

# **TOWN OF PARADISE VALLEY**

Ordinance 2021-01

Prohibiting Recreational Marijuana Establishments

**Town Council Public Hearing**

**February 25, 2021**



# Tonight's Action

Council will conduct a Public Hearing regarding Ordinance 2021-01 and then consider approval of the Ordinance.

Note: Ordinance 2021-01 contains an emergency clause that will make it effective immediately. An emergency clause requires a vote of three-fourths of the members of the Council

# 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 applicants to become a marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana

# Background (cont'd)

- Prop 207 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

# Ordinance 2021-01

Ord. 2021-01 – amends the Town Zoning Ordinance to prohibit [recreational] marijuana establishments and testing facilities.

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

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)

## ■ 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

- Approve Ord. 2021-01 – to prohibit marijuana establishments and testing facilities for reasons including the lack of any appropriate retail zoning districts in the Town, the potential high-volume quick trip traffic that might be generated
- Including Declaration of Emergency – Immediate operation of the provisions the Ordinance is necessary to preserve the public peace, health and safety as Proposition 207 authorizes marijuana establishments and testing facilities to use flammable materials for chemical extraction or chemical synthesis, resulting in a threat to the public's health, safety, security and peace 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.

QUESTIONS?