



Legislation Text

File #: 20-451, **Version:** 1

TO: Chair and Planning Commission

FROM: Andrew Miller, Town Attorney

DATE: December 1, 2020

CONTACT:

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AGENDA TITLE:

Public Hearing for Commission Recommendation regarding referral from the Town Council of an amendment to the Town Zoning Ordinance to prohibit recreational marijuana establishments.

BACKGROUND:

The statewide ballot measure I-23-2020, known as "Smart and Safe Arizona Act" (relating to the legalization of retail marijuana sales and consumption) was on the November 3, 2020 general election ballot as Proposition 207. The voters largely voted in support of Proposition 207 and it has now passed. It will take effect once the Governor has signed the legislation, which may be late December or early January. Once enacted, Proposition 207 contains provisions authorizing 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 also permits cities and towns to enact ordinances prohibiting [recreational] "marijuana establishments" and "marijuana testing facilities."

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. Staff prepared a draft ordinance for the Council to review, with a recommendation that the Council provide input on any suggested changes to the terms of the draft ordinance and adopt a resolution that would request that the Commission review the draft ordinance and have the hold the required citizen review session and public hearing on the draft ordinance in a timely manner.

The Council did review the draft ordinance in a study session at its October 8, 2020 meeting and requested a few changes to the draft ordinance. Thereafter, at its October 8, 2020 open meeting the Council approved Resolution No. 2020-30 (copy attached), which refers the review of the draft ordinance to the Planning Commission. The Resolution requests that the Commission review the draft ordinance, consider modifications that are consistent with the intent to prohibit marijuana establishments and testing facilities, and hold a citizen review session and public hearing on the draft ordinance, with a final recommendation to be made by the Commission by December 8, 2020.

Regarding the draft ordinance itself, to complete the Council's desire 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."

If there are no significant concerns or changes suggested by the Commission, the Commission should send the final recommendation to the Council by December 8, 2020. Staff recommends that the Commission recommend approval of the Draft Ordinance as submitted.

NEXT STEPS

Review the Draft Ordinance changes and send the final recommendation to the Council by December 8, 2020.

ATTACHMENTS:

Resolution No. 2020-30

Exhibit A to Resolution 2020-30 - Draft Ordinance Provisions