

# AM-2-16 SVACCHA, LLC

## Proposed Text Amendments to Medical Marijuana Ordinance



**City of Apache Junction**  
**City Council Public Hearing Item**  
**March 6 & 7, 2017**

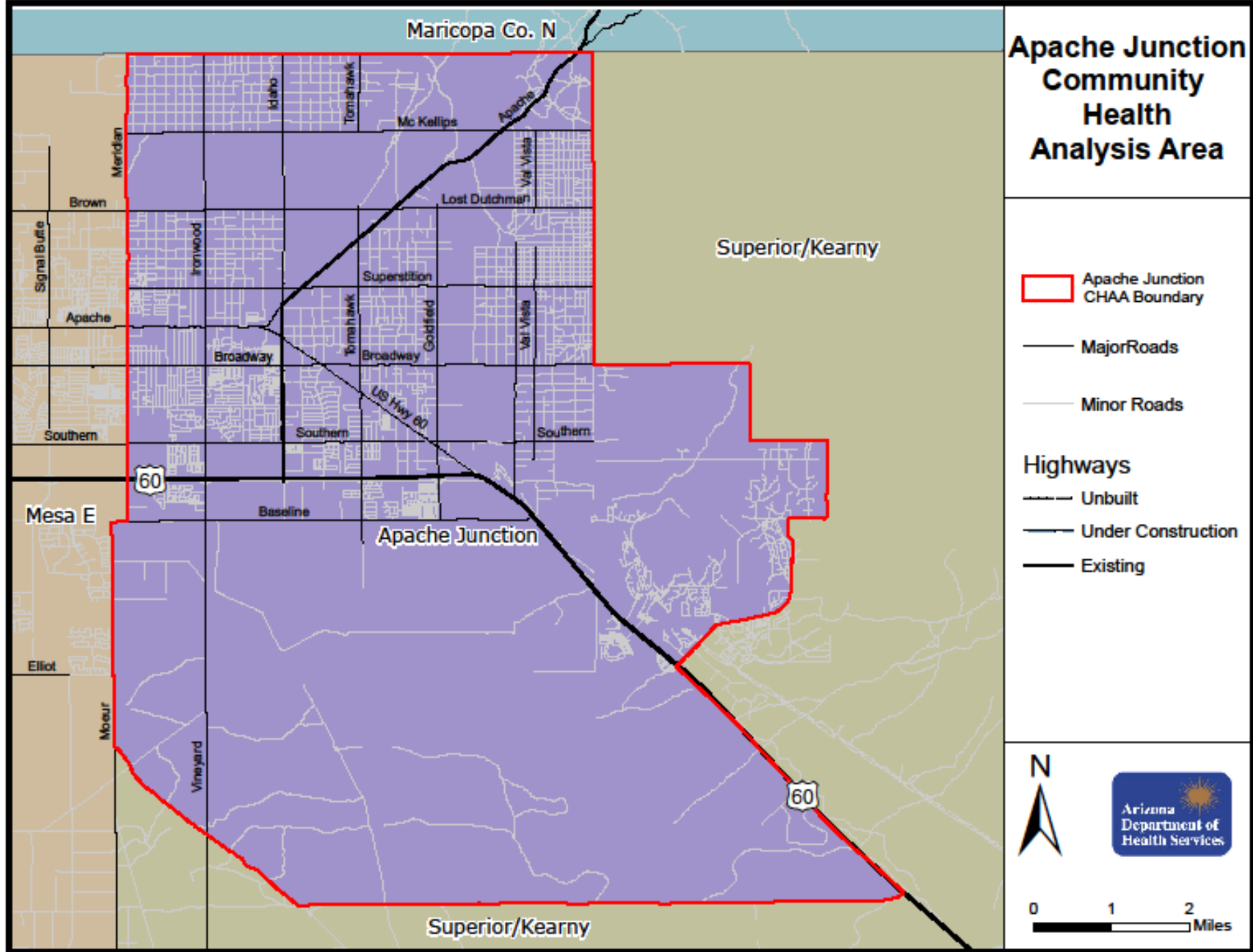


# Background

- In November of 2010, the voters of Arizona approved Proposition 203, enacting a group of statutes known as the “Arizona Medical Marijuana Act”, allowing for the decriminalization of possession, sale and cultivation of marijuana for certain medical purposes, for card-carrying patients; and allowing for the establishment of medical marijuana dispensaries, cultivation facilities and infusion facilities
- The law allowed cities, towns and counties to enact zoning regulations for medical marijuana uses.
- In February of 2011, pursuant to Ordinance No. 1372, Apache Junction adopted its zoning regulations for medical marijuana uses in the city.
- In May of 2014, the city adopted a new Zoning Ordinance, but the medical marijuana use regulations changed very little.

## Background (continued)

- The city's regulations presently allow for one dispensary, one cultivation facility and one infusion facility to be established in the city, pursuant to an applicant receiving a Conditional Use Permit ("CUP") from the P&Z Commission. Additional such facilities can be requested once the city has at least 20 pharmacies or an existing facility closes.
- Since the adoption of the Arizona Medical Marijuana Act and the city's regulations, the city has approved a dispensary and a combination cultivation/infusion facility, by separate CUP processes.
- In 2016, the Arizona Department of Health Services ("ADHS") awarded a second round of dispensary certificates; determined that the Apache Junction CHAA could have a second dispensary; and SVACCHA LLC was the successful applicant for the Apache Junction CHAA.



# Proposed PD Amendment

- SVACCHA LLC, represented by Jenifer Corey, was advised by city officials that a text amendment was needed in order for our regulations to allow for additional medical marijuana uses in the city.
- As such, the applicants are proposing to amend the city's medical marijuana use regulations to allow: two dispensaries, cultivation and infusion facilities in the city, until the city has at least 25 pharmacies; allow med-mar uses outright in PD zoning districts; add library, public park, and free-standing church to the separation requirements; allow delivery service; better define security provisions for med-mar uses; allow the sale of other med-mar products in dispensaries, but only to card-carrying patients; specify hours of operation for facilities; add police notifications for patient and caregiver home cultivation provisions.

# Requested Changes and Staff/PZ Suggestions

- APPLICANT'S REQUEST: Sec. 1-6-12(B) Number of Facilities Allowed in the City. ~~One~~ **Two** nonprofit medical marijuana dispensaries with or without an on-site cultivation facility, ~~one~~ **up to two** off-site cultivation facilities and ~~one~~ **up to two** stand-alone infusion facilities shall be allowed in the city. An additional dispensary, off-site cultivation facility, and standalone infusion facility may be allowed when the city has at least ~~twenty~~ **twenty-five** pharmacies within its municipal limits, and then one additional facility for every ten pharmacies thereafter. (See A.R.S. Title 36, Chapter 28.1 Arizona Medical Marijuana Act, for definitions and statutes pertaining to medical marijuana.)

# Requested and suggested changes (cont.)

- STAFF/PZ SUGGEST: Sec. 1-6-12(A) Permit Required. A CUP shall be required for the establishment of nonprofit medical marijuana facilities, including dispensaries, ~~with or without~~ cultivation facilities, and infusion facilities. ~~off-site cultivation facilities and for stand-alone nonprofit medical marijuana infusion facilities.~~ The requirements of this section, for the establishment of a nonprofit medical marijuana use, may also be accomplished through a planned development (“PD”) rezoning process or PD major amendment process.

# Requested and suggested changes (cont.)

- STAFF/PZ SUGGEST: Sec. 1-6-12(B) Number of Facilities Allowed in City. ~~One~~ **The total number of** nonprofit medical marijuana ~~dispensary~~ **dispensaries**, ~~with or without an on-site cultivation facility~~ **facilities**, ~~one off-site cultivation facility and one stand-alone infusion facility~~ **facilities** shall be **as** allowed by **state statute for the Apache Junction Community Health Analysis Area ("CHAA")**. ~~in the City. An additional dispensary, off-site cultivation facility, and standalone infusion facility may be allowed when the City has at least twenty pharmacies within its municipal limits, and then one additional facility for every ten pharmacies thereafter. (See A.R.S. Title 36, Chapter 28.1 Arizona Medical Marijuana Act, for definitions and statutes pertaining to medical marijuana.)~~

# Requested and suggested changes (cont.)

- APPLICANT'S REQUEST: Sec. 1-6-12(C)(1) Allowed zoning districts. Location of nonprofit medical marijuana dispensaries with or without on-site cultivation facilities shall be limited to the city's B-1 through B-5 zoning districts, **with or without a Planned Development Overlay**.
- STAFF/PZ SUGGEST: Sec. 1-6-12(C) Allowed Zoning Districts.
- (1) Location of nonprofit medical marijuana dispensaries ~~with or without on-site cultivation facilities~~ shall be limited to **allowed in** the city's B-1, **B-2, B-4 and** through B-5 zoning districts.
- (2) Location of ~~an off-site~~ **a** cultivation facility (~~i.e., a cultivation facility not co-located with a dispensary~~) and/or a stand-alone nonprofit medical marijuana infusion facility which serves one or more nonprofit medical marijuana dispensaries shall be limited to the city's B-5 (~~Industrial~~) zoning district. ~~Nonprofit medical marijuana dispensaries, off-site cultivation facilities and/or infusion facilities shall not be allowed within any MPC zoned property.~~

## Requested and suggested changes (cont.)

- (3) An existing medical marijuana facility that has received a conditional use permit approval from the city prior to the effective date of this ordinance, shall be allowed to continue operating at the approved location, regardless of any newly defined spacing requirements; and as long as said operation remains in strict accordance with the conditions of approval of said facility, or as may otherwise be approved by a CUP amendment or renewal.

# Requested and suggested changes (cont.)

- STAFF/PZ SUGGEST: Sec. 1-6-12(E) Applications. A CUP application for medical marijuana dispensaries, cultivation facilities or infusion facilities shall include, ~~at a minimum,~~ **all the information required on the CUP application form and** the following supplemental information:
- APPLICANT'S REQUEST: Sec. 1-6-12(F)(1)(b) A minimum of 750 feet between a dispensary, off-site cultivation facility or stand-alone infusion facility and any public or private school, **library, public park,** business zoned day care center, **free-standing** church, or drug and/or alcohol rehabilitation center, as measured from nearest building wall of the business to the nearest building wall of the protected use.

# Requested and suggested changes (cont.)

- STAFF/PZ SUGGEST: Sec. 1-6-12(F)(1)
- a. A minimum of 1,320 feet between ~~another dispensaries,~~ **dispensary,** ~~off-site cultivation facilities~~ **facility** or ~~stand-alone infusion facilities,~~ **facility,** as measured from nearest building wall to nearest building wall.
- b. A minimum of 750 feet between a dispensary, ~~off-site cultivation facility or stand-alone infusion facility~~ and any public or private ~~school~~ **education institution, library, public park,** ~~business~~ **commercial-**zoned day care center **facility, free-standing** church, or drug and/or alcohol rehabilitation center, as measured from nearest building wall of the business to the nearest building wall of the protected use.
- ~~c. A minimum of 750 feet from other sensitive land uses as determined by the Zoning Administrator on a case by case basis, as measured from the nearest building wall of the business to the nearest building wall of the protected use.~~

# Requested and suggested changes (cont.)

- APPLICANT'S REQUEST: Sec. 1-6-12(F)(2)(a) Drive-through pickup windows ~~and delivery service~~ shall not be allowed.
- STAFF/PZ SUGGEST: Sec. 1-6-12(F)(2)(a) Drive-through pickup windows ~~and delivery service~~ shall not be allowed. **Delivery service shall be allowed as per state statute.**

# Requested and suggested changes (cont.)

- APPLICANT'S REQUEST: Sec. 1-6-12(F)(2)(c) ~~Security plans shall include lighting, monitored alarm and/or camera surveillance systems, secure storage, and other necessary building safety measures.~~ A medical marijuana facility shall submit a security plan containing the following information:
  - (1) Proof that any cultivation and storage of medical marijuana will take place in an "enclosed, locked facility" equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to state and local law.
  - (2) A floor plan that details the security measures required by state law, including an on-site alarm system and a single secure entrance.
  - (3) Additional protections, if any, against medical marijuana diversion and theft.
  - (4) Provide and update as needed a current list of all persons who are authorized to access the dispensary, off-site cultivation site or infusion facility.
- STAFF/PZ AGREE with above, but we would also add "video surveillance devices" to #2 above.

# Requested and suggested changes (cont.)

- APPLICANT'S REQUEST: Sec. 1-6-12(F)(2)(e) Dispensaries selling marijuana ~~or tobacco smoking~~ related products such as pipes, water pipes, rolling paper, screens, vaporizers, mills, concealing devices ~~and other than cookbooks and educational materials shall not be allowed.~~, etc., shall be restricted to selling only to patients displaying the required Arizona Department of Health Services medical marijuana card and to be used only in conjunction with prescription. Cookbooks and educational materials are excepted from this provision.
- STAFF/PZ AGREE with above, except we recommend saying "a physician's certification or recommendation" instead of "prescription".

# Requested and suggested changes (cont.)

- STAFF/PZ SUGGEST: Sec. 1-6-12(F)(2)(g) Signage that will be visible from the exterior of the facility may be approved by the city if all sign code regulations have been met. The use of the marijuana leaf symbol shall not be allowed on any exterior signage.
- APPLICANT'S REQUEST: Sec. 1-6-12(F)(3)(c) Hours of operation: a medical marijuana facility shall have operating hours not earlier than 8:00 a.m. and not later than 10:00 p.m.
- STAFF/PZ SUGGEST: Sec. 1-6-12(F)(3)(c) Hours of operation will be addressed through the CUP process.

# Requested and suggested changes (cont.)

- APPLICANT'S REQUEST: Sec. 1-6-12(F)(4) and (5) add the following sentence to the end of both of those paragraphs:
- Any change in residence location shall be reported to the chief of police within 30 days.
- STAFF/PZ AGREE with above.

Questions for staff?:

AM-2-16 SVACCHA LLC Proposed Text  
Amendments to Medical Marijuana Regulations.