



**Planning Commission Study Session**

**TO:** PLANNING COMMISSION / DESIGN REVIEW BOARD

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**THROUGH:** AMY TEMES, PRINCIPAL PLANNER *AT*  
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**MEETING DATE:** NOVEMBER 4, 2020

**SUBJECT:** Z20-10 SAFE AND SMART ACT: CITIZEN REVIEW AND INITIATION OF AMENDMENT TO THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER I ZONING REGULATIONS, DIVISION 1: GENERAL PROVISIONS, DIVISION 2: LAND USE DESIGNATIONS, DIVISION 4: GENERAL REGULATIONS, DIVISION 5: ADMINISTRATION, DIVISION 6: USE DEFINITIONS, AND THE GLOSSARY OF GENERAL TERMS, RELATED TO MARIJUANA RELATED USES IN ACCORDANCE WITH THE SAFE AND SMART ACT.

**STRATEGIC INITIATIVE:** N/A

Anticipate and adequately prepare the Land Development Code for the potential passing of the Smart and Safe Act, legalizing the recreational use of marijuana.

**RECOMMENDED MOTION**

- A. Staff requests that the Planning Commission initiate a text amendment to the Land Development Code of Gilbert, Arizona Chapter I Zoning Regulations, Division 1: General Provisions, Division 2: Land Use Designations, Division 4: General Regulations, Division 5: Administration, Division 6: Use Definitions, and the Glossary of General Terms, related to marijuana related uses in accordance with the Safe and Smart Act.
- B. Conduct Citizen Review meeting to discuss the proposed LDC text amendment.

## **BACKGROUND/DISCUSSION**

### **History**

<b>Date</b>	<b>Description</b>
<i>October 13, 2020</i>	Town Council adopted Ordinance No. 2783, prohibiting the retail sales of recreation marijuana and testing facilities, contingent on the outcome of State Proposition 207.

### **Overview**

In 2016, Arizona voters narrowly voted against the legalization of recreational marijuana. Arizona voters will have another opportunity to legalize recreational marijuana at the November 2020 general election by voting in favor of the Smart and Safe Arizona Act (Proposition 207). The Safe and Smart Act allows local governments to prohibit/permit recreational marijuana establishments and testing facilities from operating within their jurisdictions, permits at home cultivation of the cannabis plant for personal use, and other various changes to state law.

On October 13, 2020, Town Council voted to prohibit retail sales and the establishment of testing facilities within the Town, should the Smart and Safe Arizona Act become law. In accordance with the Smart and Safe Act, this prohibition would not apply to the existing medical marijuana licensee located in Gilbert. The ordinance also prohibits the use, sale, cultivation, manufacturing, production, storage, and distribution of marijuana on property that is occupied, owned, controlled or operated by the Town.

### **DISCUSSION**

The primary goal for this text amendment is to explore modifications to the LDC that will allow Gilbert to remain ahead of the Smart and Safe Act. Part of the challenge with taking a proactive approach is anticipating the wide-ranging impacts.

While staff has been researching this initiative for the past few months, there are many implications of the Smart and Safe Act the Town is still exploring and currently there isn't a comprehensive list of all possible changes. However, staff is anticipating changes to the Land Development Code, including but not limited to, updating the medical marijuana section to reflect the ability for existing medical marijuana facilities to apply for a dual license allowing for both retail and medical marijuana sales as well as updating use definitions and other various regulations.

Following the text amendment initiation, staff anticipates bringing this back to the Planning Commission early next year after certain aspects of the initiative have been further explored.

### **PUBLIC NOTIFICATION AND INPUT**

The proposed text amendment was properly noticed for initiation and citizen's review and will require future public notice as specified under Land Development Code (LDC) Section 5.602.A.3.

**REQUESTED INPUT**

- A. Staff recommends that the Planning Commission initiate a text amendment to the Town of Gilbert, Arizona Land Development Code, Division 1: General Provisions, Division 2: Land Use Designations, Division 4: General Regulations, Division 5: Administration, Division 6: Use Definitions, and the Glossary of General Terms, related to Marijuana-related uses in accordance with the Safe and Smart Act.
  
- B. Conduct Citizen Review meeting to discuss the proposed LDC text amendment pertaining to the Smart and Safe Act.

Respectfully submitted,

A handwritten signature in black ink that reads "Joshua Rogers". The signature is written in a cursive, flowing style.

Josh Rogers  
Planner II