

**NOTICE OF THE REGULAR MEETING
OF THE CAREFREE TOWN COUNCIL**

WHEN: TUESDAY, FEBRUARY 2, 2021

WHERE: ZOOM ONLINE* Meeting ID: 322 972 9660

TIME: 5:00 P.M.

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Town Council of the Town of Carefree, Arizona and to the general public that the members of the Town Council will hold a meeting open to the public. For any item listed on the agenda, the Council may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to Arizona Revised Statutes §38-431.03.

Members of the Council are participating by technological means or methods pursuant to A.R.S. §38-431(4).

The agenda for the meeting is as follows:

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

CONSENT AGENDA

All items listed hereunder are considered to be routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a council member so requests, in which event the item will be removed from the consent agenda and will be discussed separately:

ITEM #1 Approval of the January 5, 2021 Town Council Regular Meeting Minutes.

ITEM #2 Acceptance of the cash receipts and disbursements report for November, 2020.

ITEM #3 Accept and consent to the formation of the Rio Verde Foothills Domestic Water Improvement District.

CALL TO THE PUBLIC

ITEM #4 **NOTE:** Submission of public comments at Call to the Public must be provided in typed format by email to Kandace@Carefree.org. Comments are to be limited to

not more than one-half page, double spaced, 12 point type. No more than one submission per person per meeting will be read into the record. Please identify your town or city of residence. Comments that do not comply with the half-page, double spaced, 12 point font will not be read during the meeting but will be made part of the public record and provided to each Council member.

REGULAR AGENDA:

ITEM #5 Current Events.

ITEM #6 Discussion to amend the *Carefree Town Code*, to protect the health, safety, and welfare by prohibiting the use, possession, sale, and smoking of marijuana on publically owned or controlled property and only allow recreational marijuana sales within a medical marijuana facility holding a dual license. Public comments will be taken. (*First Reading*).

ITEM #7 Review, discussion and possible action to approve Resolution 2021-01 accepting a grant from the Firehouse Subs Public Safety Foundation to the Carefree Fire Department.

ITEM #8 Presentation by Robin Cochran, new Executive Director of the Foothills Caring Corps, regarding the past, present and future services to the Foothills communities.

ITEM #9 Update regarding the January 15-17, 2021 Thunderbird Artists' 28th Annual Winter Carefree Fine Art & Wine Festival and the March 12 – 14, 2021 26th Annual Spring Carefree Fine Arts Festival.

ITEM #10 Adjournment.

DATED this 28th day of January, 2021.

TOWN OF CAREFREE

BY: Kandace French Contreras
Kandace French Contreras, Town Clerk/Treasurer

*Due to the risks to public health caused by the possible spread of the COVID-19 virus at public gatherings, the Town of Carefree has determined that public meetings will be indefinitely held through technological means. Meetings will be also open to the public through technological means. In reliance on, and compliance with, the March 13, 2020 Opinion issued by Attorney General Mark Brnovich, the Town of Carefree Town Council provides this special advance notice of the technological means through which public meetings may be accessed. While this

special notice is in effect, public comment at meetings will only be accepted through written submissions, which may or may not be read aloud during meetings.

Join Zoom Meeting:

Click on the following link or cut and paste it into your browser:

<https://us02web.zoom.us/j/3229729660>

Or go to <https://www.zoom.us/join> Meeting ID: 322 972 9660

A password is not required.

By phone:

Please call 1-253-215-8782



FOR SPECIAL ACCOMMODATIONS

Please contact the Town Clerk, 8 Sundial Circle (PO Box 740), Carefree, AZ 85377; (480) 488-3686, at least three working days prior to the meeting if you require special accommodations due to a disability.

**MINUTES OF THE GENERAL MEETING
OF THE CAREFREE TOWN COUNCIL**



WHEN: TUESDAY, JANUARY 5, 2021

WHERE: ZOOM WEB <https://us02web.zoom.us/j/3229729660>
MEETING ID: 322 972 9660

TIME: 5:00 P.M.

Town Council Attending:

Mayor Les Peterson
Vice Mayor John Crane
Vince D'Aliesio
Tony Geiger
Stephen Hatcher
Michael Krahe
Cheryl Kroyer

Town Council Absent:

Staff Present:

Gary Neiss, Town Administrator; Michael Wright, Town Attorney; Stephen Prokopek, Economic Development Director; Kandace French, Town Clerk/Treasurer.

Mayor Peterson called the meeting to order at 5:00 p.m.

Stephen Hatcher led the Council in the Pledge of Allegiance.

CONSENT AGENDA

CONSENT AGENDA

- ITEM #1** Approval of the December 1, 2020 Town Council Regular Meeting Minutes.
- ITEM #2** Acceptance into the public record of the December, 2020 paid bills.
- ITEM #3** Acceptance of the cash receipts and disbursements report for October, 2020.
- ITEM #4** Acceptance of the cash receipts and disbursements report for November, 2020.
Deferred

Mayor Peterson announced the agenda item and asked if there were any questions.

Town Administrator, Gary Neiss, requested that the Council Members defer item #4 as it was not ready to be presented to the Council Members. It was agreed to defer Agenda Item #4.

Vice Mayor Crane **moved** to approve Agenda Items #1, #2 and #3. There was a **second** by Council Member Krahe. The motion **carried** unanimously.

REGULAR AGENDA:

(Taken out of order)

ITEM #7 **Appointment of Vice Mayor to service from January, 2021 through December, 2022 in accordance with Section 2-2-2 of the Town Code of the Town of Carefree.**

Mayor Peterson announced the agenda and explained the process for appointing a Vice Mayor. He described the prior service of the Vice Mayor and recommended that Vice Mayor Crane be reappointed in the position of Vice Mayor for the next two-year term.

Council Member Krahe **moved** to appoint John Crane as Vice Mayor for the term of January, 2021 through December, 2022. There was a **second** by Council Member Kroyer. The motion **carried** unanimously.

Council Member/Vice Mayor John Crane was appointed for another two year term.

ITEM #8 **Review, discussion and possible action to approve a Wholesale Liquor License application for Stephen Gold and Mosel Wines, located at 7202 East Cave Creek Road, Unit 5B, Carefree, AZ.**

Mayor Peterson announced the agenda item and introduced Town Clerk/Treasurer Kandace French Contreras.

Ms. French Contreras explained the application of Stephen Gold and the location of Mosel Wines. Mr. Gold appeared and also spoke as to the location and to clarify that the location was for wholesale liquor only and no retail would take place.

Council Member Kroyer **moved** to approve the wholesale liquor license application for Stephen Gold and Mosel Wines. There was a **second** by Vice Mayor Crane. The motion **carried** unanimously.

ITEM #9 **Recognition of the outgoing Planning and Zoning Commission members.**

Mayor Peterson announced the agenda item and spoke regarding the long and esteemed service of Planning and Zoning commission members Scott Sperl and Dick Tatlow. He also recognized Al Mascha as the Chairman of Planning and Zoning and his extensive and valued service.

Mayor Peterson expressed his disappointment in being unable to thank them each personally due to the requirement of the Zoom forum due to COVID-19 but wished each of them well in their future endeavors.

ITEM #10 Introductions and appointment of Planning and Zoning Commission applicants to the Planning and Zoning Commission.

Mayor Peterson announced the agenda item and explained the process for selecting the successful candidates for the three empty seats.

Candidates, Peter Burns, Phil Corso, Ralph Ferro and Susie Dymoke were introduced and were given a moment to speak about themselves.

The Council Members submitted their selections to the Town Clerk via the "Chat" feature on the Zoom online platform to the Town Clerk, Kandace French Contreras. Ms. French Contreras tallied the votes.

Mayor Peterson announced the new members of the Planning and Zoning Commission, Peter Burns, Phil Corso and Ralph Ferro. Each member was congratulated and welcomed. Mayor Peterson discussed the difficulties in making the selection as all of the candidates were qualified and valued for their service to the community.

ITEM #11 Introduction and Appointment of the Technical Advisory Committee for the development of Economic Development.

Mayor Peterson announced the agenda item and introduced the Director of Economic Development, Steven Prokopek.

Mr. Prokopek described the purpose of the Economic Development Technical Advisory Committee ("EDTAC") and the goals envisioned for that group. He presented information and the professional background on each member of the group, which included members Bruce Raskin, Michelle Rutkowski, David Jarand and Brian Kocour. These members were vetted and selected by Mr. Prokopek for the value they could bring to the advancement of economic development in Carefree. No action by the Council was necessary.

ITEM #12 Update regarding the January 15-17, 2021 Thunderbird Artists' 28th Annual Winter Carefree Fine Art & Wine Festival.

Mayor Peterson announced the agenda item and re-introduced Steve Prokopek.

Mr. Prokopek presented the latest information regarding the Thunderbird Artists' COVID Mitigation Plan. He described the steps taken for general mitigation such as the removal of alcoholic beverages from the event to enable mask wearing at all times and all food areas to be socially distanced in addition to encouraging patrons to frequent local area restaurants and patios that already adhere to the state's guidelines.

He provided further information regarding steps to be taken by volunteers, security personnel, staff, artists and patrons. The food vendors would work under the Maricopa County Health Department guidelines and announcements of the COVID rules would be made every half hour from the Sanderson Lincoln Pavilion speakers. Event fencing was eliminated to avoid the

necessity for patrons to congregate in tight areas. Sanitation measures, social distancing and signage would be utilized.

ITEM #13 Review, discussion and possible action to approve the extension of the Friday morning Special Event Permit street closure of Ho-Hum Road (behind the amphitheater) for the Farmer's Market.

Mayor Peterson announced the agenda item and re-introduced Steve Prokopek.

Mr. Prokopek explained the reason for the application to extend the expiration date of the street closure of Ho-Hum Road on Friday morning for the Farmer's Market and the safety benefits of having the street closed during that time. Additionally, the closure provides for an improved layout of the Farmer's Market and smooth flow of customers while being social distanced. Mr. Prokopek spoke with neighboring businesses and did not see any negative impact created by the closure of the small length of street.

Council Member Kroyer **moved** to approve the extension of the Friday morning Special Event Permit street closure of Ho-Hum Road (behind the amphitheater) for the Farmer's Market There was a **second** by Vice Mayor Crane. The motion **carried** unanimously.

TEM #5 Call to the Public:

Mayor Peterson announced the agenda item.

Mayor Peterson announced the agenda item.

Town Clerk, Kandace French Contreras, Economic Development Director, Steve Prokopek and Communications Coordinator, Alex Orozco read public comments into the record from the following individuals*:

Altschuld, Kedda and Ken
Altschuld, Nedda
Antle, Mike and Cass
Argo, David
Barbour, Stephanie
Barbour, Stephanie and Ian
Benedetto, Rocco and Maureen
Binder, Robert MD and Deborah Francesconi-Binder RN
Brassill, Patrick
Burke, Stephen
Butler, Brian
Butler, Carolyn Lazar
Carr, Randal and Deborah
Carson, Bill and Laurie
Christie, David and Susan
Conklin, Thomas and Mary

Crowley, Thomas
Denton, Terry
Dugan, Robert C. and Kathleen A.
Gauss, Cal
Glaspie - Mase, Conie
Grogan, James and Lynn
Harrill, Connie Dr. and Mr. Greg Myers
Harris, Allen
Haxer, Charlotte
Haxer, Douglas and Charlotte
Helfand, Patti
Hencel, Nancy
Jackson, Ellen and Frank
KcKeown, Dave and Moddy
Little, Arlene
Lucia, Charleen
McIsaac, Les
McKernan, Mararet
McKrill, Paul and Bonnie
Michaelis, Larry and Eleanor
Miller, Martenea D.
Miller, Robert and Tena
Morrill, Barbara
Murray, Terry
Nuber, Bob and Judy
Numata, Steve and Catherine
O'Brien, Barbara
O'Brien, Bob and Linda
Oliver, Kate
Pagnucco, Judith
Pistillo, Bernie
Renfroe, Abby
Ringelberg, Gail
Schwarzkopf, David S.
Schwarzkopf, Margaret O'Neil
Senterfitt, John and Carolyn
Smith, Ed and Linda
Smucker, John
Sobieski, David and Jan
Stearns, Kathleen
Talty, Joe and Eileen
Taylor, Donna
Thomas, Gaberille

Thomas, Gabrielle
Tsoutsoulas, Lisa Star and Nikola
Wainwright, Ronnie
Williams, David and Nancy

**Listed in alphabetical order. Not the order read into the record.*

Mayor Peterson explained that specific matters could not be addressed without being on the agenda and noticed to the public. However, Council could respond to criticism. As such, he was compelled to respond to some of the criticism and misinformation stated in the Public Comment. Mayor Peterson clarified that the potential water storage unit would be underground and the area re-vegetated and restored to the natural desert. He highlighted corrected information regarding the selection process of the placement of the underground unit and the current utility easement at that location.

Mayor Peterson also explained that the Town Council members, while the same individuals as the members of the Board of the UCFD, did not address the same issues or make decisions for the other entity. He explained that the Town Council was expected to meet on February 2, 2021 and the UCFD would meet on February 9, 2021 to address issues related to the water storage facility and the Boulders.

ITEM #6 Current Events.

Mayor Peterson announced the agenda item and introduced Vice Mayor, John Crane.

Vice Mayor Crane announced that, due to the continued COVID crisis, the Desert Garden seminars have been cancelled for 2021. However, the Master Gardeners will provide links in COINS and on the Town website to informative articles in the place of the seminars.

ITEM #14 Adjournment.

Mayor Peterson announced the agenda item and asked for a motion to adjourn.

Council Member Krahe **moved** to adjourn. There was a **second** by Vice Mayor Crane. The motion **carried** unanimously.

The meeting ended at 7:06 p.m.

DATED this 12th day of January, 2021.

TOWN OF CAREFREE

BY: _____
Kandace French Contreras, Town Clerk

TOWN OF CAREFREE

Les Peterson, Mayor

Attest:

Kandace French Contreras, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the Regular Meeting of the Town of Carefree held January 5, 2021. I further certify that the meeting was duly called and held and that a quorum was present.

Kandace French Contreras, Town Clerk

Combined Trial Balance - All Funds
November 30, 2020



Assets

Checking - National Bank of AZ	1,148,138
Local Gov't Investment Pool - AZ	10,563,275
Petty Cash	700
Advances to the Water Company	3,627,391
Total Assets	\$ 15,339,505

Liabilities

Accounts Payable	494,644
Bonds	37,010
Sales Tax Remittance	(1)
Long Term Deferred Revenue	3,627,391
Total Liabilities	\$4,159,044

Fund Balance

Fund Balance-Beginning of Year	10,925,889
Year-to-date change in Fund Balance	254,572
Total Fund Balance	11,180,461
Total Liabilities and Fund Balance	\$ 15,339,505

Contingency Reserve Fund	\$2,500,000
Capital Fund	\$8,541,706
Total	\$11,041,706

Town of Carefree Reconciled Cash Receipts and Cash Disbursements as of November 30, 2020

Revenues	FY2019	FY2020	FY2021	2020 vs 2021	Budget	Nov 20	% of Budget
	YTD Nov	YTD Nov	Y-T-D	% (+/-)			
Local Sales Taxes (1 month lag)	\$743,726	\$825,765	\$ 794,864	-3.7%	1,800,000	192,993	44.2%
State Sales Taxes (1 month lag)	137,564	148,173	158,588	7.0%	300,000	30,457	52.9%
Building Fees	168,004	165,467	147,571	-10.8%	300,000	27,859	49.2%
State Income Tax	190,882	208,843	233,843	12.0%	563,000	46,769	41.5%
Fines	28,705	32,870	51,163	55.7%	120,000	22,029	42.6%
Court Service Fees	53,232	83,044	71,972	-13.3%	172,734	14,394	41.7%
Town Clerk-Misc. Sales	247	180	56	0.0%	500	0	11.2%
Town Clerk-Permits & Sol Fees	637	500	100	-80.0%	1,000	0	10.0%
Water Company Reimbursements	287,752	232,826	288,377	23.9%	690,605	57,675	41.8%
33 Easy St Rent	6,366	6,334	6,367	0.0%	15,600	1,300	40.8%
Miscellaneous Income & Donations	92,200	41,530	73,760	77.6%	43,000	32,000	171.5%
Interest Income	58,373	79,460	10,398	-86.9%	110,820	373	9.4%
Utility Franchise Fees (1 month lag)	138,467	136,556	142,598	4.4%	343,000	0	41.6%
County Lieu Tax (1 month lag)	62,787	64,771	71,356	10.2%	150,000	12,375	47.6%
General Fund & All Funds Reserve Contribution(Below)	0	0	0	0.0%	5,053,540	0	0.0%
Special Events	183,262	75,428	22,060	-70.8%	70,000	480	31.5%
County & State Grants	0	1,233	98,132	0.0%	200,000	88,132	49.1%
Court Enhancement, GAP, MJCEF	13,194	3,684	4,844	31.5%	22,700	1,211	21.3%
HURF (1 month lag)	84,508	283,498	89,441	-68.5%	256,500	22,581	34.9%
Cemetery	100	100	100	0.0%	600	0	16.7%
CPR Ed Fund	430	668	0	0.0%	900	0	0.0%
AZ CARES Fund Grants	3,277	3,352	450,846	0.0%	0	0	0.0%
Utility Capital Improvement Fund	32,954	27,941	3,314	0.0%	22,500	0	14.7%
Fire Reimb Income & Ins Reimb			28,164	0.0%	60,100	2,804	46.9%
Fire Fund-L Sales Tax (1 month lag)	371,863	412,883	397,433	-3.7%	900,000	96,496	44.2%
Total Revenues	2,658,530	2,835,106	3,145,348	10.9%	11,197,099	649,929	28.1%
Expenses							
Mayor & Council	4,197	3,887	2,954	-24.0%	212,075	282	1.4%
Town Clerk	122,000	135,122	134,238	-0.7%	299,381	31,616	44.8%
Court	108,114	114,685	117,670	2.6%	285,762	20,447	41.2%
Administration	155,235	192,029	171,507	-10.7%	434,381	27,216	39.5%
Claims & Losses	0	0	400	100.0%	5,000	0	8.0%
Legal	47,658	98,789	168,522	70.6%	260,000	55,679	64.8%
Risk Management	29,811	33,503	16,169	-51.7%	128,313	0	12.6%
Planning & Development	69,776	83,847	86,715	3.4%	255,063	16,148	34.0%
Building Safety	74,057	97,537	83,688	-14.2%	220,552	15,706	37.9%
Law Enforcement	189,281	195,336	212,113	8.6%	558,677	40,699	38.0%
Code Enforcement	19,884	21,231	19,773	-6.9%	54,217	3,701	36.5%
Engineering	67,146	19,884	12,384	-37.7%	129,722	2,477	9.5%
Public Works - Streets & Gardens	257,146	423,278	315,900	-25.4%	731,024	62,102	43.2%
Debt Service WIFA	223,773	227,509	231,385	1.7%	244,378	0	94.7%
33 Easy St	19,840	10,814	11,716	0.0%	27,708	2,094	42.3%
Capital Improvement Program (See Below)	0	0	0	0.0%	-	0	0.0%
Public Safety Fire General Fund	0	0	5	0.0%	619,934	5	0.0%
Town Center-Economic Development	321,889	434,222	71,270	-83.6%	241,993	13,051	29.5%
Contingencies	29,872	0	0	0.0%	200,000	0	0.0%
Court Enhancement, GAP, MJCEF	7,684	0	0	0.0%	12,550	0	0.0%
HURF (See Below)	0	0	0	0.0%	-	0	0.0%
Cemetery	0	0	0	0.0%	600	0	0.0%
CPR - Education Fund	0	0	0	0.0%	970	0	0.0%
AZ CARES Fund Exp	0	0	450,904	0.0%	0	-5	0.0%
Utility Capital Improvement Fund (See Below)	0	0	0	0.0%	0	0	0.0%
Transfers Out	0	0	100	0.0%	0	0	0.0%
Fire Fund	626,727	638,931	202,794	-68.3%	974,100	131,897	20.8%
Total Expenses without Capital Expense	2,374,090	2,730,604	2,310,206	-15.4%	5,896,400	423,116	39.2%
Net without Capital Expense	\$ 284,440	\$ 104,502	\$ 835,142		\$ 5,300,699	\$ 226,812	15.8%
All Capital Projects	0	25,916	580,570	2140.2%	5,289,500	324,535	11.0%
Total Expenses with Capital Expense	2,374,090	2,756,520	2,890,776	4.9%	\$11,185,900	\$747,651	25.8%
Net with Capital Expense	284,440	78,586	254,572	223.9%	11,199	(97,722)	2273.2%

TOWN OF CAREFREE
INFORMATION SUMMARY

MEETING DATE:

February 2, 2021

SUBJECT:

Consent to the formation of the Rio Verde Domestic Water Improvement District (Rio Verde DWID)

ATTACHMENT:

- Rio Verde DWID Petition and Exhibits A and B
- Distance Map Between Carefree and farthest North corner of 136th Street in Rio Verde

SUMMARY:

Staff at the Town of Carefree and at the Carefree Water Company were contacted by members of the Rio Verde Foothills Water Resources, Inc. requesting the consent from the Town of Carefree to the formation of a Domestic Water Improvement District. Pursuant to ARS §48-902, the Petitioners must request consent from any incorporated city or town that is within six miles of the proposed District. The Petitioners measured from the north boundary of the Rio Verde Foothills at Tonto National Forest at 136 Street to the closest property within the boundary Town of Carefree and came up just .99 miles short of the 6 mile requirement.

Attached are copies of their proposed petition, associated exhibits and boundary map. It is important to note that the attached map indicates the proposed water district boundaries will not overlap with the Town of Carefree's corporate boundary area nor does the proposed water district share any water table with the Town of Carefree.

Staff of the Town of Carefree and staff of the Carefree Water Company have reviewed this request and see no concerns with the Carefree Town Council consenting to the formation of a water district in the proposed service area. Additionally, the Town of Fountain Hills, just 92 feet short of the six mile requirement, consented to the formation on January 5, 2021. The request to consent is going before the Council for the City of Scottsdale.

Staff recommends granting consent to the formation of the Rio Verde Foothills Domestic Water Improvement District.

TOWN COUNCIL ACTION:

1. Move to consent to the formation of the Rio Verde Foothills Domestic Water Improvement District.

REPORT PREPARED BY:

Kandace French Contreras, Town Clerk/Treasurer

**PETITION FOR THE ESTABLISHMENT OF THE
RIO VERDE FOOTHILLS DOMESTIC WATER IMPROVEMENT DISTRICT
AND PETITION TO INCUR EXPENSE**

TO THE HONORABLE BOARD OF SUPERVISORS OF MARICOPA COUNTY, ARIZONA:

The undersigned real property owners ("Petitioners"), as identified in Exhibit A attached hereto and incorporated herein, petition ("Petition") the Board of Supervisors of Maricopa County, Arizona ("County") to enter its final order declaring the formation, organization and establishment of the **RIO VERDE FOOTHILLS DOMESTIC WATER IMPROVEMENT DISTRICT** ("District"). This Petition is made pursuant to Sections 48-901 to 48-967, inclusive, and Sections 48-1011 to 48-1019, inclusive, of the Arizona Revised Statutes ("A.R.S."), as the same may be amended from time to time (collectively, the "County Domestic Water Improvement District Laws").

As required by A.R.S. Section 48-903(C), the Petitioners hereby assert and declare the following facts and make the following representations in support of this Petition:

1. The name of the proposed District is the "Rio Verde Foothills Domestic Water Improvement District" of Maricopa County, Arizona.
2. The necessity for the proposed District is the need to provide a secure source of water, purchase land and construct one or more standpipes for a domestic water system and other local improvements, and the financing of such improvements by the issuance of bonds or such other financial mechanisms as the District may determine in its discretion for the benefit of the parcels of land so benefitted within the proposed District, charging and collecting fees and charges as may be permitted by law, and levying taxes within the proposed District to operate and maintain such improvements.
3. The public convenience, necessity and welfare will be promoted by the establishment of the District and the real property to be included therein will be benefitted by the improvements which can be ordered upon the formation of the District.
4. The **Initial Proposed Boundary Description** for the District is described in Exhibit B: PROPOSED BOUNDARY DESCRIPTION attached hereto and the **Initial Proposed Boundaries Map** for the District is depicted in Exhibit C: PROPOSED BOUNDARIES MAP attached hereto. The intent is to show the boundaries within which Petitioners are required to own land in order to sign the Petition.

After all petition signatures are gathered, there will be an amended Exhibit B: PROPOSED BOUNDARY DESCRIPTION and an amended Exhibit C: PROPOSED BOUNDARIES MAP created that will include only those parcels whose owners have signed this Petition. Parcels whose owners did NOT sign this petition will NOT be included in the District.

The parcels to be included within the boundaries of the proposed District are not, wholly or partially, within either of the following:

- a. The boundaries of the existing service territory of a public service corporation that provides domestic water or wastewater services as defined by a certificate of convenience and necessity issued by the Arizona Corporation Commission.
- b. The boundaries of the proposed service territory of a public service corporation that provides domestic water or wastewater services as defined in an application for a certificate of convenience and necessity that is pending before the Arizona Corporation Commission or that has been considered by the Arizona Corporation

Commission within one year before the date this Petition for an improvement district is filed with the Clerk of the Board of the County.

5. The proposed improvements may include, but are not limited to, acquiring a secure source of water, acquisition or construction of a well or wells, installation of a pump or pumps, construction of a water storage tank or tanks, and construction of a standpipe or standpipes, combined with water hauling by independent commercial and/or private water haulers delivering water from the constructed water infrastructure to parcels included within the District, or the sale of water from the domestic water system, all as part of a domestic water system.
6. Petitioners ask that the proposed District have the power and authority to: (i) construct, acquire and/or improve a domestic water system and all appurtenances thereto, within and without the District; (ii) make any and all other local improvements as may be required or necessary to fulfill such purpose; (iii) fund by loans, grants, assessments, special assessments, the issuance of bonds, and/or imposition of charges as may now or hereafter be ordered under and pursuant to the County Domestic Water Improvement District Laws; and (iv) provide for the operation, maintenance, repair and replacement of such improvements, as the need may arise. The proposed District shall be a special purpose district and municipal corporation for all applicable purposes. These purposes consist of, but are not limited to, the purposes prescribed in A.R.S. Section 48-909(A) as well as the related powers prescribed in A.R.S. Section 48-909(B) and A.R.S. Section 48-910.
7. Petitioners request that the District have an elected Board of Directors consisting of five members and that the following qualified electors of the District be appointed as the initial Board of Directors:

<u>Name of Director</u>	<u>Address</u>
Jennifer Simpson	13824 E Olesen Rd Scottsdale, Arizona 85262
John Jouas	35607 N 138 th Way Scottsdale, AZ 85262
Karen Nabity	13730 E. Cavedale Drive Scottsdale, Arizona 85262
Michelle Jameson	30507 N 164 th St Scottsdale, Arizona 85262
Jaime Phillips	16327 E Rancho Tierra Dr Scottsdale, AZ 85262

8. Election dates shall be the same as the county-wide general election date of each even numbered year commencing in 2022, and terms of the applicable class shall expire on the last day of December following the election.
9. When the District is formed, this Petition shall be deemed to be a petition to the Board of Directors of the District that the District incur the expense of appointing and employing a District engineer, drafting and preparing plans, specifications and estimates of the District's improvements or any one of them, and of taking all action to initiate and complete such improvements. Further, this Petition shall be deemed to be a petition to the Board of Directors of the District to incur the expenses of acquiring a secure source of water and constructing a domestic water system, to pay a required bond, other fees and expenses, costs of mailings, notifications, professionals and of taking all action to initiate and complete the process of obtaining a secure source of water and any improvements.

10. The Petitioners agree to pay all expenses connected with the proceedings in case the Board of Supervisors refuses to establish the District. If the District is established but the improvement work is abandoned by the District, the costs incurred previous to the abandonment (*i.e.*, costs for engineering, legal, financial, and other incidental expenses) will be paid by the District, such payment will be provided for by the levy and collection of taxes upon all the property, real and personal, in the District, or payment for such costs will be made by any other remedy or law in force at the time of abandonment.
11. Petitioners understand that the engineer's estimate of costs of the improvements have not been completed nor has the assessment methodology been determined or approved by the Board of Directors, and therefore no maximum limit on the amount of any assessment or the aggregate amount of all assessments has been established.
12. Petitioners acknowledge that the formation of the District may result in the levy of ad valorem taxes, assessments, and other charges to pay the costs of taking all action to initiate and complete the anticipated improvements, and for their operation and maintenance, and that the real property included within the District will be subject to the ordinances, resolutions, and other laws of the District. **The owners of real property within Exhibit B: PROPOSED BOUNDARY DESCRIPTION and Exhibit C: PROPOSED BOUNDARIES MAP who do not sign this Petition shall be excluded from the District.**
13. The Petitioners represent and/or acknowledge that: (1) this Petition constitutes a binding obligation; (2) this Petition has been validly authorized and executed as verified in the verification attached hereto; (3) this Petition meets the majority requirements of A.R.S. Sections 48-903(A); (4) the proposed District is a non-contiguous District and after all Petitioners sign this petition, an amended **Exhibit B: PROPOSED BOUNDARY DESCRIPTION** and an amended **Exhibit C: PROPOSED BOUNDARIES MAP** will be created including ONLY those parcels whose owners have signed this Petition; and as a result (5) 100% of the owners of 100% of the real property to be included in the District will have signed this Petition.

EXHIBIT A
PETIONERS SIGNATURE PAGE

THIS PAGE INTENTIONALLY LEFT BLANK

Exhibit B
PROPOSED BOUNDARY DESCRIPTION
Rio Verde Foothills Domestic Water Improvement District

The Initial Proposed Boundary Description is:

The area is located in Maricopa County and is bounded by the City of Scottsdale to the West, Tonto National Forest to the North, Tonto National Forest North of Dixileta Dr.; Dixileta West to 172nd St.; 172nd St. South to Rio Verde Dr.; Rio Verde Dr. East to 176th St.; 176th St. to The McDowell Mountain Regional Park comprise the East boundary, and The McDowell Mountain Regional Park on the South.

EXCEPT the following areas:

Granite Mountain Ranch; encompassed by Lone Mountain Rd. to the North, 144th St. to the East, Dixileta Dr. to the South and 140th St. to the West.

Rio Mountain Estates; encompassed by Dixileta Dr. to the North, 152nd St. to the East, Rio Verde Dr. to the South and 150th St. to the West.

The following parcels which are included in EPCOR's service area:

These are located West of 172nd St. and North of Rio Verde Dr.:

Parcel 219-38-009H	Parcel 219-39-009P	Parcel 219-38-979
Parcel 219-38-009N	Parcel 219-38-978	

These are located West of 176th St. South of Rio Verde Dr.:

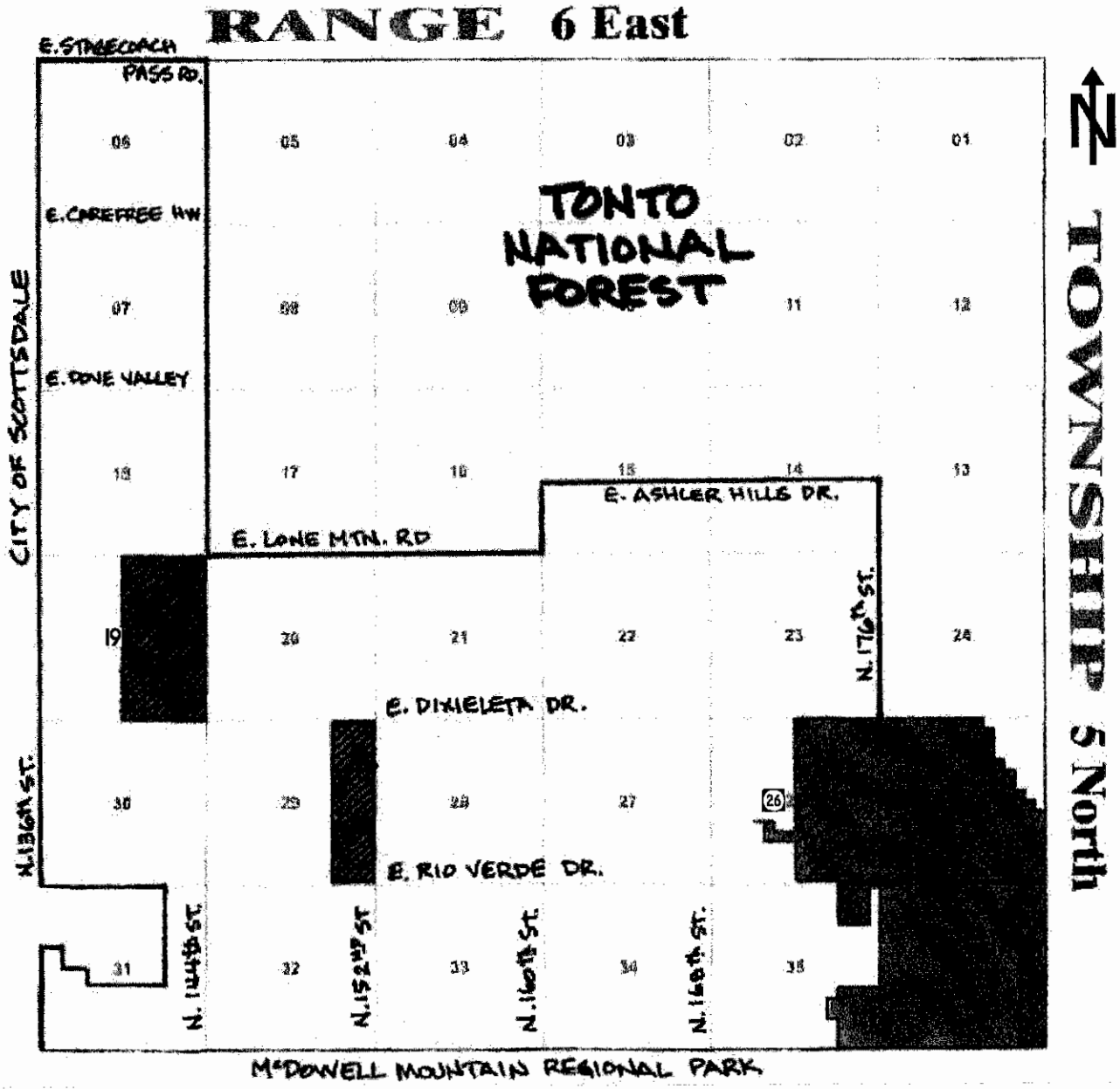
Parcel 219-38-046	Parcel 219-38-056C	Parcel 219-38-160F
Parcel 219-38-047	Parcel 219-38-1S8	Parcel 219-38-160G
Parcel 219-38-052C	Parcel 219-38-159A	Parcel 219-38-160H
Parcel 219-38-052H	Parcel 219-38-159C	Parcel 219-38-160J
Parcel 219-38-052J	Parcel 219-38-159D	Parcel 219-38-160K
Parcel 219-38-052N	Parcel 219-38-159E	Parcel 219-38-161
Parcel 219-38-052P	Parcel 219-38-159F	Parcel 219-38-162
Parcel 219-38-052Q	Parcel 219-38-106A	Parcel 219-38-163
Parcel 219-38-052S	Parcel 219-38-106B	Parcel 219-38-164
Parcel 219-38-052T	Parcel 219-38-106C	Parcel 219-38-165
Parcel 219-38-052U	Parcel 219-38-160D	
Parcel 219-38-056B	Parcel 219-38-160E	

An Amended Proposed Boundary Description will supersede and replace this Exhibit B and will list only those Parcels whose owners have signed the accompanying Petition and are within the above Initial Proposed Boundary description. No other parcels will be included.

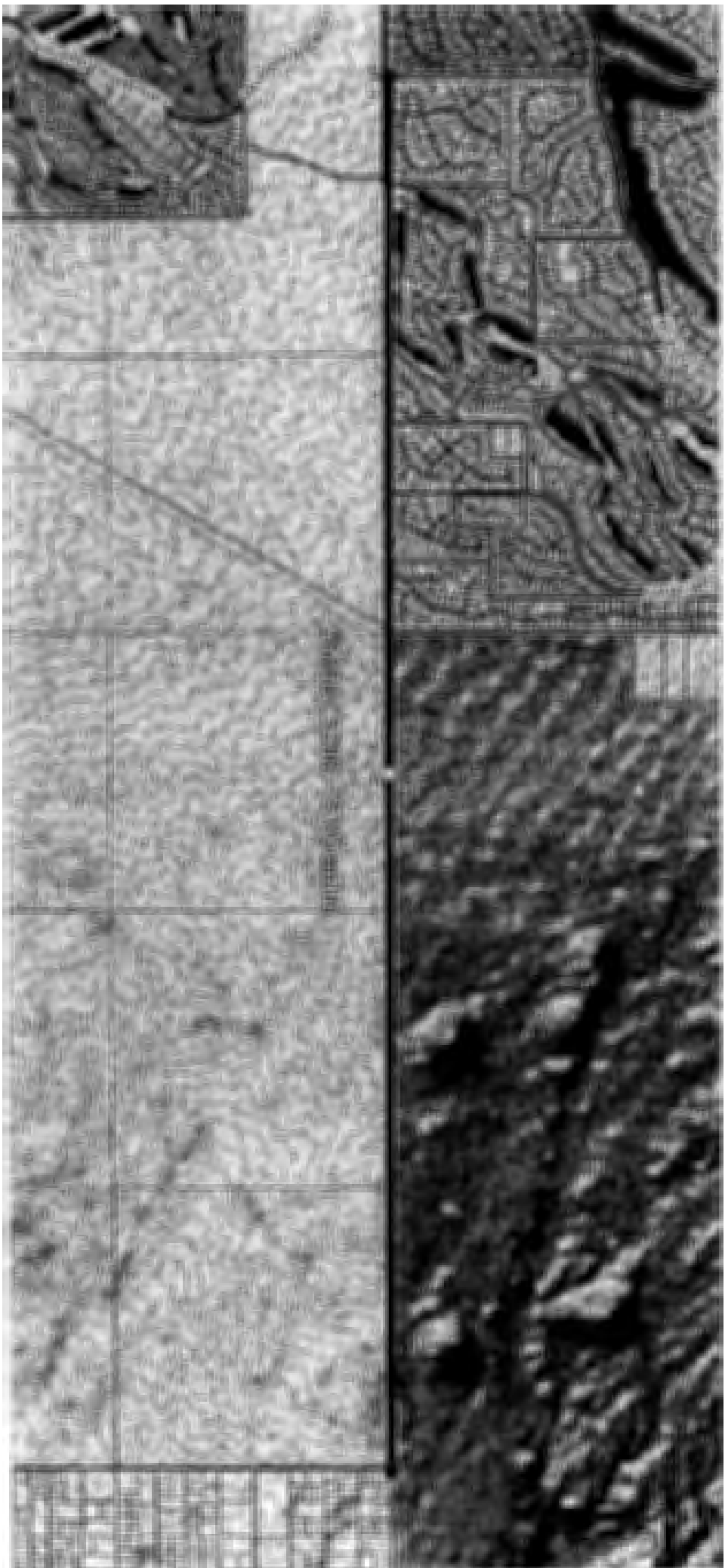
Exhibit C
PROPOSED BOUNDARIES MAP
Rio Verde Foothills Domestic Water Improvement District

This is the INITIAL PROPOSED BOUNDARIES MAP. The intent of this map is to show the boundaries within which Petitioners are required to own property to sign the accompanying Petition.

After all petition signatures are gathered, there will be an AMENDED PROPOSED BOUNDARIES MAP created that will include only those parcels whose owners have signed the accompanying Petition. The AMENDED PROPOSED BOUNDARIES MAP will supersede and replace this Exhibit C. Parcels whose owners did NOT sign will NOT be included in the Amended Proposed Boundaries Map.



 W-03720A (1)	 WS-02156A (3)	 Sewer
Water Utility of Northern Scottsdale, Inc	Rio Verde Utilities, Inc.	





**TOWN OF CAREFREE, ARIZONA
RESOLUTION 2021-01**

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE
TOWN OF CAREFREE, MARICOPA COUNTY, ARIZONA,
APPROVING AND ACCEPTING THE FIREHOUSE SUBS PUBLIC SAFETY
FOUNDATION GRANT**

WHEREAS, Captain Ryan Travis, of the Rural Metro Fire Station of Carefree, Arizona did cause to be submitted an application to the Firehouse Subs Public Safety Foundation Grant ("Foundation"); and

WHEREAS, The Rural Metro Fire Station of Carefree was awarded up to \$26,967.92 for Lifepak 15 Monitors/Defibrillators & Accessories from the Foundation, and

WHEREAS, The Foundation requests that press releases and social media posts be sent to Foundation@firehousesubs.com and FHSPSF@coynepr.com for review and approval prior to posting, and

WHEREAS, The Foundation requests that the Rural Metro Fire Station of Carefree acknowledge the grant by displaying the Foundation logo on granted items/equipment whenever possible. Final artwork to be approved by the Foundation before being displayed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Town of Carefree, Maricopa County, Arizona, accepting the Firehouse Subs Public Safety Foundation Grant for the purchase of Lifepak 15 Monitors/Defibrillators & Accessories as set forth in the award request and requirements.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Carefree, Arizona, this 2nd day of February, 2021.

Les Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Kandace French Contreras, Town Clerk

Michael Wright, Town Attorney

TOWN OF CAREFREE

INFORMATION SUMMARY

MEETING DATE: February 2, 2021

SUBJECT: Carefree Town Code Amendment, Recreational Marijuana

Discussion and solicitation of public comment regarding a proposed amendment to the *Carefree, Arizona Town Code*. This amendment seeks to protect the health, safety, and welfare by prohibiting the use, possession, sale, and smoking of marijuana on publically owned or controlled property and only allows recreational marijuana sales within a medical marijuana facility that holds a "dual license" (an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license). This is the first of two required Ordinance readings.

SUMMARY:

In 2016, Arizona voters narrowly voted against the legalization of recreational marijuana. Last election year, Arizonans voted in favor of the Smart and Safe Arizona Act (Proposition 207), which legalized recreational marijuana. In Carefree, those who voted on Proposition 207 (2,926), approximately 50% voted in favor of the legislation, 47% voted against. In essence, Carefree was nearly split. Among many things, the Safe and Smart Act does allow local governments to regulate sales and operations including prohibiting outright recreational marijuana establishments, testing facilities, and delivery operations within their jurisdictions. Staff proposes a compromised approach in order to limit an influx of retail establishments, but also allow for potential revenues from taxed sales. The proposed amendment does the following:

1. Prohibits *smoking* of marijuana in public places as defined in the Smoke-free Arizona Act, which include airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. However smoking and/or consumption of marijuana and marijuana products is prohibited on any Town-owned or -controlled property.
2. Authorizes only licensed medical marijuana dispensaries to operate as dual licensees. To date the Town has no medical marijuana locations within its borders.
3. Prohibits delivery of marijuana to consumers within the Town except by a dual licensees or non-profit medical marijuana dispensary.
4. Prohibits anyone without proper state licenses from facilitating the delivery or use, soliciting or accepting orders, or operating a platform that solicits or accepts orders for marijuana or marijuana products.

5. Establishes penalties for violations depending on the confines of Proposition 207.

The proposed Ordinance does not restrict any currently allowed property rights or any rights of citizens to use, grow or smoke marijuana in their homes as long as they do so in conformance with Proposition 207. The proposed Ordinance also does not restrict the smoking of marijuana in privately owned, non-public spaces. To date, the Town of Gilbert and the City of Scottsdale have enacted regulations that prohibit marijuana establishments except for licensed medical marijuana dispensaries that operate as dual licensees. Carefree has no medical marijuana dispensaries at this time.

Because the proposed ordinance is being recommended in order to preserve the public peace, health, and safety of the Carefree community, it contains an emergency clause to make the provisions of the Ordinance effective immediately given the Proposition passed in November of this year. The intent of the text amendment is to prevent a spread of recreational marijuana establishments before state and local impacts are known and fully vetted and studied. Once these initial prohibitions and regulations are in place, Carefree can spend more time studying other alternatives as it sees fit.

In staff's opinion, limiting recreational marijuana sales to existing/new medical dispensaries is reasonable for now and within the context of the law. This is a public hearing and the first reading of the proposed amendment as required by Town Code. Public comments will be taken; however, no action is required at this time.

ATTACHMENTS:

- Proposed Ordinance 2021-01
- Proposition 207, Smart and Safe Act

ORDINANCE NO. 2021-01

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF CAREFREE, MARICOPA COUNTY, ARIZONA, AMENDING THE CAREFREE, ARIZONA TOWN CODE BY ADOPTING A NEW ARTICLE RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; PROHIBITING RECREATIONAL MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY.

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

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

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

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

WHEREAS, WHEREAS, Town seeks to protect public health, safety, and welfare by prohibiting marijuana establishments and/or marijuana testing facilities in Town;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Carefree, Arizona, as follows:

SECTION I GENERAL.

THE CAREFREE, ARIZONA TOWN CODE, is hereby amended by adding a new Article 5-7, Recreational Marijuana to read as follows:

Section 5-7-1 Purpose

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

Section 5-7-2 Definitions

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

- A. “*Chemical Extraction*” means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- B. “*Chemical Synthesis*” means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
- C. “*Consume*,” “*Consuming*,” and “*Consumption*” mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.
- D. “*Consumer*” means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- E. “*Cultivate*” and “*Cultivation*” mean to propagate, breed, grow, prepare and package marijuana.
- F. “*Department*” means the State of Arizona Department of Health Services or its successor agency.
- G. “*Dual Licensee*” means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.

- H. *“Extraction”* means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- I. *“Manufacture”* and *“Manufacturing”* mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- J. *“Marijuana”*
1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
 2. Includes cannabis as defined in A.R.S. § 13-3401.
 3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the marijuana to prepare topical or oral administrations, food, drink or other products.
- K. *“Marijuana Concentrate:”*
1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
 2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.
- L. *“Marijuana Establishment”* means an entity licensed by the Department to operate all of the following:
1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
 2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
 3. A single off-site location at which the licensee may manufacture marijuana and 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.
- M. *“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.

- N. "*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.
- O. "*Nonprofit Medical Marijuana Dispensary*" means a non-profit entity as defined in A.R.S. § 36-2801(12).
- P. "*Open Space*" means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.
- Q. "*Person*" means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- R. "*Process*" and "*Processing*" means to harvest, dry, cure, trim or separate parts of the marijuana plant.
- S. "*Public Place*" has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
- T. "*Smoke*" means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

Section 5-7-3 Marijuana Prohibited on Public Property.

- A. The use, sale, cultivation, manufacture, production, storage or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by the Town.
- B. It is unlawful for an individual to smoke marijuana or consume marijuana products on property that is occupied, owned, controlled or operated by the Town.
- C. It is unlawful for an individual to smoke marijuana or consume marijuana products in any open space in Town.
- D. It is unlawful for an individual to smoke in a public place in Town.

Section 5-7-4 Marijuana Establishment Prohibited; Dual Licensee Exception.

- A. To the fullest extent allowable by law, the operation of a marijuana establishment is not permitted in Town, except where authorized for a dual licensee who:

1. Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
2. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

Section 5-7-5 Marijuana Testing Facility Prohibited.

- A. To the fullest extent allowable by law, the operation of a marijuana testing facility is not permitted in the Town.

Section 5-7-6 Violations and Penalties.

- A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture, store, or transport marijuana or marijuana products, if the person fails to meet all requirements in this article or state law, including the Departments rules.
- B. Each day any violation of any provision of this article shall continue shall constitute a separate offense.
- C. Except as otherwise provided in A.R.S. § 36-2853, A.R.S. § 36-2854 or as otherwise provided above, any violation of this article shall be a class one misdemeanor.
- D. Violations of this article are in addition to any other violation enumerated within the Town Ordinances or the Town Code and in no way limits the penalties or abatement procedures which may be taken by the Town for any violation of this article, which is also a violation of any other ordinance or Code provision of the Town or federal or state law. Conviction and punishment of judgement and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.
- E. The remedies provided in this article shall be cumulative and in addition to any federal, state, or local remedy, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable state, ordinance, rule, order, or regulation.

SECTION II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

SECTION III. Recitals.

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

SECTION IV. Emergency.

Because of the urgent need for the implementation of the Town's regulations concerning recreational marijuana, the immediate operation of this Ordinance is necessary for the preservation of the health, safety, and general welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Council as required by law.

SECTION V. Zoning Considerations.

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

SECTION VI. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

SECTION VII. Providing for 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 VIII. Amendment Corporation

The Town Clerk of the Town of Carefree shall incorporate the Amendment set forth herein in to the Carefree Arizona Town Code.

PASSED, ADOPTED AND APPROVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAREFREE, ARIZONA, this ___ day of _____, 2021.

Ayes _____ Noes _____ Abstentions _____ Absent _____

TOWN OF CAREFREE

Les Peterson, Mayor

Attest:

Kandace French Contreras, Town Clerk

Approved as to Form:

Michael Wright, Town Attorney

FINAL DAFT

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING TITLE 36, CHAPTER 28.1, SECTION 36-2817, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.2; AMENDING TITLE 42, CHAPTER 3, 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:

- A. 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.
- B. In the interest of the health and public safety of our citizenry, the legal adult use of marijuana should be regulated so that:
1. Individuals must show proof of age before purchasing marijuana;
 2. Selling, transferring, or providing marijuana to minors and other individuals under the age of twenty-one remains illegal;
 3. Driving, flying, or boating while impaired to the slightest degree by marijuana remains illegal;
 4. Employers retain their rights to maintain drug-and-alcohol-free places of employment;
 5. Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana; and
 6. Marijuana sold in this state is tested, labeled, and subject to additional regulations to ensure that consumers are informed and protected.

Section 3. Title 36, Chapter 28.1, 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:
1. THE SUM OF \$15,000,000 SHALL BE TRANSFERRED FROM THE MEDICAL MARIJUANA FUND TO THE ARIZONA TEACHER ACADEMY ESTABLISHED PURSUANT TO SECTION 15-1655.
 2. THE SUM OF \$10,000,000 SHALL BE TRANSFERRED FROM THE MEDICAL MARIJUANA FUND TO THE DEPARTMENT OF HEALTH SERVICES TO FUND THE FORMATION AND OPERATION OF COUNCILS, COMMISSIONS AND PROGRAMS DEDICATED TO IMPROVING PUBLIC HEALTH, INCLUDING TEEN SUICIDE PREVENTION, THE MATERNAL MORTALITY MORBIDITY REVIEW TEAM, 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. THE SUM OF \$10,000,000 SHALL BE TRANSFERRED FROM THE MEDICAL MARIJUANA FUND TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY TO BE GRANTED 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. THE SUM OF \$2,000,000 SHALL BE TRANSFERRED FROM THE MEDICAL MARIJUANA FUND TO THE DEPARTMENT OF HEALTH SERVICES TO PERMIT THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE CHAPTER 28.2 OF THIS TITLE.

5. THE SUM OF \$1,000,000 SHALL BE TRANSFERRED FROM THE MEDICAL MARIJUANA FUND TO THE SMART AND SAFE ARIZONA FUND CREATED PURSUANT TO SECTION 36-2856.

6. THE SUM OF \$1,000,000 SHALL BE TRANSFERRED FROM THE MEDICAL MARIJUANA FUND TO THE DEPARTMENT OF HEALTH SERVICES FOR THE SOLE PURPOSE OF FUNDING PROGRAMS AND GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS FOR EDUCATION AND COMMUNITY OUTREACH RELATED TO THE PROVISIONS OF CHAPTER 28.2 OF THIS TITLE.

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. "ADVERTISING" MEANS ANY PUBLIC COMMUNICATION IN ANY MEDIUM THAT OFFERS OR SOLICITS A COMMERCIAL TRANSACTION INVOLVING THE SALE OR PURCHASE 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," "CONSUMPTION" AND "CONSUMING" 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. "DELIVERY" AND "DELIVER" 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. "DESIGNATED CAREGIVER," "INDEPENDENT THIRD-PARTY LABORATORY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT," "QUALIFYING PATIENT" AND "EXCLUDED FELONY OFFENSE" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.
8. "DUAL LICENSEE" MEANS AN ENTITY THAT HOLDS BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION AND A MARIJUANA ESTABLISHMENT LICENSE.
9. "EARLY APPLICANT" MEANS ANY 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 OF HEALTH SERVICES.
10. "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 OF HEALTH SERVICES.
11. "INDUSTRIAL HEMP" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-311.
12. "LOCALITY" MEANS A CITY, TOWN OR COUNTY.
13. "MANUFACTURE" AND "MANUFACTURING" MEAN TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.
14. "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. "MARIJUANA" ALSO INCLUDES CANNABIS AS DEFINED IN SECTION 13-340I. "MARIJUANA" 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.
15. "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.

16. "MARIJUANA ESTABLISHMENT" MEANS AN ENTITY LICENSED BY THE 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.

17. "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.

18. "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.

19. "MARIJUANA TESTING FACILITY" MEANS THE DEPARTMENT OF HEALTH SERVICES OR OTHER ENTITY THAT IS LICENSED BY THE DEPARTMENT OF HEALTH SERVICES TO ANALYZE THE POTENCY OF MARIJUANA AND TEST MARIJUANA FOR HARMFUL CONTAMINANTS.

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

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

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

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

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

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 PERMIT 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 THE 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 AN EMPLOYER, SCHOOL, LICENSED CHILD CARE, ADULT CARE, HEALTH CARE FACILITY OR CORRECTIONS FACILITY 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, OR 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 PERMIT 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 OTHER VEHICLE USED FOR TRANSPORTATION.

9. DOES NOT PROHIBIT THE STATE OR A POLITICAL SUBDIVISION OF THE 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 THE STATE OR A POLITICAL SUBDIVISION OF THE 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 100 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, PROCESS, MANUFACTURE 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 HEREIN.

13. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A QUALIFYING PATIENT, DESIGNATED PRIMARY CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY UNDER CHAPTER 28.1 OF THIS TITLE.

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

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTION 36-2851 AND SECTION 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, CANNOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND CANNOT SERVE AS THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS, FOR THE IMPOSITION OF 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 THE USE OF 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 SECTION.

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 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

A. NOTWITHSTANDING ANY OTHER LAW, AND EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON WHO POSSESSES AN AMOUNT OF MARIJUANA IN EXCESS OF THE AMOUNT PERMITTED 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 MAY BE 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, AND SHALL 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 SHALL 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.I OF THIS TITLE AND NOTWITHSTANDING ANY OTHER LAW, ANY UNLICENSED PERSON WHO PRODUCES MARIJUANA PLANTS PURSUANT TO SECTION 36-2852 WHERE THEY ARE VISIBLE FROM PUBLIC VIEW WITHOUT THE USE OF 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 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.

G. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, EXCEPT THOSE PROVIDED IN THIS SECTION, AN ENTITY THAT ADVERTISES OR FACILITATES THE SALE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS, OR TRANSPORTS MARIJUANA OR MARIJUANA PRODUCTS, IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER OR RULES ADOPTED BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO THIS CHAPTER SHALL PAY AN ADDITIONAL FINE OF NOT LESS THAN \$20,000 PER VIOLATION. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

36-2854. Administrative authority: department of health services

A. THE DEPARTMENT OF HEALTH SERVICES 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 OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES, INCLUDING CONDUCTING INVESTIGATIONS AND BACKGROUND CHECKS TO DETERMINE ELIGIBILITY FOR LICENSING OF 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, HAVE OBTAINED A PHARMACY PERMIT FROM THE ARIZONA BOARD OF PHARMACY AND OPERATE WITHIN THE STATE.

(C) NOTWITHSTANDING THE LIMITATION SET FORTH IN SUBDIVISION B OF THIS PARAGRAPH, THE DEPARTMENT MAY ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO NO 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 THE AUTHORITY GRANTED BY THIS SUBDIVISION SHALL BE FOR A FIXED COUNTY AND CANNOT BE RELOCATED OUTSIDE OF THAT COUNTY.

(D) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR MARIJUANA ESTABLISHMENT LICENSES FROM EARLY APPLICANTS FROM JANUARY 19, 2021 UNTIL MARCH 9, 2021. NO LATER THAN 60 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 THAT 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 BY RANDOM SELECTION, AND ACCORDING TO RULES ADOPTED BY THE DEPARTMENT 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 ALSO PROVIDE NOTICE THROUGH AN ELECTRONIC MAIL NOTIFICATION SYSTEM TO WHICH INTERESTED PARTIES CAN SUBSCRIBE.

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 IN ANY EVENT DO NOT EXCEED FIVE TIMES THE FEES PRESCRIBED BY THE DEPARTMENT FOR THE REGISTRATION OR RENEWAL OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

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

4. THE SAFE CULTIVATION, PROCESSING AND MANUFACTURING OF MARIJUANA AND MARIJUANA PRODUCTS BY MARIJUANA ESTABLISHMENTS.

5. THE TRACKING, TESTING, LABELING AND PACKAGING OF 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 UPON EXIT FROM A MARIJUANA ESTABLISHMENT.

6. ACCEPTABLE FORMS OF GOVERNMENT ISSUED IDENTIFICATION THAT MAY BE ACCEPTED BY A MARIJUANA ESTABLISHMENT AS PROOF OF A CONSUMER'S AGE, AND PROCEDURES RELATED TO THE VERIFICATION OF A CONSUMER'S AGE, CONSISTENT WITH SECTION 4-241. UNTIL THE DEPARTMENT OF HEALTH SERVICES ADOPTS FINAL RULES RELATED TO THE VERIFICATION OF A CONSUMER'S AGE, A MARIJUANA ESTABLISHMENT SHALL COMPLY WITH SECTION 4-241.

7. THE POTENCY OF EDIBLE MARIJUANA PRODUCTS THAT MAY BE SOLD TO CONSUMERS BY MARIJUANA ESTABLISHMENTS, EXCEPT THAT THE RULES:

(A) MAY NOT LIMIT THE STRENGTH OF AN EDIBLE MARIJUANA PRODUCT TO LESS 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. ADOPT RULES NECESSARY TO ENSURE THE HEALTH, SAFETY AND TRAINING OF EMPLOYEES OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

B. THE DEPARTMENT OF HEALTH SERVICES 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 ITS 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 SUBDIVISION SHALL BE DEPOSITED INTO THE SMART AND SAFE ARIZONA FUND ESTABLISHED PURSUANT TO 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 OF HEALTH SERVICES ADOPTS RULES PERMITTING AND REGULATING DELIVERY, DELIVERY IS UNLAWFUL UNDER THIS CHAPTER.

D. ON OR AFTER JANUARY 1, 2023, THE DEPARTMENT OF HEALTH SERVICES MAY ADOPT RULES TO PERMIT AND REGULATE DELIVERY. THOSE RULES SHALL INCLUDE:

1. REQUIREMENTS 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. A PROHIBITION ON DELIVERY TO ANY PROPERTY OWNED OR LEASED BY THE UNITED STATES, THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR THE ARIZONA BOARD OF REGENTS.

3. A LIMITATION ON THE NUMBER OF CONSUMERS TO WHOM DELIVERIES MAY BE MADE IN A SINGLE TRIP FROM THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

4. A PROHIBITION ON EXTRA OR UNALLOCATED MARIJUANA OR MARIJUANA PRODUCTS IN DELIVERY VEHICLES.

5. REQUIREMENTS THAT DELIVERY 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. REQUIREMENTS FOR DELIVERY LOGS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBSECTION.

7. ANY OTHER RULES NECESSARY TO ENSURE SAFE AND RESTRICTED DELIVERY.

E. ALL RULES ADOPTED BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO THE AUTHORITY GRANTED BY THIS SECTION SHALL BE CONSISTENT WITH THE PURPOSE OF THIS CHAPTER.

F. NO RULE ADOPTED BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO THE AUTHORITY GRANTED BY THIS SECTION MAY:

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

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

G. NOTWITHSTANDING SECTION 41-192, THE DEPARTMENT OF HEALTH SERVICES 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.

H. ALL LICENSE FEES, APPLICATION FEES AND RENEWAL FEES PAID TO THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO THIS CHAPTER SHALL BE DEPOSITED INTO THE SMART AND SAFE ARIZONA FUND CREATED PURSUANT TO SECTION 36-2856.

I. UPON REQUEST, THE DEPARTMENT OF HEALTH SERVICES 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.

J. NOTWITHSTANDING ANY OTHER LAW:

1. AN INDEPENDENT THIRD-PARTY LABORATORY MAY BE LICENSED BY THE DEPARTMENT OF HEALTH SERVICES TO ALSO OPERATE AS A MARIJUANA TESTING FACILITY.

2. THE DEPARTMENT OF HEALTH SERVICES MAY OPERATE A MARIJUANA TESTING FACILITY.

K. 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 SHALL NOT ENTITLE SUCH PERSON TO THE ISSUANCE OF A MARIJUANA ESTABLISHMENT LICENSE, A MARIJUANA TESTING FACILITY LICENSE, OR ANY OTHER LICENSE, REGISTRATION OR CERTIFICATION UNDER THIS CHAPTER.

36-2855. Marijuana facility agents

A. A MARIJUANA FACILITY AGENT SHALL BE REGISTERED WITH THE DEPARTMENT OF HEALTH SERVICES 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 THEIR 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 A FULL SET OF 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 PERMITTED BY IT. 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 ADOPTED BY THE DEPARTMENT 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, EXCEPT THAT:

1. A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN IT EMPLOYS OR BECOMES ASSOCIATED WITH A NEW MARIJUANA FACILITY AGENT.

2. 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 THEIR APPLICATION.

F. THE DEPARTMENT OF HEALTH SERVICES 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, 42-5502 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, MAY NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

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

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF HEALTH SERVICES 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 IMPOSED BY SECTION 42-5502.
 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.
 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 FOR THE IMPLEMENTATION OR ENFORCEMENT OF 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 DECEMBER 31 AND JUNE 30 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE SMART AND SAFE ARIZONA FUND IN EXCESS OF THE AMOUNT PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:
 1. 31.4 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 PURPOSES OF INVESTING IN AND PROVIDING WORKFORCE DEVELOPMENT PROGRAMS, JOB TRAINING, CAREER AND TECHNICAL EDUCATION, AND SCIENCE, TECHNOLOGY, ENGINEERING AND MATH PROGRAMS, SUBDIVIDED AS FOLLOWS:
 - (A) 15 PERCENT OF THE 31.4 PERCENT DIVIDED EQUALLY BETWEEN EACH COMMUNITY COLLEGE DISTRICT.
 - (B) 0.5 PERCENT OF THE 31.4 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 PURSUANT TO TITLE 38, CHAPTER 5, ARTICLE 4, FOR PERSONNEL COSTS.
 3. 30 PERCENT TO THE ARIZONA HIGHWAY USER REVENUE FUND CREATED PURSUANT TO SECTION 28-6533.
 4. 7 PERCENT TO THE JUSTICE REINVESTMENT FUND CREATED PURSUANT TO 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. SHALL NOT BE CONSIDERED TO BE 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.
 3. PROHIBIT MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES.
 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 OR MARIJUANA TESTING FACILITIES.
 6. PROHIBIT OR RESTRICT DELIVERY WITHIN ITS JURISDICTION.
- B. A COUNTY MAY ONLY EXERCISE ITS AUTHORITY PURSUANT TO SUBSECTION A OF THIS SECTION IN UNINCORPORATED AREAS OF THE COUNTY.
- C. A LOCALITY MAY NOT ENACT ANY ORDINANCE, REGULATION OR RULE THAT:

1. IS MORE RESTRICTIVE THAN A COMPARABLE ORDINANCE, REGULATION OR RULE THAT APPLIES TO NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
2. MAKES THE OPERATION OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY UNDULY BURDENSOME IF THE LOCALITY HAS NOT PROHIBITED MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES.
3. CONFLICTS WITH THIS CHAPTER OR RULES ADOPTED BY THE DEPARTMENT OF HEALTH SERVICES 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 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 PERMITTED 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, CANNOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND CANNOT CONSTITUTE THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS OR THE BASIS FOR THE IMPOSITION OF 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 BY THE DEPARTMENT OF HEALTH SERVICES 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 OF HEALTH SERVICES FROM IMPOSING PENALTIES AGAINST A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY FOR FAILING TO COMPLY WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THE AUTHORITY GRANTED BY 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 OF HEALTH SERVICES 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, IRRESPECTIVE 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 HEALTH SERVICES OF SUCH 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. SHALL NOT BE REQUIRED TO SUBMIT ITS ANNUAL FINANCIAL STATEMENTS OR AN AUDIT REPORT TO THE DEPARTMENT OF HEALTH SERVICES FOR PURPOSES OF RENEWING ITS NONPROFIT MEDICAL MARIJUANA ESTABLISHMENT REGISTRATION.
- F. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE MUST CONDUCT ALL OF THE FOLLOWING OPERATIONS AT A SHARED LOCATION:
 1. THE SALE OF MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS PURSUANT TO THIS CHAPTER.
 2. THE DISPENSING OF MARIJUANA TO REGISTERED QUALIFYING PATIENTS AND REGISTERED DESIGNATED CAREGIVERS PURSUANT TO CHAPTER 28.1 OF THIS TITLE.
- G. NOTWITHSTANDING THE PROVISIONS OF CHAPTER 28.1 OF THIS TITLE OR ANY REGULATION ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE, A DUAL LICENSEE MAY ENGAGE IN ANY ACT, PRACTICE, CONDUCT OR TRANSACTION PERMITTED OF 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 THEIR LOCATION.
 2. TWO OR MORE MARIJUANA ESTABLISHMENTS OR DUAL LICENSEES MAY DESIGNATE A SINGLE OFF-SITE LOCATION AS PRESCRIBED IN SECTION 36-2850, PARAGRAPH 16, SUBDIVISION C TO BE JOINTLY USED BY THOSE DUAL LICENSEES OR MARIJUANA ESTABLISHMENTS.
 1. MARIJUANA ESTABLISHMENTS, MARIJUANA TESTING FACILITIES AND DUAL LICENSEES THAT ARE SUBJECT TO APPLICABLE FEDERAL OR STATE ANTI-DISCRIMINATION 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. NOTHING IN THIS PARAGRAPH IS INTENDED TO EXPAND OR MODIFY THE JURISDICTIONAL REACH, PROVISIONS OR REQUIREMENTS OF ANY APPLICABLE ANTI-DISCRIMINATION LAW.

36-2859. Advertising restrictions

- A. A MARIJUANA ESTABLISHMENT MAY ENGAGE IN ADVERTISING SUBJECT TO THE LIMITATIONS IMPOSED BY THIS SECTION.
- B. ALL ADVERTISEMENTS BY A MARIJUANA ESTABLISHMENT SHALL ACCURATELY AND LEGIBLY IDENTIFY THE MARIJUANA ESTABLISHMENT RESPONSIBLE FOR THEIR CONTENT BY NAME AND LICENSE NUMBER.
- C. ANY ADVERTISING INVOLVING DIRECT, INDIVIDUALIZED COMMUNICATION OR DIALOGUE CONTROLLED BY A MARIJUANA ESTABLISHMENT SHALL UTILIZE 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 PURPOSES OF THIS SUBSECTION, THAT METHOD OF AGE AFFIRMATION MAY INCLUDE USER CONFIRMATION, BIRTH DATE DISCLOSURE OR OTHER SIMILAR REGISTRATION METHOD.
- D. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO SECTION 36-2854, SUBSECTION B.
- E. AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT THAT ADVERTISES MARIJUANA OR MARIJUANA PRODUCTS SHALL PAY A CIVIL PENALTY OF NOT LESS THAN \$20,000 PER ADVERTISEMENT. 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 MARIJUANA PRODUCTS WITH NAMES THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETED TO CHILDREN.
- B. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT OF HEALTH SERVICES 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 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

- A. NOTWITHSTANDING ANY OTHER LAW, BEGINNING JULY 12, 2021, AN INDIVIDUAL WHO WAS ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED BY TRIAL OR PLEA OF, OR SENTENCED FOR, THE FOLLOWING OFFENSES MAY PETITION THE COURT TO HAVE THE RECORD OF THAT ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE EXPUNGED:
1. POSSESSING, CONSUMING OR TRANSPORTING ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE 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 UPON THE REQUEST OF EITHER THE PETITIONER OR THE PROSECUTING AGENCY, OR 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:

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

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

(C) IF THE PETITIONER WAS CONVICTED OR ADJUDICATED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, STATE THAT THE PETITIONER'S CIVIL RIGHTS, INCLUDING BUT NOT LIMITED TO 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 THE DEPARTMENT'S RECORDS AND INFORM ALL APPROPRIATE STATE AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT. UNLESS THE PETITIONER IS INDIGENT, THE DEPARTMENT MAY CHARGE THE SUCCESSFUL PETITIONER A REASONABLE FEE DETERMINED BY THE DIRECTOR 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. THE COURT SHALL, UPON MOTION, DISMISS WITH PREJUDICE ANY PENDING COMPLAINT, INFORMATION, OR INDICTMENT BASED ON ANY OFFENSE SET FORTH IN SUBSECTION A, TO INCLUDE CHARGES OR ALLEGATIONS BASED UPON OR ARISING OUT OF CONDUCT OCCURRING PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER. THE PERSON 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 PRIOR TO JULY 12, 2021.

H. THE SUPREME COURT MAY ADOPT RULES NECESSARY TO IMPLEMENT 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

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, MAY NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE JUSTICE REINVESTMENT FUND MUST FIRST BE EXPENDED, 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 OF HEALTH SERVICES TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

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

1. 35 PERCENT TO COUNTY PUBLIC HEALTH DEPARTMENTS, IN PROPORTION TO THE POPULATION OF EACH COUNTY ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, FOR THE PURPOSE OF PROVIDING JUSTICE REINVESTMENT PROGRAMS OR MAKING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS TO PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THAT COUNTY.

2. 35 PERCENT TO THE DEPARTMENT OF HEALTH SERVICES FOR THE PURPOSE OF MAKING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS THAT PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THIS STATE.

3. 30 PERCENT TO THE DEPARTMENT OF HEALTH SERVICES FOR THE PURPOSE OF PROVIDING JUSTICE REINVESTMENT PROGRAMS, ADDRESSING IMPORTANT PUBLIC HEALTH ISSUES THAT AFFECT THIS STATE, AND TO RESEARCH AND DEVELOP SOCIAL EQUITY PROGRAMS THAT WOULD 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.

D. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTER 23, AND MUST REQUIRE THE GRANTEE TO 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 SHALL NOT BE CONSIDERED TO BE LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTIONS 20 AND 21, CONSTITUTION OF ARIZONA.

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

G. FOR 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 AND REDUCING THE PRISON POPULATION IN THIS STATE.

4. CREATING OR DEVELOPING TECHNOLOGY AND PROGRAMS THAT IDENTIFY INDIVIDUALS ELIGIBLE FOR EXPUNGEMENT PURSUANT TO THIS CHAPTER.

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

A. FOR PURPOSES OF THE TRANSACTION PRIVILEGE TAX AND USE TAX IMPOSED AND COLLECTED PURSUANT TO TITLE 42, CHAPTER 5, MARIJUANA AND MARIJUANA PRODUCTS ARE TANGIBLE PERSONAL PROPERTY AS PRESCRIBED 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 42-5502, THE STATE AND LOCALITIES MAY NOT IMPOSE OR COLLECT ADDITIONAL TAXES OF ANY KIND ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS, AND MAY NOT IMPOSE 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 SUCH 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 THE STATE OR A LOCALITY, OR TO UNIFORM INCREASES TO FEES OR ASSESSMENTS PERMITTED BY SUBSECTION B OF THIS SECTION.

36-2865. Enforcement of this chapter; mandamus

A. IF THE DEPARTMENT OF HEALTH SERVICES FAILS TO ADOPT RULES NECESSARY FOR THE IMPLEMENTATION OF THIS CHAPTER ON OR BEFORE JUNE 1, 2021, OR IF THE DEPARTMENT FAILS TO BEGIN ACCEPTING APPLICATIONS AS PROVIDED IN SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION D, ANY CITIZEN MAY COMMENCE A MANDAMUS ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

B. IF THE DEPARTMENT OF HEALTH SERVICES 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 MANDAMUS 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 OF HEALTH SERVICES 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 DISPENSARY 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

42-5501. 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.

42-5502. Levy and rate of tax

A. THERE IS LEVIED AND IMPOSED AND THERE SHALL BE COLLECTED BY THE DEPARTMENT 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 BY A DUAL LICENSEE.

B. IF THE UNITED STATES LEVIES AND COLLECTS AN EXCISE TAX ON MARIJUANA AND MARIJUANA PRODUCTS, THE AGGREGATE OF FEDERAL AND STATE EXCISE TAXES SHALL NOT EXCEED A RATE OF THIRTY PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD, AND THE TAX LEVIED AND IMPOSED 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. 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 PURSUANT TO SECTION 36-2856.

42-5503. Return and payment by marijuana establishment; penalty; interest

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 UPON WHICH THE PAYMENT BECOMES 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 ACCOUNT 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 PURSUANT TO SECTION 36-2856.

E. THE DEPARTMENT MAY ADOPT RULES THAT ARE NECESSARY OR CONVENIENT FOR THE ENFORCEMENT OF 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 IF A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE IS IN COMPLIANCE WITH TAX OBLIGATIONS UNDER TITLE 42 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 for ordinary and necessary expenses of a marijuana establishment or marijuana testing facility

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 PURPOSES OF THIS SECTION, "MARIJUANA ESTABLISHMENT," "MARIJUANA TESTING FACILITY" AND "DUAL LICENSEE" 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. I, § 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 in the event that 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 the 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 the Act.

6. Creating or implementing social equity programs 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, and increasing the number of marijuana establishment licenses by up to 10 percent in furtherance of those programs.

7. Facilitating the expungement and sealing of records of arrests, 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, convictions or sentences are expunged.

8. Amending the definition of "smoking" in this Act to conform with the Smoke-Free Arizona Act in the event that the latter 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, the department of revenue and the department of health services are exempt from the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, for twenty-four months after the effective date of this Act 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 the 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, without limitation, 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.