



**Community Development Department
Planning and Development Services**

Date: March 24, 2021
TO: Planning and Zoning Commission
FROM: Dan Symer, AICP, Zoning Code Manager
Through: Alaxandra Pucciarelli, Current Planning Manager
RE: Planning and Zoning Commission Work Session

I. **Request:**

Case No. PZ-21-00056: Request for a work session with the Planning and Zoning Commission to discuss the City's proposed amendment to the Zoning Code to modify the existing Medical Marijuana land use and application provisions to address Proposition 207 – Smart and Safe Arizona Act (recreational use of marijuana) that was approved by the Arizona voters in November 2020.

II. **Purpose of the Work Session:**

The work session with the Planning and Zoning Commission is required as a "Citizen Review Session" in compliance with Section 10-20.50.040 (Procedures) of the Zoning Code and applicable state law. The purpose of the work session is for staff to present an overview of the proposed amendment, to allow interested residents to provide their ideas, suggestions, and concerns, and for the Commission to ask questions, seek clarification, and discuss the amendment, as well as offer alternate suggestions and ideas. The Commission will take no action at this work session. After the work session, staff will revise the proposed amendment. The amendment will then be presented to the Commission at a public hearing for consideration and action. Once a recommendation is received, a public hearing will be scheduled with the City Council. The anticipated timeline for the amendments is as follows:

- April 14, 2021 – Planning and Zoning Commission Work Session
- April 28, 2021 – Potential Planning and Zoning Commission Public Hearing
- May 18, 2021 – Potential City Council Public Hearing (1st Reading of Ordinance)
- June 1, 2021 – Potential City Council Public Hearing (2nd Reading of Ordinance/Adoption)

III. **Background:**

Approved by the Arizona voters in November 2020, Proposition 207 – Smart and Safe Arizona Act (the "Act") allows for the recreational use and retail sales of marijuana to persons 21 years of age and older. In addition, the Act allows for cities, towns, and counties to enact local zoning regulations pertaining to the Act and the associated sale, cultivation, product manufacturing, and testing of marijuana, provided that the regulations are not more restrictive than the community's provisions for medical marijuana use.

On January 12, 2021, and March 2, 2021, the City Council provided direction to staff to modify the existing medical marijuana Zoning Code provisions to accommodate the Act's associated uses. In

addition, the City Council's direction included limiting the sales of marijuana to entities that are certified by the State of Arizona to operate as a medical dispensary or dual license (medical or recreational) dispensary. The direction also included utilizing the applicable medical marijuana Zoning Code criteria for all marijuana uses that the Act addresses.

IV. Overview of Proposed Amendment:

The proposed amendment (Attachment 1) modifies the existing marijuana use provisions of the Zoning Code to address the Act and City Council's direction. To accommodate both the medical marijuana and the Act's uses, the proposed revisions to the Zoning Code incorporate the following modifications:

- The Medical Marijuana Dispensary land use has been revised to be called Marijuana Dispensary. In addition, the associated definition has been modified to accommodate both medical and dual license (medical or recreational) sales. Furthermore, the definition incorporates the associated accessory uses (cultivation, manufacturing, processing, packaging, or storage of marijuana products) to be consistent with the Arizona Revised Statutes (ARS) pertaining to a dispensary's allowed operation characteristics allowed under ARS.
- A new land use, Marijuana Testing Facility, and its associated definition has been added. This land use is a laboratory that tests marijuana and marijuana products for potency and impurities. The Marijuana Testing Facility is proposed to be allowed in the Suburban Commercial (SC), Community Commercial (CC), Highway Commercial (HC), Commercial Service (CS), Research and Development (RD), Light Industrial (LI), and Light Industrial – Open (LI-O) zones as an allowed use.
- Medical Marijuana Off-Site Cultivation Location is proposed to be revised to Marijuana Off-Site Cultivation Location. In addition, the existing definition is proposed to be deleted, and a new definition is proposed to be added that conforms with the Act and the existing ARS provisions for medical marijuana. The Marijuana Off-Site Cultivation Location land use allows for the cultivation, manufacturing, packaging, processing, and storage of marijuana and marijuana products, but it excludes the sale or transfer of marijuana and marijuana products to consumers. The Marijuana Off-Site Cultivation Location use is proposed to be maintained as an allowed use in the Light Industrial (LI), Light Industrial – Open (LI-O), Heavy Industrial (HI), and Heavy Industrial – Open (HI-O) zones.
- A new land use, Marijuana Off-site Manufacturing Location, and its associated definition has been added. The proposed definition of the land use allows for the manufacturing, packaging, processing, and storage of marijuana and marijuana products, excluding the sale or transfer of marijuana and marijuana products to consumers. The Marijuana Off-site Manufacturing Location land use is proposed to be allowed in the Light Industrial (LI), Light Industrial – Open (LI-O), Heavy Industrial (HI), and Heavy Industrial – Open (HI-O) zones.
- The term and definition of Marijuana Establishment has been added to maintain consistency with the Act. A Marijuana Establishment is any of the following: Marijuana Dispensary, Marijuana Off-Site Cultivation Location, Marijuana Off-site Manufacturing Location, or Marijuana Testing Facility.

- The existing provisions have been modified to include a Concept Plan Review prior to the submittal of a Building Permit or Business License application or prior to a structure's occupancy for a Marijuana Establishment.

In addition to the above modifications, several of the existing provisions have been deleted since they are regulated and verified and by the Arizona Department of Health Services as part of the department's review and certification for a Marijuana Establishment and marijuana facility agents. Also, the provisions have been updated to require a dimensioned plan by a surveyor and an affidavit signed and notarized by the applicant attesting that the lot or parcel proposed to contain the Marijuana Establishment meets the separation requirements specified in subsection F. of Section 10-40.60.220. Furthermore, several provisions have been modified for simplification purposes.

V. **Findings:**

At the April 28, 2021 Planning and Zoning Commission meeting, the Commission will be requested to make a recommendation to the City Council on the proposed amendments based on the required findings specified in the Zoning Code. For your reference and discussion purposes, the required findings are specified below.

1. The proposed amendment is consistent with and conforms to the objectives and policies of the General Plan and any applicable specific plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

VI. **Community Involvement**

In accordance with Arizona Revised Statutes and the Zoning Code, the work session before the Planning and Zoning Commission was advertised in the Arizona Daily Sun on March 27, 2021, which is 18 days before the scheduled meeting date.

As of the date of this memorandum, staff has not received any public comments on the proposed amendment.

VII. **Conclusion:**

As indicated above, the purpose of the work session is for staff to present an overview of the Zoning Code's proposed amendment and allow interested individuals, residents, and business owners to provide comments. Also, the work session allows for the Commission to ask questions, seek clarification, have discussions, and offer comments on the proposed amendment. No formal recommendation or action by the Commission to the City Council is to occur at the work session. Additional opportunities for discussion, public comment, and action by the Commission will occur at a future public hearing.

Attachments:

1. Case No. PZ-21-00056 Zoning Code Text Amendment - 2021: Marijuana Uses