CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS

CC: 10R
Amend No. _____

Date prepared: December 22, 2010 **Council Meeting Date: January 18, 2011**

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager Susan D.

FROM: Glen Van Nimwegen, AICP, Planning and Community Development Director GVN

SUBJECT: TA 10-0239, Amendments to Zoning Ordinance: Amend Articles 14-2 Definitions, 14-3 General Provisions, and 14-9 Non-Residential Districts of the Zoning Ordinance. The amendment will amend definitions, home occupations, and permitted land uses as related to the Medical Marijuana Cultivation and Dispensaries.

RECOMMENDATION:
The Mayor and City Council concur with the Planning and Zoning Commission's recommendation to adopt the attached Ordinance amending Articles 14-2 Definitions, 14-3 General Provisions, and 14-9 Non-Residential Districts of the Peoria Zoning Ordinance as it pertains to the Medical Marijuana Cultivation and Dispensaries.

PLANNING & ZONING COMMISSION ACTION (December 22, 2010):
On December 22, 2010, the Planning and Zoning Commission voted unanimously in favor of recommending approval of the request to amend Article 14-2, Article 14-3, and Article 14-9 of the Peoria Zoning Ordinance. No one spoke in favor or against the request.

SUMMARY OF AMENDMENTS:
As a result of the passage of Proposition 203 during the November 2010 General Election, the use of medical marijuana became legal in Arizona. The state of Arizona Department of Health Services must have completed rule making by April 16, 2011 which in essence, is the effective date of the proposition. Proposition 203 provides little direction in regards to land use controls other than a 500-foot buffer between dispensaries and public and private charter schools. The proposition also emphasizes the City's right to establish reasonable zoning regulations. The proposed amendment has been composed to achieve the following objectives:

- Provide a definition of Medical Marijuana Dispensaries, Cultivation Facilities, the Medical Marijuana Statute, and reflect the definition of Medical Marijuana Cardholder as defined in the Medical Marijuana Statute in Article 14-2 (Definitions).
- Prohibit the sales of Medical Marijuana as a Home Occupation in Article 14-3 (General Provisions).
- Delineate the zoning districts for Medical Marijuana Cultivation and Dispensing and establish land use limitations in Article 14-9 (Non-Residential Districts).

The supporting analysis and detail are fully described on the attached staff report to the Planning and Zoning Commission.

ATTACHMENTS:

- December 22, 2010 Planning & Zoning Commission Staff Report
- Draft Ordinance

CONTACT: Ed Boik, Planner, 623-773-7565

ZONING ORDINANCE TEXT AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: TA 10-0239

DATE: December 22, 2010

AGENDA ITEM: 5R

Applicant: City of Peoria

Request: Amend Section 14-2 ('Definitions'), Section 14-3 ('General Provisions') and Section 14-9 ('Non-Residential Districts') of the Peoria Zoning Ordinance with respect to Medical Marijuana Dispensaries and Cultivation Facilities

Support / Opposition: As of the date of this printing, Staff has not received any public comment in support or opposition to this proposal.

Recommendation: **Approve** as requested.

BACKGROUND

1. On November 2, 2010 the voters of Arizona approved *Proposition 203* which allows Marijuana use in the State of Arizona for medicinal purposes. As a result, Medical Marijuana cultivation and dispensing facilities will be needed to produce and dispense the product. Current zoning regulations do not address these uses and the unique operational impacts they produce.

2. On December 7, 2010, a City Council Study Session was held to discuss the impacts of the new state law, the types of new businesses expected, the potential taxation impacts and proposed land use regulations.

3. The subject of this amendment is to address the land use impacts from the types of facilities expected to cultivate and dispense the product. In a parallel effort, the City Attorney's Office will be amending the smoking regulations in Title 17 of the City Code ('Nuisances') relating to secondhand smoke and other potential nuisances. Both amendments (Zoning Code and City Code) are expected to be before the City Council for final action on January 18, 2011.

ANALYSIS AND DISCUSSION

Arizona Medical Marijuana Act

4. Other than prohibiting Medical Marijuana dispensaries from locating within 500-feet of public and private charter schools, Proposition 203 has little effect on local zoning policy. Rather, the proposition focuses on identification of the medical conditions which are suitable to be treated with Medical Marijuana, the caregivers who are allowed to provide assistance and care to Medical Marijuana patients and dispensing agents who are allowed to grow, manufacture and distribute the medicine. The proposition also directs the Arizona Department of Health Services (ADHS) to craft rules and regulations to license and manage Medical Marijuana in Arizona. These rules are to be in place by April 1, 2011 (for further information and timetable see wwwazdhs.gov/prop203).

5. Authorized Medical Marijuana cardholders are permitted to obtain up to 2.5 ounces of marijuana every two weeks; authorized cardholders who live more than 25 miles from a licensed dispensary are allowed to cultivate their own plants –no more than twelve—in an enclosed, locked facility.

6. State law does prohibit medical marijuana in certain contexts:
   - Possessing or undertaking any task under the influence that would constitute negligence or professional malpractice
   - Possessing on a school bus
   - Possessing on the grounds of any preschool, primary, or secondary school.
   - Possessing in a correctional facility
   - Using on public transportation
   - Using in any public place
   - Operation of a motor vehicle, aircraft, boat, etc while under the influence.

7. Licensed dispensaries must be not-for-profit. Consumption of medical marijuana is prohibited on the premises of a dispensary.

8. There is no limit on the number of dispensaries in any county or city, however, at least one dispensary is allowed per county.

9. The proposition allows Cities to craft reasonable zoning regulations to regulate Medical Marijuana dispensaries and cultivation/production facilities.

State Statute Comparison

10. Nationally, fifteen (15) other states (including the District of Columbia) have enacted legislation related to the medicinal use of marijuana. The following table highlights some of the differences between different state laws. In all states, cities reserve the right to establish local zoning regulations.

	California	Montana	Colorado	Arizona
Limit on total number of dispensaries?	No	No	No	Yes, 10% the total number of pharmacies (Est. 124)
Buffer from other dispensaries?	No	No	No	No
Buffer from public/charter schools?	No	No	No	Yes, 500-feet
Cardholders can grow their own?	Yes, six mature or 12 immature	Yes, 6 plants	Yes, 3 mature, 3 immature	Yes, 12 plants if more than 25-miles from a dispensary

Proposed Code - Definitions

11. Two distinct land uses are defined: Medical Marijuana Dispensary and Medical Marijuana Manufacturing and Cultivation Facility. Additionally, a reference to state statue and "Qualifying Patient" are defined.

12. *Medical Marijuana Dispensary* is the non-profit entity that distributes/dispenses Medical Marijuana for Medical Use to qualifying patients. These facilities also sell devices used to smoke or vaporize the marijuana and sell dried marijuana and edible forms of medical marijuana. The dispensary typically has a lobby and a locked medicine room in which access is permitted only to qualifying patients. Licensed dispensaries are also permitted to receive plant donations from qualifying patients whom are authorized to grow their own plants and dispensaries are allowed to sell live plants to those same qualifying patients.

13. *Medical Marijuana Manufacturing or Cultivation Facilities* are locations where cultivation and storage of marijuana takes place. These locations are physically separate from dispensaries by at least ½ mile. No sales or dispensing is allowed at these locations to qualified patients. All product must be transported only to licensed non-profit dispensaries for distribution to qualified patients.

14. *A Qualifying Patient* is someone with a debilitating medical condition authorized to use Medical Marijuana. Those patients who reside over 25 miles from a dispensary are allowed to grow 12 plants for their own use. They may also

transport plants to dispensaries for donation. This is not expected to be a concern for Peoria. However, depending on the timing of state licenses processing for dispensaries and patients, some patients may be beyond the 25 mile requirement.

Home Occupations

15. The Medical Marijuana grown in a Qualifying Patients home is solely for their use or for donation to a dispensary. Dispensing or selling from a home is proposed as a prohibited home occupation.

Land Use Districts

16. Medical Marijuana Dispensaries will be Conditional Uses in the C-2, C-4, and C-5 zoning districts. It is desired that these uses be intermixed with conventional retail/commercial uses so that the high visibility will deter property crimes and encourage the facilities to maintain a quality appearance and stay in good repair. Additionally, these commercial areas are designed to accommodate the parking demands these type of facilities typically generate.

17. Medical Marijuana Manufacturing and Cultivation Faculties will be Conditional Uses in the BPI, PI-1, I-1 and I-2 zoning districts. All growing will take place at these locked facilities. They won't be accessible to the public. Marijuana may only be transported to licensed dispensaries from these locations.

Land Use Limitations

18. Dispensaries are subject to a number of land use regulations to ensure safe and compatible operation. The buffers will keep the use located away from sensitive uses and prevent a proliferation or concentration of uses in the City.

    - Access must be from arterial streets so the dispensaries are in primary community and regional commercial areas rather than neighborhood commercial areas.
    - Cultivation is prohibited to reduce odor and limit the scope of dispensary activity.
    - Delivery and Drive-Through service is prohibited.
    - An active Security Management Plan is required and must be approved by the Police Department.
    - Marijuana product must be inaccessible to the general public and located in a manner so that only approved cardholders can access the product.
    - Use is prohibited within 200-feet of a residential zoning district.
    - Use is prohibited within 2,640 feet (1/2 mile) of another dispensary or cultivation facility.

- Use is prohibited within 1,000 feet of public/private schools, day-care, pre-schools and charter schools.
- Use is prohibited within 1,000 feet of retail liquor stores, tavern, bars or lounges, adult uses, and substance/alcohol treatment centers.
- A plan is required to show how consumption is prohibited on premise.
- A parking and traffic plan to ensure compatibility.
- Additional ventilation and filtration may be required to ensure compatibility.

19. Cultivation and Manufacturing Facilities are subject to a similar set of land use limitations. Again, the intent of the limitations is to prevent the use from being near sensitive uses and to prevent a proliferation or concentration of cultivation uses in any portion of the City.

- Delivery is permitted only to authorized dispensaries; sales, dispensing, giving, etc to patients or the public is prohibited.
- Cultivation, storage, and manufacturing shall occur indoors in secured buildings/structures.
- An active Security Management Plan is required and must be approved by the Police Department.
- Use is prohibited within 200-feet of a residential zoning district.
- Use is prohibited within 2,640 feet (1/2 mile) of another dispensary or cultivation facility.
- Use is prohibited within 1,000 feet of public/private schools, day-care, pre-schools and charter schools.
- No signage advertising the location of a dispensary or retail sales is permitted.
- Additional ventilation/filtration may be required to ensure compatibility.

FINDINGS AND RECOMMENDATION

20. Based on the following findings:

- The proposed amendments are consistent with the goals, objectives and policies of the Land Use element of the General Plan which promote compatibility between differing uses and promote quality site development;
- Upon review of the application, the Planning Manager has determined that a Proposition 207 waiver is not required for this application.

It is recommended that the Planning and Zoning Commission take the following action:
Recommend approval to the City Council Case TA 10-0239.

ATTACHMENTS:

Exhibit A	Proposed Amendments
Exhibit B	Proposition 203 text (for reference)

Prepared by:	Edward Boik Planner

TA 10-0239
Exhibit A

SECTION 14-2-2 DEFINITIONS

Medical Marijuana Cardholder is a natural person who is a Qualifying Patient, Designated Caregiver or Nonprofit Medical Marijuana Dispensary Agent who has been issued and possesses a valid Registry Identification Card pursuant to A.R.S.§ 36-2801, et.seq.

Medical Marijuana Dispensary is a non-profit entity defined in A.R.S. § 36-2801(11), that sells distributes, transmits, gives, dispenses, or otherwise provides Marijuana for Medical Use and related supplies to Qualifying Patients. Included is the manufacture and creation of products for individual sale where Marijuana is incorporated into the product for consumption by an individual who is a valid Medical Marijuana Cardholder. Additionally included is the sale of not more than twelve living Marijuana plants to an individual Medical Marijuana Cardholder authorized pursuant to A.R.S. § 36-2801, et.seq. to cultivate not more than twelve Marijuana plants for their personal use in addressing a Debilitating Medical Condition as set forth in A.R.S. § 36-2801, et.seq.

Medical Marijuana Manufacturing or Cultivation Facility is a building, structure, or premises where Marijuana is cultivated or stored and which is physically separate from a Medical Marijuana Dispensary. Such Medical Marijuana Manufacturing or Cultivation Facility may only provide Marijuana or Marijuana plants to Medical Marijuana Dispensaries for retail sales to qualified Medical Marijuana Cardholders. Requirements for Mixed Use Occupancy will be based upon the adopted building codes.

Medical Marijuana Statute is the Arizona Medical Marijuana Act codified at A.R.S., Title 36, Chapter 28.1. All definitions set forth in the Medical Marijuana Statute are hereby incorporated by reference into the City of Peoria Zoning Ordinance and City Code (1992), unless specified otherwise.

SECTION 14-3-9 HOME OCCUPATIONS

B. Standards

3. Prohibited Home Occupations Home occupations expressly prohibited shall include, but not be limited to the following:
   g. Medical Marijuana Dispensing

SECTION 14-9-3 LAND USE MATRIX

LAND USE	O-1	C-1	PC-1	PC-2	C-2	C-3	C-4	C-5	BPI	PI-1	I-1	I-2
General Retail												
Medical Marijuana Dispensary#	-	-	-	-	C	-	C	C	-	-	-	-
General Industrial & Manufacturing												
Medical Marijuana Manufacturing or Cultivation#	-	-	-	-	-	-	-	-	C	C	C	C

C = Conditional Use Permit

SECTION 14-9-5 LAND USE LIMITATIONS

D. General Industrial & Manufacturing

4. Medical Marijuana Manufacturing or Cultivation Facility. For the purposes of this section, all distances shall be measured from the exterior wall of the building housing the use.
   a. Other than for delivery to an authorized Medical Marijuana Dispensary, distributing, transmitting, dispensing, giving, selling, or providing medical Marijuana is prohibited.
   b. All cultivation, manufacturing, and storage of Marijuana and Marijuana plants shall occur within secured, enclosed buildings and structures.
   c. An active security management plan shall be approved by the Police Department.
   d. The use shall be prohibited within 200-feet of the property line of residential zoned property.
   e. The use shall not be located within 2,640-feet of another Medical Marijuana Manufacturing or Cultivation Facility.
   f. The use shall not be located within 1,000-feet of the property line of Day-Care Facilities, Pre-Schools, Public/Charter or Private Schools.
   g. There shall be no signage advertising the location of Medical Marijuana Dispensaries or Retail Sales of Marijuana on premises at any location.
   h. The Community Development Director may require additional ventilation and air filtration necessary to ensure compatibility with adjacent uses.

E. General Retail

4. Medical Marijuana Dispensary. For the purposes of this section, all distances shall be measured from the exterior wall of the building housing the use.
   a. All vehicular access shall be from arterial streets.
   b. Cultivation of Marijuana is prohibited.
   c. Delivery services are prohibited
   d. Drive Through sales are prohibited.
   e. An active security management plan shall be approved by the Police Department.
   f. The product offered for Retail Sales to Medical Marijuana Cardholders shall be inaccessible to the public entering the Medical Marijuana Dispensary. All product provided for Retail Sales shall be located behind a counter staffed by a Nonprofit Medical Marijuana Dispensary Agent as defined by A.R.S.§ 36-2801.et.seq.
   g. The use shall be prohibited within 200-feet of the property line of residential zoned property.
   h. The use shall not be located within 2,640-feet of another Medical Marijuana Dispensary or Medical Marijuana Manufacturing or Cultivation Facility.
   i. The use shall not be located within 1,000-feet of the property line of Day-Care Facilities, Pre-Schools, Public/Charter or Private Schools.
   j. The use shall not be located within 1,000-feet of a Retail Liquor Store; Tavern, Bar or Lounge; Adult Use; Substance Abuse Treatment Centers; or State Local Alcohol Reception Center.

k. The use shall provide a plan to ensure that no consumption of Marijuana or any product containing Marijuana occurs on the premises of a Medical Marijuana Dispensary.
l. Parking and traffic plan shall be required to ensure compatibility with adjacent uses.
m. Tenant improvement plan shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted buildings codes.

Arizona Secretary of State - Ken Bennett

Proposition 203

PROPOSITION 203

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.1; AMENDING SECTION 43-1201, ARIZONA REVISED STATUTES; RELATING TO THE MEDICAL USE OF MARIJUANA; PROVIDING FOR CONDITIONAL REPEAL.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the people of the state of Arizona:

Section 1. Title.
This act may be cited as the "Arizona Medical Marijuana Act."

Sec. 2. Findings.
The People of the State of Arizona find and declare the following:
A. Marijuana's recorded use as a medicine goes back nearly 5,000 years, and modern medical research has confirmed beneficial uses for marijuana in treating or alleviating the pain, nausea and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis and HIV/AIDS, as found by the National Academy of Sciences' Institute of Medicine in March 1999.
B. Studies published since the 1999 Institute of Medicine report have continued to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions. These include relief of neuropathic pain caused by multiple sclerosis, HIV/AIDS and other illnesses that often fail to respond to conventional treatments and relief of nausea, vomiting and other side effects of drugs used to treat HIV/AIDS and hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens.
C. Marijuana has many currently accepted medical uses in the United States, having been recommended by thousands of licensed physicians to at least 260,000 patients in the states with medical marijuana laws. Marijuana's medical utility has been recognized by a wide range of medical and public health organizations, including the American Academy of HIV Medicine, American College of Physicians, American Nurses Association, American Public Health Association, Leukemia & Lymphoma Society and many others.
D. Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the U.S. are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use marijuana.
E. Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Vermont, Rhode Island and Washington have removed state-level criminal penalties for the medical use and cultivation of marijuana. Arizona joins in this effort for the health and welfare of its citizens.
F. States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put the state of Arizona in violation of federal law.
G. State law should make a distinction between the medical and nonmedical uses of marijuana. Hence, the purpose of this act is to protect patients with debilitating medical conditions, as well as their physicians and providers, from arrest and prosecution, criminal and other penalties and property forfeiture if such patients engage in the medical use of marijuana.

Sec. 3. Title 36, Arizona Revised Statutes, is amended by adding Chapter 28.1 to read:

CHAPTER 28.1
ARIZONA MEDICAL MARIJUANA ACT

36-2801. Definitions
IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "ALLOWABLE AMOUNT OF MARIJUANA"
(a) WITH RESPECT TO A QUALIFYING PATIENT, THE "ALLOWABLE AMOUNT OF MARIJUANA" MEANS:
(i) TWO-AND-ONE-HALF OUNCES OF USABLE MARIJUANA; AND
(ii) IF THE QUALIFYING PATIENT'S REGISTRY IDENTIFICATION CARD STATES THAT THE QUALIFYING PATIENT IS AUTHORIZED TO CULTIVATE MARIJUANA, TWELVE MARIJUANA PLANTS CONTAINED IN AN ENCLOSED, LOCKED FACILITY EXCEPT THAT THE PLANTS ARE NOT REQUIRED TO BE IN AN ENCLOSED, LOCKED FACILITY IF THE PLANTS ARE BEING TRANSPORTED BECAUSE THE QUALIFYING PATIENT IS MOVING.
(b) WITH RESPECT TO A DESIGNATED CAREGIVER, THE "ALLOWABLE AMOUNT OF MARIJUANA" FOR EACH PATIENT ASSISTED BY THE DESIGNATED CAREGIVER UNDER THIS CHAPTER MEANS:
(i) TWO-AND-ONE-HALF OUNCES OF USABLE MARIJUANA; AND
(ii) IF THE DESIGNATED CAREGIVER'S REGISTRY IDENTIFICATION CARD PROVIDES THAT THE DESIGNATED CAREGIVER IS AUTHORIZED TO CULTIVATE MARIJUANA, TWELVE MARIJUANA PLANTS CONTAINED IN AN ENCLOSED, LOCKED FACILITY EXCEPT THAT THE PLANTS ARE NOT REQUIRED TO BE IN AN ENCLOSED, LOCKED FACILITY IF THE PLANTS ARE BEING TRANSPORTED BECAUSE THE DESIGNATED CAREGIVER IS MOVING.
(c) MARIJUANA THAT IS INCIDENTAL TO MEDICAL USE, BUT IS NOT USABLE MARIJUANA AS DEFINED IN THIS CHAPTER, SHALL NOT BE COUNTED TOWARD A

QUALIFYING PATIENT'S OR DESIGNATED CAREGIVER'S ALLOWABLE AMOUNT OF MARIJUANA.
2. "CARDHOLDER" MEANS A QUALIFYING PATIENT, A DESIGNATED CAREGIVER OR A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO HAS BEEN ISSUED AND POSSESSES A VALID REGISTRY IDENTIFICATION CARD.
3. "DEBILITATING MEDICAL CONDITION" MEANS ONE OR MORE OF THE FOLLOWING:
(a) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS, ACQUIRED IMMUNE DEFICIENCY SYNDROME, HEPATITIS C, AMYOTROPHIC LATERAL SCLEROSIS, CROHN'S DISEASE, AGITATION OF ALZHEIMER'S DISEASE OR THE TREATMENT OF THESE CONDITIONS.
(b) A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR ITS TREATMENT THAT PRODUCES ONE OR MORE OF THE FOLLOWING: CACHEXIA OR WASTING SYNDROME; SEVERE AND CHRONIC PAIN; SEVERE NAUSEA; SEIZURES, INCLUDING THOSE CHARACTERISTIC OF EPILEPSY; OR SEVERE AND PERSISTENT MUSCLE SPASMS, INCLUDING THOSE CHARACTERISTIC OF MULTIPLE SCLEROSIS.
(c) ANY OTHER MEDICAL CONDITION OR ITS TREATMENT ADDED BY THE DEPARTMENT PURSUANT TO SECTION 36-2801.01.
4. "DEPARTMENT" MEANS THE ARIZONA DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.
5. "DESIGNATED CAREGIVER" MEANS A PERSON WHO:
(a) IS AT LEAST TWENTY-ONE YEARS OF AGE.
(b) HAS AGREED TO ASSIST WITH A PATIENT'S MEDICAL USE OF MARIJUANA.
(c) HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.
(d) ASSISTS NO MORE THAN FIVE QUALIFYING PATIENTS WITH THE MEDICAL USE OF MARIJUANA.
(e) MAY RECEIVE REIMBURSEMENT FOR ACTUAL COSTS INCURRED IN ASSISTING A REGISTERED QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA IF THE REGISTERED DESIGNATED CAREGIVER IS CONNECTED TO THE REGISTERED QUALIFYING PATIENT THROUGH THE DEPARTMENT'S REGISTRATION PROCESS. THE DESIGNATED CAREGIVER MAY NOT BE PAID ANY FEE OR COMPENSATION FOR HIS SERVICE AS A CAREGIVER. PAYMENT FOR COSTS UNDER THIS SUBDIVISION SHALL NOT CONSTITUTE AN OFFENSE UNDER TITLE 13, CHAPTER 34 OR UNDER TITLE 36, CHAPTER 27, ARTICLE 4.
6. "ENCLOSED, LOCKED FACILITY" MEANS A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA EQUIPPED WITH LOCKS OR OTHER SECURITY DEVICES THAT PERMIT ACCESS ONLY BY A CARDHOLDER.
7. "EXCLUDED FELONY OFFENSE" MEANS:
(a) A VIOLENT CRIME AS DEFINED IN SECTION 13-901.03, SUBSECTION B, THAT WAS CLASSIFIED AS A FELONY IN THE JURISDICTION WHERE THE PERSON WAS CONVICTED.
(b) A VIOLATION OF A STATE OR FEDERAL CONTROLLED SUBSTANCE LAW THAT WAS CLASSIFIED AS A FELONY IN THE JURISDICTION WHERE THE PERSON WAS CONVICTED BUT DOES NOT INCLUDE:
(i) AN OFFENSE FOR WHICH THE SENTENCE, INCLUDING ANY TERM OF PROBATION, INCARCERATION OR SUPERVISED RELEASE, WAS COMPLETED TEN OR MORE YEARS EARLIER.
(ii) AN OFFENSE INVOLVING CONDUCT THAT WOULD BE IMMUNE FROM ARREST, PROSECUTION OR PENALTY UNDER SECTION 36-2811 EXCEPT THAT THE CONDUCT OCCURRED BEFORE THE EFFECTIVE DATE OF THIS CHAPTER OR WAS PROSECUTED BY AN AUTHORITY OTHER THAN THE STATE OF ARIZONA.
8. "MARIJUANA" MEANS ALL PARTS OF ANY PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, AND THE SEEDS OF SUCH PLANT.
9. "MEDICAL USE" MEANS THE ACQUISITION, POSSESSION, CULTIVATION, MANUFACTURE, USE, ADMINISTRATION, DELIVERY, TRANSFER OR TRANSPORTATION OF MARIJUANA OR PARAPHERNALIA RELATING TO THE ADMINISTRATION OF MARIJUANA TO TREAT OR ALLEVIATE A REGISTERED QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE PATIENT'S DEBILITATING MEDICAL CONDITION.
10. "NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT" MEANS A PRINCIPAL OFFICER, BOARD MEMBER, EMPLOYEE OR VOLUNTEER OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.
11. "NONPROFIT MEDICAL MARIJUANA DISPENSARY" MEANS A NOT-FOR-PROFIT ENTITY THAT ACQUIRES, POSSESSES, CULTIVATES, MANUFACTURES, DELIVERS, TRANSFERS, TRANSPORTS, SUPPLIES, SELLS OR DISPENSES MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO CARDHOLDERS. A NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY RECEIVE PAYMENT FOR ALL EXPENSES INCURRED IN ITS OPERATION.
12. "PHYSICIAN" MEANS A DOCTOR OF MEDICINE WHO HOLDS A VALID AND EXISTING LICENSE TO PRACTICE MEDICINE PURSUANT TO TITLE 32, CHAPTER 13 OR ITS SUCCESSOR, A DOCTOR OF OSTEOPATHIC MEDICINE WHO HOLDS A VALID AND EXISTING LICENSE TO PRACTICE OSTEOPATHIC MEDICINE PURSUANT TO TITLE 32, CHAPTER 17 OR ITS SUCCESSOR, A NATUROPATHIC PHYSICIAN WHO HOLDS A VALID AND EXISTING LICENSE TO PRACTICE NATUROPATHIC MEDICINE PURSUANT TO TITLE 32, CHAPTER 14 OR ITS SUCCESSOR OR A HOMEOPATHIC PHYSICIAN WHO HOLDS A VALID AND EXISTING LICENSE TO PRACTICE HOMEOPATHIC MEDICINE PURSUANT TO TITLE 32, CHAPTER 29 OR ITS SUCCESSOR.
13. "QUALIFYING PATIENT" MEANS A PERSON WHO HAS BEEN DIAGNOSED BY A PHYSICIAN AS HAVING A DEBILITATING MEDICAL CONDITION.
14. "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT ISSUED BY THE DEPARTMENT THAT IDENTIFIES A PERSON AS A REGISTERED QUALIFYING PATIENT, REGISTERED DESIGNATED CAREGIVER OR A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
15. "USABLE MARIJUANA" MEANS THE DRIED FLOWERS OF THE MARIJUANA PLANT, AND ANY MIXTURE OR PREPARATION THEREOF, BUT DOES NOT INCLUDE THE SEEDS, STALKS AND ROOTS OF THE PLANT AND DOES NOT INCLUDE THE WEIGHT OF ANY NON-MARIJUANA INGREDIENTS COMBINED WITH MARIJUANA AND PREPARED FOR CONSUMPTION AS FOOD OR DRINK.
16. "VERIFICATION SYSTEM" MEANS A SECURE, PASSWORD-PROTECTED, WEB-BASED SYSTEM ESTABLISHED AND MAINTAINED BY THE DEPARTMENT THAT IS AVAILABLE TO LAW ENFORCEMENT PERSONNEL AND NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS ON A TWENTY-FOUR HOUR BASIS FOR VERIFICATION OF REGISTRY IDENTIFICATION CARDS.
17. "VISITING QUALIFYING PATIENT" MEANS A PERSON:
(a) WHO IS NOT A RESIDENT OF ARIZONA OR WHO HAS BEEN A RESIDENT OF ARIZONA LESS THAN THIRTY DAYS.
(b) WHO HAS BEEN DIAGNOSED WITH A DEBILITATING MEDICAL CONDITION BY A PERSON WHO IS LICENSED WITH AUTHORITY TO PRESCRIBE DRUGS TO HUMANS IN THE STATE OF THE PERSON'S RESIDENCE OR, IN THE CASE OF A PERSON WHO HAS BEEN A RESIDENT OF ARIZONA LESS THAN THIRTY DAYS, THE STATE OF THE PERSON'S FORMER RESIDENCE.
18. "WRITTEN CERTIFICATION" MEANS A DOCUMENT DATED AND SIGNED BY A PHYSICIAN, STATING THAT IN THE PHYSICIAN'S PROFESSIONAL OPINION THE PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA TO TREAT OR ALLEVIATE THE PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE DEBILITATING MEDICAL CONDITION. THE PHYSICIAN MUST:
(a) SPECIFY THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION IN THE WRITTEN CERTIFICATION.
(b) SIGN AND DATE THE WRITTEN CERTIFICATION ONLY IN THE COURSE OF A PHYSICIAN-PATIENT RELATIONSHIP AFTER THE PHYSICIAN HAS COMPLETED A FULL ASSESSMENT OF THE QUALIFYING PATIENT'S MEDICAL HISTORY.

36-2801.01. Addition of debilitating medical conditions.
THE PUBLIC MAY PETITION THE DEPARTMENT TO ADD DEBILITATING MEDICAL CONDITIONS OR TREATMENTS TO THE LIST OF DEBILITATING MEDICAL CONDITIONS SET FORTH IN SECTION 36-2801, PARAGRAPH -3-. THE DEPARTMENT SHALL CONSIDER PETITIONS IN THE MANNER REQUIRED BY DEPARTMENT RULE, INCLUDING PUBLIC NOTICE AND HEARING. THE DEPARTMENT SHALL APPROVE OR DENY A PETITION WITHIN ONE-HUNDRED-EIGHTY DAYS OF ITS SUBMISSION. THE APPROVAL OR DENIAL OF A PETITION IS A FINAL DECISION OF THE DEPARTMENT SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. JURISDICTION AND VENUE ARE VESTED IN THE SUPERIOR COURT.

36-2802. Arizona Medical Marijuana Act; limitations
THIS CHAPTER DOES NOT AUTHORIZE ANY PERSON TO ENGAGE IN, AND DOES NOT PREVENT THE IMPOSITION OF ANY CIVIL, CRIMINAL OR OTHER PENALTIES FOR ENGAGING IN, THE FOLLOWING CONDUCT:
A. UNDERTAKING ANY TASK UNDER THE INFLUENCE OF MARIJUANA THAT WOULD CONSTITUTE NEGLIGENCE OR PROFESSIONAL MALPRACTICE.
B. POSSESSING OR ENGAGING IN THE MEDICAL USE OF MARIJUANA:
1. ON A SCHOOL BUS.
2. ON THE GROUNDS OF ANY PRESCHOOL OR PRIMARY OR SECONDARY SCHOOL.
3. IN ANY CORRECTIONAL FACILITY.
C. SMOKING MARIJUANA:
1. ON ANY FORM OF PUBLIC TRANSPORTATION.
2. IN ANY PUBLIC PLACE.
D. OPERATING, NAVIGATING OR BEING IN ACTUAL PHYSICAL CONTROL OF ANY MOTOR VEHICLE, AIRCRAFT OR MOTORBOAT WHILE UNDER THE INFLUENCE OF MARIJUANA. EXCEPT THAT A REGISTERED QUALIFYING PATIENT SHALL NOT BE CONSIDERED TO BE UNDER THE INFLUENCE OF MARIJUANA SOLELY

BECAUSE OF THE PRESENCE OF METABOLITES OR COMPONENTS OF MARIJUANA THAT APPEAR IN INSUFFICIENT CONCENTRATION TO CAUSE IMPAIRMENT.
E. USING MARIJUANA EXCEPT AS AUTHORIZED UNDER THIS CHAPTER.

36-2803. Rulemaking
A. NOT LATER THAN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS CHAPTER, THE DEPARTMENT SHALL ADOPT RULES:
1. GOVERNING THE MANNER IN WHICH THE DEPARTMENT SHALL CONSIDER PETITIONS FROM THE PUBLIC TO ADD DEBILITATING MEDICAL CONDITIONS OR TREATMENTS TO THE LIST OF DEBILITATING MEDICAL CONDITIONS SET FORTH IN SECTION 36-2801, PARAGRAPH 3, INCLUDING PUBLIC NOTICE OF, AND AN OPPORTUNITY TO COMMENT IN A PUBLIC HEARING UPON, PETITIONS.
2. ESTABLISHING THE FORM AND CONTENT OF REGISTRATION AND RENEWAL APPLICATIONS SUBMITTED UNDER THIS CHAPTER.
3. GOVERNING THE MANNER IN WHICH IT SHALL CONSIDER APPLICATIONS FOR AND RENEWALS OF REGISTRY IDENTIFICATION CARDS.
4. GOVERNING NONPROFIT MEDICAL MARIJUANA DISPENSARIES, FOR THE PURPOSE OF PROTECTING AGAINST DIVERSION AND THEFT WITHOUT IMPOSING AN UNDUE BURDEN ON NONPROFIT MEDICAL MARIJUANA DISPENSARIES OR COMPROMISING THE CONFIDENTIALITY OF CARDHOLDERS, INCLUDING:
(a) THE MANNER IN WHICH THE DEPARTMENT SHALL CONSIDER APPLICATIONS FOR AND RENEWALS OF REGISTRATION CERTIFICATES.
(b) MINIMUM OVERSIGHT REQUIREMENTS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
(c) MINIMUM RECORDKEEPING REQUIREMENTS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
(d) MINIMUM SECURITY REQUIREMENTS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARIES, INCLUDING REQUIREMENTS FOR PROTECTION OF EACH REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY LOCATION BY A FULLY OPERATIONAL SECURITY ALARM SYSTEM.
(e) PROCEDURES FOR SUSPENDING OR REVOKING THE REGISTRATION CERTIFICATE OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES THAT VIOLATE THE PROVISIONS OF THIS CHAPTER OR THE RULES ADOPTED PURSUANT TO THIS SECTION.
5. ESTABLISHING APPLICATION AND RENEWAL FEES FOR REGISTRY IDENTIFICATION CARDS AND NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATES, ACCORDING TO THE FOLLOWING:
(a) THE TOTAL AMOUNT OF ALL FEES SHALL GENERATE REVENUES SUFFICIENT TO IMPLEMENT AND ADMINISTER THIS CHAPTER EXCEPT THAT FEE REVENUE MAY BE OFFSET OR SUPPLEMENTED BY PRIVATE DONATIONS.
(b) NONPROFIT MEDICAL MARIJUANA DISPENSARY APPLICATION FEES MAY NOT EXCEED $5,000.
(c) NONPROFIT MEDICAL MARIJUANA DISPENSARY RENEWAL FEES MAY NOT EXCEED $1,000.
(d) THE TOTAL AMOUNT OF REVENUE FROM NONPROFIT MEDICAL MARIJUANA DISPENSARY APPLICATION AND RENEWAL FEES AND REGISTRY IDENTIFICATION CARD FEES FOR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS SHALL BE SUFFICIENT TO IMPLEMENT AND ADMINISTER THE NONPROFIT MEDICAL MARIJUANA DISPENSARY PROVISIONS OF THIS CHAPTER, INCLUDING THE VERIFICATION SYSTEM, EXCEPT THAT THE FEE REVENUE MAY BE OFFSET OR SUPPLEMENTED BY PRIVATE DONATIONS.
(e) THE DEPARTMENT MAY ESTABLISH A SLIDING SCALE OF PATIENT APPLICATION AND RENEWAL FEES BASED UPON A QUALIFYING PATIENT'S HOUSEHOLD INCOME.
(f) THE DEPARTMENT MAY CONSIDER PRIVATE DONATIONS UNDER SECTION 36-2817 TO REDUCE APPLICATION AND RENEWAL FEES.
B. THE DEPARTMENT IS AUTHORIZED TO ADOPT THE RULES SET FORTH IN SUBSECTION A AND SHALL ADOPT THOSE RULES PURSUANT TO TITLE 41, CHAPTER 6.

36-2804. Registration and certification of nonprofit medical marijuana dispensaries
A. NONPROFIT MEDICAL MARIJUANA DISPENSARIES SHALL REGISTER WITH THE DEPARTMENT.
B. NOT LATER THAN NINETY DAYS AFTER RECEIVING AN APPLICATION FOR A NONPROFIT MEDICAL MARIJUANA DISPENSARY, THE DEPARTMENT SHALL REGISTER THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AND ISSUE A REGISTRATION CERTIFICATE AND A RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBER IF:
1. THE PROSPECTIVE NONPROFIT MEDICAL MARIJUANA DISPENSARY HAS SUBMITTED THE FOLLOWING:
(a) THE APPLICATION FEE.
(b) AN APPLICATION, INCLUDING:
(i) THE LEGAL NAME OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY.
(ii) THE PHYSICAL ADDRESS OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AND THE PHYSICAL ADDRESS OF ONE ADDITIONAL LOCATION, IF ANY, WHERE MARIJUANA WILL BE CULTIVATED, NEITHER OF WHICH MAY BE WITHIN FIVE HUNDRED FEET OF A PUBLIC OR PRIVATE SCHOOL EXISTING BEFORE THE DATE OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY APPLICATION.
(iii) THE NAME, ADDRESS AND DATE OF BIRTH OF EACH PRINCIPAL OFFICER AND BOARD MEMBER OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY.
(iv) THE NAME, ADDRESS AND DATE OF BIRTH OF EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
(c) OPERATING PROCEDURES CONSISTENT WITH DEPARTMENT RULES FOR OVERSIGHT OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY, INCLUDING PROCEDURES TO ENSURE ACCURATE RECORD-KEEPING AND ADEQUATE SECURITY MEASURES.
(d) IF THE CITY, TOWN OR COUNTY IN WHICH THE NONPROFIT MEDICAL MARIJUANA DISPENSARY WOULD BE LOCATED HAS ENACTED ZONING RESTRICTIONS, A SWORN STATEMENT CERTIFYING THAT THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS IN COMPLIANCE WITH THE RESTRICTIONS.
2. NONE OF THE PRINCIPAL OFFICERS OR BOARD MEMBERS HAS BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.
3. NONE OF THE PRINCIPAL OFFICERS OR BOARD MEMBERS HAS SERVED AS A PRINCIPAL OFFICER OR BOARD MEMBER FOR A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT HAS HAD ITS REGISTRATION CERTIFICATE REVOKED.
4. NONE OF THE PRINCIPAL OFFICERS OR BOARD MEMBERS IS UNDER TWENTY-ONE YEARS OF AGE.
C. THE DEPARTMENT MAY NOT ISSUE MORE THAN ONE NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATE 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 EXCEPT THAT THE DEPARTMENT MAY ISSUE NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATES IN EXCESS OF THIS LIMIT IF NECESSARY TO ENSURE THAT THE DEPARTMENT ISSUES AT LEAST ONE NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATE IN EACH COUNTY IN WHICH AN APPLICATION HAS BEEN APPROVED.
D. THE DEPARTMENT MAY CONDUCT A CRIMINAL RECORDS CHECK IN ORDER TO CARRY OUT THIS SECTION.

36-2804.01. Registration of nonprofit medical marijuana dispensary agents; notices; civil penalty; classificatio n

A. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE VOLUNTEERING OR WORKING AT A MEDICAL MARIJUANA DISPENSARY.
B. A NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY APPLY TO THE DEPARTMENT FOR A REGISTRY IDENTIFICATION CARD FOR A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT BY SUBMITTING:
1. THE NAME, ADDRESS AND DATE OF BIRTH OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
2. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT APPLICATION.
3. A STATEMENT SIGNED BY THE PROSPECTIVE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT PLEDGING NOT TO DIVERT MARIJUANA TO ANYONE WHO IS NOT ALLOWED TO POSSESS MARIJUANA PURSUANT TO THIS CHAPTER.
4. THE APPLICATION FEE.
C. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL NOTIFY THE DEPARTMENT WITHIN TEN DAYS AFTER A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT CEASES TO BE EMPLOYED BY OR VOLUNTEER AT THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY.
D. NO PERSON WHO HAS BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE MAY BE A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
E. THE DEPARTMENT MAY CONDUCT A CRIMINAL RECORDS CHECK IN ORDER TO CARRY OUT THIS SECTION.

36-2804.02. Registration of qualifying patients and designated caregivers
A. A QUALIFYING PATIENT MAY APPLY TO THE DEPARTMENT FOR A REGISTRY IDENTIFICATION CARD BY SUBMITTING:
1. WRITTEN CERTIFICATION ISSUED BY A PHYSICIAN WITHIN THE NINETY DAYS IMMEDIATELY PRECEDING THE DATE OF APPLICATION.
2. THE APPLICATION FEE.
3. AN APPLICATION, INCLUDING:
(a) NAME, MAILING ADDRESS, RESIDENCE ADDRESS AND DATE OF BIRTH OF THE QUALIFYING PATIENT EXCEPT THAT IF THE APPLICANT IS HOMELESS NO

(b) NAME, ADDRESS AND TELEPHONE NUMBER OF THE QUALIFYING PATIENT'S PHYSICIAN.
(c) NAME, ADDRESS AND DATE OF BIRTH OF THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER, IF ANY.
(d) A STATEMENT SIGNED BY THE QUALIFYING PATIENT PLEDGING NOT TO DIVERT MARIJUANA TO ANYONE WHO IS NOT ALLOWED TO POSSESS MARIJUANA PURSUANT TO THIS CHAPTER.
(e) A SIGNED STATEMENT FROM THE DESIGNATED CAREGIVER, IF ANY, AGREEING TO BE THE PATIENT'S DESIGNATED CAREGIVER AND PLEDGING NOT TO DIVERT MARIJUANA TO ANYONE WHO IS NOT ALLOWED TO POSSESS MARIJUANA PURSUANT TO THIS CHAPTER.
(f) A DESIGNATION AS TO WHO WILL BE ALLOWED TO CULTIVATE MARIJUANA PLANTS FOR THE QUALIFYING PATIENT'S MEDICAL USE IF A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT OPERATING WITHIN TWENTY-FIVE MILES OF THE QUALIFYING PATIENT'S HOME.
B. THE APPLICATION FOR A QUALIFYING PATIENT'S REGISTRY IDENTIFICATION CARD SHALL ASK WHETHER THE PATIENT WOULD LIKE THE DEPARTMENT TO NOTIFY HIM OF ANY CLINICAL STUDIES NEEDING HUMAN SUBJECTS FOR RESEARCH ON THE MEDICAL USE OF MARIJUANA. THE DEPARTMENT SHALL NOTIFY INTERESTED PATIENTS IF IT IS NOTIFIED OF STUDIES THAT WILL BE CONDUCTED IN THE UNITED STATES.

36-2804.03. Issuance of registry identification cards
A. EXCEPT AS PROVIDED IN SUBSECTION B AND IN SECTION 36-2804.05, THE DEPARTMENT SHALL:
1. VERIFY THE INFORMATION CONTAINED IN AN APPLICATION OR RENEWAL SUBMITTED PURSUANT TO THIS CHAPTER AND APPROVE OR DENY AN APPLICATION OR RENEWAL WITHIN TEN DAYS OF RECEIVING A COMPLETED APPLICATION OR RENEWAL.
2. ISSUE A REGISTRY IDENTIFICATION CARD TO A QUALIFYING PATIENT AND HIS DESIGNATED CAREGIVER, IF ANY, WITHIN FIVE DAYS OF APPROVING THE APPLICATION OR RENEWAL. A DESIGNATED CAREGIVER MUST HAVE A REGISTRY IDENTIFICATION CARD FOR EACH OF HIS QUALIFYING PATIENTS.
3. ISSUE EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT A REGISTRY IDENTIFICATION CARD AND LOG-IN INFORMATION FOR THE VERIFICATION SYSTEM WITHIN FIVE DAYS OF APPROVING THE APPLICATION OR RENEWAL.
B. THE DEPARTMENT MAY NOT ISSUE A REGISTRY IDENTIFICATION CARD TO A QUALIFYING PATIENT WHO IS UNDER THE AGE OF EIGHTEEN UNLESS:
1. THE QUALIFYING PATIENT'S PHYSICIAN HAS EXPLAINED THE POTENTIAL RISKS AND BENEFITS OF THE MEDICAL USE OF MARIJUANA TO THE CUSTODIAL PARENT OR LEGAL GUARDIAN RESPONSIBLE FOR HEALTH CARE DECISIONS FOR THE QUALIFYING PATIENT.
2. A CUSTODIAL PARENT OR LEGAL GUARDIAN RESPONSIBLE FOR HEALTH CARE DECISIONS FOR THE QUALIFYING PATIENT SUBMITS A WRITTEN CERTIFICATION FROM TWO PHYSICIANS.
3. THE CUSTODIAL PARENT OR LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS FOR THE QUALIFYING PATIENT CONSENTS IN WRITING TO:
(a) ALLOW THE QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA.
(b) SERVE AS THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER.
(c) CONTROL THE ACQUISITION OF THE MARIJUANA, THE DOSAGE AND THE FREQUENCY OF THE MEDICAL USE OF MARIJUANA BY THE QUALIFYING PATIENT.
C. A REGISTRY IDENTIFICATION CARD, OR ITS EQUIVALENT, THAT IS ISSUED UNDER THE LAWS OF ANOTHER STATE, DISTRICT, TERRITORY, COMMONWEALTH OR INSULAR POSSESSION OF THE UNITED STATES THAT ALLOWS A VISITING QUALIFYING PATIENT TO POSSESS OR USE MARIJUANA FOR MEDICAL PURPOSES IN THE JURISDICTION OF ISSUANCE HAS THE SAME FORCE AND EFFECT WHEN HELD BY A VISITING QUALIFYING PATIENT AS A REGISTRY IDENTIFICATION CARD ISSUED BY THE DEPARTMENT, EXCEPT THAT A VISITING QUALIFYING PATIENT IS NOT AUTHORIZED TO OBTAIN MARIJUANA FROM A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

36-2804.04. Registry identification cards
A. REGISTRY IDENTIFICATION CARDS FOR QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS SHALL CONTAIN ALL OF THE FOLLOWING:
1. NAME, ADDRESS AND DATE OF BIRTH OF THE CARDHOLDER.
2. A STATEMENT OF WHETHER THE CARDHOLDER IS A QUALIFYING PATIENT OR A DESIGNATED CAREGIVER.
3. THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE REGISTRY IDENTIFICATION CARD.
4. A RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBER, CONTAINING AT LEAST FOUR NUMBERS AND AT LEAST FOUR LETTERS, THAT IS UNIQUE TO THE CARDHOLDER.
5. IF THE CARDHOLDER IS A DESIGNATED CAREGIVER, THE RANDOM IDENTIFICATION NUMBER OF THE REGISTERED QUALIFYING PATIENT THE DESIGNATED CAREGIVER IS ASSISTING.
6. A PHOTOGRAPH OF THE CARDHOLDER.
7. A CLEAR INDICATION OF WHETHER THE CARDHOLDER HAS BEEN AUTHORIZED BY THIS CHAPTER TO CULTIVATE MARIJUANA PLANTS FOR THE QUALIFYING PATIENT'S MEDICAL USE.
B. REGISTRY IDENTIFICATION CARDS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS SHALL CONTAIN THE FOLLOWING:
1. THE NAME, ADDRESS AND DATE OF BIRTH OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
2. A STATEMENT THAT THE CARDHOLDER IS A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
3. THE LEGAL NAME OF THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY WITH WHICH THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT IS AFFILIATED.
4. A RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBER THAT IS UNIQUE TO THE CARDHOLDER.
5. THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE REGISTRY IDENTIFICATION CARD.
6. A PHOTOGRAPH, IF THE DEPARTMENT DECIDES TO REQUIRE ONE.
C. IF THE REGISTRY IDENTIFICATION CARD OF EITHER A QUALIFYING PATIENT OR THE PATIENT'S DESIGNATED CAREGIVER DOES NOT STATE THAT THE CARDHOLDER IS AUTHORIZED TO CULTIVATE MARIJUANA PLANTS, THEN THE DEPARTMENT MUST GIVE WRITTEN NOTICE TO THE REGISTERED QUALIFYING PATIENT, WHEN THE QUALIFYING PATIENT'S REGISTRY IDENTIFICATION CARD IS ISSUED, OF THE NAME AND ADDRESS OF ALL REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

36-2804.05. Denial of registry identification card
A. THE DEPARTMENT MAY DENY AN APPLICATION OR RENEWAL OF A QUALIFYING PATIENT'S REGISTRY IDENTIFICATION CARD ONLY IF THE APPLICANT:
1. DOES NOT MEET THE REQUIREMENTS OF SECTION 36-2801, PARAGRAPH 13.
2. DOES NOT PROVIDE THE INFORMATION REQUIRED.
3. PREVIOUSLY HAD A REGISTRY IDENTIFICATION CARD REVOKED FOR VIOLATING THIS CHAPTER.
4. PROVIDES FALSE INFORMATION.
B. THE DEPARTMENT MAY DENY AN APPLICATION OR RENEWAL OF A DESIGNATED CAREGIVER'S REGISTRY IDENTIFICATION CARD IF THE APPLICANT:
1. DOES NOT MEET THE REQUIREMENTS OF SECTION 36-2801, PARAGRAPH 5.
2. DOES NOT PROVIDE THE INFORMATION REQUIRED.
3. PREVIOUSLY HAD A REGISTRY IDENTIFICATION CARD REVOKED FOR VIOLATING THIS CHAPTER.
4. PROVIDES FALSE INFORMATION.
C. THE DEPARTMENT MAY DENY A REGISTRY IDENTIFICATION CARD TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT IF:
1. THE AGENT APPLICANT DOES NOT MEET THE REQUIREMENTS OF SECTION 36-2801(10).
2. THE APPLICANT OR DISPENSANRY DID NOT PROVIDE THE REQUIRED INFORMATION.
3. PREVIOUSLY HAD A REGISTRY IDENTIFICATION CARD REVOKED FOR VIOLATING THIS CHAPTER.
4. THE APPLICANT OR DISPENSARY PROVIDES FALSE INFORMATION.
D. THE DEPARTMENT MAY CONDUCT A CRIMINAL RECORDS CHECK OF EACH DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT APPLICANT TO CARRY OUT THIS SECTION.
E. THE DEPARTMENT SHALL GIVE WRITTEN NOTICE TO THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY OF THE REASON FOR DENYING A REGISTRY IDENTIFICATION CARD TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
F. THE DEPARTMENT SHALL GIVE WRITTEN NOTICE TO THE QUALIFYING PATIENT OF THE REASON FOR DENYING A REGISTRY IDENTIFICATION CARD TO THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER.
G. DENIAL OF AN APPLICATION OR RENEWAL IS CONSIDERED A FINAL DECISION OF THE DEPARTMENT SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. JURISDICTION AND VENUE FOR JUDICIAL REVIEW ARE VESTED IN THE SUPERIOR COURT.

36-2804.06. Expiration and renewal of registry identification cards and registration certificates; replacement

A. ALL REGISTRY IDENTIFICATION CARDS AND REGISTRATION CERTIFICATES EXPIRE ONE YEAR AFTER DATE OF ISSUE.
B. A REGISTRY IDENTIFICATION CARD OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT SHALL BE CANCELLED AND HIS ACCESS TO THE VERIFICATION SYSTEM SHALL BE DEACTIVATED UPON NOTIFICATION TO THE DEPARTMENT BY A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT IS NO LONGER EMPLOYED BY OR NO LONGER VOLUNTEERS AT THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY.
C. A RENEWAL NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATE SHALL BE ISSUED WITHIN TEN DAYS OF RECEIPT OF THE PRESCRIBED RENEWAL APPLICATION AND RENEWAL FEE FROM A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IF ITS REGISTRATION CERTIFICATE IS NOT UNDER SUSPENSION AND HAS NOT BEEN REVOKED.
D. IF A CARDHOLDER LOSES HIS REGISTRY IDENTIFICATION CARD, HE SHALL PROMPTLY NOTIFY THE DEPARTMENT. WITHIN FIVE DAYS OF THE NOTIFICATION, AND UPON PAYMENT OF A TEN DOLLAR FEE, THE DEPARTMENT SHALL ISSUE A NEW REGISTRY IDENTIFICATION CARD WITH A NEW RANDOM IDENTIFICATION NUMBER TO THE CARDHOLDER AND, IF THE CARDHOLDER IS A REGISTERED QUALIFYING PATIENT, TO THE REGISTERED QUALIFYING PATIENT'S REGISTERED DESIGNATED CAREGIVER, IF ANY.

36-2805. Facility restrictions
A. ANY NURSING CARE INSTITUTION, HOSPICE, ASSISTED LIVING CENTER, ASSISTED LIVING FACILITY, ASSISTED LIVING HOME, RESIDENTIAL CARE INSTITUTION, ADULT DAY HEALTH CARE FACILITY OR ADULT FOSTER CARE HOME LICENSED UNDER TITLE 36, CHAPTER 4, MAY ADOPT REASONABLE RESTRICTIONS ON THE USE OF MARIJUANA BY THEIR RESIDENTS OR PERSONS RECEIVING INPATIENT SERVICES, INCLUDING:
1. THAT THE FACILITY WILL NOT STORE OR MAINTAIN THE PATIENT'S SUPPLY OF MARIJUANA.
2. THAT THE FACILITY, CAREGIVERS OR HOSPICE AGENCIES SERVING THE FACILITY'S RESIDENTS ARE NOT RESPONSIBLE FOR PROVIDING THE MARIJUANA FOR QUALIFYING PATIENTS.
3. THAT MARIJUANA BE CONSUMED BY A METHOD OTHER THAN SMOKING.
4. THAT MARIJUANA BE CONSUMED ONLY IN A PLACE SPECIFIED BY THE FACILITY.
B. NOTHING IN THIS SECTION REQUIRES A FACILITY LISTED IN SUBSECTION A TO ADOPT RESTRICTIONS ON THE MEDICAL USE OF MARIJUANA.
C. A FACILITY LISTED IN SUBSECTION A MAY NOT UNREASONABLY LIMIT A REGISTERED QUALIFYING PATIENT'S ACCESS TO OR USE OF MARIJUANA AUTHORIZED UNDER THIS CHAPTER UNLESS FAILING TO DO SO WOULD CAUSE FACILITY TO LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS.

36-2806. Registered nonprofit medical marijuana dispensaries; requirements
A. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL BE OPERATED ON A NOT-FOR-PROFIT BASIS. THE BYLAWS OF A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL CONTAIN SUCH PROVISIONS RELATIVE TO THE DISPOSITION OF REVENUES AND RECEIPTS TO ESTABLISH AND MAINTAIN ITS NONPROFIT CHARACTER. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY NEED NOT BE RECOGNIZED AS TAX-EXEMPT BY THE INTERNAL REVENUE SERVICE AND IS NOT REQUIRED TO INCORPORATE PURSUANT TO TITLE 10, CHAPTER 19, ARTICLE 1.
B. THE OPERATING DOCUMENTS OF A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL INCLUDE PROCEDURES FOR THE OVERSIGHT OF THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AND PROCEDURES TO ENSURE ACCURATE RECORDKEEPING.
C. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL HAVE A SINGLE SECURE ENTRANCE AND SHALL IMPLEMENT APPROPRIATE SECURITY MEASURES TO DETER AND PREVENT THE THEFT OF MARIJUANA AND UNAUTHORIZED ENTRANCE INTO AREAS CONTAINING MARIJUANA.
D. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS PROHIBITED FROM ACQUIRING, POSSESSING, CULTIVATING, MANUFACTURING, DELIVERING, TRANSFERRING, TRANSPORTING, SUPPLYING OR DISPENSING MARIJUANA FOR ANY PURPOSE EXCEPT TO ASSIST REGISTERED QUALIFYING PATIENTS WITH THE MEDICAL USE OF MARIJUANA DIRECTLY OR THROUGH THE REGISTERED QUALIFYING PATIENTS' DESIGNATED CAREGIVERS.
E. ALL CULTIVATION OF MARIJUANA MUST TAKE PLACE IN AN ENCLOSED, LOCKED FACILITY AT A PHYSICAL ADDRESS PROVIDED TO THE DEPARTMENT DURING THE REGISTRATION PROCESS, WHICH CAN ONLY BE ACCESSED BY REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS ASSOCIATED IN THE REGISTRY WITH THE NONPROFIT MEDICAL MARIJUANA DISPENSARY.
F. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY ACQUIRE USABLE MARIJUANA OR MARIJUANA PLANTS FROM A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER ONLY IF THE REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER RECEIVES NO COMPENSATION FOR THE MARIJUANA.
G. A NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL NOT PERMIT ANY PERSON TO CONSUME MARIJUANA ON THE PROPERTY OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY.
H. REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES ARE SUBJECT TO REASONABLE INSPECTION BY THE DEPARTMENT. THE DEPARTMENT SHALL GIVE REASONABLE NOTICE OF AN INSPECTION UNDER THIS SUBSECTION.

36-2806.01. Dispensary locations
CITIES, TOWNS AND COUNTIES MAY ENACT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES TO SPECIFIED AREAS IN THE MANNER PROVIDED IN TITLE 9, CHAPTER 4, ARTICLE 6.1, AND TITLE 11, CHAPTER 6, ARTICLE 2.

36-2806.02. Dispensing marijuana for medical use
A. BEFORE MARIJUANA MAY BE DISPENSED TO A REGISTERED DESIGNATED CAREGIVER OR A REGISTERED QUALIFYING PATIENT, A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT MUST ACCESS THE VERIFICATION SYSTEM AND DETERMINE FOR THE REGISTERED QUALIFYING PATIENT FOR WHOM THE MARIJUANA IS INTENDED AND ANY REGISTERED DESIGNATED CAREGIVER TRANSPORTING THE MARIJUANA TO THE PATIENT, THAT:
1. THE REGISTRY IDENTIFICATION CARD PRESENTED TO THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS VALID.
2. EACH PERSON PRESENTING A REGISTRY IDENTIFICATION CARD IS THE PERSON IDENTIFIED ON THE REGISTRY IDENTIFICATION CARD PRESENTED TO THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
3. THE AMOUNT TO BE DISPENSED WOULD NOT CAUSE THE REGISTERED QUALIFYING PATIENT TO EXCEED THE LIMIT ON OBTAINING NO MORE THAN TWO-AND-ONE-HALF OUNCES OF MARIJUANA DURING ANY FOURTEEN-DAY PERIOD.
B. AFTER MAKING THE DETERMINATIONS REQUIRED IN SUBSECTION A, BUT BEFORE DISPENSING MARIJUANA TO A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER ON A REGISTERED QUALIFYING PATIENT'S BEHALF, A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT MUST ENTER THE FOLLOWING INFORMATION IN THE VERIFICATION SYSTEM:
1. HOW MUCH MARIJUANA IS BEING DISPENSED TO THE REGISTERED QUALIFYING PATIENT.
2. WHETHER IT WAS DISPENSED DIRECTLY TO THE REGISTERED QUALIFYING PATIENT OR TO THE REGISTERED QUALIFYING PATIENT'S REGISTERED DESIGNATED CAREGIVER.
3. THE DATE AND TIME THE MARIJUANA WAS DISPENSED.
4. THE REGISTRY IDENTIFICATION CARD NUMBER OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AND OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO DISPENSED THE MARIJUANA.

36-2807. Verification system
A. WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS CHAPTER, THE DEPARTMENT SHALL ESTABLISH A SECURE, PASSWORD-PROTECTED, WEB-BASED VERIFICATION SYSTEM FOR USE ON A TWENTY-FOUR HOUR BASIS BY LAW ENFORCEMENT PERSONNEL AND NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS TO VERIFY REGISTRY IDENTIFICATION CARDS.
B. THE VERIFICATION SYSTEM MUST ALLOW LAW ENFORCEMENT PERSONNEL AND NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS TO ENTER A REGISTRY IDENTIFICATION NUMBER AND VERIFY WHETHER THE NUMBER CORRESPONDS WITH A CURRENT, VALID IDENTIFICATION CARD.
C. THE SYSTEM SHALL DISCLOSE:
1. THE NAME OF THE CARDHOLDER, BUT MUST NOT DISCLOSE THE CARDHOLDER'S ADDRESS.
2. THE AMOUNT OF MARIJUANA THAT EACH REGISTERED QUALIFYING PATIENT RECEIVED FROM NONPROFIT MEDICAL MARIJUANA DISPENSARIES DURING THE PAST SIXTY DAYS.
D. THE VERIFICATION SYSTEM MUST INCLUDE THE FOLLOWING DATA SECURITY FEATURES:
1. ANY TIME AN AUTHORIZED USER ENTERS FIVE INVALID REGISTRY IDENTIFICATION NUMBERS WITHIN FIVE MINUTES, THAT USER CANNOT LOG IN TO THE SYSTEM AGAIN FOR TEN MINUTES.
2. A USERS LOG-IN INFORMATION SHALL BE DEACTIVATED AFTER 5 INCORRECT LOGIN ATTEMPTS UNTIL THE AUTHORIZED USER CONTACTS THE

DEPARTMENT AND VERIFIES HIS IDENTITY.
3. THE SERVER MUST REJECT ANY LOG-IN REQUEST THAT IS NOT OVER AN ENCRYPTED CONNECTION.

36-2808. Notifications to department; civil penalty
A. A REGISTERED QUALIFYING PATIENT SHALL NOTIFY THE DEPARTMENT WITHIN TEN DAYS OF ANY CHANGE IN THE REGISTERED QUALIFYING PATIENT'S NAME, ADDRESS, DESIGNATED CAREGIVER OR PREFERENCE REGARDING WHO MAY CULTIVATE MARIJUANA FOR THE REGISTERED QUALIFYING PATIENT OR IF THE REGISTERED QUALIFYING PATIENT CEASES TO HAVE HIS DEBILITATING MEDICAL CONDITION.
B. A REGISTERED DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT SHALL NOTIFY THE DEPARTMENT WITHIN TEN DAYS OF ANY CHANGE IN HIS NAME OR ADDRESS.
C. WHEN A CARDHOLDER NOTIFIES THE DEPARTMENT OF ANY CHANGES LISTED IN SUBSECTION A BUT REMAINS ELIGIBLE UNDER THIS CHAPTER, THE DEPARTMENT SHALL ISSUE THE CARDHOLDER A NEW REGISTRY IDENTIFICATION CARD WITH NEW RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBERS WITHIN TEN DAYS OF RECEIVING THE UPDATED INFORMATION AND A TEN-DOLLAR FEE. IF THE PERSON NOTIFYING THE DEPARTMENT IS A REGISTERED QUALIFYING PATIENT, THE DEPARTMENT SHALL ALSO ISSUE HIS REGISTERED DESIGNATED CAREGIVER, IF ANY, A NEW REGISTRY IDENTIFICATION CARD WITHIN TEN DAYS OF RECEIVING THE UPDATED INFORMATION.
D. IF THE REGISTERED QUALIFYING PATIENT'S CERTIFYING PHYSICIAN NOTIFIES THE DEPARTMENT IN WRITING THAT EITHER THE REGISTERED QUALIFYING PATIENT HAS CEASED TO SUFFER FROM A DEBILITATING MEDICAL CONDITION OR THAT THE PHYSICIAN NO LONGER BELIEVES THE PATIENT WOULD RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA, THE CARD IS VOID UPON NOTIFICATION BY THE DEPARTMENT TO THE QUALIFYING PATIENT.
E. WHEN A REGISTERED QUALIFYING PATIENT CEASES TO BE A REGISTERED QUALIFYING PATIENT OR CHANGES REGISTERED DESIGNATED CAREGIVER, THE DEPARTMENT SHALL PROMPTLY NOTIFY THE FORMER DESIGNATED CAREGIVER THAT HIS DUTIES AND RIGHTS UNDER THIS CHAPTER AS TO THAT QUALIFYING PATIENT EXPIRE FIFTEEN DAYS AFTER NOTIFICATION BY THE DEPARTMENT IS SENT.
F. A REGISTERED QUALIFYING PATIENT, DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO FAILS TO COMPLY WITH SUBSECTION A OR B IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED FIFTY DOLLARS.

36-2809. Annual report
THE DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE AN ANNUAL REPORT THAT DOES NOT DISCLOSE ANY IDENTIFYING INFORMATION ABOUT CARDHOLDERS, NONPROFIT MEDICAL MARIJUANA DISPENSARIES OR PHYSICIANS BUT CONTAINS AT LEAST ALL OF THE FOLLOWING INFORMATION:
1. THE NUMBER OF REGISTRY IDENTIFICATION CARD APPLICATIONS AND RENEWALS.
2. THE NUMBER OF QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS APPROVED IN EACH COUNTY.
3. THE NATURE OF THE DEBILITATING MEDICAL CONDITIONS OF THE QUALIFYING PATIENTS.
4. THE NUMBER OF REGISTRY IDENTIFICATION CARDS REVOKED.
5. THE NUMBER OF PHYSICIANS PROVIDING WRITTEN CERTIFICATIONS FOR QUALIFYING PATIENTS.
6. THE NUMBER OF REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
7. THE NUMBER OF NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS IN EACH COUNTY.

36-2810. Confidentiality
A. THE FOLLOWING INFORMATION RECEIVED AND RECORDS KEPT BY THE DEPARTMENT FOR PURPOSES OF ADMINISTERING THIS CHAPTER ARE CONFIDENTIAL, EXEMPT FROM TITLE 39, CHAPTER 1, ARTICLE 2, EXEMPT FROM SECTION 36-105 AND NOT SUBJECT TO DISCLOSURE TO ANY INDIVIDUAL OR PUBLIC OR PRIVATE ENTITY, EXCEPT AS NECESSARY FOR AUTHORIZED EMPLOYEES OF THE DEPARTMENT TO PERFORM OFFICIAL DUTIES OF THE DEPARTMENT PURSUANT TO THIS CHAPTER.
1. APPLICATIONS OR RENEWALS, THEIR CONTENTS AND SUPPORTING INFORMATION SUBMITTED BY QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS, INCLUDING INFORMATION REGARDING THEIR DESIGNATED CAREGIVERS AND PHYSICIANS.
2. APPLICATIONS OR RENEWALS, THEIR CONTENTS AND SUPPORTING INFORMATION SUBMITTED BY OR ON BEHALF OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN COMPLIANCE WITH THIS CHAPTER, INCLUDING THE PHYSICAL ADDRESSES OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
3. THE INDIVIDUAL NAMES AND OTHER INFORMATION IDENTIFYING PERSONS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY IDENTIFICATION CARDS.
B. ANY DISPENSING INFORMATION REQUIRED TO BE KEPT UNDER SECTION 36-2806.02, SUBSECTION B, OR DEPARTMENT REGULATION SHALL IDENTIFY CARDHOLDERS BY THEIR REGISTRY IDENTIFICATION NUMBERS AND NOT CONTAIN NAMES OR OTHER PERSONALLY IDENTIFYING INFORMATION.
C. ANY DEPARTMENT HARD DRIVES OR OTHER DATA RECORDING MEDIA THAT ARE NO LONGER IN USE AND THAT CONTAIN CARDHOLDER INFORMATION MUST BE DESTROYED. THE DEPARTMENT SHALL RETAIN A SIGNED STATEMENT FROM A DEPARTMENT EMPLOYEE CONFIRMING THE DESTRUCTION.
D. DATA SUBJECT TO THIS SECTION SHALL NOT BE COMBINED OR LINKED IN ANY MANNER WITH ANY OTHER LIST OR DATABASE AND IT SHALL NOT BE USED FOR ANY PURPOSE NOT PROVIDED FOR IN THIS CHAPTER.
E. NOTHING IN THIS SECTION PRECLUDES THE FOLLOWING NOTIFICATIONS:
1. DEPARTMENT EMPLOYEES MAY NOTIFY LAW ENFORCEMENT ABOUT FALSIFIED OR FRAUDULENT INFORMATION SUBMITTED TO THE DEPARTMENT IF THE EMPLOYEE WHO SUSPECTS THAT FALSIFIED OR FRAUDULENT INFORMATION HAS BEEN SUBMITTED HAS CONFERRED WITH HIS SUPERVISOR AND BOTH AGREE THAT THE CIRCUMSTANCES WARRANT REPORTING.
2. THE DEPARTMENT MAY NOTIFY STATE OR LOCAL LAW ENFORCEMENT ABOUT APPARENT CRIMINAL VIOLATIONS OF THIS CHAPTER IF THE EMPLOYEE WHO SUSPECTS THE OFFENSE HAS CONFERRED WITH HIS SUPERVISOR AND BOTH AGREE THAT THE CIRCUMSTANCES WARRANT REPORTING.
3. NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS MAY NOTIFY THE DEPARTMENT OF A SUSPECTED VIOLATION OR ATTEMPTED VIOLATION OF THIS CHAPTER OR DEPARTMENT RULES.
F. NOTHING IN THIS SECTION PRECLUDES SUBMISSION OF THE SECTION 36-2809 REPORT TO THE LEGISLATURE. THE ANNUAL REPORT SUBMITTED TO THE LEGISLATURE IS SUBJECT TO TITLE 39, CHAPTER 1, ARTICLE 2.

36-2811. Presumption of medical use of marijuana; protections; civil penalty
A. THERE IS A PRESUMPTION THAT A QUALIFYING PATIENT OR DESIGNATED CAREGIVER IS ENGAGED IN THE MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER.
1. THE PRESUMPTION EXISTS IF THE QUALIFYING PATIENT OR DESIGNATED CAREGIVER:
(a) IS IN POSSESSION OF A REGISTRY IDENTIFICATION CARD.
(b) IS IN POSSESSION OF AN AMOUNT OF MARIJUANA THAT DOES NOT EXCEED THE ALLOWABLE AMOUNT OF MARIJUANA.
2. THE PRESUMPTION MAY BE REBUTTED BY EVIDENCE THAT CONDUCT RELATED TO MARIJUANA WAS NOT FOR THE PURPOSE OF TREATING OR ALLEVIATING THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION PURSUANT TO THIS CHAPTER.
B. A REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER IS NOT SUBJECT TO ARREST, PROSECUTION OR PENALTY IN ANY MANNER, OR DENIAL OF ANY RIGHT OR PRIVILEGE, INCLUDING ANY CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU:
1. FOR THE REGISTERED QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER, IF THE REGISTERED QUALIFYING PATIENT DOES NOT POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.
2. FOR THE REGISTERED DESIGNATED CAREGIVER ASSISTING A REGISTERED QUALIFYING PATIENT TO WHOM HE IS CONNECTED THROUGH THE DEPARTMENT'S REGISTRATION PROCESS WITH THE REGISTERED QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER IF THE REGISTERED DESIGNATED CAREGIVER DOES NOT POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.
3. FOR OFFERING OR PROVIDING MARIJUANA TO A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER FOR THE REGISTERED QUALIFYING PATIENT'S MEDICAL USE OR TO A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IF NOTHING OF VALUE IS TRANSFERRED IN RETURN AND THE PERSON GIVING THE MARIJUANA DOES NOT KNOWINGLY CAUSE THE RECIPIENT TO POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.
C. A PHYSICIAN SHALL NOT BE SUBJECT TO ARREST, PROSECUTION OR PENALTY IN ANY MANNER OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING BUT NOT LIMITED TO CIVIL PENALTY OR DISCIPLINARY ACTION BY THE ARIZONA BOARD OF MEDICAL EXAMINERS OR BY ANY OTHER BUSINESS, OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, BASED SOLELY ON PROVIDING WRITTEN CERTIFICATIONS OR FOR OTHERWISE STATING THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, A PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA TO

TREAT OR ALLEVIATE THE PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE DEBILITATING MEDICAL CONDITION, BUT NOTHING IN THIS CHAPTER PREVENTS A PROFESSIONAL LICENSING BOARD FROM SANCTIONING A PHYSICIAN FOR FAILING TO PROPERLY EVALUATE A PATIENT'S MEDICAL CONDITION OR OTHERWISE VIOLATING THE STANDARD OF CARE FOR EVALUATING MEDICAL CONDITIONS.

D. NO PERSON MAY BE SUBJECT TO ARREST, PROSECUTION OR PENALTY IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING ANY CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, FOR:

1. PROVIDING A REGISTERED QUALIFYING PATIENT, A REGISTERED DESIGNATED CAREGIVER OR A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY WITH MARIJUANA PARAPHERNALIA FOR PURPOSES OF A QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA.

2. BEING IN THE PRESENCE OR VICINITY OF THE MEDICAL USE OF MARIJUANA AUTHORIZED UNDER THIS CHAPTER.

3. ASSISTING A REGISTERED QUALIFYING PATIENT WITH ADMINISTERING MARIJUANA AS AUTHORIZED BY THIS CHAPTER.

E. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT SUBJECT TO PROSECUTION; SEARCH OR INSPECTION, EXCEPT BY THE DEPARTMENT PURSUANT TO SECTION 36-2806, SUBSECTION H; SEIZURE OR PENALTY IN ANY MANNER AND MAY NOT BE DENIED ANY RIGHT OR PRIVILEGE, INCLUDING CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR BUSINESS LICENSING BOARD OR ENTITY, FOR ACTING PURSUANT TO THIS CHAPTER AND DEPARTMENT REGULATIONS TO ACQUIRE, POSSESS, CULTIVATE, MANUFACTURE, DELIVER, TRANSFER, TRANSPORT, SUPPLY, SELL OR DISPENSE MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO REGISTERED QUALIFYING PATIENTS, TO REGISTERED DESIGNATED CAREGIVERS ON BEHALF OF REGISTERED QUALIFYING PATIENTS OR TO OTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

F. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT IS NOT SUBJECT TO ARREST, PROSECUTION, SEARCH, SEIZURE OR PENALTY IN ANY MANNER AND MAY NOT BE DENIED ANY RIGHT OR PRIVILEGE, INCLUDING CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR ENTITY, FOR WORKING OR VOLUNTEERING FOR A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY PURSUANT TO THIS CHAPTER AND DEPARTMENT REGULATIONS TO ACQUIRE, POSSESS, CULTIVATE, MANUFACTURE, DELIVER, TRANSFER, TRANSPORT, SUPPLY, SELL OR DISPENSE MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO REGISTERED QUALIFYING PATIENTS, TO REGISTERED DESIGNATED CAREGIVERS ON BEHALF OF REGISTERED QUALIFYING PATIENTS OR TO OTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

G. PROPERTY, INCLUDING ALL INTERESTS IN THE PROPERTY, OTHERWISE SUBJECT TO FORFEITURE UNDER TITLE 13, CHAPTER 39, THAT IS POSSESSED, OWNED OR USED IN CONNECTION WITH THE MEDICAL USE OF MARIJUANA AUTHORIZED UNDER THIS CHAPTER OR ACTS INCIDENTAL TO THE MEDICAL USE OF MARIJUANA AUTHORIZED UNDER THIS CHAPTER, IS NOT SUBJECT TO SEIZURE OR FORFEITURE. THIS SUBSECTION DOES NOT PREVENT CIVIL FORFEITURE IF THE BASIS FOR THE FORFEITURE IS UNRELATED TO THE MEDICAL USE OF MARIJUANA.

H. MERE POSSESSION OF, OR APPLICATION FOR, A REGISTRY IDENTIFICATION CARD MAY NOT CONSTITUTE PROBABLE CAUSE OR REASONABLE SUSPICION, NOR MAY IT BE USED TO SUPPORT THE SEARCH OF THE PERSON OR PROPERTY OF THE PERSON POSSESSING OR APPLYING FOR THE REGISTRY IDENTIFICATION CARD. THE POSSESSION OF, OR APPLICATION FOR, A REGISTRY IDENTIFICATION CARD DOES NOT PRECLUDE THE EXISTENCE OF PROBABLE CAUSE IF PROBABLE CAUSE EXISTS ON OTHER GROUNDS.

I. NO SCHOOL, LANDLORD OR EMPLOYER MAY BE PENALIZED OR DENIED ANY BENEFIT UNDER STATE LAW FOR ENROLLING, LEASING TO OR EMPLOYING A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER.

36-2812. Affirmative defense

A. EXCEPT AS PROVIDED IN SECTION 36-2802, A QUALIFYING PATIENT AND A QUALIFYING PATIENT'S DESIGNATED CAREGIVER, IF ANY, MAY ASSERT THE MEDICAL PURPOSE FOR USING MARIJUANA AS A DEFENSE TO ANY PROSECUTION OF AN OFFENSE INVOLVING MARIJUANA INTENDED FOR A QUALIFYING PATIENT'S MEDICAL USE, AND THIS DEFENSE SHALL BE PRESUMED VALID WHERE THE EVIDENCE SHOWS THAT:

1. A PHYSICIAN STATES THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, AFTER HAVING COMPLETED A FULL ASSESSMENT OF THE QUALIFYING PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION MADE IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP, THE QUALIFYING PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA TO TREAT OR ALLEVIATE THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION.

2. THE QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER, IF ANY, WERE COLLECTIVELY IN POSSESSION OF A QUANTITY OF MARIJUANA THAT WAS NOT MORE THAN WAS REASONABLY NECESSARY TO ENSURE THE UNINTERRUPTED AVAILABILITY OF MARIJUANA FOR THE PURPOSE OF TREATING OR ALLEVIATING THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION.

3. ALL MARIJUANA PLANTS WERE CONTAINED IN AN ENCLOSED LOCKED FACILITY.

4. THE QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER, IF ANY, WERE ENGAGED IN THE ACQUISITION, POSSESSION, CULTIVATION, MANUFACTURE, USE OR TRANSPORTATION OF MARIJUANA, PARAPHERNALIA OR BOTH, RELATING TO THE ADMINISTRATION OF MARIJUANA SOLELY TO TREAT OR ALLEVIATE THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION.

B. A PERSON MAY ASSERT THE MEDICAL PURPOSE FOR USING MARIJUANA IN A MOTION TO DISMISS, AND THE CHARGES SHALL BE DISMISSED FOLLOWING AN EVIDENTIARY HEARING WHERE THE PERSON SHOWS THE ELEMENTS LISTED IN SUBSECTION (A).

C. IF A QUALIFYING PATIENT OR A QUALIFYING PATIENT'S DESIGNATED CAREGIVER DEMONSTRATE THE QUALIFYING PATIENT'S MEDICAL PURPOSE FOR USING MARIJUANA PURSUANT TO THIS SECTION, THE QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER SHALL NOT BE SUBJECT TO THE FOLLOWING FOR THE QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA:

1. DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU.

2. FORFEITURE OF ANY INTEREST IN OR RIGHT TO NON-MARIJUANA, LICIT PROPERTY.

36-2813. Discrimination prohibited

A. NO SCHOOL OR LANDLORD MAY REFUSE TO ENROLL OR LEASE TO AND MAY NOT OTHERWISE PENALIZE A PERSON SOLELY FOR HIS STATUS AS A CARDHOLDER, UNLESS FAILING TO DO SO WOULD CAUSE THE SCHOOL OR LANDLORD TO LOSE A MONETARY OR LICENSING RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS.

B. UNLESS A FAILURE TO DO SO WOULD CAUSE AN EMPLOYER TO LOSE A MONETARY OR LICENSING RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS, AN EMPLOYER MAY NOT DISCRIMINATE AGAINST A PERSON IN HIRING, TERMINATION OR IMPOSING ANY TERM OR CONDITION OF EMPLOYMENT OR OTHERWISE PENALIZE A PERSON BASED UPON EITHER:

1. THE PERSON'S STATUS AS A CARDHOLDER.

2. A REGISTERED QUALIFYING PATIENT'S POSITIVE DRUG TEST FOR MARIJUANA COMPONENTS OR METABOLITES, UNLESS THE PATIENT USED, POSSESSED OR WAS IMPAIRED BY MARIJUANA ON THE PREMISES OF THE PLACE OF EMPLOYMENT OR DURING THE HOURS OF EMPLOYMENT.

C. FOR THE PURPOSES OF MEDICAL CARE, INCLUDING ORGAN TRANSPLANTS, A REGISTERED QUALIFYING PATIENT'S AUTHORIZED USE OF MARIJUANA MUST BE CONSIDERED THE EQUIVALENT OF THE USE OF ANY OTHER MEDICATION UNDER THE DIRECTION OF A PHYSICIAN AND DOES NOT CONSTITUTE THE USE OF AN ILLICIT SUBSTANCE OR OTHERWISE DISQUALIFY A REGISTERED QUALIFYING PATIENT FROM MEDICAL CARE.

D. NO PERSON MAY BE DENIED CUSTODY OF OR VISITATION OR PARENTING TIME WITH A MINOR, AND THERE IS NO PRESUMPTION OF NEGLECT OR CHILD ENDANGERMENT FOR CONDUCT ALLOWED UNDER THIS CHAPTER, UNLESS THE PERSON'S BEHAVIOR CREATES AN UNREASONABLE DANGER TO THE SAFETY OF THE MINOR AS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE.

36-2814. Acts not required; acts not prohibited

A. NOTHING IN THIS CHAPTER REQUIRES:

1. A GOVERNMENT MEDICAL ASSISTANCE PROGRAM OR PRIVATE HEALTH INSURER TO REIMBURSE A PERSON FOR COSTS ASSOCIATED WITH THE MEDICAL USE OF MARIJUANA.

2. ANY PERSON OR ESTABLISHMENT IN LAWFUL POSSESSION OF PROPERTY TO ALLOW A GUEST, CLIENT, CUSTOMER OR OTHER VISITOR TO USE MARIJUANA ON OR IN THAT PROPERTY.

3. AN EMPLOYER TO ALLOW THE INGESTION OF MARIJUANA IN ANY WORKPLACE OR ANY EMPLOYEE TO WORK WHILE UNDER THE INFLUENCE OF MARIJUANA, EXCEPT THAT A REGISTERED QUALIFYING PATIENT SHALL NOT BE CONSIDERED TO BE UNDER THE INFLUENCE OF MARIJUANA SOLELY BECAUSE OF THE PRESENCE OF METABOLITES OR COMPONENTS OF MARIJUANA THAT APPEAR IN INSUFFICIENT CONCENTRATION TO CAUSE IMPAIRMENT.

B. NOTHING IN THIS CHAPTER PROHIBITS AN EMPLOYER FROM DISCIPLINING AN EMPLOYEE FOR INGESTING MARIJUANA IN THE WORKPLACE OR

36-2815. Revocation
A. THE DEPARTMENT SHALL IMMEDIATELY REVOKE THE REGISTRY IDENTIFICATION CARD OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO VIOLATES SECTION 36-2804.01, SUBSECTION D, OR SECTION 36-2816, SUBSECTION B. THE DEPARTMENT SHALL SUSPEND OR REVOKE THE REGISTRY IDENTIFICATION CARD OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT FOR OTHER VIOLATIONS OF THIS CHAPTER.
B. THE DEPARTMENT SHALL IMMEDIATELY REVOKE THE REGISTRATION CERTIFICATE OF A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT VIOLATES SECTION 2816, SUBSECTIONS B OR C, AND ITS BOARD MEMBERS AND PRINCIPAL OFFICERS MAY NOT SERVE AS THE BOARD MEMBERS OR PRINCIPAL OFFICERS FOR ANY OTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY.
C. ANY CARDHOLDER WHO SELLS MARIJUANA TO A PERSON WHO IS NOT ALLOWED TO POSSESS MARIJUANA FOR MEDICAL PURPOSES UNDER THIS CHAPTER SHALL HAVE HIS REGISTRY IDENTIFICATION CARD REVOKED, AND SHALL BE SUBJECT TO OTHER PENALTIES FOR THE UNAUTHORIZED SALE OF MARIJUANA AND OTHER APPLICABLE OFFENSES.
D. THE DEPARTMENT MAY REVOKE THE REGISTRY IDENTIFICATION CARD OF ANY CARDHOLDER WHO KNOWINGLY VIOLATES THIS CHAPTER, AND THE CARDHOLDER SHALL BE SUBJECT TO OTHER PENALTIES FOR THE APPLICABLE OFFENSE.
E. REVOCATION IS A FINAL DECISION OF THE DEPARTMENT SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. JURISDICTION AND VENUE ARE VESTED IN THE SUPERIOR COURT.

36-2816. Violations; civil penalty; classification
A. A REGISTERED QUALIFYING PATIENT MAY NOT DIRECTLY, OR THROUGH HIS DESIGNATED CAREGIVER, OBTAIN MORE THAN TWO-AND-ONE-HALF OUNCES OF MARIJUANA FROM REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN ANY FOURTEEN-DAY PERIOD.
B. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY OR AGENT MAY NOT DISPENSE, DELIVER OR OTHERWISE TRANSFER MARIJUANA TO A PERSON OTHER THAN ANOTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY, A REGISTERED QUALIFYING PATIENT OR A REGISTERED QUALIFYING PATIENT'S REGISTERED DESIGNATED CAREGIVER.
C. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY NOT ACQUIRE USABLE MARIJUANA OR MATURE MARIJUANA PLANTS FROM ANY PERSON OTHER THAN ANOTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY, A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER. A KNOWING VIOLATION OF THIS SUBSECTION IS A CLASS 2 FELONY.
D. IT IS A CLASS 1 MISDEMEANOR FOR ANY PERSON, INCLUDING AN EMPLOYEE OR OFFICIAL OF THE DEPARTMENT OR ANOTHER STATE AGENCY OR LOCAL GOVERNMENT, TO BREACH THE CONFIDENTIALITY OF INFORMATION OBTAINED PURSUANT TO THIS CHAPTER.
E. MAKING FALSE STATEMENTS TO A LAW ENFORCEMENT OFFICIAL ABOUT ANY FACT OR CIRCUMSTANCE RELATING TO THE MEDICAL USE OF MARIJUANA TO AVOID ARREST OR PROSECUTION IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS, WHICH SHALL BE IN ADDITION TO ANY OTHER PENALTIES THAT MAY APPLY FOR MAKING A FALSE STATEMENT OR FOR THE USE OF MARIJUANA OTHER THAN USE UNDERTAKEN PURSUANT TO THIS CHAPTER.

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.

36-2818. Enforcement of this act; mandamus
A. IF THE DEPARTMENT FAILS TO ADOPT REGULATIONS TO IMPLEMENT THIS CHAPTER WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS CHAPTER, 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 FAILS TO ISSUE A REGISTRY IDENTIFICATION CARD WITHIN FORTY-FIVE DAYS OF THE SUBMISSION OF A VALID APPLICATION OR RENEWAL, THE REGISTRY IDENTIFICATION CARD SHALL BE DEEMED ISSUED, AND A COPY OF THE REGISTRY IDENTIFICATION CARD APPLICATION OR RENEWAL IS DEEMED A VALID REGISTRY IDENTIFICATION CARD.
C. IF AT ANY TIME AFTER THE ONE HUNDRED FORTY DAYS FOLLOWING THE EFFECTIVE DATE OF THIS CHAPTER THE DEPARTMENT IS NOT ACCEPTING APPLICATIONS OR HAS NOT PROMULGATED RULES ALLOWING QUALIFYING PATIENTS TO SUBMIT APPLICATIONS, A NOTARIZED STATEMENT BY A QUALIFYING PATIENT CONTAINING THE INFORMATION REQUIRED IN AN APPLICATION PURSUANT TO SECTION 36-2804.02, SUBSECTION A, PARAGRAPH 3, TOGETHER WITH A WRITTEN CERTIFICATION ISSUED BY A PHYSICIAN WITHIN THE NINETY DAYS IMMEDIATELY PRECEDING THE NOTARIZED STATEMENT, SHALL BE DEEMED A VALID REGISTRY IDENTIFICATION CARD.

36-2819. Fingerprinting requirements
EACH PERSON APPLYING AS A DESIGNATED CAREGIVER, A PRINCIPAL OFFICER, AGENT OR EMPLOYEE OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MEDICAL MARIJUANA DISPENSARY AGENT SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE DEPARTMENT 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 THE MEDICAL MARIJUANA ACT AND ACTS PERMITTED BY IT. THE DEPARTMENT SHALL DESTROY EACH SET OF FINGERPRINTS AFTER THE CRIMINAL RECORDS CHECK IS COMPLETED.

Sec. 4. Section 43-1201, Arizona Revised Statutes, is amended to read:
43-1201. Organizations exempt from tax
A. Organizations that are exempt from federal income tax under section 501 of the internal revenue code are exempt from the tax imposed under this title. In addition, the following organizations are exempt from the taxes imposed under this title, except as otherwise provided in this chapter:
1. Labor, agricultural or horticultural organizations, other than cooperative organizations.
2. Fraternal beneficiary societies, orders or organizations both:
(a) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system.
(b) Providing for the payment of life, sick, accident or other benefits to the members of such society, order or organization or their dependents.
3. Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit or any corporation chartered for burial purposes and not permitted by its charter to engage in any business not necessarily related to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual member thereof.
4. Corporations organized and operated exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation.
5. Business leagues, chambers of commerce, real estate boards or boards of trade, not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
6. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or local organizations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.
7. Clubs organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.
8. Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom and turning over the entire amount of such income, less expenses, to an organization which itself is exempt from the tax imposed by this title.
9. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organizations or their dependents, if both of the following apply:
(a) No part of their net earnings inures, other than through such payments, to the benefit of any private shareholder or individual.
(b) Eighty-five per cent or more of the income consists of amounts collected from members and amounts contributed to the organization by the employer of the members for the sole purpose of making such payments and meeting expenses.

10. Teachers' or public employees' retirement fund organizations of a purely local character, if both of the following apply:
(a) No part of their net earnings inures to the benefit of any private shareholder or individual, other than through payment of retirement benefits.
(b) The income consists solely of amounts received from public taxation, amounts received from assessments upon the salaries of members and income in respect of investments. For the purposes of this paragraph, "public employees" means employees of the state and its political subdivisions.
11. Religious or apostolic organizations or corporations, if such organizations or corporations have a common treasury or community treasury, even if such corporations or organizations engage in business for the common benefit of the members, but only if the members thereof include, at the time of filing their returns, in their Arizona gross income their pro rata shares, whether distributed or not, of the net income of the organizations or corporations for such year. Any amount so included in the Arizona gross income of a member shall be treated as a dividend received.
12. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organization, their dependents or their designated beneficiaries, if both of the following apply:
(a) Admission to membership in such organization is limited to individuals who are officers or employees of the United States government.
(b) No part of the net earnings of such organization inures, other than through such payments, to the benefit of any private shareholder or individual.
13. Corporations classified as diversified management companies under section 5 of the federal investment company act of 1940 and registered as provided in that act.
14. Insurance companies paying to the state tax upon premium income derived from sources within this state.
15. Mutual ditch, irrigation or water companies or similar nonprofit organizations if eighty-five per cent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.
16. Workers' compensation pools established pursuant to section 23-961.01.
B. NONPROFIT MEDICAL MARIJUANA DISPENSARIES UNDER TITLE 36, CHAPTER 28.1, ARE EXEMPT FROM THE TAXES IMPOSED UNDER THIS TITLE.

Sec. 5. Conditional repeal; notice
A. Section 36-2812, Arizona Revised Statutes, as added by this act, is repealed as of the date the Arizona department of health services begins to issue registry identification cards to qualifying patients and designated caregivers.
B. The Arizona department of health services shall notify, in writing, the director of the Arizona legislative council of this date.

Sec. 6. Exemption from rule making
For the purposes of this act, the Department is exempt from the rule making requirements of Title 41, Chapter 6, Arizona Revised Statutes, for one year after the effective date of this act except that the Department shall provide the public with an opportunity to comment on proposed rules and shall publish otherwise exempted rules.

Sec. 7. Severability
If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition 203 would allow a "qualifying patient" who has a "debilitating medical condition" to obtain an "allowable amount of marijuana" from a "nonprofit medical marijuana dispensary" and to possess and use the marijuana to treat or alleviate the debilitating medical condition or symptoms associated with the condition. The Arizona Department of Health Services (DHS) would be required to adopt and enforce a regulatory system for the distribution of marijuana for medical use, including a system for approving, renewing and revoking the registration of qualifying patients, designated caregivers, nonprofit dispensaries and dispensary agents. The costs of the regulatory system would be paid from application and renewal fees collected, civil penalties imposed and private donations received pursuant to this proposition.

A "qualifying patient" is defined as a person who has been diagnosed by a physician (a doctor of medicine, osteopathy, naturopathic medicine or homeopathy) as having one of the following debilitating medical conditions:

1. Cancer.
2. Glaucoma.
3. Positive status for human immunodeficiency virus.
4. Acquired immune deficiency syndrome.
5. Hepatitis C.
6. Amyotrophic lateral sclerosis.
7. Crohn's disease.
8. Agitation of Alzheimer's disease.
9. A chronic or debilitating disease or medical condition that produces any of the following:

    a. Cachexia or wasting syndrome.
    b. Severe and chronic pain.
    c. Severe nausea.
    d. Seizures (including those characteristic of epilepsy).
    e. Severe and persistent muscle spasms (including those characteristic of multiple sclerosis).

10. Any other medical condition added by DHS through a public petition process.

In order to register with DHS, a qualifying patient must submit a signed written certification issued by the physician that states the physician's professional opinion that the patient is likely to receive therapeutic or symptom-relieving benefits from the medical use of marijuana to treat or alleviate a debilitating medical condition. The certification must specify the debilitating medical condition and must be made in the course of a physician-patient relationship after the physician has completed a full assessment of the patient's medical history. If the qualifying patient is under 18 years of age, the patient's custodial parent or legal guardian must submit written certifications from two physicians and the custodial parent or legal guardian must consent in writing to control the patient's medical use of the marijuana.

A qualifying patient who is registered with DHS (or a registered designated caregiver on behalf of the qualifying patient) may obtain up to 2.5 ounces of marijuana in a 14-day period from a registered nonprofit medical marijuana dispensary. If the qualifying patient's home is located more than 25 miles from the nearest nonprofit medical marijuana dispensary, the patient or designated caregiver may cultivate up to 12 marijuana plants in an enclosed, locked facility.

A registered nonprofit medical marijuana dispensary must be operated on a not-for-profit basis, but may receive payment for all expenses incurred in its operation. DHS may not issue more than one nonprofit medical marijuana dispensary registration certificate for every ten pharmacy permits issued by the Arizona State Board of Pharmacy under current law. The dispensary may cultivate marijuana only in an enclosed, locked facility and may acquire marijuana from a registered qualifying patient or designated caregiver if the patient or caregiver is not compensated for the marijuana. This proposition specifies various security, record-keeping and verification requirements relating to the operation of dispensaries.

Proposition 203 would generally provide that any person who acts in conformity with the requirements of the proposition is not subject to any governmentally imposed sanction relating to the medical use of marijuana. This proposition would prohibit certain discriminatory practices, including the following:

ORDINANCE NO. 2011-05

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 14 OF THE PEORIA CITY CODE (1977 EDITION), BY AMENDING ARTICLES 14-2 DEFINITIONS, 14-3 GENERAL PROVISIONS, AND 14-9 NON-RESIDENTIAL DISTRICTS OF THE PEORIA ZONING ORDINANCE; PROVIDING FOR SEPARABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Maricopa County, Arizona, held a public hearing on December 22, 2010 to consider a proposed amendment to the Peoria City Code, after notice in the manner provided by law; and

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance, and manner provided by law including publication of such in the Peoria Times on November 26, 2010; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of December 22, 2010, voted to recommend to the Mayor and Council of the City of Peoria, Arizona, that amendments be made to the Peoria City Code (1977 edition); and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, have considered the recommendation of the Planning and Zoning Commission of the City of Peoria, Arizona, and deem it to be in the best interest of the public health, safety and welfare of the residents of the City of Peoria, Arizona to amend Articles 14-2 Definitions, 14-3 General Provisions, and 14-9 Non-Residential Districts of Chapter 14 of the Peoria City Code (1977 edition):

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. Articles 14-2 Definitions, 14-3 General Provisions, and 14-9 Non-Residential Districts of Chapter 14 of the Peoria City Code (1977 edition) shall be amended to read as shown in Exhibit A.

SECTION 2. Effective Date. This Ordinance shall become effective on the date provided by law.

SECTION 3. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Maricopa County, Arizona this 18th day of January, 2011.

_____

Bob Barrett, Mayor

_____

Date Signed

ATTEST:

_____

Wanda Nelson, City Clerk

APPROVED AS TO FORM:

_____

Stephen M. Kemp, City Attorney

Published in: Peoria Times

Pub. Dates: January 21, 2011, and January 28, 2011.

Effective Date:

EXHIBIT A

ARTICLE 14-2
DEFINITIONS

CONTENTS

14-2-1 INTENT
14-2-2 DEFINITIONS

14-2-1 INTENT (Ord. No 02-68)

This Article is intended to clarify the meaning of any term used within the regulations and development standards for which the common definition may not serve the purpose of the regulations, or which is not a commonly used term outside of the context of this Zoning Ordinance.

14-2-2 DEFINITIONS

D. For the purpose of this Zoning Ordinance, certain words are hereby defined as follows (Ord. No. 02-68):

Medical Marijuana Cardholder is a natural person who is a Qualifying Patient, Designated Caregiver or Nonprofit Medical Marijuana Dispensary Agent who has been issued and possesses a valid Registry Identification Card pursuant to A.R.S.§ 36-2801, et.seq.

Medical Marijuana Dispensary is a non-profit entity defined in A.R.S. § 36-2801(11), that sells distributes, transmits, gives, dispenses, or otherwise provides Marijuana for Medical Use and related supplies to Qualifying Patients. Included is the manufacture and creation of products for individual sale where Marijuana is incorporated into the product for consumption by an individual who is a valid Medical Marijuana Cardholder. Additionally included is the sale of not more than twelve living Marijuana plants to an individual Medical Marijuana Cardholder authorized pursuant to A.R.S. § 36-2801, et.seq. to cultivate not more than twelve Marijuana plants for their personal use in addressing a Debilitating Medical Condition as set forth in A.R.S. § 36-2801, et.seq.

Medical Marijuana Manufacturing or Cultivation Facility is a building, structure, or premises where Marijuana is cultivated or stored and which is physically separate from a Medical Marijuana Dispensary. Such Medical Marijuana Manufacturing or Cultivation Facility may only provide Marijuana or Marijuana plants to Medical Marijuana Dispensaries for retail sales to qualified Medical Marijuana Cardholders. Requirements for Mixed Use Occupancy will be based upon the adopted building codes.

Medical Marijuana Statute is the Arizona Medical Marijuana Act codified at A.R.S., Title 36, Chapter 28.1. All definitions set forth in the Medical Marijuana Statute are hereby

incorporated by reference into the City of Peoria Zoning Ordinance and City Code (1992), unless specified otherwise.

ARTICLE 14-3
GENERAL PROVISIONS

(Ord. No. 02-85)

CONTENTS

14-3-1 INTENT
14-3-2 GENERAL USE PROVISIONS
14-3-3 ACCESSORY BUILDINGS AND USES
14-3-4 SCREENING
14-3-5 WALLS AND FENCES
14-3-6 PERFORMANCE STANDARDS
14-3-7 SATELLITE DISH ANTENNAE
14-3-8 MISCELLANEOUS PROVISIONS
14-3-9 HOME OCCUPATIONS
14-3-10 MANUFACTURED HOUSING
14-3-11 MOBILE HOMES, TRAVEL TRAILERS, HOUSE TRAILERS, AND RECREATIONAL VEHICLES
14-3-12 GROUP HOMES, DAY CARE GROUP HOMES, GROUP CARE FACILITIES AND COMMUNITY RESIDENTIAL SETTING FACILITIES
14-3-13 WIRELESS COMMUNICATION FACILITIES

14-3-9 HOME OCCUPATIONS

A. General

A Home Occupation is an accessory use of the primary dwelling unit permitted either by-right or by conditional use permit. Home occupations are generally conducted and located such that the average neighbor, under normal circumstances, would not be aware of their existence. The home occupation is generally carried on by a member of a family, residing on the premises, and is clearly incidental to the use of the structure for dwelling purposes and does not change the exterior character of the premises in any way.

B. Standards

The standards set forth in this Section are intended to ensure compatibility of the Home Occupation use with the residential character of the neighborhood. The proposed use shall be clearly accessory or incidental to the residential use of the main building to qualify as a home occupation use under this Section.

1. *Home Occupation as Permitted Accessory Use*. A home occupation where permitted, except for Day Care Group Homes, shall be considered a permitted accessory use when it complies with the following regulations:

   a. Changes or alterations to the exterior of the building(s) that are inconsistent with the residential character of the building(s) or with the character of the surrounding area shall not be allowed. Such changes or alterations include, but are not limited to, construction of parking areas or garages at a scale exceeding the scale of such structures in the surrounding area.

   b. Signs advertising a home occupation shall be strictly prohibited.

   c. Exterior display or storage of materials or equipment, or any other exterior indication of the home occupation, shall be prohibited.

   d. Emissions of noise, light, dust, gas, vibration, odor, smoke, or any other noxious matter emanating from the home occupation at a scale greater than that normally associated with the residential use shall be prohibited.

   e. The home occupation shall not involve more than one (1) business caller or visitor at a time and not more than two (2) visitors per hour, nor commercial deliveries or outside services beyond those normal and incidental to the residential uses in the district.

   f. The home occupation shall be conducted by a resident or residents of the dwelling unit only. No outside employees shall be employed at the site and not more than one (1) employee may report to the site for off-site employment.

   g. No unusual load shall be placed on power, sewer, water, or other utilities as a result of the home occupation use.

   h. External activity resulting from the home occupation shall be limited to the hours between 7:00 A.M. and 10:00 P.M.

   i. Storage of commercial vehicles used in conjunction with the home occupation is not permitted on the home occupation site. Up to two (2) commercial vehicles may be parked on the home occupation site if these commercial vehicles are used for both business and personal needs. Commercial vehicles must be parked in accordance with Article 14-23, “Parking,” of this Ordinance.

   j. All home occupations shall be subject to the standards contained herein and shall be approved by the City prior to the initiation of any business activity.

k. A valid City sales tax and/or business license shall be obtained for the home occupation use.

2. *Home Occupation as Conditional Use*. A Conditional Use Permit for a home occupation shall be required in cases where any of the following conditions may result

   a. The home occupation use requires or uses storage or space accessory to the principal residence, will utilize or require outdoor or open storage of materials or will require or result in the construction or installation of additional parking on-site.

   b. The home occupation use will produce or make noticeable the appearance of a non-residential use or will cause the emission of noise, light, dust, gas, vibration, odor, smoke, or other noxious matter from the premise.

   c. The home occupation will have more than one (1) business caller or visitor at any one time, more than two (2) visitors per hour, or more than one (1) commercial delivery per business day.

   d. Pedestrian or vehicular traffic will increase beyond what is considered normal and incidental to the zoning district in which the use is located.

   e. An increased load will be placed on any of the power, water, sewer or other utilities.

   f. The home occupation use will require the services of a single employee or assistant who is not a resident of the household.

3. *Prohibited Home Occupations* Home occupations expressly prohibited shall include, but not be limited to, the following:

   a. Personal service offices such as physicians, dentists, massage therapists, and barber and beauty shops

   b. Animal services such as commercial stables, dog grooming, veterinary offices, hospitals, and kennels

   c. Permanent real estate offices

   d. Restaurants

   e. Vehicle services such as repairing, painting, storage, washing, or sales, where vehicle is defined as any motorized or non-motorized means of transportation

   f. Sales of Permissible Consumer Fireworks

   <u>g. Medical Marijuana Dispensing</u>

ARTICLE 14-9
NON-RESIDENTIAL DISTRICTS

(Ord. No. 02-68)

CONTENTS

14-9-3 LAND USE MATRIX

The following land use matrix (Table 14-9-3) indicates uses which are permitted outright, conditionally permitted, or prohibited in specific non-residential zoning districts in the City of Peoria. The land use matrix is intended to serve as a guide for the convenience of the user of this zoning ordinance. Where the text of this zoning ordinance differs from the land use matrix, the text shall prevail. In the event of a specific use not being identified on the matrix, the Community Development Director or designee(s) shall determine the closest associated use based on the provisions of this ordinance. The City will permit any accessory use customarily incidental to a permitted principal use in the same zoning district.

Table 14-9-3 Land Use Matrix

LAND USE	O-1	C-1	PC-1	PC-2	C-2	C-3	C-4	C-5	BPI	PI-1	I-1	I-2
General Retail												
Medical Marijuana Dispensary#	-	-	-	-	C	-	C	C	-	-	-	-
General Industrial & Manufacturing												
Medical Marijuana Manufacturing or Cultivation#	-	-	-	-	-	-	-	-	C	C	C	C

P = Permitted Use
C = Permitted Conditional Use. Conditional Use Permit required. See Article 14-39-10.
A = Accessory use
***** = Any uses located within 200 feet of a residential district shall be subject to a Conditional Use Permit (Ord. No. 05-58A)
# = Subject to special limitations (see the following section 14-9-5)
- = Not Permitted

14-9-5 LIMITATIONS ON USES

D. General Industrial & Manufacturing (Ord No. 11-##)

1. Mini-storage warehouses, RV, Boat, and Trailer Storage, indoor and/or screened, shall be subject to the following additional requirements:

    a. For the purposes of this section, an outdoor RV, Boat and Trailer Storage use shall be visibly screened from a public street by an architecturally integrated wall or structure consisting of a minimum height of ten (10) feet, or as otherwise approved by the Planning and Zoning Commission. Additional screening from elevated roadways may be required, such as canopies, berming, or other design solutions.

b. Doors of the storage areas shall not front on any public street.

c. Only storage shall be permitted. No sale of goods, materials or other tangible or intangible property from the facility or any part thereof shall be permitted. No activities conducted on the premises, whether related to the stored items or otherwise. The sale of insurance by the operator on goods stored therein or the sale by the operator of items used in connection with the storage of goods at the site shall not be prohibited.

d. No hazardous or flammable materials, as defined in the Peoria City Building Code, shall be stored in such facility.

e. The City may exempt any structure from side and rear yard setbacks, except in circumstances where the site devoted to such use abuts a residential use or residentially-zoned vacant property. In such cases, the setback for the site boundary abutting the residential district shall be no less than thirty (30) feet.

f. All direct vehicular access shall be from an abutting arterial street.

g. The locations of the driveways, wall, landscaping, and buildings shall be so arranged as to minimize traffic disruptions.

h. A wall with a minimum height of six (6) feet and a landscaping buffer in accordance with Section 14-35-4.A.3, or as approved by the Planning and Zoning Commission, shall be constructed along the site boundary devoted to such use where abutting a residential use or residentially-zoned vacant property.

i. All vehicle storage shall be limited to hard surfaced areas.

j. Lighting shall be directed toward the site and shall not cause undesirable glare to nearby residential properties.

2. Recycling Collection Facility and similar establishments shall not be engaged in any processing or compounding to reform materials into a useable state. The Planning and Zoning Commission may require screening, landscaping, and the restriction of use/materials to enclosed structures.

3. Research Laboratories whose principal function is basic research, design and pilot or experimental product development shall have all activities conducted within a completely enclosed building.

<u>4. Medical Marijuana Manufacturing or Cultivation Facility. For the purposes of this section, all distances shall be measured from the exterior wall of the building housing the use.</u>

<u>a. Other than for delivery to an authorized Medical Marijuana Dispensary, distributing, transmitting, dispensing, giving, selling, or providing medical Marijuana is prohibited.</u>

b. All cultivation, manufacturing, and storage of Marijuana and Marijuana plants shall occur within secured, enclosed buildings and structures.

c. An active security management plan shall be approved by the Police Department.

d. The use shall be prohibited within 200-feet of the property line of residential zoned property.

e. The use shall not be located within 2,640-feet of another Medical Marijuana Manufacturing or Cultivation Facility.

f. The use shall not be located within 1,000-feet of the property line of Day-Care Facilities, Pre-Schools, Public/Charter or Private Schools.

g. There shall be no signage advertising the location of Medical Marijuana Dispensaries or Retail Sales of Marijuana on premises at any location.

h. The Community Development Director may require additional ventilation and air filtration necessary to ensure compatibility with adjacent uses.

E. General Retail (Ord. No. 03-171, 11-##, and 11-##)

1. Donation Centers shall be subject to the following conditions:

   a. Donation drop off shall be limited to business hours only.

   b. Drop off location shall be at the rear of the building and shall be fully screened from view.

   c. No drop off items shall be stored outside the screened area.

2. Pet Shops, including commonly associated accessory uses such as grooming, veterinary care, training, pet day camp services and the boarding of household pets, shall be subject to the following conditions: (Ord. No. 06-16)

   a. Veterinarian and grooming services shall be restricted to the care and treatment of small animals during regular business hours.

   b. The commercial breeding of animals shall be prohibited. (Ord. No. 06-16)

   c. All activities shall be completely contained within enclosed buildings; the building shall be designed and constructed to achieve a Sound Transmission Control Value of 50 or greater.

   d. All refuse shall be stored within a completely enclosed building.

   e. Outdoor runs or exercise pens shall be prohibited.

   f. Overnight boarding services for household pets may be operated as an accessory use, provided no more than twenty-five percent (25%) of the total

square footage of the establishment may be used as sleeping quarters for the boarded pets; and the area shall be constructed, maintained or operated so that the smell of the boarded animals does not create a nuisance off-site. (Ord. No. 06-16)

3. Indoor retail sales of new and used merchandise excluding sale of automobiles, boats, RVs, and motorcycles as an Accessory Use within the BPI Zoning District shall be no greater than 20% of the overall gross floor area (G.F.A.) of the establishment and shall not exceed 1,000 square feet in area.

4. Permissible Consumer Fireworks Sales shall be subject to the following conditions:

   a. Signage shall be displayed at the point-of-sale in accordance with Peoria City Code Section 9-49.
   b. Sales may only occur in buildings classified with a Mercantile building occupancy code.

5. Medical Marijuana Dispensary. For the purposes of this section, all distances shall be measured from the exterior wall of the building housing the use.
   a. All vehicular access shall be from arterial streets.

   b. Cultivation of Marijuana is prohibited.

   c. Delivery services are prohibited

   d. Drive Through sales are prohibited.

   e. An active security management plan shall be approved by the Police Department.

   f. The product offered for Retail Sales to Medical Marijuana Cardholders shall be inaccessible to the public entering the Medical Marijuana Dispensary. All product provided for Retail Sales shall be located behind a counter staffed by a Nonprofit Medical Marijuana Dispensary Agent as defined by A.R.S.§ 36-2801.et.seq.

   g. The use shall be prohibited within 200-feet of the property line of residential zoned property.

   h. The use shall not be located within 2,640-feet of another Medical Marijuana Dispensary or Medical Marijuana Manufacturing or Cultivation Facility.

   i. The use shall not be located within 1,000-feet of the property line of Day-Care Facilities, Pre-Schools, Public/Charter or Private Schools.

   j. The use shall not be located within 1,000-feet of a Retail Liquor Store; Tavern, Bar or Lounge; Adult Use; Substance Abuse Treatment Centers; or State Local Alcohol Reception Center.

k. The use shall provide a plan to ensure that no consumption of Marijuana or any product containing Marijuana occurs on the premises of a Medical Marijuana Dispensary.

l. Parking and traffic plan shall be required to ensure compatibility with adjacent uses.

m. Tenant improvement plan shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted buildings codes.