



---

## REPORT TO PLANNING COMMISSION

### CITY OF ARNOLD

---

**APPLICATION #:** 2019-14

**APPLICATION NAME:** Chapter 405 (Zoning) - Medical Marijuana-Related Entities, Electronic Cigarette Shops, and Tobacco Shops.

**APPLICANT:** City of Arnold

**REQUEST:** A City-initiated request to amend Chapter 405, Zoning, of the Code of Ordinances establishing definitions and regulations related to medical marijuana-related entities, as defined by the State of Missouri, electronic cigarette shops, and tobacco shops.

**MEETING DATE:** May 28, 2019

**REPORT DATE:** May 28, 2019

**CASE MANAGER:** David B. Bookless, AICP

**RECOMMENDATION:** APPROVAL



## REPORT TO PLANNING COMMISSION

### CITY OF ARNOLD

#### BACKGROUND

On November 6, 2018, Missouri voters approved Amendment 2, which legalized medical marijuana. The amendment requires the state Department of Health and Senior Services to begin accepting applications for qualifying patients within 180 days after December 6, 2018 (therefore, no later than June 4, 2019), to begin accepting applications for dispensaries no later than 240 days after December 6, 2018 (therefore, no later than August 3, 2019), and to accept or reject applications for dispensaries within 150 days of receiving them. Although Amendment 2 speaks primarily to state requirements and allowances, it includes language relative to the ability of local governments to regulate the location of such facilities, and identifies a maximum proximity distance from a number of protected uses (i.e. 1,000 feet max). It should be noted that the amendment identifies the minimum number of licenses for such entities that must be granted, and although there is a reasonable expectation that the minimum number will be what is granted upon implementation, it is also reasonable to assume that the number will increase in the future. Therefore, it is imperative that the City consider the long-term implications and unintended consequences of the regulations it puts into place for such uses.

On January 17, 2019, the City Council approved an ordinance establishing a six (6) month moratorium on the issuance of business licenses and/or occupancy permits for new medical marijuana dispensary facilities, medical marijuana cultivation facilities, medical marijuana-infused product manufacturing facilities, medical marijuana testing facilities, or other marijuana-related entities, electronic cigarette shops, and tobacco shops within the City of Arnold. The purpose of the moratorium was to allow the City of Arnold (i) adequate time to study the licensing and zoning issues related to medical marijuana dispensary facilities, medical marijuana cultivation facilities, medical marijuana-infused product manufacturing facilities, medical marijuana testing facilities, or other marijuana-related entities, electronic cigarette shops, and tobacco shops; (ii) adequate time to consider potential broad changes to Chapter 405 (Zoning Ordinance) and Chapter 605 (Business Regulations) that relate to medical marijuana dispensary facilities, medical marijuana cultivation facilities, medical marijuana-infused product manufacturing facilities, medical marijuana testing facilities, or other marijuana-related entities, electronic cigarette shops, and tobacco shops; and (iii) if such changes are necessary, to revise Chapter 405 (Zoning Ordinance) and Chapter 605 (Business Regulations) to incorporate such broad changes.

The moratorium included not only medical marijuana-related entities, but a number of other uses that the Council considered worthy of similar consideration due to potential adverse impacts on the general welfare of the community at-large, and children in particular. Specifically, electronic cigarette shops and tobacco shops were included in the moratorium for consideration of applicable zoning ordinance changes.

Since the approval of the moratorium, Staff has researched the amendment and the issues involved, met with representatives of proposed medical marijuana-related entities and

---

# REPORT TO PLANNING COMMISSION

## CITY OF ARNOLD

---



medical marijuana industry experts. This proposed draft addresses zoning issues only. Any additional regulations relative to business licensing, etc. will be addressed separately.

### **DISCUSSION/ANALYSIS**

The analysis by Staff that follows is intended to allow the Planning Commission and City Council to reach the most informed decision possible and to facilitate discussion. Such discussion is important to identify and consider any potential unintended consequences of the proposed amendment.

### **CURRENT ZONING REGULATIONS**

Chapter 405, Zoning, does not speak directly to any of the uses under consideration. However, dispensaries, electronic cigarette shops, and tobacco shops could be interpreted to fall within the broad “stores, shops, service facilities,” etc. category, thereby permitting such uses by-right in all commercial districts. All cultivation, manufacturing, testing, etc. facilities could fit broadly in all manufacturing districts by right. Outdoor cultivation could be allowed in a variety of districts.

### **AMENDMENT 2 - ZONING REGULATION GUIDANCE**

The approved amendment identifies several uses from which maximum proximity distances are provided. Specifically, such medical marijuana-related entities must be sited at least 1,000 feet from churches, primary and secondary schools, and day care facilities. The state also provides a maximum distance provision between such entities of 1,000 feet. However, local governments may reduce the distances as they see fit. Local governments may also enact additional regulations, provided such regulations are not in conflict with the amendment and not unduly burdensome.

### **IMPLICATIONS OF MAKING NO CHANGES TO THE CURRENT ZONING REGULATIONS**

By allowing the uses to fall within established land use categories with no *proximity to protected use limits*, the City would be at risk to have medical marijuana dispensary facilities, medical marijuana cultivation facilities, medical marijuana-infused product manufacturing facilities, medical marijuana testing facilities, other marijuana-related entities, electronic cigarette shops, and tobacco shops proliferate across the City’s commercial and industrial areas with no regard to the unintended adverse impacts on neighboring uses.

However, Council has indicated that it supports restricting such uses in order to minimize the adverse impact on the general welfare of the community at large.

### **POTENTIAL CHANGES TO THE ZONING ORDINANCE**

After researching the uses and their impacts, Staff suggests approaching retail dispensaries, electronic cigarette shops, and tobacco shops differently from the remaining medical-



## REPORT TO PLANNING COMMISSION

### CITY OF ARNOLD

marijuana-related entities, as dispensaries and shops are generally open to the public and may impact neighborhoods differently than the other uses, which are akin to (light) industrial uses that are not open to the public.

Due in part to the limited number of licenses being issued by the State of Missouri, dispensaries will likely attract patrons from within and from outside Arnold. There is the potential for loitering, attracting undesirable elements, petty crime, etc. not only at the establishment's location, but in the surrounding neighborhood. Therefore, to afford some protection to the community at large, Staff recommends that the Planning Commission consider adding residential districts and public parks to the "protected uses" from which medical marijuana dispensaries must maintain separation. However, Staff also recommends *reducing* the distance requirement that dispensaries must maintain from the expanded list of protected uses from 1,000 feet to 250 feet. This figure was reached after conducting a map analysis of a variety of distances between zero and 1,000 feet, and finding 250 feet afforded buffering that was not substantially less than at greater distances. However, Staff recommends maintaining the State's 1,000 foot separation between dispensaries as a way to prevent an undesirable clustering of such uses that might alter the character of the neighborhood or corridor.

Additionally, as dispensaries are expected to serve the broader regional marketplace, Staff recommends permitting dispensaries only in the "C-3" and "C-4" Commercial Zoning Districts by Conditional Use Permit (CUP). Staff's reasoning for directing dispensaries to "C-3" and "C-4" districts is that these two commercial districts are generally utilized for regional shopping facilities as opposed to centers that primarily serve local or neighborhood customers. The CUP provides the City with a persuasive way for ensuring such uses operate in a way that does not substantially affect the neighborhood in an adverse way. The granting of a CUP may include conditions of approval to minimize adverse impacts; and should the entity operate contrary to what was presented to the Commission or so as to adversely impact the neighborhood, the City may act to suspend or revoke the CUP.

Electronic cigarette shops/tobacco shops are fairly commonplace throughout the region, and local establishments likely attract the bulk of their customers from within the Arnold area. Due to the known adverse health effects of the products sold at these shops, and the shared concern about minors accessing such products, Staff recommends such uses be located no closer than 250 feet to primary and secondary schools, residential districts, and public parks. Staff recommends establishing a 1,000 foot separation between electronic cigarette shops/tobacco shops as a way to prevent an undesirable clustering of such uses that might alter the character of the neighborhood or corridor.

Additionally, Staff recommends permitting electronic cigarette shops/tobacco shops in all "C" commercial districts in order to serve local customers as well as regional customers, but also requiring a Conditional Use Permit (CUP). The reasoning for requiring a CUP is that it provides the City with a persuasive way for ensuring such uses operate in a way that does not

---

# REPORT TO PLANNING COMMISSION

## CITY OF ARNOLD

---



substantially affect the neighborhood in an adverse way. The granting of a CUP may include conditions of approval to minimize adverse impacts; and should the entity operate contrary to what was presented to the Commission or so as to adversely impact the neighborhood, the City may act to suspend or revoke the CUP.

For most of the *non-retail* medical marijuana-related entities, Staff recommends restricting their location to “M” manufacturing districts as a “by-right” use with no proximity limitations. Staff’s reasoning is that these uses are not substantially different from other industrial uses that occur wholly within an enclosed structure with no public access. The City allows a wide variety of manufacturing uses by right, provided such uses don’t include the manufacturing of explosives and flammable gases and liquids. In such cases, those uses require a CUP.

The only non-retail use that Staff recommends including a proximity requirement for is outdoor cultivation facilities. In this case, the use may impact neighbors more than the other manufacturing uses primarily because it may be perceptible from adjacent properties. Therefore, a 250 foot separation from all protected uses is recommended in this case.

Regardless of which zoning district the uses are located in, Staff recommends several additional minimum performance standards for medical marijuana-related entities. Staff recommends that language be included that states that such establishments shall not cause a public nuisance, that appropriate ventilation systems are installed to prevent any odor of marijuana or fumes from leaving the premises, and that the City may require other changes to such facilities if a public nuisance violation occurs.

Additionally, for dispensaries in particular, there is evidence to suggest parking requirements generally associated with retail uses is inadequate. Data collected for medical/recreational dispensaries in Colorado (TripGeneration.org), when compared with that for that for pharmacies and other small size retail operations [Institute of Transportation Engineers’ (ITE) Trip Generation Manual, 9th Edition], suggests that dispensaries generate about 10 times more traffic than a typical retail store and 5 times more than a pharmacy. While this data is for dispensaries offering both medical and recreational marijuana sales, it is anticipated by those in the industry that recreational marijuana sales will be permitted in the next few years. With that in mind, and that parking standards are not something that can be retroactively required, Staff recommends establishing a standard that recognizes this eventuality.

Current parking requirements for retail uses is generally between 3.3 and 5.5 spaces per 1,000 square feet of gross floor area. Staff does not recommend increasing that by 5 to 10 times thereby requiring upwards of 28-55 spaces per 1,000 sq. ft., but to a reasonable figure of 15 spaces per 1,000 square feet gross floor area.

None of the minimum standards recommended by Staff would supplant the Commission’s right to impose additional conditions as part of a CUP approval.



# REPORT TO PLANNING COMMISSION

## CITY OF ARNOLD

### FINDINGS AND RECOMMENDATION

#### **SUCH AMENDMENT IS REQUIRED BY PUBLIC NECESSITY AND CONVENIENCE AND GENERAL WELFARE**

The Community Development Director finds that the text amendments contained within application number 2019-14 are warranted by the public necessity and convenience to provide clarification in the enforcement of the Zoning Ordinance.

The Community Development Director finds that the text amendments contained within application number 2019-14 are warranted by the need to promote and protect the general welfare by protecting the economic and tax base of the City, preserving and enhancing the values of property owners and users, promoting the orderly and harmonious development and redevelopment of the City, preserving and promoting the character and stability of the City and its various residential and commercial neighborhoods, improving the appearance of the City, and promoting the best use and development of commercial land in accordance with the Comprehensive Plan.

#### **RECOMMENDATION**

The Director of Community Development finds that the proposed text amendments meet or exceed review criteria and further advances the intent of Chapter 405. Based on this finding the Director of Community Development requests favorable consideration of the draft amendments.

A handwritten signature in black ink that reads "David B. Bookless".

David B. Bookless, AICP  
Community Development Director



# ATTACHMENTS

- 1) Pictures of medical marijuana-related entities, electronic cigarette/tobacco shops, etc.**
- 2) Sample news stories related to e-cigarettes, vaping, etc.**
- 3) Amendment 2 as approved by Missouri Voters**
- 4) Draft Ordinance**
- 5) Map identifying parcels currently meeting Medical Marijuana Dispensaries proximity requirements as proposed**

# Indoor Cultivation/Manufacturing Facilities



Indistinguishable from other manufacturing uses



Specialized ventilation systems

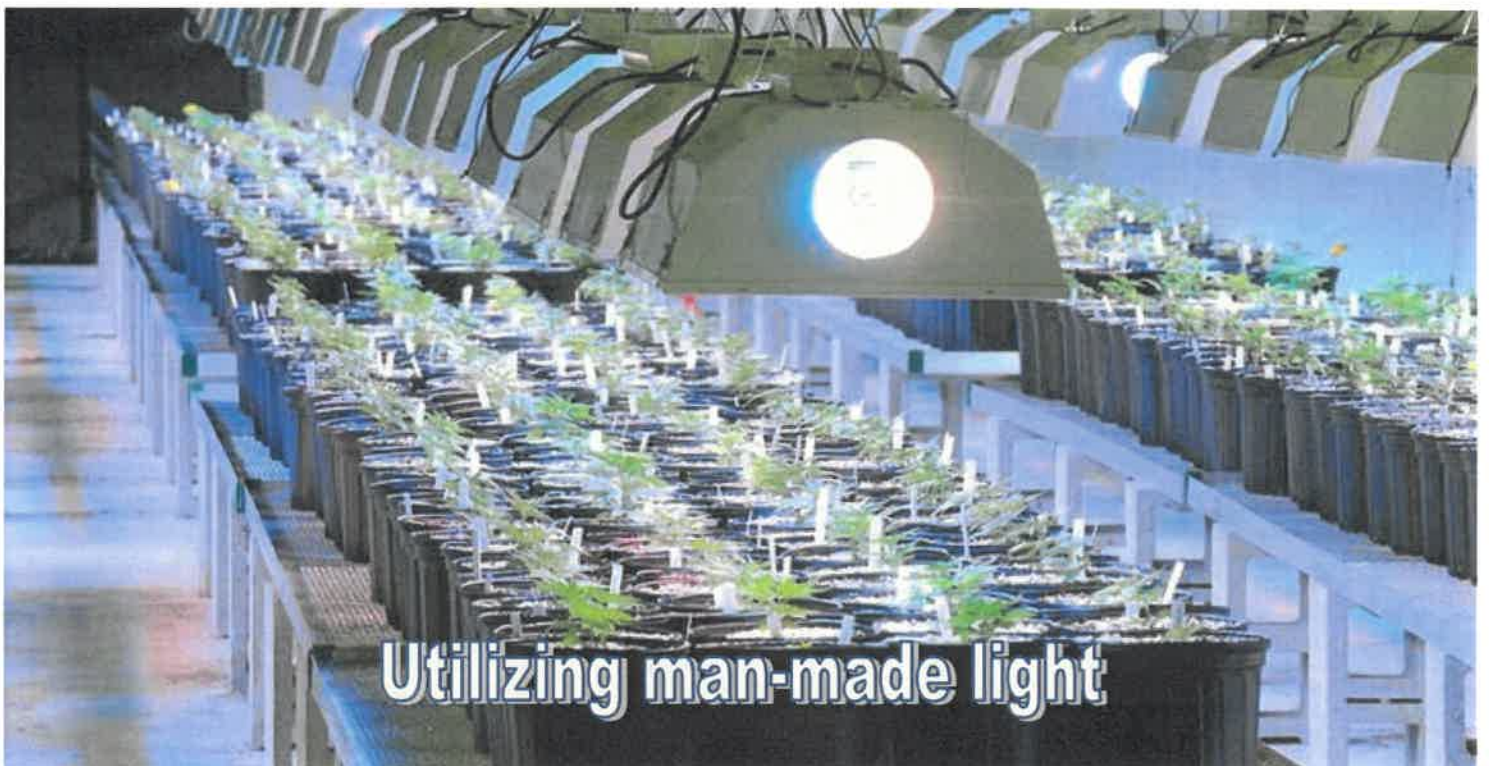




# Indoor Cultivation Facilities

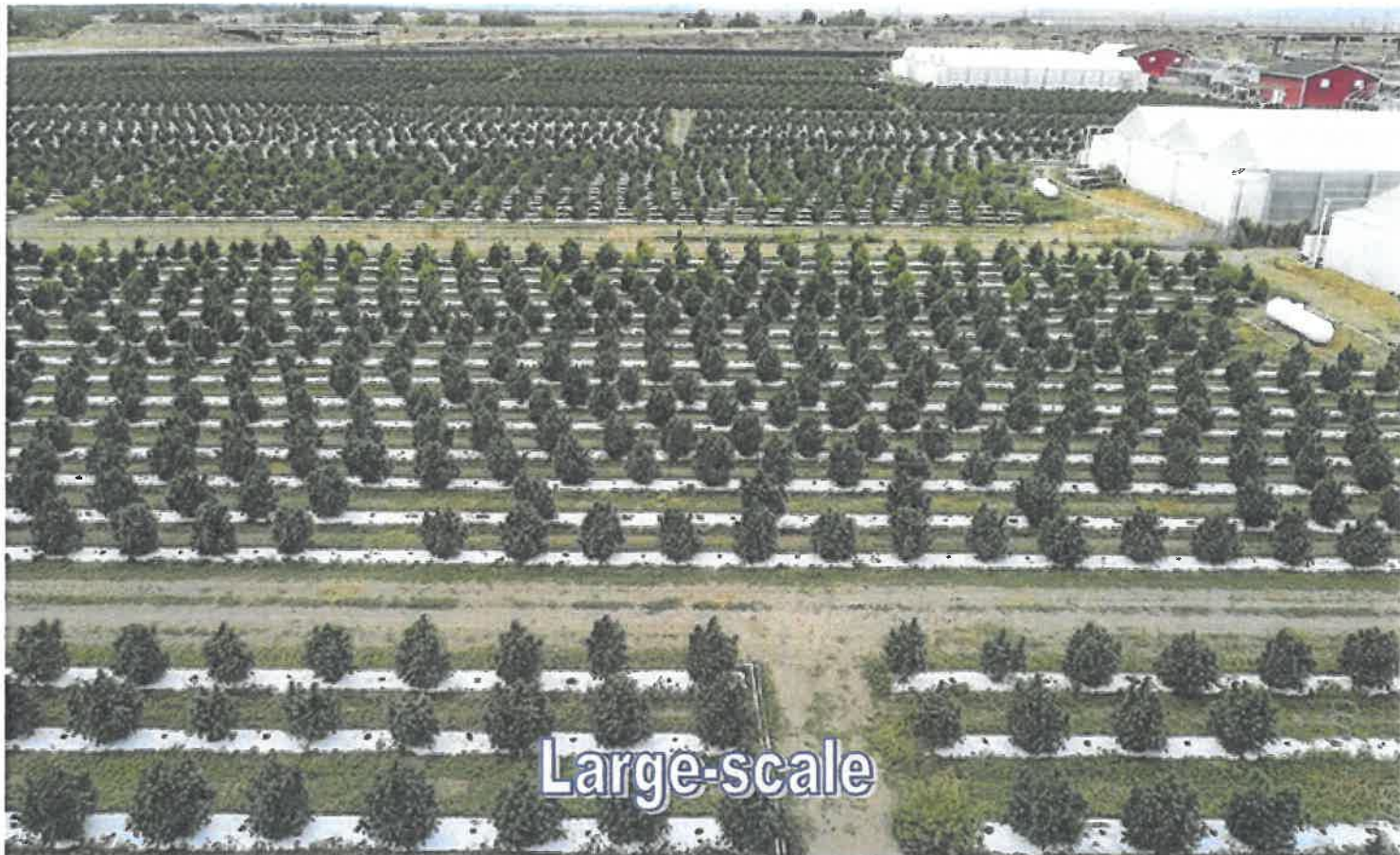


Utilizing natural light



Utilizing man-made light

# Outdoor Cultivation Facilities



# Manufacturing Facilities



# Manufacturing Facilities



# Dispenseries



# Dispenseries



# Dispenseries



# eCigarette/Tobacco Shops

## Parents beware: Here are 5 types of e-cigarettes your teen might be hiding

Emma Kate Filtes, Indianapolis Star Published 3:17 p.m. ET May 2, 2019 | Updated 3:28 p.m. ET May 2, 2019

## FDA plans crackdown on e-cigarettes as popularity soars among teens

By Blythe Bernhard St. Louis Post-Dispatch | Nov 9, 2018

## Teens are vaping nicotine and they don't even realize it, study says

Brett Molina, USA TODAY Published 12:02 p.m. ET April 23, 2019 | Updated 12:16 p.m. ET April 23, 2019



Twice as many high school students used nicotine-tinged electronic cigarettes this year compared with last year, an unprecedented jump in a large annual survey of teen smoking, drinking and drug use (Dec. 17) AP

Share your feedback to help improve our site experience!

### Sponsor Content



### Arnold, Missouri Drivers Are Stunned By This New Rule

EverQuote Insurance Quotes





**\*Amendment 2 as approved by Missouri voters**

County \_\_\_\_\_

Page No. \_\_\_\_\_

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

**INITIATIVE PETITION**

To the Honorable John (Jay) Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and \_\_\_\_\_ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 6th day of November, 2018, and each for himself or herself personally signed this petition; I am a registered voter of the state of Missouri and \_\_\_\_\_ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

**CIRCULATOR'S AFFIDAVIT**

STATE OF MISSOURI, COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes) (City, Town or Village)		Zip Code	Cong. Dist.	NAME (Printed or Typed)
1.	/ /					
2.	/ /					
3.	/ /					
4.	/ /					
5.	/ /					
6.	/ /					
7.	/ /					
8.	/ /					
9.	/ /					
10.	/ /					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and \_\_\_\_\_ County.

**FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.**

I am at least 18 years of age. I do \_\_\_ do not \_\_\_ (check one) expect to be paid for circulating this petition. If paid, list the payer

\_\_\_\_\_  
(Name of payer)

\_\_\_\_\_  
Signature of Affiant (Person obtaining signatures)

\_\_\_\_\_  
Printed Name of Affiant

\_\_\_\_\_  
Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Address of Notary (Street, City, State & Zip Code)

Notary Public (Seal)

My commission expires \_\_\_\_\_

RECEIVED  
NOV 28 PM 2:41  
John Ashcroft  
Secretary of State

Marijuana Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical Marijuana-Infused Products Manufacturing Facility.

- (8) “Medical Marijuana Dispensary Facility” means a facility licensed by the Department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a Qualifying Patient, a Primary caregiver, another Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or a Medical Marijuana-Infused Products Manufacturing Facility.
- (9) “Medical Marijuana-Infused Products Manufacturing Facility” means a facility licensed by the Department, to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or to another Medical Marijuana-Infused Products Manufacturing Facility.
- (10) “Medical Marijuana Testing Facility” means a facility certified by the Department, to acquire, test, certify, and transport marijuana.
- (11) “Medical use” means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a Qualifying Patient to mitigate the symptoms or effects of the patient’s qualifying medical condition.
- (12) “Physician” means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.
- (13) “Physician certification” means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician’s professional opinion, the patient suffers from a qualifying medical condition.
- (14) “Primary caregiver” means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a Qualifying Patient and who is designated as such on the primary caregiver’s application for an identification card under this section or in other written notification to the Department.
- (15) “Qualifying medical condition” means the condition of, symptoms related to, or side-effects from the treatment of:
- (a) Cancer;
  - (b) Epilepsy;
  - (c) Glaucoma;
  - (d) Intractable migraines unresponsive to other treatment;
  - (e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson’s disease, and Tourette’s syndrome;
  - (f) Debilitating psychiatric disorders, including, but not limited to, post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;
  - (g) Human immunodeficiency virus or acquired immune deficiency syndrome;
  - (h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;
  - (i) Any terminal illness; or

(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following: (i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers; (ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of Qualifying Patients and the community, procedures to be used to prevent diversion, and any plan for making Marijuana available to low-income Qualifying Patients; (iii) site security; (iv) experience in a legal cannabis market; (v) in the case of Medical Marijuana Testing Facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience; (vi) the potential for positive economic impact in the site community; (vii) in the case of Medical Marijuana Cultivation Facilities, capacity or experience with agriculture, horticulture, and health care; (viii) in the case of Medical Marijuana Dispensary Facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients; (ix) in the case of Medical Marijuana-Infused Products Manufacturing Facilities, capacity or experience with food and beverage manufacturing; and (x) maintaining competitiveness in the marijuana for medical use marketplace. In ranking applicants and awarding licenses and certificates, the Department may consult or contract with other public agencies with relevant expertise regarding these factors. The Department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by Qualifying Patients.

(2) The Department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by Qualifying Patients. In developing such rules or emergency rules, the Department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the Department may issue rules or emergency rules relating to the following subjects:

- (a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;
- (b) Specifications of duties of officers and employees of the Department;
- (c) Instructions or guidance for local authorities and law enforcement officers;
- (d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;
- (e) Creation of a range of administrative penalties for use by the Department;
- (f) Prohibition of misrepresentation and unfair practices;
- (g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the Medical Marijuana Dispensary Facility, product display and examination by the Qualifying Patient and/or Primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

a Medical Marijuana Cultivation Facility, Medical Marijuana-Infused Product Manufacturing Facility, or Medical Marijuana Dispensary Facility.

- (5) The Department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.
- (6) Within one hundred eighty days of the effective date of this section, the Department shall make available to the public license application forms and application instructions for Medical Marijuana Cultivation Facilities, Medical Marijuana Testing Facilities, Medical Marijuana Dispensary Facilities, and Medical Marijuana-Infused Products Manufacturing Facilities.
- (7) Within one hundred eighty days of the effective date of this section, the Department shall make available to the public application forms and application instructions for Qualifying Patient, Qualifying Patient cultivation, and Primary caregiver identification cards. Within two hundred ten days of the effective date of this section, the Department shall begin accepting applications for such identification cards.
- (8) An entity may apply to the Department for and obtain one or more licenses to grow marijuana as a Medical Marijuana Cultivation Facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the Department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the Department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the Department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of the effective date of this section and shall charge each applicant a non-refundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the Department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three Medical Marijuana Cultivation Facility licenses shall be issued to any entity under substantially common control, ownership, or management.
- (9) An entity may apply to the Department for and obtain one or more licenses to operate a Medical Marijuana Dispensary Facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The Department shall charge each applicant a non-refundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of the effective date of this section and shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the Department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five Medical Marijuana Dispensary Facility licenses shall be issued to any entity under substantially common control, ownership, or management.

recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

- (17) The Department may restrict the aggregate number of licenses granted for Medical Marijuana Dispensary Facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States Congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on the effective date of this section. Future changes to the boundaries of or the number of congressional districts shall have no impact.
- (18) The Department shall begin accepting license and certification applications for Medical Marijuana Dispensary Facilities, Medical Marijuana Testing Facilities, Medical Marijuana Cultivation Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after the effective date of this section. Applications for licenses and certifications under this section shall be approved or denied by the Department no later than one hundred fifty days after their submission. If the Department fails to carry out its non-discretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the Department to approve or deny the application.
- (19) Qualifying Patients under this section shall obtain and annually renew an identification card or cards from the Department. The Department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a Qualifying Patient identification card or Qualifying Patient cultivation identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the Department fails to deny and fails to issue a card to an eligible Qualifying Patient within thirty days, then their physician certification shall serve as their Qualifying Patient identification card or Qualifying Patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a Qualifying Patient identification card or Qualifying Patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.
- (20) Primary caregivers under this section shall obtain and annually renew an identification card from the Department. The Department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a Primary caregiver identification card, the Department shall, within thirty days, either issue the card or provide a written explanation for its denial.
- (21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed Medical Marijuana Cultivation Facility located in Missouri.
- (22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a Medical Marijuana-Infused Products Manufacturing Facility.
- (23) The denial of a license, license renewal, or identification card by the Department shall be appealable to the Administrative Hearing Commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the Department shall be subject to judicial review as provided by law.
- (24) No elected official shall interfere directly or indirectly with the Department's obligations and activities under this section.
- (25) The Department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or

- (6) The fees and taxes provided for in this Article XVI, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.
- (7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

**5. Additional Patient, Physician, Caregiver and Provider Protections**

- (1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the Department, and transportation of marijuana from a Medical Marijuana Dispensary Facility to the Qualifying Patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid Qualifying Patient identification card; a valid Qualifying Patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid Primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.
- (2) No patient shall be denied access to or priority for an organ transplant because they hold a Qualifying Patient identification card or use marijuana for medical use.
- (3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.
- (4) A health care provider shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.
- (5) A Medical Marijuana Testing Facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.
- (6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by non-emancipated Qualifying Patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.
- (7) A Primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation of up to six flowering marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.
- (8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed Medical Marijuana Testing Facilities, Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensary Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, Qualifying Patients, Primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The Department may consult with and rely on the records, advice and recommendations of the Attorney General and the Department of Public Safety, or their successor entities, in applying this subdivision.

- (3) All Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, and Medical Marijuana-Infused Products Manufacturing Facility licenses, entities with Medical Marijuana Testing Facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.
- (4) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional Department sanction, up to and including loss of license.
- (5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a "Marijuana-Infused Product." Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty.
- (6) No individual shall serve as the Primary caregiver for more than three Qualifying Patients.
- (7) No Qualifying Patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.
- (8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a Medical Marijuana-Infused Products Manufacturing Facility license. Violation of this prohibition shall subject the violator to Department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.
- (9) All Qualifying Patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the Qualifying Patient or by such patient's Primary caregiver. Two Qualifying Patients, who both hold valid Qualifying Patient cultivation identification cards, may share one enclosed, locked facility. No more than twelve Qualifying Patient or Primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a Primary caregiver also holds a Qualifying Patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.
- (10) No Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary Facility, Medical Marijuana-Infused Products Manufacturing Facility, Medical Marijuana Testing Facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the Department, not to be unreasonably withheld.
- (11) Unless allowed by the local government, no new Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, Medical Marijuana Dispensary Facility, or Medical Marijuana-Infused Products Manufacturing Facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit Medical Marijuana

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI,  
AMENDING CHAPTER 405 OF THE ARNOLD CODE OF ORDINANCES  
(MARIJUANA RELATED USES AND TOBACCO, NICOTINE, AND OTHER  
LEGAL SUBSTANCE ESTABLISHMENTS)**

---

WHEREAS, an amendment to Missouri's constitution was approved by voters on November 6, 2018 allowing access to Medical Marijuana in Missouri; and

WHEREAS, the Federal Controlled Substance Act, 21 U.S.C. 801 et seq., the use, possession and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, the United States Department of Justice issued a Memorandum entitled "Guidance for Marijuana Enforcement" on August 29, 2013. The memorandum established eight guidelines for states regarding the federal priorities in determining whether federal enforcement should commence against those engaged in specific activities related to marijuana cultivation and distribution. This ordinance places the highest priority on meeting these guidelines, particularly those related to public safety and health, restrictions on availability to minors, and prevention of illegal trafficking and profiteering; and

WHEREAS, Marijuana plants, as they begin to flower and for a period of two months or more during the growing season, produce an extremely strong odor that is detectable far beyond property boundaries and that can adversely impact the peace and enjoyment of nearby properties; and

WHEREAS, the City Council of the City of Arnold desires to amend Chapter 405 of the Arnold Code of Ordinances; and

WHEREAS, the proper public hearings have been held, pursuant to City Ordinance and the laws of the state of Missouri; and

WHEREAS, the Planning Commission has submitted its report and recommendation to the City Council on the proposed amendments to Chapter 405 of the Arnold Code of Ordinances; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI, AS FOLLOWS:

**SECTION 1.** Section 405.060 of the Arnold Code of Ordinances is hereby amended to add the following definitions:

**“MARIJUANA OR MARIHUANA**

Means Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as seed thereof and resin extracted from the plan and marijuana-infused products. Marijuana does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.



A specialty retail establishment that has, as a substantial or significant portion of its stock in trade, smoking- and/or vapor inhalation-related accessories, such as pipes, pipe cleaners, lighters, butane, flints, cigar nippers, electronic/vapor substance inhalation products, commonly known as "electronic cigarettes," "e-cigarettes," "e-cigars," "e-cigarillos," "e-pipes," "e-hookahs," "electronic nicotine delivery systems," and other similar devices, as well as such cartridges, substances and additives used to experience the sensation of smoking vapors, tobacco and non-tobacco substances, exclusive of items identified as controlled substances or drug paraphernalia in Chapter 215, Article XI of the Municipal Code. Lounges or public rooms where customers or members of the public may inhale vapor, smoke, or otherwise consume such products as identified herein, may only be as allowed when specifically authorized in an approved Conditional Use Permit."

**SECTION 2.** Section 405.310.A.2. of the Arnold Code of Ordinances is hereby amended to add the following:

"j. Tobacco, Nicotine, and Other Legal Substance Establishment (*See Section 405.380*)."

**SECTION 3.** Section 405.320.A.2. of the Arnold Code of Ordinances is hereby amended to add the following:

"aa. Tobacco, Nicotine, and Other Legal Substance Establishment (*See Section 405.380*)."

**SECTION 4.** Section 405.330.A.2. of the Arnold Code of Ordinances is hereby amended to add the following:

"w. Tobacco, Nicotine, and Other Legal Substance Establishment (*See Section 405.380*)."

**SECTION 5.** Section 405.330.A.2. of the Arnold Code of Ordinances is hereby amended to add the following:

"aa. Medical Marijuana Dispensary Facilities (*See Section 405.380*)."

**SECTION 6.** Section 405.340.B. of the Arnold Code of Ordinances is hereby deleted in its entirety and substituting in lieu the following:

"B. *Permitted Land Uses And Developments.*

1. In a planned commercial district, the uses permitted shall only be:
  - a. Those designated as a permitted use in any of the "C" Commercial Districts; and
  - b. Those designated as conditional use in any of the "C" Commercial Districts subject to procedures contained in Section 405.870,

limits. Such distance shall be measured in a straight line, without regard to intervening structures or properties, from the main public entrance of any structure containing a tobacco, nicotine, and other legal substance establishment to the main public entrance of any other structure containing a tobacco, nicotine, and other legal substance establishment.

2. No tobacco, nicotine, and other legal substance establishment shall be operated or maintained within two hundred fifty (250) feet of primary or secondary schools, residentially zoned districts or any public park. Such distance shall be measured in a straight line, without regard to intervening structures or properties, from the main public entrance of any structure containing a tobacco, nicotine, and other legal substance establishment to the closest point on any property line of a residentially zoned district or public park.

C. Medical Marijuana-Related Entities. Medical marijuana-related entities, as defined in section 405.060, shall meet the following standards in addition to all other zoning requirements in order to operate within the City of Arnold:

1. No medical marijuana dispensary facility may be located within one thousand (1,000) feet of another medical marijuana dispensary facility except when such other facility is a federally licensed pharmacy. The distance between any two (2) medical marijuana dispensary facilities shall be measured in a straight line, without regard to intervening structures or properties, from the main public entrance of any structure containing a medical marijuana dispensary facility to the main public entrance of any other structure containing a medical marijuana dispensary facility.
2. No person shall cause or permit the establishment of a medical marijuana dispensary facility where such facility is within two hundred fifty (250) feet of a parcel of land which is used primarily for any of the following protected uses:
  - a. Churches, synagogues, mosques, temples, and other houses of worship, and related activities;
  - b. Primary or secondary schools;
  - c. Day care facilities;
  - d. Single-, two-, and, multi-family residential; and
  - e. Public parks

Such distance referred to above shall be measured in a straight line, without regard to intervening structures or properties, from the main

READ TWO TIMES, PASSED AND APPROVED ON THIS \_\_\_\_\_ DAY OF JUNE 2019.

\_\_\_\_\_  
Presiding Officer of the Council

\_\_\_\_\_  
Mayor Ron Counts

ATTEST:

\_\_\_\_\_  
City Clerk Tammi Casey

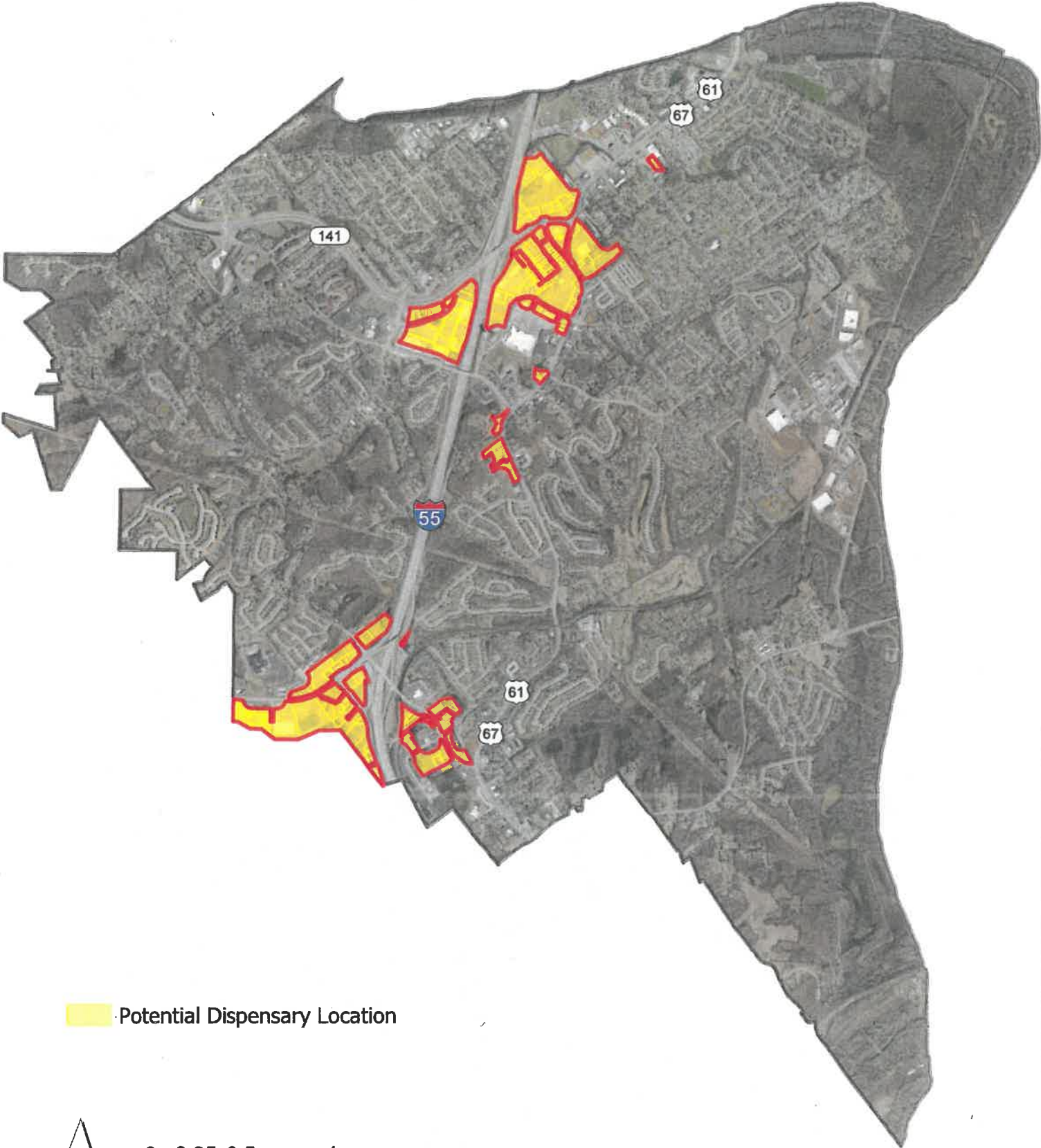
First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney Robert Sweeney

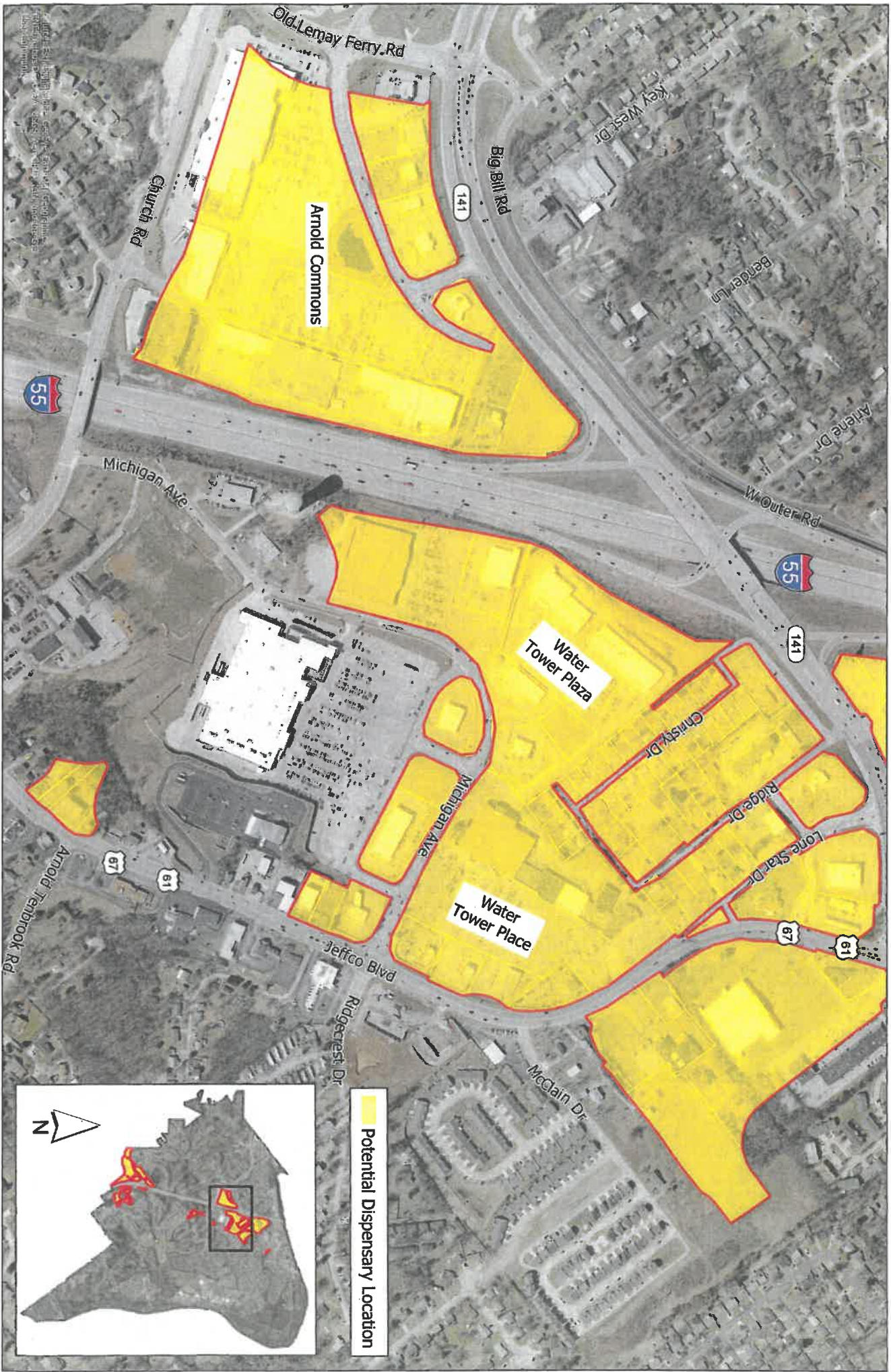
# Parcels Currently Meeting Proximity Requirements, As Proposed



 Potential Dispensary Location



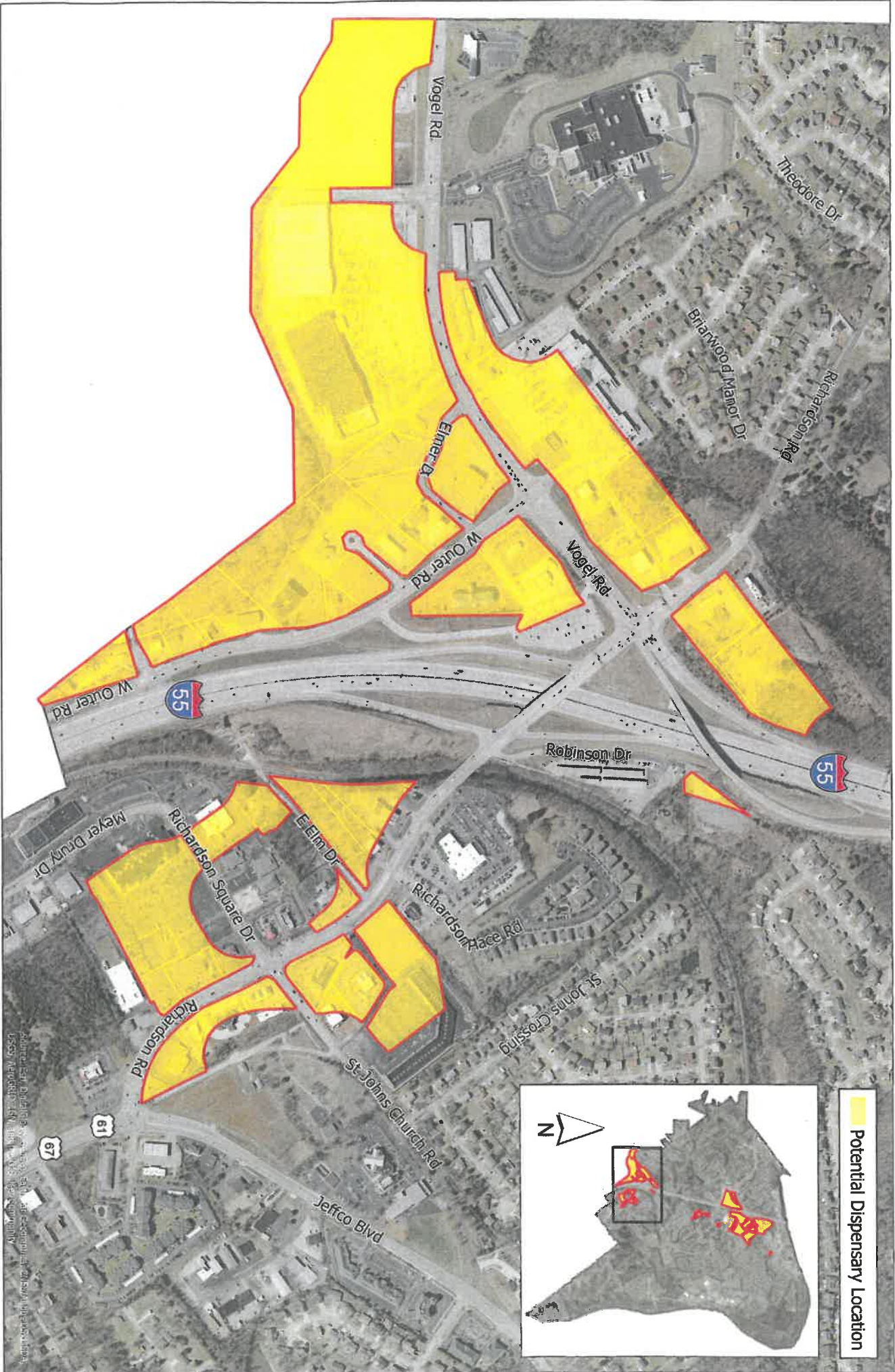
0 0.25 0.5 1 Miles



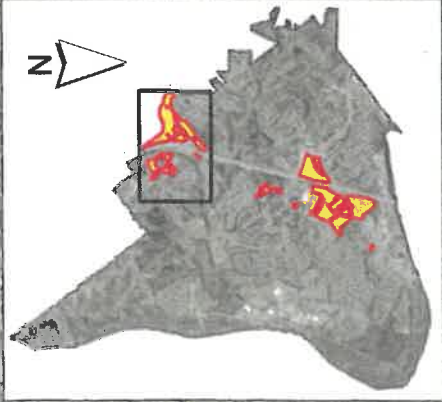
Copyright 2011 by Esri. All rights reserved. Microsoft, Google, and other brands and product names are trademarks of their respective owners. ArcGIS is a registered trademark of Esri. All other trademarks are the property of their respective owners.

■ Potential Dispensary Location





Potential Dispensary Location



Additional East, Dillard's, and other retail stores are located in the area. The map is for informational purposes only and does not constitute an offer of any product or service.