



City of Phoenix
PLANNING AND DEVELOPMENT SERVICES

Staff Report
Zoning Ordinance Text Amendment

Application Z-TA-8-15; Request: Amend Section 202 (Definitions) to add definitions for youth community center and homeless shelter and clarify dependent care facility. Amend Section 603 (Suburban S-1 District – Ranch or Farm Residence), Section 604 (Suburban S-2 District – Ranch or Farm Commercial), Section 623 (Commercial C-2 District – Intermediate Commercial), and Section 627 (Industrial A-1 District – Light Industrial District) of the Phoenix Zoning Ordinance related to the sales, cultivation and infusion facilities for medical marijuana. The text amendment would include increasing the separation from places of worship and residentially zoned properties and adding separation from dependent care facilities (daycares), homeless shelters, and youth community centers within the commercial, industrial, ranch or farm residence, and ranch or farm commercial zoning districts and other sections of the ordinance as appropriate.

Staff recommendation: Staff recommends approval of Z-TA-8-15 as shown in the recommended text in Attachment A.

PURPOSE/BACKGROUND

The intent of this text amendment is to reassess the current zoning regulations for medical marijuana facilities within Phoenix and update as necessary.

The voters of the State of Arizona passed the Arizona Medical Marijuana Act (AMMA), Proposition 203, on November 2, 2010. In an effort to ensure patient access, Arizona Department of Health Services (ADHS) limited the number of registered dispensaries according to geographic regions referred to as Community Health Analysis Areas (CHAA). CHAAs were initially developed by ADHS using census data to divide the population by location and density. Because of this, more densely populated areas have more CHAAs. ADHS originally allowed one (1) dispensary registration certificate to be issued per CHAA. Qualifying patients who register with the ADHS will be able to obtain medical marijuana from nonprofit dispensaries licensed by ADHS. The law limits the number of facilities based on the number of licensed pharmacies within the State of Arizona. The City of Phoenix established medical marijuana regulations in 2010, prior to the regulations adopted by the state.

The State of Arizona regulations allow dispensaries to move locations within their CHAA at any time and outside of their CHAA, to anywhere in the state, after three years of operation (R9-17-306.B.1.a). Because the majority of dispensaries operating in Arizona were issued certificates in 2012, most are now eligible to relocate. August 2015 was the first time when dispensary certificate holders could move outside of the assigned areas. In order to relocate, a medical marijuana dispensary must do the following:

- complete an application with ADHS
- submit copies of use/occupancy permits issued by local jurisdictions
- submit an attestation that the location meets local zoning requirements
- submit a detailed site/ floor plan, and
- pay a \$2,500 fee

The time frame for ADHS to process a location change is 90 days from the day all required materials are submitted.

In addition, the number of dispensary certificates are based on the number of pharmacies within the state. For every 10 pharmacies, one dispensary certificate will be released. The initial number of dispensaries were 126 with 98 certificates being granted in 2011. Since that time, several pharmacies have opened. ADHS will be accepting applications for new dispensary certificates this summer. There are established priorities for where the new dispensaries will be located. Arizona Administrative Code R9-17-303 describes the process. It can be found at this webpage:

http://apps.azsos.gov/public_services/Title_09/9-17.pdf

There is also a ballot initiative being proposed for recreational marijuana. The Campaign to Regulate Marijuana like Alcohol is heading ballot language for “Regulation and Taxation of Marijuana Act.” It would propose establishing a Department for Marijuana Licenses and Control, similar to the Department of Liquor Licenses and Control for the state. It would also allow cities to prohibit new marijuana facilities but would not allow cities to prevent the reorganization of medical marijuana facilities to recreational facilities.

The purpose of this text amendment is to update some of the separation requirements for medical marijuana uses within Phoenix. The language proposes to increase the separation from medical marijuana dispensaries and residentially zoned properties and medical marijuana facilities and places of worship. The text will also create separation distances between medical marijuana uses and dependent care facilities (daycare), homeless shelters, and youth community centers.

Conclusion

This text amendment will amend the medical marijuana regulations within the City of Phoenix. The separation from places of worship and residentially zoned properties will be increased. Separation from licensed daycare facilities, homeless shelters, and youth community centers will be added to the Zoning Ordinance.

Staff recommends approval of the change to the Zoning Ordinance as proposed in Attachment A.

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3/4/16

Attachments

A. Proposed Language

ATTACHMENT A
Staff Proposed Language

Amend Section 202 (Definitions) by adding and amending the following definitions in correct alphabetical order:

COMMUNITY CENTER, YOUTH: AN 18,000 SQUARE FOOT OR LARGER BUILDING WHERE A NON-PROFIT ENTITY OFFERS STRUCTURED, COMPREHENSIVE EDUCATIONAL AND PERSONAL DEVELOPMENT FOR PERSONS UNDER 18 YEARS OF AGE.

Dependent Care Facility: A facility that regularly provides day care for persons for less than ~~24~~^{twenty-four} hours. Dependent care solely includes childcare LICENSED BY THE STATE OF ARIZONA.

HOMELESS SHELTER: A FACILITY PROVIDING TEMPORARY HOUSING TO INDIGENT, NEEDY, HOMELESS, OR TRANSIENT PERSONS; MAY ALSO PROVIDE ANCILLARY SERVICES SUCH AS COUNSELING, OR VOCATIONAL TRAINING.

Amend Section 603.A (Suburban S-1 District – Ranch or Farm Residence) by amending paragraph 15.a.(4), 15.g and 15.h to read as follows:

- a. 4) A survey sealed by a registrant of the State of Arizona shall be submitted to show compliance with the distance requirements listed below ~~if the proposed facility is within 110% of the minimum distance from the proposed facility.~~
- g. Shall not be located within 1,320 feet of a preschool, kindergarten, elementary, secondary or high school, public park, public community center, DEPENDENT CARE FACILITY, HOMELESS SHELTER, OR YOUTH COMMUNITY CENTER. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted to the property line of the protected use.
- h. Shall not be located within ~~500~~ 1,320 feet of a place of worship. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted to the property line of the place of worship.

Amend Section 604.A (Suburban S-2 District – Ranch or Farm Commercial) by amending paragraph 9.a.(4), 9.g and 9.h to read as follows:

- a. 4). A survey sealed by a registrant of the State of Arizona shall be submitted to show compliance with the distance requirements listed below if ~~the proposed facility is within 110% of the minimum distance from the proposed facility.~~
- g. Shall not be located within 1,320 feet of a preschool, kindergarten, elementary, secondary or high school, public park, public community center, DEPENDENT CARE FACILITY, HOMELESS SHELTER, OR YOUTH COMMUNITY CENTER. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted to the property line of the protected use.
- h. Shall not be located within ~~500~~ 1,320 feet of a place of worship. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted to the property line of the place of worship.

Amend Section 623.D (Commercial C-2 District – Intermediate Commercial) by amending paragraph 122, 122.a.(4), 122.d, 122.e, and 122.f to read as follows:

122. Nonprofit medical marijuana dispensary facility, subject to the following conditions and limitations; failure to comply with the below regulations and requirements IS SUBJECT TO REVOCATION PER SECTION 307 ~~shall result in non-compliance and is subject to revocation or denial of the use permit.~~
- a. 4) A survey sealed by a registrant of the State of Arizona shall be submitted to show compliance with the distance requirements listed below if ~~the proposed facility is within 110% of the minimum distance from the proposed facility.~~
 - d. Shall not be located within ~~250~~ 500 feet of a residentially zoned districts: S-1, S-2, RE-43, RE-35, R1-18, R1-14, R1-10, R1-8, R1-6, R-2, R-3, R3-A, R-4, R-4A, R-5, and PAD-1 through PAD-15. This distance shall be measured from the exterior walls of the building or portion thereof in which the ~~cultivation~~ dispensary business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned district.
 - e. Shall not be located within 1,320 feet of a preschool, kindergarten, elementary, secondary or high school, public park, public community center, DEPENDENT CARE FACILITY, HOMELESS SHELTER, OR YOUTH COMMUNITY CENTER. This distance shall be measured from the exterior walls of the building or portion thereof in which the dispensary business is conducted to the property line of the protected use.

- f. Shall not be located within ~~500~~ 1,320 feet of a place of worship. This distance shall be measured from the exterior walls of the building or portion thereof in which the dispensary business is conducted to the property line of the place of worship.

Amend Section 627.D (Industrial A-1 District – Light Industrial District) by amending paragraphs 1, 91, 91.a.(4), 91.e, 91.f, 92, 92.a.(4), 92.d, 92.e, 92.f, 93, 93.a.(4), 93.d, and 93.e to read as follows:

1. Residential uses subject to a use permit. The use permit requirement shall not apply to HOMELESS shelters ~~and dormitories intended to provide temporary shelter~~ if such uses are located on a lot or parcel which is at least thirteen hundred twenty (1,320) feet from a residential district.
91. Medical marijuana cultivation subject to the following conditions and limitations; FAILURE TO COMPLY WITH THE BELOW REGULATIONS AND REQUIREMENTS IS SUBJECT TO REVOCATION PER SECTION 307:
 - a. 4) A survey sealed by a registrant of the State of Arizona shall be submitted to show compliance with the distance requirements listed below ~~if the proposed facility is within 110% of the minimum distance from the proposed facility.~~
 - e. Shall not be located within 1,320 feet of a preschool, kindergarten, elementary, secondary or high school, public park, public community center, DEPENDENT CARE FACILITY, HOMELESS SHELTER, DORMITORY, OR YOUTH COMMUNITY CENTER. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted to the property line of the protected use.
 - f. Shall not be located within ~~500~~ 1,320 feet of a place of worship. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted to the property line of the place of worship.
92. Medical marijuana dispensary facility, subject to the following conditions and limitations; failure to comply with the below regulations and requirements IS SUBJECT TO REVOCATION PER SECTION 307 ~~shall result in non-compliance and is subject to revocation or denial of the use permit.~~

- 4) A survey sealed by a registrant of the State of Arizona shall be submitted to show compliance with the distance requirements listed below ~~if the proposed facility is within 110% of the minimum distance from the proposed facility.~~
 - d. Shall not be located within ~~250~~ 500 feet of a residentially zoned districts: S-1, S-2, RE-43, RE-35, R1-18, R1-14, R1-10, R1-8, R1-6, R-2, R-3, R3-A, R-4, R-4A, R-5, and PAD-1 through PAD-15. This distance shall be measured from the exterior walls of the building or portion thereof in which the ~~cultivation~~ dispensary business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned district.
 - e. Shall not be located within 1,320 feet of a preschool, kindergarten, elementary, secondary or high school, public park, public community center, DEPENDENT CARE FACILITY, HOMELESS SHELTER, OR YOUTH COMMUNITY CENTER. This distance shall be measured from the exterior walls of the building or portion thereof in which the dispensary business is conducted to the property line of the protected use.
 - f. Shall not be located within ~~500~~ 1,320 feet of a place of worship. This distance shall be measured from the exterior walls of the building or portion thereof in which the dispensary business is conducted to the property line of the place of worship.
93. Medical marijuana infusion production facility, subject to the following conditions and limitations; failure to comply with the below regulations and requirements IS SUBJECT TO REVOCATION PER SECTION 307 ~~shall result in non-compliance and is subject to revocation or denial of the use permit.~~
 - a.
 - 4) A survey sealed by a registrant of the State of Arizona shall be submitted to show compliance with the distance requirements listed below ~~if the proposed facility is within 110% of the minimum distance from the proposed facility.~~
 - d. Shall not be located within 1,320 feet of a preschool, kindergarten, elementary, secondary or high school, public park, public community center, DEPENDENT CARE FACILITY, HOMELESS SHELTER, OR YOUTH COMMUNITY CENTER. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted to the property line of the protected use.

- e. Shall not be located within ~~500~~ 1,320 feet of a place of worship. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted to the property line of the place of worship.
