

CITY COUNCIL REPORT



Meeting Date: March 29, 2016
General Plan Element: *Land Use*
General Plan Goal: *Create a sense of community through land uses*

ACTION

Medical Marijuana Text Amendment Initiation 65-PA-2016

Request to consider the following:

1. Discussion and possible initiation of a Zoning Ordinance text amendment regarding the Conditional Use Permit criteria for Medical Marijuana uses, including but not limited to separation requirements and location criteria.

Related Policies, References:

- Zoning Ordinance
- 8-TA-2010: Approved a zoning ordinance text amendment for the purpose of creating ordinance regulations resulting from and related to the legalization of the medical use of marijuana (Arizona Proposition 203).
- 8-TA-2010#2: Approved a zoning ordinance text amendment updating regulations related to medical marijuana uses, which clarified separation requirements from multi-family residential uses, clarified the intent of school protections, and combined dispensary uses in to one medical marijuana use.
- Arizona Revised Statutes, Title 36, Chapter 28.1
- Arizona Department of Health Services, Title 9, Chapter 17

APPLICANT CONTACT

Bryan Cluff, Senior Planner
City of Scottsdale
480-312-2258

LOCATION

City-wide

BACKGROUND

State Regulations

In 2012, the Arizona Department of Health Services (ADHS) based locations of Medical Marijuana facilities on established Community Health Analysis Areas, or “CHAAs”. There are seven (7) CHAAs that overlap the Scottsdale city limits. Two CHAAs cover the vast majority of the city. Five other CHAAs extend into the edges of the city limits. Originally, the ADHS limited the number of Medical Marijuana licenses to one (1) per CHAA. However, once a licensed facility in good standing has been in operation for three (3) or more years, State rules allow the owner of the facility to relocate their license within the state based on market demand.

Although ADHS is not issuing any new licenses for Medical Marijuana facilities, there are currently no State regulations in place to limit the relocation of existing licensed facilities.

Possible Legislation:

There are a number of ballot initiatives obtaining signatures that are proposing legalization of recreational marijuana use within the State of Arizona. If these initiatives obtain the required amount of signatures, they may appear on the 2016 State-wide election ballot.

City Regulations

The City allows Medical Marijuana Uses, including dispensaries, in only a few zoning districts (Industrial Park (I-1), Commercial Office (C-O), and Special Campus (SC)). In each of these zoning districts, a Conditional Use Permit is required for Medical Marijuana Uses to demonstrate compliance with specific criteria, including separation and compatibility requirements. The current limited zoning district locations, separation requirements, and market forces will influence the eventual number of Medical Marijuana facilities. See Attachment #3 for a map showing possible locations of future Medical Marijuana facilities within the City of Scottsdale.

Existing Conditional Use Permit Criteria:

- 1. All operations are conducted within a completely enclosed building, in conformance with Arizona Revised Statutes, Title 36, Chapter 28.1, Arizona Medical Marijuana Act, and regulations issued thereunder, as amended.*
- 2. The medical marijuana use is at least five hundred (500) feet from the following uses within the City limits:*
 - a. Any residential use in a residential district shown on Table 4.100.A., or the residential portion of a Planned Community PC or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., and*
 - b. Any elementary or secondary school.*
- 3. The medical marijuana use is at least one thousand three hundred twenty (1,320) feet from the following uses within the City limits:*
 - a. Medical marijuana caregiver cultivation, or*
 - b. Another medical marijuana use.*

However, no separation between these uses is required in the Industrial Park District I-1 where a medical marijuana caregiver cultivation use or a medical marijuana use hold a state issued caregiver registry identification card and/or a nonprofit medical marijuana dispensary registration certificate under the same name or organization.

- 4. All distances are measured from the wall of the medical marijuana use nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.*
- 5. The property owner has provided a written exterior refuse control plan, subject to City approval.*
- 6. The property owner has provided a written public safety plan, subject to City approval.*
- 7. The hours of operation for a medical marijuana use that provides, shares, exchanges, sells, or dispenses medical marijuana are no earlier than 6:00 a.m. and no later than 7:00 p.m.*
- 8. There is no drive-through service, take-out window, or drive-in service.*

DISCUSSION

When the Zoning Ordinance was revised in 2011 and updated in 2012, introducing the provisions and requirements for Medical Marijuana Uses in the City of Scottsdale it was anticipated, based on the State licensing requirements, that there would only be one (1) or two (2) Medical Marijuana Uses within the boundaries of the City. The current State requirements are allowing licensed facilities in good standing that have been in operation for three (3) or more years, to relocate their license anywhere within the State of Arizona. We are now seeing that some of these licensed facilities are interested in moving in to the Scottsdale market, and subsequently an increase in the number of Medical Marijuana Conditional Use Permit applications.

On July 1, 2015, the City Council approved a Conditional Use Permit for a Medical Marijuana Use in the airpark area. Then on January 11, 2016 another two (2) Conditional Use Permit applications for Medical Marijuana Uses were reviewed and approved by the City Council, bringing the total number of approved Medical Marijuana Uses in the City to five (5). Four (4) of these are in the airpark area. The two (2) Medical Marijuana Uses closest to each other are in the airpark area, separated by approximately 1,800 feet as measured from property line to property line. The separation between these two locations is 480 feet more than the current separation requirement of 1,320 feet, per the existing Medical Marijuana Use Permit Criteria. There are currently no active pending medical marijuana applications.

At the January 11, 2016 hearing, multiple Councilmembers gave direction for staff to schedule a City Council agenda item for discussion of the Conditional Use Permit criteria for Medical Marijuana Uses, more specifically, amending the criteria and/or other provisions within the Zoning Ordinance to further restrict the location and separation requirements for these uses, with the intent of reducing the number of potential locations within the City of Scottsdale.

Based on the direction from City Council, staff has prepared this discussion item and submits the following options:

- The Council may consider initiation of a text amendment to the Zoning Ordinance that will increase the distance of separation required between Medical Marijuana Uses. By way of increasing the minimum distance between locations, the potential number of Medical Marijuana Uses within the City would be reduced. As previously stated, the current separation requirement is 1,320 feet, and the two (2) closest existing locations are separated by approximately 1,800 feet. Given the proximity of the existing locations, if the criteria are amended to require a separation greater than 1,800 feet, the two (2) locations mentioned above would become legally non-conforming.
- The Council may consider initiation of a text amendment to the Zoning Ordinance that would further limit the zoning districts that allow medical marijuana uses. Currently, the City allows Medical Marijuana Uses, including dispensaries, in three (3) zoning district's (Industrial Park (I-1), Commercial Office (C-O), and Special Campus (SC)). In each of these zoning districts, a Conditional Use Permit is required for Medical Marijuana Uses to demonstrate compliance with specific criteria, including separation and compatibility requirements. Removing the Medical Marijuana Use provisions from one or more of the districts that currently allow the use will reduce the potential number of Medical Marijuana Uses within the City.

For reference, please see Attachment #4, which illustrates the existing potential Medical Marijuana Use locations by zoning district. As, shown in green on the map, the vast majority of potential locations is within the Industrial Park (I-1) district. Four (4) out of the five (5) existing locations are in the I-1 zoning district, with the fifth in the Commercial Office (C-O) district. Although this method may achieve the intent of reducing possible locations, there may be unintended legal consequences related to diminished property values due to removal of land use rights, and creation of non-conforming conditions for existing Medical Marijuana Uses.

- The Council may direct staff to conduct further analysis on regulatory options for Medical Marijuana Uses within the City of Scottsdale.
- The Council may choose to not take action at this time pending possible future legislation that may impact Medical Marijuana Use regulations.

OPTIONS

1. Initiate a text amendment to amend the Conditional Use Permit Criteria and/or other Zoning Ordinance provisions pertaining to Medical Marijuana Uses, based on the given direction.
2. Take no action at this time.

RESPONSIBLE DEPARTMENT(S)

Planning, Neighborhood and Transportation
Current Planning Services

STAFF CONTACTS (S)

Bryan Cluff
Senior Planner
480-312-2258
E-mail: bcluff@ScottsdaleAZ.gov

APPROVED BY



Bryan Cluff, Report Author

3/15/16

Date



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

3/14/2016

Date



Randy Grant, Administrator
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov

3/11/16

Date

ATTACHMENTS

1. Existing Conditional Use Permit Criteria for Medical Marijuana Uses
2. Community Health Analysis Areas (CHAA's) Map
3. Potential Medical Marijuana Use Locations Map
4. Potential Medical Marijuana Use Locations Map (by zoning district)

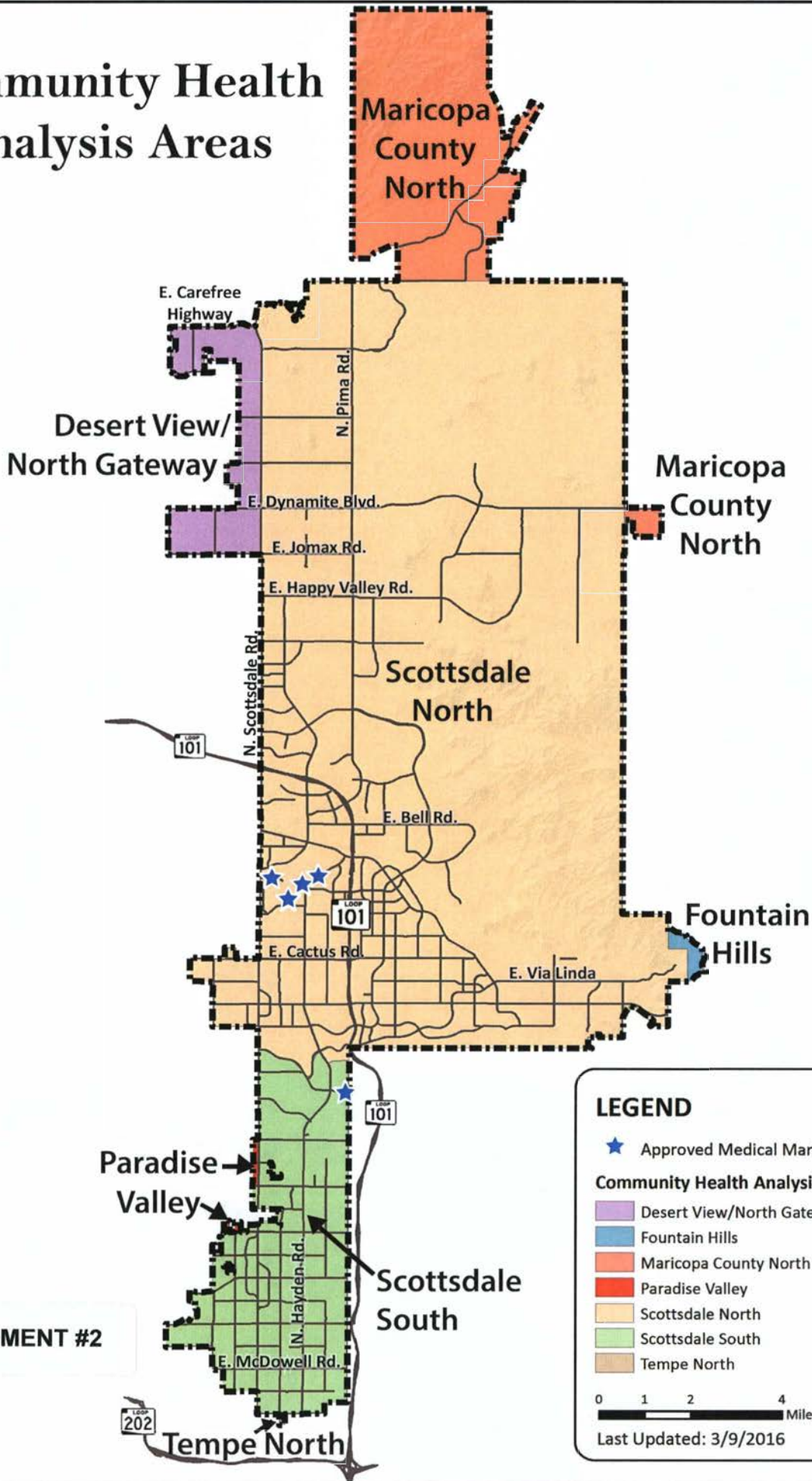
ADDITIONAL CRITERIA FOR MEDICAL MARIJUANA USE

M. Medical marijuana use.

- 1. All operations are conducted within a completely enclosed building, in conformance with Arizona Revised Statutes, Title 36, Chapter 28.1, Arizona Medical Marijuana Act, and regulations issued thereunder, as amended.**
- 2. The medical marijuana use is at least five hundred (500) feet from the following uses within the City limits:**
 - a. Any residential use in a residential district shown on Table 4.100.A., or the residential portion of a Planned Community PC or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., and**
 - b. Any elementary or secondary school.**
- 3. The medical marijuana use is at least one thousand three hundred twenty (1,320) feet from the following uses within the City limits:**
 - a. Medical marijuana caregiver cultivation, or**
 - b. Another medical marijuana use.**

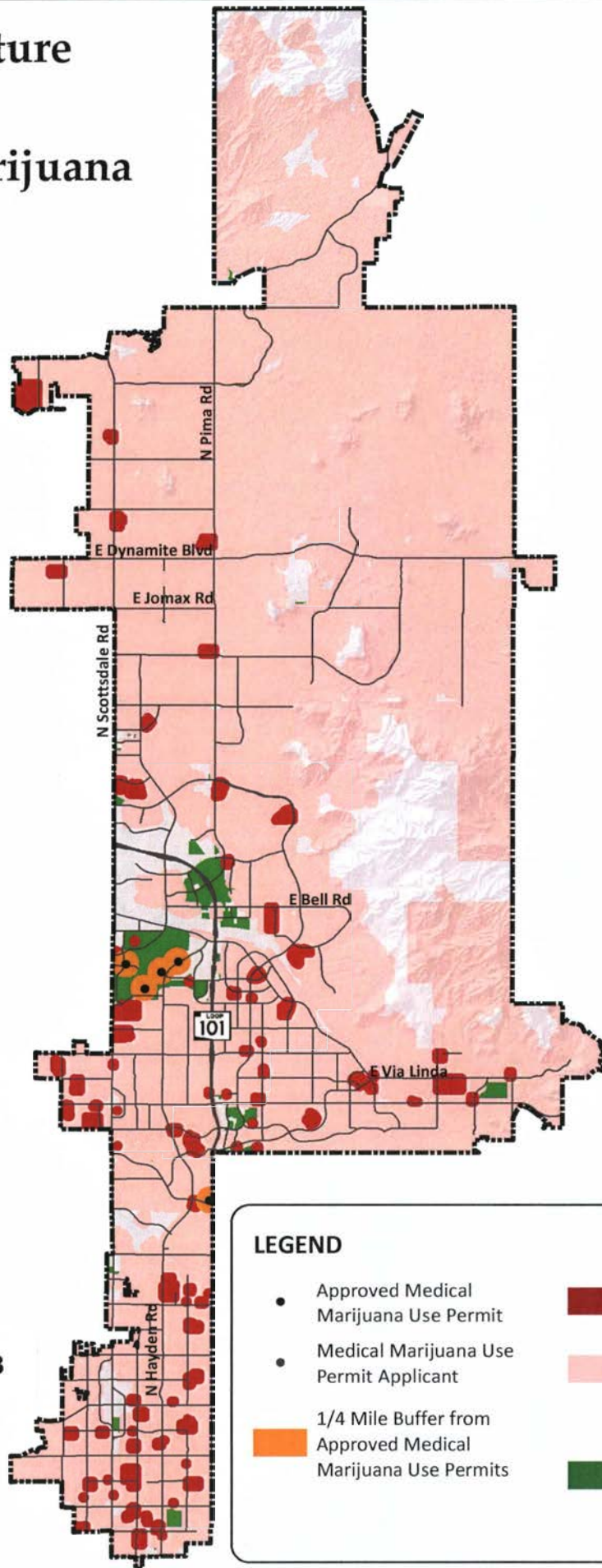
However, no separation between these uses is required in the Industrial Park District I-1 where a medical marijuana caregiver cultivation use or a medical marijuana use hold a state issued caregiver registry identification card and/or a nonprofit medical marijuana dispensary registration certificate under the same name or organization.
- 4. All distances are measured from the wall of the medical marijuana use nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.**
- 5. The property owner has provided a written exterior refuse control plan, subject to City approval.**
- 6. The property owner has provided a written public safety plan, subject to City approval.**
- 7. The hours of operation for a medical marijuana use that provides, shares, exchanges, sells, or dispenses medical marijuana are no earlier than 6:00 a.m. and no later than 7:00 p.m.**
- 8. There is no drive-through service, take-out window, or drive-in service.**

Community Health Analysis Areas



ATTACHMENT #2

Potential Future Locations of Medical Marijuana Uses

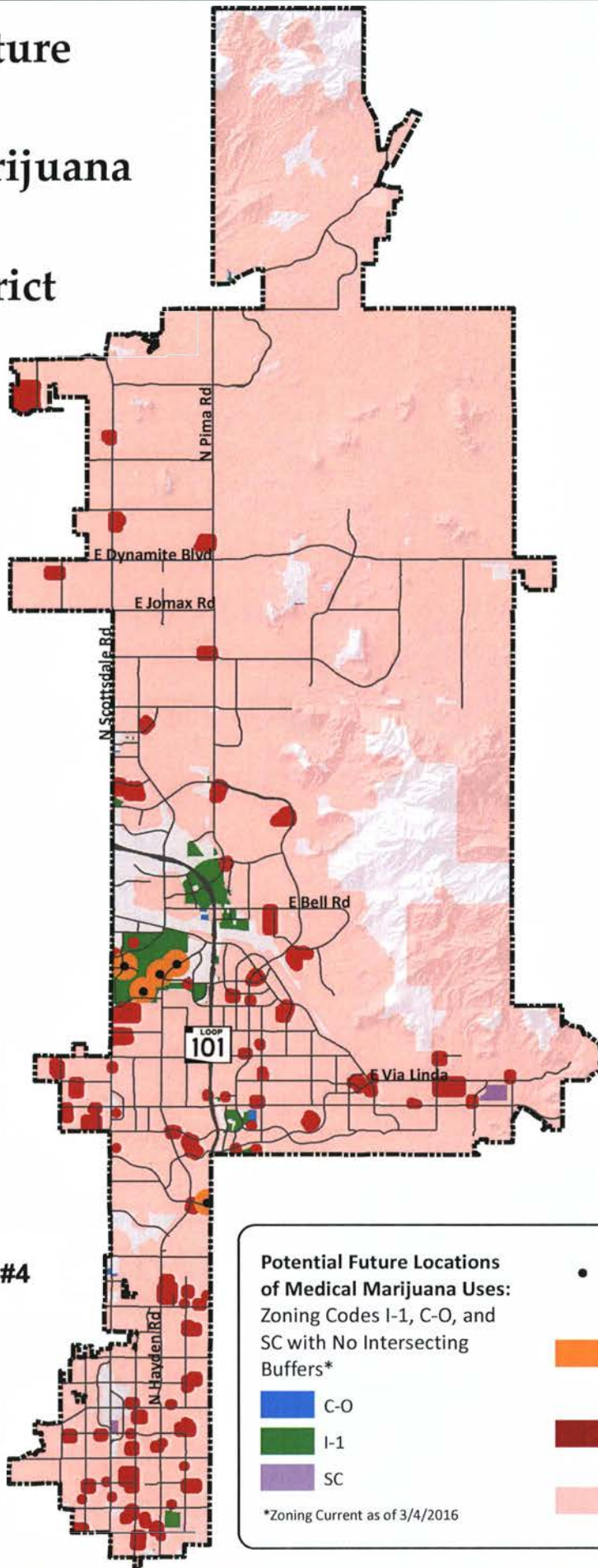


LEGEND

- Approved Medical Marijuana Use Permit
- Medical Marijuana Use Permit Applicant
- 1/4 Mile Buffer from Approved Medical Marijuana Use Permits
- 500' Buffer from Existing Schools
- 500' Buffer from Residential Areas
- Potential Future Locations of Medical Marijuana Uses:**
Zoning Codes I-1, C-O, and SC with No Intersecting Buffers

ATTACHMENT #3

Potential Future Locations of Medical Marijuana Uses by Zoning District



ATTACHMENT #4



Notice: This document is provided for general information purposes only. The City of Scottsdale does not warrant its accuracy, completeness, or suitability for any particular purpose. It should not be relied upon without field verification.

Potential Future Locations of Medical Marijuana Uses:
Zoning Codes I-1, C-O, and SC with No Intersecting Buffers*

- C-O
- I-1
- SC

*Zoning Current as of 3/4/2016

- Approved Medical Marijuana Use Permit
- 1/4 Mile Buffer from Approved Medical Marijuana Use Permits
- 500' Buffer from Existing Schools
- 500' Buffer from Residential Areas

Medical Marijuana Text Amendment Initiation

65-PA-2016

City Council

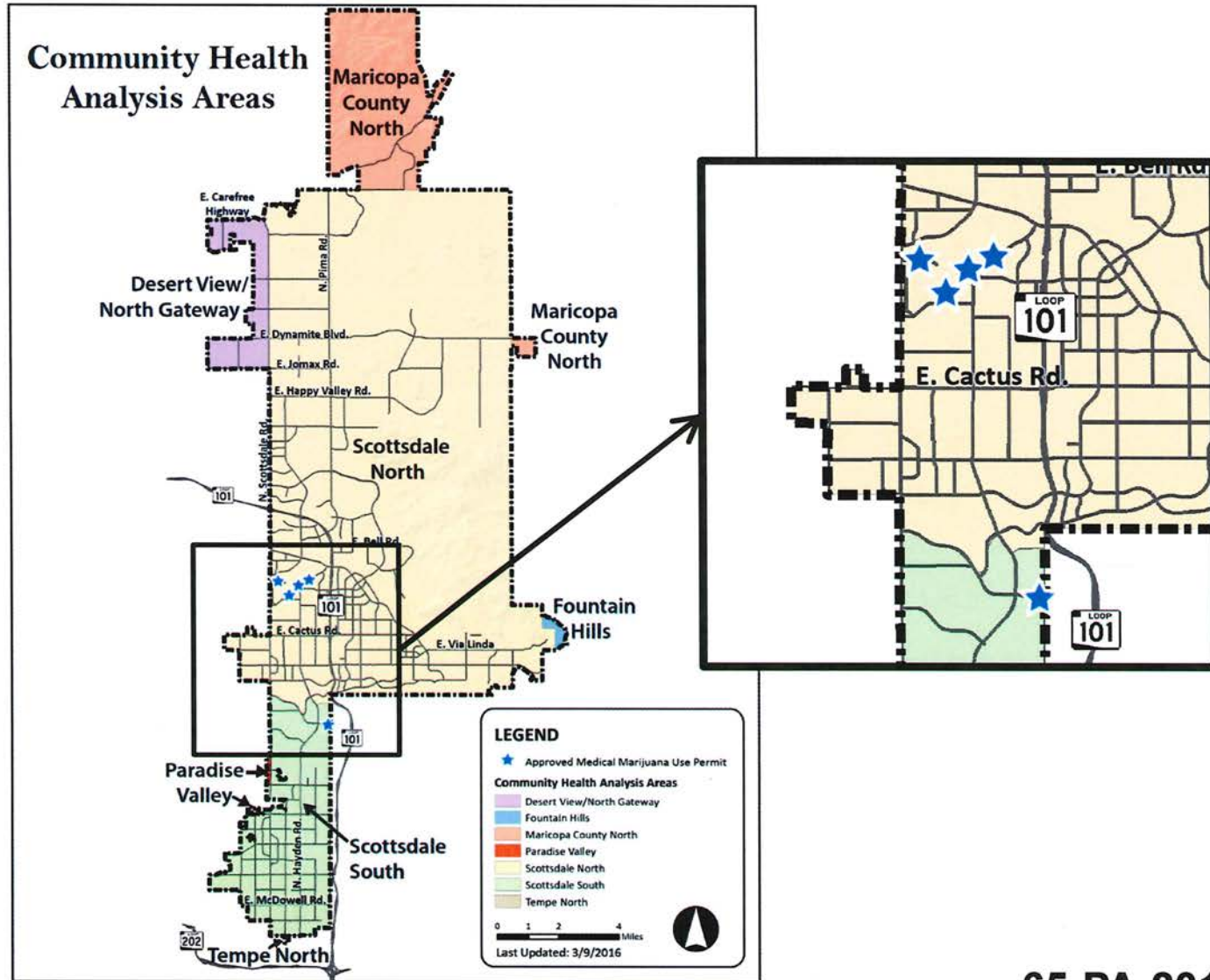
March 29, 2016

Coordinator: Bryan Cluff

Medical Marijuana Text Amendment

- In 2012 ADHS based locations on CHAA's (1 per CHAA).
- There are 7 CHAA's in Scottsdale, although 2 cover most of the city.
- After 3 years ADHS allows a facility to relocate.

Medical Marijuana Text Amendment



CHAA MAP

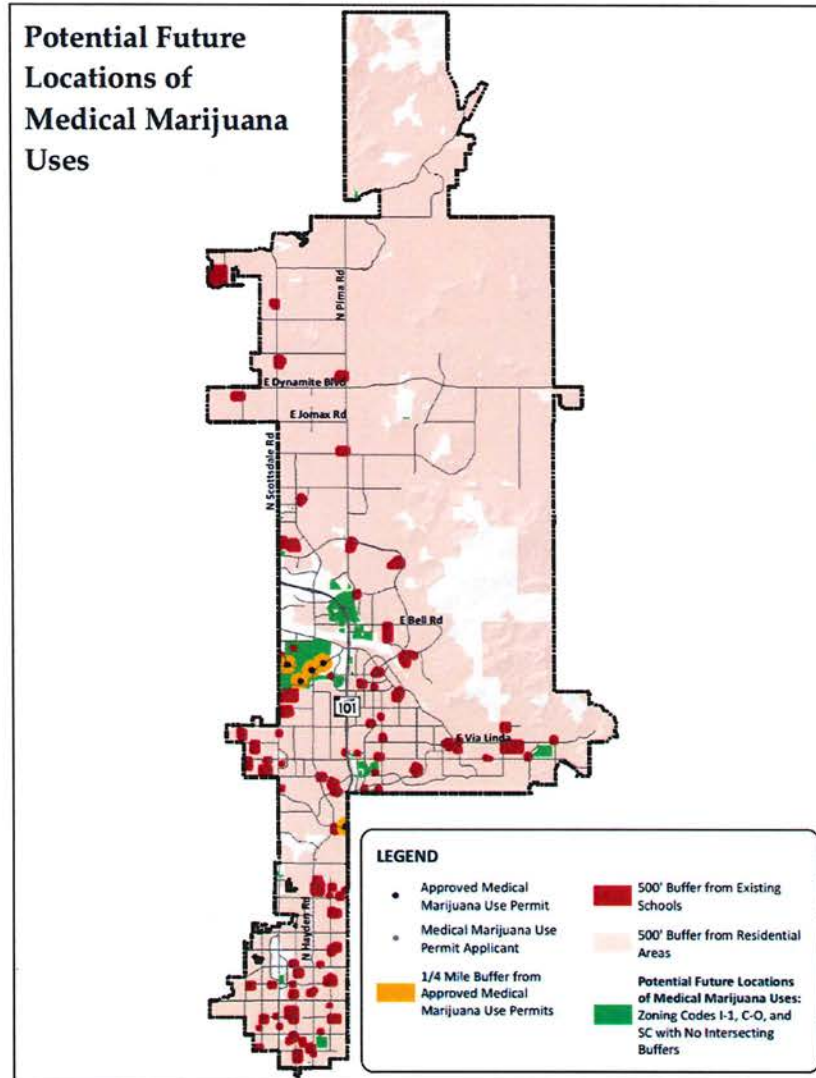
65-PA-2016

Medical Marijuana Text Amendment

Existing Conditional Use Permit Criteria

- Operations within enclosed building.
- At least 500 feet from:
 - Residential District
 - Elementary or Secondary School
- At least 1,320 feet from:
 - MMJ Caregiver Cultivation
 - Another MMJ Use
- Approval of Public Safety Plan
- Limited Hours of Operation - 6:00 am to 7:00pm
- No Drive-through, Take-out Window, or Drive-in Service

Medical Marijuana Text Amendment



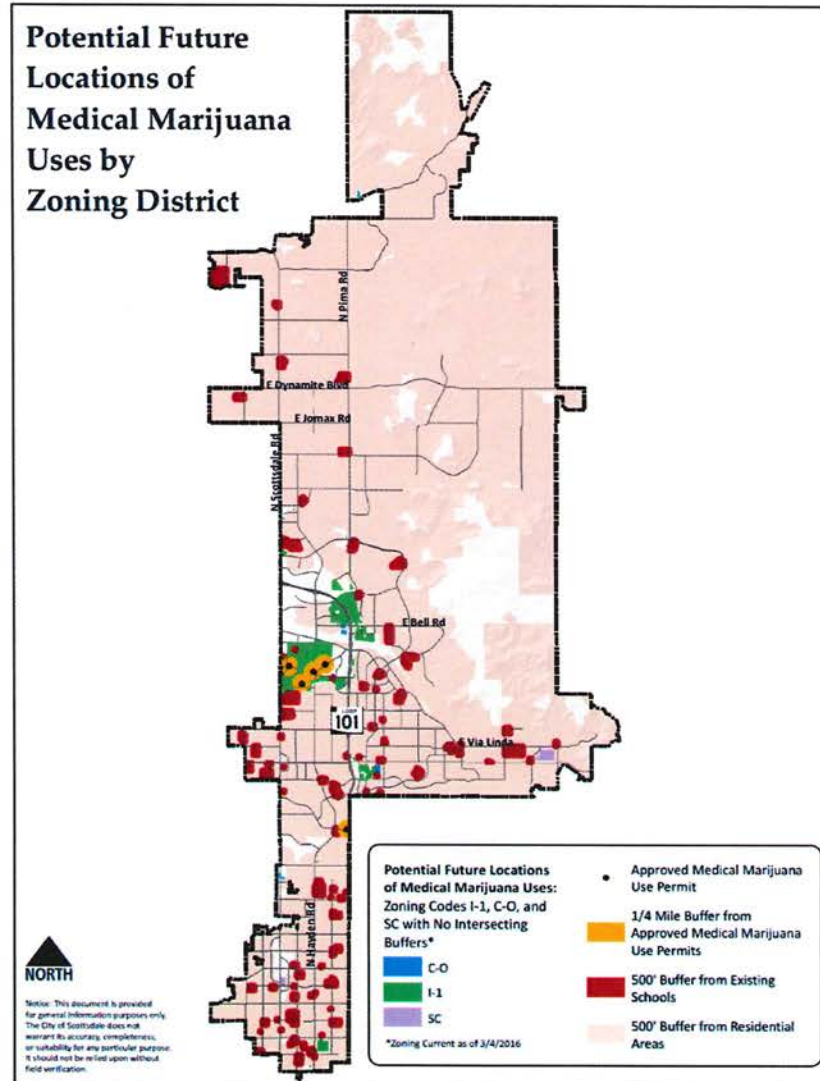
POTENTIAL LOCATIONS MAP

65-PA-2016

Medical Marijuana Text Amendment

1. Increase distance between MMJ uses.
2. Further limit the zoning districts that allow MMJ uses.
3. Further analysis of regulatory options.
4. No action.

Medical Marijuana Text Amendment



POTENTIAL LOCATIONS BY ZONING DISTRICT

65-PA-2016

Medical Marijuana Text Amendment

1. Initiate a text amendment to amend the Conditional Use Permit Criteria and/or other Zoning Ordinance provisions pertaining to Medical Marijuana Uses, based on the given direction.
2. Take no action at this time.

Item 9

Medical Marijuana Text Amendment Initiation

65-PA-2016

City Council

March 29, 2016

Coordinator: Bryan Cluff

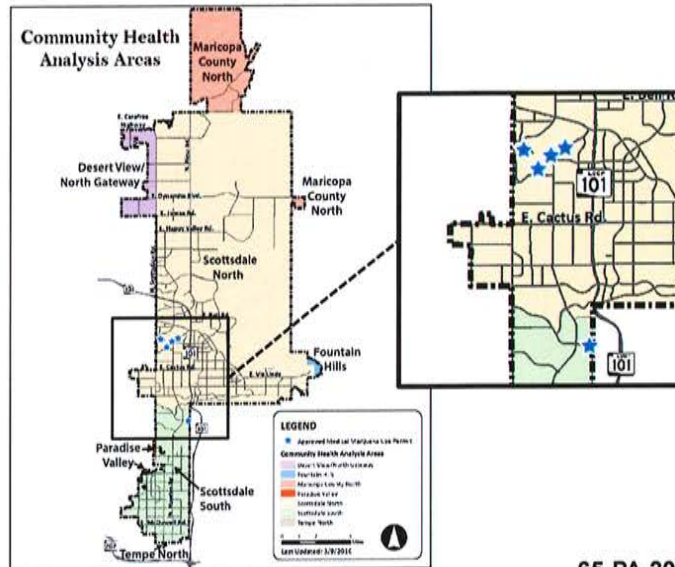
Medical Marijuana Text Amendment

- In 2012 ADHS based locations on CHAA's (1 per CHAA).
- There are 7 CHAA's in Scottsdale, although 2 cover most of the city.
- After 3 years ADHS allows a facility to relocate.

BACKGROUND

65-PA-2016

Medical Marijuana Text Amendment



Medical Marijuana Text Amendment

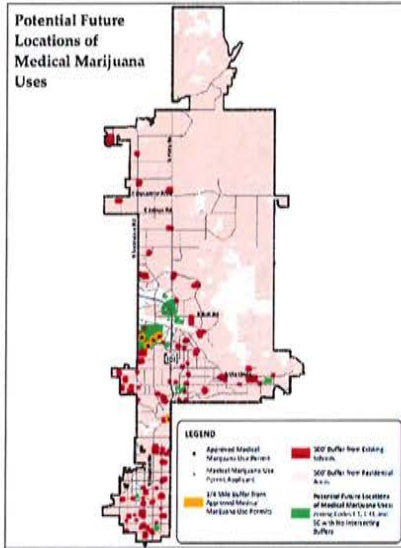
Existing Conditional Use Permit Criteria

- Operations within enclosed building
- At least 500 feet from:
 - Residential District
 - Elementary or Secondary School
- At least 1,320 feet from:
 - MMJ Caregiver Cultivation
 - Another MMJ Use
- Approval of Public Safety Plan
- Limited Hours of Operation - 6:00 am to 7:00pm
- No Drive-through, Take-out Window, or Drive-in Service

BACKGROUND

65-PA-2016

Medical Marijuana Text Amendment

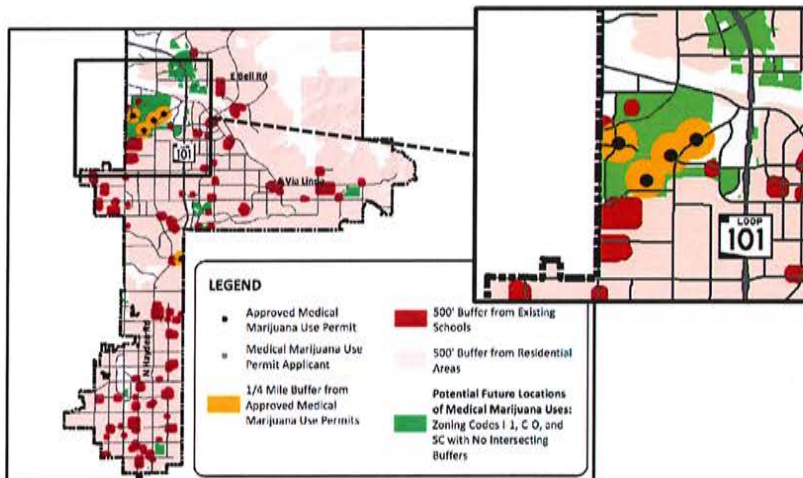


POTENTIAL LOCATIONS MAP

65-PA-2016

Medical Marijuana Text Amendment

- Increase distance between MMJ uses.

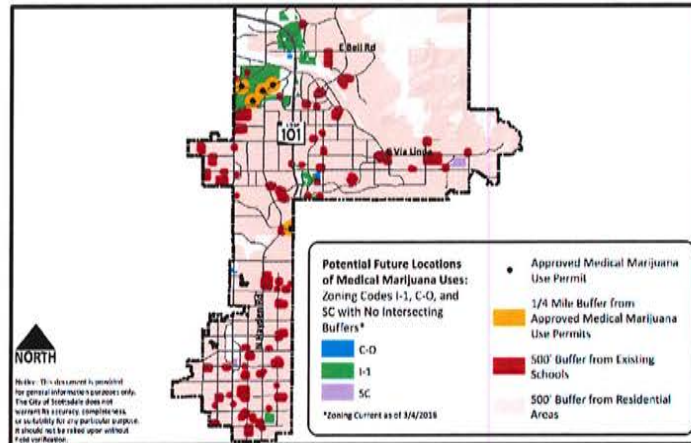


POSSIBLE OPTIONS

65-PA-2016

Medical Marijuana Text Amendment

- Further limit the zoning districts that allow MMJ uses.



POSSIBLE OPTIONS

65-PA-2016

Medical Marijuana Text Amendment

- Further analysis of regulatory options.
- No action.

POSSIBLE OPTIONS

65-PA-2016

Medical Marijuana Text Amendment

1. Initiate a text amendment to amend the Conditional Use Permit Criteria and/or other Zoning Ordinance provisions pertaining to Medical Marijuana Uses, based on the given direction.
2. Take no action at this time.

DISCUSSION / ACTION

65-PA-2016

**Medical Marijuana Text Amendment
Initiation**

65-PA-2016

City Council

March 29, 2016

Coordinator: Bryan Cluff

