

**TMAPC Staff Report**  
**September 19, 2018**  
**ZCA-12, Medical Marijuana**

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**Item for discussion:** Proposed amendments the Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, to provide for **medical marijuana** uses licensed by the Oklahoma State Department of Health, to establish specific uses, to identify the zoning districts in which such uses are permitted, to establish supplemental use regulations for such uses and to provide related definitions.

**A. Background:** On June 26, 2018 Oklahoma voters passed State Question 788 which established law by which medical marijuana use is permitted in Oklahoma. As a follow up to approval of State Question 788, the Oklahoma State Department of Health developed rules to further govern the various aspects of medical marijuana. A working group, comprised of representatives from the Mayor's office, City Council, Tulsa Police Department (TPD), City Legal and INCOG, was established to discuss appropriate zoning regulations for Tulsa regarding medical marijuana. The working group researched regulations from other jurisdictions, including in Oklahoma and in other states. Several members of the working group recently visited a variety of medical marijuana facilities in Phoenix and nearby communities and met with city officials from Phoenix and Mesa.

At the request of the City of Tulsa Administration, the Land Use Administrator has initiated proposed zoning code amendments which focus on:

- Establishing specific uses for Medical Marijuana Grower Operations, Medical Marijuana Processing Facilities and Medical Marijuana Dispensaries;
- Identifying the zoning districts in which such uses are permitted;
- Establishing supplemental use regulations for such uses; and
- Providing related definitions.

The attached draft ordinance reflects the recommendations of the working group based upon their research and discussions. The amendments proposed to the City of Tulsa Zoning Code, Title 42 Tulsa Revised Ordinances, are in **Attachment I** shown in **strike through/underline**. The proposed amendments are located Chapters 15, 20, 25, 35, 40 and 95 of the Zoning Code.

**B. Staff Recommendation:** Discuss in advance of October 3, 2018 public hearing.

# ATTACHMENT

## Chapter 15 | Office, Commercial and Industrial Districts

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Table 15-1: O, C and I District Use Regulations

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USE CATEGORY	OL	OM	OMH	OH	CS	CG	CH	CBD	IL	IM	IH	Supplemental Regulations
Subcategory												
Specific use												
<b>COMMERCIAL</b>												
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Retail Sales												<a href="#">Section 40.340</a>
Building supplies and equipment	-	-	-	-	P	P	P	P	P	P	P	
Consumer shopping goods	-	S[3]	S[3]	P[3]	P	P	P	P	P	P	P	
Convenience goods	-	S[3]	S[3]	P[3]	P	P	P	P	P	P	P	<a href="#">Section 40.300</a>
Grocery Store	-	S[3,6]	S[3,6]	S[3,6]	P	P	P	P	P	P	P	
Small Box Discount Store	-	S[3,6]	S[3,6]	S[3,6]	P[6]	P[6]	P[6]	P[6]	P[6]	P[6]	P[6]	
Medical Marijuana Dispensary	-	S[3,6]	S[3,6]	S[3,6]	P[6]	P[6]	P[6]	P[6]	P[6]	P[6]	P[6]	<a href="#">Section 40.225</a>
***												
<b>INDUSTRIAL</b>												<a href="#">Section 40.180</a>
Low-impact Manufacturing & Industry	-	-	-	-	-	S	S	S	P	P	P	
Moderate-impact Manufacturing & Industry	-	-	-	-	-	-	-	-	S	P	P	
High-impact Manufacturing & Industry	-	-	-	-	-	-	-	-	-	S	P	<a href="#">Section 40.225</a>
***												
<b>AGRICULTURAL</b>												
Animal Husbandry	-	-	-	-	-	-	-	-	-	P	P	
Community Garden	P	P	P	P	P	P	P	P	P	P	P	<a href="#">Section 40.090</a>
Farm, Market- or Community-supported	P	P	P	P	P	P	P	P	P	P	P	
Horticulture Nursery	-	-	-	-	-	-	-	-	P	P	P	<a href="#">Section 40.225</a>

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## Chapter 20 | Overlay Districts

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*Table 20-2: RDO District Use Regulations*

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USE CATEGORY	RDO-1	RDO-2	RDO-3
Subcategory			
Specific use			
Building Types			

X = expressly prohibited use | ÿ and unlisted uses = underlying zoning governs

COMMERCIAL
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Retail Sales			
Building supplies and equipment	X	X	X
<u>Medical Marijuana Dispensary</u>	<u>X</u>	<u>X[1]</u>	<u>ÿ</u>

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[1] Use allowed above the ground-floor level only.

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## Chapter 25 | Special Districts

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*Table 25-3: AG District Use Regulations*

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USE CATEGORY	AG	Supplemental Use Regulations
Subcategory ( <a href="#">Section 35.020</a> )		
Specific use		

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AGRICULTURAL		
Animal Husbandry	P	
Community Garden	P	<a href="#">Section 40.090</a>
Farm, Market- or Community-supported	P	
Horticulture Nursery	P	<u>Section 40.225</u>

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Table 25-4: CO District Use Regulations

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USE CATEGORY		
Subcategory ( <a href="#">Section 35.020</a> )	CO	Supplemental Regulations
Specific use		

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COMMERCIAL		
Animal service	P*	<a href="#">Section 40.020</a>
Assembly and Entertainment	P*	<a href="#">Section 40.040</a>
Broadcast or Recording Studio	P*	
Commercial Service	P*	<a href="#">Section 40.080</a>
Financial Services	P*	
Funeral or Mortuary Service	P*	
Lodging	P*	<a href="#">Section 40.170</a>
Marina	P*	
Office	P*	<a href="#">Section 40.260</a>
Parking, Non-accessory	P*	
Restaurants and Bars	P*	
Restaurant	P*	<a href="#">Section 40.330</a>
Bar	P*	<a href="#">Section 40.050</a>
Retail Sales	P*	<a href="#">Section 40.340</a>
Medical Marijuana Dispensary	P*	<a href="#">Section 40.225</a>
Self-service Storage Facility	P*	<a href="#">Section 40.360</a>
Sexually Oriented Business Establishment	P*	<a href="#">Section 40.370</a>
Studio, Artist or Instructional Service	P*	<a href="#">Section 40.380</a>

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## Chapter 35 | Building Types and Use Categories

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### Section 35.050 Commercial Use Category

The commercial use category includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use subcategories are as follows.

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#### 35.050-D Commercial Service

Uses that provide for consumer or business services and for the repair and maintenance of a wide variety of products. Specific commercial service use types include the following:

##### 1. Building Service

Uses that provide maintenance and repair services for all structural and mechanical elements of structures, as well as the exterior spaces of premises. Typical uses include janitorial, landscape maintenance, carpet cleaning, chimney sweeps,

extermination, plumbing, electrical, HVAC, roofing, window cleaning and similar services.

**2. Business Support Service**

Uses that provide personnel services, printing, copying, package (delivery) drop-off, photographic services or communication services to businesses or consumers. Typical uses include employment agencies, day labor hiring services, armored car services, copy and print shops, delivery/courier service drop-off location for consumers, caterers, telephone answering services and photo developing labs.

**3. Consumer Maintenance and Repair Service**

Uses that provide maintenance, cleaning and repair services for consumer goods on a site other than that of the customer (i.e., customers bring goods to the site of the repair/maintenance business). Typical uses include laundry and dry cleaning pick-up shops, tailors, taxidermists, dressmakers, shoe repair, picture framing shops, gunsmiths, locksmiths, vacuum repair shops, electronics repair shops and similar establishments. Business that offer repair and maintenance service for large equipment or technicians who visit customers' homes or places of business are classified as a "building service."

**4. Personal Improvement Service**

Uses that provide personal grooming, cosmetic or health and well-being-related services. Typical uses include barbers, hair and nail salons, tanning salons, day spas, body art services and fortune telling services.

**5. Research Service**

Uses engaged in scientific research and testing services leading to the development of new products and processes. Such uses resemble office buildings or campuses and do not involve the mass production, distribution or sale of products. Research services do not produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property. Includes medical marijuana research by the holder of a medical marijuana research license issued by the Oklahoma State Department of Health, in accordance with the terms of such license.

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### **35.050-L Retail Sales**

Uses involving the sale, lease or rental of new or used goods to the ultimate consumer. Specific retail use types include the following:

#### **1. Convenience Goods**

Retail sales uses that sell or otherwise provide (1) sundry goods; (2) products for personal grooming and for the day-to-day maintenance of personal health or (3) food or beverages for off-premise consumption, retail bakeries and similar uses that provide incidental and accessory food and beverage service as part of their primary retail sales business. Typical uses include convenience stores, drug stores, specialty food stores, wine or liquor stores, gift shops, newsstands, florists and tobacco stores. Does not include small box discount stores, ~~or~~ grocery stores ~~or~~ medical marijuana dispensaries.

#### **2. Consumer Shopping Goods**

Retail sales uses that sell or otherwise provide wearing apparel, fashion accessories, furniture, household appliances and similar consumer goods, large and small, functional and decorative, for use, entertainment, comfort or aesthetics. Typical uses include clothing stores, department stores, appliance stores, TV and electronics stores, bike shops, book stores, costume rental stores, stationery stores, art galleries, hobby shops, furniture stores, pet stores and pet supply stores, shoe stores, antique shops, secondhand stores, record stores, toy stores, sporting goods stores, variety stores, video stores, musical instrument stores, medical supplies, office supplies and office furnishing stores and wig shops. Does not include small box discount stores or grocery stores.

#### **3. Building Supplies and Equipment**

Retail sales uses that sell or otherwise provide goods to repair, maintain or visually enhance a structure or premises. Typical uses include hardware stores, home improvement stores, paint and wallpaper supply stores and garden supply stores.

#### **4. Small Box Discount Store**

Retail sales uses with floor area less than 12,000 square feet that offer for sale a combination and variety of convenience shopping goods and consumer shopping goods; and continuously offer a majority of the items in their inventory for sale at a price less than \$10.00 per item.

#### **5. Grocery Store**

Retail sales uses that sell or otherwise provide assorted goods; products for personal grooming and for the day-to-day maintenance of personal health; and that sell food and beverages for off-premise consumption; and that have a minimum floor area of 500 square feet dedicated to the sale of fresh meat, fruits and vegetables. A principal use Grocery Store may include an accessory use restaurant or dining area for on-premise consumption of food and beverage items.

## **6. Medical Marijuana Dispensary**

**Retail sales of medical marijuana or medical marijuana products by the holder of a medical marijuana dispensary license issued by the Oklahoma State Department of Health, in accordance with the terms of such license.**

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### **Section 35.070 Industrial Use Category**

This category includes uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced. The industrial subcategories are:

#### **35.070-A Low-impact Manufacturing and Industry**

Manufacturing and industrial uses that do not, as part of their normal operations, generate noticeable off-site impacts in terms of noise, smoke, particulate matter, odors, or vibration. Typical examples of low-impact manufacturing and industrial uses include: commercial laundries and linen supply services, apparel manufacturing, bakery products manufacturing, bottling plants, ice manufacturing, mattress manufacturing and assembly, microbreweries, micro distilleries, coffee roasting with a maximum roasting capacity of 45 kilograms per batch, musical instrument and parts manufacturing, newspaper printing and binderies.

##### **1. Microbrewery**

An establishment in which beer or malt beverages are made on the premises and then sold or distributed, and which produces less than 15,000 barrels (465,000 gallons) of beer and malt beverages per calendar year. Where allowed by law, microbreweries may include tasting rooms and direct sales to consumers in addition to other methods of distribution.

##### **2. Micro Distillery**

A distillery producing distilled spirits in total quantity of no more than 40,000 proof gallons per calendar year. Where allowed by law, micro distilleries may include tasting rooms and direct sales to consumers in addition to other methods of distribution.

#### **35.070-B Moderate-impact Manufacturing and Industry**

Manufacturing and industrial uses that, as part of their normal operations, generate noticeable off-site impacts in terms of noise, smoke, particulate matter, odors, or vibration. Typical examples of moderate-impact manufacturing and industrial uses include: large breweries, distilleries and alcohol manufacturing (other than micro distilleries), coffee roasting with a roasting capacity of more than 45 kilograms per batch, dairy products manufacturing, foundries, chrome plating, crematoriums and animal rendering plants, electroplating, fiberglass manufacturing, flour mills and paper products manufacturing.

### 1. Large Brewery

An establishment where beer or malt beverages are made on the premises at an annual production rate of over 15,000 barrels (465,000 gallons). Large breweries may include tasting rooms.

### 35.070-C High-impact Manufacturing and Industry

Manufacturing and industrial uses that regularly use hazardous chemicals or procedures or that produce hazardous byproducts or explosive hazards. Typical examples of high-impact manufacturing and industrial uses include: the manufacture of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials. This subcategory also includes petrochemical tank farms, gasification plants, smelting, animal slaughtering, oil refining, asphalt and concrete (batch) plants and tanneries.

#### 1. Medical Marijuana Processing Facility

Preparation, manufacture, processing or packaging of medical marijuana products by the holder of a medical marijuana processor license issued by the Oklahoma State Department of Health, in accordance with the terms of such license.

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### Section 35.090 Agricultural Use Category

This category includes uses such as gardens, farms and orchards that involve the raising and harvesting of food and non-food crops and the raising of farm animals. The agricultural subcategories are:

#### 35.090-A Animal Husbandry

Uses that involve the feeding, housing and care of farm animals for private or commercial purposes.

#### 35.090-B Community Garden

An area less than one acre in area that is managed and maintained by an individual, group or business entity to grow and harvest food crops or non-food crops (e.g., flowers). A community garden area may be divided into separate garden plots or orchard areas for cultivation by one or more individuals or may be farmed collectively by members of the group. Community gardens may be principal or accessory uses.

#### 35.090-C Farm, Market or Community-Supported

An area managed and maintained by an individual, group or business entity to grow and harvest food crops or non-food crops (e.g., flowers) for sale or distribution. Farms may be principal or accessory uses and may be located on a roof or within a building.

#### 35.090-D Horticulture Nursery

A use involving propagation and growth of trees or plants in containers or in the ground for wholesale or retail sales and distribution. Does not include on-site retail sales unless such sales are otherwise allowed in the subject zoning district.



1. **Medical Marijuana Grower Operation**

Growth, harvesting and packaging of medical marijuana by the holder of a medical marijuana grower license issued by the Oklahoma State Department of Health, in accordance with the terms of such license. Does not include retail sales.

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## Chapter 40 | Supplemental Use and Building Regulations

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### Section 40.225 Medical Marijuana Uses

The supplemental use regulations of this section apply to medical marijuana uses.

**40.225-A** A medical marijuana grower operation must be located inside an enclosed, freestanding building.

**40.225-B** Medical marijuana grower operations may not be located within 1,000 feet of an R-zoned lot (not including R-zoned expressway right-of-way) or a residential use.

**40.225-C** A medical marijuana processing facility must be located inside an enclosed, freestanding building.

**40.225-D** Medical marijuana processing facilities may not be located within 1,000 feet of an R-zoned lot (not including R-zoned expressway right-of-way) or a residential use.

**40.225-E** A medical marijuana dispensary must be located inside an enclosed building.

**40.225-F** A medical marijuana dispensary may not be located within 1,000 feet of another medical marijuana dispensary.

**40.225-G** Drive-through windows and drive-through lanes are prohibited for medical marijuana grower operations, processing facilities, dispensaries and research facilities.

**40.225-H** Medical marijuana grower operations, processing facilities and dispensaries must provide the following:

1. A ventilation/air filtration system that prevents odor from being detectible at the boundaries of the lot within which the building housing the medical marijuana grower operation, processing facility or dispensary is located, except that if a medical marijuana dispensary is located in multiple-tenant building, the ventilation/air filtration system must prevent odor from being detectible outside the tenant space housing the dispensary.

2. An electronic security system and surveillance camera.

40.225-I Medical marijuana grower operations, processing facilities, dispensaries and research facilities must be conducted and maintained in compliance with the license issued by the Oklahoma State Department of Health and in compliance with Oklahoma law, including but not limited to all applicable statutes, rules and regulations.

40.225-J No medical marijuana grower operation, processing facility, dispensary or research facility shall be permitted or maintained unless there exists a valid license, issued by the Oklahoma State Department of Health for the particular use at the particular location.

40.225-K The separation distances required under Section 40.225-F must be measured in a straight line between the nearest perimeter walls of the building (or portion of the building, in the case of a multiple-tenant building) occupied by the dispensaries.

40.225-L The separation distances required under Section 40.225-B and 40.225-D must be measured in a straight line between the nearest perimeter wall of the building occupied by the grower operation or processing facility and the nearest boundary of the R-zoned lot or the nearest perimeter wall of the residential use, if the residential use is not located on an R-zoned lot.

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## Chapter 95 | Definitions

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### Section 95.160 Terms Beginning with "M"

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#### **Manufacture (Medical Marijuana)**

The process of converting harvested plant material into medical marijuana concentrate by physical or chemical means for use as an ingredient in a medical marijuana product.

#### **Marijuana**

All parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

### **Medical Marijuana**

Marijuana that is grown, processed, dispensed, tested, possessed, or used for a medical purpose.

### **Medical Marijuana Product**

A product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, forms medically appropriate for administration by vaporization or a nebulizer, patches, tinctures, and liquids excluding live plant forms.