

Development Review Commission

December 8, 2020

The Smart and Safe Arizona Act

(Recreational Marijuana Initiative)

Prop 207



Tempe

Making waves in the desert



Recreational Marijuana Initiative

- On November 3, 2020, Proposition 207, “The Smart and Safe Arizona Act” passed with 60% of the statewide votes
- City Council Strategic Priorities alignment:

Priority #1



Safe & Secure
Communities

Priority #4



Sustainable Growth
& Development



What Did the Passing of Prop 207 allow?

- Proposition 207 allows adults (ages 21 or older) to possess one ounce of marijuana and the recreational use of it in the State of Arizona.
- Possessing more than one ounce but less than 2.5 ounces would result in a petty offense.
- Marijuana smoking would remain illegal in a public place or open space, such as parks and sidewalks. Operating a vehicle, such as a car, boat, or plane, while being impaired would also remain illegal.



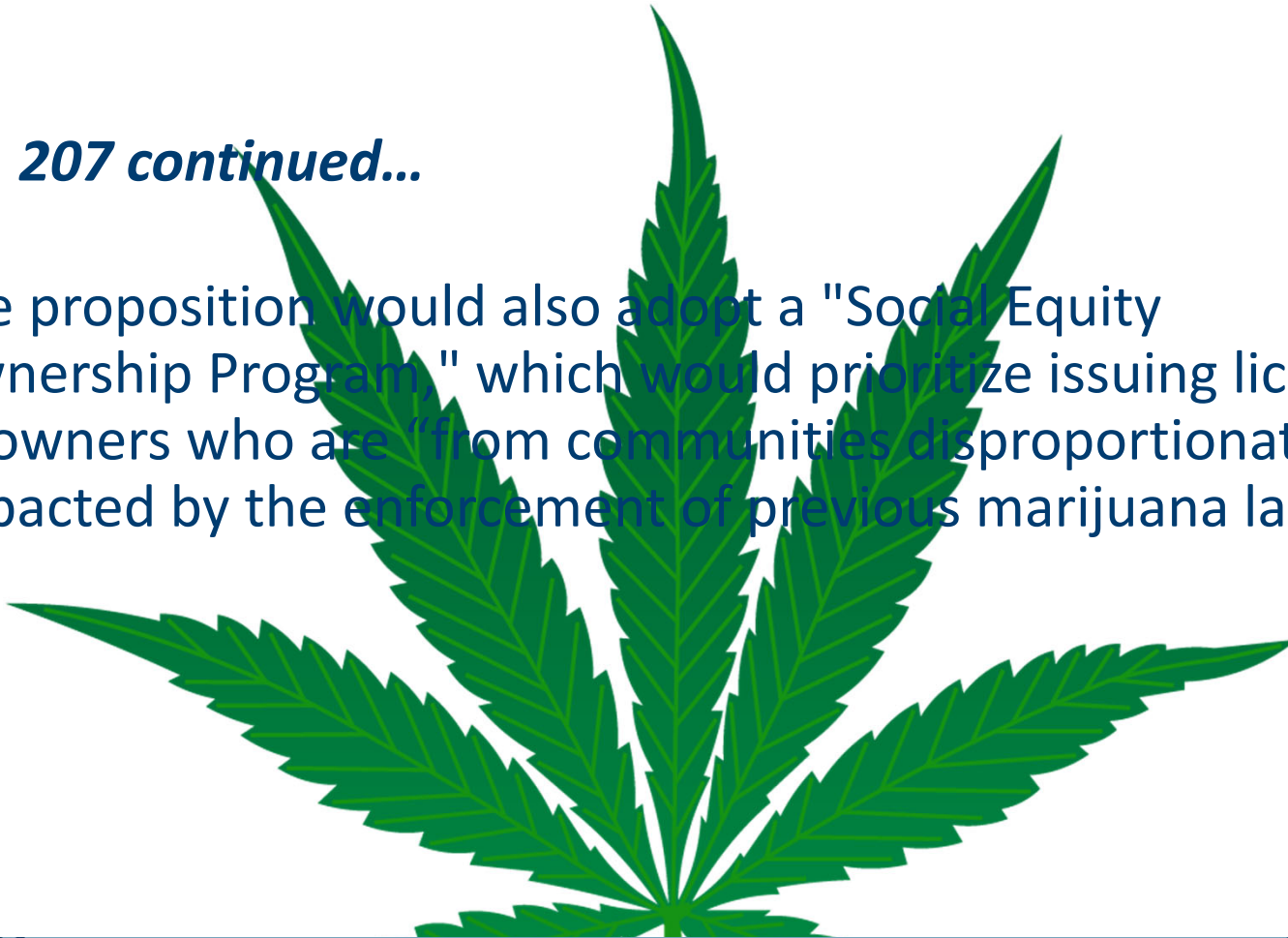
Prop 207 and Zoning Regulations:

- Under Prop 207, Tempe may not enact regulations more restrictive than comparable regulations pertaining to medical marijuana; may not enact regulations that make the operations of a Marijuana Establishment or Marijuana Testing Facility unduly burdensome; or may not enact regulations that conflict with regulations contained in the Proposition.



Prop. 207 continued...

- The proposition would also adopt a "Social Equity Ownership Program," which would prioritize issuing licenses to owners who are "from communities disproportionately impacted by the enforcement of previous marijuana laws."





Prop. 207 continued...

- The proposition would also allow an individual (21 or older) in the state to grow a maximum of 6 marijuana plants in their residence; and residences of two or more individuals (21 or older) to grow up to 12 plants, as long as the plants are in a lockable enclosed area away from public view.
- The proposition will not change employers' right to maintain a drug and alcohol-free workplace.



Prop. 207 continued...

- The initiative would also make the Arizona Department of Health Services (ADHS) responsible for regulating marijuana in the state, including licensing stores and production facilities. ADHS would have to establish specific regulations by April 5, 2021.
- A State tax will also be created on the sale of marijuana. A 16% tax, in addition to existing taxes, that is on cigarettes and alcohol. Revenue from the tax will go towards funding state agencies, including community college districts, police and fire departments, and the Highway User fund.



Prop. 207 and Marijuana Establishment Licenses

- Prop. 207 allows for one Marijuana Establishment license for every 10 pharmacies (Same as Dispensaries)
- Allows a “Dual Licensee” for lawfully registered dispensaries to also sell as a Marijuana Establishment
- Not more than 2 licenses per County that contains no Medical Dispensary; or 1 Marijuana Establishment that contains 1 Medical Dispensary (1:1 ratio)
- Social Equity Ownership Program will issue 26 additional licenses throughout the State



Prop. 207 affecting Zoning Regulations:

A local jurisdiction may:

- Enact reasonable zoning regulations that limit the use of land for Marijuana Establishments and Marijuana Testing Facilities to specified areas. (This provision is identical to that in Arizona's medical marijuana law which is also the only zoning related provision in Arizona's medical marijuana law).
- Limit the number of Marijuana Establishments or Marijuana Testing Facilities, or both.
- Prohibit Marijuana Establishments or Marijuana Testing Facilities, or both.
- Regulate the time, place and manner of Marijuana Establishment and Marijuana Testing Facility operations.
- Prohibit/restrict delivery within its jurisdiction (Delivery unlawful until rules adopted by 2023-2025)

Zoning & Development Code

CITY OF TEMPE





Tempe's Options for Reasonable Zoning Regulations:

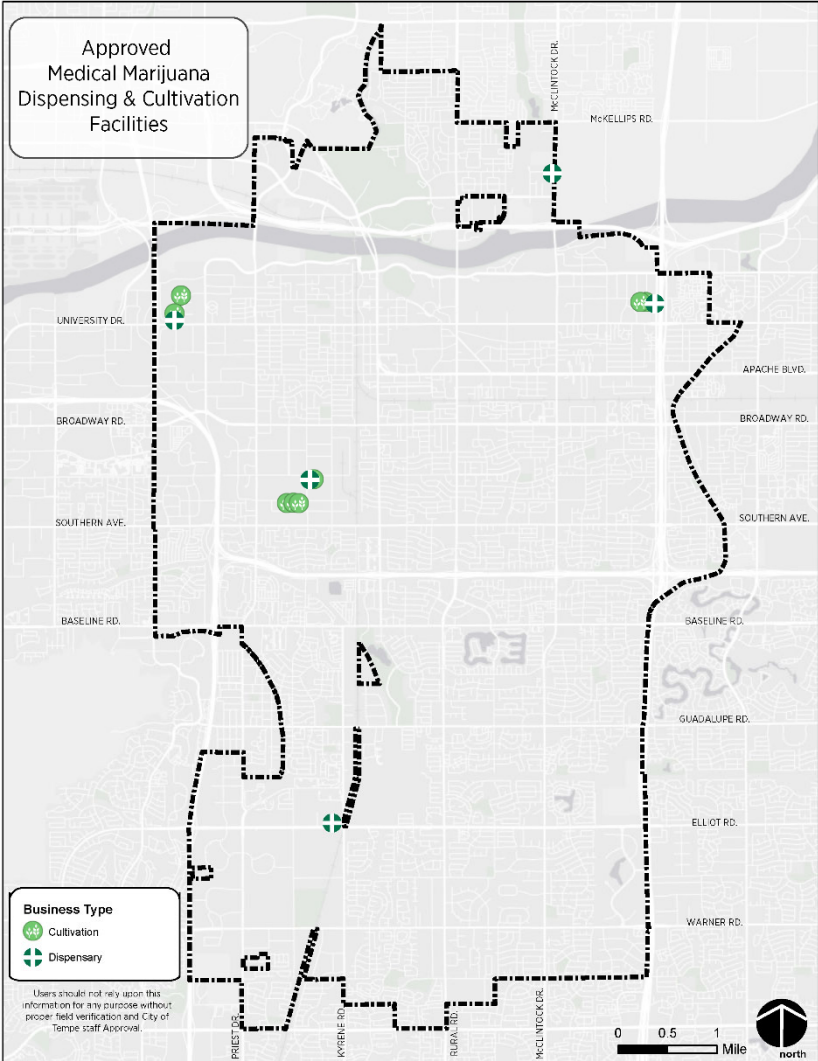
- Adopt regulations for Marijuana Establishment, Marijuana Testing Facilities and the Arizona's Industrial Hemp Program and its exemption (treated as agricultural manufacturing)
- Consider separation requirements for Marijuana Establishments:
 - Minimum baseline standard, the current Medical Marijuana Dispensary regulations (ZDC Sec. 3-426) for Marijuana Establishments, including its separation requirements



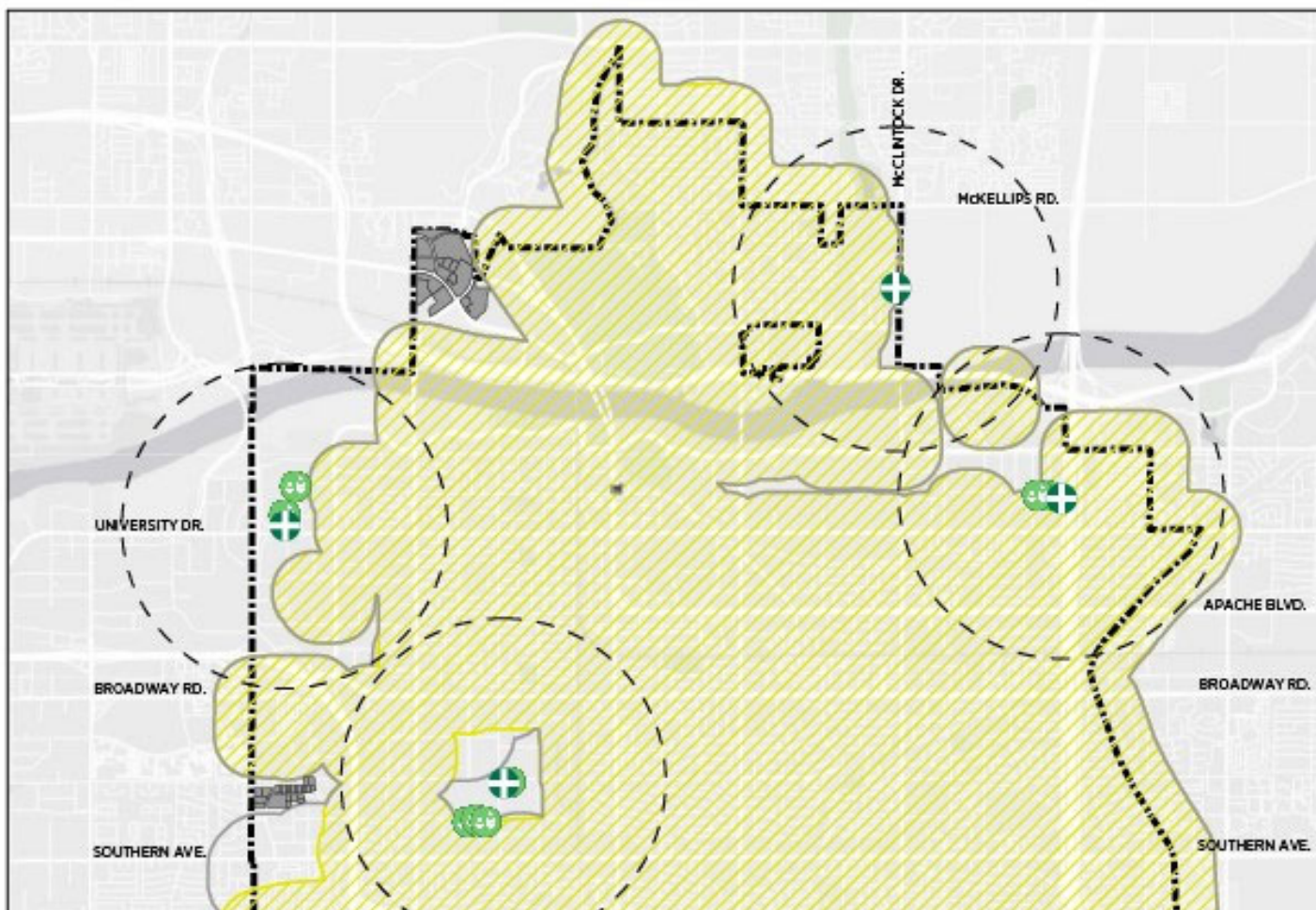
Current Medical Marijuana Dispensary separations requirements:

- 5,280 feet (1 mile) Dispensary to Dispensary
- 1,500 feet from a child care facility
- 1,500 feet from a charter, private or public school, providing elementary or secondary education
- 1,320 feet from a church, synagogue, temple or similar
- 1,320 feet from a public park, library, or public community
- 1,320 feet from a residential zoning district or a parcel devoted to a residential use in any district

Approved Dispensaries & Cultivation Facilities



Existing Separation Requirements (North Tempe)

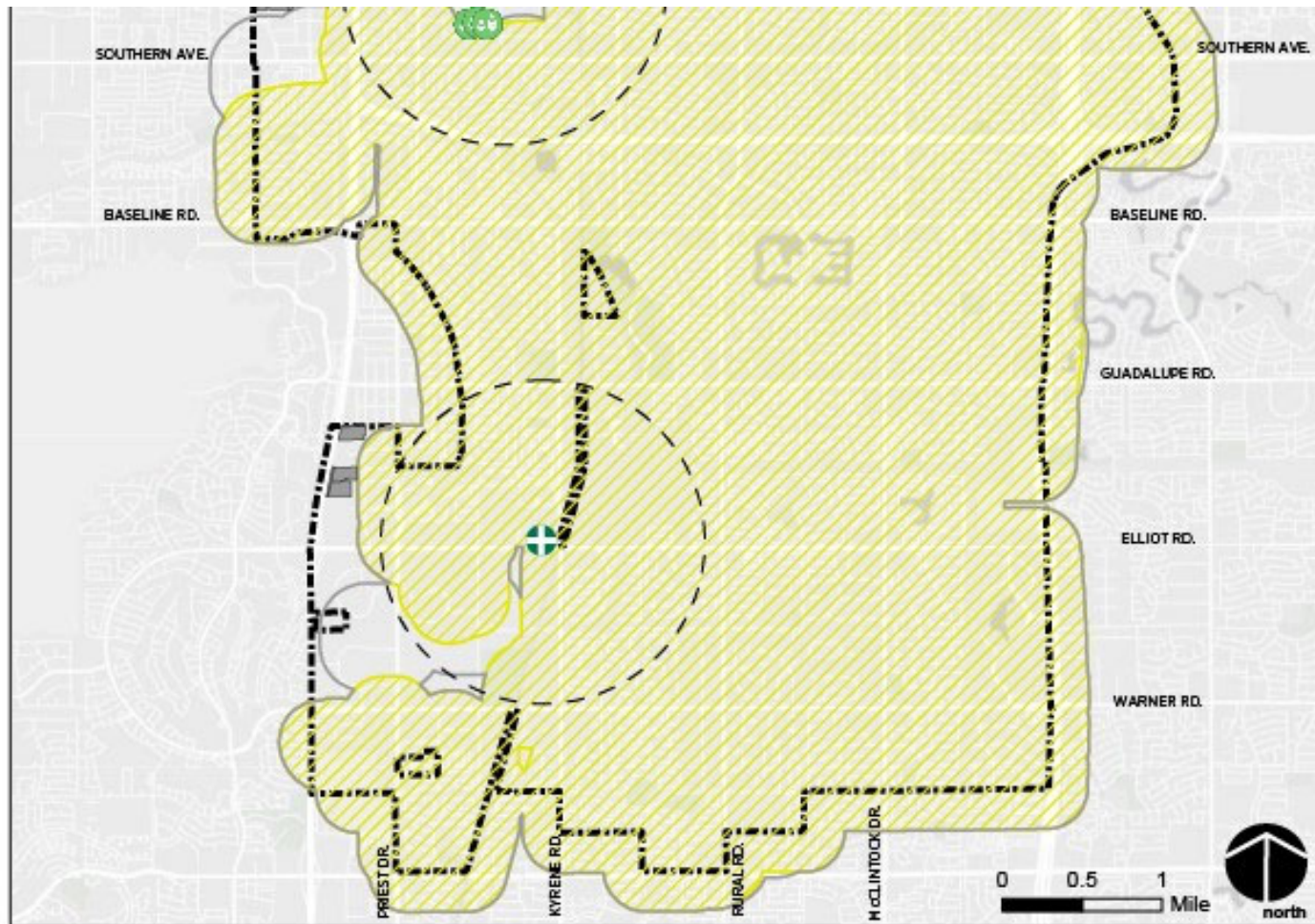


Business Type

- Cultivation
- Dispensary
- One Mile Separation
- All Separation Requirements
- Residential Separation
- Eligible Parcels



Existing Separation Requirements (South Tempe)





Council Direction...

1. Maintain current separation standards for new Marijuana Establishments and Dispensaries
2. Restrict use on city property, parks, sidewalks
3. Marijuana Testing Facilities (allow in Industrial with no separation, and when accessory to a Marijuana Establishment)



Staff Recommendations, seeking Council Direction...

5. Incorporate current Industrial Hemp Program (evaluate operations with Fire and Building Safety)
6. Work with Medical Marijuana business representatives in Tempe
7. Solicit input and dialogue with the “Tempe Coalition to reduce underage drinking and drug use” and Tempe Chamber of Commerce
8. Conduct a survey for draft ordinance input on Tempe’s Forum



Schedule for Marijuana Initiative Ordinance:

- **Dec 3, 2020** **City Council – Issue Review / Work Study Session** (Direction on drafting Marijuana Ordinance)
- **Dec 8** **Development Review Commission - Study Session**, DRC informed of direction for the City to prepare a new ordinance for the Marijuana Legalization Initiative
- **Dec 7-21** **Opportunity for Public Outreach (City website for neighborhood survey, key stakeholders)**
- **Jan 6, 2021** **(Voluntary) Neighborhood Advisory Commission**, presentation of draft ordinance and possible recommendation
- **Jan 12, 2021** **Development Review Commission public hearing** for draft Marijuana Initiative ordinance (recommendation action)
- **Jan 28, 2021** **City Council Intro & 1st Public Hearing** on a draft Marijuana Initiative ordinance
- **Feb 11, 2021** **City Council 2nd & Final Public Hearing** on a draft Marijuana Initiative ordinance
- **Mar 15, 2021** **30-day effective date** from ordinance adoption
- **April 5, 2021** Date existing dispensaries can automatically begin cultivation, process, production, manufacture, sales, transport, and testing of marijuana and related products if ADHS has failed to issue any Marijuana Establishment licenses