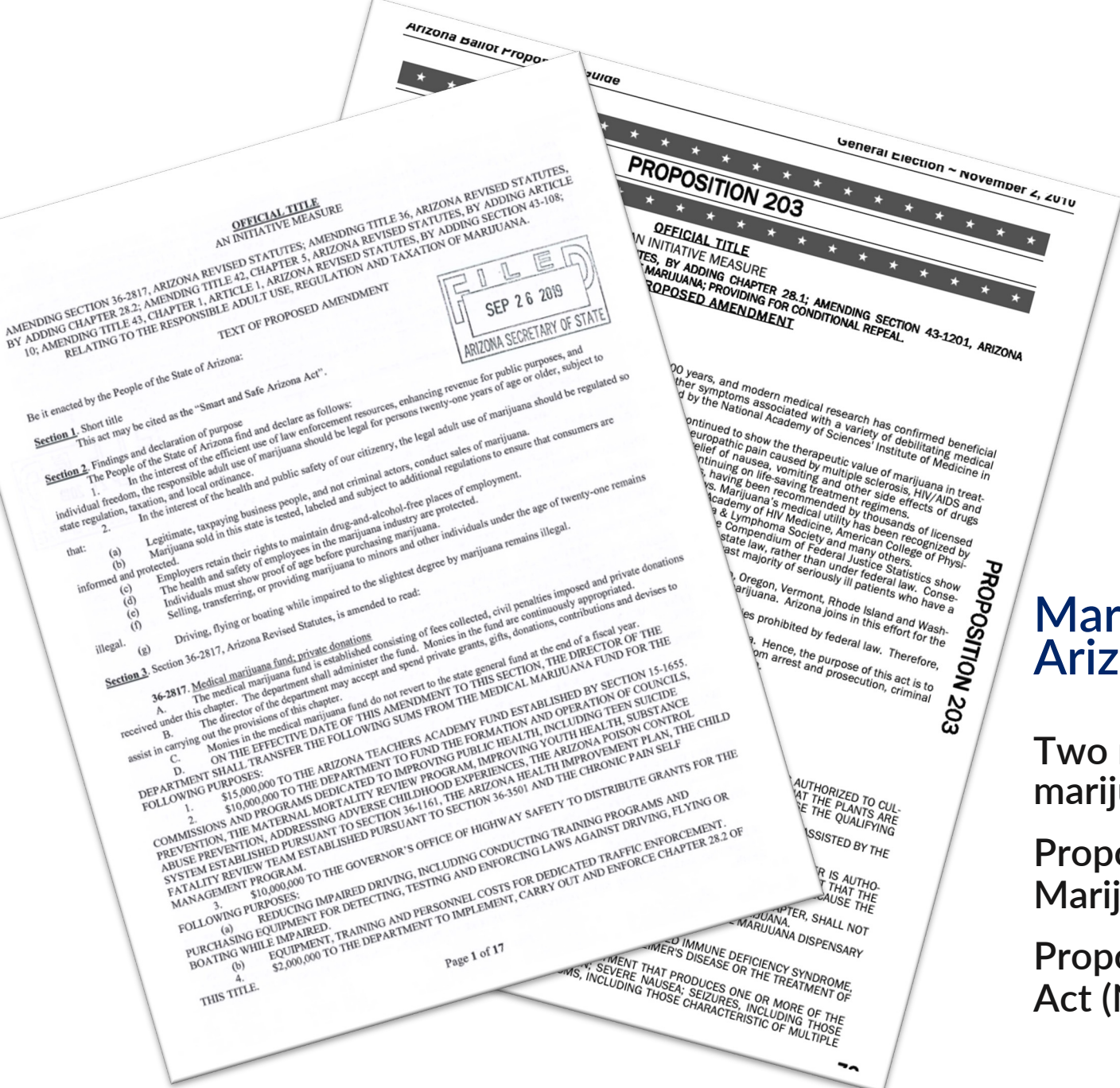


City of Tucson Planning Commission

Item #3: Medical and Adult-Use Marijuana Special Exception UDC Text Amendment

Public Hearing



Marijuana Regulations in Arizona

Two major voter initiatives have shaped marijuana in Arizona

Proposition 203 - Arizona Medical Marijuana Act (November, 2010)

Proposition 207 - Arizona Smart and Safe Act (November, 2020)

Proposition 207 – Arizona Smart and Safe Act (2020)

Voters approved the measure (60% to 40%) to legalize adult-use marijuana

This included the following provisions:

- limited marijuana possession, use, and cultivation by adults 21 and older;
- personal possession of 6 marijuana plants for a single person and 12 marijuana plants for households of 2+
- preference for new licenses will be given to the existing medical marijuana dispensaries in Arizona
- an additional 26 licenses distributed, with a preference to underserved areas and applicants from communities disproportionately impacted by the enforcement of previous marijuana laws (social equity licenses)
- adult use regulations shall not be more restrictive than current medical marijuana regulations.

Proposition 207 – Arizona Smart and Safe Act (2020)

Social Equity Applicants

- 26 new licenses adult-use only licenses to those previously affected by marijuana laws
- Rulemaking was completed in December – began accepting applications immediately
- 51% of ownership of applicant team must meet :
 - Applicant or family member of applicant must either have a marijuana conviction expunged or is eligible to have a conviction expunged.
 - Applicant must have made less than 400% of the poverty level for three of the past five years
 - Applicant must be from a geographic area disproportionately impacted by marijuana laws (not clear what the criteria is for was)
- Licenses were distributed on April 8, 2022

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 the medical marijuana zoning regulations, including the removal of the size limit on medical marijuana off-site cultivation locations in the I-1 and I-2 zones, permitting infusion kitchens as an associated use to dispensaries, and the establishment of a sunset date of two years for the amendments.**

February 23, 2016

- Mayor and Council adopted revisions to the medical marijuana zoning regulations 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, and adjusting the setback for expansion of existing dispensaries to be in conformance with the Arizona Department of Health Services (ADHS) standards.

January 08, 2019

- Mayor and Council remove the sunset date regarding medical marijuana and adopt the proposed amendments to the Unified Development Code (UDC) related to odor mitigation and lobby size.

April 06, 2021

- **Mayor and Council voted 7-0 to adopt changes to the UDC in relation to dual-use licenses, reducing setbacks, and to temporarily prohibit social equity licenses until their rule-making was complete.**

Marijuana zoning regulations in Tucson

Since 2010, the City of Tucson's marijuana zoning regulations have undergone several revisions that have resulted in how they stand today.

Those revisions have been a result of state legislative action, local initiatives, and voter initiatives

Adult-Use Marijuana Zoning Amendments (2021)

- Permitted dual-use marijuana dispensaries
- Reduced setbacks to 1000 feet for dispensaries, and 500 feet for treatment facilities, parks and schools (removed churches)
- Created a new marijuana manufacturing use (allowed in P-I as well)
- Clarified odor mitigation regulations
- Restricted adult-use only licenses (social equity) to allow to provide feedback to the rulemaking process

Types of Marijuana Licenses in AZ

Non-profit Medical Marijuana License	Marijuana Establishment License (Adult Use)	Dual Use Marijuana License (Medical and Adult Use)
<ul style="list-style-type: none">• 130 originally issued by AZDHS• New licenses must remain in initially approved location for a certain amount of time before they can relocate• May apply for adult use license, converting it to a dual use license	<ul style="list-style-type: none">• 12 new licenses issued to underserved areas• 26 stand-alone adult use licenses issued through <u>social equity program</u>• Zoning regulations for adult use may not be more restrictive than comparable medical regulations already in place• In addition to licenses pursuant to social equity program, AZDHS may license 1 adult use facility per every 10 pharmacies	<ul style="list-style-type: none">• 130 were approved by AZDHS to convert their medical licenses to a dual use license• Zoning regulations for adult use may not be more restrictive than comparable medical regulations already in place

Social Equity Ownership Program

- **Issue:**

- AZDHS issued 26 Marijuana Establishment (stand-alone adult use) licenses statewide to applicants who qualify under the Social Equity Ownership Program.
- AZDHS drafted rules for distribution of licenses
- These 26 licenses were awarded via random selection in April 2022
- Must be operational by October 2023

Tucson's Role

- During rulemaking, the City provided input to AZDHS on rules related to the issuance of Social Equity Licenses.
- Review sites for social equity applicants for compliance with local zoning regulations.
- Review development proposals and construction documents for adherence to codes including zoning and building codes.
- Issuance of building permits and business licenses

Mayor and Council Direction

- On March 22nd M&C provided the following direction:
 - “It was moved by Vice Mayor Santa Cruz, duly seconded, to direct the city Manager and staff to initiate the process for amending the UDC to establish a Special Exception process that would allow adult use marijuana establishments to locate within the City under specified conditions.”

May stakeholder meeting feedback

- PDSD held a stakeholder meeting in May – two groups:
 - Support a special exception (or other process) to:
 - Ensure social equity license holders meet the "intent" of the law
 - Provide community and nearby property owners the opportunity to voice their concerns
 - Potentially mitigate impacts on surrounding properties via site-specific conditions
 - Believe social equity licenses should be treated the same as dual use licenses
 - Function in the same way as the medical and dual use applicants
 - Requiring special processes of social equity applicants, that were not required of existing businesses, makes the process more difficult for those who were intended to be helped

May stakeholder meeting feedback

- PDSD held a stakeholder meeting in May – two groups:
 - Support a special exception (or other process) to:
 - Ensure social equity license holders meet the "intent" of the law
 - Provide community and nearby property owners the opportunity to voice their concerns
 - Potentially mitigate impacts on surrounding properties via site-specific conditions
 - Believe social equity licenses should be treated the same as dual use licenses
 - Function in the same way as the medical and dual use applicants
 - Requiring special processes of social equity applicants, that were not required of existing businesses, makes the process more difficult for those who were intended to be helped

Feedback from Planning Commission study session

- Does this proposal violate proposition 207 (2006 – private property rights)?
 - Will not affect existing dispensaries
 - Creating new process, but not restricting the use
- The State's role vs. the City's role
- Benefits vs. drawbacks of adding a special exception
 - Increased steps and time for applicants vs. more notification for surrounding properties and neighbors

Public Comment Received

- Support for addition of a new Special Exception process
- Grandfathering / existing DP applications in review
- Timing and applicability of new Special Exception process
- Removal of the 25% lobby requirement
- Suggestion of a Cannabis Social Equity Program

Draft Proposal for adult-use marijuana

- Proposal Mayor and Council Special Exception for all marijuana dispensaries:
- Because AZ State law restricts zoning regulations so that rules for adult-use marijuana may not be more restrictive than medical – **this would also apply to dual-use licenses.**
- New process would include a required neighborhood meeting, public notification, and a public hearing.
- The special exception process generally takes 6+ months to complete
- Must meet findings related to distance from sensitive uses

Mayor and Council Special Exception Process

- The following is a general overview of this process:
- Mailed neighborhood notification for a neighborhood meeting of all properties within 400 feet of the project and all neighborhood associations within 1 mile of the project prior to the submittal of the application.
- Application submittal detailing how the proposal meets all the requirements of the use-specific standards in the UDC.
- Staff review of the proposal with recommendation to the Zoning Examiner.
- Mailed notice of public hearing sent to all properties within 400 feet of the project and all neighborhood associations within 1 mile of the project.
- Notice of the public hearing posted on site and in local paper.
- Public Hearing before the Zoning Examiner for a recommendation.
- Public Hearing before Mayor and Council for a decision.

Draft Amendments to the UDC

1. Revise the use tables in UDC Section 4.8 to change marijuana dispensaries from a permitted use in C-2 and C-3 zones to a Mayor and Council Special Exception land use in those zones.
2. Remove the restriction on Marijuana Establishment Licenses (Adult-use only licenses) in UDC Section 4.9.9.E.1, Use Specific Standards.
3. Change the definition of Marijuana Dispensary so that it includes Medical Marijuana Licenses, Dual Use Licenses, and Marijuana Establishment Licenses
4. Small clean-up of a previous Zoning Administrator Determination clarifying that the Marijuana Off-Site Cultivation Use is a wholesaling use and not a retail use.

Recommendation

Staff recommends the Planning Commission approve a motion to:

“Recommend adoption of the Medical and Adult-use Marijuana Special Exception UDC Text Amendment to the City of Tucson Mayor and Council.”