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Planning Commission Report

Meeting Date: April 8, 2019

From: Justin Wyse, Director of Planning and Development Services **JW**

Topic: Medical Marijuana

Background

On November 6, 2018 the voters of Missouri approved a constitutional amendment authorizing patient access to medical marijuana. The State law provides a framework for local governments to regulate some aspects of land use pertaining to “time, place, and manner” of facilities regulated and licensed by the State of Missouri.

Discussion

State law now defines four land use types that affect local land use regulation.

- Medical Marijuana Cultivation Facility – a facility licensed by the State of Missouri to acquire, cultivate, process, store, transport, and sell marijuana to a Medical Marijuana Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical-Infused Products Facility.
- Medical Marijuana Dispensary Facility – a facility licensed by the State of Missouri to acquire, store, sell, transport, and deliver marijuana in accordance with applicable law and regulations.
- Medical Marijuana-Infused Products Manufacturing Facility – a facility licensed by the State of Missouri to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Test Facility, or to another Medical Marijuana-Infused Products Manufacturing Facility.
- Medical Marijuana Testing Facility – a facility certified by the State of Missouri to acquire, test, certify, and transport marijuana.

While State law permits local governments zoning authority over medical marijuana facilities licensed by the State, municipalities are not permitted to prohibit any of the uses or impose regulations that unduly burden operation and locating of the facilities.

Additionally, the State law permits, but does not require, that local governments may impose a 1,000 foot distance separation for a medical marijuana facility from an existing elementary or secondary school, child day care center, or church (or other place of worship). For reference, the City of Chesterfield currently has, in accordance with State law, a similar 100 foot separation as part of liquor license requirements.

Attached is a publication from the Missouri Medical Cannabis Trade Association providing an overview of the law of the State of Missouri pertaining to medical marijuana.



MoCannTrade Municipal | City | County Regulation Guidance for Amendment 2 / Article XIV

The Missouri Medical Cannabis Trade Association (“MoCannTrade”) is the state’s largest Medical Marijuana Industry Trade Organization. The MoCannTrade board and committees have developed a multipronged community approach to government agencies to properly implement a statewide Medical Marijuana program. This packet was developed as a part of that effort and is designed to assist city government elected officials, councilpersons, city attorneys, municipal practice attorneys and other city officials and staff involved in the implementation of new ordinances governing medical marijuana laws in their respective jurisdictions.



TABLE OF CONTENTS

Section 1. What is Missouri's medical marijuana program?

Section 2. What Medical Marijuana Means for Your City?

Section 3. Draft Ordinance

Section 4. Medical Marijuana Facilities: Visual Facilities Guide and Examples



AMENDMENT 2 | ARTICLE XIV OVERVIEW

What Amendment 2 Does:

- Allows qualified patients with debilitating medical conditions to use medical marijuana under the supervision of their doctors.
- Creates facilities for cultivation, manufacturing, and dispensing of medical marijuana regulated by the Missouri Department of Health & Senior Services.
- Requires rigorous testing and labeling of medical marijuana products.
- Generates millions of dollars in new tax revenues for programs to benefit Missouri veterans.

What Amendment 2 Does NOT Do:

- **Legalize marijuana use generally.** Only qualified patients, certified by physicians and registered with the Department, may legally use medical marijuana under Amendment 2. Based on patient counts from other medical marijuana states, experts expect only 2-3% of Missouri's to possess a patient card from DHSS, and even that would take some time.
- **Allow for any unregulated sales.** All commercial sales will be tracked by a seed-to-sale tracking system. Patients will be limited to how much they can purchase each month.
- **Put a dispensary on every corner.** The Department can restrict the number of dispensary licenses to approximately one for every 32,000 Missouri residents.



SECTION 2. WHAT MEDICAL MARIJUANA MEANS TO YOUR CITY?

What Amendment 2 Says about a local government's role

Missouri Constitution Article XIV Section 7 (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 Cultivation Facilities, Medical Marijuana Testing Facilities, Medical Marijuana-Infused Products Manufacturing Facilities, or Medical Marijuana Dispensary Facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility, Medical Marijuana-Infused Products Manufacturing Facility, Medical Marijuana Dispensary Facility, or entity holding a transportation certification that may operate in such locality.



KEY POINTS

1. Local governments may not ban medical marijuana facilities but they may regulate the time, place and manner of facility operations in their communities as long as they don't conflict with Article XIV or create an undue burden.
2. The state will limit the number of licenses, so you will not end up with dispensaries on every corner. The minimum number of dispensaries set by the Amendment implies one dispensary for approximately every 32k Missouri residents.
3. Dispensaries will be some of the most secure buildings in the city. No one will be able to even enter the dispensary floor without first passing through a waiting room, where a computer synced with a statewide network will provide up to the second information for how much medication a patient has left to purchase. If a patient has reached his maximum limit for that 30-day period, he will be turned away. Entry on to the dispensary floor will be impossible without a qualified patient card.
4. Dispensaries are medical establishments like a pharmacy or health care clinic and should be treated as such for purposes of zoning. The amendment's language and the Missouri Department of Health and Senior Services have consistently said patient access should be a priority for local communities.
4. Dispensaries will bring sizable sale tax contribution and many jobs to cities. The Missouri State Auditor projects dispensaries will generate approx. \$6 million dollars annually for local governments and \$18 million for the state.



SECTION 3: MODEL ORDINANCE

INTRODUCED _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER XXX.XXX OF THE CITY ORDINANCES OF THE CITY OF MOCANNTRADE, MISSOURI REGARDING MEDICAL MARIJUANA.

WHEREAS, the City of MoCannTrade, MO acknowledges voters passed an Amendment to Article XIV of the Missouri Constitution enabling licensed citizens the right to the use, cultivation, manufacturing, dispensing, testing, transportation, administration and storage of Medical Marijuana (MMJ) and Medical Marijuana-Infused Products; and.

WHEREAS, the Planning and Zoning Commission of the City of MoCannTrade was adopted for the purpose of promoting the public health, safety, comfort, morals, convenience, and general welfare of the City; and

WHEREAS, the City desires to protect the public health and safety by establishing reasonable regulations on MMJ related businesses regarding noise, air quality, neighborhood safety, security, other health and safety concerns, and time, place and manner restrictions on MMJ facility operations; and

WHEREAS, the City has tasked the Planning and Zoning Commission to amend the existing City of MoCannTrade Zoning Ordinances to include applicable ordinances regarding the implementation of MMJ regulations consistent with the State Constitution.

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

Section 1. Section XXX.XXX “Definitions” of the Code of MoCannTrade, Missouri is amended to add the following definitions. If any of the new definitions adopted herein conflict with any preexisting definitions, the definitions in this Ordinance shall supersede any preexisting definitions:



Child day-care center. A child day care center or center, whether known or incorporated under another title or name, is a child care program conducted in a location other than the provider's permanent residence, or separate from the provider's living quarters, and licensed by the Department of Health and Senior Services of the state of Missouri where care is provided for children not related to the child care provider for any part of the twenty-four (24)-hour day.

Church. At a minimum, a church includes a body of believers or communicants that assembles regularly in order to worship. Unless the organization is reasonably available to the public in its conduct of worship, its educational instruction, and its promulgation of doctrine, it cannot fulfill the associational role that Courts have increasingly adopted as a threshold for determining when an organization qualifies as a church. Other key factors to consider include whether the organization has a distinct legal existence, recognized creed and form of worship, definite and distinct ecclesiastical government, a formal code of doctrine and discipline, distinct religious history, membership not associated with any other church or denomination, organization of ordained ministers, ordained ministers selected after completing prescribed studies, literature of its own, established places of worship, regular congregations, and regular religious services. No single factor is controlling but having regular meetings with a regular congregation should be weighted more heavily than some of the other factors. Cities can generally use a combination of these characteristics, together with other facts and circumstances, to determine whether an organization is considered a church for the purposes of the MMJ Ordinance.

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 plant 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.

Marijuana-Infused Products. Means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

Medical Marijuana Cultivation Facility. Means a facility licensed by the State of Missouri to acquire, cultivate, process, store, transport, and sell marijuana to a Medical Dispensary



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

Medical Marijuana Dispensary Facility. Means a facility licensed by the State of Missouri 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 Projects Manufacturing Facility.

Medical Marijuana-Infused Products Manufacturing Facility. Means a facility licensed by the State of Missouri, to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Test Facility, or to another Medical Marijuana-Infused Projects Manufacturing Facility.

Medical Marijuana Testing Facility. Means a facility certified by the State of Missouri, to acquire, test, certify, and transport marijuana.

Qualifying Patient. Means a Missouri resident diagnosed with at least one qualifying medical Condition.

School. Any building which is regularly used as a public, private or parochial elementary and/or secondary school or high school.

Section 2. Section XXX.XXX “Permitted Use” of the Code of MoCannTrade, Missouri is hereby amended to add Subsection XXX.XXX.XX, which shall hereafter be read as follows:

- X. Medical Marijuana Dispensaries

Section 3 Section XXX.XXX “Permitted Use” of the Code of MoCannTrade, Missouri is hereby amended to add Subsection XXX.XXX.XX, which shall hereafter be read as follows:

- X. Medical Cultivation Facility, Medical Marijuana-Infused Products Manufacturing Facility.



Sections 4. Chapter XX.XXX “Business or Commercial District” of the Code of MoCannTrade, Missouri is hereby amended to add a new Section XX.XX.XXX ”Standards for Medical Marijuana Dispensary Facility”, which Subsection shall read as follows:

XX.XXX.XX Standard for Medical Marijuana Dispensaries

No building shall be constructed, altered or used for a Medical Marijuana Dispensary without complying with the following regulations this subchapter.

A. No Medical Marijuana Dispensary shall be located within _____ hundred (numerical distance) feet of a then existing elementary or secondary school, child day care center, or church*. Measurements shall be in a method consistent with the city’s existing liquor license measurement standard.

***Then existing” shall mean any school, child day-care center, or church with a written building permit from the city to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Dispensary first applies for either zoning or a building permit, whichever comes first.**

B. Onsite Usage Prohibited. No marijuana may be smoked, ingested, or otherwise consumed on the premises of a Medical Marijuana Dispensary building.

C. Hours of Operation*. All sales or distribution of Medical Marijuana and any other products sold to the public through a Medical Marijuana Dispensary shall take places between the hours of 08:00 AM and 10:00, Monday – Thursday and Sunday. Sales and distribution of Medical Marijuana or any other products sold to the public through a Medical Marijuana Dispensary shall be extended until 2:00 AM the following day on Friday and Saturday evenings*. Medical Marijuana Dispensaries shall be secured and closed to the public after the hours listed in this subsection and no persons not employed by the Medical Marijuana Dispensary may be present in such a facility at any time it is closed to the public.

D. Display of License Required. The Medical Marijuana Dispensary license issued by the state of Missouri shall be prominently in a highly visible location, easily seen by patients on the dispensary’s sales floor.



E. Zoning Limitations. Medical Marijuana Dispensaries shall be in any general commercial business district located in the City of MoCannTrade and shall be treated no differently than any business application for a pharmacy, healthcare clinic, dental, or doctor’s office, except for the distance restrictions set forth herein.

F. Site Plan Review. Any plans for a Medical Marijuana Dispensary shall meet the standard new construction requirements of all General Business and Commercial District construction outlined in this Title and approved subject to the standard procedures of Section XX.XX.XXX of the City of MoCannTrade general business and commercial zoning code. The city shall not impose any additional requirements in the type of medical facility described in this Section.

Section 5. Chapter XX.XX “Light Industrial District and Heavy-Industrial District of the City Code of MoCannTrade, Missouri is hereby amended to add a new Section XX.XX.XXX Standards for Medical Marijuana-Infused Products Facilities, which shall state the following:

XX.XX.XXX Standards for Medical Marijuana-Infused Products Manufacturing Facility

No building shall be constructed, altered or used for a Medical Marijuana-Infused Products Manufacturing Facility without complying with the following regulations of subchapter XX.XXX.XX

A. Distance Requirement. No Medical Marijuana-Infused Products Manufacturing Facility using any combustible gases or CO2 in the extraction process shall be located within _____ hundred (numerical distance) feet of a then existing elementary or secondary school, licensed child day care center, or church*. Any other Medical Marijuana -Infused Products Manufacturing Facility may be located in any location where a Medical Marijuana Dispensary may be located as detailed above. Measurements shall be in a method consistent with the city’s existing liquor license measurement standard.

***"Then existing" shall mean any school, child day-care center, or church with a written building permit from the city to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Dispensary first applies for either zoning or a building permit, whichever comes first.**



B. Outdoor Operations or Storage. All operations and all storage of materials, products, or equipment shall be within a fully secured area inside the building structure or outdoors on the property in an area enclosed by a razor wire fence at least two (10) feet in height, not including the razor wire.

C. Onsite Usage Prohibited. No marijuana may be smoked, ingested, or otherwise consumed on the premises of any Medical Marijuana-Infused Products Manufacturing Facility during regular business hours.

D. Hours of Operation. All Medical Marijuana-Infused Products Manufacturing Facilities shall be closed to the public, between the hours of 10:00 P.M. and 8:00 A.M. No persons not employed by the business shall be on the premises at any time without being approved entry and logged in by building security personnel and are required to obtain a visitor pass

E. Display of Licenses Required. The Medical Marijuana-Infused Products Manufacturing Facility license issued by the State of Missouri shall be displayed in a prominent place in plain view near the front desk of the facility.

F. Site Plan Review Required. Any plans for a Medical Marijuana-Infused Products Facility using combustible gases or CO₂ in the extraction process shall meet the standard new construction requirements of the “Light Industrial District” outlined in this Title and approved subject to the standard procedures of Section XX.XX.XXX or XX.XX.XXX of the City of MoCannTrade Code for “Light Industrial Districts” or “Heavy Industrial Districts.” The city shall not impose any additional requirements on the type of medical facility described in this Section. Furthermore, this Section clarifies that a Medical Marijuana-Infused Products Facility may be built in either a “Light Industrial” or “Heavy Industrial District.”

Section 6. Chapter XX.XX “Heavy Industrial District” and Chapter XX.XX “Agricultural and Cultivation District” of the City Code of MoCannTrade, Missouri is hereby amended to add a new

Section XX.XX.XXX and Section XX.XX.XXX, Standards for Medical Marijuana-Infused Products Facilities, which shall state the following:



XX.XX.XXX Standards for Medical Marijuana Cultivation Facilities

No building shall be constructed, altered or used for a Medical Marijuana Cultivation Facility without complying with the following regulations of subchapter XX.XXX.XX of the Heavy Industrial District or Agricultural and Cultivation District or the City Code of MoCannTrade, Missouri.

A. Distance Requirement. No Medical Marijuana Cultivation Facility shall be located within ____ hundred (numerical distance) feet of a then existing elementary or secondary school, state licensed child day-care center or church*. Measurements shall be consistent with the city’s existing liquor license standard.

***"Then existing" shall mean any school, child day-care center, or church with a written building permit from the city to be constructed, or under construction, or completed and in use at the time the Medical Marijuana Dispensary first applies for either zoning or a building permit, whichever comes first.**

B. Outdoor Operations or Storage. All operations and all storage of materials, products, or equipment shall be within a fully secured area inside the building structure or outdoors on the property in an area enclosed by a razor wire fence at least 10 feet in height, not including the razor wire.

C. Onsite Usage Prohibited. No marijuana may be smoked, ingested, or otherwise consumed on the premises of any Medical Marijuana Cultivation Facility during regular business hours.

D. Hours of Operation. All Medical Marijuana Cultivation Facility shall be closed to the public, between the hours of 10:00 P.M. and 8:00 A.M. No persons not employed by the business shall be on the premises at any time without being approved entry and logged in by building security personnel and are required to obtain a visitor pass.

E. Display of Licenses Required. The Medical Marijuana Cultivation Facility license issued by the State of Missouri shall be displayed in a prominent place in plain view near the front entrance of the facility.

F. Site Plan Review Required. Any plans for an indoor “Medical Marijuana Cultivation Facility” shall meet the standard new construction requirements of the “Heavy Industrial District” outlined in this Title and approved subject to the standard procedures of Section XX.XX.XXX or XX.XX.XXX of the City of MoCannTrade “Cultivation and Agricultural District.” Any outdoor



“Medical Marijuana Cultivation Facility” shall meet the standard requirements for of any other crop, except as otherwise set forth herein. The city shall not impose any additional requirements on the type of medical facility described in this Section.

Section 7. Severability. The sections, paragraphs, sentences, clauses and phrases of this ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this ordinance are valid, unless the court finds the valid portions of this ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 8. Governing Law. This ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 9. It is intended that Sections 1-6 of this ordinance be incorporated into The Code of Ordinances of MoCannTrade, Missouri.

Section 10. Effective Date. This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor.

*MoCannTrade believes cities should have the ability to exercise their own discretion in determining proper hours of operations. The suggestions in this model ordinance are only suggestions. However, it is imperative to keep patient access at the forefront of all dispensary regulation decisions. You do not want to overly limit one’s access to their medicine. Many dispensaries are open 24 hours now.

Note We seriously considered adding an odor ordinance. But, based on the advice of several attorneys that work in this arena, this issue is well covered by Missouri caselaw and, in many cities, by ordinances that codify or override the caselaw. Such ordinances generally speaking define nuisance for any obnoxious odors from any source; e.g. sulfur; grain elevators, cheese manufacturing, rendering plants, stockyards, pig farms, chicken houses, paper mills, various factories, etc. that are a public nuisance. The caselaw allows any party affected to file suit to stop any obnoxious odor, noise, etc. wherever located. As a result, we concluded that the laws should not single out cannabis when the current state of Missouri law covers all odors.”



Section 4: MMJ FACILITIES – A Visual Guide

Dispensary Exterior Photos

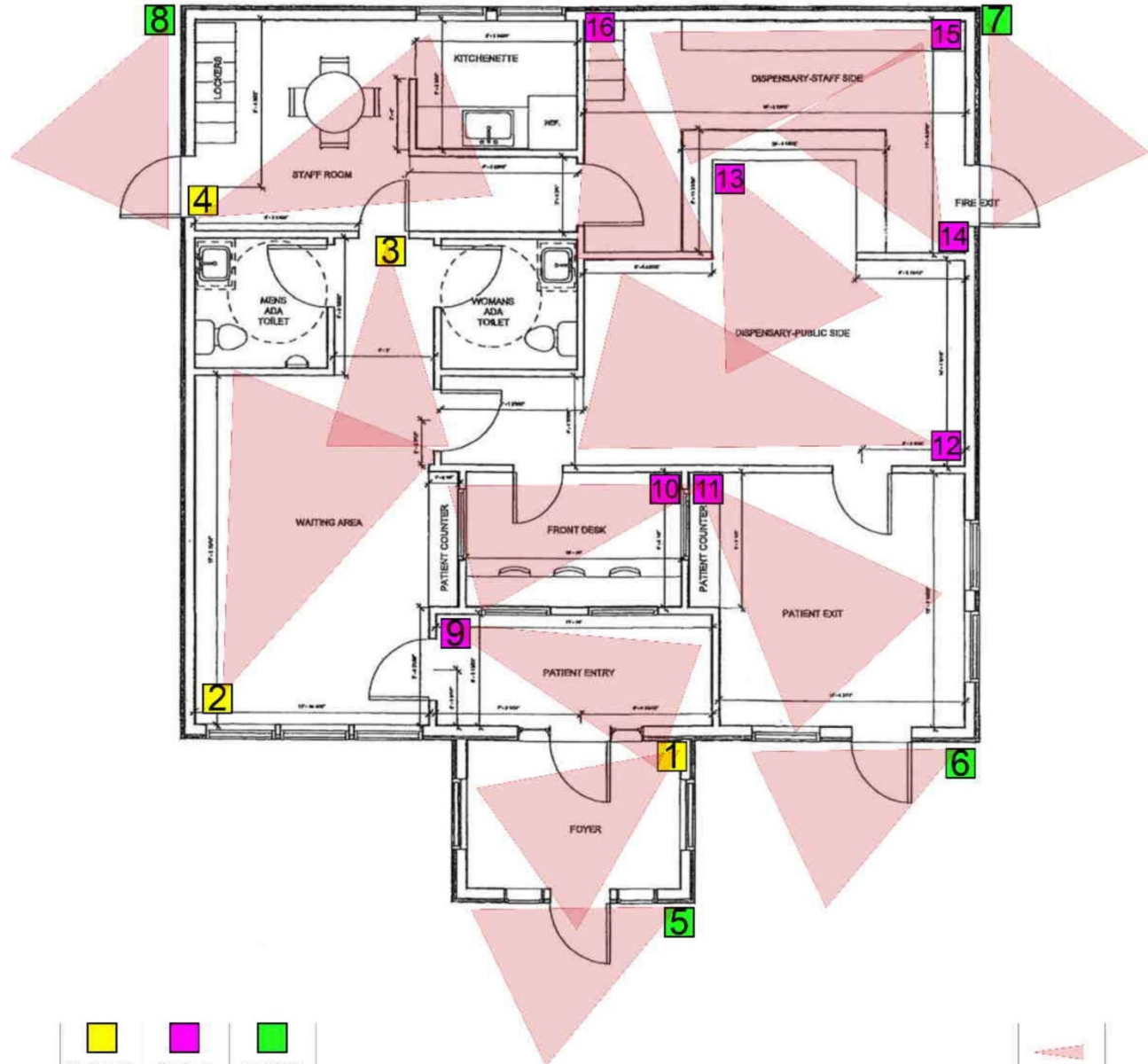










Interior Photos:



Sample Floor Plan w/ Camera Coverage

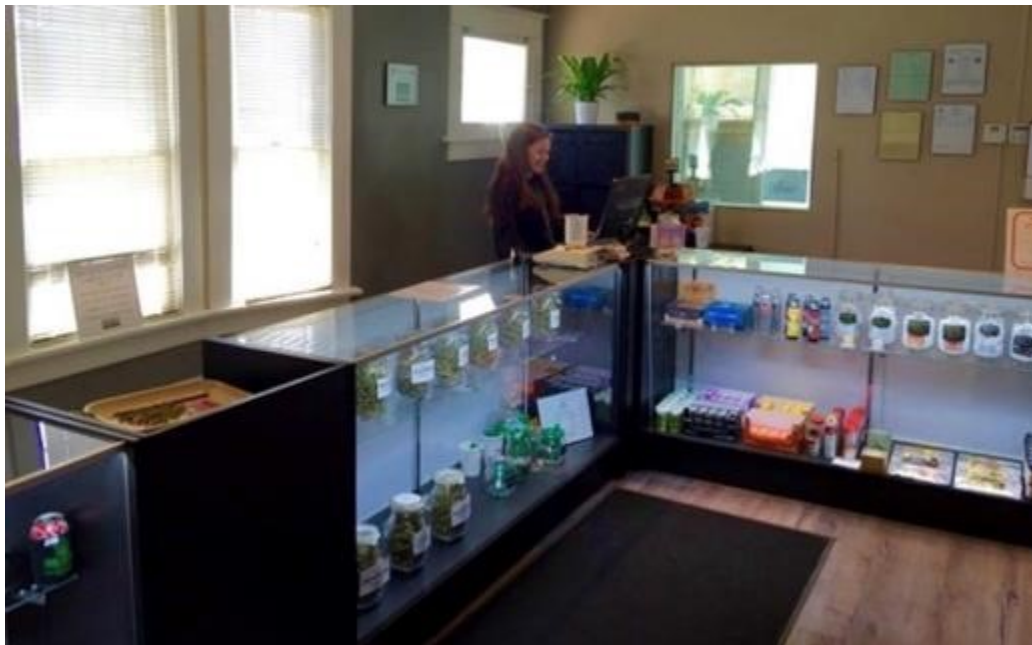


		
Micron-IR	Occulus	NRRange
		
4MP 4mm	4MP 2.7-12mm	2MP 4x 2.8-12mm
48V POE	48V POE	48V POE





More Modest Dispensaries:



Cultivation/Grow Facilities: Indoor Cultivation



Greenhouse Cultivation





Marijuana Infused Products Manufacturing Facilities:





“C1D1 Extraction Lab Booths”

