

# NOTICE OF PUBLIC HEARINGS PLANNING AND ZONING COMMISSION CHANDLER CITY COUNCIL

NOTICE OF PUBLIC HEARINGS to be held by the City of Chandler Planning and Zoning Commission on **AUGUST 2, 2017** at 5:30 P.M. and the Chandler City Council on **AUGUST 7, 2017** at 7:00 P.M. in the **City Council Chambers, 88 East Chicago Street**, Chandler, Arizona.

## **ZCA17-0001 CITY OF CHANDLER / MEDICAL MARIJUANA CODE AMENDMENT**

City initiative to amend Chapter 35 (Zoning Code) of the Chandler City Code regarding medical marijuana facilities, cultivation sites and infusion food establishments as follows:

Revisions Key:

**All edits are in bold text**

~~Strikethrough~~ text indicates proposed text deletion

Underlined text indicates proposed new text

Regular text (not bold, underlined or strikethrough) indicates existing/unchanged City Code text

~~35-305(4)~~ 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 ~~sub~~Section.

### ~~1.(a)~~ ~~Basic use provisions~~ Eligible Zoning Districts.

~~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.~~

~~2A.~~ 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 zoning clearance for such use.

~~3B.~~ 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 zoning clearance for such use.

~~2.(b)~~ -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:~~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:~~

~~1A.~~ The location of the premises at which the medical marijuana facility, the medical marijuana cultivation site, or infusion food establishment will be operated.

~~2B.~~ 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.

~~3C.~~ If the premises identified in the application is not owned by the medical marijuana dispensary making application for the ~~use~~ permit zoning clearance, a written statement signed by the property owner authorizing the applicant to apply for the ~~use~~ permit zoning clearance for the premises and consenting to the use being requested in the application.

**4D.** 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.

**5E.** 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~~**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 (2213) as required by the Planning Division.**

~~3.(e) Review Approval Criteria. The review and approval of an application for a use permit. 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: 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(4)(e) and 35-305(4)(f) below.~~

- 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 (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:
    - 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. Prohibit consumption of medical marijuana on the premises.
    - f. 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.
    - g. Allow annual fire inspections pursuant to the City of Chandler Code.
    - h. 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 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.

<b>Table 2213.3(F) Separation Requirements</b>	
<u>Use or Use Classification</u>	<u>Separation Requirement (feet)</u>
<u>Another medical marijuana facility or cultivation site</u>	<u>5,280</u>
<u>Day care center, public or private</u>	<u>1,320</u>
<u>Public or private park</u>	<u>1,320</u>
<u>Place of worship</u>	<u>1,320</u>
<u>Charter school, public schools or private schools</u>	<u>1,320</u>
<u>Residential zoning district boundary</u>	<u>1,320</u>
<u>Public library</u>	<u>1,320</u>
<u>Hospital, public or private</u>	<u>1,320</u>

~~(d) Approval. An application for a use permit under this subsection (4) 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 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 shall 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) 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(4)(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.

<b>Table 2213.3(F) Medical Marijuana Facilities Location Requirements</b>	
<b>Use or Use Classification</b>	<b>Separation Requirement (feet)</b>
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 schools or private schools	1,320
Residential zoning district boundary	1,320
Public library	1,320
Hospital, 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.

4.(g) Issuance of use permit zoning clearance.

~~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.~~

~~A. Approval of such a zoning clearance application shall not be construed as any endorsement by the City of the use or operation for which the zoning clearance has been requested by the applicant. The review time for said zoning clearance application shall conform to the time frames adopted by the City as required by Arizona Revised Statutes which are posted on the City's website.~~

~~2.B. A use permit zoning clearance issued under this Subsection (4)Section (2213) shall be deemed void and to have automatically expired if the permitted use is not commenced by the permit zoning clearance 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 (4) 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.~~

5.(h) Nontransferability of use permit zoning clearance. A use permit zoning clearance issued under this ~~sub~~Section (2213) 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 zoning clearance.

(i) Permit renewal:

~~1. A use permit under this Subsection (4) 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(4)(f) if, subsequent to the initial~~

~~granting of the use permit under this Subsection (4), any of the uses identified in Table 305(4)(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.~~

**6. Zoning clearance denial and appeal process.**

- A. The Zoning Administrator, upon finding that the information presented in a zoning clearance application for a medical marijuana facility, medical marijuana cultivation site, or an infusion food establishment does not comply with the requirements set forth in this Section (2213) shall issue a notice of denial that specifies the grounds therefore.**
- B. The applicant may appeal the Zoning Administrator’s decision to deny the issuance of a zoning clearance to the Board of Adjustment pursuant to the appeal procedures provided under Section 2503 of this Zoning Code.**

~~7.(4) Revocation or suspension of zoning clearance.~~

- ~~**A. The Zoning Administrator may suspend or revoke a zoning clearance upon finding: A use permit issued pursuant to this Subsection (4) is subject to revocation or suspension in accordance with provisions of Subsection 35-305(1) that address the issue of revocation or suspension.**~~
  - 1). Material noncompliance with the requirements prescribed in this Section (2213); and/or**
  - 2). Operation of the permitted use in such a manner as to cause a substantial detrimental impact on neighboring persons or property.**
- B. To suspend or revoke a zoning clearance, the Zoning Administrator shall deliver or mail by certified mail to the address indicated on the zoning clearance and, if different from application address, the address of the property subject to the zoning clearance, a written notice that the zoning clearance is suspended or revoked and which states the grounds therefore.**
- C. Upon written request received by the Zoning Administrator within ten (10) days of the date of the notice by the zoning clearance holder, or any person whose use of the subject property will be adversely affected by the suspension or revocation, the matter will be referred to the Board of Adjustment on an appeal pursuant to the appeal procedures provided under Section 2503 of this Zoning Code. If an appeal is not received within ten (10) days of the notice, the suspension or revocation shall take effect on the eleventh day after the date of notice.**
- D. The decision of the Board of Adjustment may be appealed as provided in Section 2503 of this Zoning Code.**

Section 35-2100

Table of Permitted Uses for Nonresidential District

Uses	Districts				
	C-1	C-2	C-3	I-1	I-2
Medical Marijuana <b>(see footnote #3 at end of table)</b>					
Facility <sup>3</sup>		<b>X UP</b>	<b>X UP</b>		
Cultivation site <sup>3</sup>				<b>X UP</b>	<b>X UP</b>
Infusion food establishment <sup>3</sup>				<b>X UP</b>	<b>X UP</b>

**3) Medical marijuana facilities, medical marijuana cultivation sites and infusion food establishments shall be permitted in the specified districts only upon obtaining a zoning clearance in accordance with Section 35-2213 of this Code.**

For additional information, please contact David de la Torre, Principal Planner with the City of Chandler at (480) 782-3059.

Dated the 12th day of July 2017.

Publish in the Arizona Republic on July 18, 2017.