

ORDINANCE NO. 1397.17.37

AN ORDINANCE OF THE CITY OF CASA GRANDE, ARIZONA AMENDING TITLE 17 OF THE CITY OF CASA GRANDE MUNICIPAL CODE BY ADDING DEFINITIONS, ESTABLISHING ZONING DISTRICTS AND, ESTABLISHING REGULATIONS AND REQUIREMENTS FOR THE DISPENSING, CULTIVATING, INFUSING, AND USE OF MEDICAL MARIJUANA; ESTABLISHING THE SEVERABILITY OF THE VARIOUS SECTIONS OF THE ORDINANCE; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on November 29, 2010, the Arizona Secretary of State certified the election results of the November General Election during which Proposition 203 entitled “The Arizona Medical Marijuana Act” was passed by the voters of Arizona; and

WHEREAS, the Arizona Medical Marijuana Act allows qualifying patients with a debilitating medical condition to obtain marijuana from a dispensary for use in treating or alleviating the debilitating medical condition; and

WHEREAS, the Arizona Medical Marijuana Act allows cities to enact zoning regulations that limit the use of land for medical marijuana dispensaries; and

WHEREAS, the possession, delivery, manufacture, cultivation, and sale of marijuana is currently illegal under the both the federal Controlled Substances Act and the Arizona Controlled Substances Act; and

WHEREAS, nothing in this Ordinance is intended, nor shall be construed, to assist, permit, or condone any violation of federal or state law; and

WHEREAS, many jurisdictions around the country that have approved medical marijuana uses have reported significant nuisance issues, such as mobile marijuana dispensaries and a proliferation of medical marijuana dispensaries, as well as significant negative secondary impacts such as an increase in the occurrence of crime associated with medical marijuana dispensaries and cultivation locations that opened and operated subsequent to the adoption of state laws permitting their operation; and

WHEREAS, the negative secondary impacts that other jurisdictions have experienced through various nuisance issues and the increase in the occurrence of crime associated with medical marijuana dispensaries and cultivation centers requires the City to determine which zoning regulations will best limit the use of land within the City of Casa Grande to mitigate those negative secondary impacts in order to protect the health, safety, and welfare of the citizens of the City of Casa Grande; and

WHEREAS, the Mayor and City Council of the City of Casa Grande find the zoning restrictions in this Ordinance strike the appropriate balance between the intent of the Arizona Medical Marijuana Act and the mitigation of the negative secondary impacts that are associated with medical marijuana dispensaries and cultivation locations; and

WHEREAS, the Mayor and City Council of the City of Casa Grande further finds that the zoning regulations adopted by this Ordinance are in the best interests of the City of Casa Grande and the health, safety, and welfare of its citizens.

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

Section 1: Chapter 17.12 (Definitions) of Title 17 of the Casa Grande Municipal Code is amended by adding Sections 17.12.941, 17.12.942, 17.12.943, 17.12.944, 17.12.945, 17.12.946, and 17.12.947 to read as follows:

17.12.941 Medical marijuana

“Medical marijuana” means all parts of the plant genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient’s debilitating medical condition.

17.12.942 Medical marijuana cultivation facility

“Medical marijuana cultivation facility” shall mean a building, structure, or premises used for the cultivation or storage of medical marijuana that is physically separate and off-site from a medical marijuana dispensary. This includes any building, structure, or premises used for cultivation by either a qualifying patient or a designated caregiver other than those accessory uses permitted pursuant to Table 17.16.030(A).

17.12.943 Medical marijuana dispensary

“Medical marijuana dispensary” means a nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2804 that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients. A medical marijuana dispensary as defined herein shall not cultivate or infuse marijuana onsite.

17.12.944 Medical marijuana dispensary cultivation facility

“Medical marijuana dispensary cultivation facility” shall mean a building, structure or premises where marijuana will be cultivated for sale at a nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2804.

17.12.945 Medical marijuana infusion facility

“Medical marijuana infusion facility” means a facility that incorporates medical marijuana (cannabis) into consumable/edible goods by the means of cooking, blending, or any other type of incorporation.

17.12.946 Medical marijuana uses

“Medical marijuana uses” shall include collectively medical marijuana cultivation facilities, medical marijuana dispensaries, medical marijuana dispensary cultivation facilities and medical marijuana infusion facilities.

17.12.947 Qualifying patient/caregiver cultivation location

“Qualifying patient/caregiver cultivation location” means any building, structure, or premises used for the cultivation of marijuana by either a qualifying patient and/or qualified caregivers who meet the following requirements:

1. The cultivator is either:
 - a) a qualifying patient pursuant to A.R.S. §36-2801(13) who has received his/her registry identification card from the Arizona Department of Health Services; or
 - b) a designated caregiver pursuant to A.R.S. §36-2801(5) who has received his/her registry identification card from the Arizona Department of Health Services.
2. The cultivation is done only at the address approved by the Arizona Department of Health Services; and
3. The building, structure, or premises used for the cultivation is at least twenty-five (25) miles from the nearest medical marijuana dispensary.

Section 2: Chapter 17.16 (Establishment of Zones) of Title 17 of the Casa Grande City Code is amended by adding a new Permitted Accessory Use to Section C (Permitted Accessory Uses) of Table 17.16.030(A) entitled “Qualifying patient/caregiver cultivation location as defined by and subject to the provisions of Section 17.12.947.” The table shall be further amended to show that “Qualifying patient/caregiver cultivation location” shall be a permitted accessory use in all of the residential zone districts in the table.

Section 3: Chapter 17.16 (Establishment of Zones) of Title 17 of the Casa Grande City Code is amended by adding a new row to Table 17.16.030(B) entitled “Medical marijuana uses”. The table shall be further amended to show that “Medical marijuana uses” shall be a principally permitted use in the I-1 and I-2 zone districts subject to the restrictions set forth in Chapter 17.52, Article VII.

Section 4: Chapter 17.16 (Establishment of Zones) of Title 17 of the Casa Grande City Code is amended by adding a new row to Table 17.16.030(B) entitled “Medical marijuana dispensaries within the overlay area defined by Section 17.62.610.” The table shall be further amended to show that this use shall be a specifically permitted use in the B-2, B-3, and B-4 zone districts.

Section 5: Chapter 17.30 (Commercial Office Zone) of Title 17 of the Casa Grande City Code is amended by adding Section 17.30.020(E) to read in its entirety: “Medical marijuana dispensaries within the overlay area defined by Section 17.62.610.”

Section 6: Chapter 17.40 (Planned Area Development Zone) of Title 17 of the Casa Grande City Code is amended by adding Section 17.40.020(D)(3) to read in its entirety as follows:

Medical marijuana uses shall not be allowed on any property zoned P.A.D. unless either:
a) the use is specifically allowed by the P.A.D. Guide that governs said property; or b) the property is within a P.A.D. that primarily allows I-1 and/or I-2 land uses. Medical marijuana dispensaries may also be allowed within a P.A.D. that meets the requirements of Section 17.52.610.

Section 7: Chapter 17.52 (General Building and Development Standards) of Title 17 of the Casa Grande City Code is amended by adding new Article VII entitled “Medical Marijuana Uses” and subsequent subsections, as follows:

Article VII. Medical Marijuana Uses

17.52.570 Application of this article.

The requirements of this article shall apply to all medical marijuana uses.

17.52.580 Days and hours of operation.

A medical marijuana dispensary shall only be allowed to operate Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m.

17.52.590 Development standards.

All medical marijuana uses shall:

1. Be located in a permanent building housing only one user or tenant, except that a medical marijuana dispensary may be in a permanent building housing more than one tenant provided that the walls separating the dispensary tenant space from the adjoining tenant space(s) are constructed to one of the following standards extending from the floor to the roof deck:
 - a) Minimum 6 inch Masonry
 - b) Interior wall covered with sheet metal, a minimum of 18 gauge, and one layer ½” plywood fastened with screws to the interior wall studs.
 - c) Construction designs approved by the Building Official as providing equivalent level of security.
2. Provide a monitored security alarm system.
3. May not be located in a trailer, cargo container, or motor vehicle.
4. Not have drive-through service.
5. Not emit dust, fumes, vapors, or odors into the environment above ambient levels.
6. Not provide offsite delivery of medical marijuana to qualified patients.
7. Prohibit consumption of marijuana on the premises.
8. Not have outdoor seating areas.
9. Display a current City of Casa Grande business license applicable to medical marijuana uses.

17.52.600 Distance requirements.

Medical marijuana uses shall meet the following minimum separations, measured in a straight line from the boundary of the parcel containing the medical marijuana use to the property boundary of the parcel containing any existing uses listed below:

1. 500 feet from any other medical marijuana use.

2. 500 feet from a substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.
3. 500 feet from any residential dwelling or any platted residential subdivision.
4. 1000 feet from a public or private school.
5. 1000 feet from a daycare center providing care to minor children.
6. 500 feet from a public library or public park.
7. 500 feet from a church or religious institution.
8. 500 feet from any airport.

17.52.610 Medical Marijuana Dispensary Overlay Zone

Notwithstanding any other provision of this Code, a medical marijuana dispensary shall be principally permitted on any property that allows medical offices, clinics, or other medical facilities provided (a) said property is located within the following boundaries: north of Florence Boulevard, south of McMurray Road, east of Arizola Road, and west of Henness Road; and (b) it also meets all distance separation requirements prescribed in Section 17.52.600. All dispensaries permitted by this Section shall also be subject to all other requirements, restrictions, and prohibitions set forth in this Chapter 17.52, Article VII.

17.52.620 Prohibitions.

A medical marijuana cultivation facility not associated with a medical marijuana dispensary is prohibited, and only one medical marijuana cultivation facility shall be permitted for the single medical marijuana dispensary with which it is associated.

Section 8. 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 9. The Mayor and Council have determined that it is necessary for the proper preservation of the peace, health and safety of the City of Casa Grande, Arizona, that the provisions of this Ordinance be effective immediately upon its passage. Accordingly, the Mayor and Council declare an emergency to exist, and this Ordinance shall be effective immediately upon its final adoption by the Mayor and Council.

Section 10. The effective date of this Ordinance shall be March 7, 2011.

APPROVED this 7th day of March, 2011, by the affirmative vote of three-fourths of the members of the Council of the City of Casa Grande, Arizona.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney