



## Planning and Development Services Memo

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December 3, 2010

**TO: Planning and Zoning Commission**

**THROUGH:** Jim Cronk, Planning Director  
Mark Sawyers, AICP, Current Planning Manager

**FROM:** Roger E. Eastman, AICP, Zoning Code Administrator

**RE: December 8, 2010 Work Session**  
**DRAFT Medical Marijuana Dispensary Ordinance**

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### **Background:**

This short memorandum provides back-up information to the Planning and Zoning Commission in preparation for the December 8<sup>th</sup> citizen review work session on a proposed DRAFT medical marijuana ordinance for the City.

### **Overview:**

Proposition 203 as presented to Arizona voters in November 2010 was narrowly approved. This initiative, the "Arizona Medical Marijuana Act" allows for the use of medical marijuana, its cultivation and sale, and for the establishment of medical marijuana dispensaries (MMDs). The initiative further provides that cities may enact "reasonable regulations that limit the use of land for registered MMDs to specified areas".

City staff has been working closely with the Arizona League of Cities and Towns and various other local governments in the state while developing an ordinance to amend the Land Development Code (LDC) to provide for MMDs. The original draft ordinance presented to the City Council on November 30<sup>th</sup> was based closely on the model draft medical marijuana code developed by the League and on the draft ordinances prepared by Pima County, the City of Tucson and the Town of Marana. At the November 30<sup>th</sup> work session the council provided direction to staff to make the draft ordinance less restrictive, less negative in tone and with amended recitals to more clearly support the medical benefits of marijuana's use. A copy of a revised ordinance that responds to Council's direction is attached. Note that because of the uncertainty of the adoption date of the new draft Zoning Code, amendments to the LDC have been prepared as well as to the new Zoning Code. The amendments to the new Zoning Code will be exactly the same as the LDC, and are not included with the attached draft. It is important that revisions to the LDC should be prepared because the City has to have a MMD ordinance in place within 120 days of the certification of the initiative by the governor (i.e. by March 21<sup>st</sup>) in order to limit and regulate the location of MMDs. This 120 day time period also allows the Arizona Department of Health Services the necessary time to develop the rules, standards and procedures for the registration of MMDs within the state.

Attached is a copy of a PowerPoint presentation for the December 8<sup>th</sup> work session. It provides a general overview of the salient points in Proposition 203, describes in general some of the

challenges faced by cities in other states (Arizona is the 15<sup>th</sup> state to permit the use of medical marijuana) where medical marijuana dispensaries are permitted, introduces the amendments to the Flagstaff LDC and draft new Zoning Code that would allow for the establishment of MMDs in the City, and provides a schedule for the adoption of these proposed amendments.

Also attached are some documents copied from the Arizona Department of Health Services website that provide useful information on Proposition 203, including FAQs on Proposition 203, a copy of the text of the Proposition, and a proposed timeline for rulemaking by the Department for medical marijuana.

Pasted below is a slide from the Council's November 30<sup>th</sup> work session that shows the schedule for adoption for the City's medical marijuana ordinance amendments.

<b>Future Schedule</b>	
▪ Certification by the governor	November 29/30
▪ 120 days for DHS to draft rules	March 21
▪ P&Z Citizen Review Session	December 8
▪ P&Z Public Hearing	January 12
▪ City Council Hearing/1 <sup>st</sup> Reading	February 1
▪ City Council 2 <sup>nd</sup> Reading	March 1 or 15
▪ Effective Date	March 1 or 15

If you have questions on this memorandum, or require additional information, please contact Roger E. Eastman AICP, Zoning Code Administrator at (928) 779-7631 Ext. 7606 or via e-mail at [reastman@flagstaffaz.gov](mailto:reastman@flagstaffaz.gov).

**Attachments:**

- A DRAFT ordinance amending the Land Development to allow for medical marijuana dispensaries
- DRAFT PowerPoint presentation for the December 8<sup>th</sup> work session
- Documents from the Az. Department of Health Services website relating to Proposition 203. (Not included in the .PDF file)

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF FLAGSTAFF AMENDING TITLE 11 LAND DEVELOPMENT CODE BY ENACTING AMENDMENTS LIMITING THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES AND THE GROWTH AND CULTIVATION OF MEDICAL MARIJUANA; AMENDING SECTION 10-02-005-0014 C-3-E (HIGHWAY COMMERCIAL DISTRICT ESTABLISHED); SECTION 10-02-005-0018 (I-1-E, RESTRICTED INDUSTRIAL DISTRICT ESTABLISHED); SECTION 10-03-001-0003 (TABLE OF PERMITTED USES); AND SECTION 10-03-006-0001 DETAILED USE REGULATIONS BY ADDING A NEW SUBSECTION AA. MEDICAL MARIJUANA USES; AND AMENDING DIVISION 10-14-004 DEFINITIONS, AND PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES OR ANY PART OF THE LAND DEVELOPMENT CODE IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE SHALL BE REPEALED UPON THE EFFECTIVE DATE OF THIS ORDINANCE, AND DECLARING AN EMERGENCY**

WHEREAS, Proposition 203, the Arizona Medical Marijuana Act (A.R.S. Title 36, Chapter 28.1), as approved by the voters, provides for certain medical marijuana use, sale and cultivation and further provides for the establishment of medical marijuana dispensaries in the State of Arizona, and per this legislation, such facilities may be developed in the City of Flagstaff, and

WHEREAS Proposition 203, as approved by the voters, makes a distinction between medical and nonmedical uses of marijuana for the purpose of protecting patients with debilitating medical conditions, their physicians and providers, from arrest and prosecution, criminal and other penalties and property forfeiture if such patients engage in the medical use of marijuana, and

WHEREAS modern medical research has confirmed beneficial uses for marijuana in treating or alleviating the pain, nausea and other symptoms associated with a variety of debilitating medical conditions including cancer, multiple sclerosis, HIV/AIDS, hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens, and

WHEREAS A.R.S. Title 36, Chapter 28.1, the Arizona Medical Marijuana Act, expressly authorizes cities to enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries (*Prop 203 § 36-2806.01*), and

WHEREAS the Federal Controlled Substances Act, and applicable regulations classify marijuana as a 'Schedule I' drug and consequently prohibit its use in any manner with exceptions only for research purposes, and

WHEREAS the possession, delivery, manufacture, cultivation and sale of marijuana as contemplated by Proposition 203 are currently prohibited by Arizona State Law, and

WHEREAS, it is the intent of the City of Flagstaff to protect the vulnerable patients, law abiding providers and caretakers and further protect the public's health and safety by establishing appropriate regulation of medical marijuana dispensaries, cultivation facilities and home cultivation, and

WHEREAS, unlike pharmacies and pharmacists, which are both heavily regulated by the Federal Government and the State, including the Arizona State Board of Pharmacy

which protects the public's health, safety and welfare by regulating the practice of pharmacy and the distribution, sale and storage of prescription drugs as well as the licensing and inspection of permitted facilities, addressing the negative secondary effects associated with medical marijuana dispensaries has, to a certain extent, been delegated to local governments; and

WHEREAS, according to data collected by states that have previously passed medical marijuana ballot initiatives, once established, medical marijuana dispensaries have created a number of secondary effects associated with their operation and activity, including illegal drug use and drug sales in the vicinity of the dispensaries; robbery of persons leaving dispensaries as well as those working there; loitering; driving under the influence of controlled substances obtained from dispensaries; persons acquiring marijuana from dispensaries then selling to non-eligible persons; burglaries and robberies; an increase in vacancies in the commercial areas near such dispensaries; (*White Paper On Marijuana Dispensaries by California Police Chiefs' Association's Task Force On Marijuana Dispensaries, 2009*), and

WHEREAS Arizona law permits cities to enact zoning regulations in order to conserve and promote the public health, safety and general welfare and regulate the use of buildings, structures and land as between agriculture, residence, industry, business and other purposes (*Prop 203 § 36-2806.01*), and

WHEREAS the regulations, limitations and prohibitions established in this Ordinance are necessary to protect and preserve the public's health and safety.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

Section 1. Flagstaff City Code Section 10-02-005-0014. C-3-E, HIGHWAY COMMERCIAL DISTRICT ESTABLISHED is hereby amended as follows:

**10-02-005-0014. C-3-E, HIGHWAY COMMERCIAL DISTRICT ESTABLISHED:**

- A. **INTENT AND PURPOSE.** The C-3-E District is designed to protect established commercial neighborhoods and to provide for a full range of services for the motoring public and for the community in general. This district is designed for location on major streets and highways. The development of residential uses in addition to commercial uses is encouraged in this district to provide diversity in housing choices provided that residential uses are located either on the second story or above, or behind commercial buildings so that they are buffered from adjoining highway corridors. The provisions of this District are intended to provide for the convenience of the motoring public without increasing any additional traffic burdens upon the adjacent streets and highways. (Ord. 2007-20, 3-20-07)
- B. **PERMITTED USES.** No building, structure, or premise shall be erected, altered, enlarged, or used except for the following:
  - 1. Retail trade businesses or establishments engaged primarily in selling or offering for sale personal property to the public, including rendering of services incidental to said sale; and businesses, professional services, and

trades engaged primarily in rendering or offering services to the general public, provided that, except for the following, such use or uses are to be conducted within a completely enclosed building:

- a. Car washes.
  - b. Commercial parking lots. See Section 10-03-006-0001. (Ord. 1997, 6-15-99)
  - c. Commercial recreation.
  - d. Display and parking of motor vehicles, mobile homes, and travel trailers, incidental to a permitted use.
  - e. Equipment rental yard.
  - f. Lumber yards, provided all open storage shall be within a compound enclosed with an eight (8) foot high chain link fence or wall.
  - g. Drive-up or drive-through facilities housing free-standing service uses, such as vending machines, kiosks, and recycling machines as incidental uses in shopping centers. If there are more than two (2) such facilities proposed for any one (1) shopping center, they may be required to be grouped together in a landscaped area for common access and ease of maintenance.
  - h. Vehicle towing or impound yards, provided that all vehicle storage shall be within a yard enclosed by a six (6)-foot-high solid fence or wall, except for gated and screened driveway openings. (Ord. 1997, 6-15-99)
  - i. Nurseries, garden centers, produce markets, or other similar outdoor uses. (See Section 10-03-005-0001. (Ord. 1997, 6-15-99) (Ord. 2002-15, 11-05-02)
2. Automobile service stations, including motor repair and complete servicing, but not including automotive top, body, upholstery or paint shops, or tire retreading and repair shops. (Ord. 1741, 3-17-92)
  3. Automobile and trailer rental.
  4. Automobile and truck sales and service, new and used.
  5. Bars, cocktail lounges, taverns, or other on-sale alcoholic beverage establishments.
  6. Theaters, walk-in and drive-in.
  7. Motels, hotels, and bed and breakfast establishments.
  8. Mobile home and travel trailer rental, sales, and service.

9. Recreational vehicle or Travel trailer parks and facilities. See Section 10-03-003-0002. (Ord. 1997, 6-15-99)
10. Incidental manufacturing as processing is permitted but is subject to the provisions of this Section-- Limitations on Uses.
11. Residential uses subject to the provisions of the RM-M-E District provided that all residential uses are located either on the second story or above, or behind commercial buildings so that they are buffered from adjoining highway corridors. (Ord. 2007-20, 3-20-07)
12. Restaurants. (Ord. 1997, 6-15-99)
13. Offices. (Ord. 1997, 6-15-99)
14. Home day care or day care center. (Ord. 2007-20, 3-20-07)
15. Homeless shelter, provided that two or more homeless shelters are spaced no less than one-half mile apart. (Ord. 2007-20, 3-20-07)
16. Accessory buildings and structures. See Division 10-03-005, Accessory Uses and Structures. (Ord. 1997, 6-15-99) (Ord. 2007-20, 3-20-07)
17. [Medical Marijuana Dispensary. See Section 10-03-006-0001.AA, Medical Marijuana Uses.](#)

Section 2. Flagstaff City Code Section 10-02-005-0018. I-1-E, RESTRICTED INDUSTRIAL DISTRICT ESTABLISHED is hereby amended as follows:

**10-02-005-0018. I-1-E, RESTRICTED INDUSTRIAL DISTRICT ESTABLISHED:**

- A. INTENT AND PURPOSE. The I-1-E District is designed to protect established industrial areas and to provide a use area for wholesaling, storage, packaging, display, distribution, retail uses, light manufacturing, and assembling and fabrication of products.
- B. PERMITTED USES.
  1. Automobile repair or vehicular repair garages, including automotive top, body, upholstery or paint shops, and tire retreading and repair shops, provided the storage or parking of wrecked or inoperable motor vehicles shall be within an enclosed building or a compound yard enclosed by a six (6) foot high solid fence or wall, except for driveway openings. (See Section 10-03-006-0001 for regulations.) (Ord. 1741, 3-17-92) (Ord. 2002-15, 11-05-02)
  2. Building and/or plumbing contractors' storage or supply yards.

3. Mini-storage warehousing operations. (See Section 10-03-006-0001) (Ord. 1741, 3-17-92) (Ord. 2002-15, 11-05-02)
4. Truck terminal or yard.
5. Lumber yards.
6. Frozen food lockers.
7. Union halls.
8. Wholesale distributors.
9. Warehouse and storage operations, including outdoor storage, provided the entire storage yard is screened by a minimum six (6)-foot-high solid fence or wall or chain link fencing with slats. Any expansions of existing storage yards or buildings with storage yards, of twenty-five (25) percent or more, shall also provide screening for the entire yard area. (Ord. 1997, 6-15-99)
10. The manufacturing, assembling, compounding, packaging, and processing of articles or products from previously prepared materials, including recycling facilities. (Ord. 1997, 6-15-99)
11. Residence for owner, manager, or caretaker. (Ord. 2007-20, 3-20-07)
12. Homeless shelters. (Ord. 2007-20, 3-20-07)
13. Adult entertainment. See Section 10-03-006-0001Z. (Ord. 2008-03, 02-05-2008)
14. Accessory uses and buildings customarily incidental to a permitted use. See Division 10-03-005, Accessory Uses and Structures. (Ord. 1997, 6-15-99) (Ord. 2007-20, 3-20-07)
15. [Medical Marijuana Dispensary Offsite Cultivation Location. See Section 10-03-006-0001.AA, Medical Marijuana Uses.](#)

Section 3. Flagstaff City Code Section 10-03-001-0003. TABLE OF PERMITTED USES, B., Non-residential Districts is hereby amended by inserting two new rows "S." and "T." under the Commercial section of this table as follows:

<u>General Use</u>		Commercial			Industrial				
		SC	UC	RB	BP	BPI	LI	HI	AO
R.	Veterinary Hospitals & Animal Shelters	N	N	N	N	N	C	C	X
S.	<a href="#">Medical Marijuana Dispensary</a>	<u>N</u>	<u>Y!</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>

T. <u>Medical Marijuana Dispensary Offsite Cultivation Location</u>	N	N	N	N	N	Y!	Y!	N
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Section 4. Flagstaff City Code Section 10-03-006-0001 DETAILED USE REGULATIONS is hereby amended by adding a new Subsection AA, Medical Marijuana Uses as follows:

**AA. MEDICAL MARIJUANA USES**

- A. The minimum requirements of this section shall apply to all medical marijuana dispensaries located in the C-3-E (Highway Commercial District Established) and the UC (Urban Commercial) zoning districts as well as medical marijuana dispensary offsite cultivation locations established in industrial zones.
- B. In addition to any other application requirements, an applicant for any medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall provide the following:
  - 1. A notarized authorization executed by the property owner acknowledging and consenting to the proposed use of the property as a medical marijuana dispensary or a medical marijuana dispensary offsite cultivation location, as applicable;
  - 2. The legal name of the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location;
  - 3. If the application is for a medical marijuana dispensary offsite cultivation location, the name and location of the medical marijuana dispensary with which it is associated;
  - 4. The name, address and birth date of each officer and board member of the nonprofit medical marijuana dispensary;
  - 5. The name, address, birth date, and valid registry identification card number of each nonprofit medical marijuana dispensary agent;
  - 6. A copy of the operating procedures adopted in compliance with A.R.S. § 36-2804;
  - 7. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has been convicted of any of the following offenses:
    - a. A violent crime as defined in A.R.S. § 13.9010.03.(B) that was classified as a felony in the jurisdiction where the person was convicted; and,
    - b. A violation of state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted except an offense for which the sentence including any term of probation incarceration or supervised release was

completed ten or more years earlier or an offense involving conduct that would be immune from arrest prosecution or penalty under A.R.S. § 36-2811 except that the conduct occurred before the effective date of that statute or was prosecuted by an authority other than the state of Arizona.

8. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has served as an officer or board member for a medical marijuana dispensary that has had its registration certificate revoked;
  9. A security plan describing details of alarm systems and exterior lighting in compliance with Division 10-08-002 (Development Lighting Regulations), and including a floor plan showing the location, dimensions and type of security measures demonstrating that the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location will be secured, enclosed and locked as required by law;
  10. A scale drawing depicting the property lines and the separations from the nearest property boundary of the parcel containing the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location to the property boundary of the parcel containing any existing uses listed in paragraph I. below. If any of the uses are located within 50 feet of the minimum separation the drawing showing actual surveyed separations shall be prepared by a registered land surveyor;
- C. A medical marijuana dispensary shall have operating hours not earlier than 8:00 am and not later than 7:00 pm.
- D . A medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall:
1. Be located in a permanent building and may not be located in a semi-trailer, shipping container or motor vehicle.
  2. Not have drive through service.
  3. Not emit dust fumes vapors or odors into the environment.
  4. Not provide offsite delivery of medical marijuana.
  5. Prohibit consumption of marijuana on the premises, including the parking area associated with the marijuana dispensary or medical marijuana dispensary offsite cultivation location.
  6. Not have outdoor seating areas.
  7. Display a current City of Flagstaff business license applicable to medical marijuana uses.
  8. Include a secure storage area that can be enclosed and locked as required by law.

9. Have a single secure entrance as required by law. Additional fire exits that may be required by applicable Building Code requirements shall be provided with an alarm system to prevent unauthorized exiting.
- E. A medical marijuana infusion facility shall only be permitted within a medical marijuana dispensary.
- F. A medical marijuana dispensary shall comply with the following area limitations:
1. The total maximum floor area of a medical marijuana dispensary shall not exceed 3,000 square feet.
  2. The secure storage area for the medical marijuana stored at the medical marijuana dispensary shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a medical marijuana dispensary.
- G. A medical marijuana dispensary offsite cultivation location shall comply with the following area limitations:
1. The total maximum floor area of a medical marijuana dispensary offsite cultivation location shall not exceed 5,000 square feet.
  2. The secure storage area for the medical marijuana stored at the medical marijuana dispensary offsite cultivation location shall not exceed 500 square feet of the 5,000 square foot total maximum floor area of a medical marijuana dispensary offsite cultivation location.
- H. A medical marijuana infusion facility shall comply with the following area limitations:
1. The total maximum floor area of a medical marijuana dispensary shall not exceed 2,500 square feet.
  2. The secure storage area for the medical marijuana stored at the medical marijuana infusion facility shall not exceed 500 square feet of the total 2,500 square foot maximum floor area of a medical marijuana dispensary.
- I. A medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall meet the following minimum separations, measured in a straight line from the boundary of the parcel containing the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location to the property boundary of the parcel containing any existing uses listed below:
1. 2,000 feet from any other medical marijuana dispensary, medical marijuana dispensary offsite cultivation location or medical marijuana infusion facility.
  2. 750 feet from a licensed residential substance abuse treatment facility or other residential drug or alcohol rehabilitation facility.

3. 750 feet from a community college, university, public, private, parochial, charter, dramatic, dancing, music learning center or other similar school or educational facility that caters to children.
  4. 750 feet from a childcare center.
  5. 750 feet from a public library or public park.
  6. 750 feet from any religious institution.
  7. 750 feet from a facility devoted to family recreation or entertainment.
- J. A medical marijuana dispensary offsite cultivation location not associated with a medical marijuana dispensary is prohibited and only one medical marijuana dispensary offsite cultivation location shall be permitted for the single medical marijuana dispensary with which it is associated.
- K. Medical Marijuana Qualifying Patient Cultivation Location. A qualifying patient may not cultivate at their place of residence within the Flagstaff City limits subject to compliance with A.R.S. § 36-2804.02.

Section 5. Chapter 10-14 Definitions; Division 10-14-004 Definitions: is hereby amended by amending or adding the following definitions:

**Home Occupation.** An occupation, profession, activity, or use that is clearly customary, incidental, and secondary to the use of a dwelling and that does not alter the exterior of the property or affect the residential character of the neighborhood, including but not limited to, home day care for up to eight (8) children, day care for the elderly and the handicapped for up to eight (8) persons. A home occupation does not include pet grooming, sales offices, automobile repairs, commercial stables, massage businesses, or veterinary hospitals or clinics, medical marijuana dispensaries, medical marijuana dispensary offsite cultivation locations, medical marijuana qualifying patient cultivation locations, or other uses that would bring customer traffic into the neighborhood. Some of such uses may be considered as home occupations if the requirements of Section 10-03-006-0001M can be met. (Ord. 2002-15, 11-05-02) (Ord. 2007-20, 3-20-07)

**Medical Marijuana.** All parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

**Medical Marijuana Dispensary.** A nonprofit medical marijuana dispensary registered and certified pursuant to A.R.S. § 36-2804 that may also include a medical marijuana infusion facility.

**Medical Marijuana Dispensary Offsite Cultivation Location.** The one additional location, if any, where marijuana may be cultivated for the use of a medical marijuana dispensary as disclosed pursuant to A.R.S. § 36-2804.

**Medical Marijuana Infusion Facility.** A facility that incorporates medical marijuana by means of cooking, blending, or incorporation into consumable/edible goods.

**Medical Marijuana Qualifying Patient Cultivation Location.** A medical marijuana qualifying patient cultivation location shall mean cultivation of medical marijuana by a qualifying patient pursuant to A.R.S. § 36-2801 but shall only include a qualifying patient who is also a cardholder, authorized to cultivate marijuana plants pursuant to the provisions of A.R.S. § 36-2804.02.

**Residential Substance Abuse Treatment Facility.** A facility for the purpose of treatment of alcohol or other drug abuse where one or more patients are provided with care, meals and lodging. A residential substance abuse treatment facility does not include a facility where outpatient counseling and treatment for alcohol or drug abuse is provided or where patients are not provided with meals and lodging.

Section 6. All ordinances or parts of ordinances or any part of Title 11 (Land Development Code) in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict as of the effective date hereof.

Section 7. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance 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 remainder of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof would be declared invalid or unconstitutional.

Section 8. That the City Clerk is authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary; and that the City Clerk is authorized to make formatting changes needed for purposes of clarity and form, if required, to be consistent with Flagstaff City Code.

Section 9. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Flagstaff that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

# Planning and Zoning Commission Work Session

December 30, 2010

## A Proposed Draft Medical Marijuana Dispensary Ordinance

### *Overview of Work Session*

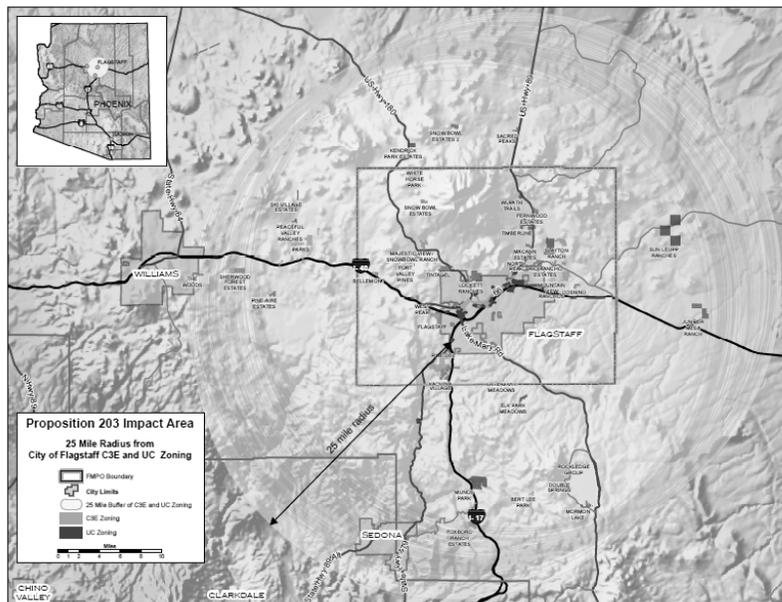
#### **Purpose of the Work Session:**

- Citizen review work session on a DRAFT Medical Marijuana Ordinance
- Prop 203 and its requirements - generally
- Some challenges reported in other states
- What are other Arizona cities doing?
- Overview of the Flagstaff DRAFT MMD ordinance
- Schedule for adoption
- Questions/discussion

## Prop. 203 and its requirements

- Prop 203 – narrowly approved by AZ voters, November 2010
- Provides for the use of medical marijuana, its cultivation and sale, and for the establishment of medical marijuana dispensaries (MMDs)
- Cities may enact *"reasonable zoning regulations that limit the use of land for registered MMDs to specified areas"* consistent with ARS 9.461 and ARS 11.62.
- Registration of MMDs required – Az. Dept. of Health Services [120 days to draft rules to regulate MMDs – effective date April 1<sup>st</sup>]
- Detailed regulations on medical marijuana's sale, etc.
- MMDs can only be non-profit organizations
- 25-mile rule

## Prop. 203 and its requirements



## *Other Arizona Cities/Counties*

- League of Az. Cities and Towns – coordinated response
- Pima County – the first
- City of Tucson – council reviewed a draft ordinance
- Town of Marana – council review of a draft ordinance
- City of Mesa – P&Z review complete
- Coconino County
- Flagstaff draft ordinance takes ideas from Tucson, Mesa and Marana, as well as input from conversations with the League
- And recent direction from the City Council

## *Challenges in other states*

- California, Colorado and 12 other states
- Documented negative secondary effects:
  - Illegal drug sales at lower prices
  - Non-residents attracted to communities to purchase marijuana
  - DUI arrests related to marijuana purchases
  - Burglaries of MMDs
  - Robberies/mugging of MMD patrons
  - Drug dealers posing as medical marijuana users
  - Negative effects on surrounding businesses – criminal activity and loss of business
- BUT – intent is for **medical use** for debilitating conditions

*Flagstaff DRAFT MMD ordinance*

- Written for existing LDC and the draft Zoning Code
- Legal justification - recitals
- Two important terms:
  - **Medical Marijuana Dispensary**
  - **Medical Marijuana Dispensary Offsite Growing Location**

**Medical Marijuana Dispensaries**

- **C-3-E** and **UC** zones – General Commercial in LDC
- **HC** Highway Commercial zone – New Zoning Code

**Cultivation Locations**

- **Industrial** zones

*Flagstaff DRAFT MMD ordinance*

Insert map here

## *Flagstaff DRAFT MMD ordinance*

### **Medical Marijuana Dispensaries:**

- **C-3-E** and **UC** zones – General Commercial in LDC
- **HC** Highway Commercial zone – New Zoning Code

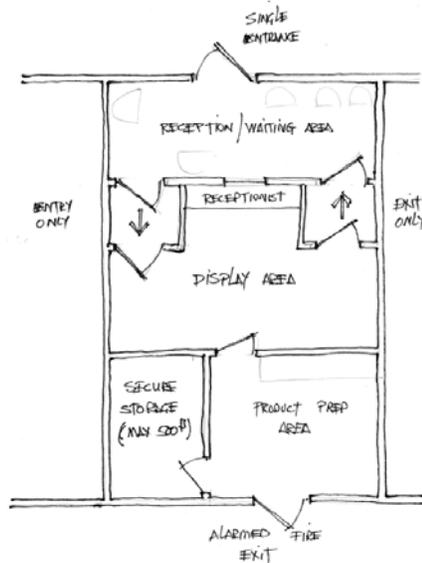
### **Cultivation Locations**

- Industrial zones
- Permitted as allowed uses – not a CUP
- New Section in “**Detailed Use Regulations**”  
(**Specific to Uses**) – provides detailed standards
- New Definitions

## *Flagstaff DRAFT MMD ordinance*

- Detailed Use Regulations (Specific to Uses)
  - Submittal requirements
  - Multi-divisional review
  - Limited hours (9:00 am to 7:00 pm)
  - Buffers – 2,000 feet and 750 feet
  - Security regulations per statute
  - Operational standards and area limitations
    - MMDs – max. 3,000 sq. ft.  
500 sq. ft. of storage
    - Offsite cultivation location - max. 5,000 sq. ft.  
500 sq. ft. of storage

## Floor Plan of a Typical MMD



## Future Schedule

- Certification by the governor November 29/30
- 120 days for DHS to draft rules March 21
- P&Z Citizen Review Session December 8
- P&Z Public Hearing January 12
- City Council Hearing/1<sup>st</sup> Reading February 1
- City Council 2<sup>nd</sup> Reading March 1
- Effective Date March 1