

# **TOWN** *Of* **PARADISE VALLEY**



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## **STAFF REPORT**

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**TO:** Mayor Bien-Willner and Town Council Members

**FROM:** Jill Keimach, Town Manager  
Deborah Robberson, Acting Town Attorney

**DATE:** February 11, 2021

**DEPARTMENT: Town Attorney**  
Deborah Robberson, Acting Town Attorney 480-348-3691

**AGENDA TITLE:**

Discuss Draft Ordinance 2021-01, referred from the Planning Commission, to amend the Town Zoning Ordinance to prohibit recreational marijuana establishments.

**RECOMMENDATION:**

Discuss Draft Ordinance 2021-01 to amend the Town Zoning Ordinance to prohibit recreational marijuana establishments and set Ordinance for a public hearing at February 25, 2021 Council meeting.

**SUMMARY STATEMENT:**

Arizona voters passed the Smart and Safe Arizona Act ballot initiative (Proposition 207) at the November 3, 2020 general election, legalizing recreational marijuana in Arizona. Previously, the Arizona Medical Marijuana Act allowed operation of nonprofit medical marijuana dispensaries. Proposition 207 allows for a much broader variety of marijuana establishments, including recreational marijuana dispensaries.

More specifically, Proposition 207 authorizes the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; allows a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allows the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants.

Proposition 207 authorizes marijuana establishments and testing facilities to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other Town departments to respond to violations of state and local laws, including building, electrical and fire codes.

Proposition 207 permits cities and towns to enact ordinances prohibiting [recreational] “marijuana establishments” and “marijuana testing facilities.” The amended Sections in the Arizona Revised Statutes are as follows: Section 36-2817, Arizona Revised Statutes; Title 36, Arizona Revised Statutes, By Adding Chapter 28.2; Title 42, Chapter 5, Arizona Revised Statutes, By Adding Article 10; Title 43, Chapter 1, Article 1, Arizona Revised Statutes, By Adding Section 43-108; Relating To The Responsible Adult Use, Regulation And Taxation Of Marijuana.

Based on the lack of any appropriate retail zoning districts in the Town, the potential high-volume quick trip traffic that might be generated from a marijuana establishment or marijuana testing facility, and in order to protect public health, safety, and welfare of the Town, the Town staff recommended to the Town Council that the Town should consider adopting revisions to the Town Zoning Ordinance that would prohibit marijuana establishments and/or marijuana testing facilities in the Town. At its October 8, 2020 open meeting the Council approved Resolution No. 2020-30, which referred the review of the draft ordinance to the Planning Commission. The Planning Commission has reviewed the draft ordinance and recommends that the Council approve the draft ordinance. There were no significant concerns or changes suggested by the Commission.

To prohibit [recreational] marijuana establishments and testing facilities in the Town a change in Section 1027 of the Town Zoning Ordinance is recommended. Existing Section 1027 prohibits a number of types of marijuana-related uses and facilities such as: (1) Medical Marijuana Designated Caregiver Cultivation Sites; (2) Medical Marijuana Dispensary Offsite Cultivation Sites; and (3) Medical Marijuana Infusion Facilities. The amendment to Section 1027, along with new definitions in Section 201, will apply the same prohibition that exists for a number of medical marijuana related facilities and uses to “marijuana establishments” and “marijuana testing facilities.”

Further, the ordinance is drafted with an emergency clause to make the ordinance effective immediately upon passage in order to preserve and protect the public peace, health, and safety.

**BUDGETARY IMPACT:**

None.

**ATTACHMENT(S):**

- A. Staff Report
- B. Ordinance Number 2021-01
- C. Presentation