

JOINT FLAGSTAFF CITY COUNCIL/COCONINO COUNTY
WORK SESSION AGENDA

JOINT CITY/COUNTY WORK SESSION
WEDNESDAY
APRIL 28, 2021

STAFF CONFERENCE ROOM
SECOND FLOOR - CITY HALL
211 WEST ASPEN AVENUE
4:00 P.M.

ATTENTION

**IN-PERSON AUDIENCES AT CITY COUNCIL MEETINGS HAVE BEEN SUSPENDED UNTIL
FURTHER NOTICE**

The meetings will continue to be live streamed on the city's website
(<https://www.flagstaff.az.gov/1461/Streaming-City-Council-Meetings>)

PUBLIC COMMENT PROTOCOL

**The process for submitting a public comment has changed and public comments will no longer be
read by staff during the Council Meetings.**

All public comments will be taken either telephonically or accepted as a written comment.

Public comments may be submitted to publiccomment@flagstaffaz.gov

If you wish to address the City Council with a public comment by phone you must submit the
following information:

First and Last Name
Phone Number
Agenda Item number you wish to speak on

If any of this information is missing, you will not be called. We will attempt to call you only one
time. We are unable to provide a time when you may be called.

All comments submitted otherwise will be considered written comments and will be documented
into the record as such.

If you wish to email Mayor and Council directly you may do so at council@flagstaffaz.gov.

AGENDA

1. Call to Order
2. Pledge of Allegiance and Mission Statement

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life for all.

3. ROLL CALL

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

CHAIRMAN RYAN
VICE-CHAIRWOMAN FOWLER
SUPERVISOR BEGAY

SUPERVISOR HORSTMAN
SUPERVISOR VASQUEZ

MAYOR DEASY
VICE MAYOR DAGGETT
COUNCILMEMBER ASLAN
COUNCILMEMBER MCCARTHY

COUNCILMEMBER SALAS
COUNCILMEMBER SHIMONI
COUNCILMEMBER SWEET

4. Public Participation:

Public Participation enables the public to address the Council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment on an item that is on the agenda is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak.

5. COVID-19 Update

6. Overview of City's response to passage of Smart and Safe Arizona Act (Prop 207), which legalized recreational marijuana

7. Impacts of the 2019 Museum Fire and the Post Wildfire Flood Threat Analysis and Impacts to Downstream Communities

8. Discussion on Coordination of the Flagstaff Regional Plan 2045

9. Report on the Jointly Funded Dark Sky Specialist Position

10. Informational Items To/From Chairman, Supervisors and County Manager, Mayor, Council and City Manager

11. Public Participation

12. Adjournment

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2021.

Stacy Saltzburg, MMC, City Clerk

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Shannon Anderson, Deputy City Manager
Co-Submitter: Kim Musselman, Coconino County Health and Human Services Director
Date: 04/21/2021
Meeting Date: 04/28/2021



TITLE:
COVID-19 Update

DESIRED OUTCOME:

Share information with City Council and County Board of Supervisors about the COVID-19 pandemic and answer questions.

EXECUTIVE SUMMARY:

The Coconino County Health and Human Service Director, Kim Musselman, will present up-to-date information about the COVID-19 vaccination efforts.

INFORMATION:

There will be information presented on vaccination numbers for Coconino County, locations for Coconino County residents to obtain vaccinations, and the recent addition of the Northern Region Vaccine Site at Northern Arizona University.

Attachments: Presentation

Minutes Attachments

No file(s) attached.

Coconino County COVID-19 Pandemic Response Update

4.27.2021

HHS DIRECTOR KIM MUSSELMAN, INCIDENT COMMANDER

Cases Reported Week 15 (April 11, 2021 - April 17, 2021):

145
Positive
Cases

3,663
Negative
Tests

102.5
Rate per
100,000

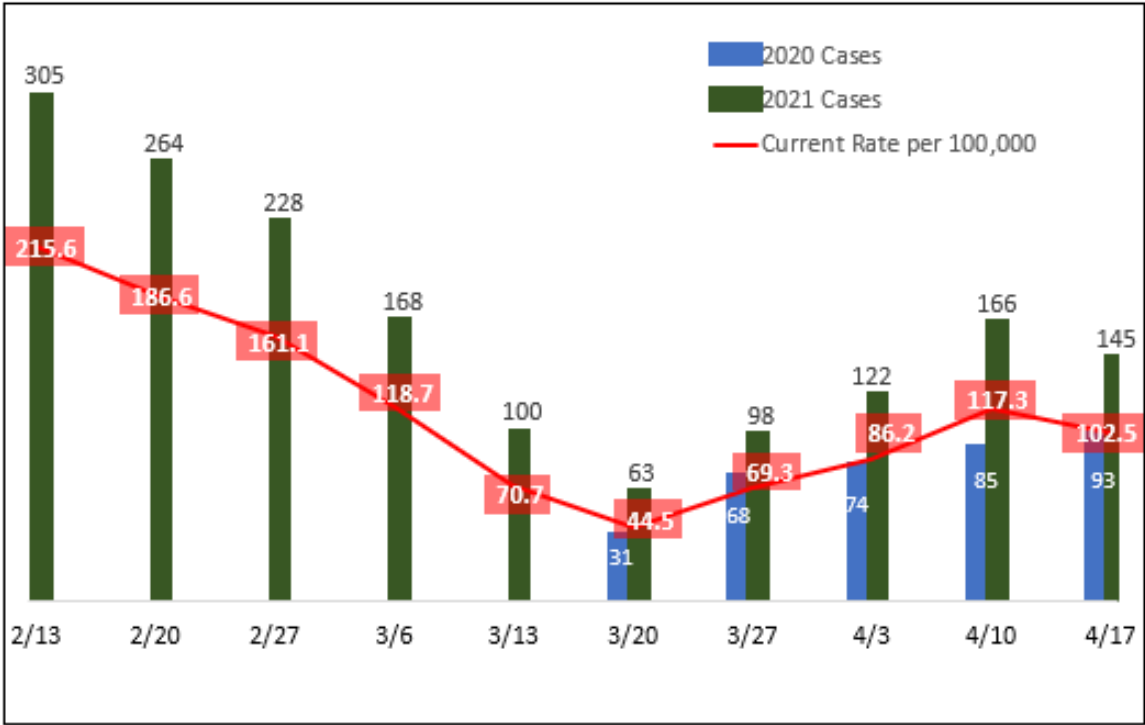
6.4%*
Positivity
Yield

Community Transmission

- Coconino County has a current **incidence rate** of **102.5 per 100,000**, **percent positivity** of **6.4%***, and **COVID-19-Like-Illness incidence (CLI)** of **1.6%****.
- Coconino County is currently at a **moderate***** level of community transmission.

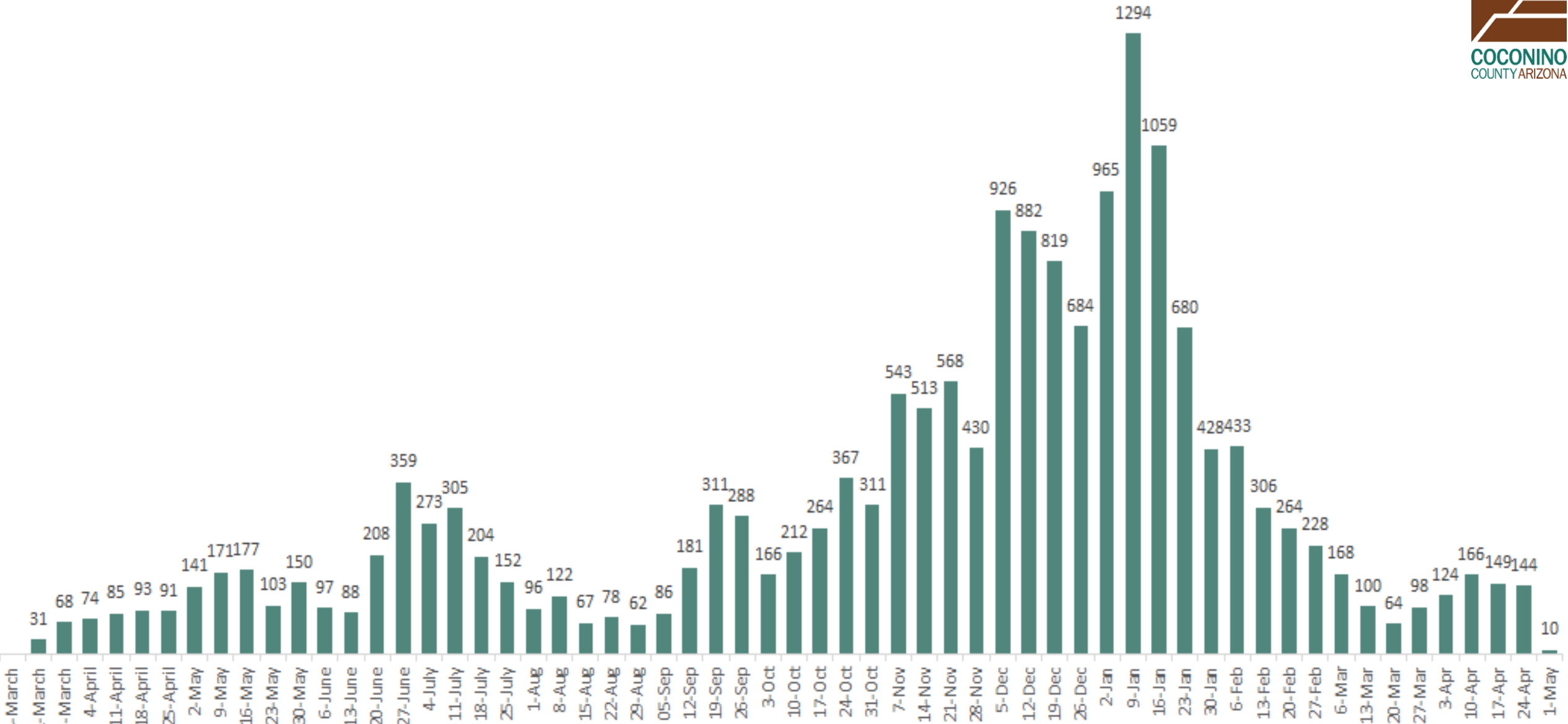
Benchmarks	Minimal	Moderate	Substantial
Cases	<10 cases/100,000	10-100 cases/100,000	>100 cases/100,000
Percent Positivity	<5%	5-10%	>10%
COVID-19-Like-Illness	<5%	5-10%	>10%

Weekly Case Counts Among Coconino County Residents:



Coconino County COVID-19 Data Update

Coconino County COVID-19 Cases



Coconino County Vaccination Visualization

Total Percentage of County Population Vaccinated (at least one dose): 45.9%

Percentage of Eligible Population Fully Vaccinated: 47%

Vaccinations by Residency:

Location	At least one dose	Fully vaccinated	Fully vaccinated per 100,000 [†]
Flagstaff	37,959	29,640	36,954
86001/ 86005	21,607	16,515	39,240
86004	15,541	12,550	44,270
86011	811	575	5,884
[†] Population estimates include residents aged 15 and older.			

Location	At least one dose	Fully vaccinated	Fully vaccinated per 100,000 [†]
Page	3,840	3,184	54,131
Tribal Communities	10,473	9,172	49,360
Williams	1,804	1,321	28,041
Grand Canyon	1,164	933	42,995
Other Areas	7,246	5,657	103,117

Recent Recommendations for Fully Vaccinated People

Fully vaccinated people can:

Visit with other fully vaccinated people indoors without wearing masks or physical distancing

Visit with unvaccinated people (including children) from a single household who are at low risk for severe COVID-19 disease indoors without wearing masks or physical distancing

Participate in outdoor activities and recreation without a mask, except in certain crowded settings and venues





























Resume domestic travel and refrain from testing before or after travel or self-quarantine after travel

Refrain from testing before leaving the United States for international travel (unless required by the destination) and refrain from self-quarantine after arriving back in the United States

Refrain from testing following a known exposure, if asymptomatic, with some exceptions for specific settings

Refrain from quarantine following a known exposure if asymptomatic

Refrain from routine screening testing if asymptomatic and feasible

Choosing Safer Activities			
Unvaccinated People		Your Activity	Fully Vaccinated People
Outdoor			
Safest		Walk, run, roll, or bike outdoors with members of your household	
		Attend a small, outdoor gathering with fully vaccinated family and friends	
		Attend a small, outdoor gathering with fully vaccinated and unvaccinated people	
Less Safe		Dine at an outdoor restaurant with friends from multiple households	
Least Safe		Attend a crowded, outdoor event, like a live performance, parade, or sports event	
Indoor			
Less Safe		Visit a barber or hair salon	
		Go to an uncrowded, indoor shopping center or museum	
		Ride public transport with limited occupancy	
		Attend a small, indoor gathering of fully vaccinated and unvaccinated people from multiple households	
Least Safe		Go to an indoor movie theater	
		Attend a full-capacity worship service	
		Sing in an indoor chorus	
		Eat at an indoor restaurant or bar	
		Participate in an indoor, high intensity exercise class	

Northern Arizona Regional POD

NAU Fieldhouse


- Accepting walk-up vaccinations
- Hours currently 7am-7pm, 7 days a week (Will be changing next week)
- Patients who received their first dose of Pfizer vaccine at another location are eligible to receive their second dose at the NAU site and must bring their CDC vaccination record card.
- Serving individuals age 16 and over. Minors age 16-17 years old must be accompanied by a legal guardian and sign a consent form.
- Appointments can be scheduled at www.podvaccine.azdhs.gov or by calling 1-844-542-8201.

Coconino County Vaccination Effort

Vaccinations are currently open to the public, regardless of residency.

No appointment required at Fort Tuthill or NAU Fieldhouse.

Transition to 'Second Dose Moderna Anywhere' model. Moderna second doses are available at all participating vaccination providers.




**COVID-19
Vaccine**

**Pop-up
Clinic**

**Wednesday, April 28
11 am - 1 pm**

**Coconino County
Courthouse lawn**
200 N. San Francisco St., Flagstaff

No appointment needed. Walk-up clinic.
First and second dose
Moderna vaccine available.
No charge for vaccinations.
Masks are required at the vaccination site.
Moderna vaccine will be available for those
18 years and older.

 **COCONINO**
COUNTY ARIZONA
Health & Human Services

COVID-19 Information Line:
928- 679-7300
coconino.az.gov/covid19vaccine

Current Vaccine Providers in Flagstaff

Various Pharmacies (Safeway, Fry's, Walgreens, CVS, Walmart, Sam's Club, Genoa, etc.)

Vera Clinic

North Country HealthCare

Embry Health

Independent Providers

- W. L. Gore & Associates

Private Doctors Offices

- Flagstaff Family Care
- Northwoods Medical Associates
- Ryan Internal Medicine

<https://www.coconino.az.gov/2580/COVID-19-Vaccination-Locations>

Vaccine Outreach

CCHHS is actively planning mobile vaccination events in partnership with locations throughout the County.

- Potential partnerships with other healthcare providers pending further discussion

CCHHS is continuing to work with community organizations on outreach and scheduling events:

- Interfaith Council
- Diversity Councils
- Neighborhood Associations (Sunnyside, Southside, etc.)
- Non-profit organizations

Continued efforts to implement innovative digital communications as well as outreach via traditional media

County is exploring opportunities for business and community-based incentives

Vaccine Access, Hesitancy, Convenience

- **Incentives-** Business and Community based collaboration
- **Community Based Connection:** Answering questions and providing information
- **Availability of Pfizer-** Schools outreach, Pfizer EUA submitted for 12-15
- **Scheduling-** Non-appointment hours at Ft. Tuthill/HHS/Fieldhouse
- **Pop-Up Vaccination Operations-** Exploring opportunities for new locations to connect with populations, reducing barriers and increasing convenience

Mitigation, Testing & Vaccination

Continued community transmission requires:

- Maintaining mitigation measures:
 - Mask wearing indoors and at medium and large sized gatherings
 - Hand washing, physical distancing
- Continuation of testing efforts:
 - Community Testing locations
 - Future testing opportunities: School Testing
- **Vaccination of all eligible individuals**

Questions?

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Kevin Fincel, Deputy City Attorney
Date: 04/21/2021
Meeting Date: 04/28/2021



TITLE:

Overview of City's response to passage of Smart and Safe Arizona Act (Prop 207), which legalized recreational marijuana

DESIRED OUTCOME:

For informational purposes only.

EXECUTIVE SUMMARY:

The "Smart and Safe Arizona Act" (the "Act"), certified as Proposition 207, was passed by Arizona voters at the November 3, 2020 general election and became effective on December 1, 2020. The Act declared that "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."

The Act decriminalizes the use and possession of up to one ounce of recreational marijuana by a person who is at least twenty-one years of age. Individuals who are at least twenty-one years of age can also legally grow and possess up to six marijuana plants, but no more than twelve plants can be grown at a single residence and cultivation must take place in an enclosed, secure area not visible from public view.

The Act also allows for Marijuana Establishments, which are entities licensed by the Arizona Department of Health Services, to operate a retail location for the sale of recreational marijuana, an off-site marijuana cultivation facility, and an off-site manufacturing facility.

It remains illegal to drive while impaired by marijuana, and the Act does not allow the smoking of marijuana in a public or open space. In addition, cities are authorized to prohibit marijuana possession, sale, and other uses (vaping, ingesting, etc.) on city property and adopt the following regulations:

1. Enact reasonable zoning regulations that limit the use of land for marijuana establishments and marijuana testing facilities to specified areas (zoning regulations for recreational marijuana cannot be more restrictive than zoning regulations for medical marijuana dispensaries).
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.

Although the Act allows cities to prohibit marijuana establishments and marijuana testing facilities, it prohibits cities from adopting a regulation that “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.”

Cities are authorized to tax the sale of recreational marijuana through a transaction privilege tax or use tax.

The Arizona Department of Health Services will eventually issue twenty-six marijuana establishment licenses under the Act across the State of Arizona for the purpose of encouraging social equity in marijuana establishment ownership. These licenses will be issued to applicants who qualify under the Social Equity Ownership Program.

The Arizona Department of Health Services must first adopt rules to create and implement a Social Equity Ownership Program to promote the ownership and operation of marijuana establishments by individuals disproportionately impacted by the enforcement of previous marijuana laws. During the rulemaking, the Arizona Department of Health Services will post drafts and accept public comments.

The Department will begin accepting applications for these twenty-six licenses within six months of adopting the final rules for the Social Equity Ownership Program. The Department does not currently have a timeline for this rulemaking. As a result, this current ordinance may come back to City Council to allow for updates in light of the Social Equity Ownership Program and the potential for licensure under that Program.

INFORMATION:

The City Council discussed the Act at a work session on January 12, 2021. After considering staff's presentation and public comment, the Council adopted an ordinance (codified as Chapter 6-10 in City Code) that created new regulations for recreational marijuana. The ordinance did the following:

1. Limited marijuana establishments to dual licensees.
2. Prohibited consuming, growing, transferring, selling, etc., on City property.
3. Prohibited use on private property if posted.
4. Added violations that did not carry over in the Act and made penalties consistent with penalties in Act.
5. Added requirement that individuals lawfully detained for violating provisions in Chapter 6-10 or the Act provide full name, date of birth, and current address.

Attachments: Presentation
 Smart and Safe Arizona Act
 Ord. 2021-03

Minutes Attachments

No file(s) attached.

Recreational Marijuana

Smart and Safe Arizona Act





Objectives

- 1. Provide Overview of Smart and Safe Arizona Act**
 - a. History
 - b. Key Provisions
 - c. Enforcement Issues
- 2. Review Ordinance Adopted by City Council**



History



- **Smart and Safe Arizona Act**
 - Certified as Proposition 207 (statewide voter initiative).
 - Passed by Arizona voters at Nov. 3, 2020 general election.
 - State: 60% Yes, 40% No
 - Coconino: 65% Yes, 35% No
 - Became effective on December 1, 2020.
 - The Act declared that “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.”



Key Provisions

Legalizes Sale, Use, and Possession of Recreational Marijuana

- Authorizes the sale to adults who are at least 21 years of age.
- Authorizes adults over age 21 to possess up to one ounce of marijuana for recreational use.
- Authorizes adults over age 21 to possess, transport, cultivate, and process up to six marijuana plants.
 - No more than twelve plants at a single residence.
 - Cultivation must be in an enclosed, secure area not visible from public view.



Key Provisions

The Act does not:

- allow individuals to “smoke marijuana in a public or open space.” A.R.S. 36-2851(8)(a).
- allow individuals to “consume marijuana or marijuana products” in a vehicle. A.R.S. 36-2851(8)(b).
- restrict the ability of any person or business from prohibiting or regulating marijuana or marijuana product consumption on their property. A.R.S. 36-2851(7).
- decriminalize driving while impaired by marijuana.



Key Provisions

The Act Authorizes Cities to:

- prohibit or limit the number of recreational marijuana retail establishments, with an exception for entities that hold a dual license to operate a nonprofit medical marijuana dispensary and a recreational marijuana retail establishment at a shared location.
- prohibit or limit the number of recreational marijuana testing facilities.
- prohibit marijuana possession, sale, and use on city property.



Key Provisions

The Act Authorizes Cities to:

- prohibit or restrict delivery of recreational marijuana. Note: delivery is unlawful under state law until at least 2023. A.R.S. 36-2854(C).
- enact reasonable zoning regulations that limit the use of land for marijuana establishments and marijuana testing facilities to specified areas (zoning regulations for recreational marijuana cannot be more restrictive than zoning regulations for medical marijuana dispensaries).



Enforcement Issues

- **Some acts that are not allowed under the Act did not carry over to the Act's violations section.**
 - Consumption in motor vehicle.
 - Cultivating or possessing more than 12 plants.
 - Recommend adding these as violations in City ordinance.
- **Obtaining personal information from individuals lawfully detained.**



Ordinance 2021-03

City Regulation of Recreational Marijuana

- Limited recreational establishments to dual licensees.
- Prohibited consuming, growing, transferring, selling, etc., on City property.
- Prohibited use on private property if posted.
- Added violations that did not carry over in the Act and made penalties consistent with penalties in Act.
- Added requirement that individuals lawfully detained provide full name, date of birth, and current address.



The End



Questions?

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

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

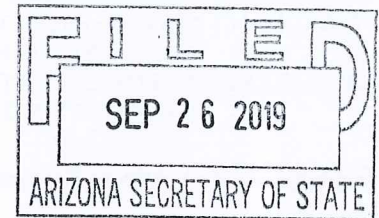
The People of the State of Arizona find and declare as follows:

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.



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.

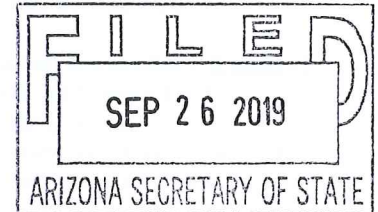
6. \$2,000,000 TO THE DEPARTMENT TO DEVELOP AND IMPLEMENT, IN CONJUNCTION WITH THE DEPARTMENT OF ECONOMIC SECURITY AND OTHER STATE AGENCIES, A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES 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.

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.

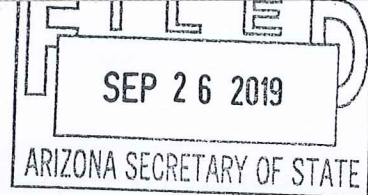
13. "INDUSTRIAL HEMP" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-311.

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.



- (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.

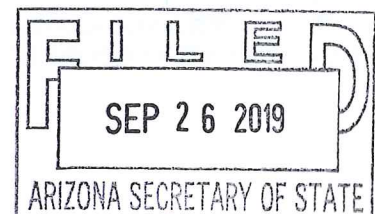
(b) CULTIVATION TAKES PLACE WITHIN A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA ON THE GROUNDS OF THE RESIDENCE EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

(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.



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.

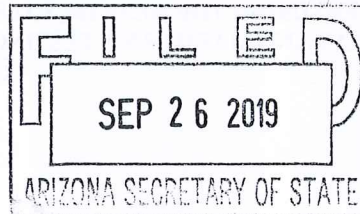
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

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.



(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.

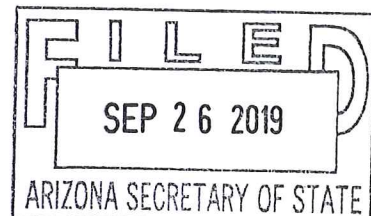
6. FORMS OF GOVERNMENT-ISSUED IDENTIFICATION THAT ARE ACCEPTABLE BY A MARIJUANA ESTABLISHMENT VERIFYING A CONSUMER'S AGE AND PROCEDURES RELATED TO VERIFYING A CONSUMER'S AGE CONSISTENT WITH SECTION 4-241. UNTIL THE DEPARTMENT ADOPTS FINAL RULES RELATED TO VERIFYING A CONSUMER'S AGE, MARIJUANA ESTABLISHMENTS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

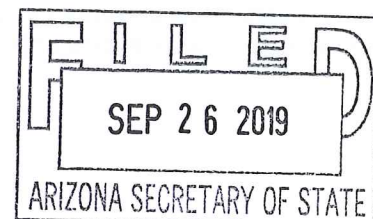
B. A PERSON WHO WISHES TO BE REGISTERED AS A MARIJUANA FACILITY AGENT OR RENEW THE PERSON'S REGISTRATION AS A MARIJUANA FACILITY AGENT SHALL:

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.



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.

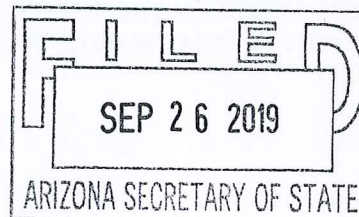
4. 10 PERCENT TO THE JUSTICE REINVESTMENT FUND ESTABLISHED BY SECTION 36-2863.

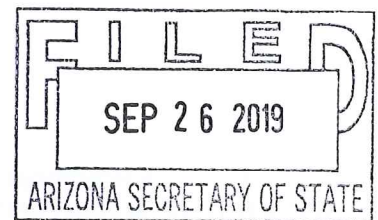
5. 0.2 PERCENT TO THE ATTORNEY GENERAL TO USE TO ENFORCE THIS CHAPTER, OR TO GRANT TO LOCALITIES TO ENFORCE THIS CHAPTER.

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.





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.

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

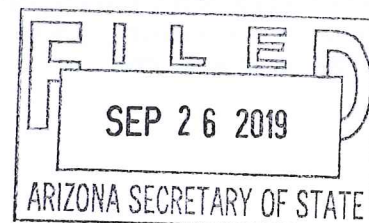
- A. A MARIJUANA ESTABLISHMENT MAY NOT:
1. PACKAGE OR LABEL MARIJUANA OR MARIJUANA PRODUCTS IN A FALSE OR MISLEADING MANNER.
 2. MANUFACTURE OR SELL MARIJUANA PRODUCTS THAT RESEMBLE THE FORM OF A HUMAN, ANIMAL, INSECT, FRUIT, TOY OR CARTOON.
 3. SELL OR ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS WITH NAMES THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETING 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:



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

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.

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.

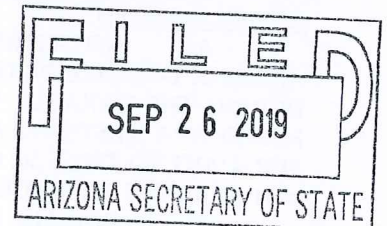
42-5452. Levy and rate of tax; effect of federal excise tax

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.

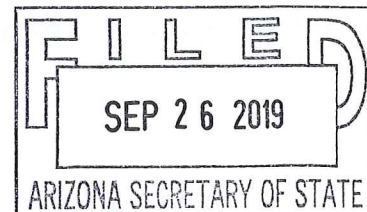
3. Increasing the amount of marijuana that a person may lawfully possess.

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.



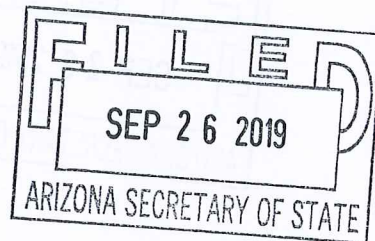
8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

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.



ORDINANCE NO. 2021-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 6, POLICE REGULATIONS, BY ADOPTING A NEW CHAPTER 6-10, REGULATION OF RECREATIONAL MARIJUANA; PROVIDING REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the "Smart and Safe Arizona Act," certified as Proposition 207 (the "Act"), was passed by Arizona voters at the November 3, 2020 general election; and

WHEREAS, the Act authorizes in part (1) the sale of non-medicinal recreational marijuana to adults who are at least twenty-one years of age, (2) adults over age twenty-one to possess marijuana for recreational use, (3) adults over age twenty-one to possess, transport, cultivate, or process marijuana plants in a primary residence, and (4) cities to enact regulations relating to marijuana including limitations on recreational marijuana retail establishments, marijuana testing facilities, and delivery of recreational marijuana; and

WHEREAS, the Flagstaff City Council finds that Proposition 207 authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate which poses a threat to the health, safety, and security of the community and increases the responsibilities of law enforcement and other City of Flagstaff divisions to respond to violations of state and local laws, including building, electrical, and fire codes; and

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.; and

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 medical marijuana dispensaries in Flagstaff according to a prescribed statutory and regulatory process; and

WHEREAS, in accordance with and as permitted by state law and codified rule, the City Council seeks to protect public health, safety, and welfare by adopting Chapter 6-10, Regulation of Recreational Marijuana.

ENACTMENTS:

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

SECTION 1. Flagstaff City Code Title 6, *Police Regulations*, Chapter 6-10, *Regulation of Recreational Marijuana*, is hereby created as a new chapter as follows:

Chapter 6-10**SECTIONS:**

6-10-001-0001:	PURPOSE
6-10-001-0002:	DEFINITIONS
6-10-001-0003:	MARIJUANA PROHIBITED ON PUBLIC PROPERTY
6-10-001-0004:	CONSUMPTION OF MARIJUANA ON PRIVATE PROPERTY PROHIBITED WHEN NOTICE OF PROHIBITION PROVIDED
6-10-001-0005:	CONSUMPTION OF MARIJUANA IN TRANSPORTATION
6-10-001-0006:	HOME CULTIVATION
6-10-001-0007:	REFUSING TO PROVIDE TRUTHFUL NAME, DATE OF BIRTH, AND CURRENT ADDRESS WHEN LAWFULLY DETAINED
6-10-001-0008:	PENALTIES
6-10-001-0009:	ENFORCEMENT

6-10-001-0001 PURPOSE

This Chapter is adopted to protect the health, safety, and welfare of the general public. Except as allowed by law for personal use, the City of Flagstaff hereby enacts reasonable regulations and requires compliance with zoning laws for the retail sale, cultivation, and manufacturing of marijuana. 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 law. It is the intent of the City that this Chapter be read and interpreted in conjunction and compliance with state law pertaining to marijuana.

6-10-001-0002 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. Definitions set forth in this Section apply only to this Chapter of the City Code.

- (1) "City" means the City of Flagstaff, Arizona, a political subdivision of the State of Arizona.
- (2) "Consume," "Consuming," and "Consumption" mean the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.
- (3) "Consumer" means an individual who is at least twenty-one (21) years of age and who purchases marijuana or marijuana products.
- (4) "Cultivate" and "Cultivation" mean to propagate, breed, grow, prepare, and package marijuana.
- (5) "Deliver" and "Delivery" mean the transportation, transfer, or provision of marijuana or marijuana products to a consumer at a location where the marijuana was cultivated, manufactured, processed, or sold.

- (6) "Dual Licensee" means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license issued by the Arizona Department of Health Services.
- (7) "Manufactures" and "Manufacturing" mean to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
- (8) "Marijuana" 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.
 - (a) Includes cannabis as defined in Arizona Revised Statutes section 13-3401.
 - (b) 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.
- (9) "Marijuana Concentrate" 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. Marijuana Concentrate 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.
- (10) "Marijuana Establishment" means an entity licensed by the Arizona Department of Health Services 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.
- (11) "Marijuana Products" means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for consumption, including edible products, ointments, and tinctures.
- (12) "Marijuana Testing Facility" means the Arizona Department of Health Services (ADHS) or other entity that is licensed by ADHS to analyze the potency of marijuana and test marijuana for harmful contaminants.

- (13) "Open Space" means a public park, public sidewalk, public walkway, or public pedestrian thoroughfare.
- (14) "Process" and "Processing" mean to harvest, dry, cure, trim, or separate parts of the marijuana plant.
- (15) "Public Place" has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.

6-10-001-0003 MARIJUANA PROHIBITED ON PUBLIC PROPERTY

It is unlawful for an individual to smoke, consume, use, sell, cultivate, manufacture, produce, transfer, or distribute marijuana or marijuana products on property that is occupied, owned, controlled, or operated by the City.

6-10-001-0004 CONSUMPTION OF MARIJUANA ON PRIVATE PROPERTY PROHIBITED WHEN NOTICE OF PROHIBITION PROVIDED

It is unlawful, where reasonable notice prohibiting marijuana or marijuana product consumption has been provided, to knowingly consume marijuana or marijuana products in or on property where an individual, partnership, limited liability company, private corporation, private entity, or private organization of any character that occupies, owns, or controls the property has prohibited consumption of marijuana or marijuana products on the premises.

6-10-001-0005 CONSUMPTION OF MARIJUANA IN TRANSPORTATION

- (1) It is unlawful to 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.
- (2) A person who violates this section is subject to the following penalties:
 - a. Individuals over the age of 21 are guilty of a petty offense.
 - b. Individuals under the age of 21 will be subject to progressive enforcement as follows:
 - i. First violation: civil penalty of not more than \$100.
 - ii. Second violation: 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.
 - iii. Third or subsequent violation: guilty of a class one misdemeanor.

6-10-001-0006 HOME CULTIVATION

- (1) It is unlawful for an individual to possess, transport, cultivate, or process more than six marijuana plants for personal use at the individual's residence. For residences where two or more individuals who are at least twenty-one years of age reside at one time, it is unlawful for the residents to possess, transport, cultivate, or process more than twelve marijuana plants at the residence.
- (2) A person who violates this section is subject to the following penalties:
 - a. Individuals over the age of 21 are guilty of a petty offense.
 - b. Individuals under the age of 21 will be subject to progressive enforcement as follows:

- i. First violation: civil penalty of not more than \$100.
- ii. Second violation: 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.
- iii. Third or subsequent violation: guilty of a class one misdemeanor.

6-10-001-0007 REFUSING TO PROVIDE TRUTHFUL NAME, DATE OF BIRTH, AND CURRENT ADDRESS WHEN LAWFULLY DETAINED

- (1) It is unlawful for a person, after being advised that the person's refusal to answer is unlawful, to fail or refuse to state the person's true full name, date of birth, and current address on request of a peace officer who has lawfully detained the person based on reasonable suspicion that the person has committed a criminal or civil violation of this chapter or of A.R.S. § 36-2853. A person detained under this section shall state the person's true full name, date of birth, and current address, but shall not be compelled to answer any other inquiry of a peace officer.
- (2) A person who violates this section is guilty of a class 2 misdemeanor.

6-10-001-0008 PENALTIES

A violation of this Chapter is a petty offense and shall be adjudicated in the Flagstaff Municipal Court, unless a different penalty is specified in this Chapter.

6-10-001-0009 ENFORCEMENT

The Flagstaff Police Department is authorized to enforce the provisions of this Chapter.

SECTION 2. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

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.

SECTION 4. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5. Effective Date

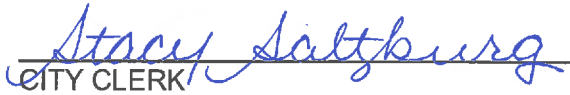
This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 16th day of March 2021.

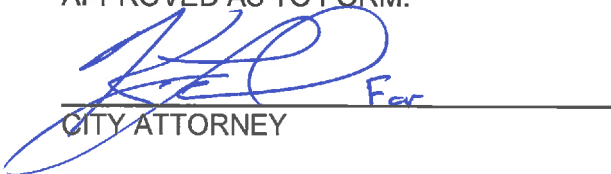


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Andy Bertelsen, Public Works Director
Date: 04/21/2021
Meeting Date: 04/28/2021



TITLE:

Impacts of the 2019 Museum Fire and the Post Wildfire Flood Threat Analysis and Impacts to Downstream Communities

DESIRED OUTCOME:

This work session provides post wildfire flood threat analysis for the Coconino County Board of Supervisors and the Flagstaff City Council.

EXECUTIVE SUMMARY:

In this work session, the current condition assessment of the Museum Fire burn scar will be discussed, a flood threat analysis will be delivered, and staff will engage with the Coconino County Board of Supervisors and the Flagstaff City Council regarding ongoing flood preparations and mitigation efforts, as well as communication planning for the impacted communities.

INFORMATION:

This is a work session item for the joint Flagstaff City Council and Coconino County Board of Supervisors meeting for April 26, 2021.

Attachments: Presentation

Minutes Attachments

No file(s) attached.



COCONINO
COUNTY ARIZONA



Museum Flood Area

FLOOD CONTROL DISTRICT
Museum Post-Wildfire
Flood Threat Analysis &
Mitigation Preparation



April 13, 2021



2010 Post-Schultz Fire Flooding





COCONINO
COUNTY ARIZONA

FLOOD CONTROL DISTRICT

***2019 Museum Fire
Flood Risk Assessment***

Joe Loverich, P.E., C.F.M



Museum Fire

- Burned 1,961 acres
- 52% of Spruce Avenue Wash watershed burned
- Of the total area burned, 53% burned severely and moderately
- Potential flooding could affect over 400 homes and 50 businesses



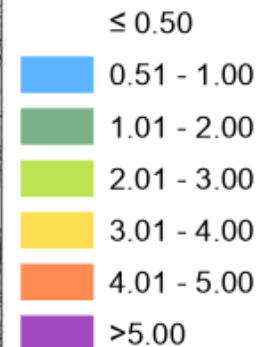
Museum Fire Soil Burn Severity



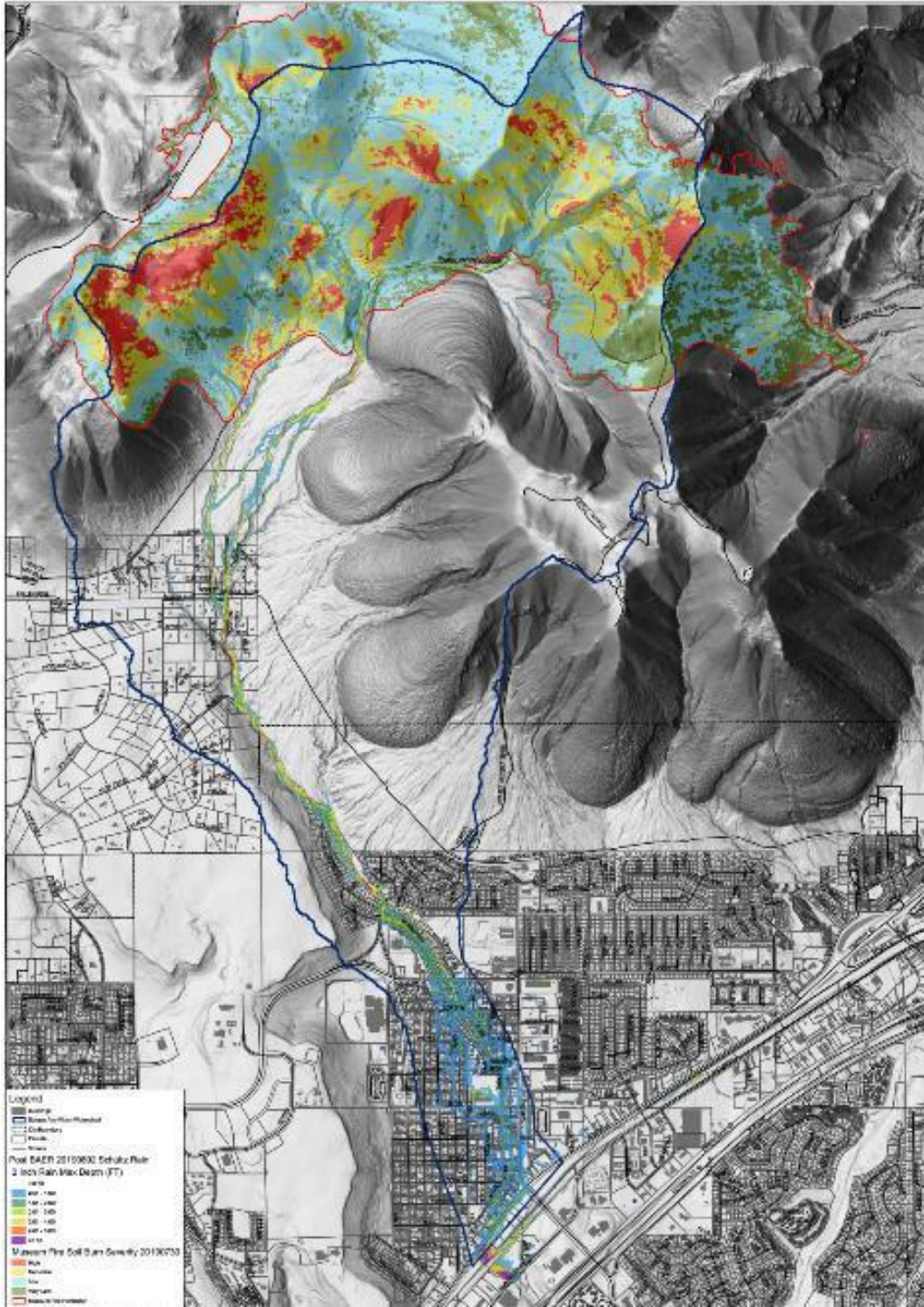
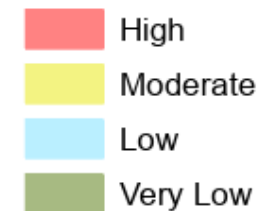
Post-Wildfire Flood Risk Modeling

- 2-Dimensional Pre-and Post-Fire Flood Modeling
- 1 hour Storm based on actual events in the Schultz Watershed
- Rainfall Depths of 1" to 3" modeled
- Peak flow increase of 10 times For the 2" rainfall

2 Inch Rain Max Depth (FT)



Museum Fire Soil Burn Severity



[illegible]

≤ 0.50
 0.51 - 1.00
 1.01 - 2.00
 2.01 - 3.00
 3.01 - 4.00
 4.01 - 5.00
 >5.00





COCONINO
COUNTY ARIZONA

FLOOD CONTROL DISTRICT

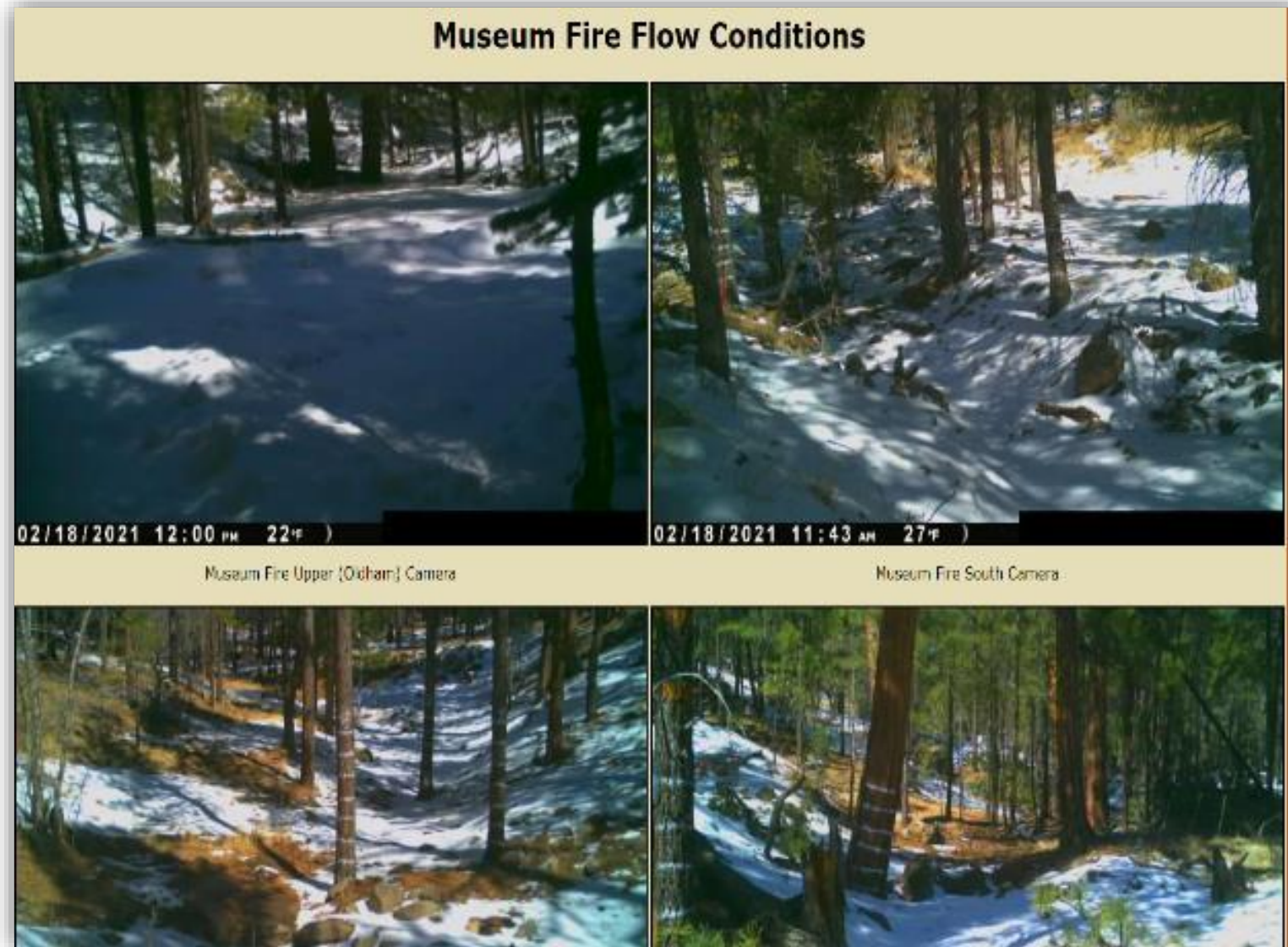
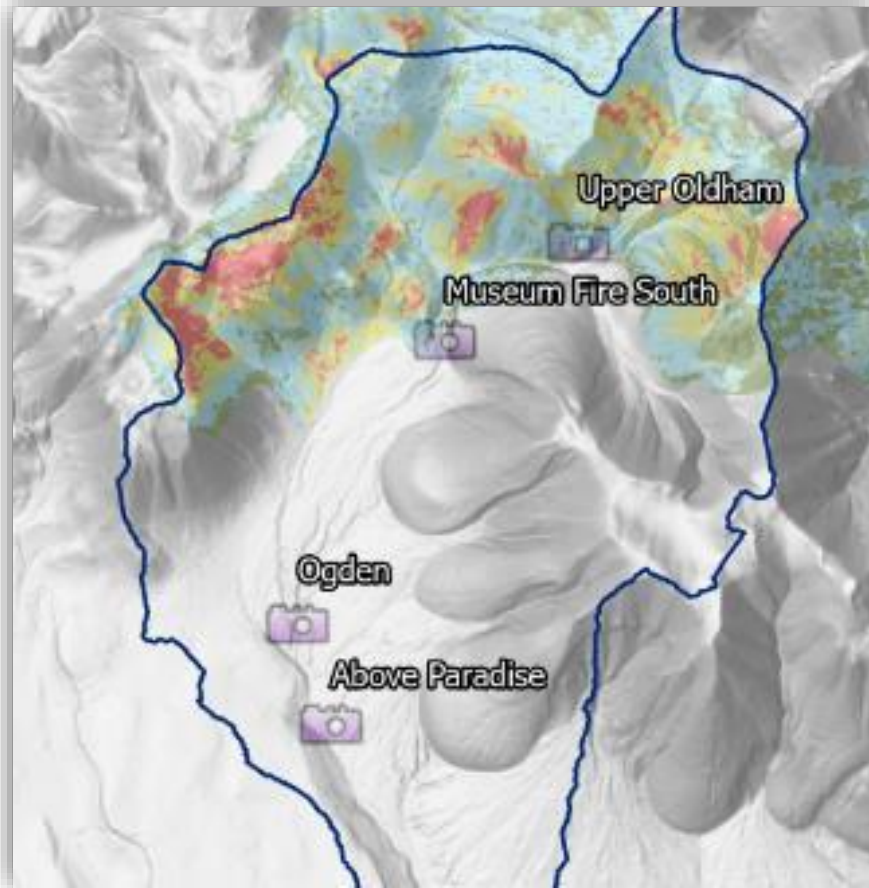
2021 Museum Flood Risk Modeling Validation



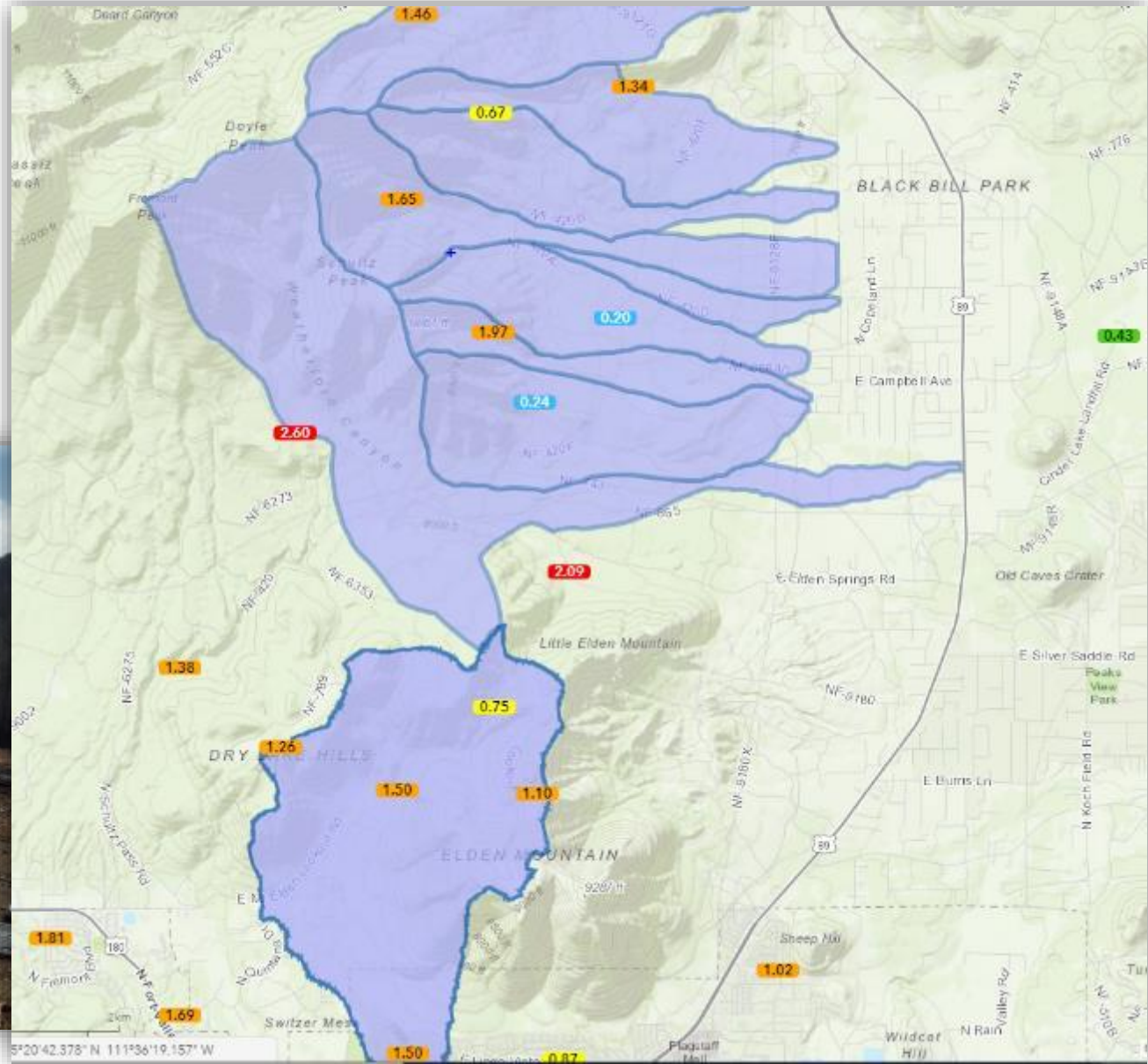
Museum Flood Area

Realtime Precipitation and Flow Monitoring

- <https://rain.flagstaffaz.gov/jefmap/>
- <https://coconino.jefulleralert.com/jefmap/>
- <https://coconino.jefulleralert.com/MuseumFireCameras/>



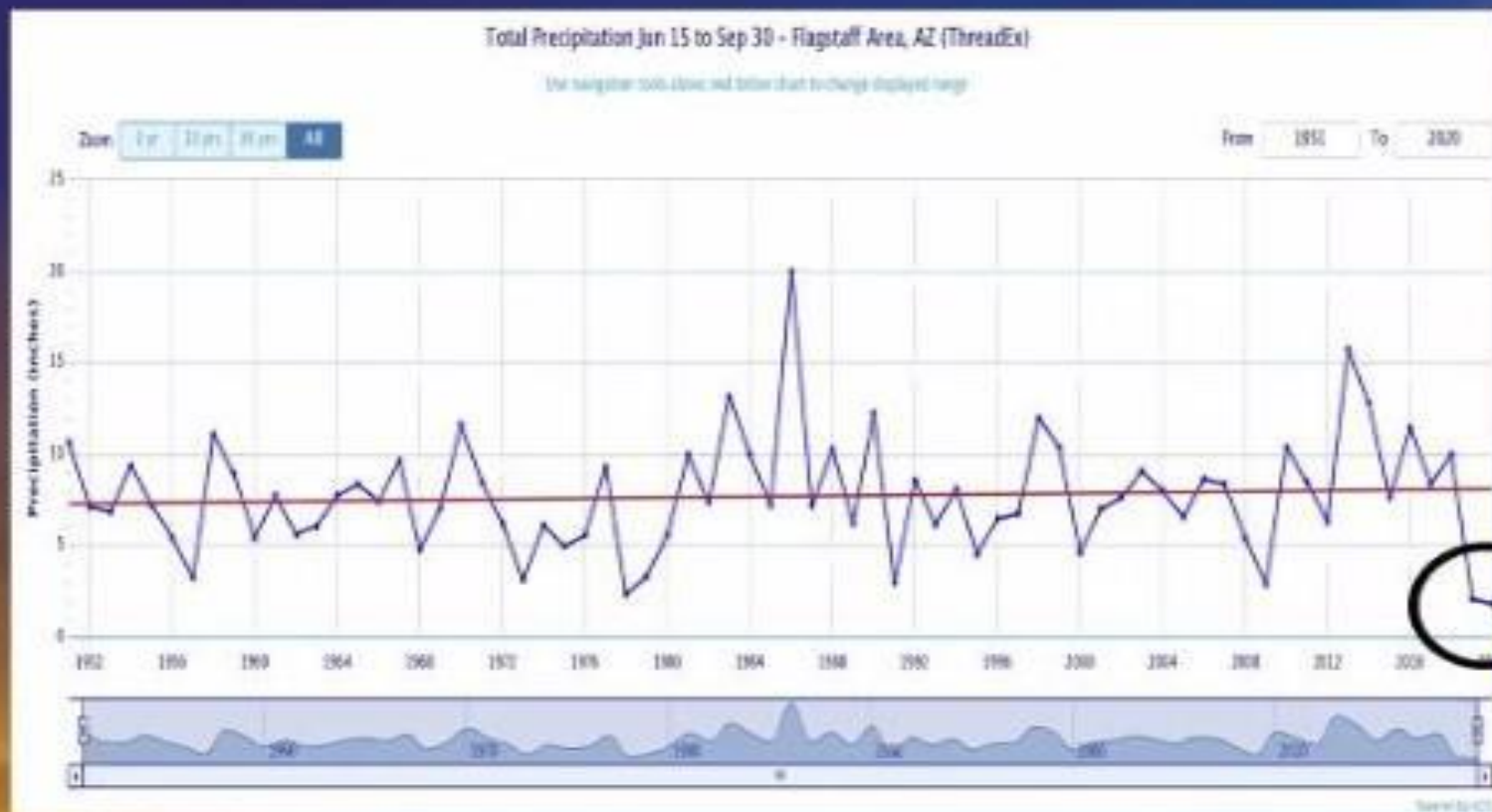
Rainfall Stations within Schultz and Museum Fire Watersheds



Monsoon History



Flagstaff Monsoon Rainfall Since 1951 (Airport Observations)

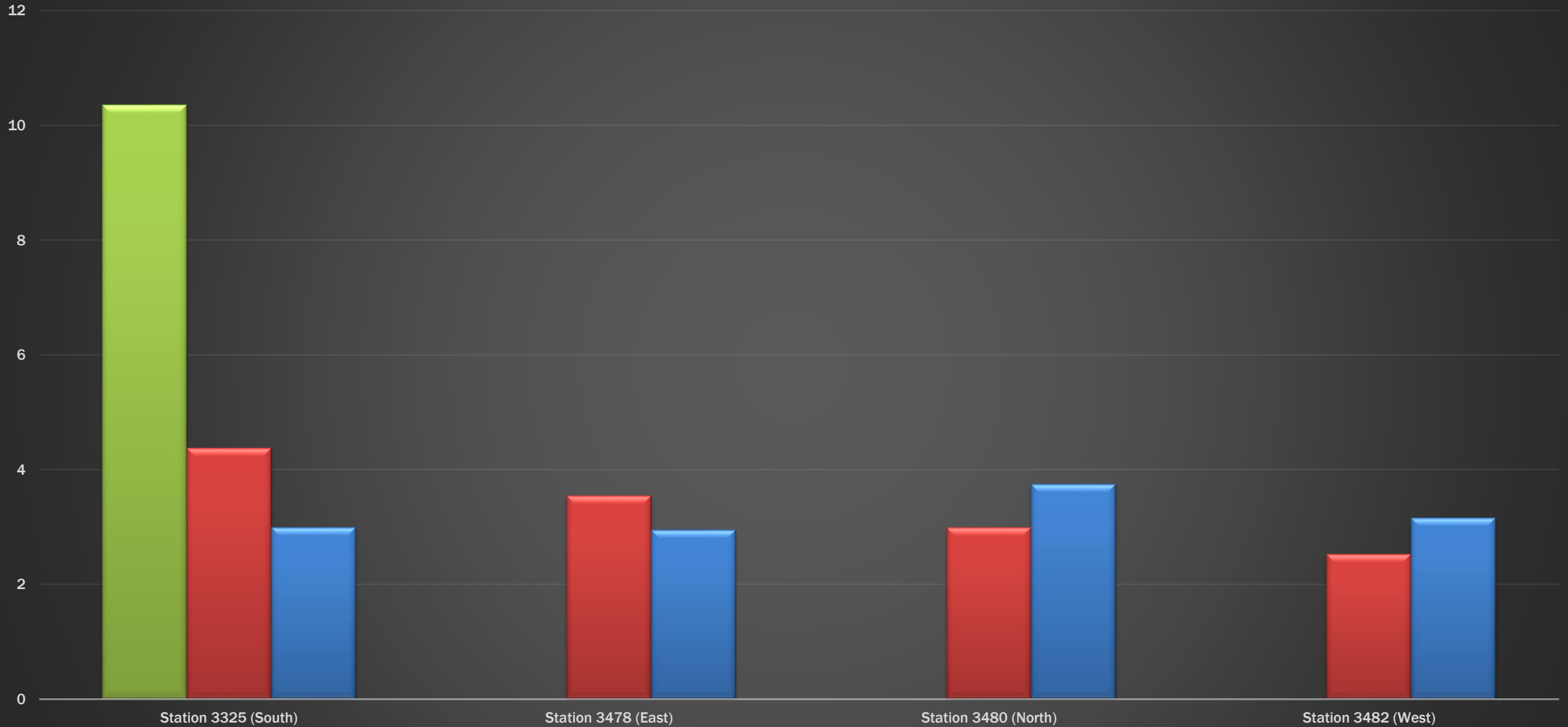


- Even with the two dry Monsoons in 2019 and 2020, the trend is still for *wetter* conditions.
- Highly unlikely we'll see another dry monsoon like the previous years.

2 'Nonsoon' Years

2018 through 2020 Rainfall Totals

July-September Precipitation Totals Comparison (Inches)



The East, North, and West rain stations were installed in the Museum Fire burn scar in late July 2019

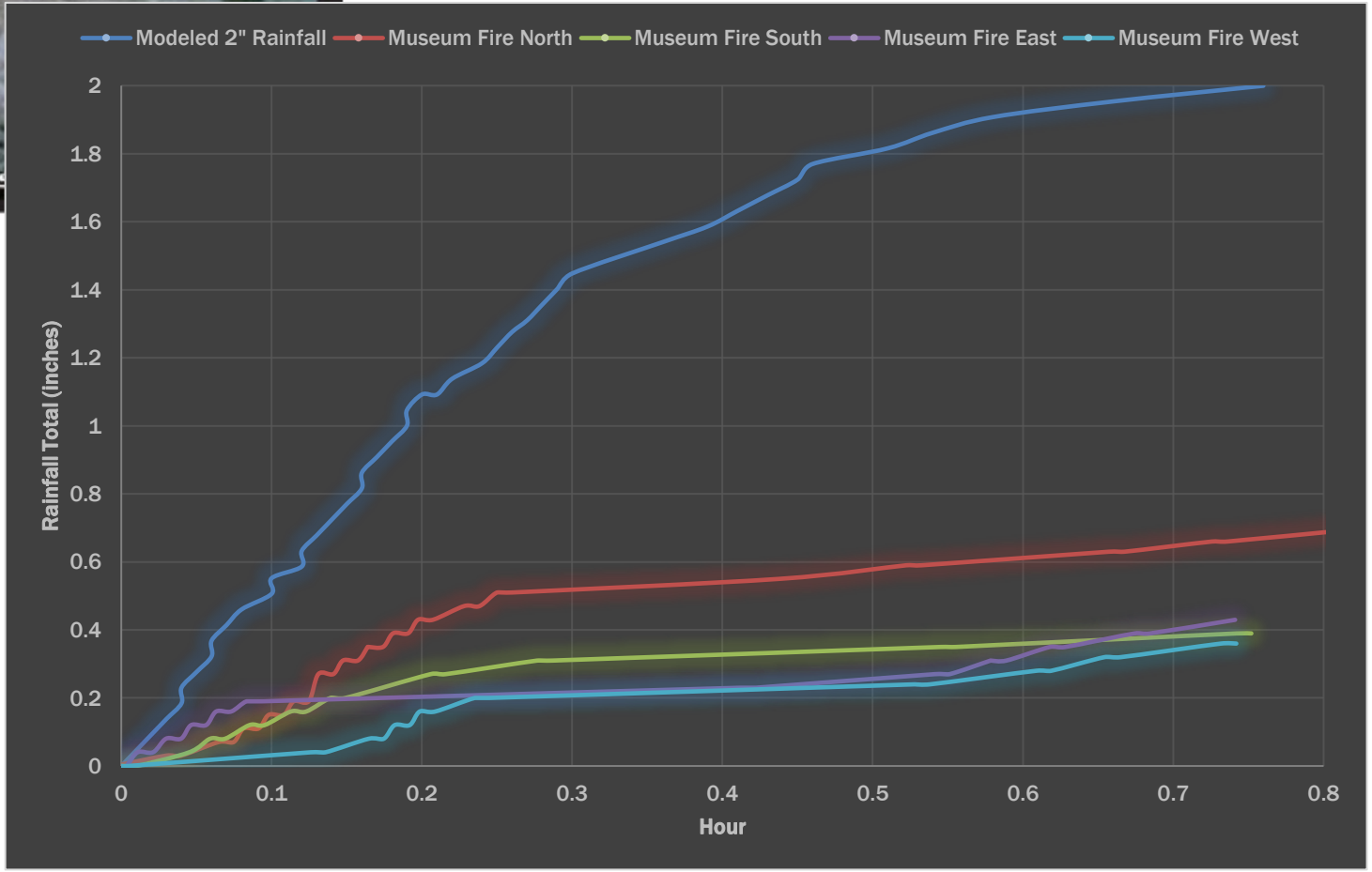
■ Summer 2018 ■ Summer 2019 ■ Summer 2020

Upper Oldham Fire Camera has first flow between 14:55 and 15:00



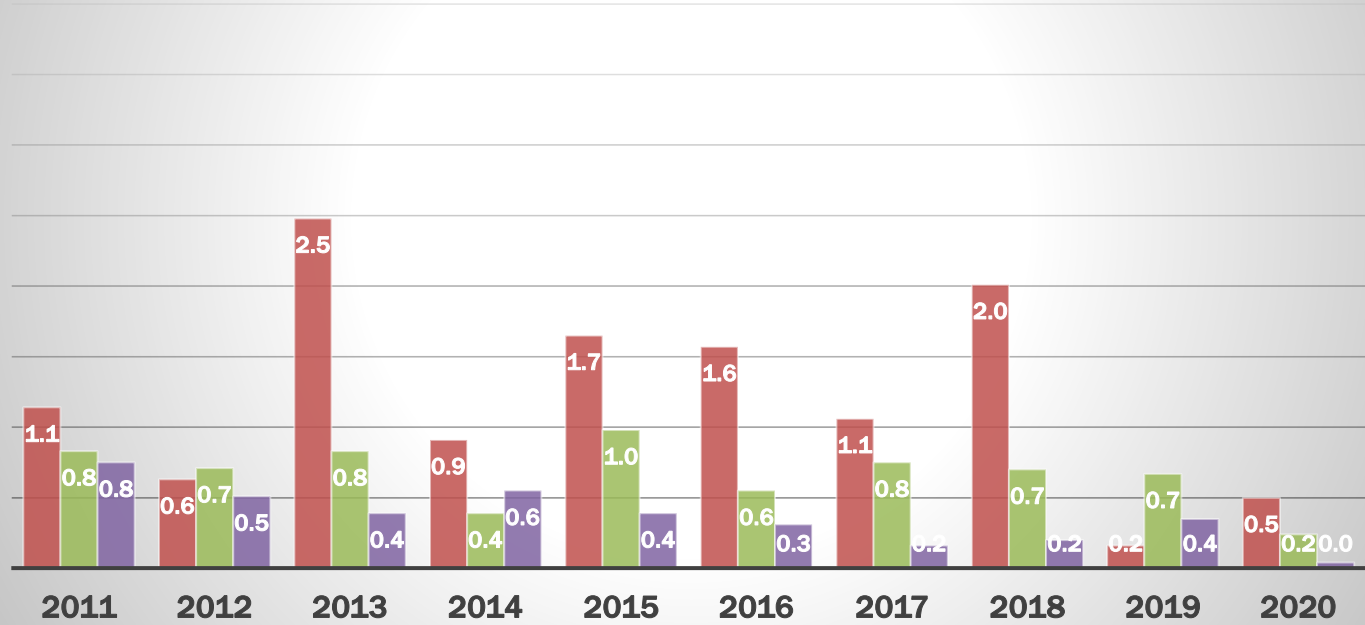
July 24, 2020 Rainfall & 2" Model Validation

Threshold of Rain Totals in 15 Minutes (INCHES)	Time of 1 st Notification
0.10	14:42
0.25	14:50
0.40	14:57



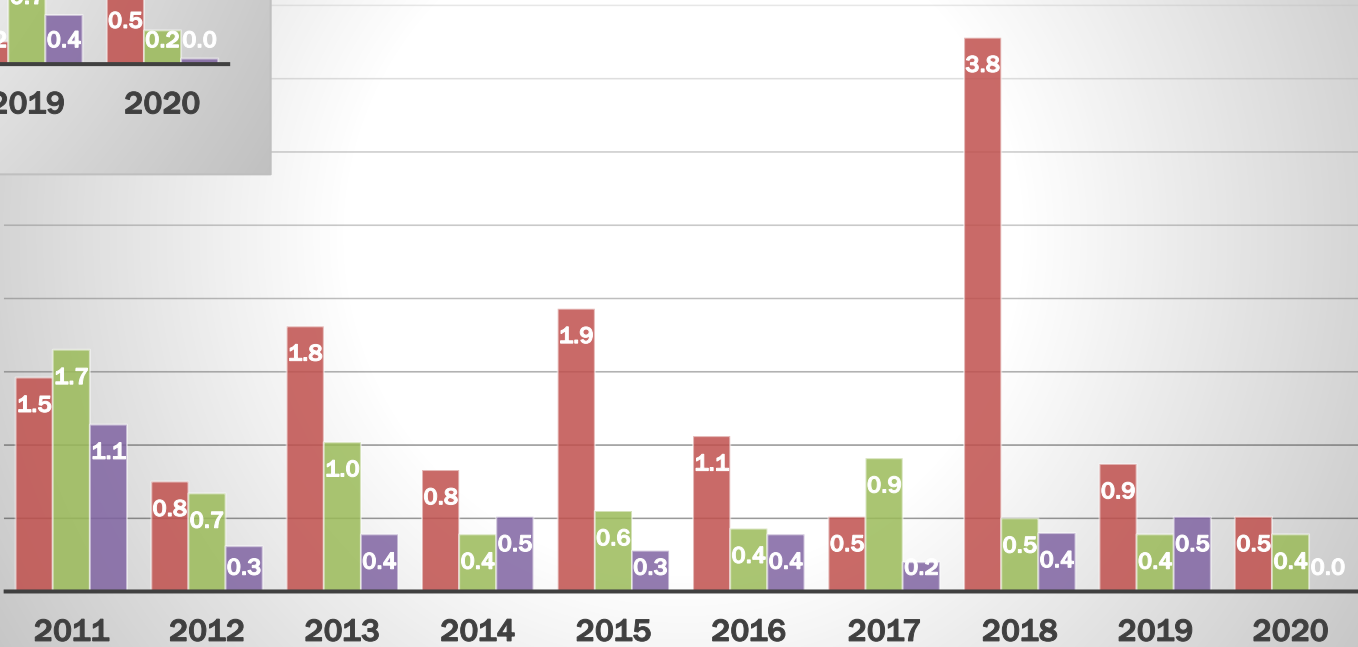
- July
- August
- September

Maximum Hourly Rainfall Totals in Inches
Station 3470: Paintbrush



Rainfall Examples from Schultz

Maximum Hourly Rainfall Totals in Inches
Station 3462: Upper Campbell-Copeland



Maximum Hourly Rainfall Totals by Month Station 3480: Museum Fire North (inch)			
Year	July	August	September
2019	0.1	0.5	0.4
2020	0.8	0.2	0.0

Maximum Hourly Rainfall Totals by Month Station 3478: Museum Fire East (inch)			
Year	July	August	September
2019	0.1	0.9	0.4
2020	0.5	0.2	0.0



COCONINO
COUNTY ARIZONA

FLOOD CONTROL DISTRICT

***Current Condition
Of The
Museum Fire Burn Scar***



Museum Flood Area

Watershed Conditions

February 2020 and November 2020



Watershed Conditions November 2020





Museum Flood Area



COCONINO
COUNTY ARIZONA



FLOOD CONTROL DISTRICT

Questions & Comments?



Consensus Regarding Flood Threat



- Monsoon seasons following the fire have been the lowest in recorded history
- The few rain events on the burn scar have shown the watershed can easily produce debris flows and ten-fold increase in runoff (130 CFS to 1,300 CFS)
- The watershed has experienced little recovery in moderate and high burn severity areas
- Model Validation has confirmed threat.....
- National Weather Service...expect return to normal monsoon this year



Consensus Regarding Flood Mitigation Measures



- The combined City/County/Hydrology team unanimously agree the residential areas downstream of the Museum Fire burn scar are still at high risk of post-wildfire flooding
- Flood mitigation measures within the residential areas should remain in place
- A 2021 pre-monsoon maintenance effort is being planned to replace degraded sandbags and ensure drainages are free of debris
- A major communications effort is being planned to communicate with residents & property owners about the need to continue mitigation



COCONINO
COUNTY ARIZONA
FLOOD CONTROL DISTRICT



***2021 Museum Flood Mitigation
Shore-Up***



Museum Flood Area



Museum Flood Area

2021 Shore-up of Flood Mitigation Measures



- City/Flood Control District Team conducted evaluation of current flood mitigation - overall 30% - 40% of sand bags are deteriorated and need to be replaced prior to monsoon season
- As was done last year, City & County Crews will place sand bags throughout the Museum Flood Area neighborhoods so property owners and residents can replace deteriorated sand bags
- City will place dumpsters or other trash receptacles for disposing of deteriorated sand bags and cinders/sand
- Sand and unfilled sand bags will also be available at County Health & Human Services on King Street



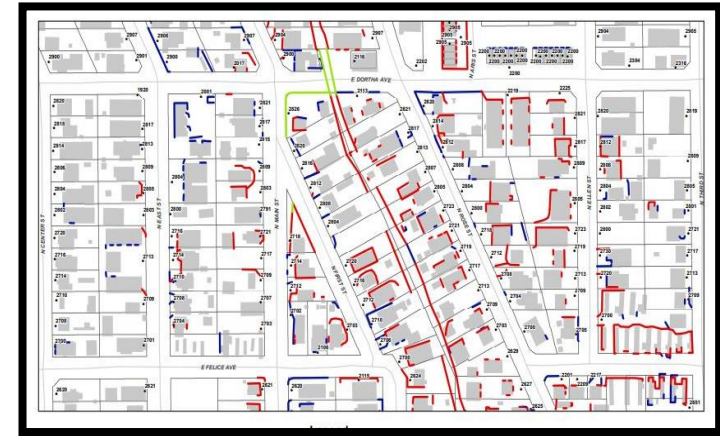


Museum Flood Area

2021 Shore-up of Flood Mitigation Measures



- For those residents that are elderly or disabled, they can contact the Museum Flood Call Center to request assistance
- After securing updated cooperator agreements, Arizona Conservation Corps will remove and replace broken sandbags for the elderly and disabled
- All Shore-up work to be completed by July 1st, 2021
- Sand bags and dumpsters will be transported into neighborhoods beginning the second or third week of May





COCONINO
COUNTY ARIZONA
FLOOD CONTROL DISTRICT



Museum Flood Area



Communications Plan Highlights



Museum Flood Area

KEY MESSAGES | Spanish & English

- It is critical to remember that the threat of flooding is real and that properties will remain at high risk for post-wildfire flooding for several years.
- The County's flood mitigation consultant, JE Fuller recently validated the flood model for the Museum Flood area showing that a serious flood threat still remains.
- The FCD and City strongly recommend keeping your flood mitigation in place through the 2021 monsoon season.
- There has been little natural recovery on the moderately and severely burned areas in the Museum burn area, which contribute most to the flooding and debris flows.
- Although we are fortunate to have not yet experienced any flooding, it is important to note that the last two monsoon seasons have been classified by the National Weather Service (NWS) as the driest on record.



KEY MESSAGES | Spanish & English

- A normal monsoon season is predicted by the NWS in 2021.
- Because of the nature of water, flood mitigation should be contiguous – not piecemeal - with no gaps. The mitigation installed in the Museum Flood Area was mostly designed to convey floodwaters downstream through the city's stormwater systems and out of the neighborhoods.
- Removal of any section of this mitigation from an individual property may compromise the effectiveness of this system and could result in adverse flooding impacts on adjacent properties, for which the private property owner who removed the mitigation could be held responsible for any damage.
- Sign up for Emergency Notifications.
- Get Flood Insurance.





KEY CHANNELS + AUDIENCE

Spanish & English



Social Media

- Social Media – City of Flagstaff
- Social Media – Coconino County
- County Facebook Live – In the Coconi-*Know*

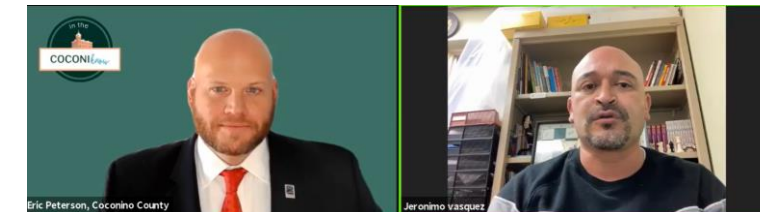


Digital

- Coconino County Digital Channels
- City of Flagstaff Digital Channels



Museum Flood Area





28

KEY CHANNELS + AUDIENCE

Spanish & English

Traditional Media

- Radio (Sunnyside Radio & KAFF)
- Joint Press Releases with City
- Interview with AZ Daily Sun

Outreach Meetings

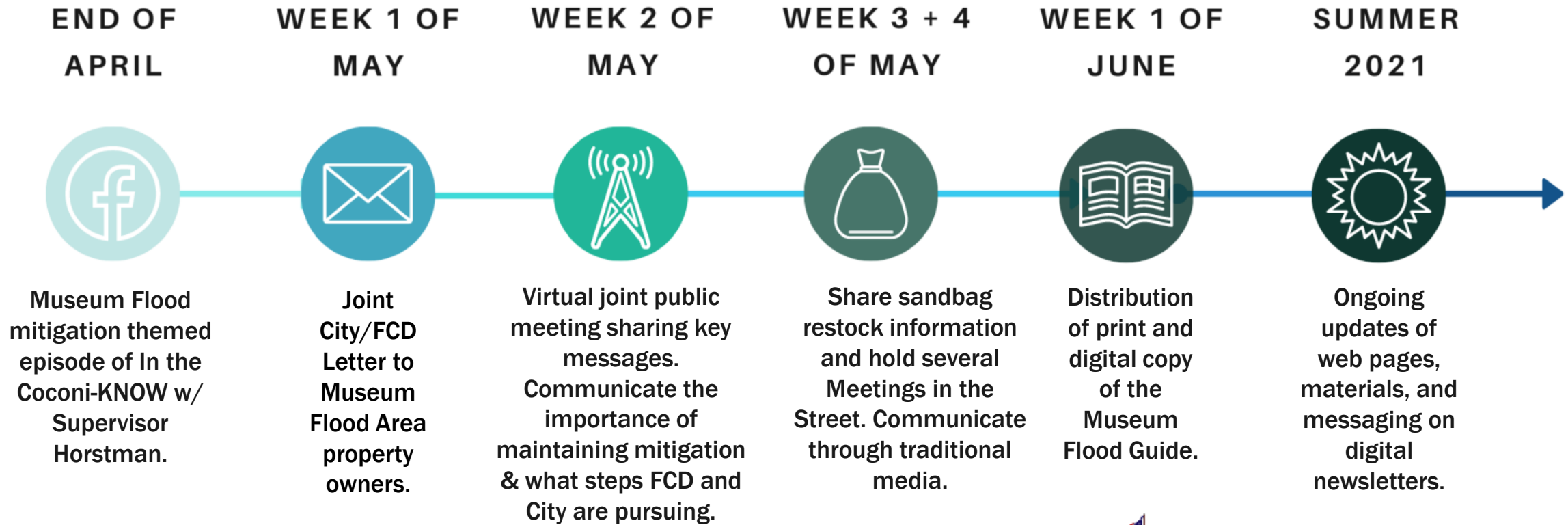
- Public Virtual Meeting
- Meetings in the Street





Museum Flood Area

COMMUNICATIONS TIMELINE





Questions & Comments?



Museum Flood Area



2019 Immediate Post-Fire Flood Mitigation Campaign





Museum Flood Area



2019 Flood Mitigation Campaign

- County Flood Control District, at the request of the City of Flagstaff, led the campaign to develop and then worked with the city to deploy flood mitigation measures within the flood hazard area
- Mitigated ~400 homes & ~35 businesses in ~2 weeks; County Cost = \$1.2M
- Flood mitigation includes sandbags and concrete barriers



COCONINO
COUNTY ARIZONA

FLOOD CONTROL DISTRICT



Museum Flood Area



2019 Flood Mitigation Campaign

- Maintenance was also conducted to remove trees & debris from drainage channels
- Many public meetings held; larger meetings at Coconino High & smaller meetings within the impacted neighborhoods to inform residents of mitigation strategies, to educate regarding flood warning protocols and recommended action (shelter in place)





Museum Flood Area

2020 Museum Flood Mitigation Refresh



- County & City placed sand bags into the Sunnyside Neighborhood
- All concrete and water barriers were checked & refilled
- Worked with Conservation Crews and United Way to restore mitigation for elderly and disabled





Museum Flood Area

2020 Museum Flood Mitigation Refresh



- **United Way of Northern Arizona Established Call Center while County Call Center Managed COVID-19 Response**
- **American Conservation Experience**
 - 32 elderly and disabled residence in Museum Flood Area were supported
 - 700 Sandbags placed by ACE Crews
 - Drainages Cleared of debris by ACE Crews
- **5,000 sandbags on pallets stage through out Museum flood area for resident convenience**





Museum Flood Area



City of Flagstaff

Long-Term Mitigation Efforts

Ed Schenk, P.E.

City of Flagstaff Stormwater Department



Museum Flood Area



COF Post-Fire Mitigation Projects

- **Utility and channel protections – 7 cross vein rock weirs**
 - \$112,000 from Water Services, delivered by Community Development
- **Debris bollards at Linda Vista and Dortha Inlets**
- **Linda Vista Culvert upsizing**
 - \$283,090 from Stormwater contingency & CIP, delivered by Community Development
- **Cedar Avenue culvert dredging, and channel configuration**
 - ~\$12,000 from Stormwater open channel maintenance, delivered by Stormwater and Public Works
- **Annual channel and stormwater conveyance cleaning**
 - ~\$9,000/yr last two years, Stormwater open channel maintenance funds
 - Two weeks of Water Services Collections crews vac-trucking Sunnyside catch basins
- **New flood ALERT gauge at Spruce Wash and Route 66**
 - ~\$10,000 paid for by State Emergency Council and Stormwater planning funds



Museum Flood Area

COF Ongoing and Planned Mitigation



- **Dortha inlet dredging and re-configuration (also engineered solution to re-open Dortha Street)**
 - In design phase, design cost: \$57,770
 - Stormwater reserve funds for design, construction will use CIP funds through deferment of other projects
- **Killip School regional flood detention basin**
 - In design phase, cost split between FUSD and Stormwater
 - Construction cost will be Stormwater CIP and/or Stormwater contingency funds
- **FUTS low water crossing armoring and risk mitigation – Spruce Wash at Route 66**
 - \$24,000 anticipated cost, FEMA PDM grant and Stormwater CIP and maintenance funding
- **Lower Spruce Wash channel resiliency and utility crossing armoring**
 - In design, \$38,222 for design paid for by Stormwater CIP
 - Construction costs split between FEMA HMGP grant and Stormwater CIP
- **Purchase of EV mini-dozer for Cedar Avenue box culvert cleaning (as well as other maintenance)**
 - Presenting to Council April 20th for consent, if approved will be funded by Stormwater maintenance
- **Upgrade of existing flood ALERT gauge at Mount Elden Road (downward looking radar)**
 - \$6500 from Stormwater
- **Continued coordination with CC FCD for Flood Director duties and on-going watershed monitoring**
 - Staff time from multiple COF divisions and sections



Museum Flood Area

Cross-Vein Weirs & Spruce Wash Channel Dredging



Seven cross-vein weirs with 4-foot keystone members to protect existing water main and natural gas pipeline

Summer 2020 Spruce Wash channel dredging and re-configuration at Cedar Avenue





Museum Flood Area

Linda Vista Culvert Upsizing & New Debris Pollards



Linda Vista culvert upsizing –
Summer 2020

New Debris Pollards at
Linda Vista and at Dortha





COCONINO
COUNTY ARIZONA

FLOOD CONTROL DISTRICT

***Flood Control District
Long-Term Mitigation Efforts***

Christopher Tressler, P.E., C.F.M.
Flood Control District Engineer



Flood Control District Long-Term Mitigation Efforts

- Completed an on-forest channel/alluvial fan stabilization project in the spring of 2020 (\$225,000)
- Cleaned out an earthen basin within the Mount Elden Estates neighborhood to restore limited sediment storage capacity (\$15,000)
- A flood mitigation project within Mount Elden Estate will be constructed this spring (\$610,000)
- Evaluating further opportunities for alluvial fan stabilization between Lockett Ranches and Paradise Drive
- Will be working with the City and USFS to evaluate a project at the top of Paradise Drive to widen the channel (there basically isn't any channel in this location)

Questions & Comments?



Museum Flood Area

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Sara Dechter, AICP, Comprehensive Planning Manager

Co-Submitter: Melissa Shaw

Date: 04/15/2021

Meeting Date: 04/28/2021



TITLE:

Discussion on Coordination of the Flagstaff Regional Plan 2045

DESIRED OUTCOME:

- Create shared expectations on regional public participation
- Direction to staff to begin public engagement Region-wide in Fall 2021
- Discussion of the roles of the public, staff, and appointed and elected officials
- Early discussion of possible endorsement and approval process that meets City and County legal requirements

EXECUTIVE SUMMARY:

The Flagstaff Regional Plan 2030 (Regional Plan) was adopted by Coconino County in 2013 and ratified by Flagstaff voters in 2014. According to Arizona Revised Statutes, the City is required to readopt the existing general plan or adopt a new general plan within 10 years. The Flagstaff Regional Plan encompasses the City of Flagstaff and unincorporated areas within the Metroplan for Greater Flagstaff jurisdiction. This intergovernmental approach creates a stronger foundation for land, transportation, water, and natural resources management and planning. The process of updating the Regional Plan requires extensive public engagement, robust and comprehensive data analysis and management across multiple jurisdictions, coordination of government decision-making and endorsements, and a large commitment of staff and resources.

City and County staff is seeking direction from the City Council and Board of Supervisors to jointly work towards an update/readoption of the Regional Plan. The alternative is that the City would need to create its General Plan, covering the City's jurisdictional limits, to remain compliant with State Statutes.

INFORMATION:

The Regional Plan is a policy guide, serving as the general plan for the City of Flagstaff and an amendment to the Coconino County Comprehensive Plan. As mandated by state law, the plan covers a range of topics with information on current conditions and our vision for the future as it relates to the topic at hand. In addition, the plan outlines carefully developed goals and policies to realize the future vision. Strategies to accomplish these goals and policies are located in separate documents, such as neighborhood plans, master plans, and strategic plans, so that they can remain dynamic, and can be updated with City Council and public direction on a more frequent basis.

The Flagstaff Regional Plan is: • a collaborative community vision • a collection of goals and policies to achieve that vision • a tool for decision-makers, developers, businesses, and citizens • a framework for general planning.

The Flagstaff Regional Plan is not: • a mandate for or against development • a zoning ordinance • a Capital Improvement Plan • a City budget • an unchangeable plan, or a law.

Analysis and Data Management

The Regional Plan is also a rich and integrated assessment of resources, drivers, and systems that work together to produce and protect the built, social, and natural environment of the Greater Flagstaff area. Completion of a Regional Plan update requires complex data analysis and scenario planning that considers over 150 data sources and requires software and analytical efforts. The Plan provides the analytical foundation for:

- Development of Area, Neighborhood, and Specific Plans for the City and County
- City and County capital improvement plans,
- MetroPlan's Regional Transportation Plan,
- Mountain Line 5-year Plan
- VISSM regional traffic model which is used in all Traffic Impact Analysis,
- Water Services Master Plan,
- Flagstaff's 100-year water supply certification with the Arizona Department of Water Quality
- Open Space Planning and management
- Economic Development planning and assessments
- Analysis of conformance for Major Plan Amendment
- Conformance of Zoning Code amendments and annexation cases

Emerging issues

The Flagstaff Regional Plan 2030 covered a wide variety of topics that affect the Natural, Built, and Human Environment. However, some issues that were not discussed and have grown in importance and focus for the City include Equity, Climate Change Action, and emerging technologies such as broadband, automated vehicles, electric vehicles, and smart street technology.

Data Management Framework

In order to complete the maps and information required by statute and anticipated information needed by decision-makers, staff anticipates needing to organize, evaluate and analyze over 180 different metrics and geospatial datasets. The list of metrics that are needed has been compiled by staff at the City, County, Metroplan, and Mountain Line based on meetings between November 2020 and February 2021. The Regional Plan's data management team has already been discussing the nature of this work and how we can best organize and maintain access and ensure the quality of this work. It is anticipated that organizing and evaluating these metrics and creating informational material of them could take 9 to 12 months to complete and would be ongoing throughout the Regional Plan update process.

In 2012, the last Regional Plan developed the Future Growth Illustration using a scenario modeling-based public engagement process that allowed staff and the public to work with experts and imagine future scenarios for land use and transportation and their potential impacts. This model included greenhouse gas emissions and Vehicle Miles Traveled (VMT) but did not include any measures of equity. This model has been used for creating projected land-use scenarios with adequate detail for water, transportation, and area planning for the last 8 years. The Regional Plan update will require that the model be updated for current technology and for the incorporation of equity and new climate change measures.

Public Participation

The heart of the Regional Plan is the vision of the community for its future. Developing this vision is a process that engages a broad and diverse population of nearly 90,000 to 100,000 residents of Coconino County and the City of Flagstaff. The draft Public Participation Plan attached to this report is designed to reflect on past visioning and design a process that will allow the community to take an active and empowered role in developing the next Regional Plan. The Public Participation Plan is broken into four phases:

1. Get Curious and Gain Understanding - focuses on sharing information, generating excitement, and listening to feedback
2. What's Possible/What's the Vision - focuses on the art of what is possible and how the community's shared values and concerns for the future can guide the process
3. Plan Creation - focuses on writing, reviewing and revising the Plan
4. Plan Adoption - focuses on approval of the plan through public hearings and required ballot initiative

This process will begin in Fall 2021 with Council and Board direction and is expected to be completed over 3 years. For details and the possible techniques and timing of these phases, see the attached Public Participation Plan.

Process for Adoption and Endorsement

When the Regional Plan was sent to the Board of Supervisors and City Council for public hearings in 2013, the County adopted the Public Hearing draft and the City worked over 4 months to revise the draft that was eventually adopted and sent to the ballot for ratification. These events meant that the City and County adopted two different but similar plans. In addition, the City uncovered several implementation issues that required refinement of the plan through plan amendments. Examples include an incomplete Circulation map, major and minor plan amendment categories that did not further the goals and policies of the plan, a need to address higher density developments already permitted by the City's Zoning Code, and the need for parcel specific maps of activity centers. As a result, the City has processed 11 Regional Plan amendments in 8 years and adopted 3 specific plans. The County adopted 1 plan amendment and 1 area plan over the same period of time. While regular plan amendments ensure that the Regional Plan can be a nimble and living document, the City and County have ended up on policy paths that diverged over time.

Learning from this experience, staff recommends early and regular dialogue on how to endorse drafts and how to process the plan for adoption that meet the needs of both elected bodies. In the Public Participation Plan attached to this report, staff recommends a process of convening a joint retreat for City and County Planning and Zoning Commissions and Board of Supervisors and City Council (together or separately) to review the final draft plan. Staff would also like the Board and Council to consider the order in which the plan would be adopted. For instance, would the board want to endorse informally the final plan that the City sends to the ballot and adopt it officially after the election or could the adoption of the plan include a revisionary clause if the City ballot measure is not passed. Feedback on this topic would help in early communication with the public about how City and County decision making is expected to take place.

Through the process of developing the Regional Plan, the Board and Council may also wish to define expectations for how the Regional Plan may evolve over its lifetime and how to ensure that amendments in the City and County are coordinated.

For the complete background and current version of the Flagstaff Regional Plan adopted and amended by the City, visit the [Flagstaff Regional Plan 2030 website](#).

Attachments: [Presentation](#)
 [Public Participation Plan](#)

Flagstaff Regional Plan Boundaries Map

Minutes Attachments

No file(s) attached.

Flagstaff Regional Plan Joint Update

April 26, 2021

Sara Dechter, AICP CP3

Melissa Shaw, AICP





Work Session Objectives

- Endorse the City and County working together to complete a Regional Plan
- Create shared expectations on regional public participation
- Direction to staff to begin public engagement Region-wide in Fall 2021
- Roles of the public, staff, and appointed and elected officials
- Early discussion of possible endorsement and approval process



Why is it a “Regional Plan”?

City of Flagstaff

- Serves as the General Plan
- Must be adopted by Council every 10 years and ratified by voters
- Supports land use decisions, policy making, the 100-year water supply designation and transportation planning plus many other efforts

Coconino County

- Is an amendment to the County Comprehensive Plan*
- Adopted by the Board of Supervisors as a Major Amendment
- Provides a map of area and place types that is further refined by area plans

*The Comprehensive Plan has no land use map.

Regional Plan/Metroplan Boundaries





The Next Regional Plan

Proposed Guiding Principles

Based on:

- *Lessons Learned*
- *Practice from specific and area plans*
- *Feedback from partners and staff*

Right People, Right Agenda, Right Timing

Experts and Public Work Together

Need for Outside Facilitation

Equity and Inclusion

Clear Expectations for Endorsement



The Next Regional Plan



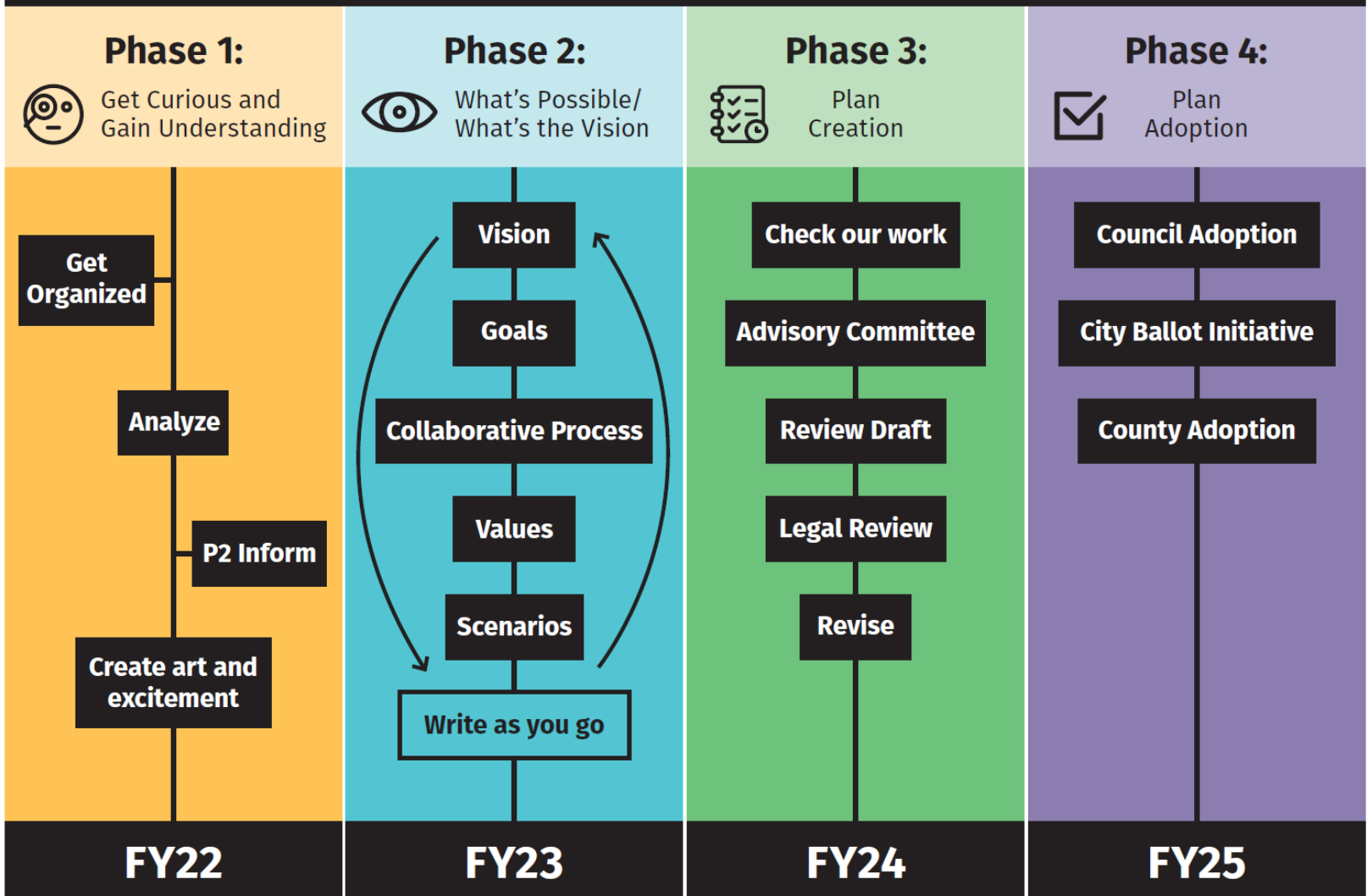
Proposed Public Participation Process

Levels of Public Participation

Plan Development & County Adoption:
Collaborate

City Adoption:
Empower

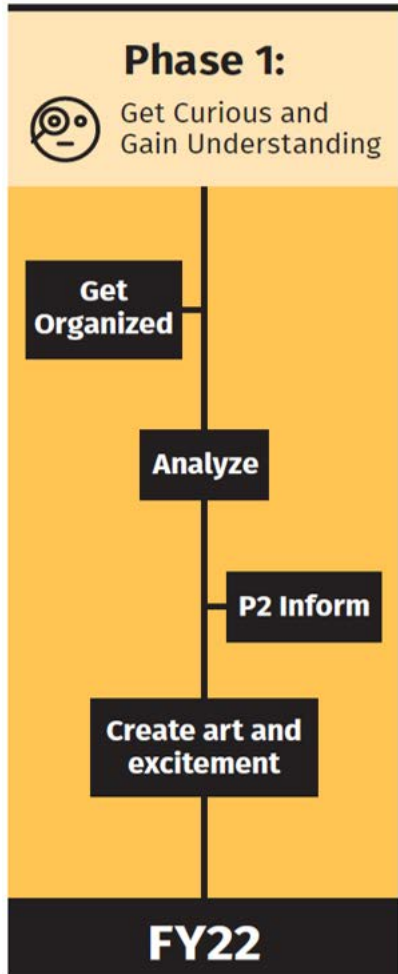
Regional Plan 2045 Update Process





Phase 1

Summer 2021 to Spring 2022

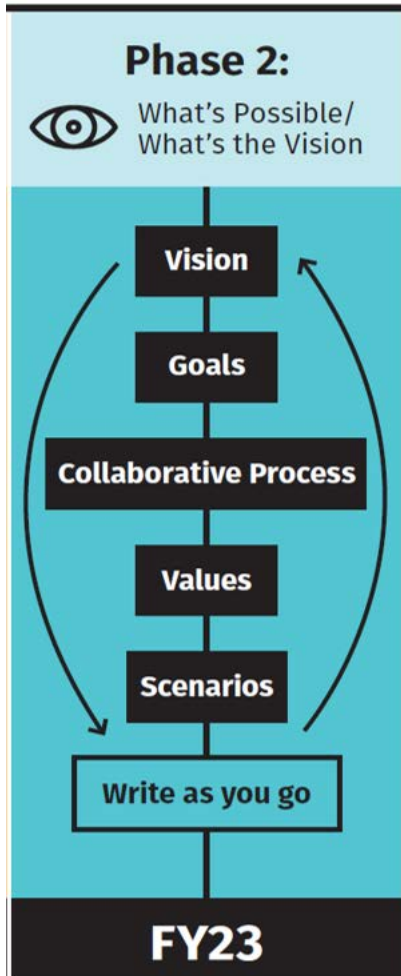


- Participate in fun outdoor gatherings to raise awareness
- Lots and Lots of Data Preparation and Management
- Initial Maps and Self-Evaluation Papers
- SWOT assessment with Boards and Commissions
- Educational Webinars and Online Surveys
- Youth Specific activities
- Bring artists into the process through juried contests and targeted outreach
- Develop media plan



Phase 2

Technique options for the Collaborative Process



- Open Houses
- Collaboration
 - Informal Working Groups* or
 - Study Circles* or
 - Citizen Assembly or Panel*
- Charettes
- Other techniques as needed
- Recruit a diverse advisory committee for Phase 3

*These technique needs further evaluation and possible policy updates



Phase 3



- Appointment of the Advisory Committee
- Provide summaries of public comment and drafts of possible plan content to the advisory committee and rework and revise
- Concurrent or consecutive joint legal review?
- 60 or 90 day public comment period?



Phase 4

Suggested course of adoption



1. Advisory Committee endorses a revised plan
2. City and County Planning and Zoning Commissions have a joint retreat to review and make recommendations on revisions.
3. Board of Supervisors and City Council have a joint retreat to review and direct staff on revising draft for public hearings



Phase 4 continued

Suggested course of adoption



4. City Planning and Zoning Public Hearing*
5. County Planning and Zoning Public Hearing*
6. City Council Public Hearing, adoption and setting a ballot date
7. Board of Supervisors public hearing and continue the public hearing or the decision to a date certain after the City ballot.

* Could this be a Joint Public Hearing?



Resources for FY 2022

City Contribution

- \$15,000 from BPAC for inclusion of art and artists in Phase 1
- \$80,000 towards consultant assistance with data analysis and setting up for Scenario Planning in Phase 2
- \$7,000 for public notices and advertising

County Contribution

- Staff support to facilitate process and public participation.
- Funding for public notices and advertising will be requested.
- Funding for data gathering and analysis to be determined.

Joint Board of Supervisors and City Council Discussion

Topics:

- Public participation
- When to begin
- Roles
- Endorsement, approval & amendment



Regional Plan 2045 Comprehensive Update

Public Participation Plan Outline

Introduction, Purpose and Requirements

What is the Regional Plan?

The Flagstaff Regional Plan is a policy guide, serving as the general plan for the City of Flagstaff and an amendment to the Coconino County Comprehensive Plan. As mandated by state law, the plan covers a range of topics with information on current conditions and our vision for the future as it relates to the topic at hand. In addition, the plan outlines carefully developed goals and policies to realize the future vision.

Project Purpose

The purpose of this project is to:

- Meet the Arizona State requirements that the City's General Plan be updated and sent back to City voters, every 10 years with all appropriate content outlined in ASRS 9-461.
- Create a shared land use and transportation vision for the City and surrounding areas of the County within the Metroplan boundary.
- Ensure sustainable and adequate public facilities for all residents.
- Ensure all relevant natural, economic, and social resources and issues are included in the plan with appropriate goals and policies.

Importance of Public Participation

Public participation is central to the creation of the City's general plan. The document that is created or updated as part of the process should embody the desires, vision and trade-offs that the community will face for the next 20 or more years. The State statute require municipalities to provide for "effective, early and continuous public participation in the development ... of general plans from all geographic, ethnic and economic areas of the municipality." The Regional Plan is a touchstone for all other policy work and land use decision within the City and for the surrounding communities in the County. Both organizations have taken a people-centered approach to this public engagement and have seen it as an important step in establishing a transparent and two-way dialogue with the community.


Level of Public Participation and Objectives

Since November 2012, the City of Flagstaff has had a Public Participation policy that uses the International Association for Public Participations, Spectrum of Public Participation chart as a communication tool that ensures the expectations of the public and the organization are aligned. The General Plan for the city, is by requirement an "Empower" level of participation because the final product is ultimately sent to the City voters for approval on a ballot. However, that is only the final step, and the public does not get to vote on individual portions of the plan but on the document as a whole. Therefore, most of the intermediate steps and the adoption of the plan by the County are at the "Collaborate" level of the spectrum. This plan outlines strategies that could be used to implement this level of public participation for the nearly 100,000 residents of Flagstaff and the surrounding areas of Coconino County in a manner that is transparent, accessible, and equitable to all participants.

IAP2 Spectrum of Public Participation



IAP2's Spectrum of Public Participation was designed to assist with the selection of the level of participation that defines the public's role in any public participation process. The Spectrum is used internationally, and it is found in public participation plans around the world.

INCREASING IMPACT ON THE DECISION 					
	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands of the public.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.

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Throughout the public participation process, the team will adhere to the Core Values for the Practice of Public Participation:

1. Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.
2. Public participation includes the promise that the public's contribution will influence the decision.
3. Public participation promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers.
4. Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
5. Public participation seeks input from participants in designing how they participate.
6. Public participation provides participants with the information they need to participate in a meaningful way.
7. Public participation communicates to participants how their input affected the decision.

Intergovernmental Coordination and Partnerships

While the City could complete a General Plan update independently, the practice over that last 25 years in Flagstaff has been to create a shared vision for the County, City and Metroplan for land use and transportation objectives based on a shared scenario planning and analysis process. This is done not only for organization alignment but to increase the communities competitiveness for State and Federal funding and to ensure a solid understanding of trade-offs in transportation and land use decision making and funding. Partners also benefit from shared terminology, policies and definitions in joint decision-making.

The City and County both use the Flagstaff Regional Plan to make coordinated land use decisions, such as annexations, rezoning cases, new subdivisions and use permits, as the County's Comprehensive Plan does not have a future land use map. Planning efforts with the City of Flagstaff, Coconino County and community partners that directly use the data, assumptions and policies of the Regional Plan include:

- City Specific Plans: Southside, La Plaza Vieja, John Wesley Powell Area, High Occupancy Housing, etc.
- County Area Plans: Bellemont, Doney Park-Timberline-Fernwood, Fort Valley, Mountaineer, and Kachina Village
- Metroplan Regional Transportation Plan
- Mountain Line 5-year Strategic Plan
- City of Flagstaff Water Services 100-year Water supply study, submitted to ADEQ every 5 years
- City of Flagstaff Climate Change Action and Adaptation Plan and Carbon Neutrality Plan
- City of Flagstaff Active Transportation Master Plan

Also, it is common for community non-profits and business to reference the Regional Plan in their long ranging planning efforts, such as the Flagstaff Trails Initiative.

Regional Plan Update Guiding Principles

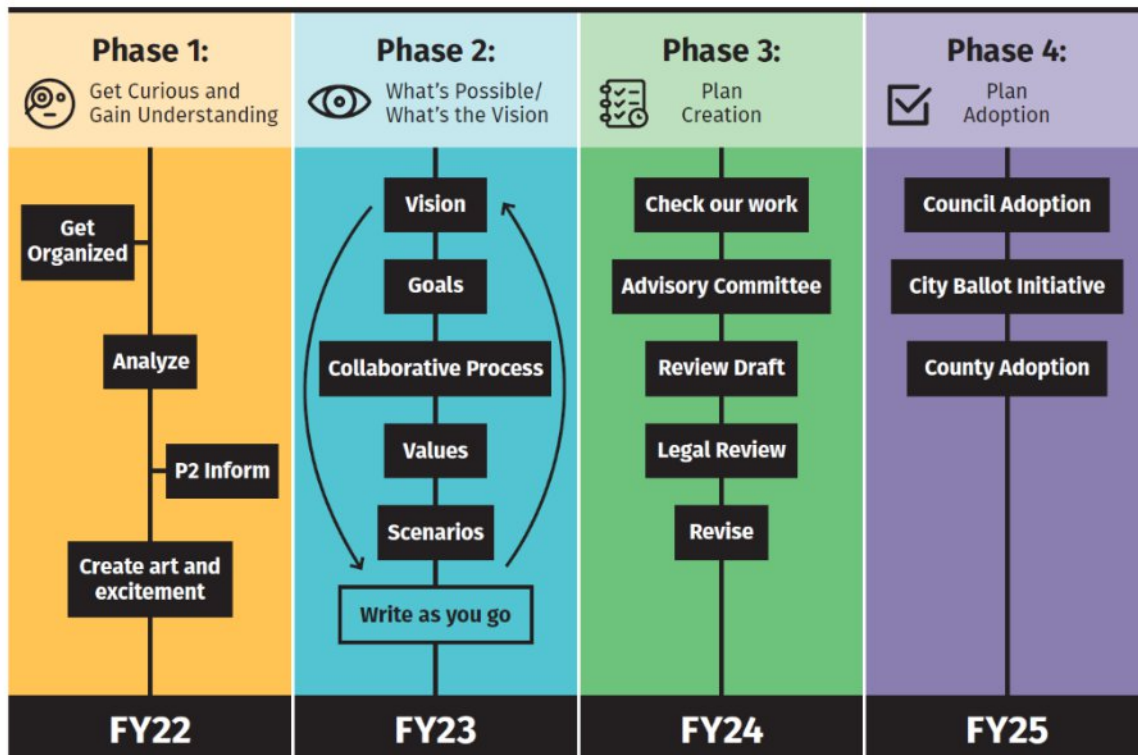
The following are Guiding Principles for the process of updating the Regional Plan, based on lessons learned from interviews with participants in previous efforts. These principles have been refined in specific planning efforts over the last 7 years and may be added to or revised for new feedback from the public and elected officials.

- Right People, Right Agenda, Right Timing – Conversations and decisions about the Regional Plan need to have all three of these elements to be a good use of staff and participant's time. Committing to all three elements requires giving time to ensure everyone who is essential to the conversation can be present and that everyone is clear on roles and meeting objectives before making a decision.
- Experts and Public Work Together – The plan must be developed together with knowledge and perspectives from inside the City and County government, the point of view of researchers and outside experts, and the diverse community members woven together into a shared vision that is founded in both hope and reality.
- Need for Outside Facilitation – City and County staff are not always the right facilitators of every conversation or part of the process and the need for neutral outside facilitation should be considered carefully at each step.

- Equity and Inclusion – The participants of the process should reflect the diversity of our community and the table should be set for every age, gender, race, and neighborhood to have conversations about our community’s future.
- Clear expectations for Endorsement – Elected officials, appointed officials, City and County management, and the public all have a role in endorsing the next Regional Plan and ensuring that it describes a future and a path forward that creates shared purpose. It is important that the manner and order of this endorsement is clear to all participants so they can understand the role they can play and the timing of that role.

Public Participation Proposed Phases and Strategies

Regional Plan 2045 Update Process



The process outlined in the graphic above are dependent on the available resources and direction from the City Council and Board of Supervisors in work sessions in the Spring 2020. All the strategies listed below need detailed legal review and possibly review by Human Resources before the City or County can commit to it. Staff also has contingency plans if resources are limited or there are unforeseen delays in the process.

Phase 1: Get Curious, Create Excitement, and Gain Understanding

Phase 1 will invite the public to engage the process with curiosity, imagination and hope. The goal is to inform the public about the process, its meaning and to solicit feedback on the qualities values and

challenges that should be addressed in the plan update. In addition to surveys, educational webinars, and traditional means of public engagement. Phase 1 would also incorporate art and youth as a basis for creating excitement and forward thinking touchpoints for the more interactive public engagement.

In the background, the City, County, Metroplan and other partners will be organizing and analyzing hundreds of data points that are required for the plan and creating summaries for the City and County's Boards and Commissions to evaluate and provide feedback. This will be the basis for understanding the story of the Flagstaff Region's growth and what it means for our community's future.

Proposed strategies:

- Fun outdoor kick-off event and Public event booths
- Strength Weakness Opportunity and Threat assessment with Boards and Commissions on required and emerging topics of concern
- Focus groups or stakeholder interviews with key stakeholders, community organizations
- Educational webinars and talks
- Online Surveys
- Opportunities to incorporate artists into visioning, such as an art contest or juried event or graphic notetaking
- Youth-specific activities
- Targeted outreach for hard to reach communities to be developed with appropriate partners
- Develop a media plan to launch/kick off the process, promote events and engagement

Phase 2: Vision and Goals

Establish Planning Questions

Phase 2 will open with a review of the learning and sharing from Phase 1 designed to generate planning questions and prioritizing them during a series of workshops, accompanied by an online survey. The objective of these engagements will be to identify critical success factors that the project will need to address and to get conceptual feedback on anticipated trade-offs and decision points.

Collaborative Process

Concurrent with Charettes and other workshops, the City and County would convene a collaborative group process, using one or several of the following techniques:

- Informal Working Groups – The Planning and Zoning and other Boards and Commissions Could convene informal working groups to discuss specific aspects of the Regional Plan revision and update that would consider the planning questions and provide advise to staff on what to include in the draft plan.
- Study Circles – Study circles are a small group deliberative process that are formed of volunteers who have a common interest on a very specific issue, and are facilitated by a non-expert that keeps the discussion on track. Staff could participate as a member of the circle but some circles may form without staff representation. Participation in each study circle could be up to 15 people before a second study group would be formed. Study groups could be hosted by nonprofits and community organizations with a materials box and support from City staff.
- Citizen Assembly - A Citizen Assembly is a group of a residents that meet in a legislative fashion to create recommendations on an issue or topic, and a Citizen's Panel would be a similarly

formed body that is more focused on evaluating material and participating in writing with staff. A citizen assembly is formed by participants that are randomly selected based on characteristics such as geography, income, gender, age, race, etc. to ensure the make up of the group is representative of the population within the planning area. Often Citizen assembly participants are paid and provided child care vouchers as an equity measure and to ensure representativeness of the group.

- Citizen Panel – A Citizen Panel is a group similar to a focus group, except that the volunteers meet over several months on a series of topics. The Panel does not have to arrive at consensus but can deliberate and debate the topics they are asked to consider. If more than one recommendation is made, the panel members can offer majority and minority opinions to the project team.

The selection of technique would be dependent on feedback from the Board of Supervisor's and City Council in a future work session and the availability of resources appropriate to each technique. The objectives of this step would be to ensure diversity in participants and to gather input on a values, attitudes, beliefs and to share knowledge and insights.

The defined activities of a Working Group, Study Circle, Assembly or Panel in Phase 2 would be:

1. To draft the Community Vision and solicit feedback,
2. To assess the strength and weakness of the existing plan,
3. To answer the planning questions identified in early outreach
4. To make recommendations to staff on how to address emerging issues in the plan, and
5. To assist in writing the first draft of the plan including

Charettes and Workshops, Roadshows and Tours

The City and County would also convene design charettes and workshops for the general public that would encourage the consideration of future scenarios and how they could impact the City's balance of resources, especially land, water, transportation, natural resources and climate change impacts. Roadshows would be designed to take the workshops into County neighborhoods. At this stage it could be beneficial to organize bus tours of the planning area.

Metroplan and Mountain Line may be engaged in parallel planning processes during this Phase to create their 5-year plans that are used for project planning. This is a ripe opportunity to combine resources in discussing the transportation future of the community. There is the potential for shared public workshops or events that will be discussed as the projects move forward.

Phase 3: Create and Review the Plan

For Phase 3, the Board of Supervisors and City Council may chose to convene and appoint a volunteer advisory committee. The committee's task would be to review the drafts of the Regional Plan being created and to provide recommendations to staff on resolving any conflicts that arise from the public review.

Workshops would also be held and opportunities to review the plan in study groups or at public events would also be incorporated into Phase 3. As the draft chapters are endorsed by the Advisory Committee, they will also be presented to relevant boards and commissions at the City and the County.

After the full plan has been reviewed and endorsed by the advisory committee, the plan will be released for a 60-90 day public review. Open Houses and webinars will support this effort and public surveys and comment portals will be made available.

After the public review period, the advisory committee could reconvene to review comments and provide direction to staff. Staff would make appropriate revisions and provide it to the advisory committee for endorsement.

Phase 4: Steps to Adopt the Plan

1. The public hearing draft of the Plan would be released at least 30 days prior to a Planning and Zoning working retreat that would be held jointly between the City and County's Planning and Zoning Commissions. This retreat would be open to the public and would be held at least 30 days before the first public hearing for either of the Commissions to allow adequate time for revisions.
2. The City Council and Board of Supervisors may also elect to have a retreat with the plan with or without the Planning and Zoning Commissions prior to the commencement of the Planning and Zoning Commissions public hearing processes.
3. The Planning and Zoning Commissions will make recommendations to the elected officials after holding a public hearing and receiving public comment.
4. City Council will hold a public hearing on the Regional Plan and may approve the ballot initiative by special election or in conjunction with an appropriate election that is already scheduled. City voters will then be given the opportunity to ratify the Regional Plan as scheduled by the Council.
5. The Board of Supervisors will hold a public hearing and may vote to approve the Regional Plan as an amendment to the County Comprehensive Plan by resolution. Staff recommends the Board of Supervisor's considers voting after the Ballot Initiative for the City is canvassed.

Communication Strategies

Project Branding

Part of the advertising budget for this process will be used to develop and test project branding that will unify the message of the project and allow for easy identification of events and work products.

Media

The City's Associate Planner will be the primary point of contact for media calls and will route and coordinate the media requests through the appropriate Public Affairs department at the City or County. Media releases will be drafted by the project team and reviewed and released by the appropriate Public Affairs department at the City or County.

Interview requests will be coordinated with the Directors of the City and County Public Affairs programs.

Online Outreach and Accessibility

The existing Facebook page for the Flagstaff Regional Plan 2030 will be rebranded and expanded onto Instagram as part of the project launch. There will be a coordinated effort on which City and County social media accounts should share and promote the project.

The City of Flagstaff will host the project website and web maps and will include the County staff in the design and messaging.

In-Person

For the duration of the COVID-19 pandemic, in-person events will follow social distancing and public health guidelines of Coconino County.

Mail and Notices

City and County area-wide publications, water bills and other notices, and direct mailings may all be used to notify citizens and residents about the project. Notice requirements will follow the Arizona State Revised Statutes for a General Plan Update and Comprehensive Plan Amendment (See Public Participation Requirements in Appendix E).

Appendix A: Vision 2020 and the Flagstaff Regional Plan 2030 Lessons

Flagstaff Vision 2020 Process and Outcome

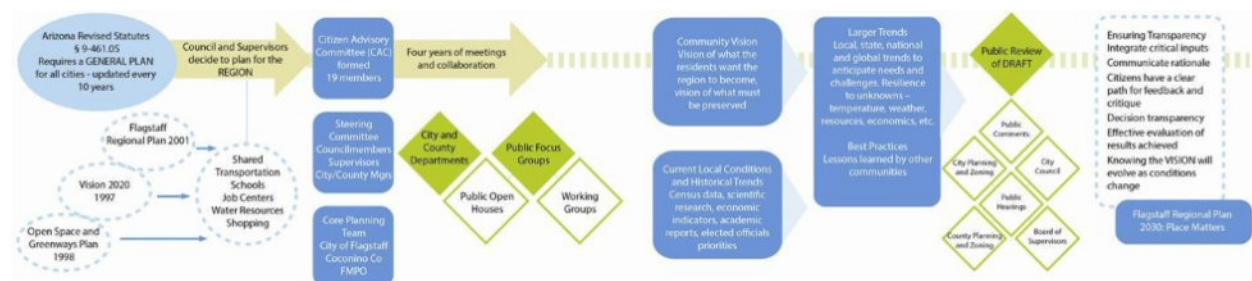
The City of Flagstaff undertook its first visioning process in the mid-1990s. Like the process that the City will embark on in 2021, this process involved research, sharing information and a large effort in community outreach and participatory planning. The process was broken into three Phases 1) Setting a Context, 2) Creating a Vision and 3) Charting a Course. You can review a full archive of the Vision 2020 process at the NAU Cline Library Digital Exhibit and oral history site:

<https://library.nau.edu/speccoll/exhibits/scaexhibits/flagstaff2020/>

The effort resulted in the adoption of the [Flagstaff Regional Land Use and Transportation Plan](#) in 2001.

Flagstaff Regional Plan 2030 Process

The process of revisioning and re-adopting the Regional Plan occurred between 2009 and 2014. Instead of reimagining the 2020 Vision, the process began with the formation of the Citizen Advisory Committee or CAC, which was made up of both City and County residents. The CAC met from the beginning to the end of the process of developing the plan and was supported by scenario planning analysis that provided rich and meaningful data behind the plan. The data developed in this process has been used by the City in strategic planning for utilities, transportation, neighborhood planning and other related issues over the last 7 years. You can find a full description of the process for developing the plan is available for review on the City's website in the [Regional Plan archives](#). The process resulted in the [Flagstaff Regional Plan 2030](#) being ratified by voters in 2014.



In 2014, Sara Dechter, the Comprehensive and Neighborhood Planning Manager, was hired at the end of this process and she conducted a series of after action interviews with former CAC members to gain their perspectives on the process and what could be done to make it better next time. These interviews resulted in lessons learned that the program has been applying and testing in neighborhood plans for La Plaza Vieja and the Southside Community Specific Plans as well as the High Occupancy Housing Plan. The result has been innovative and inclusive projects and plans that created trust and community empowerment. The practice of these lessons is now ready to be applied to the update of the Regional Plan and to provide Regional Plan Update Guiding Principles (found on page 3) for public participation, partnerships and project management.

Appendix B: Stakeholder Assessment

Flagstaff population estimate 2020: 75,219¹

Age Characteristics

Median Age 25.8 years old

Flagstaff youth population (under 18): 12,085

NAU Fall 2020 enrollment: 21,495

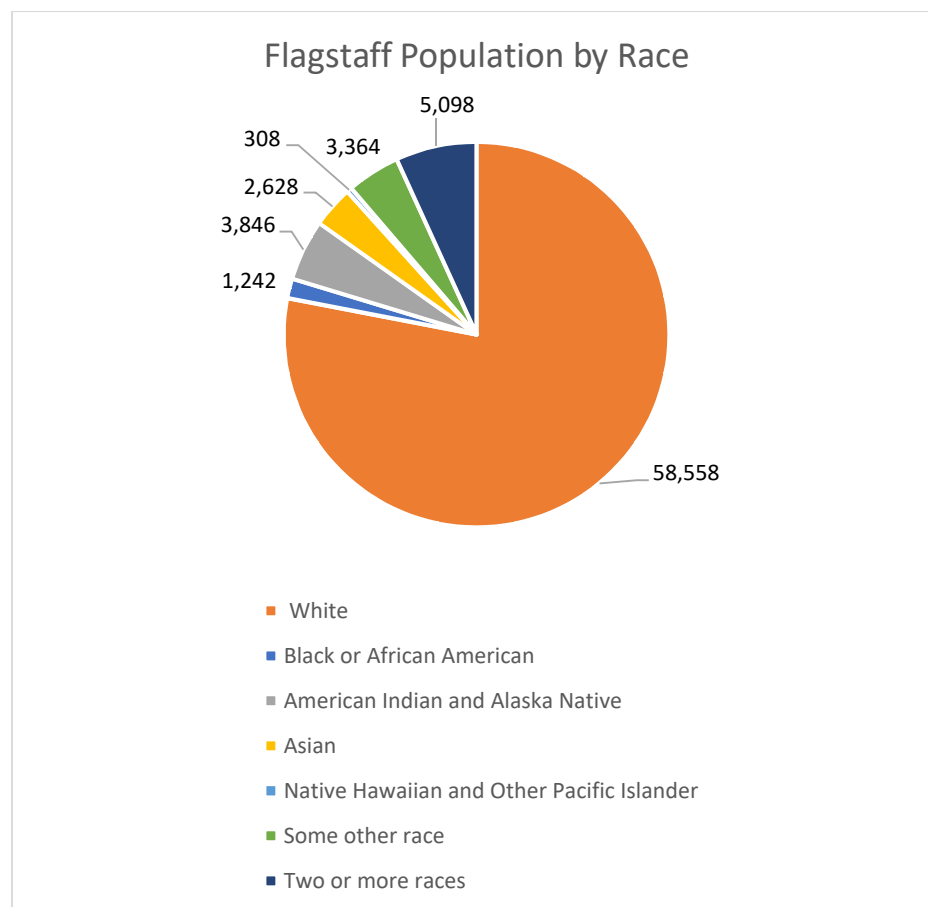
Flagstaff Population age 65 years old and over: 6,527

Other Characteristics

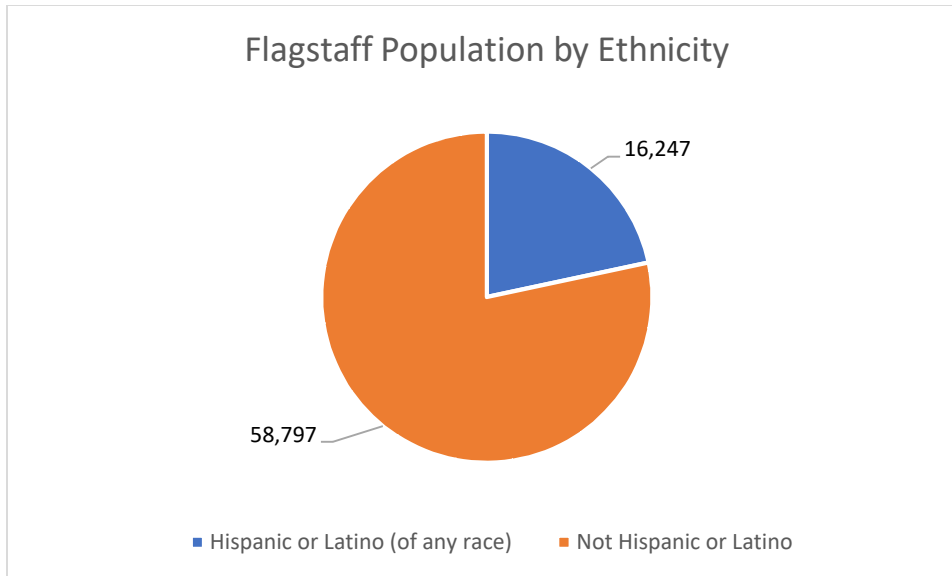
Flagstaff Households that Speak a language other than English at home: 9,941 (6,390 Spanish and the remainder are other)

Population estimate 2020 within the Metroplan boundary but outside the City: To be determined with the 2020 Census redistricting data release in September 2021.

Race and Ethnicity Characteristics



¹ Office of Economic Opportunity estimate



Barriers and Challenges to Participation

Flagstaff and the surrounding areas of Coconino County have a few known barriers to participation in area wide efforts that will need to be incorporated into the 2020 Regional Plan update. This section outlines a few of those issues and may be updated as work on the project continues:

1. Youth and College age participation – Flagstaff’s median age is 25.8 yet the majority of participants in public processes are over the age of 25. Online engagement has been shown as more successful in engaging this population.
2. Language – 13.2% of Flagstaff’s population speaks a language other than English at home. These residents that are hard to reach and require additional project resources to ensure their inclusion.
3. Lack of broadband and internet access – outlying areas of Flagstaff lack reliable internet access which can limit the effectiveness of social media outreach and will require specific techniques for communication and engagement.

Appendix C: Anticipated Costs and Funding

Staff estimates that a minimum of \$124,000 will be needed to meet the minimum requirements for notice, mailings, outreach, and analysis of a joint City-County Regional Plan. This amount of funding would not allow for the Public Participation Outline to be fully implemented and would require a scaled back approach to analysis and public engagement, especially in Phase 2. Full funding of the project as presented in this outline requires approximately \$400,000 to \$500,000 in funding over several years, part of which may be supported by grants, as staff is able to apply for them. This estimate also includes the cost of a special election. Funding sources to be determined and may be provided over several budget years.

The FY22 City Manager’s Budget includes funding for noticing of City residents and consulting services to support data management, analysis and presentation that supports scenario planning. The City’s Beautification and Public Arts Commission has augmented this funding to bring artists and youth into

Phase 1 of the process in order to promote creative thinking and visual outputs that can support the vision of the Plan. See the January 11, 2021 BPAC Meeting Minutes and Video for details.

Coconino County is providing dedicated staff time and resources to assist with facilitating the process, data collection, analysis and public outreach efforts of the Regional Plan update. County staff anticipates that funding specifically targeted for public noticing and mailings necessary for this project will be requested in future budget cycles. At this time funding that the County may be able to commit to this project for portions of the Regional Plan update beyond notices and mailings is uncertain. County staff will continually apprise the Board of Supervisors as decisions are made by the City during the project development.

Appendix D: Endorsements and Evaluation Outcomes and Adjustments

This section will provide a summary of how the project will be evaluating the success of public participation efforts. Evaluation Questions (based on P2 objectives) will be created by September 2021 based on feedback from City Council, the Board of Supervisors and City and County Board and Commissions. And details of what products will be endorsed by which groups and when will be drafted and reviewed by City Council and the board of Supervisors by the end of 2021.

Project Endorsement

- City Council
- Board of Supervisors
- City Planning and Zoning
- County Planning and Zoning
- Other Boards and Commissions
- City Management
- County Management
- Appointed or selected review assembly, panel or committee.

Appendix E: Statutory Public Participation Requirements

Municipal Requirements

Excerpts relevant to public participation from Arizona Revised Statutes 9-461.06. [Adoption and amendment of general plan; expiration and readoption](#)

A. In municipalities that have territory in a high noise or accident potential zone as defined in section 28-8461, the legislature finds that in general plans and amendments to general plans land use compatibility with the continued operation of a military airport or ancillary military facility as defined in section 28-8461 is a matter of statewide concern.

B. The general plan and any amendment to such plan shall be adopted or readopted in the manner provided in this article.

C. The governing body shall:

1. Adopt written procedures to provide effective, early and continuous public participation in the development and major amendment of general plans from all geographic, ethnic and economic areas of the municipality. The procedures shall provide for:

(a) The broad dissemination of proposals and alternatives.

(b) The opportunity for written comments.

(c) Public hearings after effective notice.

(d) Open discussions, communications programs and information services.

(e) Consideration of public comments.

2. Consult with, advise and provide an opportunity for official comment by public officials and agencies, the county, school districts, associations of governments, public land management agencies, the military airport if the municipality has territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, other appropriate government jurisdictions, public utility companies, civic, educational, professional and other organizations, property owners and citizens generally to secure maximum coordination of plans and to indicate properly located sites for all public purposes on the general plan.

D. At least sixty days before the general plan or an element or major amendment of a general plan is noticed pursuant to subsection E of this section, the planning agency shall transmit the proposal to the planning commission, if any, and the governing body and shall submit a copy for review and further comment to:

1. The planning agency of the county in which the municipality is located.

2. Each county or municipality that is contiguous to the corporate limits of the municipality or its area of extraterritorial jurisdiction.

3. The regional planning agency within which the municipality is located.

4. The Arizona commerce authority or any other state agency that is subsequently designated as the general planning agency for this state.

5. The department of water resources for review and comment on the water resources element, if a water resources element is required.

6. If the general plan or an element or amendment of the general plan is applicable to territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the military airport.

7. If the general plan or an element or major amendment of the general plan is applicable to property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461, the attorney general. For the purposes of this paragraph, "major amendment" means a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element.

8. Any person or entity that requests in writing to receive a review copy of the proposal.

E. ... When the general plan or any major amendment is being adopted, planning commissions in municipalities having populations over twenty-five thousand persons shall hold two or more public hearings at different locations within the municipality to promote citizen participation. Notice of the time and place of a hearing and availability of studies and summaries related to the hearing shall be given at least fifteen and not more than thirty calendar days before the hearing by:

1. Publication at least once in a newspaper of general circulation published or circulated in the municipality, or if there is none, the notice shall be posted in at least ten public places in the municipality.

2. Such other manner in addition to publication as the municipality may deem necessary or desirable.

F. Action by the planning commission on the general plan or any amendment to the plan shall be transmitted to the governing body of the municipality.

G. Before adopting the general plan, or any amendment to it, the governing body shall hold at least one public hearing. Notice of the time and place of the hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as specified in subsection E of this section.

H. The adoption or readoption of the general plan or any amendment to such plan shall be by resolution of the governing body of the municipality, after notice as provided for in subsection E of this section. The adoption or readoption of or a major amendment to the general plan shall be approved by affirmative vote of at least two-thirds of the members of the governing body of the municipality.

J. A copy of the adopted general plan of a municipality shall be sent to the planning agency of the county within which the municipality is located, and such plan or any portion of the plan may be adopted as a part of the county general plan.

K. A general plan, with any amendments, is effective for up to ten years from the date the plan was initially adopted and ratified pursuant to subsection M of this section, or until the plan is readopted pursuant to this subsection and ratified pursuant to subsection M of this section or a new plan is adopted pursuant to this subsection and ratified pursuant to subsection M of this section, and becomes effective. On or before the tenth anniversary of the plan's most recent adoption, the governing body of the municipality shall either readopt the existing plan for an additional term of up to ten years or shall adopt a new general plan as provided by this article....

M. The governing body of a city or town having a population of more than two thousand five hundred persons but less than ten thousand persons and whose population growth rate exceeded an average of two per cent per year for the ten year period before the most recent United States decennial census, and any city or town having a population of ten thousand or more persons, shall submit each new general plan adopted pursuant to subsection K of this section to the voters for ratification at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty days after the governing body adopted the plan pursuant to section 16-204. The governing body shall include a general description of the plan and its elements in the municipal election pamphlet and shall provide public copies of the plan in at least two locations that are easily accessible to the public and may include posting on the municipality's official internet website. If a majority of the qualified electors voting on the proposition approves the new plan, it shall become effective as provided by law. If a majority of the qualified electors voting on the proposition fails to approve the new plan, the current plan remains in effect until a new plan is approved by the voters pursuant to this subsection. The governing body shall either resubmit the proposed new plan, or revise the new plan as provided by this section, for subsequent submission to the voters at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty days after the governing body readopted the

new or revised new plan. All subsequent adoptions and submissions of the new plan or revised plans must comply with the procedures prescribed by this section until the plan is ratified....

O. A person, after having participated in the public hearing pursuant to subsection H of this section, may file a petition for special action in superior court to review the governing body's decision that does not comply with the mandatory requirement prescribed in section 9-461.05, subsection C, paragraph 1, subdivision (g) within thirty days after the governing body has rendered its decision. The court may affirm, reverse or remand to the governing body, in whole or in part, the decision reviewed for further action that is necessary to comply with the mandatory requirements prescribed in section 9-461.05, subsection C, paragraph 1, subdivision (g)

Additional Requirements from Flagstaff City Code Title 11-10.20.010 Comprehensive Plan Updates relevant to Public Participation

....B. The adoption of a new General Plan or readoption of the General Plan shall follow the common procedures for General Plan amendments (Section [11-10.10.020](#)) and the procedures for a major plan amendment (Section [11-10.20.020](#)), except that it need not be heard at a single public hearing held during the calendar year in which the application was filed.

E. All Comprehensive Plan updates are subject to the public participation procedures established in Section 10-20.30.060, Neighborhood Meeting

F. Ratification.

1. Each new or readopted General Plan shall be submitted to the voters for ratification at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty (120) days after the governing body adopted the General Plan pursuant to A.R.S. Section 16-204. The Council shall include a general description of the General Plan and its elements in the municipal election pamphlet and shall provide copies of the proposed General Plan to the public in at least two (2) locations that are easily accessible to the public, which may include posting on the City's official Internet website.
2. If a majority of the qualified electors voting on the proposition approves the new or readopted General Plan, it shall become effective as provided by law.
3. If a majority of the qualified electors voting on the proposition fails to approve the new or readopted General Plan, the current General Plan remains in effect until a new or readopted General Plan is approved by the voters pursuant to this section. The Council may resubmit the proposed new or readopted General Plan, or revise the new or readopted General Plan as provided by this section for subsequent submission to the voters. (Ord. 2015-13, Amended, 06/02/2015)

County Requirements

Public participation and adoption requirements from Arizona Revised Statutes Section 11-805: [Comprehensive plan adoption; notice; hearing; amendment; expiration; readoption.](#)

NOTE: For procedural purposes, the County process for adopting the Regional Plan update is assumed to be a "major amendment" to the comprehensive plan.

A. The board shall adopt a comprehensive plan and subsequently amend or extend the adopted plan as provided by this article. On adoption or readoption, the plan, or any part of the plan, shall be the official guide for the development of the area of jurisdiction. Any change, amendment, extension or addition of the comprehensive plan may be made only pursuant to this chapter.

B. The board of supervisors shall:

1. Adopt written procedures to provide effective, early and continuous public participation in the development and major amendment of the comprehensive plan from all geographic, ethnic and economic areas of the county. The procedures shall provide for:

- (a) The broad dissemination of proposals and alternatives.

- (b) The opportunity for written comments.

- (c) Public hearings after effective notice.

- (d) Open discussions, communications programs and information services.

- (e) Consideration of public comments.

2. Consult with, advise and provide an opportunity for official comment by public officials and agencies, municipalities, school districts, associations of governments, public land management agencies, the military airport if the county's area of jurisdiction includes territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, other appropriate government jurisdictions, public utility companies, civic, educational, professional and other organizations, property owners and citizens generally to secure the maximum coordination of plans and to indicate properly located sites for all public purposes on the plan.

C. The commission shall confer with the state land department and the governing bodies and planning commissions of cities and towns in the county for the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the county, of zoning districts, of urban growth and of public improvements and utilities that do not begin and terminate within the boundaries of any single city or town and that will, pursuant to the present and future needs of the county, best promote with efficiency and economy the health, safety, morals, order, convenience or general welfare of the public.

D. The commission shall coordinate the production of the comprehensive plan with the creation of the conceptual state land use plans under title 37, chapter 2, article 5.1. The commission shall cooperate with the state land department regarding integrating the conceptual state land use plans into the comprehensive plan.

E. The commission may formulate and draft the comprehensive plan as a whole, or as separate parts of the plan corresponding with functional divisions of the subject matter, and, subject to the limitations of this chapter, may amend, extend or add to the comprehensive plan.

F. At least sixty days before the comprehensive plan or an element or major amendment of a comprehensive plan is noticed pursuant to subsection G of this section, the commission shall transmit the proposal to the board of supervisors and submit a copy for review and further comment to:

1. Each municipality in the county.
2. Each other county that is contiguous to the county.
3. The regional planning agency in the county.
4. The Arizona commerce authority or any other state agency that is subsequently designated as the general planning agency for this state.
5. The department of water resources for review and comment on the water resources element, if a water resources element is required.
6. If the comprehensive plan or an element or amendment of the comprehensive plan is applicable to territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, the military airport.
7. If the comprehensive plan or an element or major amendment of the comprehensive plan is applicable to property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in section 28-8461, the attorney general. For the purposes of this paragraph, "major amendment" means a substantial alteration of the county's land use mixture or balance as established in the county's existing comprehensive plan land use element for that area of the county.
8. Any person or entity that requests in writing to receive a review copy of the proposal.

G. After considering any recommendations from the review required under subsection F of this section, the commission shall hold at least one public hearing. Notice of the time and place of a hearing and availability of studies and summaries related to the hearing shall be given at least fifteen and not more than thirty calendar days before the hearing by:

1. Publication at least once in a newspaper of general circulation in the county seat.
2. Publication at least once in a newspaper of general circulation in the area to be affected, or adjacent to the area to be affected, if the area affected is other than the county seat.
3. Such other manner in addition to publication as the county may deem necessary or desirable.

H. After the commission recommends the comprehensive plan or any section of the plan, the plan shall be submitted to the board of supervisors for its consideration and official action.

I. Before the adoption, amendment or extension of the plan, the board shall hold at least one public hearing on the plan. After the board considers the commission's recommendation and any recommendations from the review required under subsection F of this section, the board shall hold at least one public hearing at which residents of the county shall be heard concerning the matters contained in the plan. At least fifteen days' notice of the hearing shall be given by one publication in a newspaper of general circulation in the county seat. The board shall consider protests and objections to the plan and may change or alter any portion of the comprehensive plan. However, before any change is made, that portion of the plan proposed to be changed shall be re-referred to the commission for its recommendation, which may be accepted or rejected by the board.

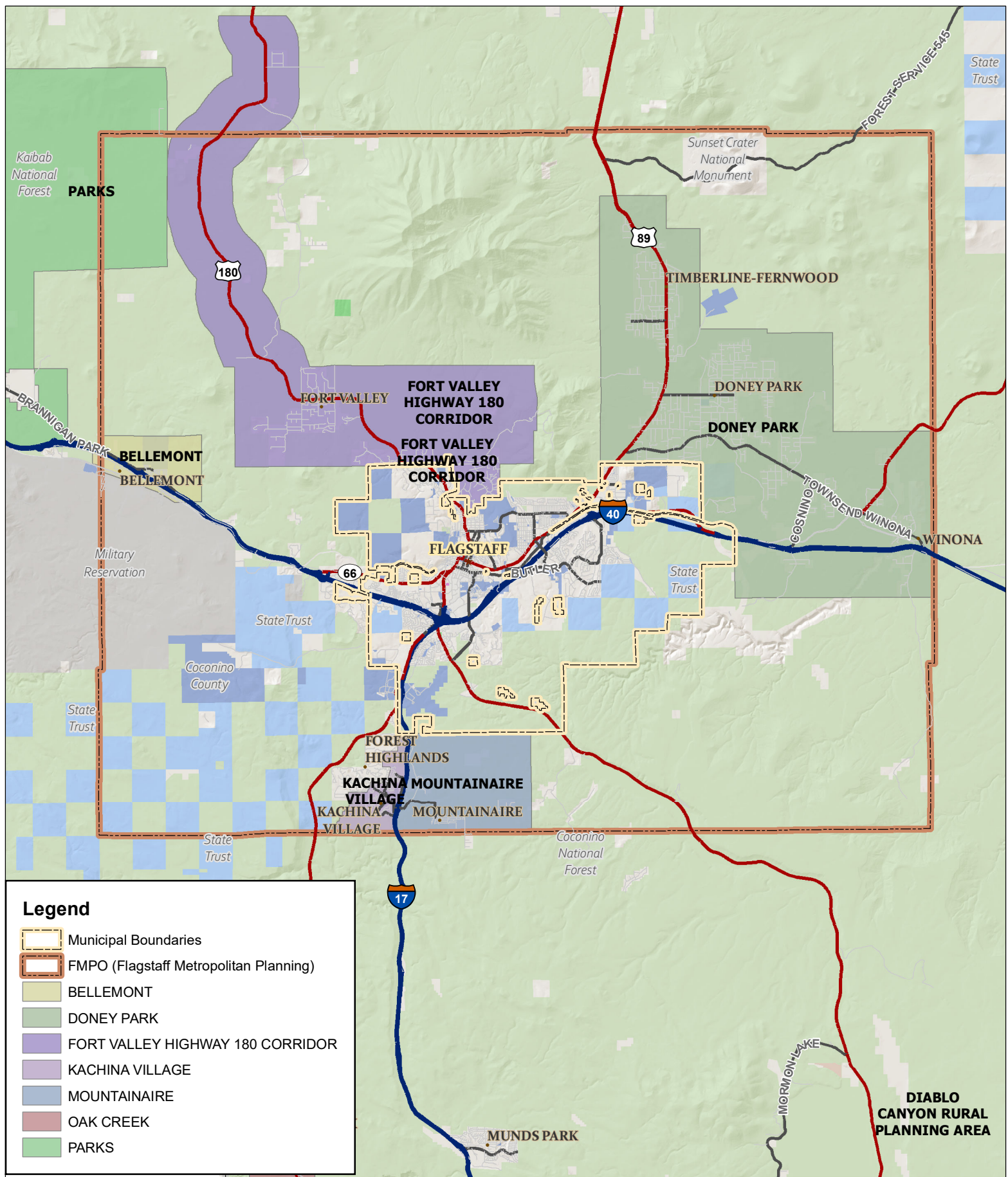
J. The board of supervisors may adopt the county comprehensive plan as a whole or by successive actions adopt separate parts of the plan. The adoption or readoption of the comprehensive plan or any amendment to the plan shall be by resolution of the board. The adoption or readoption of, or a major amendment to, the county comprehensive plan shall be approved by the affirmative vote of at least two-thirds of the members of the board. All major amendments proposed for adoption to the comprehensive plan by the board shall be presented at a single public hearing during the calendar year the proposal is made. The adoption or readoption of the comprehensive plan, and any major amendment to the comprehensive plan, shall not be enacted as an emergency measure and is subject to referendum as provided by article IV, part 1, section 1, subsection (8), Constitution of Arizona, and title 19, chapter 1, article 4. For the purposes of this section, "major amendment" means a substantial alteration of the county's land use mixture or balance as established in the county's existing comprehensive plan land use element for that area of the county. The county's comprehensive plan shall define the criteria to determine if a proposed amendment to the comprehensive plan effects a substantial alteration of the county's land use mixture or balance as established in the county's existing comprehensive plan land use element for that area of the county.

K. N/A

L. If the motion to adopt or readopt the plan or an amendment to the plan fails to pass, the board may reconsider the motion in any manner allowed by the board's rules of procedure, but any subsequent motion for the adoption or readoption of the plan or a major amendment to the plan must be approved by an affirmative vote of at least two-thirds of the members of the board. If the board fails to adopt or readopt the plan, the current plan remains in effect until a new plan is adopted. The board shall either reconsider the proposed plan or consider a revised plan within one year and shall continue to do so until one is adopted. All subsequent considerations of a new or revised plan must comply with the procedures prescribed by this article.

M. A county comprehensive plan, with any amendments, is effective for up to ten years from the date the plan was initially adopted or until the plan is readopted or a new plan is adopted pursuant to this subsection and becomes effective. On or before the tenth anniversary of the plan's most recent adoption, the board shall either readopt the existing plan for an additional term of up to ten years or shall adopt a new comprehensive plan as provided by this article.

N. A person, after having participated in the public hearing pursuant to subsection I of this section, may file a petition for special action in superior court to review the board of supervisor's decision that does not comply with the mandatory requirement prescribed in section 11-804, subsection B, paragraph 1, subdivision (e) within thirty days after the board has rendered its decision. The court may affirm, reverse or remand to the board of supervisors, in whole or in part, the decision reviewed for further action that is necessary to comply with the mandatory requirements prescribed in section 11-804, subsection B, paragraph 1, subdivision (e).

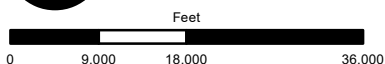


Legend

- Municipal Boundaries
- FMPO (Flagstaff Metropolitan Planning)
- BELLEMONT
- DONEY PARK
- FORT VALLEY HIGHWAY 180 CORRIDOR
- KACHINA VILLAGE
- MOUNTAINAIRE
- OAK CREEK
- PARKS



Flagstaff Regional Plan Boundaries



Created by Melissa Shaw on 2021-04-15

THIS MAP IS FOR GENERAL PURPOSES ONLY.
NO WARRANTY OF ACCURACY IS GIVEN OR IMPLIED.



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Dan Folke, Community Development Director
Co-Submitter: Jay Christelman, Coconino County Community Development Director
Date: 04/19/2021
Meeting Date: 04/28/2021



TITLE:
Report on the Jointly Funded Dark Sky Specialist Position

DESIRED OUTCOME:

Dark Sky Specialist Mark Stento has prepared a report on the work program and accomplishments of the new position which is jointly funded by Coconino County and the City of Flagstaff. The presentation is for information only.

EXECUTIVE SUMMARY:

The Dark Sky Specialist position is jointly funded per the existing Intergovernmental Agreement (IGA) executed in February 2020 with an expiration of July 1, 2021. The City of Flagstaff City Council approved the IGA on February 4, 2020, and Coconino County Board of Supervisors approved the IGA on February 11, 2020. The IGA will not be reviewed in this presentation but is attached for information only along with a staff summary that provides additional background information on the joint position. The IGA will be presented for renewal consideration to each body separately at future meetings.

INFORMATION:

Flagstaff Regional Plan

Goal E&C.5 Preserve Dark Skies as an unspoiled natural resource, basis for an important economic sector, and core element of community character.

Attachments: IGA with staff summary
Presentation

Minutes Attachments

No file(s) attached.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council

:

Date: 01/27/2020

Meeting Date: 02/04/2020



TITLE:

Consideration and Adoption of Resolution No. 2020-03: A resolution approving an Intergovernmental Agreement (IGA) between Coconino County and the City of Flagstaff for a jointly funded dark sky code compliance specialist.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-03 by title only
- 2) City Clerk reads Resolution No. 2020-03 by title only (if approved above)
- 3) Adopt Resolution No. 2020-03

Executive Summary:

The City of Flagstaff and Coconino County are partnering to jointly fund a Code Compliance Officer II-Dark Sky Specialist. This position will be housed with the City of Flagstaff. The Dark Specialist will focus on addressing existing outdoor lighting violations, documenting non-conforming lighting, and educating builders, developers, homeowners, and commercial business owners and operators about our local dark sky requirements. The Dark Sky Officer performs inspections for all new incoming outdoor lighting permit applications and assists with permitting and future zoning code updates. The attached Intergovernmental Agreement outlines how the position will be funded and utilized by both entities as well as a reporting process.

Financial Impact:

Coconino County has agreed to split the cost of the Dark Sky Code Compliance Specialist for a term of two years. In addition, Lowell Observatory has agreed to provide a total of \$10,000 for the position with \$5,000 provided each year over the two-year term. The City of Flagstaff has funded the position on-going.

Policy Impact:

None

Connection to Council Goal, Regional Plan:**Council Goals**

Code Compliance - Achieve comprehensive and equitable code compliance through plan review and inspection services

Environmental and Natural Resources - Actively manage and protect all environmental and natural resources

Community Outreach - Enhance public transparency and accessibility

Regional Plan

Goal E&C.5. Preserve dark skies as an unspoiled natural resource, basis for an important economic sector, and core element of community character.

Flagstaff Strategic Plan

Strategic Priority #1: Provide exceptional service

Strategic Priority #4: Work in partnership to enhance a safe and livable community

Has There Been Previous Council Decision on This:

None

Options and Alternatives:

None

Background/History:

The Naval Observatory Flagstaff Station (NOFS) completed a Mission Compatibility Light Pollution Study to evaluate mission impact from light pollution. The study determined that no more than a 10% increase in sky brightening can occur and still maintain mission compatibility. The study identifies six strategies to keep sky brightness at an acceptable level. While all strategies will require staff resources to implement and enforce, several will be more staff intensive than others. In particular, the strategy to identify and track lighting retrofits will require significant work from our Code Compliance program. The lighting standards allow non-conforming lights to continue until the fixture is replaced or the use is expanded. Staff is aware that the replacement of lighting often happens without the necessary permit. In these cases, conforming lighting can become non-conforming. The strategy calls for creating a database of existing non-conforming lighting including fixtures, lamp types, wattages, and a photo of each fixture. This will be a time-intensive activity that will require developing subject expertise and some evening or overnight work.

Changing conditions in outdoor lighting types are also having a significant impact on the Code Compliance resources. The preferred lighting source in Flagstaff since the inception of the Outdoor Lighting Standards has been Low-Pressure Sodium. These fixtures have become obsolete and are being replaced with non-conforming white LED fixtures. The number of outdoor lighting violations is increasing and the Dark Sky community has been working with staff to pursue the most egregious cases.

Key Considerations:

The Code Compliance Officer II- Dark Sky Specialist provides a variety of services to the community. In addition to working on the six strategies identified in the light pollution study, we have created a resource in the community to assist owners with our lighting standards and the Dark Sky program. The Dark Sky Specialist works with owners to identify compliant light fixtures (luminaries) and with retailers, manufacturers, and distributors to ensure that luminaries meet our code requirements. The Specialist works nights with the use of a visible light spectrometer in order to identify non-conforming lighting and

violations. This technical analysis is critical to the dark sky program as we move away from low-pressure sodium lights and replace them with LEDs. White LEDs represent the greatest impact/threat to dark skies. Narrow spectrum amber LEDs are the preferred technology for dark sky compliant lighting. Lighting technology and products change regularly, so having this full-time position focused on lighting provides consistent enforcement and should allow the introduction of new technologies as they become available. As the first International Dark Sky Community, both Flagstaff's culture and economy benefit from the program. Creating this position demonstrates our commitment to Dark Skies and provides needed resources and services to the community.

Community Involvement:

None

Attachments: Res. 2020-03
 Dark Sky Specialist IGA
 Dark Sky Specialist PPT

INTERGOVERNMENTAL AGREEMENT

**by and between
City of Flagstaff and Coconino County
regarding the**

Dark Sky Code Compliance Specialist

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter "Agreement"), dated this 4th day of February 2020, is by and between CITY OF FLAGSTAFF, a municipal corporation of the State of Arizona (the "CITY"), and COCONINO COUNTY, a political subdivision of the State of Arizona (the "County"). Pursuant to A.R.S. Section 11-952, the City and the County agree as follows:

RECITALS

WHEREAS, the CITY is authorized to enter into this Agreement pursuant to A.R.S. §§ 11-952 and 41-2632 and Article I, Section 3 of the Flagstaff City Charter; and

WHEREAS, the COUNTY is authorized to enter into this Agreement pursuant to A.R.S. § 11-952; and

WHEREAS, the CITY and the COUNTY desire to jointly fund a shared personnel position known as Code Compliance Officer II – Dark Sky Specialist ("Dark Sky Specialist"); and

WHEREAS, the Dark Sky Specialist will jointly benefit the CITY and the COUNTY by providing comprehensive enforcement and inspection services in regard to the standards for outdoor lighting adopted by either the City or the County ("Outdoor Lighting Standards"), on an as-needed basis, for development that occurs in both the CITY and unincorporated areas of the COUNTY; and

WHEREAS, the Dark Sky Specialist will further benefit the CITY and the COUNTY by educating builders, developers, commercial business owners, and residents concerning the Outdoor Lighting Standards; and

WHEREAS, it is the intent and desire of the parties hereto to provide for the respective obligations of each party with regard to the shared Dark Sky Specialist position.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth, the parties agree as follows:

1. TERM.

A. The initial term of the Agreement shall be from the date the parties execute this Agreement, until July 1, 2021, unless terminated by either party pursuant to the provisions of this Agreement.

B. In recognition of, and in deference to, the budgeting needs and obligations of the parties hereto, any party wishing to terminate the provisions of this Agreement without cause shall provide written notice at least 90 days prior to the effective date of such termination.

2. JOINT EMPLOYEE.

A. The City shall provide a Dark Sky Specialist employee to be shared jointly with the COUNTY for the purpose of working directly with residents, property owners, business owners, builders, developers, and lighting professionals on Outdoor Lighting issues, as defined in the Outdoor Lighting Standards, and providing additional opportunities for collaboration between the COUNTY and the CITY.

B. The Dark Sky Specialist will be a regular employee of the CITY, hired by the CITY and subject to the CITY's employment policies, procedures, and systems. Management of the Dark Sky Specialist and related programming will be shared by both the CITY and the COUNTY. Performance evaluations will be managed using the CITY'S process, with input from the COUNTY. The CITY and the COUNTY will each provide work space for the Dark Sky Specialist at their respective locations. A shared work plan for the Dark Sky Specialist will be developed, implemented, evaluated collaboratively, and agreed upon by both parties.

C. The COUNTY and the CITY will work together to develop and coordinate effective training and professional development for the Dark Sky Specialist.

3. REPORTING

A. The Dark Sky Specialist will track and record all daily activities performed in the course of employment, including, but not limited to, educational outreach and enforcement activities.

B. The Dark Sky Specialist will additionally keep accurate records of how their time has been allocated between functions performed for customers within the CITY's jurisdiction and functions performed for customers within the COUNTY's jurisdiction.

C. The Dark Sky Specialist will further create and provide semi-annual reports to the CITY and the COUNTY that accurately reflect a summary of the information required to be maintained under this Subsection. One report will be delivered on or before the first workday in April of each year, and will cover activities for the period of October through the end of March. The second report will be delivered on or before the first workday in October of each year, and will cover activities for the period of April through the end of September.

4. FUNDING.

A. The Dark Sky Specialist position is to be funded jointly by the COUNTY and the CITY with a \$10,000 contribution from Lowell Observatory for work on behalf of the city and the county. If appropriation by either party is unavailable or is terminated for whatever reason, then the obligation of the parties to this Agreement will also be terminated regarding funding for the Dark Sky Specialist position. Should funding not be available for any reason, neither the

COUNTY nor the CITY will be held responsible to continue the position or fund the position beyond the current contracted term of the Dark Sky Specialist.

B. The CITY and the COUNTY will each provide partial funding in the amount of 50% total salary for the Dark Sky Specialist position minus half of any contributions from Lowell Observatory, or other third-party contributors.

C. The COUNTY's partial funding commitment, in the amount of 50% of the total salary for the Dark Sky Specialist position (minus half of any contributions from Lowell Observatory or other third-party contributors), will remain the same should the CITY modify its salary structure, provide for salary increases or decreases for any reason or provide merit, incentive, or any other type of compensation or benefit. The CITY will consult with the COUNTY before reclassifying the Dark Sky Specialist position to a higher salary range or otherwise increasing compensation; however, compensation changes will be made consistent with CITY policies and procedures. The CITY is solely responsible for payment of the employer portion of benefits, including mandatory retirement. The CITY will provide worker's compensation coverage.

D. If appropriation by the COUNTY is unavailable or is terminated for whatever reason, the obligations of the COUNTY under this Agreement are also terminated. Upon termination of this Agreement for any reason, the City may assume the Dark Sky Specialist position as solely a City position with all enforcement contained to the City.

5. INDEMNIFICATION, NOTIFICATION, AND JOINT RESOLUTION.

The COUNTY and the CITY agree to accept responsibility and indemnify the other for any claims arising from the employment of the Dark Sky Specialist with respect to claims arising from circumstances under their respective control or on their premises. The COUNTY and the CITY each agree to promptly notify the other of any claims, complaints, or grievances made by the shared employee to allow for a joint resolution of any claim, complaint, or grievance, if desired.

6. INSURANCE.

The COUNTY shall maintain adequate insurance, which may include a bona fide self-insurance program, to cover any liability arising from the acts and omissions of its employees or agents.

The CITY shall maintain adequate insurance, which may include a bona fide self-insurance program, to cover any liability arising from the acts and omissions of its employees or agents.

7. AMENDMENTS; INTEGRATION.

This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof. All amendments or modifications of the Agreement shall be in writing and approved by the Coconino County Board of Supervisors and the Flagstaff City Council.

8. CANCELLATION FOR CONFLICT OF INTEREST.

This Agreement may be cancelled for conflict of interest in accordance with the requirements of Section 38-511 of the Arizona Revised Statutes.

9. NON-DISCRIMINATION.

Each PARTY warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, pregnancy, religion, sex, sexual orientation, gender identify, genetic information, age, national origin, disability, veteran status, caregiving responsibilities, or familial status shall have equal access to employment opportunities. Each PARTY shall take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

10. ATTORNEY APPROVALS.

By their signatures below, the undersigning attorneys do certify that this Agreement has been reviewed by them pursuant to A.R.S. § 11-952(D), and further certify that they have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona as concerns those respective parties of the Agreement represented by the undersigned attorney as indicated .

IN WITNESS WHEREOF, the parties hereto have set forth their hands, through representatives duly so authorized, the day and date first above written.

COCONINO COUNTY



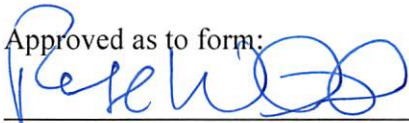
Lena Fowler, Chair
Board of Supervisors

Attest:



Lindsay Daley,
Clerk of the Board of Supervisors

Approved as to form:



County Attorney's Office

CITY OF FLAGSTAFF



Mayor Coral Evans

Attest:



City Clerk

Approved as to form:



City Attorney's Office

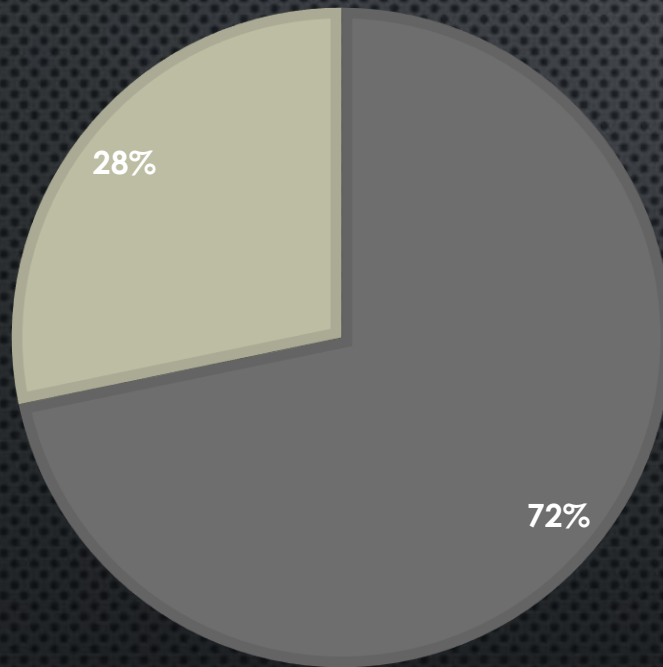
DARK SKY COMPLIANCE SPECIALIST ACTIVITY SUMMARY

APRIL 26, 2021



LIGHTING STANDARDS CASELOAD EMPHASIS

■ Commercial ■ Residential



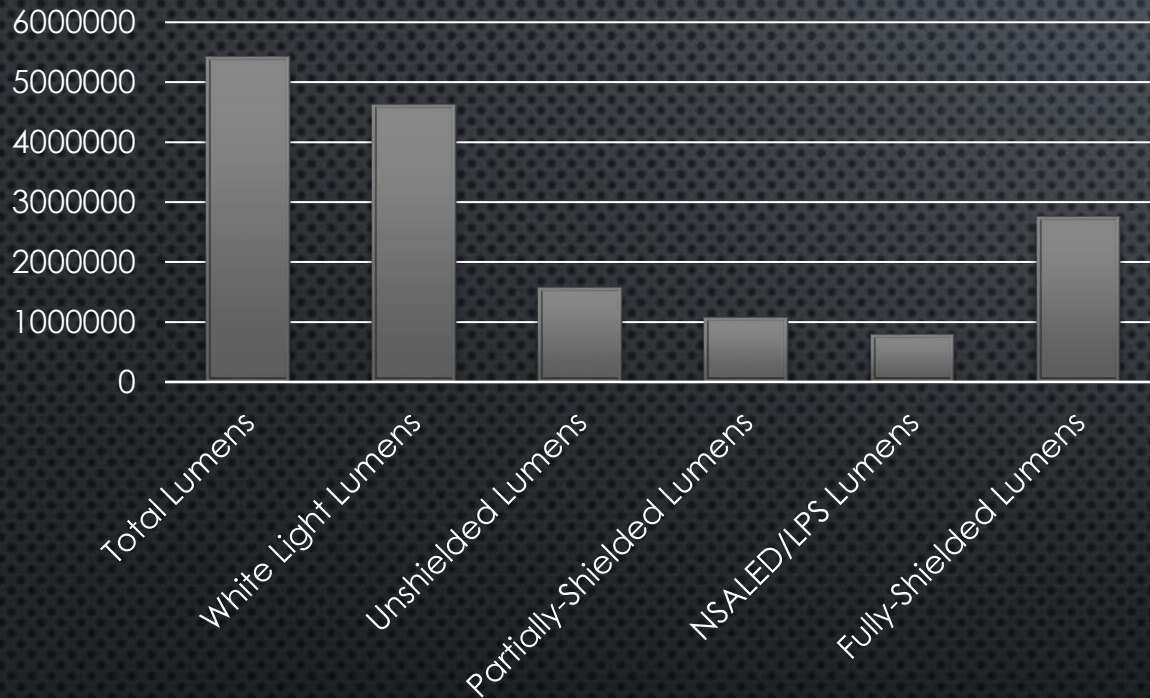
CITY OF FLAGSTAFF COMPLIANCE HIGHLIGHTS

- 92 OUTDOOR LIGHTING PERMITS REVIEWED FOR COMPLIANCE AND INSPECTED
- 37 RESIDENTIAL LIGHTING STANDARDS COMPLAINTS RESOLVED
 - MOST INVOLVED RESOLUTION OF LIGHTING TRESPASS
- 31 MAJOR COMMERCIAL LIGHTING STANDARDS VIOLATIONS RESOLVED
- 63 CURRENT COMMERCIAL LIGHTING STANDARDS VIOLATION CASES ACTIVE
- NUMEROUS OUTREACH EFFORTS, INCLUDING BULB REPLACEMENT PROGRAM, HIGH ENERGY EFFICIENCY WORKSHOP PARTICIPATION AND DARK SKY FRIENDLY LABELING PROGRAM
- INTERNAL COMPLIANCE EFFORTS WITH FACILITIES FOCUSED ON AIRPORT AND OTHER CITY PROPERTIES

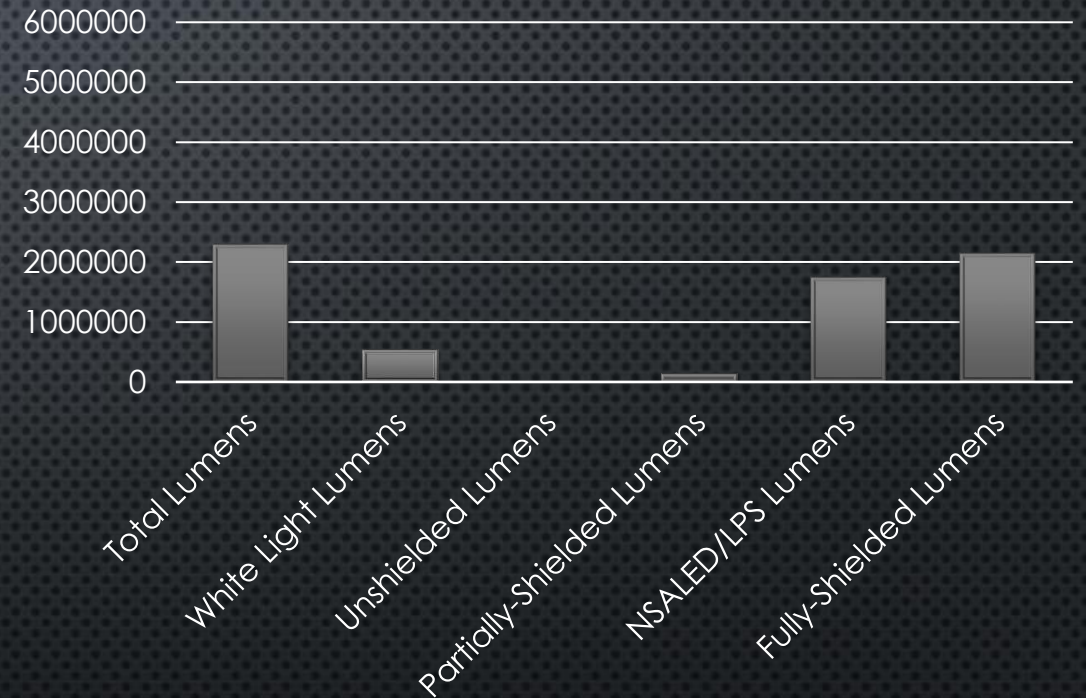


CITY COMMERCIAL PROPERTY LUMEN REDUCTIONS THROUGH ENFORCEMENT ACTION

Pre-Compliance



Post-Compliance



COCONINO COUNTY COMPLIANCE HIGHLIGHTS

- 17 RESIDENTIAL LIGHTING STANDARDS CASES RESOLVED, ALL COMPLAINT BASED
- 4 MAJOR COMMERCIAL VIOLATIONS RESOLVED
- PROVIDE LIGHTING PERMIT REVIEW FOR PLANNING AND ZONING
- CONDUCTED INVESTIGATIONS AND INSPECTIONS IN REMOTE LOCATIONS, INCLUDING GREENEHAVEN, RED LAKES AND VERMILLION CLIFFS
- PROVIDE PRELIMINARY LIGHTING COMPLIANCE FEEDBACK DURING PRE-APPLICATION MEETINGS
- OUTREACH EFFORTS DESIGNED TO ASSIST WITH LIGHTING STANDARDS DEVELOPMENT AND SUPPORTIVE ENFORCEMENT ACTION HAVE EXTENDED TO GRAND CANYON NATIONAL PARK, CITY OF PAGE, CITY OF WILLIAMS AND YAVAPAI COUNTY
- PROVIDE ON-THE-GROUND MATERIALS TESTING AND COMPLIANCE SUPPORT UTILIZING VISIBLE LIGHT SPECTROMETER AND FIXTURES POPULATED WITH NARROW SPECTRUM AMBER LED (NSALED) LUMINAIRES
- CURRENTLY ASSISTING WITH THE DEVELOPMENT OF UPDATED LIGHTING STANDARDS



JOINT LAND USE STUDY IMPLEMENTATION GRANT

- WORKING WITH COCONINO COUNTY, MATRIX AND DARK SKY PARTNERS (DSP) TO DEVELOP SPECIFICATIONS FOR A GIS DATABASE CONTAINING EXTERIOR LIGHTING DATA ON EXISTING NON-CONFORMING PARCELS
 - DATABASE WILL ENSURE PROPERTIES CAN BE MORE ACCURATELY MONITORED FOR COMPLIANCE AND HELD ACCOUNTABLE IF LIGHTING CHANGES OCCUR
 - INITIAL 90 PARCELS PROVIDED TO DSP FOR ON-THE-GROUND EVALUATION AND DATABASE ENTRY
- NEXT PHASE INVOLVES DEVELOPMENT OF OUTREACH MATERIALS TARGETED TOWARD SINGLE FAMILY RESIDENCES IN BOTH THE CITY AND THE COUNTY



“AFTER STOPPING OUT TO SEE MIKE’S NEW SHOP LAST WEEK I WANT TO THANK YOU SO MUCH FOR VISITING OUR BACKYARD NEIGHBORS AND HELPING THEM DECIDE TO USE AMBER BULBS. WE NOTICED THE BIG DIFFERENCE LAST NIGHT! I’M GLAD OUR CITY HAS PEOPLE LIKE YOU WHO HELP OTHERS COMPLY WITH OUR DARK SKY EFFORTS. YOU ARE GREATLY APPRECIATED!”

- SWISS MANOR RESIDENT REGARDING UNSHIELDED LUMINAIRES INSTALLED ON A NEIGHBOR’S HOME

CITIZEN FEEDBACK



I WANT TO THANK YOU FOR YOUR ATTENTION TO THE CONCERN I WROTE TO YOU ABOUT THE BRIGHT LIGHT NEXT DOOR TO ME THAT WAS SO BRIGHT IT LIT THE FENCE ON THE OTHER SIDE OF MY FRONT YARD, LIT THE INSIDE OF MY HOME, MY BACK DECK AND THE TREES IN THE CANYON BELOW US. AS I SAID IN MY VOICEMAIL THIS SUMMER, I AM REALLY IMPRESSED THAT YOU INVESTIGATED IT WITHIN A DAY OF RECEIVING MY CONCERN AND THAT YOU WERE ABLE TO SOLVE THE PROBLEM BY SPEAKING WITH MY NEIGHBOR, EXPLAINING THE PROBLEM, AND OFFERING HER AN ALTERNATIVE AMBER LIGHT BULB WHICH SHE HAD CHANGED OUT IMMEDIATELY.

THIS IS A GOOD EXAMPLE OF COMPLIANCE MANAGEMENT BEING A POSITIVE LEARNING EXPERIENCE INSTEAD OF A CONFLICT. I APPRECIATE YOU WHEN I LOOK AT THE NIGHT SKY AND CAN SEE THE STARS AND OTHER FEATURES BECAUSE THE DOUBLE FLUORESCENT LIGHT IS NOW AMBER. KEEP UP THE GOOD WORK AND LET ME KNOW IF THERE IS ANYTHING I CAN DO AS A CITIZEN TO SUPPORT YOUR FUNDING.

- KACHINA VILLAGE RESIDENT FEEDBACK REGARDING COUNTY RESIDENTIAL CASE

CITIZEN FEEDBACK





IMPACT EXAMPLES – PRE COMPLIANCE





IMPACT EXAMPLES – POST COMPLIANCE