



12030 Clubhouse Square, Youngtown, AZ 85363

TOWN OF YOUNGTOWN PLANNING AND ZONING HEARING MINUTES

The Planning and Zoning Hearing Officer of the Town of Youngtown, Arizona, will hold a Planning and Zoning Hearing open to the public on **Tuesday, January 4, 2011** at the Town Clubhouse, 12033 Clubhouse Square, Youngtown, Arizona to begin at the hour of **10:00 A.M.**

Call to Order- Ray Jacobs, Planning and Zoning Hearing Officer, called the public hearing to order at 10:20 a.m.

Citizen Review on Case # 10-09: AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE CODE OF YOUNGTOWN, ARIZONA, TITLE 17 ZONING, BY AMENDING CHAPTER 17.04 DEFINITIONS, TO INCLUDE A DEFINITION FOR "RELIGIOUS ASSEMBLIES; AND INSTITUTIONS" AND "ENTERTAINMENT DISTRICT"; BY AMENDING CHAPTER 17.20 R RURAL DISTRICT TO AMEND SECTION 17.20.020 USE REGULATIONS, , CHAPTER 17.22 R-43 RURAL RESIDENTIAL DWELLING DISTRICT TO AMEND SECTION 17.22.020 USE REGULATIONS TO DELETE THE REFERENCE TO "CHURCHES" AND "ACCESSORY COLUMBARIUMS," CHAPTER 17.24 R-43 SINGLE-FAMILY DWELLING DISTRICT TO AMEND SECTION 17.24.010 USE REGULATIONS TO DELETE THE REFERENCE TO A "CHURCH," AMENDING CHAPTER 17.32 R-1 MULTIPLE-FAMILY DWELLING DISTRICT, TO AMEND SECTION 17.32.010 USE REGULATIONS TO DELETE THE REFERENCE TO A "RELIGIOUS" USE, CHAPTER 17.56 SPECIAL USES AND TEMPORARY BUILDINGS TO AMEND SECTION 17.56.010 SPECIAL USES ENUMERATED TO DELETE THE REFERENCE TO A "CHURCH" USE IN THE C-1 AND C-2 DISTRICTS; AMENDING CHAPTER 17.60 PARKING AND LOADING TO AMEND SECTION 17.60.010 PARKING IN RURAL DISTRICT TO DELETE THE REFERENCE TO A "CHURCH" USE IN THE C-1 AND C-2 DISTRICTS; BY ADDING A NEW CHAPTER 17.55 RELIGIOUS ASSEMBLIES AND INSTITUTIONS, RELATING TO LAND USE REGULATIONS REGARDING RELIGIOUS ASSEMBLIES AND INSTITUTIONS WITHIN THE TOWN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

A. Staff Report.

Swann, Town Attorney

- Revising Youngtown Code to conform to State Legislature. Arizona legislature passed a bill not to exclude religious assemblies to certain zoning areas.

Robinson, Town Managers

- The new ordinance has five deletions, adding two definitions, "Entertainment District" and "Religious Assemblies" and adding a new chapter.

B. Open Public Hearing

Margret Chittenden

- Have we had a problem with this, and is this why we are addressing this?
- This there a way to make this ordinance read in black and white so we can understand it?
- What happens when a resident has a bible study in their home and parking becomes an issue?

Jacobs, Hearing Officers

- We are complying with state law. The wording is from our state legislature.
- I'm familiar with city churches obtaining a use permit. Home Churches are typically temporary until a facility is obtained.
- Parking then becomes a code enforcement issue.

Swann, Town Attorney

- The State Legislature had to address this issue due to the City of Gilbert having an issue with a church operating from a home and the other reason was a church operating too close to an entertainment district, for example a bar.

C. Closed Public Hearing

D. Questions from Zoning Hearing Officer

Jacobs, Hearing Officer

- "Entertainment District" is added in the Town ordinance so in the future the council can define. Westgate would be defined as an "Entertainment District."
- Do we know how many communities have established this ordinance?
- Under the section 14.55.020 General of the ordinance; "Religions assemblies and institutions shall be permitted in any zoning district unless one of the following conditions exists; point three states, there exists, within the Town

limits, a suitable alternate property that religious assembly, institution or person could use for the exercise of religion", who exactly makes that determination? Would the Town Manager address through a letter and then exercise the next step to council?

Swann, Town Attorney

- The ordinance is a model from the League of Arizona Cities and Towns. Lake Havasu and the City of Yuma have adopted this model of ordinance.
- It comes right out of case law. The Town Council would make that determination.

E. Decision of Zoning Hearing Officer

Jacobs, Hearing Officers

- With minor comments and suggestions, I recommend approval

Citizen Review on Case # 10-10: AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE CODE OF YOUNGTOWN, ARIZONA, TITLE 17 ZONING, CHAPTER 17.04 GENERAL PROVISIONS, ADMINISTRATION AND ENFORCEMENT BY AMENDING SECTION 17.04.030 DEFINITIONS BY ADDING DEFINITIONS FOR "MEDICAL MARIJUANA," "MEDICAL MARIJUANA CULTIVATION, INFUSION OR MANUFACTURING FACILITY," "MEDICAL MARIJUANA DISPENSARY", AND "MEDICAL MARIJUANA QUALIFYING PATIENT"; AMENDING CHAPTER 17.40 C-2 COMMERCIAL DISTRICT BY AMENDING SECTION 17.40.020 USE REGULATIONS TO ADD MEDICAL MARIJUANA CULTIVATION, INFUSION OR MANUFACTURING FACILITIES AND MEDICAL MARIJUANA DISPENSARIES AS PERMISSIBLE USES; ADDING NEW SECTION 17.40.110 MEDICAL MARIJUANA CULTIVATION, INFUSION AND MANUFACTURING FACILITY AND MEDICAL MARIJUANA DISPENSARY REGULATIONS TO SET FORTH REGULATIONS CONCERNING SUCH USES; ALL RELATED TO THE REGULATION OF MEDICAL MARIJUANA CULTIVATION, INFUSION AND FACILITIES PURSUANT TO ARIZONA REVISED STATUTES § 3, TITLE 36, CHAPTER 28.1; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

A. Staff Report.

Swann, Town Attorney

- Town Council is establishing reasonable use regulations; a building or premises in a C-2 commercial district shall be used only for the following purposes: Medical Marijuana Dispensary and/or medical marijuana cultivation, infusion or manufacturing facility. Dispensary and/or cultivation facility must be 1000 feet from a school, daycare, park and/or residential area. Hours of operation may only be open between the hours of 8:00 am to 6:00 pm Monday through Saturday. No person may consume medical marijuana at any dispensary and/or medical marijuana cultivation, infusion or manufacturing facility.

B. Open Public Hearing

Margaret Chittenden

- Council decision was for a C-2 commercial district.
- What about the owner of the Pet Pharmacy, can he open a dispensary in his building? That seems like a good place.
- Will we receive any tax revenue?

Swann, Town Attorney

- No, his zoning district is a C-1.
- The FDA regulations do not allow for a pharmacy to dispense medical marijuana, he would compromise his license.
- The state states that this activity is nontaxable; however cities are saying that it is. The Internal Revenue Service (IRS) says it is not taxable.
- State law will have much restriction on cultivation sights, mainly security.

Jacobs, Hearing Officer

- Many communities are pushing for a special use permit.
- Marijuana still has some federal issues.

Robinson, Town Manager

- He is still interested and is looking at other store fronts in Youngtown. He was given a zoning map.

C. Closed Public Hearing

D. Questions from Zoning Hearing Officer

Jacobs, Hearing Officer

- Will the state control the size of a facility?
- The ordinance states 1000 feet away from churches, schools, daycares, and residential property.
- Page 2 of ordinance reads, "Medical marijuana qualifying patient," why?
- Infusion means what?
- Who obtains the business license, the owner of the facility or the applicant? How did you come up with the business license fee? Who does the background check?

- Can the Town address retail sales?
- Good to see that a dispensary be a permanent building and not allow to operate from a trailer home.
- Page 6 of the ordinance, number 5, "An entertainment business that is oriented primarily towards children or family entertainment," can you give examples?
- Page 6, letter K, number 2, can you explain, "free from offensive odors?"
- What about employees, will they have to follow the same background checks?
- As far as hours of operation and closed on Sunday, how was this decided?

Swann, Town Attorney

- The state has no restrictions regarding the size.
- Most cities want a 2000 feet distance. The 1000 feet is not an issue for Youngtown. There are no elementary schools, nor daycares within the 1000 feet provision.
- It can be deleted.
- Infusion means it cannot be sold such as juice drinks and/or brownies. State regulation prohibits retail sales.
- Every business in Youngtown requires a business license. The fees are the same as if someone were opening up a tattoo or massage establishment. State law requires a 60 day public notice regarding any license fees and/or changes in license fees. The fees have be posted on the town website. Entertainment business would be a puppet theater, a Chucky Cheese establishment.
- Free from offensive odors is standard language. It means that marijuana cannot be smoke on the premises.
- Each employee would have to follow the same procedures with fingerprinting and background checks.
- The hours and days of operation were discussed in a council work session.

Cordova, Deputy Town Clerk

- If I came into Youngtown, and I wanted to open a dispensary, I would first have to submit my application to the State of Arizona and comply with all of their regulations as an applicant. The state would require me to obtain fingerprints prints so that they can process for a background check. Once approved through the state, I would then come into Youngtown and meet their zoning requirements and obtain a business license to operate the dispensary. The landlord would not have to obtain a business license.

E. Decision of Zoning Hearing Officer.

Jacobs, Hearing Officer

- I make recommending approval with some changes.

Adjournment of Planning and Zoning Hearing by Hearing Officer, Jacobs, at 11:26 a.m.

Ray Jacobs, Hearing Officer

Attest:

Diane Cordova, Deputy Town Clerk