

Medical and Adult-Use Marijuana

OVERVIEW OF ISSUES AND POTENTIAL AMENDMENTS TO THE
UNIFIED DEVELOPMENT CODE (UDC)

JANUARY 12, 2021



Agenda for today

Background on Marijuana Regulations

Arizona Smart and Safe Act (Proposition 207)

Current Regulations in Tucson

Comparison of Tucson's to other communities

Potential changes to Tucson's zoning code

Next Steps

[Submit comments using the form linked in the chat](#)

Background of Marijuana Regulations in Tucson

November 2, 2010 - Voters approved Proposition 203 legalizing the use of medical marijuana in Arizona.

November 23, 2010 - Mayor and Council adopted medical marijuana zoning regulations (Ordinance 10850).

September 9, 2014 - Mayor and Council adopted revisions to regulations regarding the size limit of medical marijuana off-site cultivation locations in the I-1 and I-2 zones.

February 23, 2016 - Mayor and Council adopted revisions to regulations related to:

- (1) placing a cap on the number of dispensaries
- (2) increasing the permitted size of off-site cultivation locations in the C-2 and C-3 zones from 3,000 to 4,000 square feet
- (3) adjusting the setback for expansion of existing dispensaries to be in conformance with the Arizona Department of Health Services (ADHS) standards

January 08, 2019 - the Mayor and Council voted 7-0 to remove the sunset date regarding medical marijuana and approve the amendments related to odor mitigation and lobby size.

AZ Proposition 207: Arizona Smart and Safe Act

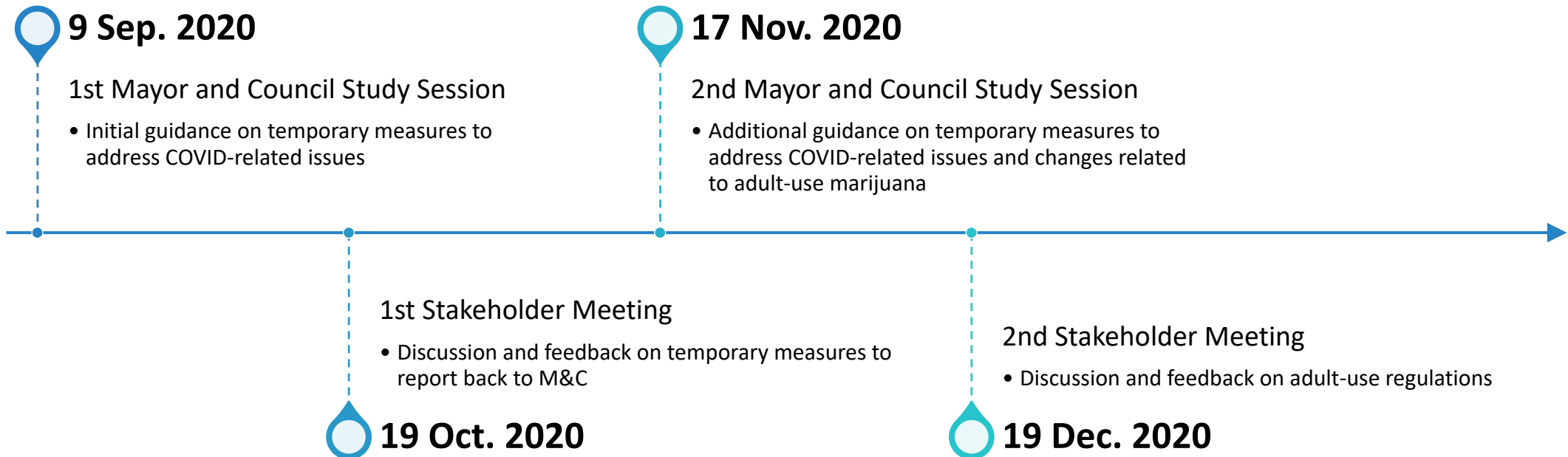
Voter initiative that passed in the November election

- Statewide vote | Yes - 1,956,440 (60.03%) to No - 1,302,458 (39.97%)

Key items related to Prop 207

- limited marijuana possession, use, and cultivation by adults 21 and older;
- personal possession of 6 marijuana plants for a single person household, and 12 marijuana plants for households of two or more;
- preference for new licenses will be given to the existing medical marijuana dispensaries in Arizona;
- an additional 26 licenses will be distributed (total allowed based on 10 percent of pharmacies in Arizona), with a preference to underserved areas and applicants from communities disproportionately impacted by the enforcement of previous marijuana laws; and,
- additional regulations and laws will be set up by the Arizona Department of Health Services, by April 5, 2021; and,
- new municipal adult use regulations shall not be more restrictive than current medical marijuana regulations.

Steps taken to date



COVID-related temporary measures

We currently allow for the following for all dispensaries to help with social distancing:

- Curbside Pickup/Delivery
- Home Delivery
- Expanded Lobby Size

The following temporary measures may be allowed on a site-by-site basis:

- Temporary utilization of unused space for expanded lobby
- Temporary utilization of an existing drive through

Mayor and Council Direction

From the September 9, 2020 Mayor and Council Study Session

“...begin the process of reviewing the UDC, engage stakeholders and otherwise, in the event the adult choice marijuana ballot measure is approved by the voters of Arizona.”

From the November 17, 2020 Mayor and Council Study Session

In relation to changes to the UDC related to Proposition 207, staff was directed to review:

- Expanding total allowed dispensary size due to additional concerns about social distancing, COVID-19, and increased traffic due to Prop-207
- Staff should review what is happening in the Phoenix area and use it as a guide. Find something that is in the middle.

Comparison of medical marijuana regulations in Arizona

City	Permitted Zones	Dispensary Size	Separation Distance	Drive through
Chandler	C-2 & C-3	2500 sf	1 mile from dispensary – ¼ Mile from daycare, park, place of worship, school, residential zone, library, etc.	Not Permitted
Flagstaff	HC & Light and Heavy Industrial	No size limit	2000 feet from dispensary – 500 feet from substance abuse facility, schools, daycare, park, library, etc.	Not Permitted
Glendale	General Office & General Commercial & Heavy Commercial	6000 sf	1 mile from dispensary – 500 feet from residential zones – ¼ mile from schools	Not Permitted
Mesa	Limited and General Industrial	2500 sf	1 mile from dispensary – 2400 feet from rehab – 1200 feet from churches, libraries, schools, 500 ft daycare, parks, HOA open space.	Not Permitted
Oro Valley	Medium and High Intensity Commercial	2000 sf	2000 feet from dispensary – 100 ft from childcare, school, church, public library, park, etc.	Not Permitted
Tucson	C-2 and C-3	4000 sf	2000 feet from dispensary – 1000 ft from schools, childcare, parks, substance abuse, church,	Not Permitted

Comparison of medical marijuana regulations in Arizona (cont.)

City	Permitted Zones	Dispensary Size	Separation Distance	Drive through
Peoria	Intermediate, General, and Regional Commercial	No size limit	1/2 mile from dispensary – 1000 feet from daycare, schools, liquor store, substance abuse areas, 500 feet from residentially zoned property.	Not Permitted
Phoenix	Intermediate Commercial, Light Industrial	5000 sf	1 mile from dispensary – ¼ mile from schools, parks, shelters, place of worship, etc. – 500 ft of residential zones	Not Permitted
Pima County	C-2 zone with conditional use permit	2000 sf	2000 ft from dispensary – 1000 ft from school, childcare, school bus stop, park, library, church, rehab facility	Not Permitted
Scottsdale	Special Campus, Commercial Office, Industrial Park	No size limit	¼ mile from dispensary, 1500 ft from place of warship, residential use in a residential district, school, day care, or public park	Not Permitted
Tempe	Commercial and Industrial Zones	5000 sf	1 mile from another dispensary, 1500 from childcare facility and school, 1320 from church, park, or residential zoning district.	Not Permitted
Tucson	C-2 and C-3	4000 sf	2000 feet from dispensary – 1000 ft from schools, childcare, parks, substance abuse, church,	Not Permitted

What other cities are doing related to adult-use

Several communities have passed ordinances to restrict adult-use marijuana

- Gilbert prohibited adult-use dispensaries
- Oro-Valley, Mesa, Chandler, Scottsdale, and Sahuarita have limited dispensaries to dual-use

Phoenix expanded their dispensary size from 2000sf to 5000sf

Others are currently reviewing their code, beginning with current medical regulations

Review of our Current Regulations

Items that may need changes

- Definitions
 - Dispensaries
 - Off-Site Cultivation
 - Manufacturing
- Manufacturing / Stand-alone manufacturing
- Dispensary Size
- Drive-throughs
- Odor mitigation

Definitions

Current Regulations

- **Medical Marijuana Dispensary** - A Medical Marijuana Dispensary shall have the same meaning as “Nonprofit Medical Marijuana Dispensary” set forth in The Arizona Medical Marijuana Act, A.R.S. § 36-2801.11.
- **Medical Marijuana Dispensary Off-Site Cultivation Location** - A Medical Marijuana Dispensary Off-Site Cultivation Location means the additional location, if any, where marijuana may be cultivated for the use of a Medical Marijuana Dispensary as disclosed pursuant to The Arizona Medical Marijuana Act, A.R.S. §36-2804.B.1.b.ii.

Reason for change

- Needs to be expanded to include adult-use and new language in Prop 207.
- May also need to add new definition of manufacturing or include in Off-Site Cultivation Location

Manufacturing / Stand-alone Manufacturing

Current Regulations

- Currently allowed as:
 - Accessory use to a Dispensary Land Use
 - As part of the Off-Site Cultivation Land Use

Reason for change

- UDC is not very clear on where manufacturing is allowed
- UDC doesn't allow for much flexibility for manufacturing at dispensaries.

Potential changes

- Clarify this as either its own use, or within the definitions of Dispensary and Off-Site Cultivation
- Allow for additional amount of space only for manufacturing in a Dispensary

Dispensary Size

Current Regulations

- 4000 sf total floor area
- 500 sf of total for secure storage area
- Waiting-area must be minimum of 25% of total sales floor area

Reason for change

- With the passage of Proposition 207 and legalization of adult-use marijuana, 4000 sf will likely create spacing issues

Potential changes

- Increase of total floor area
 - Double the size from 4000 sf to 8000 sf

Drive-Throughs

Current Regulations

- Drive-Throughs are prohibited

Reason for change

- Brought up at M&C meetings as something to explore that will help with continued social distancing.
- Why are we being more restrictive for dispensaries than other land uses? We normally allow for drive-throughs in C-2 and C-3 Zones

Potential changes

- Would allow for a marijuana dispensary to operate with a drive-through

Odor Mitigation

Current Regulations

- n. Odor mitigation devices and techniques shall be incorporated in all medical marijuana facilities to ensure that odors are mitigated. As such, this may be done through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices deemed adequate for odor mitigation as determined by the Zoning Administrator.
- o. An odor mitigation plan shall be submitted demonstrating compliance with odor control requirements.

Reason for change

- No recourse for ineffective odor mitigation systems

Potential changes

- Add specificity in what needs to be included in the odor mitigation plan (more standardized)
- Add procedures on how to deal with complaints
 - Inspection for adherence to plan and effectiveness
 - Certain amount of time for operator to respond to deficiencies (7 days, 30 days etc.)

Next Steps

January - Integrate comments and develop formal proposal

January 27, 2021- Planning Commission Study Session

February 17, 2021 – Planning Commission Public Hearing

March 23, 2021 – Tentative Mayor & Council Public Hearing to review and make decision

Questions?
