

MEASURE U: Medical Marijuana FAQ

01/18/2017

Measure U info is at www.cityoflamesa.us/MeasureU

- 1.)** Are churches considered sensitive land uses?
Answer: No, churches are not considered sensitive land uses according to Measure U.
- 2.)** How many Conditional Use Permits (CUP) for each use type (dispensary site, cultivation site, manufacturing site) is the City of La Mesa allowing?
Answer: Unknown
- 3.)** Is there a cap or limit on the number of CUPs that will be issued for each use?
Answer: Measure U does not impose a cap on the number of uses for each use type. However, zoning, distance from schools, and the availability of land and vacant space will determine the number of facilities that can be approved. In addition, dispensaries are required to meet distance requirements from other dispensaries as well as sensitive uses.
- 4.)** Can a dispensary, cultivation, or manufacturing site be located in the CN (Commercial Neighborhood) zoning designation?
Answer: No, the CN zoning designation is not an eligible zone.
- 5.)** At what point in the process will a site or building be reviewed for LEED (Leadership in Energy and Environmental Design) or the WaterSense components?
Answer: LEED Certification or WaterSense components for a project will be considered at Building Permit application review.
- 6.)** Is a CUP issued by the City of La Mesa transferrable to another city or location?
Answer: No, a CUP issued by the City of La Mesa is only valid in the City of La Mesa and is not transferrable to another city or location.
- 7.)** Can a CUP be issued for both a cultivation and manufacturing site on the same parcel or on the same site?
Answer: Yes, a CUP can be issued for a cultivation and manufacturing business on the same site.
- 8.)** If a location is being considered for a dispensary that is in a multi-tenant retail building, which entrance is used to determine the 1,000 foot path of travel to a sensitive use or other dispensary? Do all entrances need to show path of travel? Just to clarify, how is path of travel of sensitive uses being measured? From entrance to entrance? Or from Property line to property line?
Answer: The entrance to the actual suite of the dispensary tenant space is used to determine the 1,000 foot path of travel to sensitive uses. Applicants are required to provide the coordinates (longitude and latitude) of the main public entrance of the location and illustrate the path of travel from that entrance to a sensitive use or another legally approved dispensary to determine whether the site meets this requirement. If the sensitive use contains an outdoor area, the property line establishes the location of the sensitive use.

9.) For dispensary uses, does an applicant need to show path of travel from the front entrance of the proposed dispensary site to every sensitive use?

Answer: The path of travel should be shown to the closest sensitive uses and to other legal dispensaries. In some instances, this may require showing paths of travel to more than one sensitive use or dispensary.

10.) Is there a separation requirement between a cultivation site and a manufacturing site?

Answer: No, Measure U does not include distance requirements between cultivation sites and manufacturing sites.

11.) Will an application submittal require design review if the exterior of the building or site has no proposed changes?

Answer: This is a project-specific question and submittal requirements may vary including design review or site development plans. The requirements depend on the scope of the proposed project and the applicable overlay zones (if any).

12.) Will any preference be given to dispensaries that are currently not operating under an approved CUP?

Answer: No. Existing dispensaries currently operating without a CUP are illegal. MCRSA 19360(a)(b)(c) levies a daily fine of twice the amount of the license fee for not having a license and unique identifiers. MCRSA 19327(f) provides a fine of 30,000for failure to maintain records.

13.) Does the Journey Community Church located at 8363 Center Drive contain a legal and licensed child care facility?

Answer: To date, the City of La Mesa has not found any record of the Journey Community Church licensed as a child care center or school.

14.) If a project is denied by the Planning Commission, can it be appealed to the City Council?

Answer: Yes. The appeal process is outlined in LMMC Section 24.02.080 and shall be consistent with applicable State law.

15.) How does Proposition 64, the California marijuana legalization initiative, affect Measure U locally?

Answer: At the present time, the City of La Mesa is focused on the implementation of Measure U and will review Proposition 64's local impact at a later date.

16.) Is a traffic impact report or statement from a traffic engineer going to be required with the CUP application submittal?

Answer: Staff may determine that a traffic impact report or statement from a traffic engineer is required depending on the scope of a specific project and the surrounding existing conditions. An applicant is highly encouraged to analyze potential impacts prior to submitting the initial application and to provide a letter or technical study that addresses the traffic conditions as well as any other condition that may present a potential environmental impact.

17.) Given the 1,000 foot separation requirement between dispensaries and sensitive uses, will the City of La Mesa provide an updated "live" map showing which locations are currently going through the process so that applicants know which sites are no longer available?

Answer: The City of La Mesa will consider providing a regularly updated map showing the location of sites that have pending CUP applications.

18.) How long does a typical CUP application process take from start to finish?

Answer: The timeline to complete the CUP process can vary depending on a number of factors, including the completeness of the submittal application, timeliness of response, Environmental Determination, noticing, scheduling and the Planning Commission Calendar. Timeframes are estimated to be from three months to six months in the best case. The process timeline would be increased if an appeal was filed.

19.) Are dispensaries are considered retail uses; while cultivation and manufacturing facilities are considered industrial uses?

Answer: Dispensaries are retail commercial uses, cultivation sites are agricultural and manufacturing sites are compounding or processing of medical marijuana. Both cultivation and manufacturing are industrial land uses.

20.) Can a third party submit an application for a client? Can a third party submit for multiple clients?

Answer: Yes. A third party can submit an application for a client or for multiple clients provided that the application contains sufficient information about the client and includes notarized signatures. Business organization and documents supporting the business organization are required to be submitted and verified. However, only one application can be filed per site per applicant. If a third party is filing applications for multiple clients there will need to be a separate individual representing the third party filing for each client and each location.

21.) Once a dispensary's CUP is issued, if a school or daycare center opens up within the 1,000 foot path of travel am I required to move or close down?

Answer: No.

22.) For manufacturing sites, what is considered a volatile substance?

Answer: Measure U states that butane or other flammable gases are prohibited. For purposes of this section, H & S code 11362.3(d) defines "volatile solvent" as volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Trichloro-ethylene.

23.) Can I submit an incomplete application just to get a place in line?

Answer: Incomplete applications will not be accepted.

24.) Can medical marijuana testing facilities locate in the City of La Mesa under the provisions of Measure U?

Answer: Yes, current code allows for testing facilities in the CM Zone provided a CUP is first obtained.

25.) When identifying a Medical Marijuana Dispensary, do you need to be 600' from residential if the residential is in the green area of your map?

Answer: Measure U does not identify residential zones or uses as a sensitive use.

26.) The C.U.P. Application requires an Environmental Assessment Initial Study Form and Filing Fee. Is this Filing Fee included in the \$1,200.00 Initial Clearance Fee or will this be waived?

Answer: No, the Environmental Assessment Initial Study Form filing fee is a separate fee and varies depending on the project. The fee can be found in the Fee Schedule.

27.) The application submittal must include Section 'A' and Section 'B' materials upon submittal. How does an applicant submit a clearance letter?

Answer: The entire package is required to be submitted at the initial submittal with the exception of the Clearance letter and the Section B fee. Once you receive the clearance letter from the City, submit a copy of the clearance letter and the remaining fee balance. The CUP analysis will resume. The application must be deemed complete prior to scheduling for the Planning Commission.

28.) Are the final applications available online?

Answer: The City anticipates releasing the final applications by January 30, 2017. Please sign up for our automatic notification system and it will provide you with updates on the process and available forms. You can find all of the documents at this link

<http://www.cityoflamesa.us/1425/Measure-U>

You can also find a "Notify Link" in that page. Please make sure that our emails are not block by a spam filter.

29.) Provide a list of people (or, addresses) that either have line status numbers or that have submitted for zoning clearance on the website.

Answer: The City will consider this request.

30.) What type of payment will the City accept for applications?

Answer: The City will accept cashier checks, money orders or cash. The City prefers cashier checks or money orders. The City will not accept credit cards or checks.

31.) The Supplemental Application Packet(s), Pg. 3, states that the signatures must be notarized but there is no place holder or area identified for the notary certification or placement of notary seal.

Answer: Your notary will provide you with the appropriate acknowledgement forms.

32.) Will this require a notarial "acknowledgement" or "jurat"?

Answer: Acknowledgment

33.) Are Color Photos for each side (direction marked) acceptable to show elevations for existing buildings?

Answer: Yes, provided the information is sufficient to explain the existing conditions and proposed project. Illustration and annotation is strongly encouraged to fully explain the project. This information may affect the completeness check status of the application.

34.) Is a Fire Flow Analysis from Helix Water District required for an existing building?

Answer: Only for new construction

35.) If applicants are currently in escrow on a property pending a 1031 Exchange. Do Applicants need to submit a Property Owner Affidavit from current owner?

Answer: Applicants must provide permission from the current owner.

36.) A conditional use permit runs with the land but the supplemental application indicates shall not transfer ownership or control of the business without first obtaining approval. What does "transfer ownership or control" mean?

Answer: The City must confirm that the new ownership meets the State and local requirements. A modification of the CUP is not expected for this confirmation.

37.) I'm going to show the exterior elevations but do I need to show the existing roof plan?

Answer: Yes, the submittal should include a roof plan to show existing conditions and either that no changes are proposed or to illustrate proposed changes. Changes are typically required if rooftop equipment is proposed for conditioning the space for odor control or other factors. This information may affect the completeness check status of the application.

38.) I have the locations of the utilities shown on my site plan. Do I need too also show the distribution line to an existing structure?

Answer: Yes

39.) Do I need a grading plan? We aren't grading. We aren't grading but we are putting in a new parking lot. And all the dirt work will be for Stormwater measures. However the new parking lot will be on an undeveloped part of the property which is almost level.

Answer: The concept plans must note the scope of the project and include existing topography information to assist the City's determination regarding grading plan requirements. A statement that the site is mostly level is insufficient information for the City to evaluate the proposal. This information may affect the completeness check status of the application.

40.) I have 2 separate lots (same ownership) and we are considering consolidating them for a project. Does the consolidation need to be complete prior to submittal?

Answer: A proposed consolidation would have to be completed prior to issuance of any Building permits and a condition will be included in the Resolution outlining the requirement. In some cases, a consolidation may not be required and a proposal can be analyzed on a case by case basis. If the proposed project includes this concept, adequate notes and illustration must be submitted to describe this concept.

41.) Why a photometric plan prior to submittal? That requirement is in the Green Code and the Building department usually plan checks the plan. Also you asked for an interior photometric plan.

Answer: An exterior photometric plan will be required with the building permit application (electrical permit) to ensure the lighting can meet Municipal Code requirements. Interior photometric plans are not required.

42.) What is the status of recreational marijuana facilities?

Answer: Recreational marijuana facilities are currently illegal.

43.) Is there a list of existing day care centers that the City of La Mesa can provide to applicants?

Answer: The maps illustrate all of the known sensitive uses and the list will be made available for the majority of those facilities. The City is investigating the release of the remaining facilities (small family day care) and will update this response if a revised determination is made.

44.) What a "minor oriented facility" as described in the voter initiative? It was missed on the city's map, but I'm nearly certain after reading the law and attending the workgroup that the Sylvan Learning Center is in fact a sensitive use. Can you please confirm this?

Answer: A minor oriented facility is defined in the voter initiative. After careful review and discussion, Sylvan Learning Center has been determined to be a sensitive use. In addition to the Sylvan Learning Center, two additional facilities were found and have also been added to the list and the maps. There could be others that may be considered and an applicant should analyze the surroundings thoroughly.

45.) The Draft Supplemental Packets do not indicate which signatures need to be notarized. Can you please identify which signatures need to be notarized?

Answer: Property owners and business owners. The purpose is to provide evidence that that the actual property and business owners have agreed to the filing and processing of the application for the proposed project.

46.) Will the City accept and process pre-applications?

Answer: No, the City has phased the Medical Marijuana Conditional Use Permit application process to reduce the potential expense for analyzing the zoning clearance portion of the application from a completeness check of the full application.

47.) Would the City of La Mesa consider a lottery style of application process?

Answer: Line numbers were issued to prevent a potential Health & Safety problem with dispensary applicants and a lottery process is not being considered. Projects will be scheduled for a public hearing once the application is deemed complete by the City of La Mesa.

48.) If I am currently operating an illegal dispensary in the City of La Mesa and I apply for a CUP, will the city shut down my location until I obtain a license?

Answer: An illegal dispensary operation must cease and desist. The City will not accept or process an application for illegal dispensaries that are in operation.