

ORDINANCE NO. 4855

AN ORDINANCE OF THE CITY OF CHANDLER, ARIZONA, AMENDING THE CHANDLER CITY CODE, CHAPTER 35 (LAND USE AND ZONING), BY AMENDING ARTICLE XXII. ADDITIONAL HEIGHT AND AREA REGULATIONS, SECTION 35-2213 RELATING TO MEDICAL MARIJUANA FACILITIES, CULTIVATION SITES, AND INFUSION FOOD ESTABLISHMENTS, TO ELIMINATE A PROHIBITION ON DELIVERIES AND CERTAIN MERCHANDISE SALES, AND TO ALLOW OPERATING HOURS UNTIL 10:00 P.M.; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, in accordance with A.R.S. 9-462, the legislative body may adopt by ordinance, any change or amendment to the regulations and provisions as set forth in the Chandler Zoning Code; and

WHEREAS, this amendment, including proposed text revisions, has been published in a local newspaper with general circulation in the City of Chandler, giving fifteen (15) day notice of time, date and place of public hearing; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission as required by the Zoning Code, on December 5, 2018;

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

Section 1. Subsection 35-2213, entitled *Medical Marijuana Facility, Medical Marijuana Cultivation Site, and Infusion Food Establishment*, of Article XXII of Chapter 35 of the Chandler City Code (Zoning Code) is hereby amended to read as follows (additions in **underline**, deletions in **~~strikeout~~**):

35-2213. - 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 Section.

1. *Eligible Zoning Districts.*

A. 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 zoning clearance for such use.

B. 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 zoning clearance for such use.

2. *Application.* Medical marijuana facilities, medical marijuana cultivation sites and infusion food establishments shall submit a completed zoning clearance application with supplemental materials as required by the Planning Division. The application shall contain the following information:

A. The location of the premises at which the medical marijuana facility, the medical marijuana cultivation site, or infusion food establishment will be operated.

B. 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.

C. If the premises identified in the application is not owned by the medical marijuana dispensary making application for the zoning clearance, a written statement signed by the property owner authorizing the applicant to apply for the zoning clearance for the premises and consenting to the use being requested in the application.

D. A site plan for the property on which the premises is located showing lot dimensions with front, sides and rear setbacks, and, where applicable, its location within the larger development in which the property may be situated.

E. 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 zoning clearance 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.

F. Other pertinent information as needed to determine compliance with the provisions of this Section (35-2213) as required by the Planning Division.

3. *Approval Criteria.* The Zoning Administrator may approve a zoning clearance application to operate a medical marijuana facility, a medical marijuana cultivation site, or an infusion food establishment upon finding that the request complies with the following criteria:

A. The request is in conformance with the General Plan and its policies.

B. The request is in full conformance with the provisions of this Section (35-2213).

C. The request is in full compliance with Chapter 29 Building Regulations of the City Code, all development standards and other land use regulations stated in the Zoning Code or any other ordinance or code adopted by the City of Chandler.

D. The request will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

E. The medical marijuana facility, a medical marijuana cultivation site, or an infusion food establishment:

1) Is located in a permanent building and is not located in a temporary structure, trailer, cargo container, motor vehicle, or other similar non-permanent enclosure.

2) Is not larger than two thousand five hundred (2,500) gross square feet for a medical marijuana facility and three thousand (3,000) gross square feet for a medical marijuana cultivation site. The secure storage area does not exceed five hundred (500) square feet in a medical marijuana facility and one thousand (1,000) square feet in a medical marijuana cultivation site.

3) Does not have or operate drive-through facilities or take-out windows.

4) Will not emit dust, fumes, vapors or odors into the environment.

5) Is 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:

i. Comply with all registration and recordkeeping required by the City of Chandler, Maricopa County and Arizona Law.

ii. Obtain, maintain and display a valid City of Chandler business registration or license as may be required by City Code.

~~iii. Not provide off-site deliveries of medical marijuana to a cardholder.~~

~~iv. Not sell merchandise other than medical marijuana and related supplies.~~

iiiv. Prohibit consumption of medical marijuana on the premises.

ivi. 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.

vii. Allow annual fire inspections pursuant to the City of Chandler Code.

viii. Have operating hours not earlier than 9:00 a.m. and not later than ~~7:00~~ **10:00** 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 2213.3(F) Separation 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. The separation requirements set forth in Table 2213.3(F) shall not be reduced through a variance, Planned Area Development (PAD), or any other manner.

Table 2213.3(F) Separation 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 school, public or private school or college	1,320
Residential zoning district boundary	1,320
Public library	1,320
Hospital, public or private	1,320

Section 2. Providing for Repeal of Conflicting Ordinances.
All ordinances or parts of ordinances in conflict with the provisions of this ordinance, or any parts hereof, are hereby repealed.

Section 3. Providing for Severability.
If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. Providing for Penalties.

A violation of this ordinance is a class one misdemeanor and upon conviction shall be punishable as provided for in Sections 1-8 and 35-2700 of the Chandler City Code.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this 13th day of December, 2018.

ATTEST:

Dana R. Dely
CITY CLERK

Kevin Hantke
MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this 10th day of January, 2019.

ATTEST:

Dana R. Dely
CITY CLERK

Kevin Hantke
MAYOR

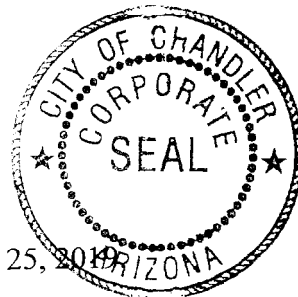
CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4855 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 10th day of January, 2019, and that a quorum was present thereat.

Dana R. Dely
CITY CLERK

APPROVED AS TO FORM

[Signature]
CITY ATTORNEY



PUBLISHED in the Arizona Republic on January 18, and January 25, 2019.