

## PROPOSED AMENDMENTS OF CHAPTER 36

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SUBJECT: Proposed Amendments to Various Provisions of Chapter 36 of the Code of Ordinances (the Zoning Ordinance) regarding placement of medical marijuana dispensaries and cultivation facilities in compliance with Amendment 98 to the Arkansas State Constitution.

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### STAFF REPORT:

The Medical Marijuana Amendment of 2016, Amendment 98, authorizes the cultivation and distribution of medical marijuana. Three state agencies are involved in implementing the provisions of the amendment. The Medical Marijuana Commission and the Alcoholic Beverage Control Division administer and enforce the provisions of the amendment concerning the location of the dispensaries and cultivation facilities and the application process for operators of those entities. The Department of Health will issue registry cards for patients.

Under Amendment 98, dispensaries are limited to between twenty (20) and forty (40) in the State, with no more than four (4) dispensaries in any one county. The Amendment permits at least four (4) but no more than eight (8) cultivation facilities in the State. The Medical Marijuana Commission has authorized thirty-two (32) dispensaries and five (5) cultivation facilities. One cultivation facility is to be located in the central region of the state and the other four are to be located in each corner quadrant.

The rules adopted by the Medical Marijuana Commission include a requirement that any cultivation facility be at least 3,000 feet from a public or private school, church or daycare existing before the date of the cultivation facility application. The separation requirement from those protected uses is 1,500 feet for a dispensary. The distance is to be measured property line to property line.

The Amendment permit cities, incorporated towns or counties to enact reasonable zoning regulations applicable to medical marijuana dispensaries and cultivation facilities, provided that those zoning regulations are the same as those for a retail pharmacy.

Staff believes it is appropriate to incorporate the state-defined terms “medical marijuana dispensary” and “medical marijuana cultivation facility” into the City’s zoning ordinance and to place those two uses in the various zoning districts where “drugstore or pharmacy” are permitted either by-right, as an accessory use or as a conditional use.

Under the City’s zoning regulations, a drugstore or pharmacy is permitted in the O-2 and O-3 office zoning districts as an accessory use not to occupy more than ten (10) percent of the total floor area on the site. The use is permitted by-right

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in the C-1, C-2 and C-3 Commercial Districts and as a conditional use in the C-4 Commercial and I-1, I-2 and I-3 Industrial Districts.

Staff believes it is appropriate to make the following amendments to Chapter 36:

1. Amend Chapter 36., Section 36-3 to add a new defined term “Medical Marijuana Cultivation Facility” to read as follows:

*Medical Marijuana Cultivation Facility* means an entity which has been licensed by the Medical Marijuana Commission and operated in compliance with all applicable state rules that cultivates, prepares, manufactures, processes, packages, sells and delivers usable marijuana to a dispensary.

2. Amend Chapter 36., Section 36-3 to add a new defined term “Medical Marijuana Dispensary” to read as follows:

*Medical Marijuana Dispensary* means an entity that has been licensed by the Medical Marijuana Commission and operated in compliance with all applicable state rules that sells medical marijuana. This term also includes cultivating dispensaries.

3. Amend Chapter 36., Sections 36-280.(c) (2) and 36-281. (b)(2) [O-2 and O-3 Accessory Uses] to add and separately list “Medical Marijuana Cultivation Facility” and “Medical Marijuana Dispensary” to the listing of accessory uses.
4. Amend Chapter 36., Sections 36-299.(c) (1), 36-300.(c) (1) and 36-301.(c) (1) [C-2, C-3 and C-4 permitted uses] to add and separately list “Medical Marijuana Cultivation Facility” and “Medical Marijuana Dispensary” to the listing of permitted uses.
5. Amend Chapter 36., Sections 36-302.(c) (2), 36-319.(c) (2), 36-320.(c) (2) and 36-321.(c) (2) [C-4, I-1, I-2 and I-3 conditional uses] to add and separately list “Medical Marijuana Cultivation Facility” and “Medical Marijuana Dispensary” to the listing of conditional uses.

Notice of the proposed Ordinance Amendments was sent to the contact list of 44 neighborhood coalitions and other interested parties.

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STAFF RECOMMENDATION:

Staff recommends approval of the proposed amendments.

PLANNING COMMISSION ACTION:

(JUNE 22, 2017)

Staff presented the item and a recommendation of approval. Tim Daters, of 300 East 3<sup>rd</sup> Street, spoke to the commission and asked why the change was being proposed. He stated the uses were to be regulated by the State and it was not necessary to make the proposed code changes.

The planning staff explained the desire to place the uses in the code so as to eliminate any questions about where the uses would be permitted. Staff stated the proposed changes complied with the requirement under the amendment to treat the medical marijuana dispensaries and cultivation facilities in the same manner as retail pharmacies.

After a brief discussion, a motion was made to approve the proposed changes. The motion was seconded and approved by a vote of 10 ayes, 1 no and 0 absent.