

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

DATE: January 4, 2021

CAR #: 2021-7135



## CITY COUNCIL ACTION REPORT

**SUBJECT:** Amend Goodyear City Code to Establish Marijuana Regulations, Restrictions and Penalties.

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

**OTHER PRESENTER(S):** None

**Summary:** Approval of the proposed code amendments 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.

### **Recommendation:**

1. ADOPT RESOLUTION NO. 2021-2122 DECLARING AS PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED “AMENDMENT TO GOODYEAR CITY CODE, CHAPTER 11 (OFFENSES) AND CHAPTER 10 (HEALTH AND SANITATION) RELATED TO MARIJUANA REGULATIONS, RESTRICTIONS AND PENALTIES.”
2. ADOPT ORDINANCE NO. 2020-1491 AMENDING GOODYEAR CITY CODE CHAPTER 11 (OFFENSES) TO ENACT A NEW SECTION, 11-1-38 (REGULATION OF MARIJUANA) AND AMENDING SECTION 10-1-1 (DEFINITIONS), TO ESTABLISH MARIJUANA REGULATIONS, RESTRICTIONS AND PENALTIES; PROVIDING FOR PENALTIES, CORRECTIONS; SEVERABILITY; AND AN EFFECTIVE DATE.

**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.

At a January 11, 2021 Council work session, staff presented the proposed code amendments regarding marijuana regulation.

## **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, 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 marijuana and marijuana products on city owned property
- Prohibit the smoking, cultivation, extraction, manufacture, sale, 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, cultivation, extraction, manufacture, sale, or 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 unless otherwise allowed by State law or regulations.
- Regulate personal use of marijuana at the personal residence.
- Prohibit the advertisement or promotion of the transfer of legally permissible amounts of marijuana.
- Restrict the disposal to legally permissible amounts of marijuana after the marijuana product has been rendered unusable, combined with other waste in an enclosed container prior to placing in the waste receptacle.

- Continue to include marijuana waste created by marijuana establishments (both recreational and medicinal) as hazardous waste due to the volume and potential chemicals utilized in production and manufacturing.

The new code section contains penalties associated with these modified provisions and are consistent with penalties set forth in the City's existing penalty provision section.

## **Attachments**

Resolution 2021-2122 with Exhibit A

Ordinance 2021-1491