



Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: May 20, 2019

Re: Medical Marijuana UDC Text Amendment (Case # 103-2019)

Executive Summary

Approval of the attached ordinance will authorize amendments to Sections 29-1.11 [Definitions], 29-3.2 [Permitted Use Table], and 29-3.3 [Use-specific Standards] of the Unified Development Code (UDC) by adding definitions, permissible zoning districts, and use-specific standards relating to the medical marijuana facilities pursuant to the passage of Amendment 2 (aka Article XIV of the Missouri Constitution) on November 6, 2018.

Discussion

On November 6, 2018, Missouri voters approved Amendment 2 to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. Amendment 2 requires that the State Department of Health and Senior Services (DHSS) promulgate regulations that will govern the licensure and operation of cultivation, dispensary, infused-products manufacturing, and test facilities. Furthermore, Amendment 2 authorizes local government the ability to adopt time, place, and manner of operation ordinances to permit the orderly integration of these new facilities within their communities. Such ordinances cannot conflict with the State regulations and shall not make the operation of such facilities "unduly burdensome. "

The Unified Development Code (UDC) and other related city ordinances do not address medical marijuana as a permissible land use or business activity. As such, and in view of the authority granted under Amendment 2, the attached UDC amendment has been prepared following review of other jurisdictions' land use regulations, review of proposed DHSS regulatory standards, and consultation with industry representatives, other legal professionals, and City leadership. Additionally, staff performed land use analysis related to the proposed 1,000-foot separation buffer from churches (places of worship), day care centers, and schools, and the impacts of reductions to the proposed 1,000-foot buffer. The attached May 9, 2019, staff report to the Planning and Zoning Commission provides details relating to the proposed amendments.

Additional City Code changes will be presented to address City business licensure standards as well as health and environmental control procedures. These proposed amendments will be presented separately at a future Council meeting. Given the DHSS release of State licensure provisions on June 4, it is believed that the proposed UDC amendments are the minimum provisions needed to establish time, place, and manner of operation standards governing the four medical marijuana facilities authorized by Amendment 2.



Amendment of Three Sections

Three (3) sections of the UDC are proposed to be amended to accommodate the facilities types. These sections are 29-1.11 [Definitions], 29-3.2 [Permitted Use Table], and 29-3.3 [Use-specific Standards]. Definitions, consistent with those provided within Amendment 2, would be added to Section 29-1.11 for each facility type. Section 29-3.2 would be revised to establish permissible zoning districts for each facility type. Section 29-3.3 would be revised to include new “use-specific standards” applicable to each facility type and are intended to address the unique operational characteristics these new facilities will create within the local land use pattern. The use-specific standards will augment, not replace, other Federal or State requirement.

Work Sessions and Hearing

The Planning and Zoning Commission held public work sessions on April 11 and April 18 to discuss the amendments at which time staff communicated that “time was of the essence” to ensure the City was positioned to have time, place and manner of operation standards prior to DHSS’ anticipated release of State licensure application criteria on June 4, 2019. Following conclusion of the April 18 work session, it was determined that additional Planning Commission work session discussion would not yield substantive input beyond what would be expressed during the required public hearing on the amendments. Given such conclusion, staff scheduled a public hearing for the Commission’s May 9, 2019 Regular Meeting.

As scheduled, the Planning and Zoning Commission considered the proposed text amendment on May 9, 2019. The majority of public comments expressed concerns with the proposed amendments. Concerns were expressed that the regulations were arbitrary and “unduly burdensome,” did not focus on patient access, failed to not recognize significant M-DT voter support, were unnecessary until DHSS adopted its regulations, may reduce economic revenue generation by limiting licenses on cultivation and manufacturing facilities, and should have allowed dispensaries anywhere a pharmacy/drug store could be located.

Comments were also offered regarding the 1,000-foot buffer from churches, schools, and daycares and its impact on access to dispensaries specifically within the M-DT. Several speakers stated that such distance was unnecessary for crime prevention or neighborhood protections. Comments were also offered on how Columbia is considered a “hub” for medical services and that the restrictions appear to contradict this belief. There were several comments critical of the second story location requirement within the M-DT and how that limited access for the population most supportive of the amendment. One individual did express support for the cautious approach expressed in the proposed amendments.

Following the conclusion of the public hearing, Commissioners offered individual comments regarding their thoughts on the proposed amendments. Comments included dissatisfaction with the manner in which the amendment was being presented, zoning districts locations for facility types, general licensure limits, limits based on population estimates, the 1000-foot



buffer specifically applied to dispensaries, second story access within the M-DT, hours of operation limits, restriction on use of mobile structures, requirements for signage and equipment removal, special plan review requirements, limiting the vision of "medical tourism," reclassification of dispensaries as a "retail" use not a separate use.

Commission Recommendation

The following motions and votes were cast by the Commission relative to each of the proposed amendments. Where a Commission recommendation differs from the staff recommendation, the Commission recommendation is shown in **bold, red italic** text. A verbatim transcript of the meeting's proceedings is attached providing Commission rationale for recommended modifications.

Amendment to Section 29-1.11 [Definitions] – **Approved** as presented (8-1)

Amendments to Section 29-3.2 [Permitted Use Table] –

Cultivation Facility (IG and A districts), as presented – **Denied** (5-4)

Commission recommendation - M-BP (new), IG, A districts – **Approved (6-2-1)**

Testing Facility (M-C, M-BP, and IG districts), as presented – **Approved** (8-0-1)

Dispensary Facility (M-C, M-DT, and IG districts), as presented – **Approved** (6-2-1)

Infused Manufacturing (M-BP, and IG districts), as presented – **Denied**

Commission recommendation - M-C (new), M-BP, and IG districts – **Approved (8-0-1)**

Amendments to Section 29-3.3 [Use-specific Standards] and creation of subsection (qq) -

(qq) (1) – 1,000-foot separation, as presented – **Denied**

Commission recommendation - "Dispensaries shall not be located within **250-feet** of an existing public or private elementary or secondary school, family daycare or religious institution as those terms are defined in Chapter 29. All other facilities shall not be located with **500-feet** of an existing public or private elementary or secondary school, family daycare or religious institution as those terms are defined in Chapter 29". **Approved (5-3-1)**

(qq) (2, 3, 4) – Licensure Limits, as presented – **Approved**

Commission recommendation - Delete item (qq) 2, 3, 4 in their entirety – **No recommendation (4-4-1), due to tie vote pursuant to Commission Rules of Procedure**

(qq) (5) – Tenant space occupancy, as presented – **Approved** (8-0-1)



(qq) (6) - Dispensary separation in multi-tenant retail/commercial buildings, generally, and secondary story location in the M-DT district, specifically, as presented – **Denied**

Commission recommendation - “Medical Marijuana Dispensary Facilities may be located within a multi-tenant retail-commercial building provided such facilities are separated from other tenants by full walls separating each tenant space. ~~When located within the M-DT (Mixed-use Downtown) district, such facilities shall only be permitted within a second-story tenant space.~~ **Approved (8-0-1)**

(qq) (7, 8) – Hours of operation and operation within fully enclosed buildings, as presented – **Approved (7-1-1)**

(qq) (9) – No mobile structures shall be used to house a facility type – **Denied**

Commission recommendation- Delete item in its entirety – **Approved (8-0-1)**

(qq) (10, 11, 12, 13, 14) – Visual integration, odor mitigation, waste generation, signage, exterior site/security lighting, as presented – **Approval (8-0-1)**

(qq) (15) – Signage and facility equipment removal, as presented – **Denied**

Commission recommendation- Delete item in its entirety – **Approved (8-0-1)**

(qq) (16, 17, 18) – Security, operations & management, and emergency plans, State and local licensure, “use-specific standards” in addition to federal and state requirements, as presented – **Approval (7-1-1)**

A copy of the Planning and Zoning Commission staff report, text amendment, Separation Maps (City-wide and M-DT and M-N district), and meeting excerpts are attached.

Following the Planning Commission public hearing and for reference purposes only, three additional Separation Maps have been prepared and are attached for review. Two maps (City-wide and M-DT district) depict the recommended 250-foot buffer for dispensary facilities. The third map (City-wide) depicts the 500-foot buffer for all other facilities.

Fiscal Impact

Short-Term Impact: Impacts will include increased administrative costs associated to evaluate land use, business licensure, and potential health inspections to ensure compliance. Application fees may or may not cover such incurred expenses.

Long-Term Impact: Long-term impacts may include increased public safety expenditures, land use, licensure, and health inspection costs. Such costs may or may not be off-set by application fees or increased revenue collection.



Strategic & Comprehensive Plan Impact

Strategic Plan Impacts:

Primary Impact: Economy, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

Comprehensive Plan Impacts:

Primary Impact: Economic Development, Secondary Impact: Not applicable, Tertiary Impact: Not Applicable

Legislative History

Date	Action
N/A	N/A

Suggested Council Action

Adopt the May 3, 2019 Draft Ordinance as presented by staff.

Alternatively, adopt the amended Draft Ordinance as recommended by the Planning and Zoning Commission following its May 9, 2019 public hearing pursuant to the changes noted above.