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TO: Laurie Hadley, City Manager
FOR: The Honorable Mayor and City Council Members
Planning & Zoning Commission, Board of Adjustment and Preservation Commission
FROM: Tom Guice, Community Development Director
RE: **Medical Marijuana Similar Use Interpretation**
DATE: March 30, 2011

Background

With the voter approval in November of Proposition 203 (the Arizona Medical Marijuana Act), the Arizona Department of Health Services began working on licensing rules and local governments began working on amending their zoning regulations to implement the new State Law, ARS 36-2801. Prescott planning staff started with a review of what other jurisdictions were doing and then took the process to the next step by calling upon the Unified Development Code Committee (UDC) to consider the matter and provide further direction. Following the first UDC review on Dec. 8th, an alternative to amending the Land Development Code (LDC) came to the forefront. A review of the LDC provisions for making "Similar Use Interpretations" revealed that the LDC could readily address the three uses that result from the new Medical Marijuana law. The Similar Use Interpretation provisions were included in the code for the purpose of handling land uses not specifically included in the revised development code. The UDC Committee met a second time on January 5th and after approx. five hours discussion over the course of two meetings, voted unanimously to endorse the Similar Use Interpretation process. The Similar Use Interpretation is an administrative action by the Community Development Director that does not require City Council action.

Similar Use Interpretation

Using the Similar Use Interpretation process, staff has determined that the three aspects of the new Medical Marijuana industry are equivalent to existing land uses, as follows:

- A Medical Marijuana Dispensary is equivalent to a Drug Store.
- Medical Marijuana Cultivation is equivalent to Agricultural Production.
- A Medical Marijuana Infusion operation* is equivalent to Chemical-based Manufacturing.
**Infusion is the cooking and/or blending of marijuana into an edible product.*

This results in these land uses being allowed in the following zoning districts:

A Dispensary would be allowed in the NOB, BG, BR, DTB, IT and IL districts.

A Cultivation facility would be allowed in the IL and IG districts and requires a Conditional Use Permit (CUP) in the RE-2 and IT districts.

An Infusion facility would be allowed in the IL and IG districts and requires a CUP in the IT district.

Other Related Matters: 1) In addition to local zoning regulations, the State Statute and Arizona Department of Health Services rules require Medical Marijuana facilities to be located at least 500 feet away from schools. State licensing by the ADHS is required for facilities. ADHS will also regulate and monitor licensed businesses for security, safety, personnel background checks, etc. 2) Due to an apparent scrivener's error in Section 2.4.2.B. I have determined that the text should be identical to the text of Section 2.4.3.B. which allows discretion in requiring these facilities to be located on collector or arterial streets. Such discretion is based upon alternative access and the scale of the proposed agricultural operations.