PLANNING COMMISSION REPORT

Meeting Date: May 12, 2021
General Plan Element: *Land Use*
General Plan Goal: *Create a sense of community through land uses*

ACTION

Marijuana Text Amendment (Prop. 207)
6-TA-2020

Request to consider the following:

1. A recommendation to City Council regarding a request by the City of Scottsdale to amend the Zoning Ordinance (Ord. No. 455), Section 1.403 (Additional conditions for specific conditional uses), Section 3.100 (Definitions), Article XI (Land Use Tables), in compliance with Stats statute.

Key Items for Consideration

- Consistency with State law
- Currently, the Zoning Ordinance only allows for Medical Marijuana (MM) land uses.
- Proposed amendment would only permit the sale of recreational marijuana in conjunction with a licensed medical marijuana dispensary.
- No change to the allowed zoning districts (I-1, C-O and S-C)
- Conditional Use Permit required
- No change to separation requirements or protected uses
- Public Comment received

APPLICANT CONTACT

Greg Bloemberg
City of Scottsdale
480-312-4306

LOCATION

Citywide

Action Taken _____

BACKGROUND

On November 3, 2020 the voters of Arizona passed the Smart and Safe Arizona Act (Proposition 207). The ballot initiative made the Arizona Department of Health Services responsible for adopting rules to regulate marijuana, including the licensing of a new type of marijuana dispensary (for recreational use), cultivation facilities, production facilities and marijuana testing facilities. The ballot measure has been signed into law by the Governor and the ADHS adopted rules and procedures on 1/15/2021. The ballot initiative allows the City of Scottsdale to prohibit or limit the number of new marijuana establishments the ballot initiative may allow, and the City Council recently passed Ordinance No. 4484 in order to preserve the public peace, health and safety of the city and its residents by prohibiting, or limiting the number of these new marijuana establishments, unless operated by a dual licensee with a current and valid MM dispensary, as more fully set forth in Ordinance No. 4484.

Currently, the City of Scottsdale Allows for the distribution, cultivation and infusion of marijuana for medical use only, as originally approved by Arizona voters and enacted in 2010 (Proposition 203). The Zoning Ordinance must be amended to align with the new State law and provide zoning accommodations for establishments that wish to sell recreational marijuana to consumers. The new State law allows local governments to adopt "reasonable zoning regulations that limit the use of land for marijuana establishments" however, a local government cannot adopt any zoning regulations that are "more restrictive than a comparable ordinance, regulation or rule that applies to nonprofit medical marijuana dispensaries". Because the City of Scottsdale already allows for MM uses, any adopted ordinances must include provisions for uses that provide marijuana for recreational use.

Other Related Policies, References:

- Zoning Ordinance
- State of Arizona Proposition 207
- City of Scottsdale Ordinance No. 4484
- Arizona Revised Statutes, Title 9, Chapter 18
- Arizona Revised Statutes, Title 36, Chapter 28.1
- 8-TA-2010: Approved original MM ordinance
- 8-TA-2010#2: Amended MM ordinance to consolidate all MM uses into one category and expanded list of protected uses
- 8-TA-2010#3: Amended MM ordinance to expand list of protected uses and increase separation requirements for MM uses established after September 30, 2016

PROPOSAL

The objective of this amendment is to provide reasonable zoning regulations for the sale of recreational marijuana. Highlights of the amendment include:

- Elimination of the word "Medical" as it relates to marijuana, so a comprehensive "Marijuana Use" can be enforced that covers both recreational and medical marijuana; the only exception being preservation of the "Medical Marijuana Caregiver Cultivation" use, which is still identified and defined in State statutes.

- New Conditional Use Permit criterion, restricting the sale of recreational marijuana to establishments that hold both a valid medical marijuana dispensary registration and a marijuana establishment license.

- Update to ordinance definitions to be consistent with State law, and eliminate references to "Medical" as it relates to marijuana

- Creation of new definition for "City park or park" to provide clarity on what is protected by the CUP criteria.

No changes to the existing CUP criteria are proposed, with the exception of adding the criterion identified above. Protected uses and separation requirements will remain as is and will apply to both medical and recreational marijuana sales (Refer to Attachment #3).

IMPACT ANALYSIS

Land Use

When the ordinance was first amended in 2010 in response to Proposition 203 (Medical Marijuana Act), the City took the position that a MM use was most analogous to a medical office (dispensary) or light industrial (cultivation/infusion) use; primarily because all MM uses provided marijuana for medical purposes only. With that in mind, the City allowed MM uses in three zoning districts: Industrial Park (I-1), Commercial Office (C-O) and Special Campus (S-C). Additionally, a Conditional Use Permit is required to operate any MM use in Scottsdale, subject to criteria intended to restrict locations and establish operational regulations. Consistent with Proposition 207 intent for comparable zoning treatment, the amendment proposes the same zoning districts and conditional use criteria, when located in establishments having a valid State license for medical marijuana.

Public Safety

The Scottsdale Police Department is aware of the proposed amendment and has indicated no objections.

Community Involvement

Parties on the City's Text Amendment Interested Parties List were notified of this proposal, and information regarding the amendment is available for public review on the City's website. Additionally, the amendment was advertised on the City's P&Z Link, which allows citizens to track the progress of active cases. Staff held two virtual Open Houses, the first on 3/23/2021 and the second on 3/25/2021; both from 5:30 to 6:30 PM. There four attendees for the first Open House and Three two attendees for the second Open House. Questions/comments from attendees were as follows:

- Nothing is said in the [amendment] regarding the ability of a dealer to deliver orders to shoppers. Delivery should not be allowed. ***Staff response:*** The City has no control over delivery of product. Delivery would be regulated by the State.

- Can the City limit future/additional locations?? ***Staff response:*** Any future locations will need to demonstrate compliance with the CUP criteria.

- Can the City say that no more than the existing five marijuana uses will be permitted?? ***Staff response:*** The amount of marijuana uses in Scottsdale will ultimately be determined by the CUP criteria.

Policy Implications

- The four existing dispensaries in Scottsdale are already selling marijuana for recreational use, as permitted by State law, as of 3/15/2021.

- Marijuana uses only permitted in three zoning districts: Industrial Park (I-1), Commercial Office (C-O) and Special Campus (S-C)

OTHER BOARDS & COMMISSIONS

Neighborhood Advisory Commission

The proposed amendment was presented to the Neighborhood Advisory Commission as an informational item on 2/24/2021. There was a concern expressed that the State proposition is a "giveaway" to operators of medical marijuana dispensaries and would essentially block anyone else from providing recreational marijuana. Additionally, language in the proposition includes wording providing an advantage to communities that had been adversely affected by marijuana laws, making it easier for these communities to have a nonmedical (recreational) dispensary. There was also an inquiry as to whether or not the proposed ordinance would require product testing before it is sold. Finally, there was an inquiry as whether or not the Native American communities have contemplated any regulations for marijuana sales.

Planning Commission

The proposed amendment was presented to the Planning Commission as a Non-Action item on 4/28/2021 to introduce the amendment, collect feedback and answer any questions.

STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission determine that the proposed zoning text amendment is consistent with and conforms to the adopted General Plan and make a recommendation to City Council for approval.

RESPONSIBLE DEPARTMENT

Planning and Development Services

Current Planning Services

RESPONSIBLE DEPARTMENT

Planning and Development Services
Current Planning Services

STAFF CONTACT

Greg Bloemberg
Project Coordination Liaison
480-312-4306
E-mail: gbloemberg@ScottsdaleAZ.gov

APPROVED BY

Greg Bloemberg, Report Author — 5/4/2021 Date

Tim Curtis, AICP, Current Planning Director — 5/3/2021 Date
Planning Commission Liaison
Phone: 480-312-7713 Email: tcurtis@scottsdaleaz.gov

Randy Grant, Executive Director — 5/4/24 Date
Planning, Economic Development, and Tourism
Phone: 480-312-2664 Email: rgrant@scottsdaleaz.gov

ATTACHMENTS

1. State of Arizona Proposition 207
2. City of Scottsdale Ordinance No. 4484
3. Proposed Text Amendment
4. Existing Medical Marijuana Uses Location Map
5. Community Involvement
6. 2/24/2021 Neighborhood Advisory Commission Meeting Minutes

OFFICIAL TITLE
AN INITIATIVE MEASURE

AMENDING SECTION 36-2817, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.2; AMENDING TITLE 42, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 10; AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-108; RELATING TO THE RESPONSIBLE ADULT USE, REGULATION AND TAXATION OF MARIJUANA.

TEXT OF PROPOSED AMENDMENT

FILED
SEP 26 2019
ARIZONA SECRETARY OF STATE

Be it enacted by the People of the State of Arizona:

Section 1. Short title

This act may be cited as the "Smart and Safe Arizona Act".

Section 2. Findings and declaration of purpose

The People of the State of Arizona find and declare as follows:

1. In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the responsible adult use of marijuana should be legal for persons twenty-one years of age or older, subject to state regulation, taxation, and local ordinance.

2. In the interest of the health and public safety of our citizenry, the legal adult use of marijuana should be regulated so that:

(a) Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana.

(b) Marijuana sold in this state is tested, labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) Employers retain their rights to maintain drug-and-alcohol-free places of employment.

(d) The health and safety of employees in the marijuana industry are protected.

(e) Individuals must show proof of age before purchasing marijuana.

(f) Selling, transferring, or providing marijuana to minors and other individuals under the age of twenty-one remains illegal.

(g) Driving, flying or boating while impaired to the slightest degree by marijuana remains illegal.

Section 3. Section 36-2817, Arizona Revised Statutes, is amended to read:

36-2817. Medical marijuana fund; private donations

A. The medical marijuana fund is established consisting of fees collected, civil penalties imposed and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.

B. The director of the department may accept and spend private grants, gifts, donations, contributions and devises to assist in carrying out the provisions of this chapter.

C. Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.

D. ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR OF THE DEPARTMENT SHALL TRANSFER THE FOLLOWING SUMS FROM THE MEDICAL MARIJUANA FUND FOR THE FOLLOWING PURPOSES:

1. $15,000,000 TO THE ARIZONA TEACHERS ACADEMY FUND ESTABLISHED BY SECTION 15-1655.

2. $10,000,000 TO THE DEPARTMENT TO FUND THE FORMATION AND OPERATION OF COUNCILS, COMMISSIONS AND PROGRAMS DEDICATED TO IMPROVING PUBLIC HEALTH, INCLUDING TEEN SUICIDE PREVENTION, THE MATERNAL MORTALITY REVIEW PROGRAM, IMPROVING YOUTH HEALTH, SUBSTANCE ABUSE PREVENTION, ADDRESSING ADVERSE CHILDHOOD EXPERIENCES, THE ARIZONA POISON CONTROL SYSTEM ESTABLISHED PURSUANT TO SECTION 36-1161, THE ARIZONA HEALTH IMPROVEMENT PLAN, THE CHILD FATALITY REVIEW TEAM ESTABLISHED PURSUANT TO SECTION 36-3501 AND THE CHRONIC PAIN SELF MANAGEMENT PROGRAM.

3. $10,000,000 TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY TO DISTRIBUTE GRANTS FOR THE FOLLOWING PURPOSES:

(a) REDUCING IMPAIRED DRIVING, INCLUDING CONDUCTING TRAINING PROGRAMS AND PURCHASING EQUIPMENT FOR DETECTING, TESTING AND ENFORCING LAWS AGAINST DRIVING, FLYING OR BOATING WHILE IMPAIRED.

(b) EQUIPMENT, TRAINING AND PERSONNEL COSTS FOR DEDICATED TRAFFIC ENFORCEMENT.

4. $2,000,000 TO THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE CHAPTER 28.2 OF THIS TITLE.

ATTACHMENT 1

5. $4,000,000 TO THE DEPARTMENT TO DISTRIBUTE GRANTS TO QUALIFIED NONPROFIT ENTITIES THAT WILL PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO SECTION 36-2862 AND WILL ASSIST WITH THE EXPUNGEMENT PETITION PROCESS. THE DEPARTMENT SHALL DISTRIBUTE GRANTS PURSUANT TO THIS PARAGRAPH ON OR BEFORE JUNE 30, 2021.

6. $2,000,000 TO THE DEPARTMENT TO DEVELOP AND IMPLEMENT, IN CONJUNCTION WITH THE DEPARTMENT OF ECONOMIC SECURITY AND OTHER STATE AGENCIES, A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS. FOR THE PURPOSES OF THIS PARAGRAPH, "MARIJUANA ESTABLISHMENT" AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

7. $1,000,000 TO THE DEPARTMENT TO FUND PROGRAMS AND GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS FOR EDUCATION AND COMMUNITY OUTREACH RELATED TO CHAPTER 28.2 OF THIS TITLE.

8. $1,000,000 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

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SEP 26 2019
ARIZONA SECRETARY OF STATE

Section 4. Title 36, Arizona Revised Statutes, is amended by adding chapter 28.2, to read:

CHAPTER 28.2
RESPONSIBLE ADULT USE OF MARIJUANA

36-2850. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT REQUIRES OTHERWISE:

1. "ADVERTISE," "ADVERTISEMENT" AND "ADVERTISING" MEAN ANY PUBLIC COMMUNICATION IN ANY MEDIUM THAT OFFERS OR SOLICITS A COMMERCIAL TRANSACTION INVOLVING THE SALE, PURCHASE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

2. "CHILD-RESISTANT" MEANS DESIGNED OR CONSTRUCTED TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN, AND NOT DIFFICULT FOR NORMAL ADULTS TO USE PROPERLY.

3. "CONSUME," "CONSUMING" AND "CONSUMPTION" MEAN THE ACT OF INGESTING, INHALING OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

4. "CONSUMER" MEANS AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS.

5. "CULTIVATE" AND "CULTIVATION" MEAN TO PROPAGATE, BREED, GROW, PREPARE AND PACKAGE MARIJUANA.

6. "DELIVER" AND "DELIVERY" MEAN THE TRANSPORTATION, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO A CONSUMER AT A LOCATION OTHER THAN THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

7. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.

8. "DESIGNATED CAREGIVER," "EXCLUDED FELONY OFFENSE," "INDEPENDENT THIRD-PARTY LABORATORY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT," AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

9. "DUAL LICENSEE" MEANS AN ENTITY THAT HOLDS BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION AND A MARIJUANA ESTABLISHMENT LICENSE.

10. "EARLY APPLICANT" MEANS EITHER OF THE FOLLOWING:

(a) AN ENTITY SEEKING TO OPERATE A MARIJUANA ESTABLISHMENT IN A COUNTY WITH FEWER THAN TWO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

(b) A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED AND IN GOOD STANDING WITH THE DEPARTMENT.

11. "EMPLOYEE," "EMPLOYER," "HEALTH CARE FACILITY," AND "PLACES OF EMPLOYMENT" HAVE THE SAME MEANINGS PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

12. "GOOD STANDING" MEANS THAT A NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT THE SUBJECT OF A PENDING NOTICE OF INTENT TO REVOKE ISSUED BY THE DEPARTMENT.

13. "INDUSTRIAL HEMP" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-311.

14. "LOCALITY" MEANS A CITY, TOWN OR COUNTY.

15. "MANUFACTURE" AND "MANUFACTURING" MEAN TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.

16. "MARIJUANA":

(a) MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER GROWING OR NOT, AS WELL AS THE SEEDS FROM THE PLANT, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE PLANT OR ITS SEEDS OR RESIN.

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(b) INCLUDES CANNABIS AS DEFINED IN SECTION 13-3401.

(c) DOES NOT INCLUDE INDUSTRIAL HEMP, THE FIBER PRODUCED FROM THE STALKS OF THE PLANT OF THE GENUS CANNABIS, OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEEDS OF THE PLANT THAT ARE INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

17. "MARIJUANA CONCENTRATE":

(a) MEANS RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THAT RESIN OR TETRAHYDROCANNABINOL.

(b) DOES NOT INCLUDE INDUSTRIAL HEMP OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

18. "MARIJUANA ESTABLISHMENT" MEANS AN ENTITY LICENSED BY THE DEPARTMENT TO OPERATE ALL OF THE FOLLOWING:

(a) A SINGLE RETAIL LOCATION AT WHICH THE LICENSEE MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, CULTIVATE MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS.

(b) A SINGLE OFF-SITE CULTIVATION LOCATION AT WHICH THE LICENSEE MAY CULTIVATE MARIJUANA, PROCESS MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

(c) A SINGLE OFF-SITE LOCATION AT WHICH THE LICENSEE MAY MANUFACTURE MARIJUANA PRODUCTS AND PACKAGE AND STORE MARIJUANA AND MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

19. "MARIJUANA FACILITY AGENT" MEANS A PRINCIPAL OFFICER, BOARD MEMBER OR EMPLOYEE OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

20. "MARIJUANA PRODUCTS" MEANS MARIJUANA CONCENTRATE AND PRODUCTS THAT ARE COMPOSED OF MARIJUANA AND OTHER INGREDIENTS AND THAT ARE INTENDED FOR USE OR CONSUMPTION, INCLUDING EDIBLE PRODUCTS, OINTMENTS AND TINCTURES.

21. "MARIJUANA TESTING FACILITY" MEANS THE DEPARTMENT OR ANOTHER ENTITY THAT IS LICENSED BY THE DEPARTMENT TO ANALYZE THE POTENCY OF MARIJUANA AND TEST MARIJUANA FOR HARMFUL CONTAMINANTS.

22. "OPEN SPACE" MEANS A PUBLIC PARK, PUBLIC SIDEWALK, PUBLIC WALKWAY OR PUBLIC PEDESTRIAN THOROUGHFARE.

23. "PROCESS" AND "PROCESSING" MEAN TO HARVEST, DRY, CURE, TRIM OR SEPARATE PARTS OF THE MARIJUANA PLANT.

24. "PUBLIC PLACE" HAS THE SAME MEANING PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

25. "SMOKE" MEANS TO INHALE, EXHALE, BURN, CARRY OR POSSESS ANY LIGHTED MARIJUANA OR LIGHTED MARIJUANA PRODUCTS, WHETHER NATURAL OR SYNTHETIC.

36-2851. Employers; driving; minors; control of property; smoking in public places and open spaces

THIS CHAPTER:

1. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS TO MAINTAIN A DRUG-AND-ALCOHOL-FREE WORKPLACE OR AFFECT THE ABILITY OF EMPLOYERS TO HAVE WORKPLACE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES OR PROSPECTIVE EMPLOYEES.

2. DOES NOT REQUIRE AN EMPLOYER TO ALLOW OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR CULTIVATION OF MARIJUANA IN A PLACE OF EMPLOYMENT.

3. DOES NOT ALLOW DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA OR PREVENT THIS STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA.

4. DOES NOT ALLOW AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE TO PURCHASE, POSSESS, TRANSPORT OR CONSUME MARIJUANA OR MARIJUANA PRODUCTS.

5. DOES NOT ALLOW THE SALE, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE.

6. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS, SCHOOLS, DAY CARE CENTERS, ADULT DAY CARE FACILITIES, HEALTH CARE FACILITIES OR CORRECTIONS FACILITIES TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN THEIR PROPERTIES.

7. DOES NOT RESTRICT THE ABILITY OF AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, PRIVATE CORPORATION, PRIVATE ENTITY OR PRIVATE ORGANIZATION OF ANY CHARACTER THAT

OCCUPIES, OWNS OR CONTROLS PROPERTY TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER ON OR IN SUCH PROPERTY.

8. DOES NOT ALLOW ANY PERSON TO:

(a) SMOKE MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE.

(b) CONSUME MARIJUANA OR MARIJUANA PRODUCTS WHILE DRIVING, OPERATING OR RIDING IN THE PASSENGER SEAT OR COMPARTMENT OF AN OPERATING MOTOR VEHICLE, BOAT, VESSEL, AIRCRAFT OR ANOTHER VEHICLE USED FOR TRANSPORTATION.

9. DOES NOT PROHIBIT THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE FROM PROHIBITING OR REGULATING CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN PROPERTY THAT IS OCCUPIED, OWNED, CONTROLLED OR OPERATED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

10. DOES NOT AUTHORIZE A PERSON TO PROCESS OR MANUFACTURE MARIJUANA BY MEANS OF ANY LIQUID OR GAS, OTHER THAN ALCOHOL, THAT HAS A FLASHPOINT BELOW ONE HUNDRED DEGREES FAHRENHEIT, UNLESS PERFORMED BY A MARIJUANA ESTABLISHMENT.

11. DOES NOT REQUIRE A PERSON TO VIOLATE FEDERAL LAW OR TO IMPLEMENT OR FAIL TO IMPLEMENT A RESTRICTION ON THE POSSESSION, CONSUMPTION, DISPLAY, TRANSFER, PROCESSING, MANUFACTURING OR CULTIVATION OF MARIJUANA IF BY SO DOING THE PERSON WILL LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW.

12. DOES NOT SUPERSEDE OR ELIMINATE ANY EXISTING RIGHTS OR PRIVILEGES OF ANY PERSON EXCEPT AS SPECIFICALLY SET FORTH IN THIS CHAPTER.

13. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY UNDER CHAPTER 28.1 OF THIS TITLE EXCEPT AS EXPRESSLY SET FORTH IN THIS CHAPTER.

14. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A QUALIFYING PATIENT OR DESIGNATED CAREGIVER UNDER CHAPTER 28.1 OF THIS TITLE.

36-2852. Allowable possession and personal use of marijuana, marijuana products and marijuana paraphernalia

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTIONS 36-2851 AND 36-2853 AND NOTWITHSTANDING ANY OTHER LAW, THE FOLLOWING ACTS BY AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE ARE LAWFUL, ARE NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND CANNOT SERVE AS THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS, FOR IMPOSING PENALTIES OF ANY KIND UNDER THE LAWS OF THIS STATE OR ANY LOCALITY OR FOR ABROGATING OR LIMITING ANY RIGHT OR PRIVILEGE CONFERRED OR PROTECTED BY THE LAWS OF THIS STATE OR ANY LOCALITY:

1. POSSESSING, CONSUMING, PURCHASING, PROCESSING, MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, OR TRANSPORTING ONE OUNCE OR LESS OF MARIJUANA, EXCEPT THAT NOT MORE THAN FIVE GRAMS OF MARIJUANA MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS FOR PERSONAL USE AT THE INDIVIDUAL'S PRIMARY RESIDENCE, AND POSSESSING, PROCESSING AND MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE MARIJUANA PLANTS WERE GROWN IF ALL OF THE FOLLOWING APPLY:

(a) NOT MORE THAN TWELVE PLANTS ARE PRODUCED AT A SINGLE RESIDENCE WHERE TWO OR MORE INDIVIDUALS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE RESIDE AT ONE TIME.

(b) CULTIVATION TAKES PLACE WITHIN A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA ON THE GROUNDS OF THE RESIDENCE EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

(c) CULTIVATION TAKES PLACE IN AN AREA WHERE THE MARIJUANA PLANTS ARE NOT VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS.

3. TRANSFERRING ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS MAY BE IN THE FORM OF MARIJUANA CONCENTRATE, TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

4. TRANSFERRING UP TO SIX MARIJUANA PLANTS TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

5. ACQUIRING, POSSESSING, MANUFACTURING, USING, PURCHASING, SELLING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS.

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6. ASSISTING ANOTHER INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IN ANY OF THE ACTS DESCRIBED IN THIS SUBSECTION.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WITH METABOLITES OR COMPONENTS OF MARIJUANA IN THE PERSON'S BODY IS GUILTY OF VIOLATING SECTION 28-1381, SUBSECTION A, PARAGRAPH 3 ONLY IF THE PERSON IS ALSO IMPAIRED TO THE SLIGHTEST DEGREE.

C. NOTWITHSTANDING ANY OTHER LAW, THE ODOR OF MARIJUANA OR BURNT MARIJUANA DOES NOT BY ITSELF CONSTITUTE REASONABLE ARTICULABLE SUSPICION OF A CRIME. THIS SUBSECTION DOES NOT APPLY WHEN A LAW ENFORCEMENT OFFICER IS INVESTIGATING WHETHER A PERSON HAS VIOLATED SECTION 28-1381.

36-2853. Violations; classification; civil penalty; additional fine; enforcement

A. NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON WHO POSSESSES AN AMOUNT OF MARIJUANA GREATER THAN THE AMOUNT ALLOWED PURSUANT TO SECTION 36-2852, BUT NOT MORE THAN TWO AND ONE-HALF OUNCES OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, IS GUILTY OF A PETTY OFFENSE.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO POSSESSES, CONSUMES, TRANSPORTS OR TRANSFERS WITHOUT REMUNERATION ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, OR PARAPHERNALIA RELATING TO THE CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS:

1. FOR A FIRST VIOLATION, SHALL PAY A CIVIL PENALTY OF NOT MORE THAN $100 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856 AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO FOUR HOURS OF DRUG EDUCATION OR COUNSELING.
2. FOR A SECOND VIOLATION, IS GUILTY OF A PETTY OFFENSE, AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO EIGHT HOURS OF DRUG EDUCATION OR COUNSELING.
3. FOR A THIRD OR SUBSEQUENT VIOLATION, IS GUILTY OF A CLASS 1 MISDEMEANOR.

C. A PERSON WHO SMOKES MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE IS GUILTY OF A PETTY OFFENSE.

D. EXCEPT AS OTHERWISE PROVIDED IN CHAPTER 28.1 OF THIS TITLE AND NOTWITHSTANDING ANY OTHER LAW, ANY UNLICENSED PERSON WHO CULTIVATES MARIJUANA PLANTS PURSUANT TO SECTION 36-2852 WHERE THEY ARE VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS OR OUTSIDE OF AN ENCLOSED AREA THAT IS EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

E. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO MISREPRESENTS THE PERSON'S AGE TO ANY OTHER PERSON BY MEANS OF A WRITTEN INSTRUMENT OF IDENTIFICATION OR WHO USES A FRAUDULENT OR FALSE WRITTEN INSTRUMENT OF IDENTIFICATION WITH THE INTENT TO INDUCE A PERSON TO SELL OR OTHERWISE TRANSFER MARIJUANA OR A MARIJUANA PRODUCT TO THE PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 1 MISDEMEANOR.

F. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO SOLICITS ANOTHER PERSON TO PURCHASE MARIJUANA OR A MARIJUANA PRODUCT IN VIOLATION OF THIS CHAPTER IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

36-2854. Rules; licensing; early applicants; fees; civil penalty; legal counsel

A. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT AND ENFORCE THIS CHAPTER AND REGULATE MARIJUANA, MARIJUANA PRODUCTS, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES. THOSE RULES SHALL INCLUDE REQUIREMENTS FOR:

1. LICENSING MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES, INCLUDING CONDUCTING INVESTIGATIONS AND BACKGROUND CHECKS TO DETERMINE ELIGIBILITY FOR LICENSING FOR MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY APPLICANTS, EXCEPT THAT:

(a) AN APPLICATION FOR A MARIJUANA ESTABLISHMENT LICENSE OR MARIJUANA TESTING FACILITY LICENSE MAY NOT REQUIRE THE DISCLOSURE OF THE IDENTITY OF ANY PERSON WHO IS ENTITLED TO A SHARE OF LESS THAN TEN PERCENT OF THE PROFITS OF AN APPLICANT THAT IS A PUBLICLY TRADED CORPORATION.

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(b) THE DEPARTMENT MAY NOT ISSUE MORE THAN ONE MARIJUANA ESTABLISHMENT LICENSE FOR EVERY TEN PHARMACIES THAT HAVE REGISTERED UNDER SECTION 32-1929, THAT HAVE OBTAINED A PHARMACY PERMIT FROM THE ARIZONA BOARD OF PHARMACY AND THAT OPERATE WITHIN THIS STATE.

(c) NOTWITHSTANDING SUBDIVISION (b) OF THIS PARAGRAPH, THE DEPARTMENT MAY ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO NOT MORE THAN TWO MARIJUANA ESTABLISHMENTS PER COUNTY THAT CONTAINS NO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES, OR ONE MARIJUANA ESTABLISHMENT LICENSE PER COUNTY THAT CONTAINS ONE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY. ANY LICENSE ISSUED PURSUANT TO THIS SUBDIVISION SHALL BE FOR A FIXED COUNTY AND MAY NOT BE RELOCATED OUTSIDE OF THAT COUNTY.

(d) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR MARIJUANA ESTABLISHMENT LICENSES FROM EARLY APPLICANTS BEGINNING JANUARY 19, 2021 THROUGH MARCH 9, 2021. NOT LATER THAN SIXTY DAYS AFTER RECEIVING AN APPLICATION PURSUANT TO THIS SUBDIVISION, THE DEPARTMENT SHALL ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO EACH QUALIFIED EARLY APPLICANT. IF THE DEPARTMENT HAS NOT ADOPTED FINAL RULES PURSUANT TO THIS SECTION AT THE TIME MARIJUANA ESTABLISHMENT LICENSES ARE ISSUED PURSUANT TO THIS SUBDIVISION, LICENSEES SHALL COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

(e) AFTER ISSUING MARIJUANA ESTABLISHMENT LICENSES TO QUALIFIED EARLY APPLICANTS, THE DEPARTMENT SHALL ISSUE MARIJUANA ESTABLISHMENT LICENSES AVAILABLE UNDER SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH BY RANDOM SELECTION AND ACCORDING TO RULES ADOPTED PURSUANT TO THIS SECTION. AT LEAST SIXTY DAYS PRIOR TO ANY RANDOM SELECTION, THE DEPARTMENT SHALL PROMINENTLY PUBLICIZE THE RANDOM SELECTION ON ITS WEBSITE AND THROUGH OTHER MEANS OF GENERAL DISTRIBUTION INTENDED TO REACH AS MANY INTERESTED PARTIES AS POSSIBLE AND SHALL PROVIDE NOTICE THROUGH AN EMAIL NOTIFICATION SYSTEM TO WHICH INTERESTED PARTIES CAN SUBSCRIBE.

(f) NOTWITHSTANDING SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH, AND NO LATER THAN SIX MONTHS AFTER THE DEPARTMENT ADOPTS FINAL RULES TO IMPLEMENT A SOCIAL EQUITY OWNERSHIP PROGRAM PURSUANT TO PARAGRAPH 9 OF THIS SUBSECTION, THE DEPARTMENT SHALL ISSUE TWENTY-SIX ADDITIONAL MARIJUANA ESTABLISHMENT LICENSES TO ENTITIES THAT ARE QUALIFIED PURSUANT TO THE SOCIAL EQUITY OWNERSHIP PROGRAM.

(g) LICENSES ISSUED BY THE DEPARTMENT TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES SHALL BE VALID FOR A PERIOD OF TWO YEARS.

2. LICENSING FEES AND RENEWAL FEES FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES IN AMOUNTS THAT ARE REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS FOR LICENSES AND RENEWALS AND THAT DO NOT EXCEED FIVE TIMES THE FEES PRESCRIBED BY THE DEPARTMENT TO REGISTER OR RENEW A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

3. THE SECURITY OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

4. MARIJUANA ESTABLISHMENTS TO SAFELY CULTIVATE, PROCESS AND MANUFACTURE MARIJUANA AND MARIJUANA PRODUCTS.

5. TRACKING, TESTING, LABELING AND PACKAGING MARIJUANA AND MARIJUANA PRODUCTS, INCLUDING REQUIREMENTS THAT MARIJUANA AND MARIJUANA PRODUCTS BE:

(a) SOLD TO CONSUMERS IN CLEARLY AND CONSPICUOUSLY LABELED CONTAINERS THAT CONTAIN ACCURATE WARNINGS REGARDING THE USE OF MARIJUANA OR MARIJUANA PRODUCTS.

(b) PLACED IN CHILD-RESISTANT PACKAGING ON EXIT FROM A MARIJUANA ESTABLISHMENT.

6. FORMS OF GOVERNMENT-ISSUED IDENTIFICATION THAT ARE ACCEPTABLE BY A MARIJUANA ESTABLISHMENT VERIFYING A CONSUMER'S AGE AND PROCEDURES RELATED TO VERIFYING A CONSUMER'S AGE CONSISTENT WITH SECTION 4-241. UNTIL THE DEPARTMENT ADOPTS FINAL RULES RELATED TO VERIFYING A CONSUMER'S AGE, MARIJUANA ESTABLISHMENTS SHALL COMPLY WITH THE PROOF OF LEGAL AGE REQUIREMENTS PRESCRIBED IN SECTION 4-241.

7. THE POTENCY OF EDIBLE MARIJUANA PRODUCTS THAT MAY BE SOLD TO CONSUMERS BY MARIJUANA ESTABLISHMENTS AT REASONABLE LEVELS UPON CONSIDERATION OF INDUSTRY STANDARDS, EXCEPT THAT THE RULES:

(a) SHALL LIMIT THE STRENGTH OF EDIBLE MARIJUANA PRODUCTS TO NO MORE THAN TEN MILLIGRAMS OF TETRAHYDROCANNABINOL PER SERVING OR ONE HUNDRED MILLIGRAMS OF TETRAHYDROCANNABINOL PER PACKAGE.

(b) SHALL REQUIRE THAT IF A MARIJUANA PRODUCT CONTAINS MORE THAN ONE SERVING, IT MUST BE DELINEATED OR SCORED INTO STANDARD SERVING SIZES AND HOMOGENIZED TO ENSURE UNIFORM DISBURSEMENT THROUGHOUT THE MARIJUANA PRODUCT.

8. ENSURING THE HEALTH, SAFETY AND TRAINING OF EMPLOYEES OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

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9. THE CREATION AND IMPLEMENTATION OF A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS.

B. THE DEPARTMENT MAY:

1. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, DENY ANY APPLICATION SUBMITTED OR DENY, SUSPEND OR REVOKE, IN WHOLE OR IN PART, ANY REGISTRATION OR LICENSE ISSUED UNDER THIS CHAPTER IF THE REGISTERED OR LICENSED PARTY OR AN OFFICER, AGENT OR EMPLOYEE OF THE REGISTERED OR LICENSED PARTY DOES ANY OF THE FOLLOWING:

(a) VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

(b) HAS BEEN, IS OR MAY CONTINUE TO BE IN SUBSTANTIAL VIOLATION OF THE REQUIREMENTS FOR LICENSING OR REGISTRATION AND, AS A RESULT, THE HEALTH OR SAFETY OF THE GENERAL PUBLIC IS IN IMMEDIATE DANGER.

2. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, AND UNLESS ANOTHER PENALTY IS PROVIDED ELSEWHERE IN THIS CHAPTER, ASSESS A CIVIL PENALTY AGAINST A PERSON THAT VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER IN AN AMOUNT NOT TO EXCEED $1,000 FOR EACH VIOLATION. EACH DAY A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. THE MAXIMUM AMOUNT OF ANY ASSESSMENT IS $25,000 FOR ANY THIRTY-DAY PERIOD. IN DETERMINING THE AMOUNT OF A CIVIL PENALTY ASSESSED AGAINST A PERSON, THE DEPARTMENT SHALL CONSIDER ALL OF THE FACTORS SET FORTH IN SECTION 36-2816, SUBSECTION H. ALL CIVIL PENALTIES COLLECTED BY THE DEPARTMENT PURSUANT TO THIS PARAGRAPH SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

3. AT ANY TIME DURING REGULAR HOURS OF OPERATION, VISIT AND INSPECT A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE TO DETERMINE IF IT COMPLIES WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER. THE DEPARTMENT SHALL MAKE AT LEAST ONE UNANNOUNCED VISIT ANNUALLY TO EACH FACILITY LICENSED PURSUANT TO THIS CHAPTER.

4. ADOPT ANY OTHER RULES NOT EXPRESSLY STATED IN THIS SECTION THAT ARE NECESSARY TO ENSURE THE SAFE AND RESPONSIBLE CULTIVATION, SALE, PROCESSING, MANUFACTURE, TESTING AND TRANSPORT OF MARIJUANA AND MARIJUANA PRODUCTS.

C. UNTIL THE DEPARTMENT ADOPTS RULES PERMITTING AND REGULATING DELIVERY BY MARIJUANA ESTABLISHMENTS PURSUANT TO SUBSECTION D OF THIS SECTION, DELIVERY IS UNLAWFUL UNDER THIS CHAPTER.

D. ON OR AFTER JANUARY 1, 2023, THE DEPARTMENT MAY, AND NO LATER THAN JANUARY 1, 2025 THE DEPARTMENT SHALL, ADOPT RULES TO PERMIT AND REGULATE DELIVERY BY MARIJUANA ESTABLISHMENTS. THE RULES SHALL:

1. REQUIRE THAT DELIVERY AND THE MARIJUANA AND MARIJUANA PRODUCTS TO BE DELIVERED ORIGINATE FROM A DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT AND ONLY AFTER AN ORDER IS MADE WITH THE MARIJUANA ESTABLISHMENT BY A CONSUMER.

2. PROHIBIT DELIVERY TO ANY PROPERTY OWNED OR LEASED BY THE UNITED STATES, THIS STATE, A POLITICAL SUBDIVISION OF THIS STATE OR THE ARIZONA BOARD OF REGENTS.

3. LIMIT THE AMOUNT OF MARIJUANA AND MARIJUANA PRODUCTS BASED ON RETAIL PRICE THAT MAY BE IN A DELIVERY VEHICLE DURING A SINGLE TRIP FROM THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

4. PROHIBIT EXTRA OR UNALLOCATED MARIJUANA OR MARIJUANA PRODUCTS IN DELIVERY VEHICLES.

5. REQUIRE THAT DELIVERIES BE MADE ONLY BY MARIJUANA FACILITY AGENTS IN UNMARKED VEHICLES THAT ARE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM OR SIMILAR LOCATION TRACKING SYSTEM AND VIDEO SURVEILLANCE AND RECORDING EQUIPMENT, AND THAT CONTAIN A LOCKED COMPARTMENT IN WHICH MARIJUANA AND MARIJUANA PRODUCTS MUST BE STORED.

6. REQUIRE DELIVERY LOGS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

7. REQUIRE INSPECTIONS TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

8. INCLUDE ANY OTHER PROVISIONS NECESSARY TO ENSURE SAFE AND RESTRICTED DELIVERY.

9. REQUIRE DUAL LICENSEES TO COMPLY WITH THE RULES ADOPTED PURSUANT TO THIS SUBSECTION.

E. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, THE DEPARTMENT MAY NOT PERMIT DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS UNDER THIS CHAPTER BY ANY INDIVIDUAL OR ENTITY. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY THAT DELIVERS MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER SHALL PAY

A CIVIL PENALTY OF $20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

F. ALL RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE PURPOSE OF THIS CHAPTER.

G. THE DEPARTMENT MAY NOT ADOPT ANY RULE THAT:

1. PROHIBITS THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REQUIREMENTS THAT MAKE THE OPERATION OF A MARIJUANA ESTABLISHMENT UNDULY BURDENSOME.

2. PROHIBITS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE TO OPERATE A MARIJUANA ESTABLISHMENT AND A NONPROFIT MEDICAL MARIJUANA DISPENSARY AT SHARED LOCATIONS.

H. NOTWITHSTANDING SECTION 41-192, THE DEPARTMENT MAY EMPLOY LEGAL COUNSEL AND MAKE AN EXPENDITURE OR INCUR AN INDEBTEDNESS FOR LEGAL SERVICES FOR THE PURPOSES OF:

1. DEFENDING THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. DEFENDING CHAPTER 28.1 OF THIS TITLE OR RULES ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

I. THE DEPARTMENT SHALL DEPOSIT ALL LICENSE FEES, APPLICATION FEES AND RENEWAL FEES PAID TO THE DEPARTMENT PURSUANT TO THIS CHAPTER IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

J. ON REQUEST, THE DEPARTMENT SHALL SHARE WITH THE DEPARTMENT OF REVENUE INFORMATION REGARDING A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE, INCLUDING ITS NAME, PHYSICAL ADDRESS, CULTIVATION SITE AND TRANSACTION PRIVILEGE TAX LICENSE NUMBER.

K. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT MAY:

1. LICENSE AN INDEPENDENT THIRD-PARTY LABORATORY TO ALSO OPERATE AS A MARIJUANA TESTING FACILITY.

2. OPERATE A MARIJUANA TESTING FACILITY.

L. THE DEPARTMENT SHALL MAINTAIN AND PUBLISH A CURRENT LIST OF ALL MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY NAME AND LICENSE NUMBER.

M. NOTWITHSTANDING ANY OTHER LAW, THE ISSUANCE OF AN OCCUPATIONAL, PROFESSIONAL OR OTHER REGULATORY LICENSE OR CERTIFICATION TO A PERSON BY A JURISDICTION OR REGULATORY AUTHORITY OUTSIDE THIS STATE DOES NOT ENTITLE THAT PERSON TO BE ISSUED A MARIJUANA ESTABLISHMENT LICENSE, A MARIJUANA TESTING FACILITY LICENSE, OR ANY OTHER LICENSE, REGISTRATION OR CERTIFICATION UNDER THIS CHAPTER.

36-2855. Marijuana facility agents; registration; card; rules

A. A MARIJUANA FACILITY AGENT SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE WORKING AT A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.

B. A PERSON WHO WISHES TO BE REGISTERED AS A MARIJUANA FACILITY AGENT OR RENEW THE PERSON'S REGISTRATION AS A MARIJUANA FACILITY AGENT SHALL:

1. SUBMIT A COMPLETED APPLICATION ON A FORM PRESCRIBED BY THE DEPARTMENT AND PAY A NONREFUNDABLE FEE THAT IS REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS SUBMITTED PURSUANT TO THIS SECTION.

2. SUBMIT EVIDENCE THAT THE APPLICANT HOLDS A CURRENT LEVEL I FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07, OR SUBMIT A FULL SET OF THE APPLICANT'S FINGERPRINTS FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION WITHOUT DISCLOSING THAT THE RECORDS CHECK IS RELATED TO THIS CHAPTER AND ACTS ALLOWED BY THIS CHAPTER. THE DEPARTMENT OF PUBLIC SAFETY SHALL DESTROY EACH SET OF FINGERPRINTS AFTER THE CRIMINAL RECORDS CHECK IS COMPLETED.

C. IF THE DEPARTMENT DETERMINES THAT AN APPLICANT MEETS THE CRITERIA FOR REGISTRATION UNDER THIS CHAPTER AND RULES PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE THE APPLICANT A MARIJUANA FACILITY AGENT CARD THAT IS VALID FOR TWO YEARS.

D. A REGISTERED MARIJUANA FACILITY AGENT MAY BE EMPLOYED BY OR ASSOCIATED WITH ANY MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY. A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN IT EMPLOYS OR BECOMES ASSOCIATED WITH A NEW MARIJUANA FACILITY AGENT. A MARIJUANA FACILITY AGENT SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN THE MARIJUANA FACILITY AGENT IS EMPLOYED BY OR BECOMES ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY AND WHEN THE MARIJUANA FACILITY AGENT IS NO LONGER EMPLOYED BY OR ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.

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E. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OF A DUAL LICENSEE WHO HAS APPLIED TO BE REGISTERED AS A MARIJUANA FACILITY AGENT MAY SERVE AS A MARIJUANA FACILITY AGENT OF THAT DUAL LICENSEE UNTIL THE DEPARTMENT HAS APPROVED OR REJECTED THE AGENT'S APPLICATION.

F. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS SECTION.

36-2856. Smart and safe Arizona fund; disposition; exemption

A. THE SMART AND SAFE ARIZONA FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTIONS 36-2854, 42-5452 AND 42-5503, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE SMART AND SAFE ARIZONA FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF REVENUE TO IMPOSE AND ENFORCE THE TAX AUTHORIZED AND LEVIED BY SECTION 42-5452.

3. THE ACTUAL REASONABLE COSTS INCURRED BY THE SUPREME COURT AND THE DEPARTMENT OF PUBLIC SAFETY TO PROCESS PETITIONS FOR EXPUNGEMENT AND EXPUNGEMENT ORDERS PURSUANT TO SECTION 36-2862 AND TO OTHERWISE IMPLEMENT SECTION 36-2862.

4. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

5. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED BY THIS CHAPTER TO IMPLEMENT OR ENFORCE THE PROVISIONS OF THIS CHAPTER.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS FROM THE SMART AND SAFE ARIZONA FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE SMART AND SAFE ARIZONA FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. 33 PERCENT TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGE DISTRICTS, BUT NOT TO COMMUNITY COLLEGE TUITION FINANCING DISTRICTS ESTABLISHED PURSUANT TO SECTION 15-1409, FOR THE PURPOSES OF INVESTING IN AND PROVIDING WORKFORCE DEVELOPMENT PROGRAMS, JOB TRAINING, CAREER AND TECHNICAL EDUCATION, AND SCIENCE, TECHNOLOGY, ENGINEERING AND MATH PROGRAMS, AS FOLLOWS:

(a) 15 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH COMMUNITY COLLEGE DISTRICT.

(b) 0.5 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH PROVISIONAL COMMUNITY COLLEGE DISTRICT, IF ONE OR MORE PROVISIONAL COMMUNITY COLLEGE DISTRICTS EXIST.

(c) THE REMAINDER TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGES DISTRICTS IN PROPORTION TO EACH DISTRICT'S FULL-TIME EQUIVALENT STUDENT ENROLLMENT PERCENTAGE OF THE TOTAL STATEWIDE AUDITED FULL-TIME EQUIVALENT STUDENT ENROLLMENT IN THE PRECEDING FISCAL YEAR PRESCRIBED IN SECTION 15-1466.01.

2. 31.4 PERCENT TO MUNICIPAL POLICE DEPARTMENTS, MUNICIPAL FIRE DEPARTMENTS, FIRE DISTRICTS ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 5 AND COUNTY SHERIFFS' DEPARTMENTS IN PROPORTION TO THE NUMBER OF ENROLLED MEMBERS FOR EACH SUCH AGENCY IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4 AND THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION PLAN ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4.1, FOR PERSONNEL COSTS.

3. 25.4 PERCENT TO THE ARIZONA HIGHWAY USER REVENUE FUND ESTABLISHED BY SECTION 28-6533.

4. 10 PERCENT TO THE JUSTICE REINVESTMENT FUND ESTABLISHED BY SECTION 36-2863.

5. 0.2 PERCENT TO THE ATTORNEY GENERAL TO USE TO ENFORCE THIS CHAPTER, OR TO GRANT TO LOCALITIES TO ENFORCE THIS CHAPTER.

E. THE MONIES TRANSFERRED AND RECEIVED PURSUANT TO THIS SECTION:

1. ARE IN ADDITION TO ANY OTHER APPROPRIATION, TRANSFER OR OTHER ALLOCATION OF MONIES AND MAY NOT SUPPLANT, REPLACE OR CAUSE A REDUCTION IN OTHER FUNDING SOURCES.

2. ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTIONS 20 AND 21, CONSTITUTION OF ARIZONA.

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36-2857. Localities; marijuana establishments and marijuana testing facilities

A. A LOCALITY MAY:

1. ENACT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES TO SPECIFIED AREAS.

2. LIMIT THE NUMBER OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.

3. PROHIBIT MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.

4. REGULATE THE TIME, PLACE AND MANNER OF MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY OPERATIONS.

5. ESTABLISH REASONABLE RESTRICTIONS ON PUBLIC SIGNAGE REGARDING MARIJUANA, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

6. PROHIBIT OR RESTRICT DELIVERY WITHIN ITS JURISDICTION.

B. A COUNTY MAY EXERCISE ITS AUTHORITY PURSUANT TO SUBSECTION A OF THIS SECTION ONLY IN UNINCORPORATED AREAS OF THE COUNTY.

C. A LOCALITY MAY NOT ENACT ANY ORDINANCE, REGULATION OR RULE THAT:

1. IS MORE RESTRICTIVE THAN A COMPARABLE ORDINANCE, REGULATION OR RULE THAT APPLIES TO NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

2. MAKES THE OPERATION OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY UNDULY BURDENSOME IF THE LOCALITY HAS NOT PROHIBITED MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES.

3. CONFLICTS WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

4. PROHIBITS THE TRANSPORTATION OF MARIJUANA BY A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY ON PUBLIC ROADS.

5. RESTRICTS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE OR AN ENTITY ELIGIBLE TO BECOME A DUAL LICENSEE TO OPERATE A NONPROFIT MEDICAL MARIJUANA DISPENSARY AND A MARIJUANA ESTABLISHMENT COOPERATIVELY AT SHARED LOCATIONS.

6. EXCEPT AS EXPRESSLY AUTHORIZED BY THIS SECTION OR SECTION 36-2851, PROHIBITS OR RESTRICTS ANY CONDUCT OR TRANSACTION ALLOWED BY THIS CHAPTER, OR IMPOSES ANY LIABILITY OR PENALTY IN ADDITION TO THAT PRESCRIBED BY THIS CHAPTER FOR ANY CONDUCT OR TRANSACTION CONSTITUTING A VIOLATION OF THIS CHAPTER.

36-2858. Lawful operation of marijuana establishments and marijuana testing facilities

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTION 36-2857 AND NOTWITHSTANDING ANY OTHER LAW, IT IS LAWFUL AND IS NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND MAY NOT CONSTITUTE THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS OR THE BASIS FOR IMPOSING PENALTIES UNDER THE LAWS OF THIS STATE OR ANY LOCALITY FOR:

1. A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT, TO:

(a) POSSESS MARIJUANA OR MARIJUANA PRODUCTS.

(b) PURCHASE, SELL OR TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT.

(c) SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, EXCEPT THAT A MARIJUANA ESTABLISHMENT MAY NOT SELL MORE THAN ONE OUNCE OF MARIJUANA TO A CONSUMER IN A SINGLE TRANSACTION, NOT MORE THAN FIVE GRAMS OF WHICH MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.

(d) CULTIVATE, PRODUCE, TEST OR PROCESS MARIJUANA OR MANUFACTURE MARIJUANA OR MARIJUANA PRODUCTS BY ANY MEANS INCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS.

2. AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT TO SELL OR OTHERWISE TRANSFER MARIJUANA TO AN INDIVIDUAL UNDER TWENTY-ONE YEARS OF AGE, IF THE AGENT REASONABLY VERIFIED THAT THE INDIVIDUAL APPEARED TO BE TWENTY-ONE YEARS OF AGE OR OLDER BY MEANS OF A GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION IN COMPLIANCE WITH RULES ADOPTED PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 6.

3. A MARIJUANA TESTING FACILITY, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA TESTING FACILITY, TO OBTAIN, POSSESS, PROCESS, REPACKAGE, TRANSFER, TRANSPORT OR TEST MARIJUANA AND MARIJUANA PRODUCTS.

4. A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, TO SELL OR OTHERWISE TRANSFER MARIJUANA OR MARIJUANA PRODUCTS TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY, A MARIJUANA ESTABLISHMENT OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT.

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5. ANY INDIVIDUAL, CORPORATION OR OTHER ENTITY TO SELL, LEASE OR OTHERWISE ALLOW PROPERTY OR GOODS THAT ARE OWNED, MANAGED OR CONTROLLED BY THE INDIVIDUAL, CORPORATION OR OTHER ENTITY TO BE USED FOR ANY ACTIVITY AUTHORIZED BY THIS CHAPTER, OR TO PROVIDE SERVICES TO A MARIJUANA ESTABLISHMENT, OR MARIJUANA TESTING FACILITY OR AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY IN CONNECTION WITH ANY ACTIVITY AUTHORIZED BY THIS CHAPTER.

B. THIS SECTION DOES NOT PRECLUDE THE DEPARTMENT FROM IMPOSING PENALTIES AGAINST A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY FOR FAILING TO COMPLY WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

C. A MARIJUANA ESTABLISHMENT MAY BE OWNED OR OPERATED BY A PUBLICLY TRADED COMPANY.

D. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE:

1. MAY HOLD A MARIJUANA ESTABLISHMENT LICENSE AND OPERATE A MARIJUANA ESTABLISHMENT PURSUANT TO THIS CHAPTER.

2. MAY OPERATE ON A FOR-PROFIT BASIS IF THE DUAL LICENSEE PROMPTLY NOTIFIES THE DEPARTMENT AND DEPARTMENT OF REVENUE AND TAKES ANY ACTIONS NECESSARY TO ENABLE ITS FOR-PROFIT OPERATION, INCLUDING CONVERTING ITS CORPORATE FORM AND AMENDING ITS ORGANIZATIONAL AND OPERATING DOCUMENTS.

3. MUST CONTINUE TO HOLD BOTH ITS MARIJUANA ESTABLISHMENT LICENSE AND NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION, REGARDLESS OF ANY CHANGE IN OWNERSHIP OF THE DUAL LICENSEE, UNLESS IT TERMINATES ITS STATUS AS A DUAL LICENSEE AND FORFEITS EITHER ITS MARIJUANA ESTABLISHMENT LICENSE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION BY NOTIFYING THE DEPARTMENT OF SUCH A TERMINATION AND FORFEITURE.

4. MAY NOT BE REQUIRED TO:

(a) EMPLOY OR CONTRACT WITH A MEDICAL DIRECTOR.

(b) OBTAIN NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OR MARIJUANA FACILITY AGENT REGISTRATIONS FOR OUTSIDE VENDORS THAT DO NOT HAVE REGULAR, UNSUPERVISED ACCESS TO THE INTERIOR OF THE DUAL LICENSEE.

(c) HAVE A SINGLE SECURE ENTRANCE AS REQUIRED BY SECTION 36-2806, SUBSECTION C, BUT MAY BE REQUIRED TO IMPLEMENT APPROPRIATE SECURITY MEASURES TO DETER AND PREVENT THE THEFT OF MARIJUANA AND TO REASONABLY REGULATE CUSTOMER ACCESS TO THE PREMISES.

(d) COMPLY WITH ANY OTHER PROVISION OF CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE THAT MAKES ITS OPERATION AS A DUAL LICENSEE UNDULY BURDENSOME.

E. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO SUBSECTION D, PARAGRAPH 2 OF THIS SECTION:

1. IS SUBJECT TO THE TAXES IMPOSED PURSUANT TO TITLE 43.

2. IS NOT REQUIRED TO SUBMIT ITS ANNUAL FINANCIAL STATEMENTS OR AN AUDIT REPORT TO THE DEPARTMENT FOR PURPOSES OF RENEWING ITS NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION.

F. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE MUST CONDUCT BOTH OF THE FOLLOWING OPERATIONS AT A SHARED LOCATION:

1. SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS PURSUANT TO THIS CHAPTER.

2. DISPENSE MARIJUANA TO REGISTERED QUALIFYING PATIENTS AND REGISTERED DESIGNATED CAREGIVERS PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

G. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE, A DUAL LICENSEE MAY ENGAGE IN ANY ACT, PRACTICE, CONDUCT OR TRANSACTION ALLOWED FOR A MARIJUANA ESTABLISHMENT BY THIS CHAPTER.

H. NOTWITHSTANDING ANY OTHER LAW:

1. AN INDIVIDUAL MAY BE AN APPLICANT, PRINCIPAL OFFICER OR BOARD MEMBER OF MORE THAN ONE MARIJUANA ESTABLISHMENT OR MORE THAN ONE DUAL LICENSEE REGARDLESS OF THE ESTABLISHMENT'S LOCATION.

2. TWO OR MORE MARIJUANA ESTABLISHMENTS OR DUAL LICENSEES MAY DESIGNATE A SINGLE OFF-SITE LOCATION AS PRESCRIBED IN SECTION 36-2850, PARAGRAPH 18, SUBDIVISION (c) TO BE JOINTLY USED BY THOSE DUAL LICENSEES OR MARIJUANA ESTABLISHMENTS.

I. MARIJUANA ESTABLISHMENTS, MARIJUANA TESTING FACILITIES AND DUAL LICENSEES THAT ARE SUBJECT TO APPLICABLE FEDERAL OR STATE ANTIDISCRIMINATION LAWS MAY NOT PAY THEIR EMPLOYEES DIFFERENTLY BASED SOLELY ON A PROTECTED CLASS STATUS SUCH AS SEX, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE OR DISABILITY. THIS SUBSECTION DOES NOT EXPAND OR MODIFY THE JURISDICTIONAL REACH, PROVISIONS OR REQUIREMENTS OF ANY APPLICABLE ANTI-DISCRIMINATION LAW.

36-2859. Advertising restrictions; enforcement; civil penalty

A. A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY ENGAGE IN ADVERTISING.

B. AN ADVERTISING PLATFORM MAY HOST ADVERTISING ONLY IF ALL OF THE FOLLOWING APPLY:

1. THE ADVERTISING IS AUTHORIZED BY A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.

2. THE ADVERTISING ACCURATELY AND LEGIBLY IDENTIFIES THE MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY RESPONSIBLE FOR THE CONTENT OF THE ADVERTISING BY NAME AND LICENSE NUMBER OR REGISTRATION NUMBER.

C. ANY ADVERTISING UNDER THIS CHAPTER INVOLVING DIRECT, INDIVIDUALIZED COMMUNICATION OR DIALOGUE SHALL USE A METHOD OF AGE AFFIRMATION TO VERIFY THAT THE RECIPIENT IS TWENTY-ONE YEARS OF AGE OR OLDER BEFORE ENGAGING IN THAT COMMUNICATION OR DIALOGUE. FOR THE PURPOSES OF THIS SUBSECTION, THAT METHOD OF AGE AFFIRMATION MAY INCLUDE USER CONFIRMATION, BIRTH DATE DISCLOSURE OR OTHER SIMILAR REGISTRATION METHODS.

D. IT IS UNLAWFUL FOR AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE TO DO ANY OF THE FOLLOWING IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER OR RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS CHAPTER:

1. FACILITATE THE DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

2. SOLICIT OR ACCEPT ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS OR OPERATE A PLATFORM THAT SOLICITS OR ACCEPTS ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS.

3. OPERATE A LISTING SERVICE RELATED TO THE SALE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

E. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2816.

F. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT ADVERTISES MARIJUANA OR MARIJUANA PRODUCTS IN VIOLATION OF THIS SECTION OR OTHERWISE VIOLATES THIS SECTION SHALL PAY A CIVIL PENALTY OF $20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

36-2860. Packaging; restrictions on particular marijuana products

A. A MARIJUANA ESTABLISHMENT MAY NOT:

1. PACKAGE OR LABEL MARIJUANA OR MARIJUANA PRODUCTS IN A FALSE OR MISLEADING MANNER.

2. MANUFACTURE OR SELL MARIJUANA PRODUCTS THAT RESEMBLE THE FORM OF A HUMAN, ANIMAL, INSECT, FRUIT, TOY OR CARTOON.

3. SELL OR ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS WITH NAMES THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETED TO CHILDREN, OR OTHERWISE ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS TO CHILDREN.

B. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B.

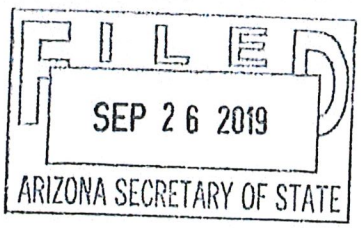
36-2861. Contracts; professional services

A. IT IS THE PUBLIC POLICY OF THIS STATE THAT CONTRACTS RELATED TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES ARE ENFORCEABLE.

B. A PERSON THAT IS LICENSED, CERTIFIED OR REGISTERED BY ANY DEPARTMENT, AGENCY OR REGULATORY BOARD OF THIS STATE IS NOT SUBJECT TO DISCIPLINARY ACTION BY THAT ENTITY FOR PROVIDING PROFESSIONAL ASSISTANCE TO A PROSPECTIVE OR REGISTERED MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR OTHER PERSON FOR ANY LAWFUL ACTIVITY UNDER THIS CHAPTER.

36-2862. Expungement; petition; appeal; dismissal of complaints; rules

A. BEGINNING JULY 12, 2021, AN INDIVIDUAL WHO WAS ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED BY TRIAL OR PLEA OF, OR SENTENCED FOR, ANY OF THE FOLLOWING OFFENSES BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS SECTION MAY PETITION THE COURT TO HAVE THE RECORD OF THAT ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE EXPUNGED:



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1. POSSESSING, CONSUMING OR TRANSPORTING TWO AND ONE-HALF OUNCES OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS WAS IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS AT THE INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE.

3. POSSESSING, USING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA.

B. IF THE COURT RECEIVES A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION:

1. THE COURT SHALL NOTIFY THE PROSECUTING AGENCY OF THE FILING OF THE PETITION, AND ALLOW THE PROSECUTING AGENCY TO RESPOND TO THE PETITION WITHIN THIRTY DAYS.

2. THE COURT MAY HOLD A HEARING:

(a) ON THE REQUEST OF EITHER THE PETITIONER OR THE PROSECUTING AGENCY.

(b) IF THE COURT CONCLUDES THERE ARE GENUINE DISPUTES OF FACT REGARDING WHETHER THE PETITION SHOULD BE GRANTED.

3. THE COURT SHALL GRANT THE PETITION UNLESS THE PROSECUTING AGENCY ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER IS NOT ELIGIBLE FOR EXPUNGEMENT.

4. THE COURT SHALL ISSUE A SIGNED ORDER OR MINUTE ENTRY GRANTING OR DENYING THE PETITION IN WHICH IT MAKES FINDINGS OF FACT AND CONCLUSIONS OF LAW.

C. IF THE COURT GRANTS A PETITION FOR EXPUNGEMENT:

1. THE SIGNED ORDER OR MINUTE ENTRY REQUIRED PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION SHALL DO ALL OF THE FOLLOWING:

(a) IF THE PETITIONER WAS ADJUDICATED OR CONVICTED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, VACATE THE JUDGMENT OF ADJUDICATION OR CONVICTION.

(b) STATE THAT IT EXPUNGES ANY RECORD OF THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE.

(c) IF THE PETITIONER WAS CONVICTED OR ADJUDICATED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, STATE THAT THE PETITIONER'S CIVIL RIGHTS, INCLUDING THE RIGHT TO POSSESS FIREARMS, ARE RESTORED, UNLESS THE PETITIONER IS OTHERWISE NOT ELIGIBLE FOR THE RESTORATION OF CIVIL RIGHTS ON GROUNDS OTHER THAN A CONVICTION FOR AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION.

(d) REQUIRE THE CLERK OF THE COURT TO NOTIFY THE DEPARTMENT OF PUBLIC SAFETY, THE PROSECUTING AGENCY AND THE ARRESTING LAW ENFORCEMENT AGENCY, IF APPLICABLE, OF THE EXPUNGEMENT ORDER.

(e) REQUIRE THE CLERK OF THE COURT TO SEAL ALL RECORDS RELATING TO THE EXPUNGED ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE AND ALLOW THE RECORDS TO BE ACCESSED ONLY BY THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THE INDIVIDUAL'S ATTORNEY.

2. THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE THE EXPUNGED RECORD FROM ITS RECORDS AND INFORM ALL APPROPRIATE STATE AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT. UNLESS THE PETITIONER IS INDIGENT, THE DEPARTMENT OF PUBLIC SAFETY MAY CHARGE THE SUCCESSFUL PETITIONER A REASONABLE FEE DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY TO RESEARCH AND CORRECT THE PETITIONER'S CRIMINAL HISTORY RECORD.

3. THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY IDENTIFY IN EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE ARE EXPUNGED AND SHALL NOT MAKE ANY RECORDS OF THE EXPUNGED ARREST, CHARGE, CONVICTION, ADJUDICATION OR SENTENCE AVAILABLE AS A PUBLIC RECORD TO ANY PERSON EXCEPT TO THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THAT INDIVIDUAL'S ATTORNEY.

D. AN ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE THAT IS EXPUNGED PURSUANT TO THIS SECTION MAY NOT BE USED IN A SUBSEQUENT PROSECUTION BY A PROSECUTING AGENCY OR COURT FOR ANY PURPOSE.

E. AN INDIVIDUAL WHOSE RECORD OF ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE IS EXPUNGED PURSUANT TO THIS SECTION MAY STATE THAT THE INDIVIDUAL HAS NEVER BEEN ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED OF, OR SENTENCED FOR THE CRIME THAT IS THE SUBJECT OF THE EXPUNGEMENT.

F. IF THE COURT DENIES A PETITION FOR EXPUNGEMENT, THE PETITIONER MAY FILE A DIRECT APPEAL PURSUANT TO SECTION 13-4033, SUBSECTION A, PARAGRAPH 3.

G. ON MOTION, THE COURT SHALL DISMISS WITH PREJUDICE ANY PENDING COMPLAINT, INFORMATION OR INDICTMENT BASED ON ANY OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, TO INCLUDE CHARGES OR ALLEGATIONS BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS CHAPTER. THE INDIVIDUAL CHARGED MAY THEREAFTER PETITION THE COURT TO

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EXPUNGE RECORDS OF THE ARREST AND CHARGE OR ALLEGATION AS PROVIDED IN THIS SECTION. A MOTION BROUGHT PURSUANT TO THIS SUBSECTION MAY BE FILED WITH THE COURT BEFORE JULY 12, 2021.

H. THE SUPREME COURT MAY ADOPT RULES NECESSARY TO IMPLEMENT THIS SECTION, AND MAY ALSO SPONSOR PUBLIC SERVICE ANNOUNCEMENTS OR OTHER NOTIFICATIONS INTENDED TO PROVIDE NOTICE TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO THIS SECTION.

I. A PROSECUTING AGENCY MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL WHO WAS PROSECUTED BY THAT PROSECUTING AGENCY, AND THE ATTORNEY GENERAL MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL.

36-2863. Justice reinvestment fund; exemption; distribution; definition

A. THE JUSTICE REINVESTMENT FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTION 36-2856 AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE JUSTICE REINVESTMENT FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.
2. THE REASONABLE ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

C. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE JUSTICE REINVESTMENT FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. THIRTY-FIVE PERCENT TO COUNTY PUBLIC HEALTH DEPARTMENTS, IN PROPORTION TO THE POPULATION OF EACH COUNTY ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, FOR THE PURPOSE OF PROVIDING JUSTICE REINVESTMENT PROGRAMS OR DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS TO PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THAT COUNTY.
2. THIRTY-FIVE PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS THAT PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THIS STATE.
3. THIRTY PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF ADDRESSING IMPORTANT PUBLIC HEALTH ISSUES THAT AFFECT THIS STATE.

D. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTER 23, AND EACH GRANTEE SHALL PROVIDE THE GRANTING AGENCY WITH AN ANNUAL REPORT DETAILING THE USE OF GRANTED MONIES.

E. MONIES TRANSFERRED AND RECEIVED PURSUANT TO SUBSECTION C OF THIS SECTION ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTION 20, CONSTITUTION OF ARIZONA.

F. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS PURSUANT TO SUBSECTION B OF THIS SECTION.

G. FOR THE PURPOSES OF THIS SECTION, "JUSTICE REINVESTMENT PROGRAMS" MEANS INITIATIVES OR PROGRAMS THAT FOCUS ON ANY OF THE FOLLOWING:

1. PUBLIC AND BEHAVIORAL HEALTH, INCLUDING EVIDENCE-BASED AND EVIDENCE-INFORMED SUBSTANCE USE PREVENTION AND TREATMENT AND SUBSTANCE USE EARLY INTERVENTION SERVICES.
2. RESTORATIVE JUSTICE, JAIL DIVERSION, WORKFORCE DEVELOPMENT, INDUSTRY-SPECIFIC TECHNICAL ASSISTANCE OR MENTORING SERVICES FOR ECONOMICALLY DISADVANTAGED PERSONS IN COMMUNITIES DISPROPORTIONATELY IMPACTED BY HIGH RATES OF ARREST AND INCARCERATION.
3. ADDRESSING THE UNDERLYING CAUSES OF CRIME, REDUCING DRUG-RELATED ARRESTS AND REDUCING THE PRISON POPULATION IN THIS STATE.
4. CREATING OR DEVELOPING TECHNOLOGY AND PROGRAMS TO ASSIST WITH THE RESTORATION OF CIVIL RIGHTS AND THE EXPUNGEMENT OF CRIMINAL RECORDS.

36-2864. Transaction privilege tax; use tax; additional taxes prohibited; exception

A. FOR PURPOSES OF THE TRANSACTION PRIVILEGE TAX AND USE TAX LEVIED AND COLLECTED PURSUANT TO TITLE 42, CHAPTERS 5 AND 6, MARIJUANA AND MARIJUANA PRODUCTS ARE TANGIBLE PERSONAL PROPERTY DEFINED IN SECTION 42-5001 AND ARE SUBJECT TO THE TRANSACTION PRIVILEGE TAX IN THE RETAIL CLASSIFICATION AND USE TAX.

B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION AND SECTION 42-5452, THIS STATE AND LOCALITIES MAY NOT LEVY OR COLLECT ADDITIONAL TAXES OF ANY KIND ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS AND MAY NOT LEVY OR COLLECT ANY FEES OR ASSESSMENTS OF ANY KIND ON THE

SALE OF MARIJUANA OR MARIJUANA PRODUCTS OR ON THE LICENSING, OPERATIONS OR ACTIVITIES OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, UNLESS THE FEE OR ASSESSMENT IS OF GENERAL APPLICABILITY TO INDIVIDUALS OR BUSINESSES THAT ARE NOT ENGAGED IN THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS.

C. THE PROHIBITION IMPOSED BY SUBSECTION B OF THIS SECTION DOES NOT APPLY TO UNIFORM INCREASES TO THE TRANSACTION PRIVILEGE TAX RATE FOR THE RETAIL CLASSIFICATION OR USE TAX RATE BY THIS STATE OR A LOCALITY OR TO UNIFORM INCREASES TO FEES OR ASSESSMENTS ALLOWED BY SUBSECTION B OF THIS SECTION.

36-2865. Enforcement of this chapter; special action

A. IF THE DEPARTMENT FAILS TO ADOPT RULES NECESSARY TO IMPLEMENT THIS CHAPTER ON OR BEFORE JUNE 1, 2021, OR FAILS TO BEGIN ACCEPTING APPLICATIONS AS PROVIDED IN SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), ANY CITIZEN MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

B. IF THE DEPARTMENT FAILS TO ISSUE A LICENSE OR SEND A NOTICE OF DENIAL WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE MARIJUANA ESTABLISHMENT APPLICATION PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), THE APPLICANT MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

C. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE, IF THE DEPARTMENT FAILS TO ISSUE ANY MARIJUANA ESTABLISHMENT LICENSES PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION D ON OR BEFORE APRIL 5, 2021, EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY IN GOOD STANDING MAY BEGIN TO CULTIVATE, PRODUCE, PROCESS, MANUFACTURE, TRANSPORT AND TEST MARIJUANA AND MARIJUANA PRODUCTS AND MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS UNTIL THE DEPARTMENT ISSUES LICENSES TO OPERATE MARIJUANA ESTABLISHMENTS. IF THIS OCCURS, NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN GOOD STANDING SHALL:

1. BE TREATED AS MARIJUANA ESTABLISHMENTS FOR ALL PURPOSES UNDER THIS CHAPTER, AND THEIR NONPROFIT MEDICAL MARIJUANA ESTABLISHMENT AGENTS SHALL BE TREATED AS MARIJUANA FACILITY AGENTS FOR ALL PURPOSES UNDER THIS CHAPTER.
2. COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE, EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

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Section 5. Title 42, Chapter 5, Arizona Revised Statutes, is amended by adding article 10 to read:

ARTICLE 10.
MARIJUANA AND MARIJUANA PRODUCTS

42-5451. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CONSUMER," "DUAL LICENSEE," "MARIJUANA," "MARIJUANA ESTABLISHMENT" AND "MARIJUANA PRODUCTS" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.
2. "DESIGNATED CAREGIVER," "NONPROFIT MEDICAL MARIJUANA DISPENSARY" AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

42-5452. Levy and rate of tax; effect of federal excise tax

A. THERE IS LEVIED AND THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON ALL MARIJUANA AND MARIJUANA PRODUCTS SOLD TO A CONSUMER BY A MARIJUANA ESTABLISHMENT AT A RATE OF SIXTEEN PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD. THIS SUBSECTION DOES NOT APPLY TO MARIJUANA DISPENSED TO A REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER PURSUANT TO TITLE 36, CHAPTER 28.1 BY A DUAL LICENSEE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.

B. IF THE UNITED STATES LEVIES AND COLLECTS AN EXCISE TAX ON MARIJUANA AND MARIJUANA PRODUCTS, THE AGGREGATE OF FEDERAL AND STATE EXCISE TAXES MAY NOT EXCEED A RATE OF THIRTY PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD, AND THE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE LOWERED ACCORDINGLY AND AUTOMATICALLY ON THE EFFECTIVE DATE OF THE FEDERAL EXCISE TAX.

C. A PRODUCT SUBJECT TO THE TAX IMPOSED BY THIS SECTION MAY NOT BE BUNDLED WITH A PRODUCT OR SERVICE THAT IS NOT SUBJECT TO THE TAX IMPOSED BY THIS SECTION.

D. THE TAX LEVIED AND COLLECTED PURSUANT TO THIS SECTION SHALL NOT BE INCLUDED IN COMPUTING THE TAX BASE, GROSS PROCEEDS OF SALES OR GROSS INCOME OF A MARIJUANA ESTABLISHMENT

FOR PURPOSES OF TITLE 42, CHAPTERS 5 AND 6, AND IS NOT SUBJECT TO ANY TRANSACTION PRIVILEGE, SALES, USE OR OTHER SIMILAR TAX LEVIED BY A COUNTY, CITY, TOWN OR SPECIAL TAXING DISTRICT.

E. NOTWITHSTANDING SECTION 42-3102, THE DEPARTMENT SHALL DEPOSIT ALL MONIES LEVIED AND COLLECTED PURSUANT TO THIS SECTION IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

42-5453. Return statement and payment by marijuana establishment; penalty; interest; rules; confidential information

A. THE TAX IMPOSED BY THIS ARTICLE IS DUE AND PAYABLE, TOGETHER WITH A RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT, FOR EACH MONTH ON OR BEFORE THE TWENTIETH DAY OF THE SUCCEEDING MONTH.

B. A MARIJUANA ESTABLISHMENT THAT FAILS TO PAY THE TAX IMPOSED BY THIS ARTICLE WITHIN TEN DAYS AFTER THE DATE THE PAYMENT IS DUE IS SUBJECT TO AND SHALL PAY A PENALTY DETERMINED UNDER SECTION 42-1125, PLUS INTEREST AT THE RATE DETERMINED PURSUANT TO SECTION 42-1123, FROM THE TIME THE TAX WAS DUE AND PAYABLE UNTIL PAID. THE DEPARTMENT MAY WAIVE ANY PENALTY OR INTEREST IF IT DETERMINES THAT THE MARIJUANA ESTABLISHMENT HAS MADE A GOOD FAITH ATTEMPT TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

C. THE MONTHLY RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT SHALL INCLUDE AN ACCOUNTING OF THE QUANTITY OF MARIJUANA THAT IS SOLD BY A MARIJUANA ESTABLISHMENT THAT IS SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE DURING THE TAX MONTH.

D. ALL PENALTIES AND INTEREST COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

E. THE DEPARTMENT MAY ADOPT RULES THAT ARE NECESSARY OR CONVENIENT TO ENFORCE THIS ARTICLE, EXCEPT THAT THOSE RULES MAY NOT CONFLICT WITH TITLE 36, CHAPTER 28.2.

F. THE DEPARTMENT MAY SHARE CONFIDENTIAL INFORMATION AS DEFINED IN SECTION 42-2001 WITH THE DEPARTMENT OF HEALTH SERVICES FOR ITS USE IN DETERMINING WHETHER A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE IS IN COMPLIANCE WITH TAX OBLIGATIONS UNDER THIS TITLE OR TITLE 43.

Section 6. Title 43, Chapter 1, article 1, Arizona Revised Statutes, is amended by adding Section 43-108 to read:

43-108. Subtraction from gross income; ordinary and necessary expenses; marijuana establishments and marijuana testing facilities; definitions

A. NOTWITHSTANDING ANY OTHER LAW, IN COMPUTING ARIZONA ADJUSTED GROSS INCOME OR ARIZONA TAXABLE INCOME FOR A TAXPAYER, ALL ORDINARY AND NECESSARY EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON A TRADE OR BUSINESS AS A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY, OR DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO TITLE 36, CHAPTER 28.2 SHALL BE SUBTRACTED FROM ARIZONA GROSS INCOME TO THE EXTENT NOT ALREADY EXCLUDED FROM ARIZONA GROSS INCOME.

B. FOR THE PURPOSES OF THIS SECTION, "DUAL LICENSEE," "MARIJUANA ESTABLISHMENT," AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

Section 7. Voter Protection Act

For the purposes of the Voter Protection Act, Ariz. Const. art. IV, pt. 1, § 1(6)(C), the People of the State of Arizona declare that the following acts of the Legislature would further the purpose of this act:

1. Enacting a per se law for the presumption of marijuana impairment based on the concentration of delta-9 tetrahydrocannabinol in a person's body when scientific research on the subject is conclusive and the National Highway Traffic Safety Administration recommends the adoption of such a law.
2. Reducing or eliminating any offense, offense level or penalty provided for in this act.
3. Increasing the amount of marijuana that a person may lawfully possess.
4. Amending the provisions of this act to align more closely with federal laws and regulations if marijuana is legalized or decriminalized by the federal government, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.
5. Amending the provisions of this act to align more closely with federal laws and regulations governing the possession, processing, cultivation, transport, or transfer of industrial hemp, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.
6. Increasing the number of marijuana establishment licenses by up to 10 percent in furtherance of the social equity ownership program established by this act.
7. Facilitating the expungement and sealing of records of arrests, charges, convictions, adjudications and sentences that were predicated on conduct made lawful by this act, including by automatic means, and otherwise preventing or mitigating prejudice to individuals whose arrests, charges, convictions, adjudications or sentences are expunged.

FILED
SEP 2 6 2019
ARIZONA SECRETARY OF STATE

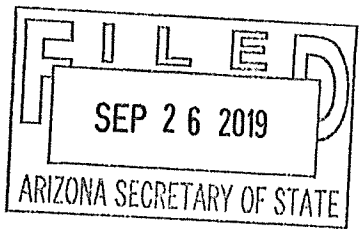
8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

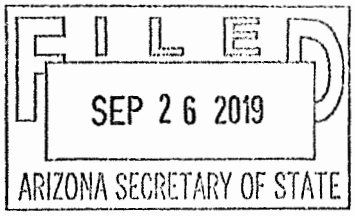
Section 8. Exemption from rulemaking

For the purposes of this act, and for sixty months after the effective date of this act, the department of revenue and the department of health services are exempt from (a) any executive order or other directive purporting to limit or restrict their ability to adopt new rules, and (b) the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise exempted rules.

Section 9. Severability

If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof.




FILED
SEP 26 2019
ARIZONA SECRETARY OF STATE

ORDINANCE NO. 4484

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ADDING CHAPTER 25 TO THE SCOTTSDALE REVISED CODE, RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; PROHIBITING RECREATIONAL MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES; SETTING FORTH VIOLATIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY

WHEREAS, marijuana contains tetrahydrocannabinol ("THC"), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in the City of Scottsdale according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as "Smart and Safe Arizona Act" was certified as Proposition 207, placed on the November 3, 2020 general election ballot and adopted by the voters of Arizona. Proposition 207 contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over twenty-one (21) years or older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services ("Department") to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department or another entity designated by the Department to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the City finds that Proposition 207 authorizes marijuana establishments and testing facilities, which may involve the use of chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate;

WHEREAS, such marijuana establishments pose a threat to the health, safety, security, peace and welfare of the community and increases the responsibilities of law enforcement and other City departments to respond to violations of state and local laws, including building, electrical, plumbing, and fire codes;

ATTACHMENT 2

WHEREAS, the City seeks to protect the public's health, safety, and welfare by prohibiting marijuana establishments and/or marijuana testing facilities in the City to the fullest extent allowed by law and further seeks to protect the public's health, safety, and welfare by prohibiting by the use, possession, sale, production, cultivation and smoking of marijuana on public property.

BE IT ORDAINED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. The recitals above are fully incorporated in this Ordinance by reference.

Section 2. Scottsdale Revised Code, Chapter 25 is hereby added to the Scottsdale Revised Code as follows:

CHAPTER 25 - RECREATIONAL MARIJUANA.

ARTICLE I. – GENERAL.

Sec. 25-1. – Purpose.

This chapter is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal use and as otherwise provided in this chapter, the City prohibits the retail sale, cultivation, storage, processing, testing, and manufacturing of marijuana and marijuana products in the City. Nothing in this chapter is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, storage, or use of marijuana or marijuana products in violation of any applicable law.

Sec. 25-2. - Definitions.

The below words and phrases, wherever used in this chapter, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

A. *"Chemical Extraction"* means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.

B. *"Chemical Synthesis"* means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.

C. *"Consume," "Consuming,"* and *"Consumption"* mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.

D. *"Consumer"* means an individual who is at least twenty-one (21) years of age and who purchases marijuana or marijuana products.

E. *"Cultivate"* and *"Cultivation"* mean to propagate, breed, grow, prepare, and package marijuana.

F. *"Deliver" and "Delivery"* mean the transportation, transfer or provision of

marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.

G. *"Department"* means the State of Arizona Department of Health Services or its successor agency.

H. *"Dual Licensee"* means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.

I. *"Electronic cigarette"* means any product containing or delivering nicotine, marijuana or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

J. *"Extraction"* means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.

K. *"Independent third-party laboratory"* means an entity that has a national or international accreditation and that is certified by the department to analyze marijuana cultivated for medical use.

L. *"Light"* means to burn, kindle or ignite including via electronic ignition or use of a mechanical heating element or battery.

M. *"Manufacture"* and *"Manufacturing'* means to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

N. "Marijuana"

1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.

2. Includes cannabis as defined in A.R.S. § 13-3401.

3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

O. "Marijuana Concentrate."

1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.

2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

P. *"Marijuana Establishment"* means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.

2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

Q. *"Marijuana Products"* means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

R. *"Marijuana Testing Facility"* means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

S. *"Nonprofit Medical Marijuana Dispensary"* means a non-profit entity as defined in A.R.S. § 36-2801(12).

T. *"Open Space,"* means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

U. *"Person"* means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

V. *"Process"* and *"Processing"* means to harvest, dry, cure, trim or separate parts of the marijuana plant.

W. *"Public Place"* has the same meaning prescribed in the Smoke-Free- Arizona Act, A.R.S. § 36-601.01.

X. *"Smoke"* means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic. To the extent permitted by law, "smoke" shall also mean the use of an electronic cigarette.

Sec. 25-3 -Marijuana and Smoking Marijuana Prohibited on Public Property.

A. Within the City of Scottsdale, the use, sale, cultivation, manufacture, production,

storage, or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by the City, this state or any of its political subdivisions, including school districts.

B. Within the City of Scottsdale, it is unlawful for an individual to smoke marijuana or consume marijuana products on property that is occupied, owned, controlled or operated by the City, this state or any of its political subdivisions, including school districts. This subsection shall not apply to lawful activities of law enforcement agencies.

C. It is unlawful for an individual to smoke marijuana or consume marijuana products in any open space in the City.

D. It is unlawful for an individual to smoke in a public place in the City.

E. A violation of subsection A above is a class one misdemeanor, and any other violation of this section is a petty offense.

Sec. 25-4. - Marijuana Establishment Prohibited; Dual Licensee Exception.

A. The operation of a marijuana establishment is prohibited in the City, except where authorized for a dual licensee who:

1. Operates both a licensed nonprofit medical marijuana dispensary and a licensed marijuana establishment cooperatively in a shared location; and

2. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

Sec. 25-5. - Marijuana Testing Facility Prohibited.

The operation of a marijuana testing facility except for an independent third-party laboratory is prohibited in the City.

Sec. 25-6. – Delivery Prohibited.

A. No person except a dual licensee or a nonprofit medical marijuana dispensary shall deliver marijuana or marijuana products to a consumer.

B. A violation of this section is a class one misdemeanor.

Sec. 25-7. – Unlawful facilitation of delivery or use of marijuana or products; unlawful solicitation or acceptance of marijuana orders or products.

A. It is unlawful for an individual or entity other than a dual licensee, nonprofit medical marijuana dispensary or marijuana establishment to do any of the following within the City of Scottsdale in a manner that is not authorized by A.R.S. Chapter 28.2 or rules adopted by the Arizona Department of Health Services:

1. Facilitate the delivery or use of marijuana or marijuana products.

2. Solicit or accept orders for marijuana or marijuana products or operate a platform

that solicits or accepts orders for marijuana or marijuana products.

B. A violation of this section is a civil offense and any individual or entity who violates this section is subject to a one thousand-dollar ($1,000) fine per violation.

Sec. 25-8. – Unlawful consumption of marijuana within motor vehicles, boats, aircraft, other vehicles or other devices used for transportation.

A. It shall be unlawful for any person to consume marijuana or marijuana products while driving or operating a motor vehicle, boat, aircraft, other vehicle or any form of conveyance, transportation or device defined in Chapter 17 of this code. A violation of this subsection is a class one misdemeanor.

B. It shall be unlawful for any person to consume marijuana or marijuana products while riding in the passenger seat or compartment, including the bed of a pick-up truck, of any motor vehicle, boat, aircraft, other vehicle or any form of conveyance, transportation or device defined in Chapter 17 of this code. A violation of this subsection is a class two misdemeanor.

Sec. 25-9. - Violations; Enforcement; Penalties.

A. It is unlawful and a violation of this chapter for a person to sell, cultivate, process, manufacture, store, or transport marijuana or marijuana products if the person fails to meet all the requirements in this chapter or state law, including the Department's rules.

B. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense.

C. Except as otherwise provided in A.R.S. § 36-2853, A.R.S. § 36-2854 or as otherwise provided above, any violation of this chapter shall be a class one misdemeanor.

D. Violations of this chapter are in addition to any other violation enumerated within the Scottsdale Revised Code and in no way limit the penalties, actions or abatement procedures which may be taken by the City for any violation of this chapter that is also a violation of any other ordinance or Code provision of the City or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this chapter shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.

E. The remedies provided in this chapter shall be cumulative and in addition to any other federal, state or local remedy that may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order or regulation.

Section 3. In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the City Council has considered the individual property rights and personal liberties of the residents of the City before adopting this ordinance.

Section 4. The City finds that Proposition 207 may go into effect as early as

December 1, 2020 and further finds that Proposition 207 authorizes marijuana establishments and testing facilities which may include, but is not limited to, dangers such as the use of chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the public's health, safety, security and peace and increases the responsibilities of law enforcement and other City departments to respond to violations of state and local laws, including building, electrical, plumbing, and fire codes;

Section 5. The City hereby declares an emergency to exist making the immediate operation of the provisions of this ordinance necessary to preserve the public's peace, health, safety and security by prohibiting marijuana establishments and/or marijuana testing facilities in the City to the fullest extent permitted by Proposition 207 and further prohibiting the use, possession, sale, production, cultivation and smoking of marijuana on public property and further requiring this ordinance to be in full force and effect immediately upon its passage by the Council as set forth in the City Charter;

Section 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference 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 remaining portions thereof.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this 30th day of November, 2020.

CITY OF SCOTTSDALE, an Arizona municipal corporation

FOR

W.J. "Jim" Lane, Mayor

ATTEST:

Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

Sherry R. Scott
City Attorney
By: Luis E. Santaella
Deputy City Attorney

Sec. 1.403 – Additional conditions for specific conditional uses.

L. *Medical marijuana caregiver cultivation.*

1. All operations are conducted within a completely enclosed building, in conformance with Arizona Revised Statutes, Title 36, Chapter 28.1, Arizona Medical Marijuana Act, and regulations issued thereunder, as amended.

2. The medical marijuana caregiver cultivation use is at least one thousand five hundred (1,500) feet from the following uses within the City limits:

   a. Any residential use in a residential district shown on Table 4.100.A., or the residential portion of a Planned Community PC or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., and

   b. Any **Educational service, elementary and secondary school** ~~elementary or secondary school or pre-school~~.

   c. Any Place of worship.

   d. Any Day care.

   e. Any ~~Public park~~ **City park or park**.

3. The medical marijuana caregiver cultivation use is at least two thousand six hundred forty (2,640) feet from the following uses within the City limits:

   a. Another medical marijuana caregiver cultivation use, or

   b. Any ~~medical~~ marijuana use.

   However, no separation between these uses is required in the Industrial Park I-1 where a medical marijuana caregiver cultivation use and a ~~medical~~ marijuana use hold a state issued caregiver registry identification card and a nonprofit medical marijuana dispensary registration certificate, respectively, under the same name or organization.

4. All distances are measured from the wall of the medical marijuana use nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.

5. The property owner has provided a written exterior refuse control plan, subject to City approval.

6. The property owner has provided a written public safety plan, subject to City approval.

M. ~~*Medical m*~~ ***M****arijuana use*.

1. *Active Permitted Uses Existing as of September 30, 2016.* Active ~~Medical m~~**M**arijuana uses legally established and operating under a valid Conditional Use Permit before September 30, 2016, including extensions, renewals, and amendments to existing approvals, shall be subject to the following conditions:

ATTACHMENT 3

a. **A marijuana operation for recreational purposes is only permitted in establishments that hold both a valid non-profit medical marijuana dispensary registration and a marijuana establishment license.**

~~a.~~ **b**. All operations are conducted within a completely enclosed building, in conformance with Arizona Revised Statutes, Title 36, Chapter 28.1, Arizona Medical Marijuana Act, and regulations issued thereunder, as amended.

~~b~~ **c.** The ~~medical~~ marijuana use is at least five hundred (500) feet from the following uses within the City limits:

(1) Any residential use in a residential district shown on Table 4.100.A., or the residential portion of a Planned Community PC or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A., and

(2) Any **Educational service, elementary or secondary school** ~~elementary or secondary school or pre-school~~.

~~c~~ **d**. The ~~medical~~ marijuana use is at least one thousand three hundred twenty (1,320) feet from the following uses within the City limits:

(1) Medical marijuana caregiver cultivation use, or

(2) Another ~~medical~~ marijuana use.

However, no separation between these uses is required in the Industrial Park District I-1 where a medical marijuana caregiver cultivation use and a ~~medical~~ marijuana use hold a state issued caregiver registry identification card and/or a nonprofit medical marijuana dispensary registration certificate under the same name or organization.

~~d~~ **e**. All distances are measured from the wall of the ~~medical~~ marijuana use nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.

~~e~~ **f**. The property owner has provided a written exterior refuse control plan, subject to City approval.

~~f~~ **g**. The property owner has provided a written public safety plan, subject to City approval.

~~g~~ **h**. The hours of operation for a ~~medical~~ marijuana use that provides, shares, exchanges, sells, or dispenses ~~medical~~ marijuana are no earlier than 6:00 a.m. and no later than 7:00 10:00 p.m.

~~h~~ **i**. There is no drive-through service, take-out window, or drive-in service.

2. *Permits Issued After September 30, 2016.* ~~Medical m~~**M**arijuana uses seeking a Conditional Use Permit after September 30, 2016, shall be subject to the following conditions:

a. **A marijuana operation for recreational purposes is only permitted in establishments that hold both a valid medical marijuana dispensary registration and a marijuana establishment license.**

~~a~~ **b**. All operations are conducted within a completely enclosed building, in conformance with Arizona Revised Statutes, Title 36, Chapter 28.1, Arizona Medical Marijuana Act, and regulations issued thereunder, as amended.

~~b~~ **c**. The ~~medical~~ marijuana use is at least one thousand five hundred (1,500) feet from the following uses within the City limits:

(1) Any residential use in a residential district shown on Table 4.100.A., or the residential portion of a Planned Community PC or any portion of a Planned Residential Development PRD with an underlying zoning district comparable to the residential districts shown on Table 4.100.A.

~~(2)~~ Any **Educational service, elementary and secondary school** ~~elementary, secondary or pre-school.~~

(3) Any Place of worship.

(4) Any Day care.

(5) Any ~~Public park~~ **City park or park**.

~~c~~ **d**. The ~~medical~~ marijuana use is at least two thousand six hundred forty (2,640) feet from the following uses within the City limits:

(1) Medical marijuana caregiver cultivation use, or

(2) Another ~~medical~~ marijuana use.

However, no separation between these uses is required in the Industrial Park I-1 where a medical marijuana caregiver cultivation use or a ~~medical~~ marijuana use hold a state issued caregiver registry identification card and a nonprofit medical marijuana dispensary registration certificate, respectively, under the same name or organization.

~~d~~ **e**. All distances are measured from the wall of the ~~medical~~ marijuana use nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.

~~e~~ **f**. The property owner has provided a written exterior refuse control plan, subject to City approval.

~~f~~ **g**. The property owner has provided a written public safety plan, subject to City approval.

~~g~~ h. The hours of operation for a ~~medical~~ marijuana use that provides, shares, exchanges, sells, or dispenses ~~medical~~ marijuana are no earlier than 6:00 a.m. and no later than 10:00 p.m.

~~h~~ **i**. There is no drive-through service, take-out window, or drive-in service.

Sec. 3.100 – General.

City park or park **means land within the City limits owned and operated by the City for public recreation purposes that has been designated as a park by the City as depicted on the parks master plan, as amended.**

*~~Medical m~~**M**arijuana* is all parts of the plant of the genus cannabis, whether growing or not, ~~and the seed of such plant that can be administered to treat or alleviate a condition(s) of a medical marijuana qualifying patient cardholder.~~ **as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin and cannabis. Marijuana does not include industrial hemp, the fiber from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products and cannabidiol (CBD) oil products.**

*~~Medical m~~**Marijuana** use* is an establishment where ~~medical~~ marijuana may be acquired, grown or cultivated, ~~harvested,~~ prepared, processed, manufactured, compounded, encapsulated, infused, packaged, dispensed, sold **and** provided, ~~shared and exchanged~~; and as an accessory use ~~medical~~ marijuana related supplies and educational materials may be provided or sold**, and excluding third-party licensed marijuana testing facilities, designated caregiver marijuana cultivation and personal marijuana cultivation.**

Sec. 11.201 – Use Regulations

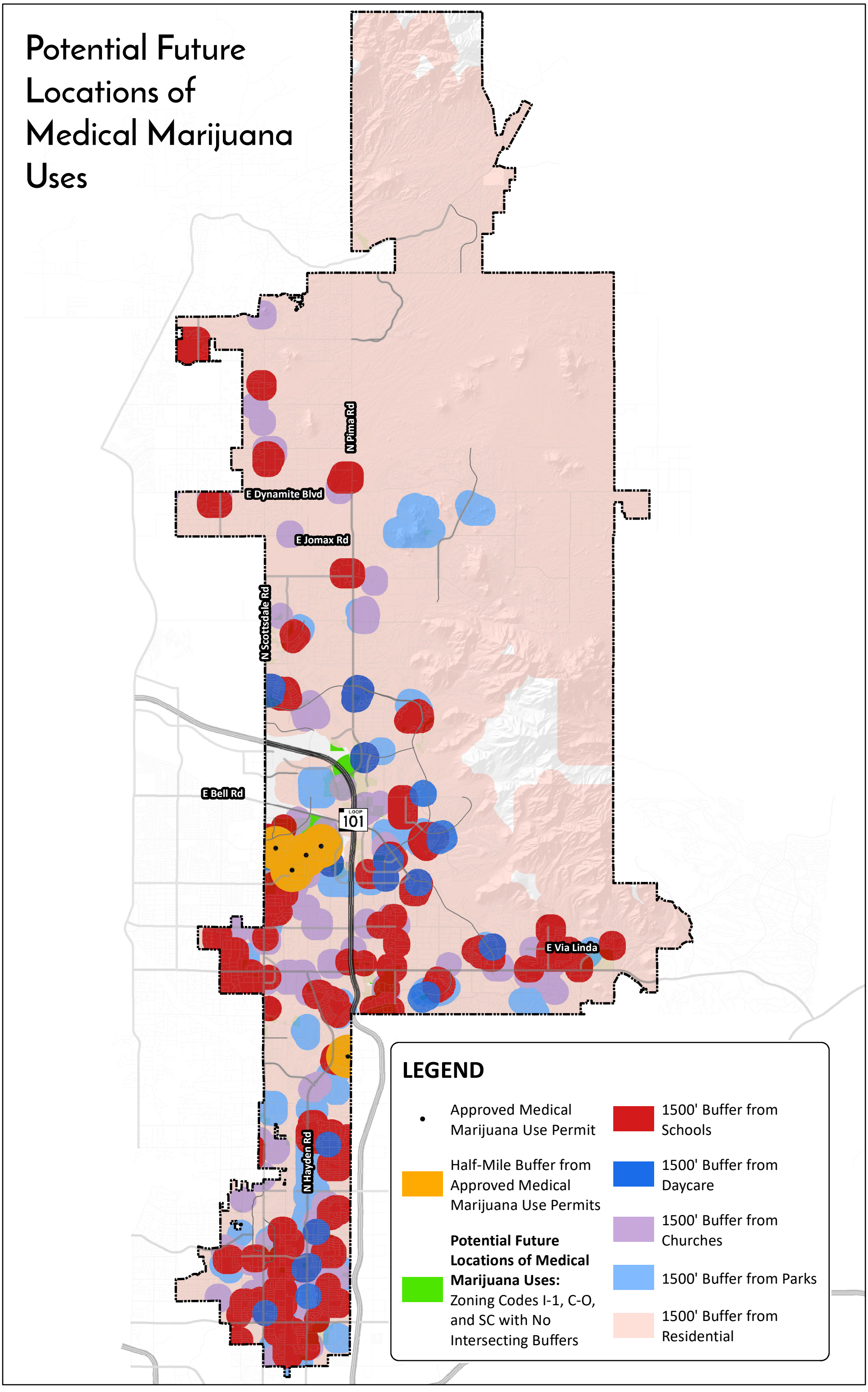
Modify uses in Table 11.201.A as follows:

~~Medical m~~**Marijuana** use

~~Medical m~~**Marijuana** use, excluding ~~medical~~ marijuana cultivation

No change to allowed zoning districts. A Marijuana use excluding cultivation is permitted in C-O and S-C. A marijuana cultivation use is only permitted in I-1.
CUP still required

Potential Future Locations of Medical Marijuana Uses



ATTACHMENT 4

Please publish the following as an 8th Page Ad:

Project Name: Marijuana Text Amendment (Prop. 207)
Case Numbers: 6-TA-2020
Location: Citywide

Purpose: Request by the City of Scottsdale to amend the Zoning Ordinance (Ord. No. 455), Section 1.403 (Additional conditions for specific conditional uses), Section 3.100 (Definitions) and Article XI (Land Use Tables), in compliance with state statute.

Staff contact persons: Greg Bloemberg (480) 312-4306 **Email:** gblo@scottsdaleaz.gov

For additional information visit our web site at www.scottsdaleaz.gov search "Scottsdale Planning Case Files" or in your URL search bar you can type in https://eservices.scottsdaleaz.gov/bldgresources/Cases/

A COPY OF A FULL AGENDA, INCLUDING ITEMS CONTINUED FROM PREVIOUS MEETINGS IS AVAILABLE AT LEAST 24 HOURS PRIOR TO THE MEETING AT THE FOLLOWING:
Online at: http://www.ScottsdaleAZ.gov/Boards/planning-commission

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NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Scottsdale, Arizona, will hear public comment regarding these cases at the hearing listed below:

Hearing Date: **May 12, 2021 @ 5:00 P.M.**
Location: **Meeting will be held electronically and remotely**

Attest
Bronte Ibsen
Planning Specialist

PERSONS WITH A DISABILITY MAY REQUEST A REASONABLE ACCOMMODATION BY CONTACTING THE CLERK'S OFFICE AT (480-312-2412). REQUESTS SHOULD BE MADE 24 HOURS IN ADVANCE, OR AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE ACCOMMODATION. FOR TTY USERS, THE ARIZONA RELAY SERVICE (1-800-367-8939) MAY CONTACT THE CLERK'S OFFICE AT (480-312-2412).

ATTACHMENT 5

Public Notices

NOTICE OF OPEN HOUSE

SEEKING COMMUNITY INPUT ON PROPOSED REVISIONS TO THE CITY OF SCOTTSDALE ZONING ORDINANCE FOR THE FOLLOWING CASES:

Marijuana Text Amendment (Prop. 207)

City-Wide Text Amendment

Case Number: 6-TA-2020

The City of Scottsdale is preparing a text amendment to the City of Scottsdale Zoning Ordinance (Ord. No. 455), Section 1.403 (Additional conditions for specific conditional uses), Section 3.100 (Definitions) and Article XI (Land Use Tables), and any other affected sections, in response to recent Arizona voter-approved legislation (Prop. 207) legalizing recreational marijuana.

The City of Scottsdale will hold two separate Virtual Open Houses related to the proposed text amendment.

Tuesday, March 23, 2021
5:30-6:30 PM
and
Thursday, March 25, 2021
5:30-6:30 PM



Additional project information and registration for this Virtual Open House can be found by going to ScottsdaleAZ.gov and searching "Marijuana Text Amendment."

Parking Text Amendment

City-Wide Text Amendment

Case Number: 5-TA-2020

The City of Scottsdale is preparing a text amendment to the City of Scottsdale Zoning Ordinance (Ord. No. 455) for the purpose of amending Article IX Parking and Loading Requirements, including any applicable sections related to the required parking for hotels, multi-family residential, and office, including the in-lieu parking program; and Section 7.1200. Special Public Improvements – requirements for bonus development standards, as it relates to public parking.

The City of Scottsdale will hold two separate Virtual Open Houses related to the proposed text amendment.

Tuesday, March 30, 2021
5:30-6:30 PM
and
Thursday, April 1, 2021
5:30-6:30 PM



Additional project information and registration for this Virtual Open House can be found by going to ScottsdaleAZ.gov and searching "Parking Text Amendment."

CHAIRMAN

Attest
BRONTE IBSEN

For additional information visit our web site at www.scottsdaleaz.gov

PERSONS WITH A DISABILITY MAY REQUEST A REASONABLE ACCOMMODATION BY CONTACTING THE CLERK'S OFFICE AT (480-312-7620). REQUESTS SHOULD BE MADE 24 HOURS IN ADVANCE, OR AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE ACCOMMODATION. FOR TTY USERS, THE ARIZONA RELAY SERVICE (1-800-367-8939) MAY CONTACT THE CLERK'S OFFICE AT (480-312-7620).

Published: Scottsdale Progress, Mar 14, 2021/ 36969

Legal Notices

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AR-GCI0607254-01

Question Report

Report Generated: 3/26/2021 10:04

Topic	Webinar ID	Actual Start Time	Actual Duration (minutes)	# Question
Marijuana Text Amendment (Prop. 207) Open House	965 2873 3843	3/23/2021 17:02	88	5

Question Details

#	Question	Asker Name	Asker Email	Answer(s)
1	Nothing is said in the documents regarding the ability of a dealer to deliver orders to shoppers. I beleive delivery should not be allowed.	David Brotman	sunset100@verizon.net	live answered
2	can we limit future locations?	David Brotman	sunset100@verizon.net	live answered
3	Thatt's additional ;locations	David Brotman	sunset100@verizon.net	live answered
4	But can we say that the cannot have more than say 5 locations?	David Brotman	sunset100@verizon.net	live answered
5	Tim Curtis, yes	T	tcurtis@scottsdaleaz.gov	

Question Report

Report Generated: 3/26/2021 10:03

Topic	Webinar ID	Actual Start Time	Actual Duration (minutes)	# Question
Marijuana Text Amendment (Prop. 207) Open House	921 7451 6775	3/25/2021 17:16	74	7

Question Details

#	Question	Asker Name	Asker Email	Answer(s)
1	Ok got it	Michelle Green	mgreen@lslawaz.com	
2	i can see it	Michelle Green	mgreen@lslawaz.com	
3	I'm representing a client to obtain a CUP at the southeast corner of greenway hayden loop an frank lloyd wright.	Michelle Green	mgreen@lslawaz.com	live answered
4	it does and we have had a pre application meeting	Michelle Green	mgreen@lslawaz.com	
5	Bryan Cluff, we meet the distance criteria	Michelle Green	mgreen@lslawaz.com	
6	We do	Michelle Green	mgreen@lslawaz.com	
7	mgreen@lslawaz.com	Michelle Green	mgreen@lslawaz.com	

Approved March 25, 2021

CITY OF SCOTTSDALE
NEIGHBORHOOD ADVISORY COMMISSION
REGULAR MEETING
MINUTES

WEDNESDAY, FEBRUARY 24, 2021

MEETING HELD ELECTRONICALLY

PRESENT: Rachel Putman, Chair
William James, Vice Chair
Jonathan Budwig, Commissioner
Louise Lamb, Commissioner
Carol Miraldi, Commissioner
Amanda Nash, Commissioner (arrived at 5:04 p.m.)
Michael Wills, Commissioner

STAFF: Greg Bloemberg, Senior Planner
Taylor Reynolds, Project Coordination Liaison
Brandon McMahon, Associate Planner

Call to Order/Roll Call

The meeting of the Neighborhood Advisory Commission was called to order at 5:00 p.m. A formal roll call was conducted, confirming members present as stated above.

Public Comment

No comments were submitted.

1. Approve Draft Summary Meeting Minutes January 27, 2021

Chair Putman called for comments/corrections.

COMMISSIONER LAMB MOVED TO APPROVE THE MINUTES OF THE JANUARY 27, 2001, MEETING AS PRESENTED. COMMISSIONER MIRALDI SECONDED THE MOTION, WHICH CARRIED SIX (6) TO ZERO (0) WITH CHAIR PUTMAN, VICE CHAIR JAMES, COMMISSIONERS BUDWIG, LAMB, MIRALDI AND WILLS VOTING IN THE AFFIRMATIVE WITH NO DISSENTING VOTES. COMMISSIONER NASH WAS NOT YET PRESENT.

2. 6-TA-2020: Marijuana Text Amendment (Prop. 207)

Greg Bloemberg, Senior Planner, provided a brief background of the issue beginning with the historical timeline for legalized uses of marijuana for medical purposes in the State of Arizona and the related ordinances for Scottsdale. Currently five locations are approved and operating as medical marijuana uses in Scottsdale, four dispensaries and one cultivation site. Permits are valid for five years.

Vice Chair Nash arrived at 5:04 p.m.

Locations of dispensaries and the cultivation site were identified. Prop 207, legalizing recreational use, was approved by voters and adopted in November, 2020. Cities may adopt reasonable zoning to regulate the sale and use. Sale of recreational marijuana can only be banned outright if a city does not presently have any medical marijuana dispensaries within its jurisdiction. Therefore, Scottsdale must provide the opportunity for the sale of recreational marijuana. The state is still developing rules and regulations to enforce the new law. The City's proposal is that the sale of recreational marijuana will only be permitted with a valid State certification for a medical marijuana dispensary (dual license). If the amendment goes through as proposed, the sale of recreational marijuana will only be permitted at the four existing dispensaries. Others who wish to sell recreational marijuana in Scottsdale must also be able to prove that they have a medical marijuana certificate. A conditional use permit will be required with basically the same criteria as medical marijuana uses. Permitted zoning districts will not change. They will not be permitted in any general commercial district. The amendment will update definitions in the zoning ordinance to align with state law. All references to medical will be eliminated and the intent is to consolidate everything into one marijuana use definition.

The timeline includes virtual open houses in March. Staff will then go before the Planning Commission as a non-action item for feedback, questions and comments, Planning Commission shortly thereafter and then City Council review and adoption.

In response to a question from Vice Chair James, Mr. Bloemberg stated that a CUP is a conditional use permit, which is a City process to acquire a special use permit to operate. It requires Planning Commission and City Council approval.

Vice Chair James identified a point of contention, in that the way the proposition was written was seen as a giveaway to the operators of medical marijuana sites and would essentially block out anyone else. In addition, the proposition included wording regarding providing an advantage to communities that had been adversely affected by marijuana laws and that it was going to be easier for these communities to have a nonmedical dispensary. Mr. Bloemberg stated that City staff is still drafting the text amendment and pending conversations with the Legal department. In 2010, City Council deemed that the three identified districts were most appropriate for such businesses and that the uses at the time (medical), be treated as medical offices. The proposition allows cities to adopt reasonable zoning regulations. In terms of the recreational side, it makes sense from a process and regulation perspective to only allow these types of uses in conjunction

with a medical marijuana use to prevent proliferation of recreational uses throughout the City.

Chair Putman asked whether the ordinance requires product testing before sale in a dispensary and whether any of the requirements relate to testing sites and labs. Mr. Bloemberg stated that state licensed testing facilities will be excluded from the definition of medical marijuana use. Only the dispensaries and cultivation facilities will be regulated by the ordinance.

Chair Putman asked about the potential effect on the cost of a medical marijuana card. Mr. Bloemberg acknowledged that he does not have information on this. The state is still vetting the rules and regulations. Clarifications on details are expected in mid-March.

Commissioner Nash asked for further clarification on the zoning definitions. Mr. Bloemberg stated that CO is commercial office; I-1 is industrial park; and SC is special campus, primarily hospital campuses.

Commissioner Nash asked about the regulations being contemplated on the Salt River Pima-Maricopa Community. Mr. Bloemberg said that the City does not have information as to how Native American communities will be handling the regulations. He is unaware how such communities have handled the medical marijuana aspects, however he will be looking into this. Every city is different. For medical marijuana, some municipalities that do not require any conditional use permit or special zoning approval. Each city will likely have its own regulations and rules, as will Native American communities. Commissioner Nash said it would be interesting to see the borders of the map with this information added. Mr. Bloemberg said that the Salt River Pima-Maricopa Community border is at Pima Road.

Commissioner Nash asked about input received from the Downtown community and the Economic Development Department and how it has affected the text amendment. Mr. Bloemberg stated that he has not received much input from these areas. A private applicant is working on a text amendment, zoning and conditional use permit to allow medical marijuana dispensaries in the Old Town/Downtown area. This is not driven by the City. This has been tabled for the time being for several reasons, including the fact that the City is still working on its regulations for recreational marijuana. In addition, the City does not yet know the rules and regulations for the state.

3. 1-GP-2021: Draft Scottsdale General Plan 2035

Taylor Reynolds, Project Coordination Liaison, reviewed that staff was before the Commission a year ago to seek membership on the Citizen Review Committee (CRC). The General Plan is a broad-based policy document, providing the community's vision and guiding broad decision making for the community. It is not a zoning ordinance, which means it does not serve a regulatory purpose. It is a not a budgeting item nor specific project and not merely a land use map. State law requires the City to have a General Plan, effective for up to ten years and required to be updated every ten years. The process involves enhanced public

outreach, going before the Planning Commission for recommendations and City Council adoption. Following City Council adoption, it must proceed through the public ratification process by public vote. The current 2001 General Plan was adopted in 2001 and ratified by public vote in 2002. The General Plan update process proceeded in 2011. It was subsequently adopted, however failed at the public vote in 2012. Thus, the 2001 General Plan remains in effect. The 2035 General Plan update process was intended to update the General Plan and remain within state statute requirements. That process occurred between 2012 and 2014. It included a City Council appointed task force, which met over the course of 32 public meetings as well as a rigorous outreach process. Although the plan never reached the point of presentation to the Planning Commission or City Council, it was utilized as a baseline for the citizen review process. Much of the work put in by the task force was upheld and/or reinforced by the more recent work completed by the CRC.

The CRC was composed of 13 members from the 13 boards and commissions (including NAC) with relevant and related content. The CRC met throughout 2020 via electronic meetings and completed its charge by reviewing the entire plan. They reviewed public comments line by line, to ensure that the draft plan was fully updated, included further clarity and incorporated new goals and policies. The process and timeline was reviewed, currently at Phase 4, public outreach and state required adoption. The plan will be put before the public at large, boards and commissions, Planning Commission and City Council. If approved, it would proceed for consideration of voter ratification this fall. A broad overview of plan contents was provided on the following elements, including community involvement, neighborhood preservation and revitalization and conservation, rehabilitation and redevelopment and implementation. Next steps were discussed.

Vice Chair James asked why the General Plan was voted down and whether there is confidence it will be approved this time. Mr. Bloemberg stated that the 2012 election was a special election, which generally results in lower voter turnout. There was also some community disapproval of resort development being approved at the time by City Council. The new plan is a continuation of the 2035 effort, which was initially penned by the task force. The 2011 plan was drafted by the working group.

Commissioner Miraldi commented that it took significant time and effort to develop the plan and encouraged everyone to read through it.

Commissioner Nash inquired what other issues will be on the November ballot. Mr. Bloemberg stated his understanding that it will be a special election and he is unaware of other items being on the ballot.

Chair Putman recognized Commissioner Miraldi for her service and efforts in representing the NAC on the development of the Plan.

Commissioner Lamb noted that public comment continues to come in and inquired as to any changes may still be made as a result of these comments. Mr. Bloemberg confirmed that public comment will continue to be collected. Staff is forwarding comments to the Planning Commission and City Council for continued review. Work study sessions continue with City Council and Planning

Commission in terms of review and public input. City Council is free to make changes up to the adoption date.

Commissioner Lamb referenced page 133, CL2.1 and expressed concern over the language, “Provide public notification, based on the characteristic.” Oftentimes public commenters at City Council meetings will state that they have never been notified regarding certain measures or developments. She asked whether there will be an expansion of notification requirements. Mr. Bloemberg stated that current notifications are based upon state statutes. Generally the City recommends that applicants go further in terms of their distance requirements for notification. If a case will more broadly affect the neighborhood at large, there is a push to stretch the limits of the distance requirement. There are also guiding state statute requirements. This particular policy may inform future policy decisions on distance requirements.

Commissioner Lamb addressed page 54, character and culture and referred to a printout regarding festive edge buffers and transitions (Downtown Scottsdale plan). It shows a gradual increase from a residential neighborhood to commercial to the height of the buildings. She has yet to see this happen in the City. She cited the condominiums on Miller Road between Osborn and 2nd Street, which does not represent a gradual increase from the infill incentive area. She inquired why this has occurred. Mr. Reynolds said he would have to look up the particular case being referenced in terms of when it was approved and the parameters under which it was approved. The document referenced may be the Old Town Scottsdale Character Area Plan or its urban design and architectural guidelines.

Commissioner James said he was very impressed with the Plan and stated it was difficult to see why anyone would object to the contents. There are a number of quality photographs accompanying the report, which shows people enjoying Scottsdale, attending public meetings, TPC and Barrett-Jackson. He noted that not one of the photographs included a person of color. Scottsdale has a ten percent Hispanic population, five percent Asian and two percent Black or African-American. The healthy community standard indicates, “Collaborate with multicultural, diverse community organizations to identify issues of discrimination within the City and develop programs to address them.” It further states, “Foster inclusivity and increase access for people of color and individuals with diverse sexual orientation or gender identity.” It may be a good idea to have a review of the photograph collection. Mr. Bloemberg stated that staff can take a look at that, in terms of diversity inclusion.

4. Identification of Future Agenda Items

Commissioner Nash inquired as to the status of the budget. Mr. Reynolds said he will pass this request to Adam Yaron, who would like to have a future item on the neighborhood enhancement grants. Vice Chair James noted that two meetings ago, Commissioner Miraldi requested that the item be put on the agenda. Mr. McMahon stated that a status of the program will be on the next meeting agenda.

Commissioner Miraldi noted that several meetings ago, a gentleman addressed the Commission regarding efforts to assist the homeless in Scottsdale. She would like to invite him back to provide an update.

Commissioner Miraldi asked for an update on the activities of Operation Fix-It.

5. Staff Updates

Mr. McMahon stated that Mr. Yaron will be presenting the 2019 and 2020 Spirit Award winners at the March 2nd City Council meeting.

The next meeting is currently scheduled for Wednesday, March 24th, however there may be staffing conflict with the Planning Commission. Staff will be contacting Commissioners in terms of scheduling.

6. Adjournment

With no further business to discuss, being duly moved by Vice Chair James and seconded by Commissioner Miraldi, the meeting adjourned at 5:58 p.m.

AYES: Chair Putman, Vice Chair James, Commissioners Budwig, Lamb, Miraldi and Nash. Commissioner Wills was not present at the time of adjournment.
NAYS: None

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