

**STAFF REPORT TO THE PLANNING AND ZONING COMMISSION**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**COMMUNITY PLANNING DIVISION**  
**CASE TYPE – TEXT AMENDMENT**  
**CASE PLANNER: ALYSSA LINVILLE**

**Hearing Date** December 14, 2020

**Case Number:** ZONE-32945-2020

**Project Description:** This is a request by The City of Yuma for a Zoning Code Text Amendment to amend Title 15, Chapter 154, Article 22 to update provisions related to Non-Profit Medical Marijuana Dispensaries and Recreational Marijuana Establishments, as it relates to the recent approval of State Proposition 207 in the November 2020 General Election.

**Staff recommendation:** Staff recommends **APPROVAL** of the text amendment to amend Title 15, Chapter 154, Article 22 to update provisions related to Non-Profit Medical Marijuana Dispensaries and Recreational Marijuana Establishments.

**Suggested Motion:** Move to **APPROVE** the text amendment ZONE-32945-2020 as presented in the staff report.

**Effect of the Approval:** By approving the text amendment, the Planning and Zoning Commission is recommending approval to City Council for the request to amend Title 15, Chapter 154, Article 22 to update provisions related to Non-Profit Medical Marijuana Dispensaries and Recreational Marijuana Establishments.

**Staff Analysis:** On November 3, 2020, Arizona voters approved Proposition 207, the Arizona Smart and Safe Act (the Act). This Act legalizes the responsible use of marijuana by adults 21 years of age or older. Additionally, the Act provides specific definitions related to recreational marijuana, its use and regulation. This proposed text amendment will allow recreational marijuana establishments to collocate with non-profit medical marijuana dispensaries in a single location, within the same building.

In 2011, the City Council originally adopted a zoning ordinance which provided regulations for the operation of medical marijuana dispensaries. With the approval this recent legislation, recreational marijuana establishments will be subject to the same rules and regulations as medical marijuana dispensaries, in addition to the collocation requirement.

Staff has reviewed how other states have addressed and implemented laws related to recreational marijuana, understanding that the law in each state is different and that some of their regulations cannot or do not apply here in Arizona.

In the City of Yuma, the goal is to protect sensitive uses from possible future impacts of marijuana facilities. This is accomplished by requiring buffers from those sensitive uses to any marijuana facility (1,000 feet from schools, day cares, churches and other places of worship, residential zones, parks, libraries and community centers, and 5,280 feet from any other marijuana facility, regardless if these uses are located in the city or the county); allowing marijuana facilities by right (no conditional use permit is required), in General Commercial and Light Industrial zoning districts; requiring the facilities to be located on heavily traveled

roadways; requiring dispensing and growing to be grouped together on the same site; limiting the hours of operation; and by allowing the Arizona Department of Health Services to regulate the actual operation of the use (who can open a facility, how it must be run, reporting requirements, etc.).

**1. Does the proposed amendment implement the goals, objectives and policies of the General Plan?**

No. While the 2012 General Plan does not discuss the retail sale recreational marijuana, the proposed amendment does meet the requirements set forth in the voter approved Proposition 207 (Smart and Safe Act).

**2. Does the proposed amendment fit the overall purpose and intent of the zoning ordinance?**

Yes. This amendment does fit the overall purpose and intent of the zoning ordinance, which is intended to protect the public health, safety, and welfare.

**3. Will the proposed amendment change the range of uses identified in the zoning code? If so, how?**

Yes. This amendment will add recreational marijuana establishments as a permitted use in the General Commercial (B-2) and Light Industrial (L-I) District, subject to the operational standards identified within the proposed amendment.

**4. Will the proposed text amendment change the development standards of the zoning or subdivision ordinances? If so, how?**

No. The proposed text amendment will not change the development standards of the zoning or the subdivision ordinance. The amendment will however, add a new permitted use, as it relates to the retail sale of recreational marijuana.

**5. What are the potential impacts of the proposed amendment?**

There are many potential impacts that recreational marijuana establishments could create and there are many perceived impacts that could be identified by the general public. Since other states have adopted different laws and the Arizona law is new, there is not enough data to generate a comprehensive list of potential impacts that this new law could have on our community.

**6. Does the proposed amendment fit the overall purpose and intent of the subdivision ordinance?**

N/A

**7. Does the proposed amendment conform to prior City Council actions regarding this issue?**

Yes. On December 2, 2020, the City Council introduced an ordinance which would allow the retail sale of recreational marijuana within the City of Yuma; the expected adoption date is December 16, 2020. This proposed amendment will conform to the City Council action.

**Public Comments Received:** City staff received a number of phone calls and emails by interested individuals wanting to learn more about the rules and regulations.

**External Agency Comments:** None Received.

**Neighborhood Meeting Comments:** No Meeting Required.

**Proposed conditions delivered to applicant on:** N/A

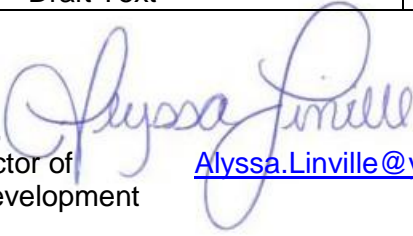
**Final staff report delivered to applicant on:** N/A

**Attachments:**

<b>A</b>	<b>B</b>
Draft Text	Agency Notification

**Prepared By:**

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Assistant Director of  
Community Development



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**Date:**

(928)373-5000, ext. 3037

**ATTACHMENT A**  
**DRAFT TEXT**

**Non-Profit Medical Marijuana Dispensaries and Recreational Marijuana Establishments**

**§154-22.01 Purpose**

Marijuana in any form, including medical **and recreational** marijuana, is illegal under federal law pursuant to the Controlled Substances Act (21 U.S.C §811.) However, under Arizona State law, the Arizona Medical Act (Proposition 203, passed by the voters in 2010) allows a qualifying patient who has an identified debilitating medical condition, to obtain and use marijuana to treat or alleviate the qualifying debilitating medical condition or its associated symptoms; **and the Arizona Smart and Safe Act (Proposition 207, passed by the voters in 2020) allows the responsible adult use of marijuana for persons twenty-one years of age or older. Both Proposition 203 and 207 also** contain provisions for dispensaries to provide medical **or recreational** marijuana to qualifying ~~patients~~ **individuals. These** changes in state law means that it is possible that medical marijuana dispensaries **and recreational marijuana establishments** could be operating in the City of Yuma. The City has a duty to ensure that the dispensaries are located and operated in a manner that least harms the health, safety and general welfare of its citizens. The purpose of this ordinance is to ensure the health, safety and welfare of the general public. ~~Furthermore, the City of Yuma does not condone the use of medical marijuana or violation of Federal law.~~

**§154-22.02 Definitions**

***Cultivation.*** To propagate, breed, grow, prepare and package marijuana.

***Dual-Purpose Marijuana Facility.*** An entity that holds both a nonprofit medical marijuana dispensary registration and a recreational marijuana establishment license.

***Enclosed, Locked Facility.*** A closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

***Medical Marijuana.*** All parts of any plant of the genus cannabis, whether growing or not, and the seeds of such plant.

***Recreational Marijuana Establishment.*** An entity licensed by the State of Arizona to operate a single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.

***Non-profit Medical Marijuana Dispensary.*** A not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit medical marijuana dispensary may receive payment for all expenses incurred in its operation. For the purposes of this article, a medical marijuana dispensary and medical marijuana cultivation, together, are considered one use.

**§154-22.03 Location Restrictions and Operating Provisions**

Medical **and Recreational** Marijuana cultivation and dispensing are subject to the following location restrictions and provisions:

- A. **Each non-profit medical marijuana dispensary and recreational marijuana establishment shall locate within one location, within the same building as a dual-purpose marijuana facility.**
- B. **Each non-profit medical dual-purpose marijuana dispensary facility shall contain both the cultivation of and the dispensary for the marijuana at one location. No separate cultivation location is permitted.**

- C. ~~Non-profit medical~~ **Dual-purpose** marijuana dispensaries facilities shall be permitted uses in the B-2 and L-I zones, subject to conditions and limitations identified in this article. ~~Non-profit medical~~ **Dual-purpose** marijuana distribution facilities shall not be permitted in any Heavy Industrial District by way of a CUP (from a Light Industrial District.)
- D. ~~Non-profit medical~~ **Dual-purpose** marijuana dispensaries facilities shall not be permitted on any site that has any of the following Zoning Overlays: Historic District Overlay, Aesthetic Overlay (and all properties that have a development agreement requiring the Aesthetic Overlay standards), Auto Center Overlay, or Bed and Breakfast Overlay designation.
- E. ~~Non-profit medical~~ **Dual-purpose** marijuana dispensaries facilities must meet the following distance separation requirements:
1. Must be located at least 1,000 feet from a residentially zoned property, regardless if the residential property is located in the city or the county. This distance shall be measured in a straight line from the exterior walls of the building (or portion thereof in which the medical marijuana dispensary and cultivation business is conducted or proposed to be conducted), to the zoning boundary line of the residentially zoned property.
  2. Must be located at least 1,000 feet from all public and private: preschools, kindergartens, elementary schools, secondary or high schools; any place of worship; any public park, adult-oriented businesses, large and small day care facilities, or public community center, regardless if these uses are located in the city or the county. This distance shall be measured in a straight line from the exterior walls of the building (or portion thereof in which the medical marijuana dispensary and cultivation business is conducted or proposed to be conducted), to the property line of the protected use.
  3. Must be located at least 5,280 feet from another **dual-purpose** marijuana facility ~~dispensary and cultivation business~~, regardless if the **dual-purpose** marijuana facility ~~dispensary and cultivation business~~ is located in the city or the county. This distance shall be measured from the exterior walls of the building or portion thereof in which each of the marijuana businesses are conducted or proposed to be conducted.
- F. ~~Non-profit medical~~ **Dual-purpose** marijuana dispensaries facilities are not allowed as an Accessory Use in any zone.
- G. ~~Non-profit medical~~ **Dual-purpose** marijuana dispensaries facilities are not allowed as a Home Occupation in any zone.
- H. The number of ~~non-profit medical~~ **dual-purpose** marijuana dispensaries facilities shall be limited to one for each 50,000 population within the City of Yuma, with the population determined by the most recent Decennial Census reported by the U.S. Census Bureau or according to the permissions identified through the Arizona Department of Health Services as it relates to the number of dispensaries permitted in a jurisdiction.
- I. ~~Non-profit medical~~ **Dual-purpose** marijuana dispensaries facilities shall only be located in permanent structures on properties that front on roadways classified as ~~Expressways~~ **Principal Arterials**, as identified in the adopted City of Yuma General Plan.
- J. ~~Non-profit medical~~ **Dual-purpose** marijuana dispensaries facilities shall be located in a permanent building/structure affixed to a permanent foundation. ~~Non-profit medical~~ **dual-purpose** marijuana dispensaries facilities shall not be located in any other type of non-permanent structure such as, but not limited to, a trailer, cargo container, or motor vehicle.
- K. The retail aspect of any ~~non-profit medical~~ **dual-purpose** marijuana dispensaries facility shall be limited in physical size based on the building code requirements for a structure that has only one exit door.
- L. ~~Non-profit medical~~ **Dual-purpose** marijuana dispensaries facilities shall have operating hours not earlier than 8:00 a.m. and not later than 5:00 p.m., Monday through Saturday, Noon to 5:00 p.m. on Sunday.

- M. Drive-through services are prohibited.
- N. No use or consumption in any manner of marijuana is permitted on the premises of any ~~non-profit medical~~ **dual-purpose** marijuana ~~dispensaries~~ **facility**.
- O. ~~Non-profit medical~~ **Dual-purpose** marijuana ~~dispensaries~~ **facilities** must comply with City of Yuma sign code regulations
- P. ~~Non-profit medical~~ **Dual-purpose** marijuana ~~dispensaries~~ **facilities** shall have interior lighting of sufficient intensity to illuminate every place that members of the public are permitted access, with overhead light fixtures that have an illumination of not less than two foot-candles as measured at the floor level, when the dispensary is open to the public.
- Q. ~~Non-profit medical~~ **Dual-purpose** marijuana ~~dispensaries~~ **facilities** shall have exterior lighting of sufficient intensity and number to illuminate every portion of the property with an illumination level of not less than one foot-candle as measured at the ground level, including, but not limited to, landscaped areas, parking lots, driveways, walkways, entry areas, and refuse storage areas, at all times between sunset and sunrise.
- R. ~~Non-profit medical~~ **Dual-purpose** marijuana ~~dispensaries~~ **facilities** shall be configured such that there is an unobstructed view of every public area of the premises, unaided by closed circuit cameras or any other means, by a manager. No public area shall be obscured by any door, curtain, wall, two-way mirror, or other device. A manager shall be in the public portion of the dispensary at all times it is in operation or open to the public, in order to enforce all rules and regulations.
- S. If windows exist in the building that houses a ~~non-profit medical~~ **dual-purpose** marijuana ~~dispensaries~~ **facility**, there shall be an unobstructed view through those windows, from the outside of the building in.
- T. ~~Non-profit medical~~ **Dual-purpose** marijuana ~~dispensaries~~ **facilities** shall provide for proper disposal of marijuana remnants or by-products, and shall not be placed within the facility's exterior refuse containers
- U. ~~Non-profit medical~~ **Dual-purpose** marijuana ~~dispensaries~~ **facilities** shall comply with all other applicable city, state and federal regulations.
- V. Business licenses for ~~non-profit medical~~ **dual-purpose** marijuana ~~dispensaries~~ **facilities** shall not automatically renew. Annual staff review and approval is required.

**ATTACHMENT B**  
**NEIGHBORHOOD MEETING COMMENTS**

- Legal Ad Published: The Sun (11/28/2020)
- 34 Commenting/Reviewing Agencies noticed: (11/30/2020)
- Neighborhood Meeting: (N/A)
- Hearing Date: (12/14/2020)
- Comments due: (12/03/2020)

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>“No Comment”</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	Yes	12/01/2020	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	Yes	12/01/2020	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	Yes	12/01/2020	X		
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	Yes	12/01/2020	X		
Yuma Irrigation District	Yes	12/03/2020	X		
Arizona Fish and Game	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	Yes	12/01/2020	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>“No Conditions”</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	Yes	11/30/2020	X		
Building Safety	Yes	12/04/2020	X		
City Engineer	Yes	12/01/2020	X		
Traffic Engineer	NR				
MCAS / C P & L Office	Yes	12/02/2020	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

<b>Neighborhood Meeting</b>	<b>Comments Available</b>
None Required	N/A

**PUBLIC COMMENTS RECEIVED:** NONE RECEIVED.