

CITY OF LITCHFIELD PARK

PLANNING AND ZONING COMMISSION

Regular Meeting
Tuesday, January 12, 2021
7 p.m.

Virtual Meeting

Watch on You Tube via the following link:

<https://youtu.be/kmadEh7LpRM>

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/82889270327> Meeting ID: 828 8927 0327
- b. Telephone: 1 669 900 6833 or 1 253 215 8782 Meeting ID: 828 8927 0327

II. Business

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

Information

Administer the Oath of Office and welcome new Commissioner Robert Darre, appointed to the Commission at the December 16, 2019 City Council Meeting.

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

Information

- 1. Staff Report
- 2. Public Comments
- 3. Discussion

A work study session will be held to discuss and gather information from citizens regarding 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. Zoning Code Update

Information

Update on the progress of the Zoning Code update with review and discussion.

D. Topics for Referral to City Council

Action

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

E. Minutes

Information
Action

Possible approval of the minutes of the August 25, 2020 Meeting.

Information

III. Staff Report on Current Events

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.

Information

IV. Commissioners' Reports on Current Events

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.

Action

V. Adjournment

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: January 12, 2021

To: Planning and Zoning Advisory Commission

From: Jason Sanks, Planning Consultant

Subject: Citizen Review of Recreational Marijuana Zoning Ordinance

This item was referred to PZ by the City Council at its December 11, 2020 hearing. The Citizen Review process kicks off the formal public review of the proposed zoning code update to allow recreational marijuana facilities in the City. This item will be brought back to PZ through a possible Study Session or Public Hearing item.

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.

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.



Meeting Date: January 12, 2021
To: Planning and Zoning Advisory Commission
From: Jason Sanks, Planning Consultant
Subject: Zoning Ordinance Rewrite – Update

City staff and the Zoning Code Working Group have completed several technical reviews of the Zoning Ordinance and have completed its reformatting into the preferred layout as presented in prior Study Sessions with the PZ.

The Sections of the code are shown below as follows with the status of their review and revisions:

SECTIONS

- 1 – Title, Purpose, Consistency (reformat complete with minor revisions)
- 2 – Definitions (technical review and revisions complete)
- 3 – Administration (currently under legal review)
- 4 – Amendments (currently under legal review)
- 5 – Fees (currently under legal review)
- 6 – Interpretation and Conflict (currently under legal review)
- 7 – Saving Clause and Effective Date (currently under legal review)
- 8 – Violations, Enforcement and Penalties (currently under legal review)
- 9 – Districts and Boundaries Thereof (technical review, revisions complete)
 - Updated Zoning Map Draft Complete
- 10 – RE District (technical review, revisions complete)
- 11 – R1 District (technical review, revisions complete)
- 12 – R1-15 District (technical review, revisions complete)
- 13 – R1-8 District (technical review, revisions complete)
- 14 – R1-6 District (technical review, revisions complete)
- 15 – RC District (technical review, revisions complete)
- 16 – MFL District (technical review, revisions complete)
- 17 – MFM District (technical review, revisions complete)
- 18 – MFH District (technical review, revisions complete)
- 19 – PH District (stricken from code)
- 20 – RT District (technical review, revisions complete)
- 21 – NC District (technical review, revisions complete)
- 22 – CS District (technical review, revisions complete)
- 23 – RS District (stricken from code)
- 24 – I District (technical review, revisions complete)
- 25 – OS District (technical review, revisions complete)
- 26 – PD District (technical review, revisions complete)
- 27 – PF District (technical review, revisions complete)
- 27A – AT District (technical review, revisions complete)

- 27B – CF District (technical review, revisions complete)
- 27C – CTR District (technical review, revisions complete)
- 28 – Zoning Matrix (revised, broken into smaller matrices and put in zoning sections)
- 29 – Parking and Loading Regulations (technical review, revisions complete)
- 30 – Walls, Landscaping, and Fences (technical review, revisions complete)
- 31 – General Provisions (under technical review with Staff, recreation Marijuana and other sections to be modified)
- 32 – Nonconforming Uses (currently under legal review)
- 33 – Use Permits (currently under legal review)
- 34 – Variances (currently under legal review)
- 35 – Signs (under technical review with Staff, some new changes anticipated)
- 36 – WCF (currently under legal review)
- 37 – Site Plan Review (currently under legal and Staff review)
- 38 – Protected Development Right Plans (currently under legal review)
- 39 – Design Review Guidelines (under technical review with Staff)

City staff anticipate meeting next to conduct a technical review meeting on 1/14/2021 to Keep working through Section 30. After that, Staff will move onto signs, site plan review, and Design Review Guidelines.

Once the technical and legal reviews and revisions are completed, a draft will be provided to PZ for review one month in advance of the proposed Study Session meeting for the new zoning ordinance.

**MINUTES OF THE SPECIAL MEETING
OF THE LITCHFIELD PARK PLANNING AND ZONING COMMISSION
October 13, 2019**

I. Call to Order

The meeting was held online via Zoom and called to order at 7:06 p.m. by Chairman Ross.

Members Present: Chairman Ross; Vice Chairman Faith (left the meeting at the beginning of Item A), and Commissioners Alvey, Lawrence, Ledyard (left the meeting at the beginning of Item A), and O'Connor.

Members Absent: None.

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

II. Business

A. Public Hearing: Use Permit Application for the Continued Operation of the TCBC Brewery at a New Location at 103 W. Honeysuckle

Vice Chairman Faith and Commissioner Ledyard declared a conflict, recused themselves from this item and, due there not being any additional action items other than the meeting minutes, left the meeting.

Chairman Ross opened the Public Hearing.

1. Staff Report

Mr. Sanks stated that this is a request for a Use Permit to allow a bar in a Neighborhood Commercial Zoning District. The Use Permit will be for the TCBC Brewery (Transplant City Brewing Company), which was formerly the Litchfield Tap Room. They are currently located in the existing downtown center, next to the future City Center development. Their current Use Permit will expire in March 2021, and they will be moving from 107 W. Honeysuckle to 103 W. Honeysuckle, which is within the same center. The brewery is growing and will move into the larger space that was previously occupied by the Cross Fit facility. The location in the new space requires a new Use Permit. In reviewing the Use Permit request, the Commission needs to evaluate whether there will be any negative impacts with this use at this location. The City's Zoning Code notes that the purpose of the Use Permit process is to allow certain uses that would otherwise not be permitted in a zoning district due to negative impacts on adjacent uses and the community, so long as those uses comply with conditions of the use permit, and to also provide a process for periodic review. In March 2016, when the current Use Permit was being considered, there were discussions by both the Planning and Zoning Commission and the City Council on whether or not to impose another time limit on this Use Permit. It is within the purview of this Commission to recommend that the time limit be eliminated if the approvals are repeated every few years and the owners have demonstrated an intent to manage their business so there are no negative impacts reported. Staff verified that there have been no known complaints or any negative reports for the brewery in its current location. With the new location being next door, it is anticipated that, should they keep operating as they are, there should be no negative impacts. Staff recommends approval of the Use Permit request for a bar at 103 W. Honeysuckle, subject to the conditions that the Use Permit be valid for an indefinite period of time and that the microbrewery bar shall be operated in accordance with the Use Permit application exhibits

provided by the applicant. As a side note, the Design Review Board did review and approve plans for the addition of a roll up door on the east side of 103 Honeysuckle in anticipation of the bar moving over. They were requesting the door so they could better utilize the outdoor patio space they are creating and have an indoor/outdoor type of environment. This would be in keeping with the City Center design guidelines.

2. Applicant Presentation

In response to questions, Justin Egbert and Paul Power representing TCBC, provided the following;

- They do not know the exact number of outdoor seats they will be providing. They will have fairly small indoor and outdoor spaces. It is anticipated that they will have six to eight tables that will be able to seat four to six people each on average. There will probably be able to seat 20 to 24 people outside.
- They have not considered limiting the outside hours to less than the inside hours. The outdoor space will be open the same hours as the inside space. They are currently open from 11 a.m. to 9 p.m. on Saturdays, and could possibly extend the hours to 10 p.m.
- They do not envision disturbing any neighbors because the patio is on the back side of the Papa Paul's restaurant. There is no one else in the vicinity, and they do not have loud music. Although they are a business that primarily serves alcohol, they will not be keeping bar hours. The hours will be the same as the other restaurants in the Center.

In response to a questions, Mr. Sanks replied that a Use Permit runs with the property. A new owner could continue to operate under the Use Permit at this location. However, if they were to change locations, significantly change the operations, or expand into other portions of the building, a need for a new Use Permit would be triggered.

Commissioner Lawrence inquired if there was a food to beverage ratio that would require a new Use Permit. Mr. Power responded that, currently, there is no stipulation for food with his liquor license. If they were to switch to a bar or restaurant atmosphere they would be required to get a new liquor license. Mr. Sanks read the Zoning Code definition of a bar. The definition notes that the main use is to serve spirituous liquors for on-site consumption and that such a facility may serve food and provide dancing and entertainment. He noted that it is within the purview of the Commission to recommend parameters, if there is a concern regarding the music or hours of operation. These conditions were not part of prior approvals, but could be added now if there is a concern.

Commissioner O'Connor inquired if the owners will be offering the same business plan of being a microbrewery offering beers on tap with no plans for food or anything else other than a larger space with a patio. Mr. Egbert replied that was correct. It will be the same business plan. They currently have an agreement with Lazy Palm to provide food, and they will continue that agreement. The food is prepared at the Lazy Palm location and delivered to the brewery. Customers are also allowed to bring in food from other entities as well. Commissioner O'Connor asked what restrictions are currently in place for the other restaurants that serve liquor in the downtown center. Mr. Sanks responded that those facilities also serve food and are considered restaurants which do not require a Use Permit. The microbrewery is considered a bar which requires a Use Permit so that any concerns can be evaluated. He is not aware of any Code requirement that limit the hours of operation. If there were any complaints, it would come under the City's noise ordinance.

Commissioner Lawrence noted that the article in the newspaper that she saw did not mention a roll up door and she does not know if residents know about that. An east facing door toward residences could have an impact. She is concerned about the noise spilling out onto the patio. Since they are currently closing at 9 p.m., a condition could be added to the Use Permit that the facility close no later than 10 p.m. during the week and 11 p.m. on the weekends. Mr. Egbert stated that the latest they would be closing will be 10 p.m., and the only live music they will have is acoustic which will end at 9 p.m. The reason for closing at 10 p.m. on weekends is because they are not a bar. They serve craft drinks, and people come in for two or three drinks. The roll up door faces the back wall of Papa Paul's restaurant and the parking lot. It will not even be seen from the street unless specifically looking at it diagonally. Commissioner Lawrence noted that a new owner could come in and change the business plan. It would be wise to consider limiting the hours of operation with tonight's decision. Mr. Sanks stated that it could be recommended that time limitations related to live or broadcast music or the use of the patio be conditions of the Use Permit.

Commissioner O'Connor asked if there should be issues ten years from now, would there be a way to revoke the Use Permit. Mr. Sanks answered that the Use Permit could be placed on the Council's agenda for revocation or to place additional restrictions on it. The intention of the periodic reviews initially was to assess the situation at those intervals. The Commission could recommend that the Use Permit be limited to two years, after which the applicant would have to come back before the Commission and Council.

Commissioner Lawrence inquired if a new Use Permit could be required should new owners take over the business. Mr. Sanks responded that he does not believe that can be done. If there are concerns, time parameters can be placed on the Use Permit. Mr. Egbert stated that they do not plan to ever be open until 11 p.m. They are open to 9 p.m. during the week and 10 p.m. on the weekends. They have no intention, want, or need to stay open past 10 p.m., unless it is a special event such as New Year's Eve.

3. Public Comment

There were no requests to speak.

B. Use Permit Application for the Continued Operation of the TCBC Brewery at a New Location at 103 W. Honeysuckle

Commissioner Lawrence **moved** to recommend to the City Council that the Use Permit application be approved with the condition that closing hours be kept to no later than 10 p.m. during the week, 11 p.m. on Saturdays, and 7 p.m. on Sundays; Boardmember O'Connor **seconded**.

Boardmember O'Connor asked the applicants if they were fine with a closing time of 7 p.m. on Sundays. Mr. Egbert responded that, due to Covid 19, their closing hours have been 5 p.m. on Sundays, but the normal closing time was 6 p.m. However, they did plan on expanding the Sunday hours to 7 p.m. There was some discussion regarding staying open to 8 p.m., but he is not sure if they will do that.

Commissioner Lawrence **amended** her motion to expand the Sunday closing time to 8 p.m.; Commissioner O'Connor **seconded** the amendment. A vote was taken on the amended motion and there was **unanimous approval**.

C. Topics for Referral to City Council

There were no referrals.

D. Minutes

Commissioner Lawrence **moved** to approve the minutes of the August 25, 2020 Meeting;
Commissioner Alvey **seconded; unanimous approval.**

III. Staff Reports

Mr. Sanks reported on the progress of the Sun Health rezoning case and design review submittal.

IV. Commissioners' Report on Current Events

There were no reports.

V. Adjournment

Commissioner Lawrence **moved** to adjourn; Commissioner Alvey **seconded; unanimous approval.**
The meeting was **adjourned** at 7:37 p.m.

APPROVED:

PLANNING & ZONING COMMISSION

Frank Ross, Chairman

/pm