

TOWN OF PARADISE VALLEY

Draft Ordinance

Prohibiting Recreational Marijuana Establishments

Town Council Study Session

February 11, 2021



Key Question

- Receive Council input on draft Ordinance 2021-01, referred by the Planning Commission, regarding prohibiting marijuana establishments and testing facilities in the Town.
- Does Council wish to have Ordinance 2021-01 set for a public hearing and Council action at the February 25 Council meeting?

Background

- Proposition 207, also known as the Smart and Safe Act, was approved by voters at the November 2020 General Election. Gov. Ducey signed the legislation, which is now effective.
- Prop 207 legalizes the adult use of recreational marijuana:
 - Authorizes possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age
- Prop 207 allows authorizes DHS to issue licenses to nonprofit medical marijuana dispensaries or other dispensary applicants become a marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana

Background (cont'd)

- Prop 2017 allows DHS, or another entity designated by the DHS, 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 City departments to respond to violations of state and local laws, including building, electrical, and fire codes.
- Prop 207 allows Town to prohibit marijuana establishments and/or marijuana testing facilities in the Town

Draft Ordinance 2021-01

Zoning Ordinance changes to prohibit [recreational] marijuana establishments and testing facilities.

- 1) Section 1027 – adds “marijuana establishments” and “marijuana testing facilities” to the list of prohibited marijuana-related facilities

Section 1027. Prohibition of Specific Types of Medical Marijuana Facilities **and Other Marijuana-related Facilities or Uses.**

The following specified types of medical marijuana facilities, as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance: (1) Medical Marijuana Designated Caregiver Cultivation Site; (2) Medical Marijuana Dispensary Offsite Cultivation Site; and (3) Medical Marijuana Infusion Facility. Medical Marijuana Qualifying Patient Cultivation **within** the Town of Paradise Valley shall be prohibited if a Medical Marijuana Dispensary receives a registration certificate from DHS for any location within the Town of Paradise Valley or within twenty-five (25) miles of the residence of a Qualifying Patient living in the Town of Paradise Valley. **Except as otherwise required by law, (1) Marijuana Establishments and (2) Marijuana Testing Facilities, each as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance.**

Ordinance 2021-01 (cont'd)

2) Section 201 – definitions added:

Marijuana Establishment: An entity licensed by DHS, or any other authority, to operate any or all of the following:

(1) A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.

(2) A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

(3) A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

Marijuana Testing Facility: DHS or its successor agency or any other entity that is licensed by DHS or any other authority to analyze the potency of marijuana and test marijuana for harmful contaminants.

Recommendation

- 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 recommends that the Town Council consider adopting revisions to the Town Zoning Ordinance that would prohibit marijuana establishments and/or marijuana testing facilities in the Town

Next Steps

- Receive input from Council at this Study Session
- Bring Ordinance 2021-01 for public hearing and Council action at Feb. 25 Council meeting

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