

## MEASURE U: Medical Marijuana FAQ

01/26/2017

Measure U info is at [www.cityoflamesa.us/MeasureU](http://www.cityoflamesa.us/MeasureU)

- 1.) When is the baseline for existing sensitive uses established (in relation to application submittals and separation requirements)? What if sometime after submittal but before the Planning Commission hearing a sensitive use is established within 1000' path of travel of the proposed Medical Marijuana Dispensary?

**Answer:** The receipt date of the submitted application determines what sensitive uses exist around a proposed facility for purposes of a compliance determination with Measure U. A sensitive use within 1,000 feet and established after the date an application was submitted to the City will not be considered a constraint to the proposed dispensary. However, if new information is received through the Conditional Use Permit process that supports a legitimate and legal sensitive use that was unknown at the time of the submitted application and that existed prior to the submittal date of the proposed dispensary, those previously unknown sensitive uses will be considered in determining compliance to the regulations for purposes of Measure U (LMMC 24.23).

- 2.) What criteria are being used to determine a sensitive use?

**Answer:** Measure U outlines those uses where a 1,000 foot separation as measured by path of travel between the use and a proposed medical marijuana dispensary applies. The sensitive uses are: City designated licensed childcare centers, playgrounds, minor-oriented facilities, other Dispensaries, or schools. For purposes of this section, school means any public or private institution of learning providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes. The City has also reviewed the business license records and contacted business owners in order to verify the facilities' uses. Those facilities that have confirmed that the primary use is devoted to people under the age of 18 have been included in the list and on the maps. Although a thorough search has been conducted, it is possible that the public noticing and hearing required of the Conditional Use Permit process may expose previously unknown facilities. Measure U further describes the criteria for sensitive uses as:

"Minor-Oriented Facility" means any after school program, teen center, club for boys and/or girls, children's theater, or children's museum, where the primary use is devoted to people under the age of 18.

"Playground" means any outdoor premises or grounds, owned or operated by the City, that contains any play or athletic equipment primarily used, or primarily intended to be used by, any person less than eighteen (18) years old.

- 3.) Can a CUP be issued for a cultivation, manufacturing and dispensary site on the same parcel or on the same site?

**Answer:** No. The City is not accepting producing dispensaries (Type 10a) at this time.

- 4.) What requirements are currently in place to allow for the legal transportation of marijuana product in the City of La Mesa? What documents are needed for verification if the transport is pulled over by PD?

**Answer:** There are existing prohibition provisions in the Municipal Code that must be amended and are expected before the first Conditional Use Permit is approved. The applications must identify if transportation (Type 11) is a part of the Conditional Use Permit request. Business and Professions Code 19328(a)(10)(A)(B) states that limited transportation is allowed for cultivators and manufacturers. If approved, the Criteria for transportation identified in Business and Professions Code 19335(a)(b) shall be included in the Resolution of Approval. Mobile dispensaries are prohibited. A Type 12 transporter will be allowed to transport product between permitted licensees without a City of La Mesa license. The Type 12 licensees are only required to be permitted and regulated in the City where they have a permanent storage or location. The transporter must always keep the license/permit number and the manifest with them to prove to authorities and regulators that the product being carried is legitimate. The La Mesa licensees for dispensing, manufacturing or cultivating will need to record the license number (along with a manifest of the goods received or sent) of the transporter who brings them product for tracking purposes, but La Mesa does not have any responsibility for regulating or licensing Type 12 transporters.

**5.)** Is there information on tax rates available? What are the tax rates for dispensaries, manufacturers, and cultivators?

**Answer:** Measure U does not provide for any new taxes on medical marijuana dispensaries, cultivators, or manufacturers. The other applicable taxes that are currently in effect are sales & use tax and business license tax.

**Sales & Use Tax:** The State Board of Equalization has published a Tax Guide for Medical Cannabis Business (located at [https://www.boe.ca.gov/industry/medical\\_cannabis.html](https://www.boe.ca.gov/industry/medical_cannabis.html)) that spells out both the Sales & Use Tax and certain exemptions for qualified medical marijuana sales.

**Local Business Tax:** All dispensaries, manufacturers, and cultivators doing business in the City of La Mesa will be subject to the basic business license tax. Currently there is no distinction between a medical marijuana-related business and any other business for purposes of the business license tax. More information can be found on the City's website at <http://www.cityoflamesa.com/75/Business-Licenses>.

**6.)** 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 sensitive uses known at the time of posting and the list will be made available for the majority of those facilities. Small family day care facilities are labeled with a number on the maps, but detailed information is confidential and is not public information. All facilities are shown on the City Maps and the path of travel may show an estimate path or paths to and around those confidential sites without a specific address.

**7.)** Is there a time limit for submittals after the final application is available? Or how will this be handled?

**Answer:** Information will be posted prior to January 30, 2017. The City expects to prepare a schedule for the applicants who have received a line status number. Once the number system has been completed, an applicant may submit during regular City Hall hours.

**8.)** Can a property owner file more than one application for the same premise?

**Answer:** The City will accept more than one application for the same premise/location. Once a request receives approval from the Planning Commission, a recommendation of denial will be proposed for the subsequent applications in compliance with the separation requirements of Measure U.

**9.)** Will the addition of exterior building mounted security cameras and/or building mounted shielded lights be considered a modification of the exterior of a building that is subject to design review?

**Answer:** Possibly.

**10.)** If an existing building has an interior courtyard will modifications of the interior courtyard building walls be considered a modification of the exterior for buildings subject to design review?

**Answer:** Possibly. The submittal must include adequate detail about the site and floor plan and how areas will be used. All uses associated with Measure U are required to be interior to the structure.

**11.)** Will ADA improvements, including ADA ramps, be considered a modification of the exterior of a building subject to design review?

**Answer:** Possibly. Your team should analyze the existing conditions, identify deficiencies and propose improvements to meet the code requirements. City Staff analyzes the existing conditions, the project scope and determines whether the proposal meets the current code requirements.

**12.)** Please confirm that the parking ratio for dispensaries will be per standard retail commercial use.

**Answer:** Yes

**13.)** What are the elements being asked for in the Additional Submittal Requirements for Dispensary requirements for the item "Submit a site diagram and floor plan in a format that shows compliance to all standards for City of La Mesa Municipal Building Code and Fire Code Requirements for the proposed occupancy type"? Is this an exit diagram? Fire truck access diagram? Occupancy calculation for area? Building wall and construction type? Most of these items would usually be part of the building department process. Please clarify what items are requested at the CUP stage.

**Answer:** You are being asked to investigate all of these components in order to understand the full obligations of placing a compliant Measure U use in an existing structure. Existing conditions of individual sites and structure vary and may present different code requirements. It often is a surprise to applicants when they discover the existing building may have a different occupancy or other constraints and substantial improvements may be necessary to comply with today's standards and regulations (codes). While also required at a building permit level and in official detail, the CUP process requires enough conceptual information to ensure the project can be accomplished as required. Conditions of approval will require that the existing structure conform to current code. Clients typically are interested in knowing what these requirements will cost.

**14.)** Can I submit information in advance of the application day?

**Answer:** Any materials submitted prior to the official submittal day will not be reviewed and will be discarded. Complete applications cannot be submitted until the official day and in accordance with the line status order. Incomplete applications will not be accepted

**15.)** What is the proof of address for?

**Answer:** The reference is for “proof of right to occupy” and it is for the business address to ensure that the property’s owner(s) know that the property is being used for marijuana activity and it needs to be notarized.

**16.)** How detailed must the information for the operating procedures be?

**Answer:** Details should include but are not limited to: how is the product loaded in and out, how cash stored is, what is the maximum amount of product in the inventory at one time and how is it stored onsite, etc. Likewise with the security plan, provide sufficient detail for the licensed security guard, lighting concepts, number and type of cameras, remote IP access for the La Mesa PD or other City designee, and 90 days of offsite surveillance storage.

**17.)** What forms of ID will be acceptable for the application?

**Answer:** Since a full finger Live Scan is required of all applicants, one form of identification is sufficient (CDL or other government photo ID).

**18.)** When is a property line used for purposes of measuring path of travel pursuant to Measure U?

**Answer:** Path of travel is established to separate proposed dispensaries from legal dispensaries and specific use (also known as sensitive uses) as identified in Measure U and described in Question 2 of this FAQ. A sensitive use that contains landscape or other outside area(s) where minors or children may play or congregate is measured at the closest property line to the public entry of the proposed Medical Marijuana facility.

**19.)** Are the live scan forms available online? Will you accept a live scan that has been completed for the City of San Diego within the last 12 months?

**Answer:** The Livescan process is delayed until the City modifies the current process to include FBI records. The submittal of a processed Livescan form or receipt is now required after an Initial Clearance has been obtained and to continue with the CUP process (Section B). The Livescan forms will be made available after February 6, 2017. The City of La Mesa will not accept another city’s background- the prints taken with an assigned La Mesa’s ORI number. Do NOT submit or process in advance of obtaining an Initial Clearance on your submitted CUP application.

**20.)** If a facility has operated illegally and has constructed improvements without permits, what steps must be taken to pursue a legal facility?

**Answer:** The illegal use must immediately cease and desist. A building permit must be filed to correct any and all illegal construction. A CUP application for an illegal facility shall be rejected unless evidence that the operation has ceased and a building permit has been filed with the City of La Mesa is submitted. The construction (generic retail design or shell) must be completed, inspected and obtain final permit approval prior to obtaining an Initial Clearance. The La Mesa Police Department and Code Compliance will be

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conducting inspections for verification throughout the process and at any time that said location is found to be open and operating, the application shall be rejected.