



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

December 16, 2020

DEPARTMENT:

City Administration

DIVISION:

- ☐ Motion
- ☐ Resolution
- ☐ Ordinance - Introduction
- ☒ Ordinance - Adoption
- ☐ Public Hearing

TITLE:

Amend Yuma City Code Title 13: Health and Safety

SUMMARY RECOMMENDATION:

Adopt an ordinance amending the City of Yuma Health and Safety code in Title 13 of the Yuma City Code, by adding a new Chapter 140, titled, Recreational Marijuana. (City Administration) (Philip Rodriguez)

REPORT:

Clerk Note: Ordinance O2020-026 was amended by motion at the December 2, 2020, Regular City Council Meeting to strike in its entirety Section 140-05 titled "Marijuana Testing Facility Permitted" and replace it with a new Section 140-05 titled "Marijuana Testing Facility Prohibited".

On November 3, 2020, a majority of voters in the state of Arizona approved statewide ballot Proposition 207, the "Smart and Safe Arizona Act," to legalize adult recreational marijuana in Arizona. Proposition 207 establishes a mechanism to open retail recreational marijuana outlets known as "Marijuana Establishments," and establishes an ability to operate "Marijuana Testing Facilities" in certain situations. Proposition 207 further decriminalizes aspects of marijuana violations, making most a petty offense or in some cases a misdemeanor.

While marijuana use and possession is still illegal under federal law, Proposition 207 amends Arizona Revised Statutes (A.R.S.) Titles 36, 42, and 43. The laws legalizing "Responsible Adult Use of Marijuana" are found at Title 36, Chapter 28.2 and codified at A.R.S. § 36-2850 *et seq.* The amendments to Titles 42 and 43, respectively, relate to taxation of retail sales and state income tax gross income calculations.

The language of Proposition 207 preempts many areas of local authority, notably in the realm of criminalizing use, but does allow local jurisdictions to regulate the time, place and manner of marijuana retail establishments or testing facilities. The proposed Ordinance establishes reasonable health and safety regulations to implement the mandates of Proposition 207, but is not intended in any way to

promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products.

The proposed Ordinance establishes regulations for “Dual License” Marijuana Establishments to operate and collocate with Nonprofit Medical Marijuana Dispensary in a single location and permits state licensed Marijuana Testing Facilities under certain conditions. The Ordinance also prohibits smoking or other consumption of marijuana in City-owned facilities, and retains the prohibition of public marijuana use in public as set forth in Proposition 207.

Proposition 207 is expected to be canvassed and certified by the State of Arizona in December 2020. After the vote is made official, it will then be sent to Governor Ducey to issue a proclamation. As set forth in in Proposition 207, the Arizona Department of Health Services will begin promulgating rules and regulations related to licensing and operations in January 2021. Recreational marijuana is not legal in Arizona until the election is canvassed, certified and proclaimed by the Governor, and the AZDHS promulgates it rules and regulations. Adopting local ordinances before that time does not trigger an earlier start date for recreational marijuana in the City of Yuma jurisdiction.

Adopting this Ordinance amends Yuma City Code (YCC) Title 13: Health and Safety, adding Chapter 140 Recreational Marijuana to permit Dual License Marijuana Establishments consistent with this Ordinance and subject to the zoning regulations found in the YCC, as amended, as well as permit Marijuana Testing Facilities under certain conditions and regulations consistent with this Ordinance and subject to the zoning regulations found in the YCC, as amended, and providing violations and penalties consistent with the language of Proposition 207.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: \$0.00	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input checked="" type="radio"/> Department <input type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded <input type="checkbox"/> Document to be codified			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Philip A. Rodriguez		11/24/2020	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files (Electronic Signature)		11/24/2020	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Rodney C. Short		11/24/2020		
WRITTEN/SUBMITTED BY:		DATE:		