

WORK SESSION AGENDA

AMENDED

CITY COUNCIL WORK SESSION
TUESDAY
JANUARY 12, 2021

STAFF CONFERENCE ROOM
SECOND FLOOR - CITY HALL
211 WEST ASPEN AVENUE
3:00 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

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

*Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and
to the general public that, at this work session, the City Council may vote to go into executive
session, which will not be open to the public, for legal advice and discussion with the City's*

attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

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.

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 at the meeting 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 to have an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

5. Review of Draft Agenda for the January 19, 2021 City Council Meeting

Citizens wishing to speak on agenda items not specifically called out by the City Council may submit a speaker card for their items of interest to the recording clerk.

6. Active Transportation Master Plan

7. Climate Emergency Declaration Update

8. Regulation of recreational marijuana in Flagstaff

9. 2021 Legislative Priorities

10. Discussion and Direction: 2019/2020 Election Overview and Timeline Review

11. Public Participation

12. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests

13. 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: Martin Ince, Multi-Modal Planner
Date: 01/04/2021
Meeting Date: 01/12/2021



TITLE

Active Transportation Master Plan

STAFF RECOMMENDED ACTION:

Information and discussion only; no Council action required

EXECUTIVE SUMMARY:

This is a presentation to City Council on the Active Transportation Master Plan (ATMP), which serves as a detailed guide to enhancing walking and biking in Flagstaff. This presentation is intended to provide the Council with information about the plan in advance of the final review and approval process.

INFORMATION:

The Active Transportation Master Plan (ATMP) is intended to serve as a detailed set of strategies, actions, programs, and projects to enhance walking and biking in Flagstaff.

Procedurally the document is defined as a Specific Plan, which is described in Division 11-10.30 of Flagstaff City Code as providing a greater level of detail for an element of the Flagstaff Regional Plan 2030. In this case, the ATMP provides detailed guidance to implement the goals and policies of the transportation element of the Regional Plan regarding walking and biking.

Significant community engagement and discussion has already been conducted in support of the planning process and is reflected in the first draft of the ATMP. Over the next few months, following internal City review, the draft ATMP will move through the final steps for review and approval. The final process begins with a public release of the draft plan for a mandatory 60-day public review that will include a community survey and virtual public open houses. At the conclusion of the public review period, the plan is routed through the City's Pedestrian Advisory Committee, Bicycle Advisory Committee, Transportation Commission, and Planning and Zoning Commission before returning to the City Council for adoption by resolution.

During this process, City Council will have several opportunities to review the ATMP, including a work session at the conclusion of the public review period, and final review and approval at the conclusion of the adoption process. Additionally, the City Council will be notified and provided with a copy of the draft plan when it is released to the public.

This presentation is intended to provide the City Council with an outline of the draft plan in advance of the review and approval process.

ATMP intent

- Implement the goals and policies of the Regional Plan 2030 for walking and biking.
- Provide detailed guidance to enhance and promote walking and biking.
- Ensure that walking and biking are accommodated in new private development, public capital projects, and other plans and projects.
- Advance an understanding of walking and biking as an integral part of a larger context of transportation and land use planning.
- Shift our transportation philosophy towards a broader process that promotes walking, biking, and transit and supports other community goals and values.

ATMP approach

- Be more transformational than incremental
- Prioritize pedestrians and bicyclists
- Take a well-rounded approach to transportation
- Pursue a wide range of solutions for mobility
- Use Travel Demand Management (TDM) as a guiding principle
- Don't overbuild for cars

ATMP goals

1. Build networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient
2. Take care of what we have
3. Cultivate a supportive environment for walking and biking
4. Improve safety for walking and biking through education and enforcement
5. Promote land use and transportation planning that is supportive of walking and biking
6. Assess how we're doing for walking, biking, and trails

Attachments: [Power point presentation](#)

Active Transportation Master Plan

City Council
12 Jan 2021



Active Transportation Master Plan

Presentation outline



- Context
- Approach
- Content
- Schedule





Active Transportation Master Plan



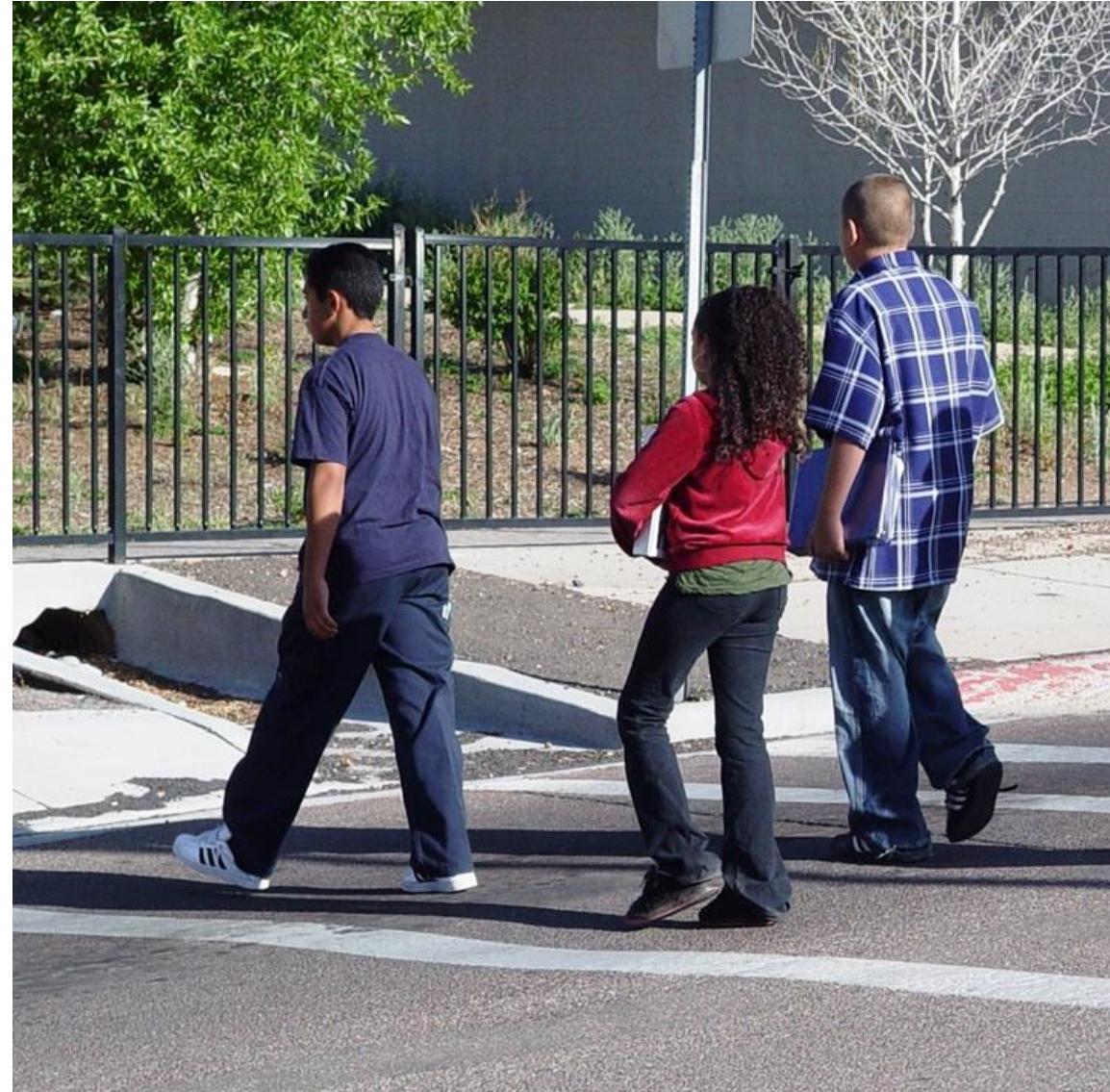
- A plan to enhance and promote active transportation in Flagstaff
- Active transportation = walking and biking



Why plan for active transportation



- Health and quality of life
- Economic development and tourism
- Mobility and equity
 - 30% of the population doesn't drive
 - Low-income populations are more likely to rely on active modes
- Congestion management
- Climate goals and environment





National and local trends



- Evolution of Flagstaff as a small city
- National transportation trends
 - 20 years of infrastructure funding (Prop 419)
 - Pandemic
 - Climate emergency









Transportation and climate neutrality



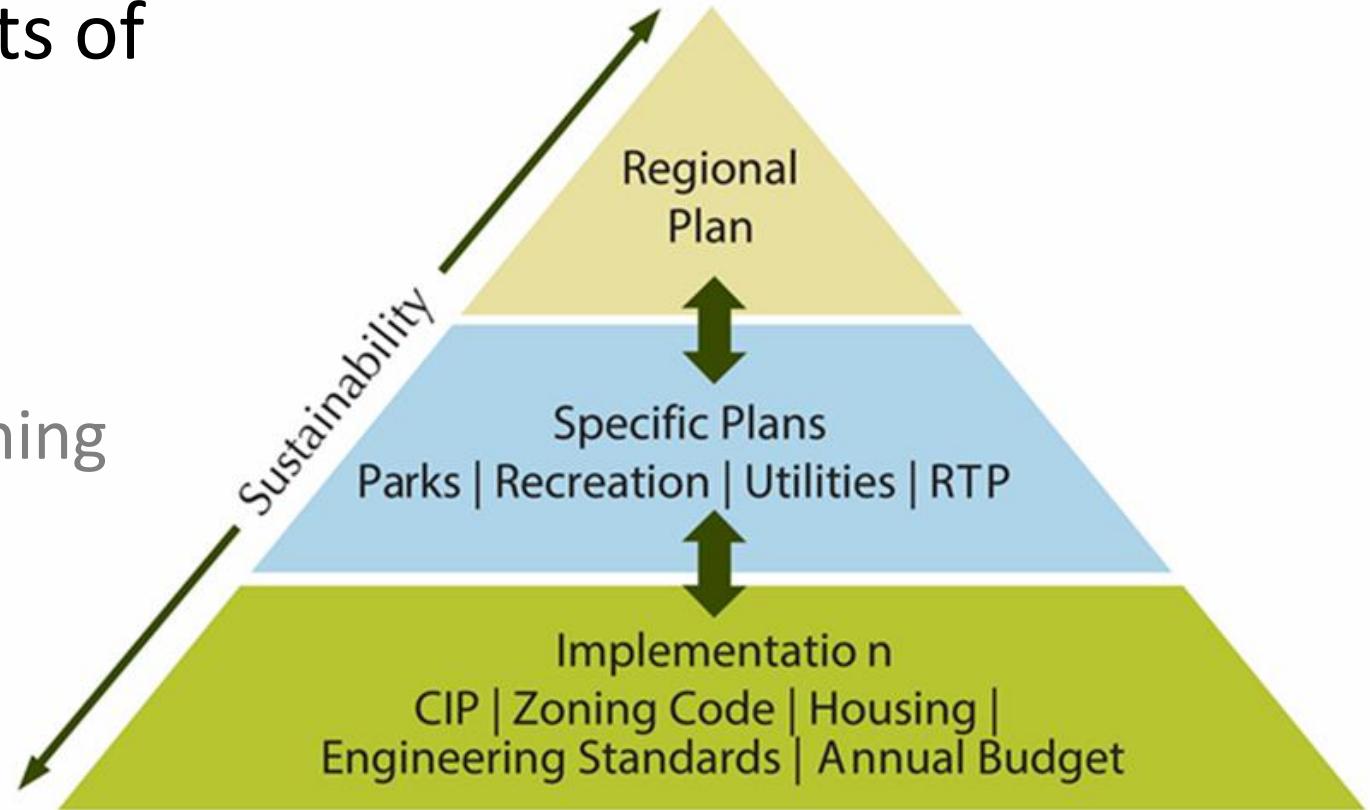
- Transportation accounts for 40% of greenhouse gas emissions
- We cannot achieve carbon neutrality without aggressive and transformational changes in transportation sector
- Need to reduce VMT, increase active modes



Specific plan

Bridge between...

- High-level vision and concepts of the Regional Plan
- On-the-ground implementation...
 - Capital projects and programming
 - Private development
 - Engineering Standards/Zoning Code
 - Design guidelines
 - Other plans, other projects





Guiding principles



- Walking and biking are significant community values
- There is a great opportunity in Flagstaff to expand walking and biking
- More people will choose to walk and bike when it is comfortable, convenient, and appealing



Guiding principles

- Walking and biking are critical elements of a robust transportation system
- Walking and biking are integral to land use, community character, and street design
- Mobility is a fundamental human need





Approach



- Be more transformational than incremental (The Big Shift)
- Prioritize pedestrians and bicyclists
- Take a well-rounded approach to transportation
- Pursue a wide range of solutions for mobility
- Use Travel Demand Management (TDM) as a guiding principle
- Don't overbuild for cars



Vision



Flagstaff supports and
celebrates walking and biking
for everyone, regardless of age,
ability, circumstances, or
geography

ATMP

Draft plan sections



1. Introduction
2. Current conditions
3. Vision, policies, goals
4. Strategies and actions
5. Walking and biking infrastructure
6. Implementation
7. Outcomes, measures, targets
8. Planning and design considerations



ATMP goals



1. Build networks for walking and biking
2. Take care of what we have
3. Cultivate a supportive environment
4. Improve safety through education and enforcement
5. Promote supportive land use and transportation planning
6. Assess how we're doing for walking, biking, and trails

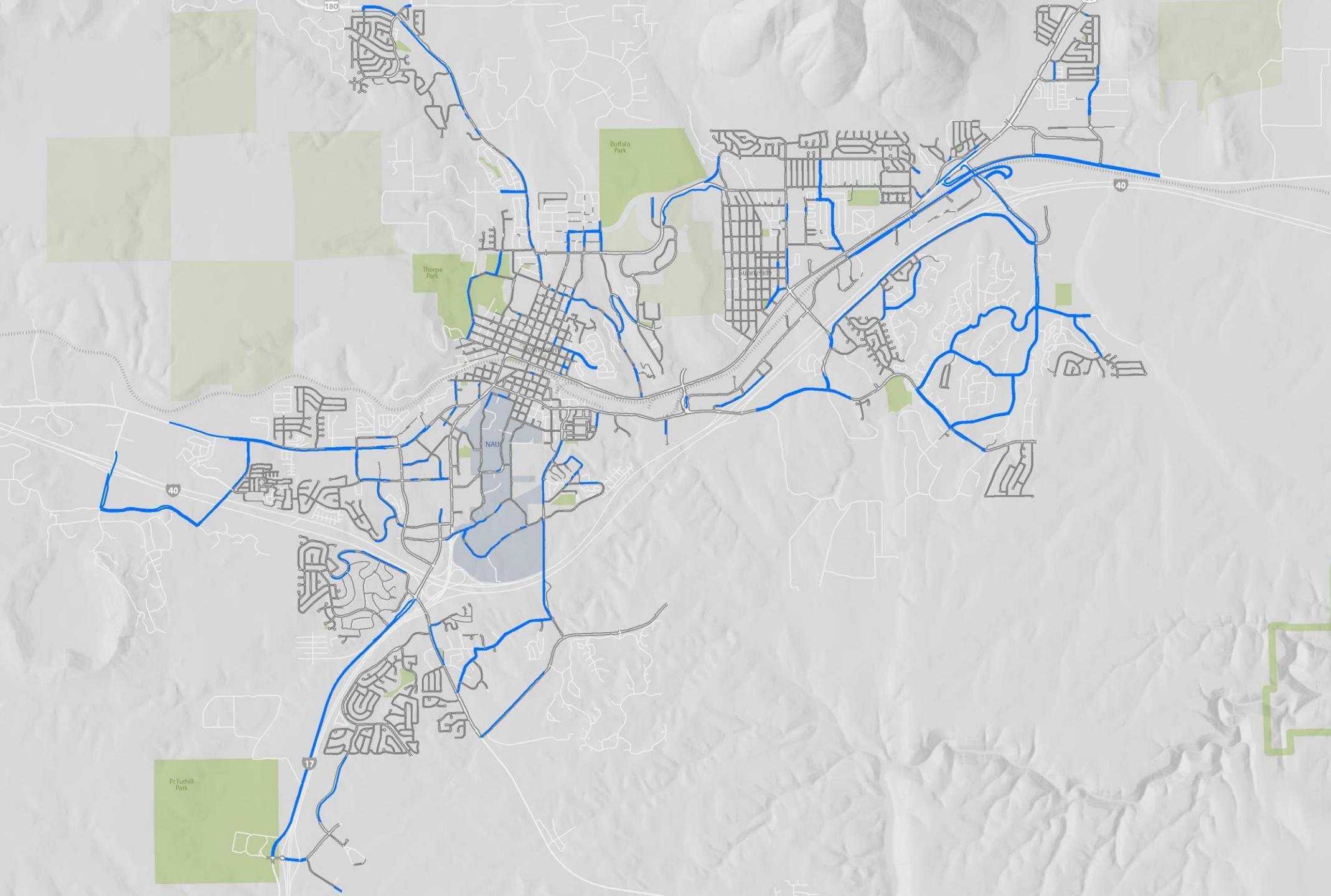


Goal 1 | Build networks



- Transportation tax/Prop 419 | \$29 million over 20 years
- Sidewalks, bikeways, crossings, bridges and tunnels, FUTS trails
- Plus ped-bike projects in private development, public capital projects

Map
Existing and
missing sidewalks



Sidewalks | missing
Sidewalks | existing



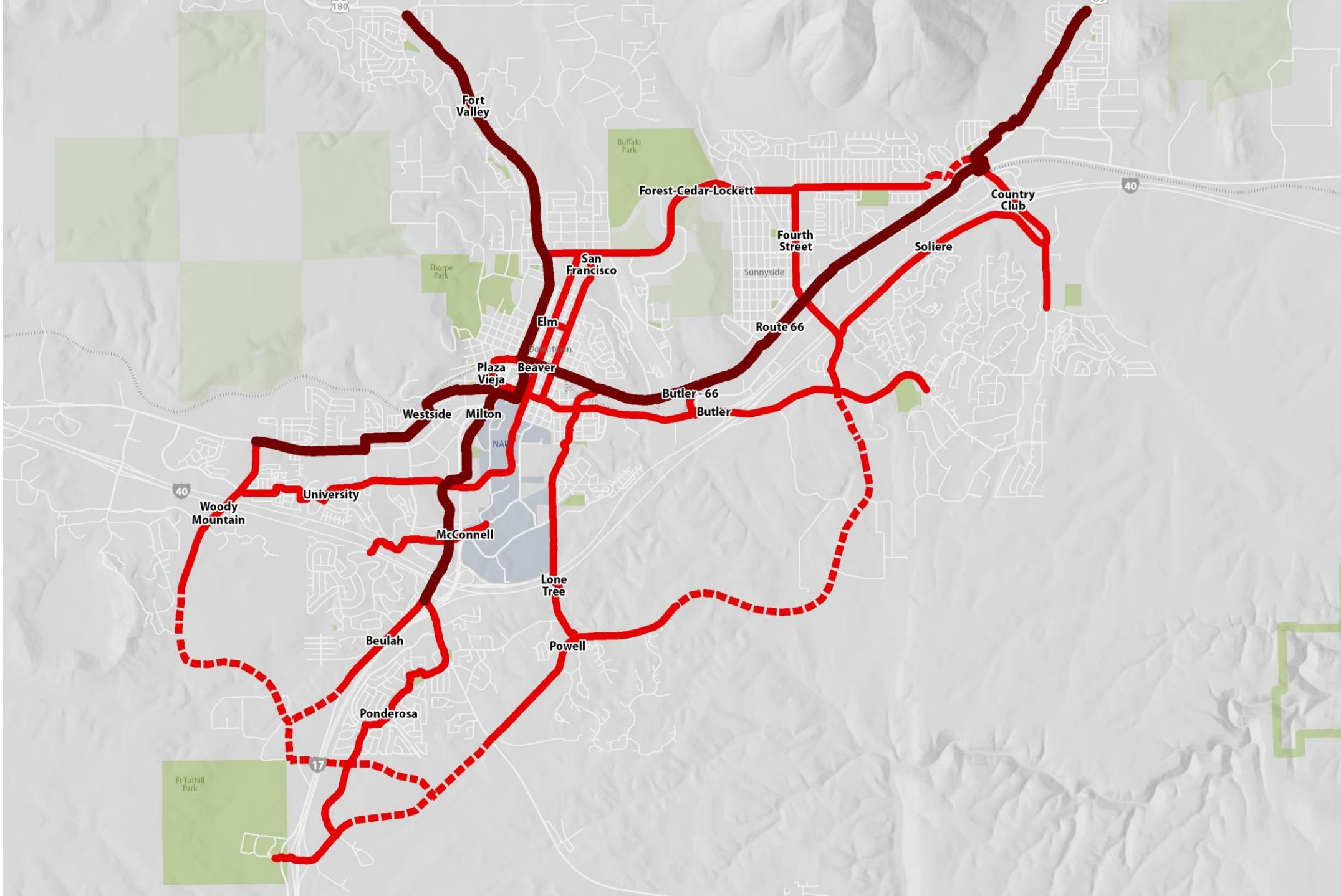


Bikeways

- City-wide network of bikeways
- Focus on primary and secondary routes
- Separation principle/protected bikeways
- Appeals to broader segment of population



Map
Bikeways
primary and
secondary





Active transportation and transit



- Transit is also an active mode
- Walking, biking, transit are mutually supportive
- Most transit trips start with a walking or biking trip
- Transit extends the range of walk/bike trips
- Transit is a back-up for walk/bike trips



Goal 2 | Take care of what we have



- Maintenance
- Snow clearing
- Sweeping and debris
- Blockages
- Closures and detours





Goal 3 | Supportive environment



- Information and maps
- Events and activities
- Open streets, slow streets, cyclovias
- Bike share
- Equity and accessibility
- Advocacy groups and stakeholders





Goal 4 | Improve safety



- Safe Routes to School
- Bicycle/pedestrian/motorist education
- Safety audits/crash data
- Targeted enforcement





Goal 5 | Supportive planning/land use



- Pedestrian and bicycle accommodation fit within a larger context...
 - Land use, urban form, development patterns
 - Approach to transportation planning
 - Street design and character
 - Design guidelines for walking and biking





Travel demand management (TDM)



- Transportation policy approach that reduces demand for SOV; encourages walking, biking, transit
- Functions at two levels...
 - Philosophy or approach
 - Comprehensive program
- Analogous COF programs:
 - Water conservation
 - Rethink Waste





Goal 6 | Assess how we are doing

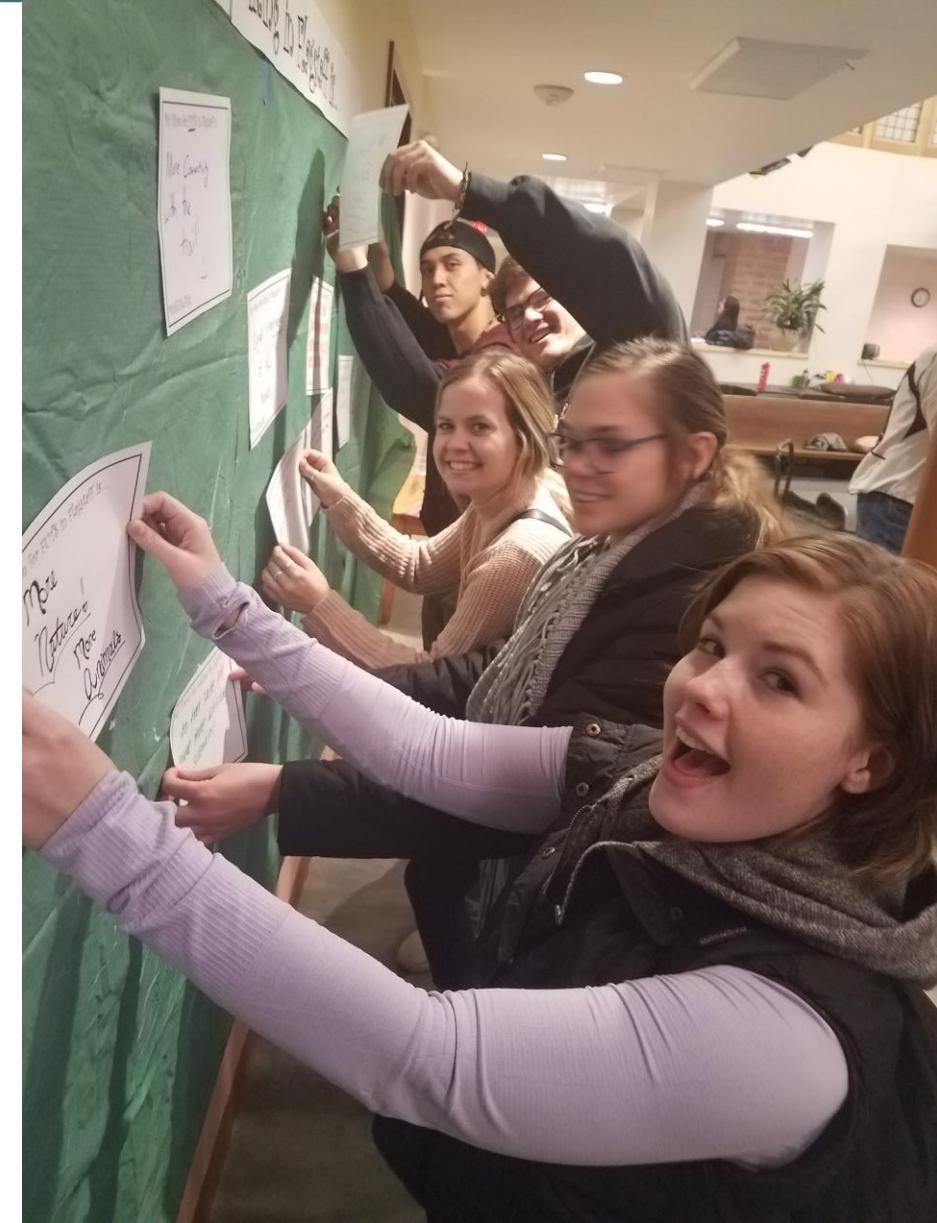


- Implementation
- Benchmarks and targets
- Data collection and analysis
- Community/stakeholder/policymaker engagement
- Feedback mechanisms



Community engagement

- Community surveys
- Open houses
- Community events
- PAC, BAC, Transportation Comm



ATMP

Next steps



- Internal – staff review (winter)
- Public review (late winter-early spring)
 - 60-day review period
 - Community survey
 - Presentations
 - Virtual open houses
- Formal review/adoption (late spring)
 - Detailed discussion at PAC, BAC, TC, P&Z
 - City Council work session
 - Recommendations from PAC, BAC, TC, P&Z
 - City Council approval

ATMP

flagstaff.az.gov/atmp



CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Nicole Antonopoulos, Sustainability Director
Date: 12/31/2020
Meeting Date: 01/12/2021



TITLE:
Climate Emergency Declaration Update

DESIRED OUTCOME:

This is an informational update on staff's work since the Climate Emergency Declaration Resolution was passed in June 2020.

EXECUTIVE SUMMARY:

In June 2020 City Council declared a climate emergency through Resolution 2020-09. The resolution accelerates sustained and meaningful action to address the climate emergency. It identifies eight specific actions:

1. Dramatic increase in ambition to combat climate change
2. Commits to City-wide transition and climate emergency mobilization effort
3. Commits to educating residents and especially youth
4. Underscores the need for full community participation
5. Commits to keeping vulnerable communities at the forefront of decision making
6. Joins a nationwide call for mobilization
7. Advance goals of the Climate Action and Adaptation Plan
8. Calls on all governments to initiate a transition

Staff will provide City Council with an update on the work completed to date and next steps.

INFORMATION:

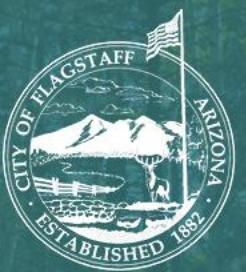
Staff has been working with technical consultants and the Flagstaff community to advance the goals of the 2018 Climate Action and Adaptation Plan to achieve carbon neutrality by 2030.

Attachments: [Climate Emergency Plan Update](#)



Climate Emergency Declaration Update

January 12, 2021





Discussion

1. Background
2. The Climate Emergency
3. The Path to Carbon Neutrality
4. Actions Update
5. Next Steps

FLAGSTAFF IS MOBILIZING TO ADDRESS THE CLIMATE CRISIS



The facts
We are in a climate emergency. The world is on track to warm by 5° F this century unless we make big changes. Consequences will be severe, especially for vulnerable communities.

This will take all of us
The City will revise its Climate goals to reach carbon neutrality by 2030. This means reducing our community's impact to zero. Families, businesses, neighborhoods and institutions can all be part of the solution.



What does this mean?
A carbon neutral world means more walking and biking; less wasted food and more gardens; more energy from the sun and efficiency in our homes. We can get there!

To learn more: www.Flagstaff.AZ.gov/Climate

Background

Why We Act:

Climate change poses risks to everything from our health and infrastructure to local ecosystems



The Benefits of Action

- Enhances local habitat and recreational opportunities
- Improves quality of life, well-being, and the local economy
- Preserves vital ecosystems and species
- Supports for low-income and disadvantaged communities
- Promotes healthier lifestyles and public health
- Help avoid the runaway costs of climate change
- Saves households and businesses money
- Conserves natural resources
- Creates jobs



Why We Act



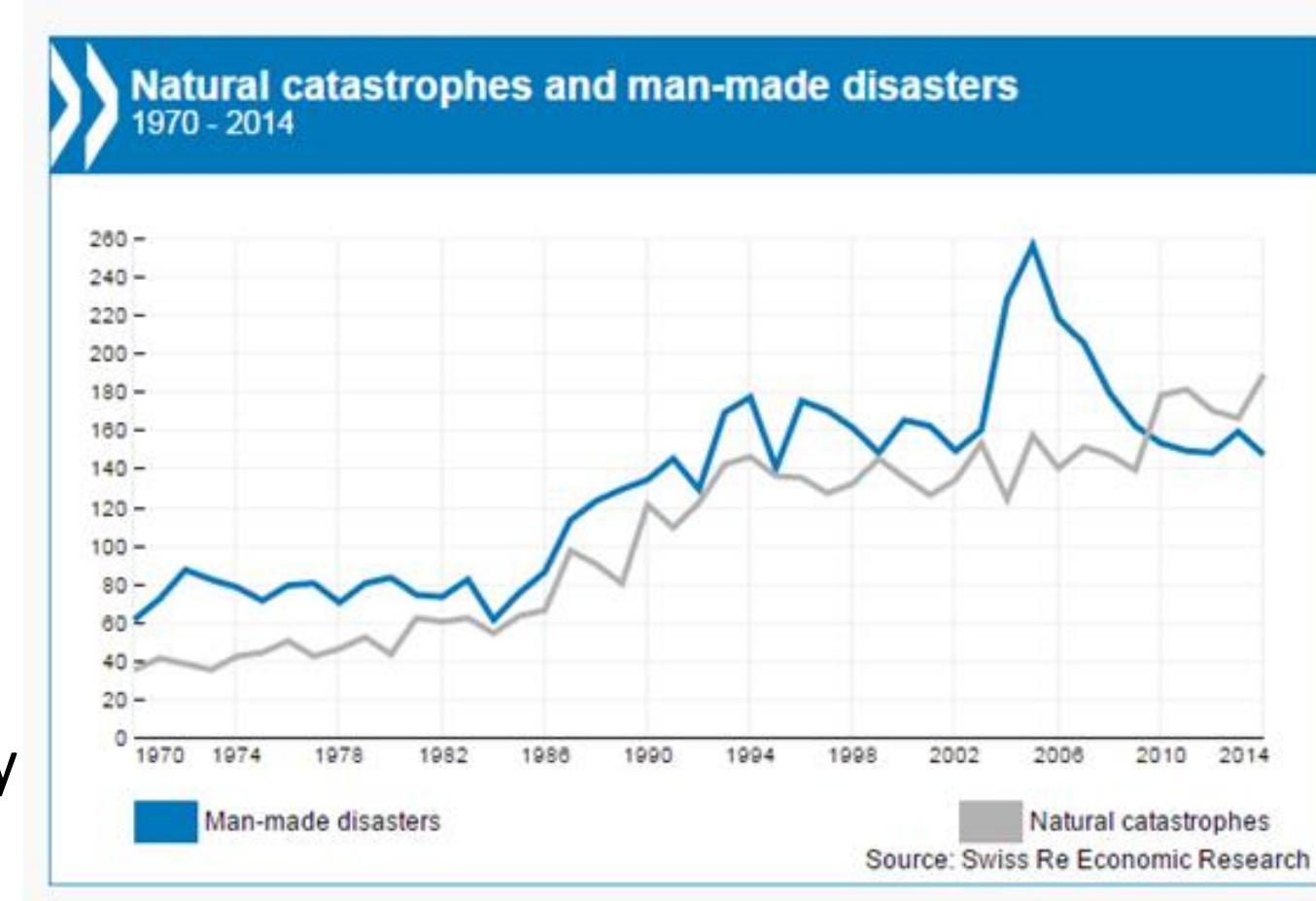
The Cost of Inaction

The cost of doing nothing will be much higher than acting, particularly when factoring in the social costs associated with loss of lives, species, health, and habitats.

Globally the cost of inaction rose from 1.3 trillion in 2010 to over 5 trillion in 2020.

Natural catastrophes are significantly increasing as are the costs for emergency response and mitigation.

- The economic impacts of the 2010 Schultz Fire is \$133 - \$147 million



Climate Change in Flagstaff



Climatic Impacts

- Hotter temperatures.
- Increased risk of disease or illness
- Less snowpack
- More rainfall instead of snowfall
- Increased wildfire risk
- Increased damage from forest pests
- More severe drought conditions as temperatures rise
- Lower water quality of reservoirs

Community impacts

- Public health impacts
- Change in tourism patterns -> impacts on jobs
- Climate migration -> housing pressure

The 2018 Climate Action and Adaptation Plan (CAAP)

Passed in November 2018, the CAAP has three overarching goals:

Mitigation

Reducing contribution to climate change (greenhouse gas emissions)

Adaptation

Preparing for change

Equity

Fair and just distribution of resources, access and opportunity.

Goal 1: Reduce Flagstaff's community greenhouse gas emissions by 80% by 2050

Goal 2: Prepare the city's communities, systems, and resources to be more resilient to climate change impacts.

Goal 3: Address climate change in a manner that prioritizes those most impacted.

Flagstaff's Greenhouse Gas Emissions

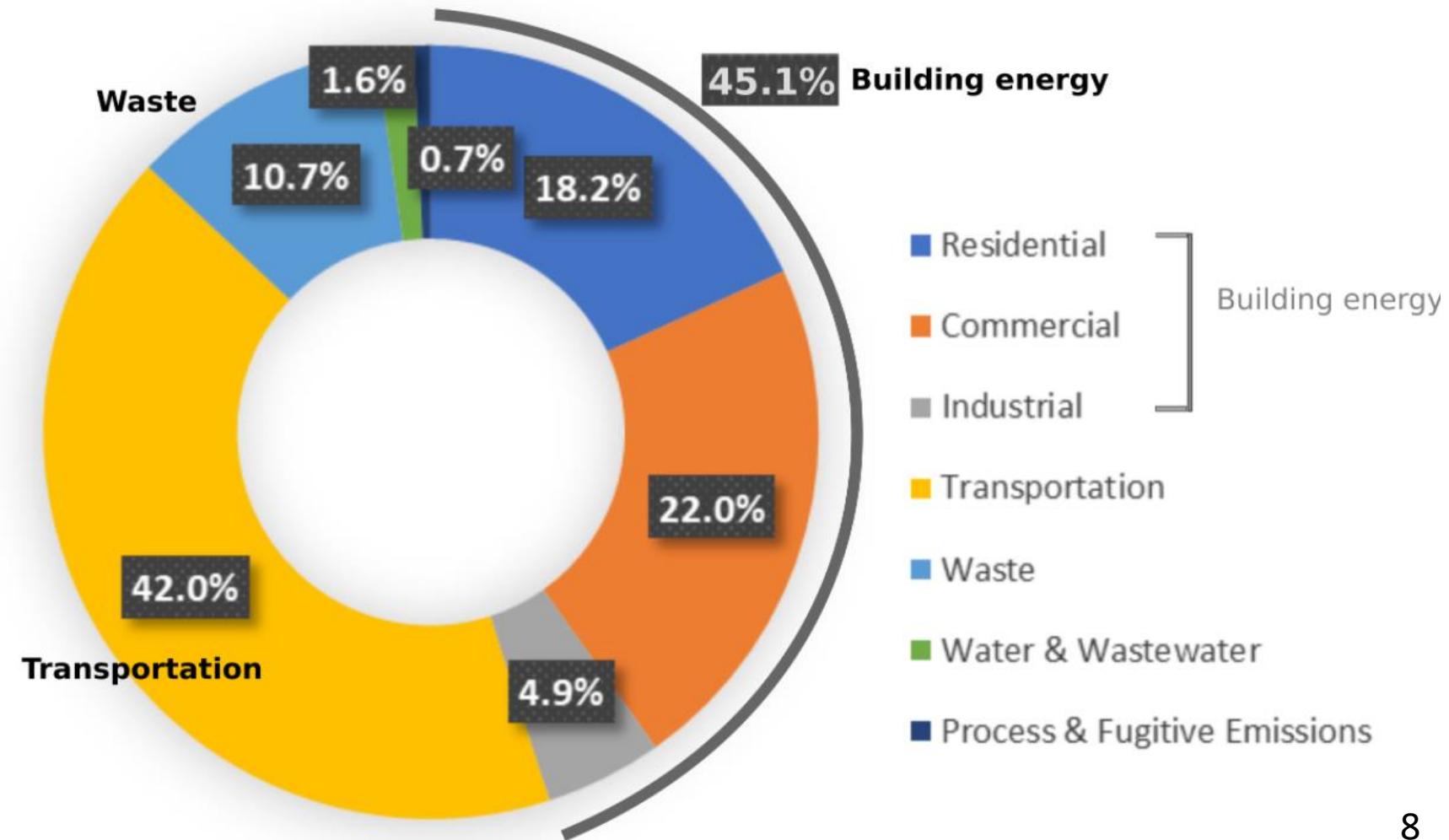
#1
Powering
Buildings



#2
Car Emissions



Community Emissions by Sector: 2016 and 2018 Average



The Climate Emergency Declaration

The Climate Emergency Declaration



September 20, 2019: Flagstaff community members gathered signatures for a petition requesting a Climate Emergency Declaration be declared

June 23, 2020: The Climate Emergency Declaration Resolution 2020-09 was adopted by City Council, unanimously

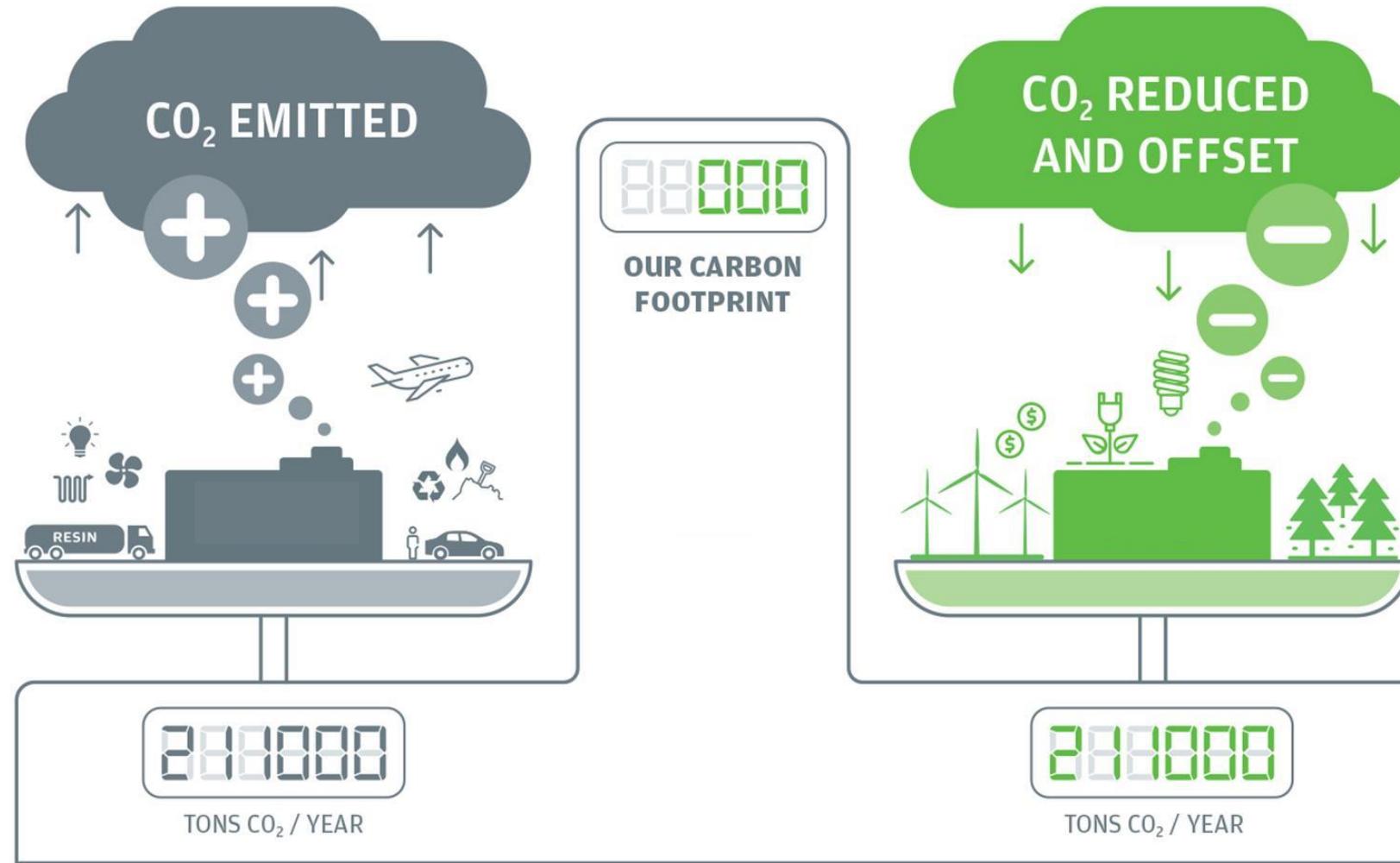


Climate Emergency Declaration



1. Dramatic increase in ambition to combat climate change
2. Commits to City-wide climate emergency mobilization
3. Commits to educating residents and especially youth
4. Underscores the need for full community participation
5. Commits to keeping vulnerable communities at the forefront of decision making
6. Joins a nationwide call for mobilization
7. **Advance the Climate Action and Adaptation Plan's goals to achieve carbon neutrality by 2030**
8. Calls on all governments to initiate a transition

Carbon Neutrality



The Path to Carbon Neutrality



- Requires sustained and focused commitment
- Requires re-aligning systems
- Requires bold action and **big shifts**
 - Aligning decisions through the carbon neutrality lens
 - Aligning organizational strategies and operations through the climate neutrality lens
- Requires revisiting existing policies
- Requires prescriptive measures in key sectors

The Path to Carbon Neutrality - Actions Update

Since the Climate Emergency Declaration ...



- Conducting technical analysis and impact scenarios for the 2030 carbon neutrality goal
- Conducting community engagement
- Seeking technical assistance from internal and external partners
- Updating strategies and actions in the CAAP
- Determining the social cost of carbon
- Establishing an investment framework
- Advancing priority actions in the CAAP

Community Input



Sustainability staff has engaged with nearly 1,400 community members on the commitments of the Climate Emergency Resolution and preliminary targets to reach carbon neutrality:

- Community Forum
- Social Media
- Radio/print/web-based infographics and ads
- Climate Emergency Forums
- Presentations to organizations, groups, and City Commissions

Technical Analysis and Preliminary Emission Reduction Targets



Target Areas

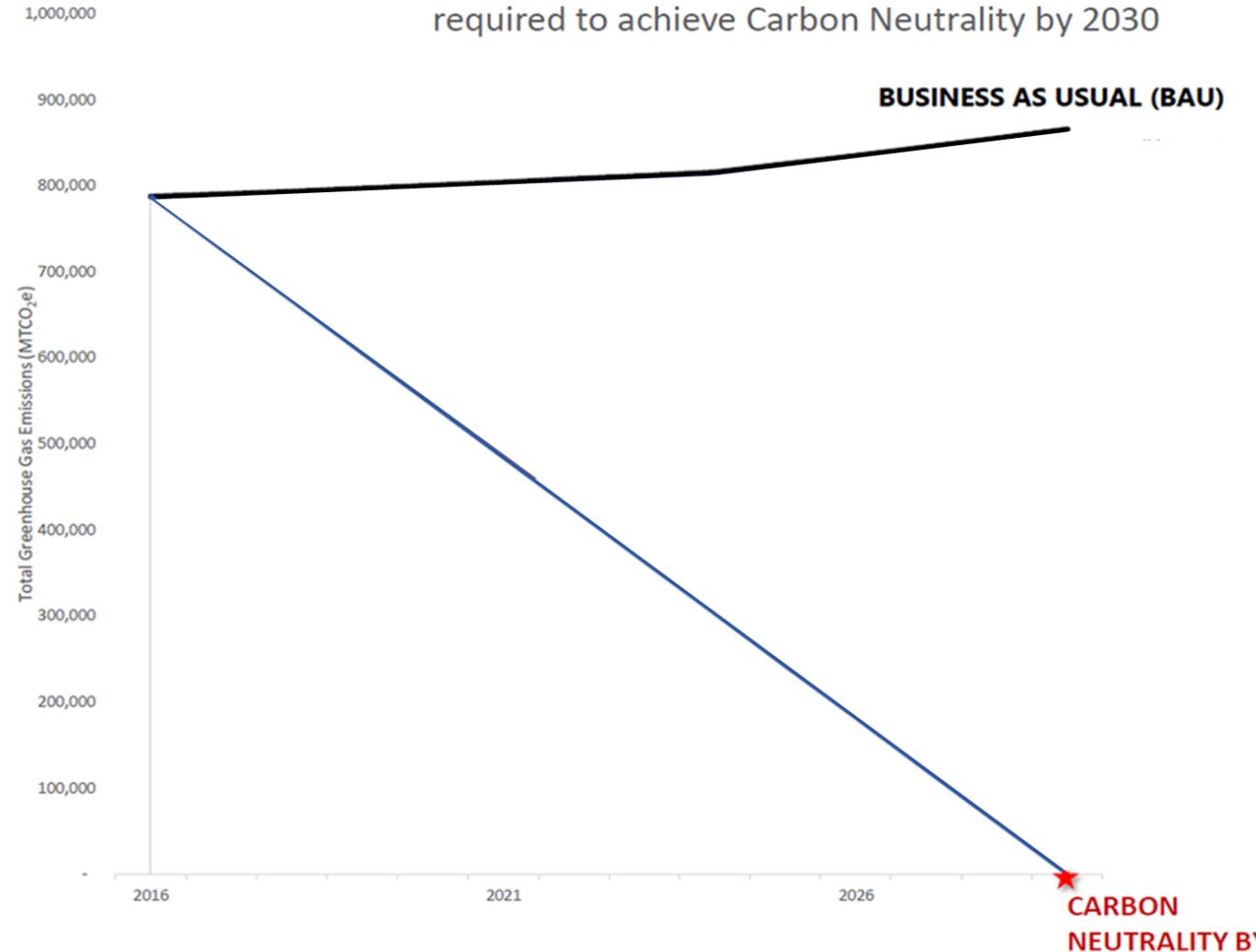
- Cleaner Electricity
- Reducing Energy Demand
- Building Fuel Switching
- Improved Materials Management and Landfill Operations
- Transportation Shift
- Electric Mobility
- Carbon Sequestration



Emission Reduction Target Areas



Preliminary sector-based emission reduction targets and sequestration required to achieve Carbon Neutrality by 2030



- Cleaner Electricity
- Reducing Energy Demand
- Building Fuel Switching
- Improved Materials Management and Landfill Operations
- Transportation Shift
- Electric Mobility
- Carbon Sequestration

Cleaner Electricity Target Area

What this means

100% of our electricity will come from renewable sources that don't emit greenhouse gasses.

- Municipal goal: 100% renewable by 2025.
- Community goal: 100% clean/renewable by 2030.

Considerations

- Financing for both small and large projects.
- Municipality: Will need 19 – 30 MW for the municipality goal.
- Community: APS plans to achieve 65% carbon-free electricity by 2030. Closing this gap requires 147+ MW of new solar.
- Equity concerns

Supporting actions

- Solar United Neighbors – *launching next week!*
- The Red Gap Ranch solar project – *planning stage.*
- Alliance with APS – *codified in 2020*

Reducing Building Energy Demand

What this means

We need to reduce GHG emissions from heating, cooling and powering buildings by 80% by 2030.

Considerations

- State legislation now limits the restrictions we can put on new natural gas infrastructure.
- Tied to fuel switching and renewable energy.
- Important green jobs and economic development benefits.

Supporting actions

- Adopt progressively more aggressive building codes, requiring new buildings to be net zero energy by 2030.
- Retrofits for 12,500 existing homes by 2030.
- Continue and expand energy efficiency training for local contractors

Building Fuel Switching

What this means

Shifting our fuel from fossil fuels to electricity on everything from water heaters and stoves to industrial processes.

- Electricity continue to get cleaner over time: solar is now the cheapest energy source in history.

Considerations

- Important green jobs and economic development benefits.
- Stronger policy and programming support from the ACC is needed.

Supporting actions

- 12,500 electrification retrofits by 2030.
- Electrification of City owned buildings.

Improved Materials Management and Landfill Ops.

What this means

First, we'll reduce both consumption and waste. As a second step, diverting more materials from the landfill through reuse and recycling will further reduce emissions.

Considerations

- Solid waste accounts for 10% of our emissions.
- Embedded emissions from consumption, which are difficult to measure and therefore not measured, could increase our community emissions by as much as 60%.

Supporting actions

- Landfill gas collection and flare system - *2030 launch*.
- Studying the feasibility of large-scale digestion at the landfill – *would start in 2035*.
- Composting: drop-off by 2025. Pick-up by 2028.
- Possible solar installation on capped landfill sections.

Transportation Shift

What this means

Compared to today, we'll depend far less on cars, reducing vehicles miles traveled (VMT) in private vehicles by 50%.

- We'll take many more trips by walking, biking and the bus.

Considerations

- Steering Committee: we need to commit to aggressive change, making difficult choices and full transformation.
- \$600k + per year for Active Transportation programming.
- \$90 million for bike and pedestrian capital improvements.

Supporting actions

- The Active Transportation Master Plan.
- Creating more space for safe biking and comfortable walking.
- Increased density and mixed use will shift us to do more within our neighborhoods, taking shorter and fewer trips.

Electric Mobility

What this means

Electrification is...

- Embracing new mobility: e-bikes, bike share, hoverboards, etc
- Electric busses for MountainLine and NAU fleets.
- Electric vehicles.

Considerations

- Electrification is not a silver bullet: the priority must be decreasing our dependence on personal vehicles.
- Rapidly evolving technologies can lower carbon and spatial impacts.
- Electrification should prioritize the vehicles traveling the most, like fleet vehicles that get high annual mileage.

Supporting actions

- Installing EV charging stations at City facilities.
- Building code EV requirements – 2020 update as a start.

Carbon Sequestration

What this means

Carbon sequestration is the process of capturing and storing atmospheric carbon dioxide, to remove it from the atmosphere.

Considerations

- The amount of carbon sequestration needed will depend on the impacts of the other target areas.
- We need to study the feasibility of various land management practices in our high desert environment.

Supporting actions

- Red Gap Ranch as a possible site for an innovative sequestration project.
- Smaller-scale regenerative agriculture, meadows, forests as sequestration sinks.

The Climate Neutrality Plan: A Living Document



The Climate Neutrality Plan must be a living document to address:

- Constantly changing conditions, be it social, economic, and or environmental
- Advances in technology
- State and federal programs and directives
- Needs of our vulnerable populations
- Impacts of community action and partner action
- Funding availability

What's Next?

Timeline



3/9/21 – Draft Climate Neutrality Plan to City Council for feedback

4/6/21 – Climate Neutrality Plan to City Council for adoption

Additional Actions January - August

- APS Electric Vehicle Charging Stations
- 2030 investment scenario
- Solar United Neighbors
- HEPA Filter Program
- Energy conservation audit solicitation
- Sustainable building resolution update
- Carbon neutrality development plans
- Anti-idling ordinance for loading zones



Thank you. Questions?



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Kevin Fincel, Deputy City Attorney
Co-Submitter: Kevin Fincel
Date: 01/06/2021
Meeting Date: 01/12/2021



TITLE

Regulation of recreational marijuana in Flagstaff

STAFF RECOMMENDED ACTION:

Provide staff direction on the regulation of recreational marijuana in Flagstaff.

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 establishment 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.

INFORMATION:

Staff will provide Council with an overview of the Act and seek direction on how Council would like the City to regulate recreational marijuana establishments and the use and possession of recreational marijuana in Flagstaff.

A copy of the Act is attached for Council's reference. I am also attaching a sample ordinance for reference. This sample ordinance is consistent with the approach most Arizona cities and towns have taken in regulating recreational marijuana and is being provided to give Council a general idea of the kind of regulations that could be adopted. After receiving direction from Council, staff will come back with an ordinance that is consistent with direction given for consideration and adoption.

Attachments: [Smart and Safe Arizona Act](#)
 [Sample Ordinance](#)
 [Presentation](#)

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:

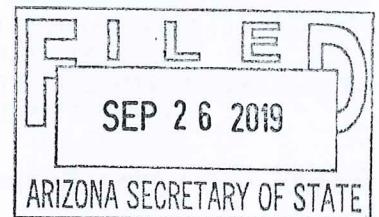
1. \$15,000,000 TO THE ARIZONA TEACHERS ACADEMY FUND ESTABLISHED BY SECTION 15-1655.
2. \$10,000,000 TO THE DEPARTMENT TO FUND THE FORMATION AND OPERATION OF COUNCILS, COMMISSIONS AND PROGRAMS DEDICATED TO IMPROVING PUBLIC HEALTH, INCLUDING TEEN SUICIDE PREVENTION, THE MATERNAL MORTALITY REVIEW PROGRAM, 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.

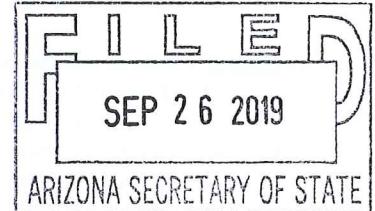
6. \$2,000,000 TO THE DEPARTMENT TO DEVELOP AND IMPLEMENT, IN CONJUNCTION WITH THE DEPARTMENT OF ECONOMIC SECURITY AND OTHER STATE AGENCIES, A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES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

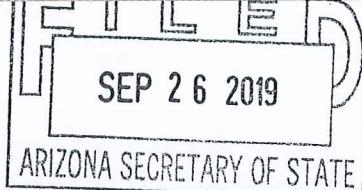
13. "INDUSTRIAL HEMP" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-311.

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.

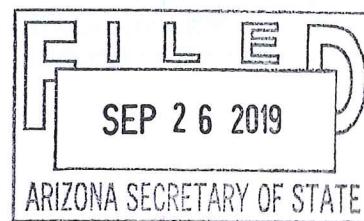
(b) CULTIVATION TAKES PLACE WITHIN A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA ON THE GROUNDS OF THE RESIDENCE EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

(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.

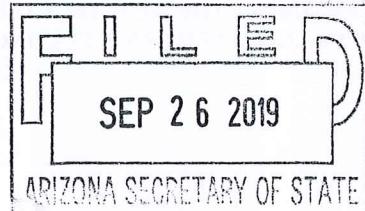
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

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.

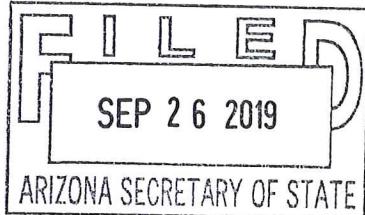
6. FORMS OF GOVERNMENT-ISSUED IDENTIFICATION THAT ARE ACCEPTABLE BY A MARIJUANA ESTABLISHMENT VERIFYING A CONSUMER'S AGE AND PROCEDURES RELATED TO VERIFYING A CONSUMER'S AGE CONSISTENT WITH SECTION 4-241. UNTIL THE DEPARTMENT ADOPTS FINAL RULES RELATED TO VERIFYING A CONSUMER'S AGE, MARIJUANA ESTABLISHMENTS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

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.

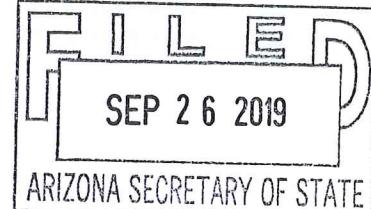
B. A PERSON WHO WISHES TO BE REGISTERED AS A MARIJUANA FACILITY AGENT OR RENEW THE PERSON'S REGISTRATION AS A MARIJUANA FACILITY AGENT SHALL:

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 LAPSLING 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.

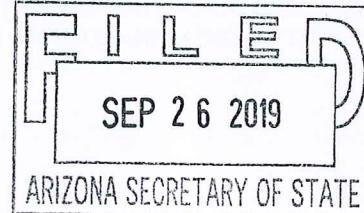
4. 10 PERCENT TO THE JUSTICE REINVESTMENT FUND ESTABLISHED BY SECTION 36-2863.

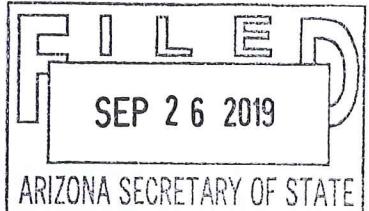
5. 0.2 PERCENT TO THE ATTORNEY GENERAL TO USE TO ENFORCE THIS CHAPTER, OR TO GRANT TO LOCALITIES TO ENFORCE THIS CHAPTER.

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 BURDENSONE 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

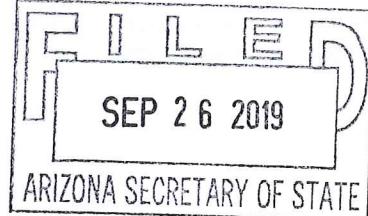
- A. A MARIJUANA ESTABLISHMENT MAY NOT:
1. PACKAGE OR LABEL MARIJUANA OR MARIJUANA PRODUCTS IN A FALSE OR MISLEADING MANNER.
 2. MANUFACTURE OR SELL MARIJUANA PRODUCTS THAT RESEMBLE THE FORM OF A HUMAN, ANIMAL, INSECT, FRUIT, TOY OR CARTOON.
 3. SELL OR ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS WITH NAMES THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETED TO CHILDREN, OR OTHERWISE ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS TO CHILDREN.
- B. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B.

36-2861. Contracts; professional services

- A. IT IS THE PUBLIC POLICY OF THIS STATE THAT CONTRACTS RELATED TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES ARE ENFORCEABLE.
- B. A PERSON THAT IS LICENSED, CERTIFIED OR REGISTERED BY ANY DEPARTMENT, AGENCY OR REGULATORY BOARD OF THIS STATE IS NOT SUBJECT TO DISCIPLINARY ACTION BY THAT ENTITY FOR PROVIDING PROFESSIONAL ASSISTANCE TO A PROSPECTIVE OR REGISTERED MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR OTHER PERSON FOR ANY LAWFUL ACTIVITY UNDER THIS CHAPTER.

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

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



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1. POSSESSING, CONSUMING OR TRANSPORTING TWO AND ONE-HALF OUNCES OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS WAS IN THE FORM OF MARIJUANA CONCENTRATE.
2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS AT THE INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE.
3. POSSESSING, USING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA.
 - B. IF THE COURT RECEIVES A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION:
 1. THE COURT SHALL NOTIFY THE PROSECUTING AGENCY OF THE FILING OF THE PETITION, AND ALLOW THE PROSECUTING AGENCY TO RESPOND TO THE PETITION WITHIN THIRTY DAYS.
 2. THE COURT MAY HOLD A HEARING:
 - (a) ON THE REQUEST OF EITHER THE PETITIONER OR THE PROSECUTING AGENCY.
 - (b) IF THE COURT CONCLUDES THERE ARE GENUINE DISPUTES OF FACT REGARDING WHETHER THE PETITION SHOULD BE GRANTED.
 3. THE COURT SHALL GRANT THE PETITION UNLESS THE PROSECUTING AGENCY ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER IS NOT ELIGIBLE FOR EXPUNGEMENT.
 4. THE COURT SHALL ISSUE A SIGNED ORDER OR MINUTE ENTRY GRANTING OR DENYING THE PETITION IN WHICH IT MAKES FINDINGS OF FACT AND CONCLUSIONS OF LAW.
 - C. IF THE COURT GRANTS A PETITION FOR EXPUNGEMENT:
 1. THE SIGNED ORDER OR MINUTE ENTRY REQUIRED PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION SHALL DO ALL OF THE FOLLOWING:
 - (a) IF THE PETITIONER WAS ADJUDICATED OR CONVICTED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, VACATE THE JUDGMENT OF ADJUDICATION OR CONVICTION.
 - (b) STATE THAT IT EXPUNGE 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 LAPSLING 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 DECENTNIAL 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.

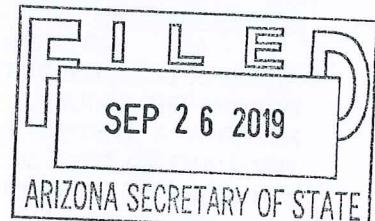
C. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE, IF THE DEPARTMENT FAILS TO ISSUE ANY MARIJUANA ESTABLISHMENT LICENSES PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION D ON OR BEFORE APRIL 5, 2021, EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY IN GOOD STANDING MAY BEGIN TO CULTIVATE, PRODUCE, 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.

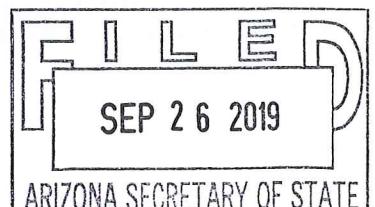
3. Increasing the amount of marijuana that a person may lawfully possess.

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.



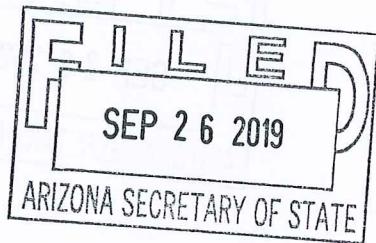
8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

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.



SAMPLE ORDINANCE FOR REFERENCE ONLY – NOT FOR ADOPTION

ORDINANCE NO. 2021-XX

**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 (1) prohibiting the possession and consumption of marijuana and marijuana products on City property, (2) prohibiting recreational marijuana retail sales and marijuana testing facilities in Flagstaff to the extent permitted by law, (3) prohibiting delivery of recreational marijuana and marijuana products within Flagstaff, and (4) prohibiting the consumption of marijuana and marijuana products on prohibited property.

ENACTMENTS:

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

SAMPLE ORDINANCE FOR REFERENCE ONLY – NOT FOR ADOPTION

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: | MARIJUANA ESTABLISHMENT PROHIBITED; EXCEPTION |
| 6-10-001-0005: | MARIJUANA TESTING FACILITIES PROHIBITED |
| 6-10-001-0006: | MARIJUANA DELIVERY PROHIBITED; EXCEPTION |
| 6-10-001-0007: | CONSUMPTION OF MARIJUANA ON PROHIBITED PROPERTY |
| 6-10-001-0008: | CONSUMPTION OF MARIJUANA IN TRANSPORTATION |
| 6-10-001-0009: | HOME CULTIVATION |
| 6-10-001-0010: | PENALTIES |
| 6-10-001-0011: | 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

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

6-10-001-0004 MARIJUANA ESTABLISHMENT PROHIBITED; EXCEPTION

The operation of a marijuana establishment is prohibited in Flagstaff, except where authorized for a dual licensee that:

- (1) Is permitted by the State of Arizona to operate both a nonprofit medical marijuana dispensary and a marijuana establishment at a shared location, and
- (2) Has not terminated its status as a dual licensee with the Arizona Department of Health Services by forfeiting either its marijuana establishment license or nonprofit medical marijuana dispensary registration.

6-10-001-0005 MARIJUANA TESTING FACILITIES PROHIBITED

The operation of a marijuana testing facility is prohibited in Flagstaff.

6-10-001-0006 MARIJUANA DELIVERY PROHIBITED; EXCEPTION

It is unlawful to facilitate or accept orders for delivery, or to deliver marijuana or marijuana products in Flagstaff. The prohibition in this Section 6-10-001-0006 does not apply when delivery is done by a nonprofit medical marijuana dispensary in compliance with Arizona Department of Health Services codified rules and requirements governing the Arizona Medical Marijuana Program.

6-10-001-0007 CONSUMPTION OF MARIJUANA ON PROHIBITED PROPERTY

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.

6-10-001-0008 CONSUMPTION OF MARIJUANA IN TRANSPORTATION

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.

6-10-001-0009 HOME CULTIVATION

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.

6-10-001-0010 PENALTIES

A violation of this Chapter is a petty offense and shall be adjudicated in the Flagstaff Municipal Court.

6-10-001-0011 ENFORCEMENT

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

SECTION 3. Repeal of Conflicting Ordinances

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

SECTION 4. 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 5. 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 6. 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 _____ day of _____ 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

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. Seek Direction Regarding Regulation of Recreational Marijuana in Flagstaff**

Team of presenters:

Jack Fitchett, Management Analyst

Kevin Fincel, Deputy City Attorney

Marianne Sullivan, Senior Assistant City Attorney

Dan Symer, Zoning Code Manager



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.
- 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).
- establish reasonable restrictions on public signage regarding marijuana, marijuana establishments, and marijuana testing facilities.



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.
- Penalties
 - Recommend similar structure to Act:
 - Petty offenses for those over 21.
 - Progressive for those under 21.



Enforcement Issues



Penalties under the Acts:

| <u>Prop 207</u> | Marijuana Drug Paraphernalia | Smoking* Marijuana in a Public Place or Open Space | Possession of Under 1 Oz of Marijuana or 5 Grams of Concentrate (or a combination of) | Possession of 1-2.5 Oz of Marijuana or 5-12.5 Grams of Concentrate (or a combination of) | Possession of Over 2.5 Oz of Marijuana or 12.5 Grams of Concentrate (or a combination of) |
|-------------------------------|---|--|---|---|--|
| Medical Marijuana Card holder | No Charge | 36-2853 (C) Petty offense | No Charge | No Charge | 13-3405(A)(1) POM 13-3408(A)(1) POND |
| 21 and Over | No Charge | 36-2853 (C) Petty offense | No Charge | 36-2853(A) Petty Offense | 13-3405(A)(1) POM 13-3408(A)(1) POND |
| Under 21 | 36-2853 (B) 1 st Offense =Civil violation 100.00 2 nd Offense = Petty Offense 3 rd or more Offense = Class 1 Misdemeanor | 36-2853 (C) Petty offense | 36-2853 (B) 1 st Offense =Civil violation 100.00 2 nd Offense = Petty Offense 3 rd or more Offense = Class 1 Misdemeanor | 36-2853(A) Petty Offense | 13-3405(A)(1) POM 13-3408(A)(1) POND |



Enforcement Issues



Additional Recommendations for City Ordinance

- Prohibit Delivery
- Prohibit consuming, growing, transferring, selling, etc. on City property.
- Prohibit use on private property if posted.



Actions By Other Cities



Sample Ordinance

- Limit recreational sales to dual licensees.
- Add violations that did not carry over in Act.
- Prohibit delivery.
- Prohibit on City and private property.
- Prohibit marijuana testing facilities.



Direction



Decision points:

1. Limit recreational sales to dual licensees?
2. Prohibit testing facilities?
3. Prohibit on City property?
4. Prohibit on public property when posted?
5. Prohibit delivery?
6. Add violations that did not carry over in Act?
7. Adopt penalties similar to those in Act?
8. Keep current zoning for medical and apply to recreational?



The End



Questions?

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Sarah Langley, Management Analyst
Date: 12/31/2020
Meeting Date: 01/12/2021



TITLE

2021 Legislative Priorities

STAFF RECOMMENDED ACTION:

Staff is requesting input from the City Council on the 2021 state and federal legislative priorities.

EXECUTIVE SUMMARY:

The draft 2021 state and federal legislative priorities detailed in the attached PowerPoint presentation represent an updated listing of the 2020 Legislative Priorities. City staff and lobbyists have made suggested updates to the legislative priorities based on the legislative landscape that we face in 2021, as well as accomplishments that have been achieved over the last year.

City staff and lobbyists are requesting Council input and direction on the draft state and federal legislative priorities. After this input is received, it will be incorporated, and a final version will be presented for Council approval at the January 19 Council Meeting. Once approved by the City Council, the 2021 Legislative Priorities will be used by City staff and lobbyists to guide their work throughout the year at both the state and federal levels.

INFORMATION:

Has there been previous Council direction on this topic?

On January 21, 2020, the Flagstaff City Council approved the 2020 legislative priorities.

Attachments: [Presentation](#)



2021 Legislative Priorities

Sarah Langley – Management Analyst
Bob Holmes – Federal Lobbyist
Todd Madeksza – State Lobbyist





Agenda



- Program operations
- Overview of the federal landscape
 - Council input - 2021 federal legislative priorities
- Overview of the state landscape
 - Council input - 2021 state legislative priorities
- Next steps

Intergovernmental Affairs Program

Operations



- Legislative priorities guide the work of staff and lobbyists
- Regular email updates
- Periodic discussions on legislation during Council meetings
- Virtual lobbying trips



Federal Landscape





Proposed Federal Legislative Priorities



Economy

| | |
|--|---|
| Rio de Flag Flood Control Project | Utilizing the \$52 million in secured funding, support expedited award and completion of the project while working with the Army Corps, BNSF Railway and the Arizona Dept. of Transportation to ultimately remove more than half of the City's residents, as well as the downtown and NAU areas, from the flood plain and protect more than \$1 billion in property assets. |
| COVID-19 Relief | Support additional relief efforts, including direct payments to cities to address declining revenues, continued pandemic unemployment insurance, mortgage relief, eviction moratoriums, small business loans/grants and increased funding for testing, education and broadband. |



Proposed Federal Legislative Priorities



Transportation & Infrastructure

| | |
|---|---|
| Flagstaff Airport | Advocate for funding for projects included in the Flagstaff Airport five-year Capital Improvement Program that will enable recovery from the negative impacts of the COVID-19 pandemic. |
| Surface Transportation Reauthorization | Advocate for a new, robust surface transportation reauthorization before it expires on September 30, 2021 that reflects Flagstaff's needs and values, with special regard to roads, highways, bridges, transit, and climate change. |
| Amtrak | Promote funding and infrastructure renewal for long-distance passenger train services as a generator of economic development for municipalities located in the I-40 corridor. |
| Infrastructure Funding | Pursue federal funding (BUILD, INFRA, and/or FLAP) for a high-priority infrastructure project in the City of Flagstaff. Potential projects could include the Milton corridor and overpass, the Lone Tree overpass traffic interchange, or the J.W. Powell connection. |



Proposed Federal Legislative Priorities



Community/ Social Infrastructure

| | |
|---------------------------|---|
| Affordable Housing | Support legislative action to ensure full funding of Public Housing, Section 8 Housing Choice Voucher Program and the Community Development Block Grant program. |
| Immigration Reform | Advocate for Deferred Action for Childhood Arrivals (DACA) and other federal immigration policies that help keep families together while supporting their higher education goals. |
| Veterans | Support legislation and funding that improves the lives of all veterans and their families. |
| Gun Violence | Support legislation that ensures the protection of all people from gun violence. |



Proposed Federal Legislative Priorities



Environment

| | |
|--|---|
| Grand Canyon Protection | Support Chairman Grijalva's legislation preventing uranium mining in areas surrounding Grand Canyon National Park and strengthen the laws, regulations and policies that govern uranium mining to ensure protection for public health and safety; support efforts to reinstitute the 20-year uranium mining moratorium for the nearly 1 million acres around the Grand Canyon. |
| Uranium Transport Standards | Urge the Arizona Dept. of Transportation and/or the US Dept. of Transportation to strengthen uranium transport standards to reduce the possibility of contamination. |
| Forest Health | Leverage City voter approved Flagstaff Watershed Protection Project (FWPP) funding with federal dollars to maximize investments in community and watershed protection and forest health; \$8.5 million is required to complete FWPP. Additionally, ensure that resources and funding continue to flow quickly and efficiently to important regional projects such as the Four Forests Restoration Initiative (4FRI), NAU's Ecological Restoration Institute (ERI), the Fire Learning Network (FLN) and collaborative Prescribed Fire efforts that support the development of a technically skilled workforce. |
| Carbon Fee & Dividend Legislation | Urge the federal government to pass carbon fee and dividend legislation in support of climate change mitigation. |



State Landscape





Proposed State Legislative Priorities



| | |
|---------------------------------------|--|
| Preserve Local Decision-making | Support legislation that preserves or enhances the City's ability to govern locally and oppose legislation that reduces or restricts the City's local authority. |
| State Shared Revenues | Support legislation that will protect (and recover) state shared revenues to municipalities and oppose new legislation seeking to divert shared revenues away from municipalities. |
| Transportation | Advocate for additional funding to the Arizona Department of Transportation to plan, build and maintain projects that affect Northern Arizona. |
| Forest Health | Advocate for investing in forest health treatments on state-owned land in Northern Arizona. |



Proposed State Legislative Priorities



| | |
|-----------------------------------|--|
| Short-Term Rentals | Work with stakeholders supporting legislation to allow for local regulations over investor-owned residential properties used as short-term rentals and ensure regulatory fairness between all aspects of the hotel industry. |
| Social Service Providers | Advocate for 100% funding from the state legislature to fully fund and reimburse all social service providers. |
| Aquifer Protection Permits | Urge the Arizona Dept. of Environmental Quality to require mine-specific aquifer protection permits rather than general aquifer protection permits. |
| Emergency Response | Support legislation preserving and enhancing the ability of the City to strategically plan for and respond to emergencies protecting the citizens, visitors, assets and natural resources. |

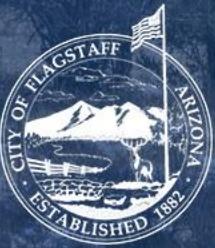


Proposed State Legislative Priorities



| | |
|---------------------------------------|---|
| Arizona Corporation Commission | Urge the Arizona Corporation Commission to adopt an aggressive statewide clean energy standard that achieves 100% carbon-free clean energy in our state. |
| COVID-19 Relief | Advocate for timely and equitable funding for cities to address declining revenues, continued pandemic unemployment insurance, mortgage relief, eviction moratoriums, small business loans/grants and increased funding for testing, education and broadband. |

Next Steps



- Final language to be approved at the January 19 Council meeting
- Council discussion in February on bills introduced in the State Legislature
- Virtual lobbying trips in the Spring

Questions?

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, City Clerk
Date: 01/11/2021
Meeting Date: 01/12/2021



TITLE

Discussion and Direction: 2019/2020 Election Overview and Timeline Review

STAFF RECOMMENDED ACTION:

Discussion and direction

EXECUTIVE SUMMARY:

In 2015, Flagstaff voters amended the City Charter to hold City elections on the days provided for by Arizona statutes. Arizona Revised Statutes § 16-204 prescribes the following election dates:

Primary Elections - fall of even-numbered years

- the first Tuesday in August

General Elections - fall of even-numbered years

- the first Tuesday after the first Monday in November

Special Elections - odd or even years

- the second Tuesday in March
- the third Tuesday in May
- the first Tuesday in August
- the first Tuesday after the first Monday in November

Some election issues can only be decided at general elections while others can be decided on any of the four dates. Below is a list of the various types of elections and the dates that they may be held.

Primary Elections - Fall of Even Years Only (August)

Primary elections are held only when there are more than two candidates for each seat.

General Election Only - Fall of Even Years (November)

Regular Candidate Elections

General Obligation Bonds

Sales Tax

Special Elections - Odd or Even Years

Initiative, Referendum, or Recall

Charter Amendments

Regional Plan Adoption

Franchise
Permanent Adjustment of Expenditure Base Limitation

Charter Amendments:

The City Charter is the basic governing authority of the City and allows citizens to enact their own laws for their community, so long as they are not in conflict with State laws. Any amendment to the Charter requires approval by a majority of the qualified electors voting in the election. The last time the Charter was amended was in 2015.

A City Manager appointed Charter Review Committee is generally assembled to review and provide recommendations on possible amendments that should be forwarded to the voters. In 2015 the 15 member committee reviewed approximately 50 amendments, 19 of which were forwarded to the voters. There are approximately 30 remaining amendments (attached to this staff summary) that could be considered along with any others that may come from Council, staff, or the committee. All proposed amendments are fully vetted by staff and the City Attorney's Office.

INFORMATION:

2021/2022 General Election Timeline

Should the Council be considering a 2021 or 2022 special election, the time to begin preparing is now. The more time staff has to create a committee and allow ample time for them to evaluate and develop recommendations for the Council to consider is extremely helpful. A November 2021 special election must be called on or before July 6, 2021 which means recommendations to the Council regarding possible ballot measures need to be discussed and decided upon prior to that date. This does not leave much time to conduct a thorough evaluation and formulate final recommendations.

An alternative would be to consider a spring 2022 election in March. A March 2022 election would need to be called in October which would allow for an additional three months to form a committee and review and formulate recommendations.

Financial Considerations

Should Council wish to hold a special charter election in either the fall of 2021 or spring of 2022 there will be expenses related to preparing for and conducting the election, as well as public outreach and education. These expenses need to be included in the upcoming budget process.

Election costs are based on the number of registered voters; at the last election, the City of Flagstaff had just shy of 52,000 registered voters. Coconino County Elections charges \$2.50 per registered voter for an all mail ballot special election and \$5.00 per registered voter for a polling place election. If a polling place election is held in conjunction with state, federal, or other county measures the cost is \$2.00 per registered voter. There are also costs associated with the development and distribution of the publicity pamphlet.

Attachments: [2015 Proposed Charter Amendments](#)
[Presentation](#)

FLAGSTAFF CITY CHARTER
2015

RANKED IN PRIORITY ORDER BY THE CHARTER REVIEW COMMITTEE

| ITEM # | ARTICLE | SECTION | PROPOSED BY | PROPOSED |
|----------|---------|---------|----------------|--|
| 1 | II | 3 | CRC | TERM OF THE MAYOR |
| | | | | <p>The term of office of the Mayor shall commence on the date of the second regular meeting following canvass of the election, and shall be for two (2) FOUR (4) years, or until a successor is elected and inducted.</p> <p>PURPOSE To provide a longer term for Mayor to be consistent with Councilmembers.</p> |

| | | | | |
|----------|---|---|-----|--|
| 2 | I | 3 | CRC | POWERS OF THE CITY |
| | | | | <p>The City shall have all the powers, FUNCTIONS, RIGHTS, PRIVILEGES AND IMMUNITIES POSSIBLE UNDER THE granted to municipal corporations and to cities by the Constitution and general laws of this State AS THOUGH THEY WERE SPECIFICALLY ENUMERATED IN THIS CHARTER AND ALL THE POWERS, FUNCTIONS, RIGHTS, PRIVILEGES AND IMMUNITIES GRANTED OR TO BE GRANTED, EITHER EXPRESSLY OR BY IMPLICATION, TO CHARTER CITIES AND TO CITIES AND TOWNS INCORPORATED UNDER THE PROVISIONS OF TITLE 9, ARIZONA REVISED STATUTES, NOT IN CONFLICT HEREWITH, AND IN ADDITION, THE CITY SHALL HAVE THE POWER TO: , together with all the implied powers necessary to carry into execution all the powers granted.</p> <p>The City may</p> <ol style="list-style-type: none">1. acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, exchange, mortgage, hold, manage, and control such property as its interests may require;2. and, except as prohibited by the Constitution of this State, or restricted by this Charter, the City shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever;3. and especially to enter into contracts, cooperative and otherwise, with the Government of the United States, the State of Arizona, Coconino County, or any other political subdivision of this State for the construction, maintenance and operation of roads, highways, parks, sewers, waterworks, water conservancy districts, public utilities, and public buildings, all when deemed for the best interest of the City. <p>IN THIS CHARTER MENTION OF A The enumeration of particular powers by this Charter shall not be deemed to be exclusive OR TO RESTRICT THE SCOPE OF THE POWERS WHICH THE CITY WOULD HAVE IF THE PARTICULAR POWER WERE NOT MENTIONED. THE CHARTER SHALL BE LIBERALLY CONSTRUED TO THE END THAT THE CITY SHALL HAVE ALL POWERS NECESSARY OR CONVENIENT FOR THE CONDUCT OF ITS MUNICIPAL AFFAIRS, AND FOR THE HEALTH AND SAFETY OF ITS</p> |

~~INHABITANTS, INCLUDING ALL POWERS THAT ARE NOT PROHIBITED BY STATE LAW AND STATE CONSTITUTION, and, in addition to the powers enumerated herein, or implied hereby, or appropriate to the exercise of such powers, it is intended that the City shall have and may exercise all powers which, under the Constitution or laws of this State, it would be competent for this Charter specifically to enumerate.~~

PURPOSE To clearly define the source of power for the City, and list such powers for better understanding.

3 III 3 (c) STAFF **POWERS AND DUTIES (City Manager)**

The City Manager shall:

- (c) Appoint and, when necessary for the good of the service, lay off, suspend, transfer, demote, or remove all officers and employees of the City, except as otherwise provided by this Charter, and except as the Manager may authorize the head of a department or office to appoint and remove subordinates in such department or office, subject to such ~~merit system~~-regulations **THAT DETERMINE THE DUE PROCESS REQUIREMENTS FOR REVIEW OF LAYOFFS, SUSPENSIONS, DEMOTIONS, AND TERMINATIONS** as the Council may adopt;

PURPOSE Removes Council process for the personnel handbook to be more consistent with form of government, and avoids extensive discussion of policies that are mandated by law. Provides clearer guidelines about the division of work between the Council and the Manager. And, it removes the Manager from determining the due process requirements for.

4 II 3 CRC **TERM OF MAYOR**

The term of office of the Mayor shall commence on the date of the second regular meeting following canvass of the election, and shall be for two (2) years, or until a successor is elected and inducted, **BUT SHALL NOT SERVE MORE THAN TWO (2) CONSECUTIVE FOUR-YEAR TERMS. THIS SHALL NOT PRECLUDE A PERSON FROM COMPLETING THE UNEXPIRED REMAINDER OF A TERM OF THEIR PREDECESSOR. THERE SHALL BE NO LIMIT OF NON-CONSECUTIVE TERMS.**

PURPOSE To provide term limits for Mayor.

5a VIII 2 (b)/(c) STAFF **PURCHASES AND CONTRACTS FOR CITY IMPROVEMENTS**

- (b) Any City improvement costing ~~fifty thousand dollars (\$50,000)~~ **ONE HUNDRED THOUSAND DOLLARS (\$100,000)** or more, or any purchase costing more than ~~fifty thousand dollars (\$50,000)~~, **ONE HUNDRED THOUSAND DOLLARS (\$100,000)**, shall be executed by contract, except where such improvements or purchase is authorized by the Council to be executed directly by a City department, in conformity with detailed plans, specifications, and estimates approved by the City Manager. Such contracts shall be advertised for bids, as directed in Section 3 of this Article. The City Manager, with the approval of the City Council, may enter into a contract with the lowest responsible bidder whose proposal is the most satisfactory.

(c) Any contract or purchase exceeding the sum of ~~fifty thousand dollars (\$50,000)~~ ONE HUNDRED THOUSAND DOLLARS (\$100,000) shall require the prior approval of the Council.

PURPOSE Consider possibly increasing the amount.

5b

VIII

2 (b)

CRC

PURCHASES AND CONTRACTS FOR CITY IMPROVEMENTS

Did not pass 11/15 election

(b) Any City improvement costing ~~fifty thousand dollars (\$50,000)~~ ONE HUNDRED THOUSAND DOLLARS (\$100,000) or more, or any purchase costing more than ~~fifty thousand dollars (\$50,000)~~, ONE HUNDRED THOUSAND DOLLARS (\$100,000), shall be executed by contract, except where such improvements or purchase is authorized by the Council to be executed directly by a City department, in conformity with detailed plans, specifications, and estimates approved by the City Manager. Such contracts shall be advertised for bids, as directed in Section 3 of this Article. The City Manager, with the approval of the City Council, may enter into a contract with the lowest responsible bidder whose proposal is the most satisfactory.

(c) Any contract or purchase exceeding the sum of ~~fifty thousand dollars (\$50,000)~~ ONE HUNDRED THOUSAND DOLLARS (\$100,000) shall require the prior approval of the Council.

PURPOSE So that it is clear that any contract or purchase does not require the approval of Council- instead of the possibility that it is limited to contracts for city improvements.

6

IV

3

STAFF

CITY TREASURER

Did not pass 5/15 election

The City Manager shall, ~~with approval of the Council~~, appoint an officer of the City, who shall have the title of City Treasurer, and who shall receive and have custody of all the money the City, and shall keep and save said money, and dispense the same only as provided by ordinance, and who shall always be bound by the Constitution, laws of the State, Charter of the City, and ordinances, and upon whom legal garnishments may be served. The City Treasurer will serve at the pleasure of the City Manager.

PURPOSE To remove the requirement that the Council approve appointment of the City Treasurer.

7

II

11

CRC

POWERS OF THE COUNCIL

All powers of the City, ~~and the determination of all matters of policy~~, NOT PROHIBITED BY THE CONSTITUTION AND APPLICABLE LAWS OF THE STATE OF ARIZONA AND SUBJECT TO THE LIMITATIONS OF THIS CHARTER shall be vested in the Council-~~WHICH SHALL ENACT APPROPRIATE LEGISLATION AND DO AND PERFORM ANY AND ALL ACTS AND THINGS WHICH MAY BE NECESSARY AND PROPER TO CARRY OUT THESE POWERS OR ANY OF THE PROVISIONS OF THIS CHARTER.~~

PURPOSE To clarify.

The term of office of Councilmembers shall commence on the first meeting in April following their election, and except as otherwise provided herein, shall be for four (4) years, or until their successors are elected and inducted. Each even-numbered year, three (3) Councilmembers shall be elected. **NO PERSON SHALL BE ELIGIBLE TO SERVE IN THE OFFICE OF COUNCIL MEMBER FOR MORE THAN TWO (2) CONSECUTIVE TERMS, BUT THERE SHALL BE NO LIMIT ON THE NUMBER OF NON-CONSECUTIVE TERMS.**

PURPOSE To provide term limits for Councilmembers

Did not
pass
11/15
election

The Council shall **ADOPT AN**, ~~by~~ ordinance **THAT REQUIRES THE CITY MANAGER TO ESTABLISH**, ~~provide for the establishment of~~ Personnel Rules and Regulations for the purpose of regulating and controlling the appointments, promotions, demotions, discharges, and reinstatements of all officers and employees of the City, except those elected by the people, members of appointive boards and commissions ~~and volunteers who serve without pay~~, and also except the City Manager, the City Attorney, and the **Police MAGISTRATE** Judges.

PURPOSE Provides for Council to adopt an ordinance that requires the City Manager to establish the Personnel Rules and Regulations. Removes volunteers from the list of those subject to Council control, but leaves Board and Commission members under Council control. This is consistent with regular practice.

Option 1

(b) The Council shall have the power to levy a Transaction Privilege Tax (Sales Tax) **PROVIDED THAT NO LEVY MEASURED ON GROSS RECEIPTS, GROSS INCOME OR GROSS PROCEEDS OF SALES OF THE TAXPAYER SHALL BE LEVIED AT A RATE IN EXCESS OF ONE PERCENT (1%)** ~~subject to approval~~ **UNLESS SUCH RATE IS APPROVED** by a majority of the qualified electors voting in the regularly scheduled general **OR A SPECIAL** election.

Option 2

(b) The Council shall have the power to levy a Transaction Privilege Tax (Sales Tax) **PROVIDED THAT NO LEVY MEASURED ON GROSS RECEIPTS, GROSS INCOME OR GROSS PROCEEDS OF SALES OF THE TAXPAYER SHALL BE LEVIED AT A RATE IN EXCESS OF TWO PERCENT (2%)** ~~subject to approval~~ **UNLESS SUCH RATE IS APPROVED** by a majority of the qualified electors voting in the regularly scheduled general **OR A SPECIAL** election.

Option 3

(b) ~~The Council shall have the power to levy a Transaction Privilege Tax (Sales Tax) subject to approval by a majority of the qualified electors voting in the regularly scheduled general election.~~

PURPOSE This is an effort to bring the City Charter more in line with recent legislative changes to the Model City Tax Code, including the incorporation of recent legislative emphasis on tax simplification. The proposed changes also more clearly define the abilities of Council to self-administer the already adopted tax code.

11a VII 6 STAFF **READING AND PASSAGE OF ORDINANCES AND RESOLUTIONS: EFFECTIVE DATE**

All proposed ordinances and resolutions shall either be read in full or posted in a public place at least twenty-four (24) hours prior to its adoption, provided if any amendments are proposed to a posted ordinance or resolution such amendments shall be read in full prior to its adoption. An ordinance may be read for the final time at the same meeting as when introduced upon ~~unanimous consent of those Councilmembers present~~ THE AFFIRMATIVE VOTE OF SIX (6) MEMBERS OF THE COUNCIL. A resolution shall require only one (1) reading before its adoption and may be adopted at the same meeting at which it is first introduced by a majority of those Councilmembers present.

OPTIONAL: Consider an ordinance only requiring one (1) reading as well as resolutions.

PURPOSE It should not be harder to do first and final read together than it is to find an emergency.

OPTIONAL: Would streamline the time period.

11b VII 6 CRC **READING AND PASSAGE OF ORDINANCES AND RESOLUTIONS: EFFECTIVE DATE**

Did not
pass
5/15
election

All proposed ordinances and resolutions shall either be read in full or posted in a public place at least twenty-four (24) hours prior to its adoption, provided if any amendments are proposed to a posted ordinance or resolution such amendments shall be read in full prior to its adoption. An ordinance may be read for the final time at the same meeting as when introduced upon ~~unanimous consent of those Councilmembers present~~ THE AFFIRMATIVE VOTE OF THREE FOURTHS OF ALL MEMBERS OF THE COUNCIL. A resolution shall require only one (1) reading before its adoption and may be adopted at the same meeting at which it is first introduced by a majority of those Councilmembers present.

OPTIONAL: Consider an ordinance only requiring one (1) reading as well as resolutions.

PURPOSE It should not be harder to do first and final read together than it is to find an emergency.

OPTIONAL: Would streamline the time period.

12a II 16 CRC **FAILURE TO VOTE**

~~No member of the Council present at any meeting shall be excused from voting, except in matters involving the consideration of their own official conduct. In all other cases, a failure to vote shall be entered on the minutes as an affirmative vote.~~

THE MAYOR AND COUNCIL MEMBERS SHALL NOT BE EXCUSED FROM VOTING EXCEPT UPON MATTERS INVOLVING THE CONSIDERATION OF THEIR OWN OFFICIAL CONDUCT OR IN SUCH MATTERS AS THEY MAY HAVE A CONFLICT OF INTEREST AS SET FORTH BY STATUTE OR WITH THE APPEARANCE OF IMPROPRIETY. IN ALL OTHER CASES, A VOTE OF AYE OR NAY MUST BE CAST.

PURPOSE To clarify

12b II 16 STAFF FAILURE TO VOTE

No member of the Council present at any meeting shall be excused from voting, except in matters involving the consideration of their own official conduct **OR A DECLARED CONFLICT OF INTEREST**. In all other cases, a failure to vote shall be entered on the minutes as an affirmative vote.

PURPOSE Failure to vote should be excused in matters in which the Councilmember has a conflict of interest.

13 IV 1 (d) STAFF ADMINISTRATIVE DEPARTMENTS AND OFFICES

(a) ~~City officials, as designated by this Article, and all heads of departments shall be residents of the City during their tenure of office.~~

PURPOSE To remove the requirement for residency of City Clerk, City Treasurer, and City Attorney.

14 XV CRC METHOD OF CHARTER AMENDMENT

This Charter, or any part of any Article or Section hereof, may be amended in the manner provided by the Constitution of this State.

IN ORDER TO REMAIN CURRENT AND RELEVANT, A CHARTER REVIEW COMMITTEE SHALL BE ESTABLISHED EVERY (#) YEARS TO CONSIDER RECOMMENDATIONS BROUGHT FORTH BY STAFF, THE PUBLIC, AND COMMITTEE MEMBERS TO BE PRESENTED TO THE COUNCIL FOR FUTURE CONSIDERATION.

PURPOSE To keep the Charter current and relevant.

15 VI 6 CRC Section 6—PERMISSION TO EXCEED THE BUDGET

Nothing in this Article shall prevent the Council from seeking permission from the Arizona State Tax Commission to exceed the adopted budget in the event that an emergency should arise **TO PROTECT PUBLIC HEALTH, SAFETY, OR WELFARE**.

PURPOSE To clarify the definition of an emergency.

16

IV

1 (d)

CRC

ADMINISTRATIVE DEPARTMENTS AND OFFICES

- (d) **City officials, as designated by this Article, and a**All heads of departments shall be residents of the City during their tenure of office. **ADDITIONALLY, ANY EMPLOYEE WHO MAKES SUGGESTIONS OR DECISIONS TO SET OR CHANGE CITY ZONING, BUILDING CODES OR BEAUTIFICATION PROJECTS THAT HAVE TO BE FUNDED BY ADDITIONAL TAX MONEY, MUST BE RESIDENTS OF THE CITY DURING THEIR TENURE OF OFFICE.**

PURPOSE Requires (in addition to the City Manager as required in another section of the Charter) the Deputy City Managers to be residents as well as Division Heads that makes decisions... those that have a stake in the increased spending being a resident taxpayer and living in the City. Removes requirements for other officers (City Clerk, City Treasurer, City Attorney).

17

II

5

CRC

QUALIFICATIONS

The Mayor and the Councilmembers shall be qualified electors of the City, and shall hold no other public office except that of notary public, or member of the National Guard or Naval or Military Reserve. If a Councilmember or the Mayor shall cease to possess any of these qualifications, or shall be convicted of a crime involving moral turpitude, the office shall immediately become vacant.

THE MAYOR AND COUNCILMEMBERS CANNOT BE A PARTICIPANT, WHETHER PAID OR VOLUNTARY, ON A BOARD OR SPECIAL COMMITTEE OF ANY INSTITUTION, CHARITABLE OR OTHERWISE, WHO RECEIVES FINANCIAL SUPPORT OR DONATIONS FROM THE CITY OF FLAGSTAFF AND TAXPAYER FUNDS.

PURPOSE To avoid the suspicion of a conflict of interest or resulting in self gain.

18

II

20

CRC

ELECTORAL DISTRICTS; ESTABLISHMENT

- A. WHEN THE POPULATION REACHES 75,000 AS CERTIFIED BY A DECENTNIAL CENSUS OR A SPECIAL CENSUS CONDUCTED FOR THE PURPOSE OF DETERMINING THE POPULATION OF THE CITY, THE MAYOR AND COUNCIL SHALL DIVIDE THE CITY INTO FOUR (4) ELECTORAL DISTRICTS NOT LESS THAN SIX (6) MONTHS AFTER THE CERTIFICATION OF SUCH CENSUS. EACH ELECTORAL DISTRICT SHALL BE COMPACT AND CONTIGUOUS, BUT SHALL BE AS NEARLY EQUAL IN POPULATION AS POSSIBLE, AT WHICH TIME THE FOLLOWING MODIFICATIONS WILL OCCUR:
1. SECTION 2 (OF THIS ARTICLE) SHALL READ, "THE COUNCIL SHALL CONSIST OF A MAYOR AND TWO (2) COUNCIL MEMBERS ELECTED FROM THE CITY AT LARGE, AND FOUR (4) COUNCIL MEMBERS FROM THEIR RESPECTIVE DISTRICTS.
 2. IMPLEMENTATION OF ARTICLE IX SECTION 11 (NEW) NOMINATION BY DISTRICT; ELECTION AT LARGE.
- B. AT THE NEXT SUCCEEDING MUNICIPAL ELECTIONS, THE TWO (2) COUNCIL MEMBERS TO BE ELECTED SHALL BE FOR TERMS OF TWO (2) YEARS.

-
- C. AT THE NEXT SUCCEEDING ELECTIONS FOLLOWING THE ELECTIONS PROVIDED IN SECTION 20 (B) ABOVE, SIX (6) COUNCIL MEMBERS SHALL BE ELECTED AS PROVIDED IN ARTICLE IX, SECTION 11, OF THIS CHARTER. THE COUNCIL MEMBERS FOR ELECTORAL DISTRICTS 1 AND 3 SHALL SERVE TRANSITIONAL TERMS OF TWO (2) YEARS AND COUNCIL MEMBERS FOR ELECTORAL DISTRICTS 2 AND 4 SHALL SERVE FULL TERMS OF FOUR (4) YEARS. AT EACH SUCCEEDING ELECTION ALL COUNCIL TERMS SHALL BE FOR FOUR (4) YEARS AS PROVIDED IN THIS CHARTER.
 - D. NOTWITHSTANDING THE DIVISION OF THE CITY INTO DISTRICTS, THE MAYOR SHALL CONTINUE TO BE ELECTED AT LARGE.

PURPOSE To require district elections once the City reaches a population of 75,000.

IF DISTRICT ELECTIONS WERE TO MOVE FORWARD, THE FOLLOWING CHANGES WOULD BE INCLUDED AS SEPARATE QUESTIONS ON THE BALLOT:

II

DISTRICTS; RESIDENCY

AT SUCH TIME AS THE CITY IS DIVIDED INTO ELECTORAL DISTRICTS, A COUNCIL MEMBER ELECTED FOR ANY SUCH DISTRICT SHALL HAVE BEEN A RESIDENT OF SUCH DISTRICT FOR A PERIOD OF NOT LESS THAN ONE HUNDRED EIGHTY (180) DAYS NEXT PROCEEDING THE DATE, FOR THE PRIMARY ELECTION AND SHALL CONTINUE TO RESIDE IN SUCH DISTRICT AS A QUALIFICATION FOR ELECTION TO AND HOLDING OF SUCH OFFICE.

II 1

NUMBER

The Council shall consist of a Mayor and six (6) Councilmembers elected from the City **AT LARGE, EXCEPT AS PROVIDED IN SECTION 20 OF THIS ARTICLE.**

II 2

SELECTION

The Council shall be elected at large, **EXCEPT AS PROVIDED IN SECTION 20 OF THIS ARTICLE.**

II

NOMINATION BY DISTRICT; ELECTION AT LARGE

- A. FROM AND AFTER SUCH TIME AS THE CITY IS DIVIDED INTO DISTRICTS, THE COUNCIL MEMBERS SHALL BE NOMINATED BY VOTE OF THE ELECTORS IN THE PRIMARY ELECTION IN THE DISTRICT IN WHICH THE CANDIDATE RESIDES, AND SHALL BE ELECTED IN THE GENERAL ELECTION BY THE ELECTORS OF THE CITY AT LARGE.
- B. FOR THE PURPOSES OF PARAGRAPH A OF THIS SECTION, EACH DISTRICT SHALL NOMINATE NO MORE THAN TWO (2) CANDIDATES FOR THE GENERAL ELECTION AND NO MORE THAN ONE (1) CANDIDATE FROM EACH DISTRICT SHALL BE ELECTED.

The Mayor and the Councilmembers shall be qualified electors of the City, and shall hold no other public office except that of notary public, or member of the National Guard or Naval or Military Reserve. If a Councilmember or the Mayor shall cease to possess any of these qualifications, or shall be convicted of a crime involving moral turpitude, the office shall immediately become vacant.

CITY EMPLOYEES ARE NOT ELIGIBLE TO STAND FOR ELECTION OR SERVE AS MAYOR OR AS MEMBERS OF THE CITY COUNCIL. NO PERSON SHALL BE ELIGIBLE FOR THE OFFICE OF MAYOR WHO SHALL NOT HAVE ATTAINED THE AGE OF TWENTY-FIVE (25) YEARS AT THE TIME OF ELECTION.

PURPOSE To place age limits on Mayor

19b II 5 CRC **QUALIFICATIONS**

The Mayor and the Councilmembers shall be qualified electors of the City, and shall hold no other public office except that of notary public, or member of the National Guard or Naval or Military Reserve. If a Councilmember or the Mayor shall cease to possess any of these qualifications, or shall be convicted of a crime involving moral turpitude, the office shall immediately become vacant.

CITY EMPLOYEES ARE NOT ELIGIBLE TO STAND FOR ELECTION OR SERVE AS MAYOR OR AS MEMBERS OF THE CITY COUNCIL. NO PERSON SHALL BE ELIGIBLE FOR THE OFFICE OF COUNCIL WHO SHALL NOT HAVE ATTAINED THE AGE OF TWENTY-ONE (21) YEARS AT THE TIME OF ELECTION.

PURPOSE To place age limits on Councilmembers.

20 VII 13 (a) STAFF **PROCEDURE FOR ADOPTION BY REFERENCE**

(a) The Council may enact the provisions of a code or public record already in existence without setting forth such provisions, but the adopting ordinance shall be published in full. **THE NUMBER OF COPIES REQUIRED BY STATE STATUTE At least three (3) copies** of the code or public record shall be filed in the office of the City Clerk, and kept available for public use and inspection. A code or public record enacted by reference may be amended in the same manner.

PURPOSE At this time, State Statutes require three (3) copies to be maintained; however, this is an antiquated statute and may change in the future. This verbiage would allow the Charter to change as well, if that should occur.

21 VII 15 STAFF **CODIFICATION OF ORDINANCES**

Any and all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, shall be compiled, consolidated, revised, indexed, and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of any ordinance for such purpose. Such code need not be published in the manner required for other

ordinances, but ~~not less than three (3) copies~~ THE NUMBER OF COPIES REQUIRED BY STATE STATUTE thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Amendments to the code shall be enacted in the same manner as ordinances.

| | |
|----------------|---|
| PURPOSE | At this time, State Statutes require three (3) copies to be maintained; however, this is an antiquated statute and may change in the future. This verbiage would allow the Charter to change as well, if that should occur. |
|----------------|---|

22

IX

11

STAFF

APPLICATION OF STATE LAW

The provisions of the laws of this State relating to and governing the nomination of elective officers and the conduct of elections, and each and every provision of said law, with all amendments thereto, shall apply, and shall govern the nomination of elective officers, and the conduct of elections, except as otherwise provided in this Charter. The Council shall have the power to make any other provisions relating to the nomination of officers, and to the conduct of elections not repugnant nor contrary to the provisions of the laws of this State, or to the provisions of this Charter.

| | |
|----------------|---|
| PURPOSE | Clean up the language regarding the application of state law to the elections process to make it clear that the Charter prevails unless it is legally preempted. I believe that is what the current language means, but it is so wordy that it could be challenged. |
|----------------|---|

23

XI

STAFF

POLICE MAGISTRATE COURT

The ~~Police~~ MAGISTRATE Court created by the general statutes of the State, and all statutes pertaining to the jurisdiction and procedure of said Court, shall be fully observed

| | |
|----------------|--|
| PURPOSE | Change all references to Police Court to Magistrate Court. |
|----------------|--|

24

XI

2

STAFF

POLICE MAGISTRATE JUDGE(S), APPOINTMENT, TERM

The ~~Police~~ MAGISTRATE Judge(s) shall be appointed by the Council, and shall hold office ~~CONSISTENT WITH STATE LAW at the pleasure of the Council~~.

| | |
|----------------|--|
| PURPOSE | Consider whether the section on Police Judges serving "at the pleasure of Council" should be revised considering the required independence for Judges. |
|----------------|--|

25

XI

3

STAFF

SERVICE OF PROCESS

The Chief of Police shall cause all summonses issued by the ~~Police~~ MAGISTRATE Judge(s) to be served, and the return endorsed thereon and signed by the officer making such service. The Chief of Police shall also cause all warrants of arrest to be executed.

OPTIONAL: Eliminating this altogether

PURPOSE Change all references of Police Court to Magistrate Court.

26

XII

1

STAFF

ELECTIONS FOR APPROVAL OF FRANCHISES

No franchise shall be granted, extended, or renewed by the City without the approval of a majority of the qualified electors residing within its corporate limits voting thereon at a **Primary**, General, or Special Election; the Council shall submit any matter for approval or disapproval to such election at any **Primary or General Election**, or shall call a Special Election for such purpose **IN ACCORDANCE WITH STATE LAW at any time upon thirty (30) days' notice**; and the Council shall require, before calling any such election, that the estimated expense thereof (to be determined by the Council) shall be first deposited by the applicant for such franchise with the City Clerk.

PURPOSE Thirty days' notice is not adequate time to call a Special Election and meeting other related timelines. Removes the possibility of holding a franchise election during the Primary Election due to partisanship complications with Primary Elections.

27

XVI

Am. 2

STAFF

Amendment No. 2 VOTE REQUIRED FOR CERTAIN TYPES OF FACILITIES COSTING IN EXCESS OF ONE MILLION DOLLARS

Notwithstanding any other provisions of the Charter, with the exceptions of utilities, public safety (**INCLUDING MAGISTRATE COURTS**) and street facilities, after the effective date of this Amendment the City shall not expend funds totaling more than one million dollars for the purchase and/or construction of municipal facilities, including but not limited to libraries, civic centers, or swimming pools, without the prior approval of a majority of the qualified electors of the City voting at an election for that purpose. Said one million dollar limit shall be adjusted annually by the consumer price index as of July 1 of each year.

PURPOSE In Amendment No. 2, define public safety facilities in a manner that would include Magistrate Courts, and reflects the current CPI to account for inflation.

28

VI

1

STAFF

FISCAL

Option 1

~~The provisions of the Constitution and the Laws of the State as the same now exist or hereafter may be amended governing~~ The budget, taxation, financial, and fiscal powers of the City ARE A MATTER OF LOCAL CONCERN. ~~shall apply to the governing and conduct of same in the City.~~ THE COUNCIL MAY BY ORDINANCE PROVIDE A SYSTEM FOR THE ASSESSMENT, LEVY AND COLLECTION OF ALL CITY TAXES, NOT INCONSISTENT WITH THE PROVISIONS OF THIS CHARTER.

Option 2

The provisions of the Constitution and the Laws of the State as the same now exist or hereafter may be amended governing the budget, taxation, financial, and fiscal powers of the City shall apply to the governing and conduct of same in the City. **THE COUNCIL MAY BY ORDINANCE PROVIDE A SYSTEM FOR THE ASSESSMENT, LEVY AND COLLECTION OF ALL CITY TAXES, NOT INCONSISTENT WITH THE PROVISIONS OF THIS CHARTER.**

| | |
|----------------|--|
| PURPOSE | This is an effort to bring the City Charter more in line with recent legislative changes to the Model City Tax Code, including the incorporation of recent legislative emphasis on tax simplification. The proposed changes also more clearly define the abilities of Council to self-administer the already adopted tax code. |
|----------------|--|

29

VIII

9

STAFF

LEASES OF CITY PROPERTIES

The Council may lease any **COMMERCIAL** land, **COMMERCIAL** buildings, or **COMMERCIAL** equipment now or hereafter owned by the City on such terms and conditions as the Council may prescribe. All leases shall be made to the highest responsible bidder after publication of notice thereof for at least one time per week for two weeks, stating explicitly the time and conditions of the proposed lease. However, the Council may, in its discretion, reject any and all bids.

SHOULD THERE BE NO BIDS, OR SHOULD THE COUNCIL CHOOSE TO REJECT ALL BIDS, THE CITY MAY ENTER INTO A LEASE AGREEMENT FOR AN ACCEPTABLE OFFER, BASED ON A DOCUMENTED DETERMINATION OF MARKET VALUE, WITHOUT FURTHER ADVERTISING DURING THE SIX MONTH PERIOD FOLLOWING THE DATE OF THE RECEIPT OF NO BIDS OR THE REJECTION OF ALL BIDS.

| | |
|----------------|---|
| PURPOSE | Allow leases of City property used for residential purposes to be leased by the City Manager for a commercially acceptable rate without going through the notification and bidding process. |
|----------------|---|

30

XI

4

STAFF

APPOINTMENT OF JUDGES PRO TEMPORE

THE PRESIDING JUDGE OF THE MUNICIPAL COURT MAY, WITH BUDGETARY APPROVAL OF THE CITY MANAGER, APPOINT SUCH JUDGES PRO TEMPORE AS ARE REQUIRED BY THE MUNICIPAL COURT AND SHALL OVERSEE THE COURT ADMINISTRATIVE STAFF

| | |
|----------------|---|
| PURPOSE | Allows the Presiding Judge to appoint Judges Pro Tempore and oversee court administrative staff |
|----------------|---|

31

VI

4

STAFF

CASH BASIS FUND SET UP; TRANSFER OF SUMS FROM CASH BASIS FUND TO OTHER FUNDS

The Council may, by ordinance, create and maintain a permanent revolving fund to be known as the Cash Basis Fund, for the purpose of putting the payment of the running expenses of the City on a cash basis. For this purpose, the Council may provide that from the money received from other sources, a sum equal to not less than two and one-half (2 1/2) cents on each one hundred dollars (\$100.00) of the assessed value of said property shall be placed in such fund,

~~until the accumulated amount of such fund shall be sufficient to meet all legal demands against the Treasury for the first four (4) months, or other necessary period, of the succeeding fiscal year.~~
~~The Council shall have power to transfer from the Cash Basis Fund to any other fund or funds such sum or sums as may be required for the purpose of placing such fund or funds, as nearly as possible, on a cash basis. It shall be the duty of the Council to provide that all money so transferred from the Cash Basis Fund shall be returned thereto before the end of the fiscal year.~~

PURPOSE Not used

9 STAFF LEASE OF CITY PROPERTY

The Council may lease any land, buildings, or equipment now or hereafter owned by the City on such terms and conditions as the Council may prescribe. All leases shall be made to the highest responsible bidder after publication of notice thereof for at least one time per week for two weeks, stating explicitly the time and conditions of the proposed lease. However, the Council may, in its discretion, reject any and all bids.

PURPOSE Language needs to be updated to be consistent with current practice.



2021/2022 Election Overview

January 12, 2021

Stacy Saltzburg
City Clerk





Election Dates



City Charter

- 2015 Charter Amendment - City elections same as State.

Election Dates according to State Statutes

- Primary Elections – summer of even numbered years
- General Elections - fall of even numbered years
- Special Elections - odd or even years



Types of Elections



Primary Elections

- Summer of Even Number Years Only – August
 - Only held if there are more than 2 candidates for each seat.

General Elections

- Fall of Even Number Years Only – November
 - Candidate Elections
 - General Obligation Bonds
 - Sales Tax



Types of Elections



Special Elections

- Can be held in odd or even years
 - Charter Amendments
 - Initiative, Referendum, or Recall
 - Regional Plan Adoption
 - Franchise
 - Expenditure Limitation/Permanent Base Adjustment



Upcoming Election Dates



2021 Special Elections

- March 9, 2021
- May 18, 2021
- August 3, 2021
- November 2, 2021

2022 Special Elections

- March 2, 2022
- May 17, 2022

2022 Primary Election (if needed)

- August 2, 2022

General Election

- November 8, 2022



Financial Considerations



- Coconino County Elections conducts the City Elections
- Costs are based on registered voters.
 - 44,000 registered voters at last election.
- Special Elections
 - All Mail Ballot - \$2.50/registered voter
 - Polling Place - \$5.00/registered voter
- Combined Jurisdiction Election
 - Mail & Polling Place - \$2.00/registered voter



Financial Considerations



- Other Election Related Costs
 - Publicity Pamphlet – printing and mailing
 - Information Gathering
 - Outreach & Education Materials
 - Consulting Costs (optional)
 - Most common with bond questions



What is a City Charter?



- A document that outlines the City's governmental structure, identifies jurisdiction, and provides enabling authority for self-rule.
- Was originally voted on by the citizens in 1958 and has been amended 8 times since then.
 - Last amendment 2015
- Any amendment to the Charter requires approval by a majority of qualified electors voting in election.
 - Under State law, each change to the Charter must be considered by the voters independently.



Possible Amendments



- 2015 Charter Review Committee evaluated and ranked several staff and committee proposed amendments.
- 19 questions forwarded to voters in 2015
- Roughly 30 questions remain for future consideration
- Additional staff recommendations since 2015.
 - Election Dates
 - Lease of City Property
- Other considerations from Council.



Charter Election



- The time to begin planning for possible 2021 or 2022 ballot measures is now.
- Planning and Outreach take time.
 - Charter Amendment or Ballot Measure Citizen Committee
 - Information Gathering
 - Recommendations to Council
 - Public Outreach



Possible Timeline



| Action | November 2021 Timeline | March 2022 Timeline |
|---|------------------------|------------------------------|
| Advertise>Select Charter Review Committee Members | January/February 2021 | February/March 2021 |
| Convene Committee | March - May 2021 | March - August 2021 |
| Committee Recommendations to Council | May/June 2021 | September 2021 |
| Final Council Approval & Call of Election | June/July 2021 | October/November 2021 |
| Prepare Final Public Outreach Materials Present to Service Groups | July - October 2021 | October 2021 – February 2022 |
| Election | November 8, 2021 | March 2, 2022 |



Council Direction



- Do you want to move forward with a possible Special Election for Charter Amendments?
 - November 2021 or March/May 2022?
- Do you want to the City Manager to appoint a committee to evaluate proposed amendments?
- Are there charter amendments you would like to add to the list for consideration?



QUESTIONS?