

AGENDA ITEM #: \_\_\_\_\_

DATE: January 11, 2021

CAR #: 2020-7165ws



## CITY COUNCIL ACTION REPORT

**SUBJECT:** Human Resource Policy Updates and City Code Amendments Concerning Marijuana Regulations, Restrictions and Penalties

**STAFF PRESENTER(S):** Lisa Maxie-Mullins, Assistant City Attorney

**OTHER PRESENTER(S):** Lyman Locket, Human Resources Director

**Summary:** Council discussion and review of proposed city code amendments which will revise Chapter 11 to add a new Section 11-1-38 to establish marijuana regulations, restrictions and penalties and clarify the definitions in Article 10-1 of Goodyear City Code and provide an update on human resource policy changes to ensure compliance with Arizona Proposition 207.

**Recommendation:**

None

**Fiscal Impact:** The impact on city resources is not known at this time. However, the adoption of these code modifications will not result in any new programs. The passage of Prop 207 may result in fewer arrests by the police department for illegal possession of marijuana and associated drug paraphernalia. However, this may be offset by the citations for marijuana use in public places and open spaces.

### Background and Previous Actions

On October 26, 2020, the City Council amended city zoning ordinances to adopt zoning regulations regarding recreational marijuana retail establishments. The amended zoning ordinance set forth clear criteria to assist developers and businesses seeking to establish locations in the city, as well as ensure positive impacts on city residents and on adjacent properties. The amendments were made contingent upon voter approval of the Smart and Safe Arizona Act ballot initiative (Prop 207).

On November 3, 2020 the Arizona voters approved Prop 207. The passage of the ballot legalized recreational marijuana use and possession in Arizona for adults who are at least twenty-one years of age. The law sets forth legally permissible amounts of marijuana and marijuana products that an adult may possess. The law only allows entities licensed by the Arizona Department of Health Services to engage in the retail sale, cultivation, and manufacturing of marijuana.

On November 30, 2020 the ballot approval was certified by the Arizona Secretary of State. Pursuant to the new law, Arizona cities and towns may regulate marijuana use and zoning within its jurisdiction.

## **Staff Analysis**

After the passage of Prop 207, City staff reviewed the newly enacted law to determine if additional city code amendments were necessary to regulate marijuana within the City. City staff also wanted to ensure that any code amendment would provide clear regulations concerning the use, possession, sale, cultivation and smoking of marijuana within Goodyear city limits. Based on the review of the law, City Staff recommends code amendments which would:

- Modify Chapter 11 of the City Code to establish a new section concerning marijuana regulation and add applicable definitions.
- Prohibit smoking marijuana at locations where tobacco smoking is currently prohibited pursuant to City Code Section 11-1-17.
- Prohibit the smoking, consumption, possession, cultivation, extraction, manufacture, sale, or transfer of marijuana in public places which includes banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities, health care facilities, restaurants, retail stores, and theaters.
- Prohibit the smoking, consumption, possession, cultivation, extraction, manufacture, sale, or transfer of marijuana in open spaces which includes public parks, public sidewalks, public walkways, and public trails, or public pedestrian thoroughfare
- Authorize only dual licensed marijuana establishments to engage in the sale of marijuana in the City.
- Prohibit the delivery of marijuana to consumers within Goodyear city limits.
- Regulate personal use of marijuana at the personal residence.
- Prohibit the advertisement or promotion of the transfer of legally permissible amounts of marijuana.
- Define marijuana as a hazardous material for the purpose of waste disposal.

The penalties associated with these modified provisions are consistent with penalties set forth in the City's existing penalty provision section, Prop 207 and prior penalties enacted by Council.

As for human resource policy changes, staff has prepared policy changes to ensure compliance with Arizona Proposition 207. The newly enacted law continues to allow employers to maintain a drug and alcohol free workplace. The use of marijuana will be treated similar to alcohol use. The city will continue to prohibit impairment, use and possession by employees while at the work.

## **Attachments**

1. Draft Resolution including proposed code amendments
2. Draft Ordinance