OF ARTICLE XXI, OF CHAPTER 35, (ZONING CODE) OF THE CHANDLER CITY CODE; BY ESTABLISHING DEFINITIONS AND USE PERMIT REQUIREMENTS RELATING TO MEDICAL MARIJUANA FACILITIES AND CULTIVATION SITES AND TO INFUSION FOOD ESTABLISHMENTS.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

SECTION I. Section 35-200, Article II. "Definitions", Chapter 35, Chandler City Code, is hereby amended by adding the following definitions:

*EDIBLE FOOD PRODUCT:* A SUBSTANCE, BEVERAGE, OR INGREDIENT USED OR INTENDED FOR USE OR FOR SALE IN WHOLE OR IN PART FOR HUMAN CONSUMPTION.

*INFUSION OR INFUSE:* THE ACT OR PROCESS OF MIXING, BLENDING, COMBINING, OR OTHERWISE ADMIXING MEDICAL MARIJUANA OR THE ACTIVE INGREDIENTS OF MEDICAL MARIJUANA INTO AN EDIBLE FOOD PRODUCT.

*INFUSION FOOD ESTABLISHMENT:* A FOOD PROCESSING OR OTHER FOOD ESTABLISHMENT OF ANY TYPE OR SIZE, NOT OPERATED BY A MEDICAL MARIJUANA DISPENSARY AND NOT LOCATED AT A MEDICAL MARIJUANA FACILITY OR A MEDICAL MARIJUANA CULTIVATION SITE, BUT WHICH IS PERMITTED UNDER ARIZONA STATE LAW TO CONTRACT WITH AND DOES PROVIDE TO A MEDICAL MARIJUANA DISPENSARY EDIBLE FOOD PRODUCTS INFUSED WITH MEDICAL MARIJUANA.

*MEDICAL MARIJUANA:* ALL PARTS OF ANY PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, AND THE SEEDS OF SUCH PLANT, USED TO TREAT OR ALLEVIATE A DEBILITATING MEDICAL CONDITION OR THE SYMPTOMS ASSOCIATED WITH THE DEBILITATING MEDICAL CONDITION OF A PERSON WHO IS REGISTERED WITH AND IDENTIFIED BY THE ARIZONA STATE DEPARTMENT OF HEALTH SERVICES AS A REGISTERED QUALIFYING PATIENT.

*MEDICAL MARIJUANA DISPENSARY:* A NOT-FOR-PROFIT ENTITY REGISTERED WITH AND APPROVED TO OPERATE BY THE ARIZONA STATE DEPARTMENT OF HEALTH SERVICES THAT ACQUIRES, POSSESSES, CULTIVATES, MANUFACTURES, DELIVERS, TRANSFERS, TRANSPORTS, SUPPLIES, SELLS, OR DISPENSES MEDICAL MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO CARDHOLDERS, AS THAT TERM IS DEFINED IN A.R.S. SECTION 36-2801.

*MEDICAL MARIJUANA FACILITY:* THE PHYSICAL LOCATION FROM WHICH A MEDICAL MARIJUANA DISPENSARY OPERATES TO ACQUIRE, POSSESS, SUPPLY, SELL, OR DISPENSE IN ANY MANNER OR FORM MEDICAL MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO CARDHOLDERS, AS THAT TERM IS DEFINED IN A.R.S. SECTION 36-2801. A MEDICAL MARIJUANA FACILITY CANNOT SERVE AS A MEDICAL MARIJUANA CULTIVATION SITE.

*MEDICAL MARIJUANA CULTIVATION SITE:* THE PHYSICAL LOCATION FROM WHICH A MEDICAL MARIJUANA DISPENSARY OPERATES TO GROW, CULTIVATE, MANUFACTURE, INFUSE, OR STORE MEDICAL MARIJUANA, OR FROM WHICH IT DELIVERS, TRANSFERS, TRANSPORTS, OR SUPPLIES MEDICAL MARIJUANA TO ANOTHER MEDICAL MARIJUANA FACILITY OR CULTIVATION SITE. A MEDICAL MARIJUANA CULTIVATION SITE CANNOT SERVE AS A MEDICAL MARIJUANA FACILITY.

*RELATED SUPPLIES:* ANY EQUIPMENT, PRODUCT, OR MATERIAL OF ANY KIND THAT IS PRIMARILY INTENDED OR DESIGNED FOR THE PURPOSE OF ASSISTING A PERSON WHO IS REGISTERED WITH AND IDENTIFIED BY THE ARIZONA STATE DEPARTMENT OF HEALTH SERVICES AS A REGISTERED QUALIFYING PATIENT IN SMOKING OR OTHERWISE CONSUMING MEDICAL MARIJUANA.

SECTION II. Section 35-305, Article III, Chapter 35, Chandler City Code, is hereby amended by adding Subsection (6) to read as follows:

(6) *MEDICAL MARIJUANA FACILITY, MEDICAL MARIJUANA CULTIVATION SITE, AND INFUSION FOOD ESTABLISHMENT.* THE OPERATION OF A MEDICAL MARIJUANA FACILITY, A MEDICAL MARIJUANA CULTIVATION SITE, OR AN INFUSION FOOD ESTABLISHMENT SHALL ONLY BE ALLOWED IN ACCORDANCE WITH THE PROVISIONS, PROCEDURES AND STANDARDS SET FORTH IN THIS SUBSECTION.

(a) *BASIC USE PROVISIONS.*

1. THE OPERATION OF A MEDICAL MARIJUANA FACILITY, A MEDICAL MARIJUANA CULTIVATION SITE, OR AN INFUSION FOOD ESTABLISHMENT IS NOT ALLOWED BY RIGHT IN ANY ZONING DISTRICT.

2. THE OPERATION OF A MEDICAL MARIJUANA FACILITY IS ALLOWED ONLY IN A C-2 OR C-3 DISTRICT OR IN THAT PORTION OF A PAD DISTRICT WHERE C-2 OR C-3 USES ARE ALLOWED AND ONLY UPON OBTAINING A USE PERMIT FOR SUCH USE.

3. THE OPERATION OF A MEDICAL MARIJUANA CULTIVATION SITE OR AN INFUSION FOOD ESTABLISHMENT IS ALLOWED ONLY IN AN I-1 OR I-2 DISTRICT OR IN THAT PORTION

OF A PAD DISTRICT WHERE I-1 OR I-2 USES ARE ALLOWED AND ONLY UPON OBTAINING A USE PERMIT FOR SUCH USE.

(b) *APPLICATION.* THE APPLICATION PROCEDURES FOR A USE PERMIT TO OPERATE A MEDICAL MARIJUANA FACILITY, A MEDICAL MARIJUANA CULTIVATION SITE, OR AN INFUSION FOOD ESTABLISHMENT AT A SPECIFIED PREMISES SHALL BE THE SAME AS THE APPLICATION PROCEDURES STATED IN SECTION 35-305(1)(a) FOR GENERAL USE PERMITS, EXCEPT THAT IN ADDITION TO ANY OTHER REQUIRED SUBMITTALS, AN APPLICANT SHALL PROVIDE:

1. THE LOCATION OF THE PREMISES AT WHICH THE MEDICAL MARIJUANA FACILITY, THE MEDICAL MARIJUANA CULTIVATION SITE, OR INFUSION FOOD ESTABLISHMENT WILL BE OPERATED.

2. THE IDENTITY OF THE MEDICAL MARIJUANA DISPENSARY THAT WILL OPERATE THE MEDICAL MARIJUANA FACILITY OR THE MEDICAL MARIJUANA CULTIVATION SITE, AND, FOR AN INFUSION FOOD ESTABLISHMENT, THE IDENTITY OF THE OPERATOR OF THE ESTABLISHMENT.

3. IF THE PREMISES IDENTIFIED IN THE APPLICATION IS NOT OWNED BY THE MEDICAL MARIJUANA DISPENSARY MAKING APPLICATION FOR THE USE PERMIT, A WRITTEN STATEMENT SIGNED BY THE PROPERTY OWNER AUTHORIZING THE APPLICANT TO APPLY FOR THE USE PERMIT FOR THE PREMISES AND CONSENTING TO THE USE BEING REQUESTED IN THE APPLICATION.

4. A SITE PLAN FOR THE PROPERTY ON WHICH THE PREMISES IS LOCATED SHOWING LOT DIMENSIONS WITH FRONT, SIDES AND REAR SETBACKS, AND, WHERE APPLICABLE, IT'S LOCATION WITHIN THE LARGER DEVELOPMENT IN WHICH THE PROPERTY MAY BE SITUATED.

5. AN ACCURATE, TO-SCALE, FLOOR PLAN CLEARLY SHOWING THE CONFIGURATION OF THE PREMISES AND STATING THE TOTAL FLOOR SPACE OF THE PREMISES OR PORTION THEREOF TO BE USED FOR THE PURPOSE FOR WHICH THE USE PERMIT IS REQUESTED. IN ADDITION TO ANY OTHER INFORMATION, THE FLOOR PLAN SHALL SPECIFICALLY IDENTIFY AND PROVIDE AS APPLICABLE: (i) THE LOCATION OF THE ENCLOSED, LOCKED FACILITY IN WHICH CULTIVATION OR STORAGE OF MEDICAL MARIJUANA WILL TAKE PLACE; (ii) THE TOTAL FLOOR SPACE FOR THE ENCLOSED, LOCKED FACILITY; (iii) THE LOCATION WITHIN THE PREMISES WHERE INFUSION WILL TAKE PLACE; (iv) ALL ENTRANCES AND EXITS TO AND

FROM THE PREMISES, INDICATING WHICH SUCH ENTRANCES ARE SECURED AND WHICH, IF ANY, ARE NOT SECURED; (v) THE LOCATION OF ANY WINDOWS FROM WHICH A MEMBER OF THE PUBLIC CAN VIEW ACTIVITIES OCCURRING INSIDE THE PREMISES; (vi) ANY ADDITIONAL SECURITY MEASURES OR DEVICES TO BE INSTALLED IN OR UPON THE PREMISES, INCLUDING WITHOUT LIMITATION ANY ON-SITE ALARM SYSTEM OR SECURITY LIGHTING; AND (vii) ADDITIONAL PROTECTIONS, IF ANY, AGAINST MEDICAL MARIJUANA DIVERSION AND THEFT.

(c) *REVIEW.* THE REVIEW AND APPROVAL OF AN APPLICATION FOR A USE PERMIT TO OPERATE A MEDICAL MARIJUANA FACILITY, A MEDICAL MARIJUANA CULTIVATION SITE, OR AN INFUSION FOOD ESTABLISHMENT SHALL CONSIDER ALL RELEVANT LAND USE FACTORS, INCLUDING THOSE STATED IN SECTION 35-305(1)(b) FOR GENERAL USE PERMITS, AS WELL AS THE USE PERMIT CRITERIA AND LOCATION REQUIREMENTS STATED IN SECTIONS 35-305(6)(e) AND 35-305(6)(f) BELOW.

(d) *APPROVAL.* AN APPLICATION FOR A USE PERMIT UNDER THIS SUBSECTION (6) MAY BE APPROVED OR DENIED BY THE CITY COUNCIL, BASED UPON THE FINDINGS SET FORTH IN SUBSECTION 35-305(1)(c). APPROVAL OF SUCH A USE PERMIT APPLICATION SHALL NOT BE CONSTRUED AS ANY ENDORSEMENT BY THE CITY OF THE USE OR OPERATION FOR WHICH THE USE PERMIT HAS BEEN REQUESTED BY THE APPLICANT.

(e) *USE PERMIT CRITERIA.* THE PREMISES IN OR UPON WHICH SHALL BE OPERATED A MEDICAL MARIJUANA FACILITY, A MEDICAL MARIJUANA CULTIVATION SITE OR AN INFUSION FOOD ESTABLISHMENT SHALL:

1. BE LOCATED IN A PERMANENT BUILDING AND SHALL NOT BE LOCATED IN A TEMPORARY STRUCTURE, TRAILER, CARGO CONTAINER, MOTOR VEHICLE, OR OTHER SIMILAR NON-PERMANENT ENCLOSURE.

2. NOT BE LARGER THAN 2,500 GROSS SQUARE FEET FOR A MEDICAL MARIJUANA FACILITY AND 3,000 GROSS SQUARE FEET FOR A MEDICAL MARIJUANA CULTIVATION SITE. THE SECURE STORAGE AREA SHALL NOT EXCEED 500 SQUARE FEET IN A MEDICAL MARIJUANA FACILITY AND 1,000 SQUARE FEET IN A MEDICAL MARIJUANA CULTIVATION SITE.

3. BE OPERATED ONLY BY A MEDICAL MARIJUANA DISPENSARY OR, IN THE CASE OF AN INFUSION FOOD

ESTABLISHMENT, A PERSON OR ENTITY AUTHORIZED BY STATE LAW TO INFUSE EDIBLE FOOD PRODUCTS, WHO DOES:

- a. COMPLY WITH ALL REGISTRATION AND RECORDKEEPING REQUIRED BY THE CITY OF CHANDLER, MARICOPA COUNTY AND ARIZONA LAW.
- b. OBTAIN, MAINTAIN AND DISPLAY A VALID CITY OF CHANDLER BUSINESS REGISTRATION OR LICENSE AS MAY BE REQUIRED BY CITY CODE.
- c. NOT PROVIDE OFF-SITE DELIVERIES OF MEDICAL MARIJUANA TO A CARDHOLDER.
- d. NOT SELL MERCHANDISE OTHER THAN MEDICAL MARIJUANA AND RELATED SUPPLIES.
- e. NOT HAVE OR OPERATE DRIVE-THROUGH FACILITIES OR TAKE-OUT WINDOWS.
- f. NOT EMIT DUST, FUMES, VAPORS OR ODORS INTO THE ENVIRONMENT.
- g. PROHIBIT CONSUMPTION OF MEDICAL MARIJUANA ON THE PREMISES.
- h. NOT PERMIT OUTDOOR SEATING ANYWHERE ON THE PREMISES. WHERE THE PREMISES IS LOCATED WITHIN A LARGER COMMERCIAL OR INDUSTRIAL DEVELOPMENT HAVING WALKWAYS OR OTHER COMMON AREA CONTAINING ALREADY EXISTING OUTDOOR SEATING REQUIRED AS A CONDITION OF THE ZONING FOR THE DEVELOPMENT, THEN NO NEW OUTDOOR SEATING SHALL BE LOCATED IMMEDIATELY ADJACENT TO THE PREMISES.
- i. ALLOW ANNUAL FIRE INSPECTIONS PURSUANT TO THE CITY OF CHANDLER CODE.
- j. HAVE OPERATING HOURS NOT EARLIER THAN 9:00 A.M. AND NOT LATER THAN 7:00 P.M.

(f) *SEPARATION REQUIREMENTS.* A MEDICAL MARIJUANA FACILITY OR A MEDICAL MARIJUANA CULTIVATION SITE SHALL BE LOCATED A MINIMUM DISTANCE FROM THE USES SET FORTH IN *TABLE 305.6.F. MEDICAL MARIJUANA FACILITIES LOCATION REQUIREMENTS.*

MEASUREMENTS SHALL BE MADE IN A STRAIGHT LINE IN ANY DIRECTION FROM THE CLOSEST EXTERIOR WALL OF THE MEDICAL MARIJUANA FACILITY OR MEDICAL MARIJUANA CULTIVATION SITE TO THE NEAREST PROPERTY LINE OF ANY PARCEL CONTAINING USES IDENTIFIED IN THE TABLE. NO SEPARATION IS REQUIRED WHEN A MEDICAL MARIJUANA FACILITY OR A MEDICAL MARIJUANA CULTIVATION SITE IS SEPARATED FROM ANOTHER SUCH FACILITY OR SITE BY A FREEWAY.

**TABLE 305.6.F MEDICAL MARIJUANA FACILITIES LOCATION REQUIREMENTS**

USE OR USE CLASSIFICATION	SEPARATION REQUIREMENT (FEET)
ANOTHER MEDICAL MARIJUANA FACILITY OR CULTIVATION SITE	5,280
DAY CARE CENTER, PUBLIC OR PRIVATE	1,320
PUBLIC OR PRIVATE PARK	1,320
PLACE OF WORSHIP	1,320
CHARTER SCHOOLS, PUBLIC SCHOOLS OR PRIVATE SCHOOLS	1,320
RESIDENTIAL ZONING DISTRICT BOUNDARY	1,320
PUBLIC LIBRARY	1,320
HOSPITALS, PUBLIC OR PRIVATE	1,320

NOTE: AS PART OF THE USE PERMIT REVIEW PROCESS, THE CITY COUNCIL MAY ALLOW MINOR DEVIATIONS TO THE SEPARATION REQUIREMENTS IF COUNCIL FINDS THAT, UNDER THE PARTICULAR CIRCUMSTANCES, THE SUBJECT PREMISES IS SO LOCATED AS TO SATISFY THE INTENT OF THE SEPARATION REQUIREMENTS.

(g) *ISSUANCE OF USE PERMIT:*

1. A USE PERMIT ISSUED UNDER THIS SUBSECTION SHALL BE VALID FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF CITY COUNCIL APPROVAL OF THE USE PERMIT APPLICATION, EXCEPT AS PROVIDED IN PARAGRAPH (g)2 BELOW.

2. A USE PERMIT ISSUED UNDER THIS SUBSECTION (6) SHALL BE DEEMED VOID AND TO HAVE AUTOMATICALLY EXPIRED IF THE PERMITTED USE IS NOT COMMENCED BY THE PERMIT HOLDER OR SUBSTANTIAL CONSTRUCTION HAS NOT TAKEN PLACE WITHIN NINE (9) MONTHS AFTER THE DATE OF CITY COUNCIL APPROVAL.

3. THE VALIDITY OF A USE PERMIT UNDER THIS SUBSECTION (6) IS FURTHER CONDITIONED UPON THE PERMIT HOLDER AND THE PERMITTED PREMISES BEING AT ALL TIMES IN

COMPLIANCE WITH APPLICABLE CITY BUILDING CODES, DEVELOPMENT STANDARDS AND OTHER LAND USE REGULATIONS STATED IN THE ZONING CODE OR ANY OTHER ORDINANCE OR CODE ADOPTED BY THE CITY OF CHANDLER.

(h) *NONTRANSFERABILITY OF USE PERMIT:* A USE PERMIT ISSUED UNDER THIS SUBSECTION IS NOT TRANSFERABLE TO ANY OTHER LOCATION OR PREMISES, NOR IS IT VALID FOR ANY OTHER USE OR BUSINESS ASSOCIATED WITH A MEDICAL MARIJUANA DISPENSARY THAT IS NOT SPECIFICALLY IDENTIFIED IN THE USE PERMIT.

(i) *PERMIT RENEWAL:*

1. A USE PERMIT UNDER THIS SUBSECTION (6) MAY BE RENEWED BY FILING AN APPLICATION FOR RENEWAL ON A FORM PROVIDED BY THE ZONING ADMINISTRATOR. THE APPLICATION FOR RENEWAL SHALL BE RECEIVED BY THE ZONING ADMINISTRATOR NOT LESS THAN SEVENTY (70) DAYS BEFORE THE EXPIRATION OF THE PERMIT. WHEN THE APPLICATION FOR RENEWAL IS RECEIVED LESS THAN SEVENTY (70) DAYS BEFORE THE EXPIRATION DATE, THE EXPIRATION OF THE USE PERMIT SHALL NOT BE DELAYED, POSTPONED OR OTHERWISE AFFECTED.

2. AN APPLICATION FOR RENEWAL SHALL BE CONSIDERED FOLLOWING THE SAME PROCEDURES AS AN ORIGINAL APPLICATION. THE APPLICATION FOR RENEWAL MAY BE DENIED FOR ANY REASON THAT AN ORIGINAL APPLICATION MAY BE DENIED OR REVOKED.

3. A MEDICAL MARIJUANA FACILITY OR MEDICAL MARIJUANA CULTIVATION SITE LAWFULLY OPERATING IS NOT RENDERED IN VIOLATION OF THE DISTANCE REQUIREMENTS SET FORTH IN 305(6)(f) IF, SUBSEQUENT TO THE INITIAL GRANTING OF THE USE PERMIT UNDER THIS SUBSECTION (6), ANY OF THE USES IDENTIFIED IN TABLE 305(6)(f) ARE CONSTRUCTED OR LOCATED WITHIN THE REQUIRED SEPARATION AREA. THIS PROVISION APPLIES ONLY TO THE RENEWAL OF A VALID USE PERMIT AND DOES NOT APPLY WHEN AN APPLICATION FOR A USE PERMIT IS SUBMITTED AFTER A USE PERMIT HAS EXPIRED OR HAS BEEN REVOKED.

(j) *REVOCATION OR SUSPENSION:* A USE PERMIT ISSUED PURSUANT TO THIS SUBSECTION (6) IS SUBJECT TO REVOCATION OR SUSPENSION IN ACCORDANCE WITH PROVISIONS OF SUBSECTION 35-305(1) THAT ADDRESS THE ISSUE OF REVOCATION OR SUSPENSION.

SECTION III. Section 35-2100, Article XXI. "TABLE OF PERMITTED USES FOR NONRESIDENTIAL DISTRICTS", Chapter 35, Chandler City Code, is hereby amended by adding the following uses to read as follows:

USES	DISTRICTS				
	C-1	C-2	C-3	I-1	I-2
MEDICAL MARIJUANA DISPENSARY:					
MEDICAL MARIJUANA FACILITY		UP	UP		
MEDICAL MARIJUANA CULTIVATION SITE				UP	UP
INFUSION FOOD ESTABLISHMENT				UP	UP

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

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

\_\_\_\_\_  
MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

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

\_\_\_\_\_  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4278 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2011, and that a quorum was present thereat.

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

Approved as to form:

\_\_\_\_\_  
CITY ATTORNEY *GAB*  
Published: