

CITY OF LITCHFIELD PARK

PLANNING AND ZONING COMMISSION

Regular Meeting
Tuesday, March 9, 2021
7 p.m.

Virtual Meeting

Watch on You Tube via the following link:

<https://youtu.be/dDK2yZtNuzk>

IN-PERSON ATTENDANCE AT PUBLIC MEETINGS HAS BEEN SUSPENDED UNTIL FURTHER NOTICE. NOTICE IS HEREBY GIVEN PURSUANT TO A.R.S. §38-431.02 THAT MEMBERS OF THE PLANNING AND ZONING COMMISSION WILL ATTEND BY AUDIO/VIDEO CONFERENCE CALL.

I. Call to Order

THIS MEETING WILL BE HELD BY REMOTE PARTICIPATION. CALL TO THE COMMUNITY WILL NOT BE HELD.

1. Zoom Conference

- a. Computer: <https://us02web.zoom.us/j/89751416974> Meeting ID: 897 5141 6974
- b. Telephone: 1 669 900 6833 or 1 253 215 8782 Meeting ID: 897 5141 6974

II. Business

- A. Public Hearing: Proposed Zoning Code Text Amendment Related to Regulating Recreational Marijuana** **Information**

- 1. Staff Report
- 2. Public Comments

Citizens may ask questions or speak for or against a proposed text amendment to the City of Litchfield Park Zoning Code related to regulating recreational marijuana pursuant to A.R.S. Title 36, Chapter 28.2 established under Proposition 207, relating to the responsible adult use, regulation and taxation of marijuana.

- B. Proposed Zoning Code Text Amendment Related to Regulating Recreational Marijuana** **Information Action**

Discussion and possible recommendation to the City Council for approval of a proposed text amendment to the City of Litchfield Park Zoning Code related to regulating recreational marijuana pursuant to A.R.S. Title 36, Chapter 28.2 established under Proposition 207, relating to the responsible adult use, regulation and taxation of marijuana.

- C. Topics for Referral to City Council** **Action**

Discussion of and possible referral of new topics to the City Council.

- D. Minutes** **Information Action**

Possible approval of the minutes of the January 12, 2021 Meeting.

- III. Staff Report on Current Events** **Information**

This is the time Staff may present a brief summary on current events. The Commission may not propose, discuss, deliberate or take any legal action on the information presented, pursuant to A.R.S. § 38-431.02.

IV. Commissioners' Reports on Current Events

Information

This is the time Commissioners may present a brief summary on current events. The Commission may not propose, discuss, deliberate or take any legal action on the information presented, pursuant to A.R.S. § 38-431.02.

V. Adjournment

Action

Frank Ross, Chairman

Persons with special accessibility needs should contact City Hall, 623 935-5033 at least 48 hours prior to the meeting.



Meeting Date: March 9, 2021

To: Planning and Zoning Advisory Commission

From: Jason Sanks, Planning Consultant

Subject: Zoning Code Text Amendment - Recreational Marijuana Zoning Ordinance

This item was referred to PZ by the City Council at its December 11, 2020 hearing. PZ reviewed this item as part of the Citizen Review process as a Study Session item at their January 12, 2021 meeting and provided feedback through the discussion. Responses to Commissioner questions are provided in this report. Otherwise, no material items have changed to the draft ordinance since the Citizen Review.

Background/Discussion

At its October 29 Special Meeting, the City Council gave direction regarding the preparation of an ordinance amending the Zoning Code to regulate recreational marijuana pursuant to Proposition 207, which is codified as A.R.S. Title 36, Chapter 28.2 – “Responsible Adult Use of Marijuana.” Council direction, at least for discussion of the draft ordinance attached, was that the standards applicable to recreational marijuana would be the same as the standards the City has set for medical marijuana. Thus, under the proposed ordinance, licenses or permits for recreational marijuana would not be limited to dual licensees (holders of medical marijuana certificates and recreational marijuana licenses/permits).

The attached Recreational Marijuana Ordinance amends the current Zoning Code to update the definitions to include those terms specific to recreational marijuana and the new state statute. The amendment further updates and amends the Zoning Matrix to allow for recreational marijuana establishments and testing facilities only in Industrial zones, similar to medical marijuana facilities. The proposed update amends the current medical marijuana provisions so they apply to recreational marijuana establishments and testing facilities. Finally, the proposed Zoning Code amendment adopts a new subsection regulating the use, sale, cultivation, manufacture or distribution of recreational marijuana or products to provide for such regulations as:

1. Requiring a business license to operate within the City;
2. Filing an application to operate within the City;
3. Restricting the use, sale, cultivation, manufacture production or distribution on City owned, controlled or operated property;
4. Prohibiting smoking recreational marijuana in public spaces and open space; and
5. Regulating recreational marijuana in primary residences for personal use.

Commissioner Inquiry and Staff / Legal Counsel Responses to 1/12/2020 Citizen Review Study Session

Commissioners asked the following questions and provided comments to which Mr. Sanks responded and further clarifications were provided by the City's attorney as follows:

Where in the City could a facility could be located?

RESPONSE: *Mr. Sanks replied that a recreational marijuana facility would be allowed to locate in the same locations that medical marijuana facilities are allowed, which is an Industrial zoned district. At this time, the only Industrial zoned property in the City is where the Monument Point Center is located at the southwest corner of Camelback and El Mirage Roads. If the City should, in the future, rezone another property to Industrial or annex an Industrial zoned property, the use would likely be allowed in that district. It is important that regulations for recreational marijuana not be more restrictive than medicinal marijuana, which is why the zoning designation remains consistent between the two.*

Why is the term primary residence used, such as in Section b, Paragraph 5 "Regulations for Primary Residence for Personal Use", as there could be a secondary or vacation residence?

RESPONSE: *Mr. Sanks responded that he believes it means a private home, but is not certain and will have to check with the City Attorney. Commissioner Lawrence suggested the term personal residence be used. Per the City's attorney, the term "primary residence" is used in the State statute, which is why the same term is used in the proposed text amendment. Specifically, A.R.S. § 36-2852(A)(2) states: "Possessing, transporting, cultivating or processing not more than six marijuana plants for personal use at the individual's primary residence, and possessing, processing and manufacturing by manual or mechanical means, including sieving or ice water separation but excluding chemical extraction or chemical synthesis, the marijuana produced by the plants on the premises where the marijuana plants were grown if all of the following apply." It is likely this term was used to avoid a situation where an individual has multiple residences and attempts to grow more than the allowed six plants. I would suggest that this term remain unchanged and remain consistent with the language used in the Statute.*

Can recreational marijuana be sold in another type of establishment such as a retail establishment, or will it be limited to the type of facility noted in the ordinance?

RESPONSE: *Mr. Sanks replied that it is his understanding a business license would be required and that would go through a zoning clearance process making sure it would only be allowed in areas with Industrial zoning. It would have to be a licensed facility used specifically for the sale of marijuana. Under the Statute, recreational marijuana can only be sold at an authorized "marijuana*

establishment,” which must be licensed through the State – thus, the sale of recreational marijuana is not allowed at other retail establishments.

Who decides on the penalties?

RESPONSE: *Mr. Sanks stated it would have to be determined if it was a City Zoning Code violation or a violation of State Law. If it is a violation of the Zoning Code, those penalties are already in place. The size restrictions are very specific. There be a range of sizes rather than specific sizes. Mr. Sanks noted that the proposed amendment refers back to the existing Medical Marijuana section of the Code. The space requirement criteria are already in place under that Section. Again, there should not be more restrictive requirements for recreational marijuana than medicinal marijuana, thus the reason for the same requirements between the two.*

Will the facility be allowed to be open seven days a week?

RESPONSE: *Mr. Sanks responded that the facilities would be allowed to be open 8 a.m. to 7 p.m., and there are no restrictions regarding the number of days it may be open. Other jurisdictions have limited the days a medicinal marijuana establishment may operate (for example Monday through Friday 9:00 a.m. to 5:00 p.m.) and those similar type of restrictions can be adopted in the City, but would need to be consistent for both medicinal marijuana and recreational marijuana establishments.*

Could the secured storage space have an 8' fence with barbed wire on top?

RESPONSE: *Mr. Sanks replied that he believes that barbed wire is not allowed within the City. Barbed wire is classified as a public nuisance under City Code Section 9-5-4(D) and is not allowed.*

The ordinance refers to 8” concrete block roofs and walls. Usually it is an 8” concrete block ceiling. Please clarify how the facility will be required to be constructed.

RESPONSE: *Mr. Sanks responded that it is not specific as to how the roof would prevent unauthorized entry. He can follow up with the Building Inspector as to what they would require. As part of that follow up, the following information has been provided: The requirement for walls and roofs to be constructed of materials (eight-inch concrete block or equivalent) sufficient to deter and prevent theft of marijuana being processed, is the same as the current requirement for medicinal marijuana found in City Code Section 31.21(b)(2)(L).*

Why is there a 1,325' distance required from uses such as churches, daycare centers, etc., while there is only a 500' distance requirement from a residential neighborhood?

RESPONSE: *Mr. Sanks noted that he is not certain of the origin of the 500' distancing requirement from residential neighborhoods. It could be from State Legislation. Another issue might be that the City cannot make it impossible for this use to locate in the City if larger distancing requirements were required.*

Legal Counsel further clarified that the distance requirements are the same as those for medicinal marijuana establishments as found in City Code 31.21(b)(3).

Is there a map that indicates the Industrial Zoning District where these facilities could be located?

RESPONSE: Mr. Sanks replied that he could bring the City's zoning map to use as a reference to indicate where the Industrial district is located.

Commissioner Alvey asked if there was any way to restrict people from using marijuana in their backyard. She cited an example of someone who lived next door to someone who used marijuana in their rear yard a number of times a day. It could become a barrier to people wanting to go outside in their own backyard if this is going on next door.

RESPONSE: Mr. Sanks responded that he does not know if that could be done. The City currently does not have the authority to restrict someone using medical or recreational marijuana in their backyard on their private property. He can follow up to see if there can be a consideration of the smoke and smell being a nuisance to neighbors. Most of the ordinance applies to where recreational marijuana can be purchased and the requirements for such facilities. He is not sure if a requirement can be added for personal use. Commissioner Alvey noted that this could become a problem and it might be good to address it now. The City's legal counsel further clarified that the City cannot restrict the use in the individual's backyard and this issue would be governed under the State Statute on recreational marijuana, which prohibits smoking in public places and would also be governed by Arizona's "Smoke-free Arizona Act," which prohibits smoking in public places (with certain exceptions) and states: "A private residence is not a 'public place' unless it is used as a child care, adult day care, or health care facility." Thus, Arizona does not have a statewide law prohibiting smoking in private residential units, such as apartments and condos or backyards. Although the City is limited on what it can and cannot regulate in the privacy of someone's backyard, landlords and HOA's can more fully regulate what can and cannot be done on private property. Additionally, individuals maintain their civil claims for nuisances and there may be the ability for an impacted neighbor to bring a civil claim that the secondhand smoke constitutes a nuisance or disrupts their right to quiet enjoyment, but the City cannot provide legal advice on such actions.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Advisory Commission forward a recommendation of approval to the City Council of the draft Zoning Ordinance related to the Text Amendment for Recreational Marijuana.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF LITCHFIELD PARK, ARIZONA, DECLARING THE DOCUMENT ENTITLED "CITY OF LITCHFIELD PARK RECREATIONAL MARIJUANA ORDINANCE DATED _____" AS A PUBLIC RECORD; ADOPTING THE "CITY OF LITCHFIELD PARK RECREATIONAL MARIJUANA ORDINANCE DATED _____" BY REFERENCE, AMENDING THE ZONING CODE OF THE CITY OF LITCHFIELD PARK, ARIZONA, SECTION 2 DEFINITIONS BY AMENDING SUBSECTION 2.04 DEFINITIONS; AMENDING SECTION 28 ZONING MATRIX/DISTRICT REQUIREMENTS SUMMARY, BY AMENDING THE ZONING MATRIX TO ADD RECREATIONAL MARIJUANA ESTABLISHMENT AND RECREATIONAL MARIJUANA TESTING FACILITY; SECTION 31 GENERAL PROVISIONS BY AMENDING SECTION 31.21 MEDICAL MARIJUANA AND ADOPTING A NEW SUBSECTION 31.24 RECREATIONAL MARIJUANA; ALL RELATED TO THE REGULATION OF RECREATIONAL MARIJUANA INCLUDING SETTING FORTH DEFINITIONS; REGULATING MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; ESTABLISHING REGULATIONS FOR PERSONAL USE AT AN INDIVIDUAL'S PRIMARY RESIDENCE; IMPOSING FEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING FOR PENALTIES.

WHEREAS, marijuana contains tetrahydrocannabinol ("THC"), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 *et al.*, and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 *et al.*;

WHEREAS, the Arizona Medical Marijuana Act, A.R.S. § 36-2801 *et al.*, and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in the City of Litchfield Park according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as the "Smart and Safe Arizona Act" was certified as Proposition 207 and approved by the voters at the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least 21 years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of age; allowing 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 allowing 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;

WHEREAS, the City of Litchfield Park finds that Proposition 207 authorizes recreational marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other City of Litchfield Park departments to respond to violations of state and local laws, including building, electrical and fire codes;

WHEREAS, the City Council seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations to limit the number of recreational marijuana establishments and/or marijuana testing facilities in the City of Litchfield Park; and

WHEREAS, that certain document entitled “City of Litchfield Park Recreational Marijuana Ordinance Dated _____,” three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record and said copies are hereby ordered to remain on file with the City Clerk.

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Litchfield Park, Arizona, as follows:

Section I. In General.

The Zoning Code of the City of Litchfield Park, Arizona, is hereby amended by amending Section 2 Definitions by amending Subsection 2.04 Definitions; amending Section 28 Zoning Matrix/District Requirements Summary, by amending the Zoning Matrix; Section 31 General Provisions by amending Section 31.21 Medical Marijuana and adopting a new Subsection 31.24 Recreational Marijuana; to read as set forth in that certain document entitled “City of Litchfield Park Recreational Marijuana Ordinance Dated _____,” which document is hereby adopted and incorporated by reference.

Section II. Providing For Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section III. Providing For Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV. Providing for Penalties.

Violation of any provision of this Ordinance shall be subject to the following civil penalties, petty offenses, and misdemeanor classifications as set forth in the City of Litchfield Park Recreational Marijuana Ordinance Dated _____ and stated herein:

- A. Except as otherwise provided in A.R.S. § 36-2853, violation of any provision of this section is punishable as a civil violation in accordance with Section 8 of the City of Litchfield Park Zoning Code. Any person found responsible for committing three or more violations of this section within a 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing shall be determined to be a habitual offender and shall be guilty of a Class 1 Misdemeanor.
- B. Violations of this section are in addition to any other violation enumerated within the City Code and in no way limit the penalties, actions, or abatement procedures which may be taken by the City for any violation of this section, which is also a violation of any other ordinance or code provision of the City or federal or state law. Conviction and punishment or judgment against any person under this section shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.
- C. Recreational marijuana establishment licenses may be revoked by the City for violation of any provision of this section or if the Department revokes the license for a recreational marijuana establishment.

Section V. Emergency.

The City of Litchfield Park, Arizona, finds and determines that the immediate operation of this Ordinance is necessary for the preservation of health, safety, and welfare in response to the passage of the Smart and Safe Arizona Act (Proposition 207). An emergency is therefore hereby declared to exist and this Ordinance shall be in full force and effect immediately upon adoption.

Section VI. Zoning Considerations.

In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the City Council has considered the individual property rights and personal liberties of the residents of the City before adopting this ordinance.

PASSED AND ADOPTED by the Mayor and Common Council of the City of Litchfield Park, Arizona, this ____ day of _____, 2021 by the following vote:

AYES: _____

NAYES: _____

ABSENT: _____

EXCUSED: _____

ABSTAINED: _____

APPROVED this ____ day of _____, 2021.

Thomas L. Schoaf, Mayor

ATTEST:

Terri Roth, City Clerk

APPROVED AS TO FORM:

Gust Rosenfeld PLC, City Attorney
By Joseph D. Estes

I, TERRI ROTH, CITY CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LITCHFIELD PARK ON THE ____ DAY OF _____, 2021, WAS POSTED IN THREE PLACES ON THE ____ DAY OF _____, 2021.

Terri Roth, CMC, City Clerk

CITY OF LITCHFIELD PARK RECREATIONAL MARIJUANA ORDINANCE
DATED _____

ZONING CODE

The Zoning Code of the City of Litchfield Park, Arizona, Section 2 Definitions, is hereby amended by amending Subsection 2.04 Definitions, to add definitions to read as follows (additions in ALL CAPS).

2.04 Definitions

* * *

“*CONSUME*” AND “*CONSUMPTION*” FOR PURPOSES OF SUBSECTION 31.24, MEANS THE ACT OF INGESTING, INHALING, OR OTHERWISE INTRODUCING RECREATIONAL MARIJUANA INTO THE HUMAN BODY.

“*CONSUMER*” FOR PURPOSES OF SUBSECTION 31.24, MEANS A PERSON WHO PURCHASES RECREATIONAL MARIJUANA FOR PERSONAL USE, WHO IS AT LEAST TWENTY-ONE YEARS OF AGE, AND WHO PURCHASES RECREATIONAL MARIJUANA IN ACCORDANCE WITH THE SMART AND SAFE ARIZONA ACT.

* * *

“*CULTIVATE*” AND “*CULTIVATION*” FOR PURPOSES OF SUBSECTION 31.24, MEANS TO PROPAGATE, BREED, GROW, PREPARE, AND PACKAGE RECREATIONAL MARIJUANA.

* * *

“*DEPARTMENT*” FOR PURPOSES OF SUBSECTION 31.24, MEANS THE STATE OF ARIZONA DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.

* * *

“*DUAL LICENSEE*” FOR PURPOSES OF SUBSECTION 31.24, MEANS AN ENTITY THAT HOLDS BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION AND A MARIJUANA ESTABLISHMENT LICENSE.

“*ENCLOSED AREA*” MEANS A BUILDING, GREENHOUSE, OR OTHER STRUCTURE THAT HAS:

- a. A COMPLETE ROOF ENCLOSURE SUPPORTED BY CONNECTING WALLS THAT ARE CONSTRUCTED OF SOLID MATERIAL EXTENDING FROM THE GROUND TO THE ROOF;

- b. IS SECURE AGAINST UNAUTHORIZED ENTRY;
- c. HAS A FOUNDATION, SLAB OR EQUIVALENT BASE TO WHICH THE FLOOR IS SECURELY ATTACHED; AND
- d. MEETS PERFORMANCE STANDARDS ENSURING THAT CULTIVATION AND PROCESSING ACTIVITIES CANNOT BE AND ARE NOT PERCEPTIBLE FROM THE STRUCTURE IN TERMS OF NOT BEING VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS AND IS EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

* * *

“*OPEN SPACE*” FOR PURPOSES OF SUBSECTION 31.24, MEANS A PUBLIC PARK, PUBLIC SIDEWALK, PUBLIC WALKWAY OR PUBLIC PEDESTRIAN THOROUGHFARE.

* * *

“*PROCESS*” AND “*PROCESSING*” FOR PURPOSES OF SECTION 31.24, MEANS TO HARVEST, DRY, CURE, TRIM OR SEPARATE PARTS OF THE MARIJUANA PLANT.

* * *

“*PUBLIC PLACE*” HAS THE SAME MEANING PRESCRIBED IN THE SMOKE-FREE-ARIZONA ACT, A.R.S. § 36.601.01.

“*RECREATIONAL MARIJUANA*”

- a. MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER GROWING OR NOT, AS WELL AS THE SEEDS FROM THE PLANT, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE PLANT OR ITS SEEDS OR RESIN.
- b. INCLUDES CANNABIS AS DEFINED IN A.R.S. § 13-3401.
- c. DOES NOT INCLUDE INDUSTRIAL HEMP, THE FIBER PRODUCED FROM THE STALKS OF THE PLANT OF THE GENUS CANNABIS, OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEEDS OF THE PLANT THAT ARE INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

“RECREATIONAL MARIJUANA CONCENTRATE”

- a. MEANS RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THAT RESIN OR TETRAHYDROCANNABINOL.
- b. DOES NOT INCLUDE INDUSTRIAL HEMP OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

“RECREATIONAL MARIJUANA ESTABLISHMENT” MEANS AN ENTITY LICENSED BY THE DEPARTMENT TO OPERATE ALL OF THE FOLLOWING:

- a. A SINGLE RETAIL LOCATION AT WHICH THE LICENSEE MAY SELL RECREATIONAL MARIJUANA AND RECREATIONAL MARIJUANA PRODUCTS TO CONSUMERS, CULTIVATE RECREATIONAL MARIJUANA AND MANUFACTURE RECREATIONAL MARIJUANA PRODUCTS.
- b. A SINGLE OFF-SITE CULTIVATION LOCATION AT WHICH THE LICENSEE MAY CULTIVATE RECREATIONAL MARIJUANA, PROCESS RECREATIONAL MARIJUANA AND MANUFACTURE RECREATIONAL MARIJUANA PRODUCTS, BUT FROM WHICH RECREATIONAL MARIJUANA AND RECREATIONAL MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.
- c. A SINGLE OFF-SITE LOCATION AT WHICH THE LICENSEE MAY MANUFACTURE RECREATIONAL MARIJUANA PRODUCTS AND PACKAGE AND STORE RECREATIONAL MARIJUANA AND RECREATIONAL MARIJUANA PRODUCTS, BUT FROM WHICH RECREATIONAL MARIJUANA AND RECREATIONAL MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

“RECREATIONAL MARIJUANA PRODUCTS” MEANS RECREATIONAL MARIJUANA CONCENTRATE AND PRODUCTS THAT ARE COMPOSED OF RECREATIONAL MARIJUANA AND OTHER INGREDIENTS AND THAT ARE INTENDED FOR USE OR CONSUMPTION, INCLUDING EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

“RECREATIONAL MARIJUANA TESTING FACILITY” MEANS THE DEPARTMENT OR ANOTHER ENTITY THAT IS LICENSED BY THE DEPARTMENT TO ANALYZE THE POTENCY OF MARIJUANA AND TEST MARIJUANA FOR HARMFUL CONTAMINANTS.

* * *

“SMOKE” FOR PURPOSES OF SUBSECTION 31.24 MEANS TO INHALE, EXHALE, BURN, CARRY OR POSSESS ANY LIGHTED RECREATIONAL MARIJUANA OR LIGHTED RECREATIONAL MARIJUANA PRODUCTS, WHETHER NATURAL OR SYNTHETIC.

* * *

The Zoning Code of the City of Litchfield Park, Arizona, Section 28 Zoning Matrix/District Requirements Summary, is hereby amended by adding Recreational Marijuana Establishments and Recreational Marijuana Testing Facilities to the Zoning Matrix to read as follows (additions in ALL CAPS).

**SECTION 28
ZONING MATRIX/DISTRICT REQUIREMENTS SUMMARY**

ZONING MATRIX

LAND USES	ZONING CATEGORIES																			
	RE	R1	R1-15	R1-8	R1-6	RC	MFL	MFM	MFH	PH	RT	NC	CS	RS	I	OS	PD	PF	AT	CF
* * *																				
RECREATIONAL MARIJUANA ESTABLISHMENT															M					
RECREATIONAL MARIJUANA TESTING FACILITY															M					
* * *																				

‘M’ - PERMITTED WHEN IN COMPLIANCE WITH SECTION 31.21 and 31.24.

* * *

The Zoning Code of the City of Litchfield Park, Arizona is hereby amended by amending Section 31 General Provisions, Subsection 31.21 Medical Marijuana to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

31.21 MEDICAL MARIJUANA

a. General

1. The requirements of this section shall apply to all medical marijuana dispensaries, medical marijuana dispensary cultivation locations, medical marijuana designated caregiver cultivation locations and medical marijuana qualifying patient cultivation locations in the city. IN ADDITION, THESE REQUIREMENTS SHALL ALSO APPLY TO RECREATIONAL MARIJUANA ESTABLISHMENTS AND RECREATIONAL MARIJUANA TESTING FACILITIES AS PERMITTED IN SUBSECTION 31.24 TO THE FULLEST EXTENT ALLOWABLE BY LAW.

2. Medical marijuana dispensaries, medical marijuana dispensary cultivation locations, medical marijuana designated caregiver cultivation locations, ~~and~~ medical marijuana qualifying patient cultivation locations, RECREATIONAL MARIJUANA ESTABLISHMENTS AND RECREATIONAL MARIJUANA TESTING FACILITIES shall be operated in accordance with state, county and city laws, codes, ordinances, rules and regulations.

b. Medical Marijuana Dispensaries; RECREATIONAL MARIJUANA ESTABLISHMENTS, AND RECREATIONAL MARIJUANA TESTING FACILITIES

1. Applications for medical marijuana dispensaries, RECREATIONAL MARIJUANA ESTABLISHMENTS, AND RECREATIONAL MARIJUANA TESTING FACILITIES shall be submitted to the planning department and shall include:

A. If the application is by someone other than the owner of the property, an authorization signed by the property owner and an explicit acknowledgement that the property owner knows that the proposed use of the property is for a medical marijuana dispensary, RECREATIONAL MARIJUANA ESTABLISHMENT AND/OR RECREATIONAL MARIJUANA TESTING FACILITY.

B. The address and legal name of the medical marijuana dispensary, RECREATIONAL MARIJUANA ESTABLISHMENT AND/OR RECREATIONAL MARIJUANA TESTING FACILITY.

C. The name, address and contact information of all persons who are authorized as owners, agents, volunteers and employees of the medical marijuana dispensary, RECREATIONAL MARIJUANA ESTABLISHMENT AND/OR RECREATIONAL MARIJUANA TESTING FACILITY, including emergency contact information for one or more registered ~~dispensary~~ agents responsible for the operation of ~~said dispensary~~ THE FACILITY.

D. The name(s) and location(s) of any ~~medical marijuana dispensary~~ cultivation locations associated with the medical marijuana dispensary OR RECREATIONAL MARIJUANA ESTABLISHMENT.

E. A copy of the operating procedures for the medical marijuana dispensary adopted in compliance with STATE LAW INCLUDING BUT NOT LIMITED TO A.R.S. § 36-2804(B)(1)(c).

F. A floor plan showing the layout and dimensions of the medical marijuana dispensary, RECREATIONAL MARIJUANA ESTABLISHMENT AND/OR RECREATIONAL MARIJUANA TESTING FACILITY to demonstrate compliance with the requirements set forth in this section and show the security measures proposed to comply with STATE LAW REQUIREMENTS INCLUDING A.R.S. § 36-2806, the standards contained in this section, and any additional requirements as may be necessary to protect against medical marijuana diversion and theft.

2. Medical marijuana dispensaries AND RECREATIONAL MARIJUANA ESTABLISHMENTS shall:

A. Be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular building, mobile home, recreational vehicle or other motor vehicle.

B. Have a maximum gross floor area not exceeding two thousand five hundred square feet.

C. Have a secure storage area not exceeding five hundred square feet of the total of the two thousand five hundred square feet maximum gross floor area of the medical marijuana dispensary OR RECREATIONAL MARIJUANA ESTABLISHMENT.

D. Have an interior customer waiting area equal to twenty-five percent of the gross floor area.

- E. Be open for business only between eight a.m. and seven p.m.
- F. Not have a drive-through service.
- G. Not offer a service that provides off-site delivery of the medical marijuana OR RECREATIONAL MARIJUANA.
- H. Not provide outdoor seating areas.
- I. Not sell merchandise other than medical marijuana.
- J. Prohibit consumption of medical marijuana OR RECREATIONAL MARIJUANA on the premises.
- K. Provide unrestricted access to city code enforcement officers or law enforcement officers who request admission for the purpose of determining compliance with these standards.
- L. Have on site a secure storage area which has a single point of access and whose walls and roof are constructed of materials (eight-inch concrete block or equivalent) sufficient to deter and prevent theft of marijuana being processed.
- M. Assure that all medical marijuana AND RECREATIONAL MARIJUANA shall be placed within the secure storage area at any time when the dispensary is not open for business.
- N. Provide for the proper disposal of marijuana remnants or by-products, and such material shall not be placed within the dispensary's FACILITY'S exterior refuse containers.
- O. Ensure that there is no emission of dust, fumes, vapors, or odors into the environment from the dispensary OR RECREATIONAL MARIJUANA ESTABLISHMENT.
- P. Have only one secure entrance to the dispensary OR RECREATIONAL MARIJUANA ESTABLISHMENT and any other doors required for exiting shall be locked to the outside and have an alarm that sounds when opened from the inside.
- Q. Shall have an alarm system with a redundant power supply and circuitry to prevent deactivation.
- R. Shall post and maintain "no loitering" sign(s) in sufficient quantity, size and location so that they are clearly visible by anyone in the immediate vicinity of the entrance or premises.

S. Shall have adequate exterior security lighting.

T. Limit entry to MEDICAL MARIJUANA DISPENSARIES TO only those persons who either possess a valid registration card or need access to perform their duties in enforcing local, state or federal laws or regulations. No one under eighteen years of age shall be permitted inside the dispensary, unless such person is a registered qualifying patient and is accompanied by a parent or legal guardian.

U. Develop and maintain a security plan which demonstrates compliance with requirements set forth in this section and any additional requirements as may be necessary to protect against ~~medical~~-marijuana diversion and theft.

V. Obtain, maintain and display a valid city of Litchfield Park business registration or license as may be required by the city code.

W. If medical marijuana is supplied to the dispensary by a qualifying patient or designated caregiver, provide the name and contact information of the qualifying patient or designated caregiver.

X. Within ten days of any change, provide and update the names and contact information for all persons who are authorized as owners, agents, volunteers and employees, to access the dispensary OR RECREATIONAL MARIJUANA ESTABLISHMENT.

3. Medical marijuana dispensaries AND RECREATIONAL MARIJUANA ESTABLISHMENTS shall be a minimum distance from the uses set forth in the table below. Measurements shall be made in a straight line in any direction from the closest perimeter business walls.

Use or Use Classification	Separation Requirement (Feet)
Another Medical marijuana dispensary	1,325
RECREATIONAL MARIJUANA ESTABLISHMENT	1,325
Day care center, public or private	1,325
Schools, public or private	1,325
Public park, library or public community center	1,325
Place of worship	1,325
Licensed substance abuse diagnostic or treatment facility or other licensed drug or alcohol rehabilitation facility	1,325

Sexually oriented business	1,325
Residential district boundary	500

* * *

The Zoning Code of the City of Litchfield Park, Arizona is hereby amended by amending Section 31 General Provisions, to add a new Subsection 31.24 Recreational Marijuana to read as follows (new text in ALL CAPS):

31.24 RECREATIONAL MARIJUANA

a. PURPOSE. THIS SECTION IS ADOPTED TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF THE CITY. NOTHING IN THIS SECTION IS INTENDED TO PROMOTE OR CONDONE THE SALE, CULTIVATION, MANUFACTURE, TRANSPORT, PRODUCTION, DISTRIBUTION, POSSESSION, OR USE OF RECREATIONAL MARIJUANA OR RECREATIONAL MARIJUANA PRODUCTS IN VIOLATION OF ANY APPLICABLE LAW.

b. REGULATIONS.

1. RECREATIONAL MARIJUANA ESTABLISHMENTS AND TESTING FACILITIES. IT SHALL BE UNLAWFUL FOR A PERSON TO OPERATE A RECREATIONAL MARIJUANA ESTABLISHMENT OR RECREATIONAL MARIJUANA TESTING FACILITY AT ANY LOCATION WITHIN THE CITY WITHOUT FIRST OBTAINING A BUSINESS LICENSE FROM THE CITY AND PAYING FEES FOR SUCH LICENSE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

2. APPLICATIONS. AN APPLICATION TO OPERATE A RECREATIONAL MARIJUANA ESTABLISHMENT OR RECREATIONAL MARIJUANA TESTING FACILITY SHALL BE FILED WITH THE CITY IN COMPLIANCE WITH SUBSECTION 31.21

3. OPERATIONS; SALE OF MARIJUANA AND MARIJUANA PRODUCTS.

A. RECREATIONAL MARIJUANA ESTABLISHMENTS ARE PERMITTED IN INDUSTRIAL ZONES AND SHALL BE REGULATED IN THE SAME MANNER AS MEDICAL MARIJUANA DISPENSARIES AS SET FORTH IN SECTION 31.21, EXCEPT AS PROVIDED IN THIS SUBSECTION 31.24.

B. THE SALE OF RECREATIONAL MARIJUANA AND RECREATIONAL MARIJUANA PRODUCTS IS TANGIBLE PERSONAL PROPERTY AS DEFINED IN A.R.S. § 42-5001 AND SUBJECT TO THE TRANSACTION PRIVILEGE TAX IN THE RETAIL CLASSIFICATION AND USE TAX.

4. PUBLIC PLACES.

A. THE USE, SALE, CULTIVATION, MANUFACTURE, PRODUCTION OR DISTRIBUTION OF RECREATIONAL MARIJUANA OR RECREATIONAL MARIJUANA PRODUCTS IS PROHIBITED ON PROPERTY THAT IS OCCUPIED, OWNED, CONTROLLED, OR OPERATED BY THE CITY.

B. THE USE, SALE, CULTIVATION, MANUFACTURE, PRODUCTION, OR DISTRIBUTION OF RECREATIONAL MARIJUANA OR RECREATIONAL MARIJUANA PRODUCTS IS PROHIBITED ON PROPERTY THAT IS OCCUPIED, OWNED, CONTROLLED, OR OPERATED BY THE STATE OR A POLITICAL SUBDIVISION OF THIS STATE THAT HAS ADOPTED RULES, REGULATIONS, OR POLICIES PROHIBITING THE USE, SALE, CULTIVATION, MANUFACTURE, PRODUCTION, OR DISTRIBUTION OF RECREATIONAL MARIJUANA OR RECREATIONAL MARIJUANA PRODUCTS ON ITS PROPERTY.

C. IT IS UNLAWFUL FOR AN INDIVIDUAL TO SMOKE RECREATIONAL MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE IN THE CITY.

D. IT IS UNLAWFUL TO OPERATE A BUSINESS IN THE CITY THAT PERMITS CONSUMPTION OF RECREATIONAL MARIJUANA OR RECREATIONAL MARIJUANA PRODUCTS ON PREMISES BY INVITEES, PATRONS, OR EMPLOYEES OF THE BUSINESS.

5. REGULATIONS FOR PRIMARY RESIDENCE FOR PERSONAL USE. TO THE EXTENT ALLOWABLE BY LAW, RECREATIONAL MARIJUANA POSSESSION, CONSUMPTION, PROCESSING, MANUFACTURING, TRANSPORTATION, AND CULTIVATION IS PERMITTED IN A RESIDENTIAL ZONING DISTRICT IN THE CITY AND IS SUBJECT TO THE FOLLOWING CONDITIONS AND LIMITATIONS:

A. IT SHALL BE UNLAWFUL FOR ANY INDIVIDUAL WHO IS AT LEAST 21 YEARS OF AGE TO POSSESS, TRANSPORT, CULTIVATE, OR PROCESS MORE THAN SIX (6) RECREATIONAL MARIJUANA PLANTS.

B. IT SHALL BE UNLAWFUL FOR TWO OR MORE INDIVIDUALS WHO ARE AT LEAST 21 YEARS OF AGE TO POSSESS, TRANSPORT, CULTIVATE, OR PROCESS MORE THAN 12 RECREATIONAL MARIJUANA PLANTS AT THE INDIVIDUAL'S PRIMARY RESIDENCE.

C. EXCEPT AS PROVIDED BY THIS SECTION AND A.R.S. § 36-2850, *ET SEQ.*, IT SHALL BE UNLAWFUL FOR AN INDIVIDUAL TO CULTIVATE RECREATIONAL MARIJUANA IN A RESIDENTIAL ZONING DISTRICT WITHIN THE CITY LIMITS.

D. INDIVIDUALS SHALL NOT PROCESS OR MANUFACTURE RECREATIONAL MARIJUANA BY MEANS OF ANY LIQUID OR GAS, OTHER THAN ALCOHOL, THAT HAS A FLASHPOINT BELOW 100 DEGREES FAHRENHEIT.

E. KITCHEN, BATHROOMS, AND PRIMARY BEDROOM(S) SHALL BE USED FOR THEIR INTENDED USE AND SHALL NOT BE USED PRIMARILY FOR RESIDENTIAL RECREATIONAL MARIJUANA PROCESSING, MANUFACTURING, OR CULTIVATION.

F. A RESIDENCE SHALL NOT EMIT DUST, FUMES, VAPORS, OR ODORS INTO THE ENVIRONMENT AND INDIVIDUALS SHALL ENSURE THAT VENTILATION, AIR FILTRATION, BUILDING AND DESIGN STANDARDS ARE COMPATIBLE WITH ADJACENT USES AND THE REQUIREMENTS OF ADOPTED BUILDING CODES OF THE CITY.

G. CULTIVATION SHALL BE LIMITED TO A CLOSET, ROOM, GREENHOUSE, OR OTHER ENCLOSED AREA ON THE GROUNDS OF THE RESIDENCE EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

H. CULTIVATION SHALL TAKE PLACE IN AN AREA WHERE THE RECREATIONAL MARIJUANA PLANTS ARE NOT VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT, OR OTHER OPTICAL AIDS.

c. ENFORCEMENT; PENALTIES.

1. EXCEPT AS OTHERWISE PROVIDED IN A.R.S. § 36-2853, VIOLATION OF ANY PROVISION OF THIS SECTION IS PUNISHABLE AS A CIVIL VIOLATION IN ACCORDANCE WITH SECTION 8 OF THE CITY OF LITCHFIELD PARK ZONING CODE. ANY PERSON FOUND RESPONSIBLE FOR COMMITTING THREE OR MORE VIOLATIONS OF THIS SECTION WITHIN A 24-MONTH PERIOD, WHETHER BY ADMISSION, BY PAYMENT OF THE FINE, BY DEFAULT OR BY JUDGMENT AFTER HEARING SHALL BE DETERMINED TO BE A HABITUAL OFFENDER AND SHALL BE GUILTY OF A CLASS 1 MISDEMEANOR.

2. VIOLATIONS OF THIS SECTION ARE IN ADDITION TO ANY OTHER VIOLATION ENUMERATED WITHIN THE CITY CODE AND IN NO WAY LIMIT THE PENALTIES, ACTIONS, OR ABATEMENT PROCEDURES WHICH MAY BE TAKEN BY THE CITY FOR ANY VIOLATION OF THIS SECTION, WHICH IS ALSO A VIOLATION OF ANY OTHER ORDINANCE OR CODE PROVISION OF THE CITY OR FEDERAL OR STATE LAW. CONVICTION AND PUNISHMENT OR JUDGMENT AGAINST ANY PERSON UNDER THIS SECTION SHALL NOT RELIEVE SUCH PERSON FROM THE RESPONSIBILITY OF CORRECTING PROHIBITED CONDITIONS, OR REMOVING PROHIBITED STRUCTURES OR IMPROVEMENTS, AND SHALL NOT PREVENT THE ENFORCED CORRECTION OR REMOVAL THEREOF.

3. RECREATIONAL MARIJUANA ESTABLISHMENT LICENSES MAY BE REVOKED BY THE CITY FOR VIOLATION OF ANY PROVISION OF THIS SECTION OR IF THE DEPARTMENT REVOKES THE LICENSE FOR A RECREATIONAL MARIJUANA ESTABLISHMENT.

**MINUTES OF THE SPECIAL MEETING
OF THE LITCHFIELD PARK PLANNING AND ZONING COMMISSION
January 12, 2021**

I. Call to Order

The meeting was held online via Zoom and called to order at 7:06 p.m. by Vice Chair Faith. Vice Chair Faith chaired the remainder of the meeting.

Members Present: Chair Ross (arrived 7:15 p.m.); Vice Chair Faith, and Commissioners Alvey, Darre, Lawrence, and Ledyard.

Members Absent: Commissioner O'Connor.

Staff Present: Jason Sanks, Planning Consultant: Pamela Maslowski, Director of Planning Services; and Stephanie Irwin, Accounting Specialist.

II. Business

A. Oath of Office and Introduction of New Commissioner Robert Darre

Ms. Maslowski administered the Oath of Office to new Commissioner Darre. Commissioner Darre provided information regarding his background and reasons for wanting to join the Commission, and Vice Chair Faith welcomed him to the Commission.

B. Citizen Review: Proposed Zoning Code Text Amendment Related to Regulating Recreational Marijuana

1. Staff Report

Mr. Sanks stated that the new City Attorney, Joe Estes, asked Mr. Sanks and Ms. Maslowski to handle the Citizen Review for this proposed text amendment. The City Council referred this item to the Commission at its December 11, 2020 meeting. The ordinance was prepared in response to voter action to allow adult use of recreational marijuana. The Citizen Review is the first stage of citizen involvement for Code amendments. The proposed amendment was modeled after the medical marijuana uses and regulations already contained in Zoning Code Section 31.21. Recreational marijuana facilities would be allowed under the same provisions. They would not be required to become dual license holders where only medical marijuana facilities could become recreational marijuana facilities. Rather, a recreational marijuana facility could be on its own so long as it follows the location and other regulations stated in Section 31.21. The City has a statutory obligation to accommodate the use within the City, and it will be added to the Zoning Matrix as a use allowed within the Industrial Zoning District. Medical marijuana facilities are also allowed in the Industrial District. Section 31.21 contains additional regulations regarding the location of these facilities, such as distance separation requirements from sensitive uses such as daycare centers, schools, public parks, places of worship, licensed substance abuse and diagnostic treatment facilities, sexually oriented businesses, and residential districts. In general, the use is being accommodated and will be regulated in a very similar fashion as medical marijuana. The next step in this process is that a public hearing will be scheduled for a future Planning and Zoning Commission meeting.

2. Public Comment

There were no comments from the public.

3. Discussion:

Commissioner Lawrence asked the following questions and provided comments to which Mr. Sanks responded:

- Where in the City could a facility could be located? Mr. Sanks replied that a recreational marijuana facility would be allowed to locate in the same locations that medical marijuana facilities are allowed, which is within an Industrial zoned district. At this time, the only Industrial zoned property in the City is where the Monument Point Center is located at the southwest corner of Camelback and El Mirage Roads. If the City should, in the future, rezone another property to Industrial or annex an Industrial zoned property, the use would likely be allowed in that district.
- Why is the term primary residence used, such as in Section b, Paragraph 5 “Regulations for Primary Residence for Personal Use”, as there could be a secondary or vacation residence? Mr. Sanks responded that he believes it means a private home, but is not certain and will have to check with the City Attorney. Commissioner Lawrence suggested the term personal residence be used.
- Can recreational marijuana be sold in another type of establishment such as a retail establishment, or will it be limited to the type of facility noted in the ordinance? Mr. Sanks replied that it is his understanding a business license would be required and that would go through a zoning clearance process making sure it would only be allowed in areas with Industrial zoning. It would have to be a licensed facility used specifically for the sale of marijuana.
- Who decides on the penalties? Mr. Sanks stated it would have to be determined if it was a City Zoning Code violation or a violation of State Law. If it is a violation of the Zoning Code, those penalties are already in place.
- The size restrictions are very specific. There be a range of sizes rather than specific sizes. Mr. Sanks noted that the proposed amendment refers back to the existing Medical Marijuana section of the Code. The space requirement criteria are already in place under that Section.
- Will the facility be allowed to be open seven days a week? Mr. Sanks responded that the facilities would be allowed to be open 8 a.m. to 7 p.m., and there are no restrictions regarding the number of days it may be open.
- Could the secured storage space have an 8’ fence with barbed wire on top? Mr. Sanks replied that he believes that barbed wire is not allowed within the City.
- The ordinance refers to 8” concrete block roofs and walls. Usually it is an 8” concrete block ceiling. Mr. Sanks responded that it is not specific as to how the roof would prevent unauthorized entry. He can follow up with the Building Inspector as to what she would require.
- Why is there a 1,325’ distance required from uses such as churches, daycare centers, etc., while there is only a 500’ distance requirement from a residential neighborhood? Mr. Sanks noted that he is not certain of the origin of the 500’ distancing requirement from residential neighborhoods. It could be from State Legislation. Another issue might be that the City cannot make it impossible for this use to locate in the City if larger distancing requirements were required.

- Is there a map that indicates the Industrial Zoning District where these facilities could be located? Mr. Sanks replied that he could bring the City's zoning map to use as a reference to indicate where the Industrial district is located.

Commissioner Alvey asked if there was any way to restrict people from using marijuana in their backyard. She cited an example of someone who lived next door to someone who used marijuana in their rear yard a number of times a day. It could become a barrier to people wanting to go outside in their own backyard if this is going on next door. Mr. Sanks responded that he does not know if that could be done. The City currently does not have the authority to restrict someone using medical or recreational marijuana in their backyard on their private property. He can follow up to see if there can be a consideration of the smoke and smell being a nuisance to neighbors. Most of the ordinance applies to where recreational marijuana can be purchased and the requirements for such facilities. He is not sure if a requirement can be added for personal use. Commissioner Alvey noted that this could become a problem and it might be good to address it now.

C. Zoning Code Update

Mr. Sanks stated that he and Ms. Maslowski miss meeting with Vice Chair Faith and Commissioner O'Connor to discuss the update and hope they will be able to resume meeting again soon. He wanted to reintroduce the project to the Commission as there have been some delays. He discussed the following:

- Staff has been working on a number of sections of the Code.
- The Land Use sections have been reviewed and are, for the most part, complete. The Patio Home and Regional Commercial sections have been removed.
- Susan Goodwin, our former City Attorney, has a contract with her firm to continue working on certain projects and our Zoning Code update is one of those projects. She has been working on the items related to Administration, Enforcement, Use Permits and Variances to make sure that our procedures follow current statutory requirements. Much of the verbiage in the legal sections will be a carryover from the current Code.
- Ms. Goodwin is also reviewing the changes being proposed for the other sections.
- Staff has almost completed the review of the General Regulations section.
- He would like to get together with the Working Group to discuss the General Regulations, Signs, and Wireless Communication Sections.
- Once complete, Staff will supply a copy of the proposed Code to the Commissioners, either digital, hard copy, or both, about a month prior to bringing it to the Commission for a study session for a review of the complete revision.

D. Topics for Referral to City Council

There were no referrals.

E. Minutes

Commissioner Lawrence **moved** to approve the minutes of the October 13, 2020 minutes as revised; Commissioner Alvey **seconded**; **unanimous approval**.

III. Staff Reports

Mr. Sanks reported on a pre-application meeting held regarding the possible location of a business in the Dysart and Camelback Center and on the Denny's Restaurant being built in the same Center.

IV. Commission Reports

There were no reports.

V. Adjournment

Commissioner Alvey **moved** to adjourn; Commissioner Lawrence **seconded; unanimous approval.**
The meeting was **adjourned** at 7:41 p.m.

APPROVED:

PLANNING & ZONING COMMISSION

Frank Ross, Chair

/pm