



MUNICIPAL OFFICE COMPLEX
8401 W. MONROE STREET
PEORIA, AZ 85345

**PLANNING & ZONING COMMISSION
SPECIAL MEETING
NOTICE & AGENDA
WEDNESDAY, DECEMBER 22, 2010
6:30 P.M.
COUNCIL CHAMBERS
8401 W. MONROE ST.**

**PLANNING & ZONING
COMMISSION:**

Veda McFarland, Chair
Marc Melbo, Vice Chair
Bill Louis, Secretary
Greg Loper
Gene Sweeney
Nancy Golden
Leigh Strickman

Department Liaison
Glen Van Nimwegen

***Accommodations for
Individuals with Disabilities.***
*Alternative format materials, sign
language interpretation, assistive
listening devices or interpretation
in languages other than English
are available upon 72 hours
advance notice through the Office
of the City Clerk, 8401 West
Monroe Street, Room 150, Peoria,
Arizona 85345 (623)773-7340,
TDD (623)773-7221, or FAX (623)
773-7304. To the extent possible,
additional reasonable
accommodations will be made
available within the time
constraints of the request.*

CONVENE:

ROLL CALL:

OPENING STATEMENT:

CALL TO SUBMIT SPEAKER REQUEST FORMS:

CONSENT AGENDA

CONSENT AGENDA: All items listed with "C" are considered to be routine or have been previously reviewed by the Planning and Zoning Commission, and will be enacted by one motion. There will be no separate discussion of these items unless a Commission member so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

CONSENT – New Business:

- 1C DISPOSITION OF ABSENCE:** Discussion and possible action to approve/excuse the absences of Chair McFarland, Commissioners Loper and Sweeney from the December 2, 2010 meeting.
- 2C MINUTES:** Discussion and possible action to approve the minutes of the Regular Meeting held December 2, 2010.
- 3C CU10-0192:** Cost Plus World Market is requesting a Conditional Use Permit to facilitate a Series 7 - Beer and Wine Bar liquor license for beer and wine tasting in conjunction with the operation of an existing retail store. The site is located at 7419 W. Bell Rd.

REGULAR AGENDA

NEW BUSINESS:

4R **PUBLIC HEARING:** City of Peoria Text Amendment.

PUBLIC HEARING - TA10-0225: The City of Peoria has proposed an amendment to Articles 14-2 Definitions, 14-3 General Provisions, 14-9 Non-Residential Districts, and 14-39 Administrative Procedures of the Zoning Ordinance. The amendment will amend definitions, home occupations, permitted land uses, and temporary use permits as related to the sales of Permissible Consumer Fireworks within the City of Peoria.

Staff Report

Open Public Hearing

Public Comment

Close Public Hearing

Commission Action: Discussion and possible action to recommend approval of a request from the City of Peoria to amend Articles 14-2 Definitions, 14-3 General Provisions, 14-9 Non-Residential Districts, and 14-39 Administrative Procedures of the Zoning Ordinance.

5R **PUBLIC HEARING:** City of Peoria Text Amendment.

PUBLIC HEARING - TA10-0239: The City of Peoria has proposed an amendment to Article 14-2 Definitions, 14-3, General Provisions, and 14-9 Non-Residential Districts of the Zoning Ordinance. The amendment will amend the definitions, home occupations, and permitted land uses as related to Medical Marijuana Dispensaries and Cultivation Facilities within the City of Peoria.

Staff Report

Open Public Hearing

Public Comment

Close Public Hearing

Commission Action: Discussion and possible action to recommend approval of a request from the City of Peoria to amend Article 14-2 Definitions, 14-3, General Provisions, and 14-9 Non-Residential Districts of the Zoning Ordinance.

CALL TO THE PUBLIC: (Non-Agenda Items)

Your comments pertaining to the Planning and Zoning Commission business are welcome. However, if you wish to address the Planning and Zoning Commission, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. Boards and Commissions are not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Reports from Staff:

Development Summary (December, 2010)

Reports from the Planning and Zoning Commission:

ADJOURNMENT:

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Board/Commission Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

**PLANNING AND ZONING COMMISSION MINUTES
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
DECEMBER 2, 2010
DRAFT**

A **Regular Meeting** of the Planning and Zoning Commission of the City of Peoria, Arizona, convened at 8401 W. Monroe St., Peoria, AZ in open and public session at 6:30 p.m.

Members Present: Vice Chair Marc Melbo, Commissioners Bill Louis, Leigh Strickman, and Nancy Golden.

Members Absent: Chair Veda McFarland, Commissioners Greg Loper and Gene Sweeney.

Others Present: Glen Van Nimwegen – Director Planning and Community Development, Ellen Van Riper - Assistant City Attorney, Chris Jacques – Planning Manager, Robert Gubser – Senior Planner, Adam Pruett – Senior Planner, and Bev Parcels – Planning Assistant.

Opening Statement: Read by Chris Jacques, Planning Manager.

Call for speaker request forms.

Audience: Forty one.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

CONSENT AGENDA

All items listed with a "C" are considered to be routine by the Planning and Zoning Commission, and were enacted by one motion.

- 1C **DISPOSITION OF ABSENCE:** Discussion and possible action to approve/excuse the absences of Commissioners Louis and Strickman from the November 4, 2010 meeting.
- 2C **MINUTES:** Discussion and possible action to approve the minutes of the Regular Meeting held November 4, 2010.

COMMISSION ACTION: Commissioner Strickman moved to approve the Consent Agenda items. The motion was seconded by Commissioner Louis and upon vote, carried unanimously.

REGULAR AGENDA

NEW BUSINESS:

3R PUBLIC HEARING - CU10-0214: MHC Casa Del Sol West I, LLC requested a Conditional Use Permit to allow a percentage of the lots within the Casa Del Sol West mobile home park, located at 11411 N. 91st Avenue, to contain RV trailers. The subject property is generally located north of the northeast corner of 91st Avenue and Peoria Avenue.

STAFF REPORT: Presented by Robert Gubser, Senior Planner

COMMISSION COMMENT: None

Thirty five speaker request forms were entered into the record in favor of the case and three speaker request forms opposed were entered into the record.

PUBLIC COMMENT:

██████████ Applicant – Stated he had thirteen additional letters in favor of the case, he was in agreement with staff on the recommendation for the case, and that additional items have been promised to the residents that were not part of the City stipulations.

██████████ Casa Del Sol West HOA President – Stated that the majority of the residents are in favor of the RV's being allowed in the park.

COMMISSION ACTION: Commissioner Louis moved to recommend approval of a request from MHC Casa Del Sol West I, LLC for a Conditional Use Permit to allow a percentage of the lots within the park to contain RV trailers. The motion was seconded by Commissioner Strickman and upon vote, carried unanimously 4-0.

4R PUBLIC HEARING - TA10-0132: The City of Peoria proposed an amendment to Article 14-3-4 Screening & Article 14-3-5 Walls and Fences of the Zoning Ordinance. The amendment will amend the current screening requirements including height and placement for all walls and fences within the City of Peoria.

STAFF REPORT: Presented by Adam Pruet, Senior Planner

COMMISSION COMMENT: One question was asked about the ability to construct a ten foot wall.

PUBLIC COMMENT: None

COMMISSION ACTION: Commissioner Louis moved to recommend approval of a request from the City of Peoria to amend Article 14-3-4 Screening & Article 14-3-5 Walls and Fences of the Zoning Ordinance with the removal of section 14-3-4.B.1.f. The motion was seconded by Commissioner Golden and upon vote, carried unanimously 4-0.

5R PUBLIC HEARING – STUDY SESSION

Zoning Code Amendments: Hillside Overlay / Desert Lands Conservation Overlay

Presentation and discussion on draft amendments to the Zoning Code in regards to Article 14-22A ('Hillside Development Overlay District') and Article 14-22B ('Desert Lands Conservation Overlay'). (No Action).

STAFF REPORT: Presented by Adam Pruet, Senior Planner

COMMISSION COMMENT: Questions included information about the disturbance area, who will benefit from the changes, and what the natural edge is.

PUBLIC COMMENT: None

COMMISSION ACTION: No Action

CALL TO THE PUBLIC: (Non-agenda Items): None

REPORT FROM STAFF: None

REPORTS FROM THE PLANNING AND ZONING COMMISSION: None

ADJOURNMENT: There being no further business to come before the Planning and Zoning Commission, the meeting adjourned at 7:35 p.m.

Veda McFarland, Chair

Date Signed



CONDITIONAL USE PERMIT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: CU 10-0192
DATE: December 16, 2010
AGENDA ITEM: 3C

Applicant: [REDACTED] on behalf of Cost Plus World Market

Request: Obtain a Conditional Use Permit to replace a Series 10 (beer and wine store) liquor license with a Series 7 (beer and wine bar) liquor license.

Location: The property is located at 7419 W Bell Road, the southeast corner of 75th Avenue and Bell Road.

Size of facility: Approximately 18,298 square feet

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

Recommendation: **Approve**, with conditions.

AREA CONTEXT

Table 1: Existing and Future Land Use / Zoning (Exhibit B and C)

	LAND USE	GENERAL PLAN	ZONING
Subject Property	Retail Commercial	Regional Commercial	Intermediate Comm'l (C-2)
North	Retail Commercial	Glendale, Planned Commercial	Glendale, (PAD Commercial)
South	Skunk Creek Wash	Regional Commercial	Planned Light Industrial (PI-1)
East	Retail Commercial	Glendale, Planned Commercial	Glendale, Commercial
West	Retail Commercial	Regional Commercial	PAD: Z93-25A.2 (Commercial)

1. Cost Plus world market is part of a 12-acre retail shopping center containing a variety of commercial tenants, such as retail sales, restaurants, hair and nail salons, gas station, and others. Principal tenants include Old Navy and Cost Plus World Market. The shopping center is a portion of the larger Bell Road / Arrowhead retail commercial area which extends along Bell Road from the Loop-101 to Skunk Creek which crosses Bell Road just east of this parcel.

2. Cost Plus World Market occupies an 18,298 square foot unit on the southern portion of the site. The exterior building wall of the unit is located over 800 feet away from the nearest single-family residential property line (south of the suite, south of Skunk Creek).

PROJECT DESCRIPTION

Request

3. The applicant is proposing to replace their Series 10 beer and wine store liquor license with a Series 7 beer and wine restaurant liquor license. Currently, the applicant's Series #10 license allows wine and beer tastings conducted by a producer or wholesaler up to 12 times per year. A series 7 license will allow the employees of Cost Plus World Market to offer beer and wine tastings rather than only producers and distributors. The applicant will conduct the tastings in the same manner than beer and wine distributors and producers are required. The stores hours and general operation will not change with the issuance of the liquor license.

FINDINGS AND ANALYSIS

Zoning / Use Classification

4. The commercial use standards for this development allow for Intermediate Commercial (C-2) zoning district uses. The district requires the issuance of a Conditional Use Permit (CUP) for *taverns, bars, lounges or establishments that sell alcoholic beverages for consumption on premises*.
5. Section 14-2-2 of the Zoning Ordinance defines a *tavern, bar, lounge or establishment that sells alcoholic beverages for consumption on premises* as a "business that sells beer or intoxicating liquor for consumption on the premises and having and a Liquor License with any of the following classifications: Bar License (Series #06) or Beer and Wine Bar License (Series #07) or the equivalent of such license, and excluding restaurants and recreation and social clubs. (Ord. No. 98-34A)." Accordingly, this establishment has been classified as a *tavern, bar, or lounge* in the Zoning Ordinance due to the fact that the applicant is seeking a Series #7 liquor license to replace their existing Series 10 beer and wine store liquor license.

Purpose of a Conditional Use Permit

6. Section 14-39-10.D outlines the applicable criteria for evaluating Conditional Use Permits (CUP). In general, the purpose of a CUP is to mitigate any identified negative impacts on the surrounding neighborhood that may result from a specific use and provide controls to ensure maximum compatibility between nearby land uses.

7. Additionally, Section 14-9-5.B.2 identifies a special limitation for a tavern, bar, lounge or establishment that sells beer or intoxicating liquor on the premises for consumption on the premises :
 - a. *The exterior building wall shall not be located within one thousand (1000) feet of the exterior property line of a state designated Local Alcohol Reception Center.* Staff response - Based on a review of the surrounding area, there are no Local Alcohol Reception Centers located within a 1000 foot radius of Cost Plus World Market

Noticing and Neighborhood Comment

8. The application notice was forwarded to all property owners within 600 feet of the proposal and properly noticed pursuant to Section 14-39-10 of the Peoria Zoning Ordinance. As a result, to date, the City has not received any verbal or written comments on the proposal.

Analysis

9. Staff has not identified any mitigating circumstances with respect to the proposal as it will be located entirely within an enclosed building and within a developed commercial center.
10. As indicated in Paragraph #7, no public comment regarding the requested use has been received. However, if any issues arise regarding the operation of the business, Section 14-39-10.I provides the Planning Manager with continuing jurisdiction over all Conditional Use Permits. This means that a permit may be revoked, modified or suspended should any of the following occur:
 - a. The permit was obtained by fraud or misrepresentation;
 - b. The use authorized by the CUP has been exercised in violation of the conditions of approval;
 - c. A change in circumstances where the following has occurred: [1] Impacts from the approved CUP to neighboring properties; and [2] Changes in aesthetic or environmental impacts such as noise, odors or pollution.
 - d. The use authorized by the CUP is operated in a manner that constitutes a nuisance to neighboring property owners or is exercised in a manner that is detrimental to the public health, welfare or safety.

Public Notice

11. Public notice was provided in the manner prescribed under Section 14-39-6-H. Additionally, the site was posted with a sign meeting the content and size requirements prescribed by the Planning Division by December 1, 2010. The posting was completed within the prescribed 15-days prior to the Public Hearing. The applicant has provided a photo exhibit and signed affidavit attesting to the posting.

Proposition 207

12. The voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions which have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement which waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has furnished a signed and notarized Proposition 207 Waiver.

RECOMMENDATION

13. Based on the following findings:
 - The C-2 district allows bar / tavern uses (Series #7 liquor licenses) with the issuance of a Conditional Use Permit provided the physical, operational and other characteristics of the use are designed and developed in a manner that provides maximum compatibility with adjoining uses; and
 - The applicant will limit the use of liquor license to tastings only. No bar or tavern will be established and alcohol will not be sold for serving and consumption on premise; and
 - The Planning Manager retains the ability to revoke, modify or suspend the Conditional Use Permit if the operation is deemed to no longer be in conformance with the conditions of approval; and
 - The proposal will not result in any detrimental impacts to the surrounding neighborhood.

It is recommended that the Planning and Zoning Commission take the following action:

Approve the request for a Conditional Use Permit under Case CU10-0192, subject to the following conditions:

1. The use shall substantially conform to the project narrative (Exhibit A) as contained in the staff report to the Planning & Zoning Commission dated December 16, 2010.
2. Selling alcohol for on-site consumption is prohibited. The permit is limited to beer and wine tastings in conjunction with retail liquor sales as described in the project narrative.

Attachments:

Exhibit A	Project Narrative
Exhibit B	Vicinity/Aerial Map
Exhibit C	Zoning Map
Exhibit D	Floor Plan

Prepared by: Ed Boik
Planner

Cost Plus World Market
Application for Use Permit for series 7 liquor license

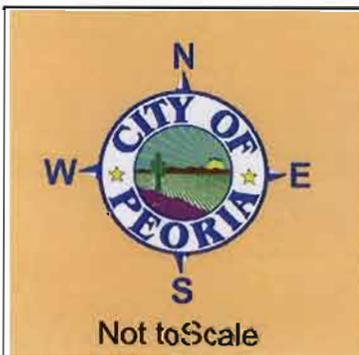
In connection with its application for a Use Permit for a series 7 liquor license, Cost Plus World Market submits the following information:

Cost Plus World Market is a national retail store specializing in international products, including gourmet food items and specialty beer and wines. The store located at 7419 W. Bell Rd. has operated with a series 10 liquor license since 1999. The series 10 license allows for sales of beer and wine for off-premises consumption only; sampling can be conducted on the premises only by a producer or wholesaler and is limited to 12 times per year.

Cost Plus applied for a series 7 liquor license to allow its employees to offer samples of the store's unique beer and wine products (many of which are exclusive to Cost Plus) to customers interested in purchasing them. If the license is granted, the store will adopt the same or more restrictive policies for sampling than currently imposed on producers and wholesalers under A.R.S. §4-243(B)(3) and A.A.C. R19-1-228, including the following: (1) all employees who serve samples will be trained in Arizona's liquor law; (2) sampling will be available only to customers over 21 who request it; and (3) no customer will be allowed more than 12 ounces of beer or 6 ounces of wine per day.

The store's regular hours are Monday through Friday 10am-9pm, Saturday 9am-9pm and Sunday 10am-7pm. A change in the license will not affect the store's focus or current operations.

CU10-0192 Vicinity/Aerial Map



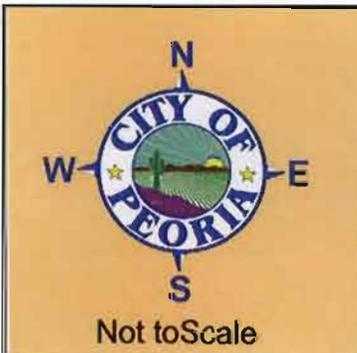
CU10-0192 Cost Plus World Market

Applicant: [REDACTED] on behalf of Cost Plus World Market

Request: Conditional Use Permit to allow change from Series 10 liquor license to Series 7.

Exhibit B

CU10-0192 Zoning Map



CU10-0192 Cost Plus World Market

Applicant: [REDACTED] on behalf of Cost Plus World Market

Request: Conditional Use Permit to allow change from Series 10 liquor license to Series 7.

Exhibit C



ZONING ORDINANCE TEXT AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: TA 10-0225
DATE: December 16, 2010
AGENDA ITEM: 4R

Applicant: City of Peoria

Request: Amend Articles 14-2 Definitions, 14-3 General Provisions, 14-9 Non-Residential Districts, and 14-39 Administrative Procedures of the Zoning Ordinance. The amendment will amend definitions, home occupations, permitted land uses, and temporary use permits as related to the sales of Permissible Consumer Fireworks within the City of Peoria.

Support / Opposition: As of the date of this printing, Staff has received one phone call in opposition to this request. There has been no stated support for this request.

Recommendation: **Approve** as requested.

BACKGROUND

1. As a result of the passage of HB 2246 (Exhibit E) during the 2010 Arizona Legislative Session, the sale and use of certain types of fireworks are legal in Arizona effective December 1, 2010. The language contained within this statute includes provisions that allows cities and towns the flexibility to regulate the use of permissible consumer fireworks within their jurisdictional boundaries. Conversely, the statute does not permit the cities and towns the ability to prohibit the sales of fireworks.
2. On November 16, 2010, a proposed ordinance to prohibit the use of fireworks was discussed at the City Council Study Session. As part of that discussion, it was communicated to the City Council that a zoning ordinance amendment would be forthcoming to further clarify and outline requirements for retail and temporary sales of permissible consumer fireworks. At the following City Council meeting that evening, the City Council adopted *Ordinance No. 2010-33* banning the use of permissible consumer fireworks within the Peoria corporate limits. The adopted ordinance does not prohibit a public display of fireworks for such events as the 4th of July celebrations at the Peoria Sports Complex, subject to permitting through the Fire Department.

3. As a result of the language contained in the statute that prohibits local jurisdictions from banning the sales of permissible consumer fireworks, the City is proposing the following amendment to the zoning ordinance that will codify the language contained in HP 2246 while assigning the sales of fireworks to the proper zoning categories. The proposed amendment has been composed to achieve the following objectives:
- Provide a definition of Permissible Consumer Fireworks in Article 14-2 (Definitions).
 - Prohibit the sales of Permissible Consumer Fireworks as a Home Occupations in Article 14-3 (General Provisions).
 - Delineate the zoning district for permitted sales of Permissible Consumer Fireworks in Article 14-9 (Non-Residential Districts).
 - Add outdoor sales of Permissible Consumer Fireworks as a Permitted Temporary Use in Article 14-39 (Administrative Procedures).

ANALYSIS AND DISCUSSION

Definitions – Article 14-2

4. The definition of “*Permissible Consumer Fireworks*” has been added and references directly to the language contained within Arizona Revised Statute Title 36-1601.5(a) and 5(b) (Exhibit E).

General Provisions – Article 14-3

5. The sales of *Permissible Consumer Fireworks* has been incorporated into the list of prohibited home occupations. Based on language contained within the NFPA 1124 (Chpt 7.2.2), all sales shall be limited to mercantile (M) occupancies only. A residential home could only be classified with an M occupancy if it was not longer deemed to be a residence. This in turn would exclude the residence from potentially being classified with a home occupation as an accessory use.

Non-Residential Districts – Article 14-9

6. The sales of *Permissible Consumer Fireworks* has been added to the General Retail Land Use category and will be a permitted use in the C-1 through C-5 commercial districts (as shown below) in close alignment with the general retail sales of goods.

Article 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												
<i>Permissible Consumer Fireworks Sales[#]</i>	=	P	P	P	P	P	P	P	=	=	=	=
General Retail Sales, Indoor	-	P	P	P	P	P	P	P	A	-	-	-

7. As referenced in Title 36-1601 and further defined by the recently adopted City Code amendment (Ord No. 2010-33), there are special requirements that must be adhered to in order to allow for the sales of permissible consumer fireworks. The limitations placed on the sales of fireworks are in direct relation to both City Code and the National Fire Protection Association 1124 (NFPA 1124), which outlines the codes and standards for the manufacture, transportation, storage and retail sales of fireworks. The limitations are as follows:
 - a. Signage will be required to be displayed at the point-of-sale in accordance with City Code Section 9-49. The signs will state that use of fireworks are not allowed in the City of Peoria and permissible consumer fireworks may not be sold to persons under the age of 16.
 - b. Based on NFPA 1124 (Chpt.7.2.2), all sales shall be limited to buildings classified with a mercantile (M) occupancies only. This is the building classification that is generally associated with most retail establishments.
8. It should be noted that a general retailer, such as a local grocer or big-box operations, will be permitted to conduct permissible consumer fireworks sales in conjunction with the business and the sales of the fireworks will be considered to be ancillary to the overall retail operation.

Administrative Procedures – Article 14-39

9. Outdoor sales of consumer permissible fireworks have been added as a Permitted Temporary Use. A temporary use permit application will allow for a review of the vehicular access, parking, dust control measures, site lighting and hours of operation. In addition, any tents/structures and on-site generators will be reviewed by the Fire Department. The time period for TUP's may be up to 60 days in length with renewals dependent on the length of the event. For example, events lasting less than 30 days may be renewed twice annually; events between 30-60 days may be renewed once annually. It is anticipated that the scope of outdoor sales of permissible consumer fireworks will be similar in nature to other seasonal sales such as pumpkin and Christmas tree lots.

Departmental Comments

10. The proposed amendments were reviewed by the City Attorney's Office, the Fire Department, and the Building Safety Division. All comments generated from the subsequent reviews have been incorporated into the amendment.

Public Notice

11. Public notice of this proposed amendment to the Zoning Ordinance was provided in the manner prescribed under Article 14-39. The time, date, and place of the hearing have been published at least once in a newspaper of general circulation

in the City at least fifteen (15) days prior to the hearing. The notice included the text of the proposed amendment and a general description of any regulations proposed to be amended.

Public Comment

12. There has been stated opposition to the request from a fireworks industry representative. It is the industry's interpretation of the state statute that the local jurisdictions may not further regulate fireworks sales beyond the stated language contained in the statute. Based on discussions with our City Attorney during the drafting of this text amendment, the City has the authority to regulate uses, as with any use, to provide for the protection of the health, safety, and welfare of the public. This amendment provides just that by limiting the sales of fireworks to the commercial zoning districts, prohibiting home occupation sales, and requiring temporary use permits for outdoor sales.

FINDINGS AND RECOMMENDATION

13. Based on the following findings:
- The proposed amendment constitutes an improvement to the Zoning Ordinance by increasing its accuracy, clarifying inferences, and improving the overall usability.
 - The amendment also updates the language of the Zoning Ordinance to maintain relevancy and conform to the requirements of HB 2246.
 - The amendment constitutes a protection of the health, safety and welfare of the public by limiting fireworks sales to appropriately zoned areas.
 - 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 to the Mayor and City Council approval of Case TA 10-0225, a request to amend the Peoria Zoning Ordinance as contained in Exhibits A through D.

ATTACHMENTS:

- Exhibit A Proposed changes to Article 14-2 ('Definitions')
- Exhibit B Proposed changes to Article 14-3 ('General Provisions')
- Exhibit C Proposed changes to Article 14-9 ('Non-Residential Districts')
- Exhibit D Proposed changes to Article 14-39 ('Administrative Procedures')
- Exhibit E House Bill 2246 (for reference)
- Exhibit F Ordinance No. 2010-33 (for reference)

(deletions/additions shown in the Articles as ~~strike~~/underscore)

Prepared by: Robert Gubser, AICP
Senior Planner

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):

Pawnshop means any establishment in that is carried on the business of pawn brokerage, or the business of loaning money, receiving as security for payment thereof pawns or pledges of property, or the business of purchasing personal property and reselling or agreeing to resell, trade or exchange such articles to vendors, their personal representatives, or their assignees at a price agreed upon at or before the time of such purchase whether such business be the principal or sole business so carried on or be merely incidental to, or in connection with, or a branch or a department of some other business. (Ord. No. 00-28)

Permissible Consumer Fireworks means fireworks devices as defined by Arizona Revised Statutes Section 36-1601.5(a) and (b). (Ord. No. 11-##)

Planned Shopping Center means a business development of two acres or more not divided by a street and characterized by an organized and concentrated grouping of retail and service outlets served by a common circulation and parking system.

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
4. *Violations.* The City may deem any violation of the above conditions as just cause for the termination of the home occupation. In such cases, the City may issue a Cease and Desist Order, and, if the violation continues, file a criminal complaint in City Court.

ARTICLE 14-9 NON-RESIDENTIAL DISTRICTS

(Ord. No. 02-68)

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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

GENERAL RETAIL												
Antiques, Crafts, and Collectibles Sales	-	-	P	P	P	P	P	P	-	-	-	-
Bait and Tackle Shops	-	-	P	P	P	P	P	-	-	-	-	-
Book, Stationery & Greeting Card Store	P	P	P	P	P	P	P	P	-	-	-	-

ARTICLE 14-9

NON-RESIDENTIAL DISTRICTS

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 - CONTINUED												
Candy and Ice Cream Store	P	P	P	P	P	P	P	P	-	-	-	-
Carpet and Floor Covering Store	-	-	-	-	P	P	P	P	-	-	-	-
Copy Center	P	P	P	P	P	P	P	P	P	P	P	P
Donation Center * (Ord. No. 03-171)	-	-	-	-	C	-	C	C	P	P	P	P
Florist	P	P	P	P	P	P	P	P	-	-	-	-
Gift, Novelty and Souvenir Shop	P	P	P	P	P	P	P	P	-	-	-	-
Hobby, Stamp and Coin Shop	P	P	P	P	P	P	P	P	-	-	-	-
Newsstand (Ord. No. 05-58A)	P	P	P	P	P	P	P	P	P	A	A	A
Pawn Shop *	-	-	-	-	C	-	C	C				
Permissible Consumer Fireworks Sales *	-	P	P	P	P	P	P	P	-	-	-	-
Pet Shop * (Ord. No. 05-51)	-	-	P	P	P	P	P	P	-	-	-	-
Plumbing, Heating & Air-conditioning Sales and Service	-	-	-	-	-	-	P	-	-	P	P	P
Retail Decorative Rock Sales	-	-	-	-	C	-	P	-	-	P	P	P
Retail Sales of New & Used Merchandise, Indoor, excluding Sale of Automobile, Boats, RVs and Motorcycles (Ord. No. 05-36) *	-	P	P	P	P	P	P	P	A #	-	-	-
Retail Liquor Store *	-	-	-	-	C	-	C	C	-	-	-	-
Small Merchandise Vendor Carts * (Ord. No. 05-36)	A	A	A	A	A	A	A	A	A	A	A	A
Video Rental Store	P	P	P	P	P	P	P	P	-	-	-	-
Water and Ice Store	-	P	P	P	P	P	P	P	-	-	-	-

- 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

- E. General Retail (Ord. No. 03-171 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.

ARTICLE 14-39

ADMINISTRATIVE PROCEDURES

(Ord. No. 02-80)

CONTENTS

14-39-11 TEMPORARY USE PERMITS

14-39-11 TEMPORARY USE PERMITS

A. *Intent.*

1. In addition to regulating uses which are permanent in nature, it is the intent of this Ordinance to provide for certain temporary uses for limited periods of time. Allowing temporary uses, as herein provided for, is not intended to permit uses otherwise prohibited by the Zoning Ordinance or to allow permanent uses to be established.
2. The purpose of this Section is to establish the procedures and outline the review criteria to be used by the Community Development Department when considering an application for a Temporary Use Permit. All Temporary Uses shall be conducted so as not to be detrimental to the surrounding properties and shall be subject to the standards and regulations contained herein. The Community Development Department shall not grant a Temporary Use Permit until adequate assurances have been provided ensuring compliance with the provisions of this Ordinance and all other applicable City codes.

B. *General.* Every Temporary use shall require a Temporary Use Permit as herein stipulated.

C. *Permitted Temporary Uses.* The City may grant a Temporary Use Permit for any of the following uses.

1. Carnivals, circuses, or similar special events.
2. Christmas tree sales, pumpkin sales, or similar holiday-related events.
3. Outdoor sales of consumer permissible fireworks. (Ord. No. 11-###)
34. Temporary municipal uses. (Ord. No. 05-22)
45. Off-site retail sales of souvenirs, gifts, and food incidental to a sporting or cultural event.
56. Tent revival or fellowship meetings.

- | 67. Craft shows, home and garden shows, festivals, or similar events.
- | 78. Outdoor concerts, paid admission events, and events involving the distribution of alcoholic beverages.
- | 89. Such other uses as the City may deem to be within the intent and purpose of this Section.

House Engrossed

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2246

AN ACT

AMENDING SECTIONS 36-1601, 36-1605 AND 36-1606, ARIZONA REVISED STATUTES;
AMENDING TITLE 36, CHAPTER 13, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTIONS 36-1609 AND 36-1610; AMENDING SECTION 37-623.02, ARIZONA REVISED
STATUTES; RELATING TO FIREWORKS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 36-1601, Arizona Revised Statutes, is amended to
3 read:

4 36-1601. Definitions

5 In this article, unless the context otherwise requires:

6 1. "CONSUMER FIREWORK" MEANS SMALL FIREWORK DEVICES THAT CONTAIN
7 RESTRICTED AMOUNTS OF PYROTECHNIC COMPOSITION DESIGNED PRIMARILY TO PRODUCE
8 VISIBLE OR AUDIBLE EFFECTS BY COMBUSTION AND THAT COMPLY WITH THE
9 CONSTRUCTION, CHEMICAL COMPOSITION AND LABELING REGULATIONS PRESCRIBED IN
10 49 CODE OF FEDERAL REGULATIONS PART 172 AND 173, REGULATIONS OF THE UNITED
11 STATES CONSUMER PRODUCT SAFETY COMMISSION AS PRESCRIBED IN 16 CODE OF FEDERAL
12 REGULATIONS PARTS 1500 AND 1507 AND THE AMERICAN PYROTECHNICS ASSOCIATION
13 STANDARD 87-1, STANDARD FOR CONSTRUCTION AND APPROVAL FOR TRANSPORTATION OF
14 FIREWORKS, NOVELTIES AND THEATRICAL PYROTECHNICS, DECEMBER 1, 2001 VERSION.

15 2. "DISPLAY FIREWORK" MEANS LARGE FIREWORK DEVICES THAT ARE EXPLOSIVE
16 MATERIALS INTENDED FOR USE IN FIREWORKS DISPLAYS AND DESIGNED TO PRODUCE
17 VISIBLE OR AUDIBLE EFFECTS BY COMBUSTION, DEFLAGRATION OR DETONATION AS
18 PRESCRIBED BY 49 CODE OF FEDERAL REGULATIONS PART 172, REGULATIONS OF THE
19 UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION AS PRESCRIBED IN 16 CODE OF
20 FEDERAL REGULATIONS PARTS 1500 AND 1507 AND THE AMERICAN PYROTECHNICS
21 ASSOCIATION STANDARD 87-1, STANDARD FOR CONSTRUCTION AND APPROVAL FOR
22 TRANSPORTATION OF FIREWORKS, NOVELTIES AND THEATRICAL PYROTECHNICS, DECEMBER
23 1, 2001 VERSION.

24 ~~1.~~ 3. "Fireworks":

25 (a) Means any combustible or explosive composition, substance or
26 combination of substances, or any article prepared for the purpose of
27 producing a visible or audible effect by combustion, explosion, deflagration
28 or detonation, and ~~toy cannons in which explosives are used, the type of~~
29 ~~balloon which requires fire underneath to propel it, firecrackers, torpedoes,~~
30 ~~skyrockets, roman candles, daygo bombs, sparklers or other fireworks of like~~
31 ~~construction, fireworks containing any explosive or combustible compound, and~~
32 ~~any tablet or other device containing an explosive substance THAT IS A~~
33 CONSUMER FIREWORK OR DISPLAY FIREWORK.

34 (b) Does not include:

35 (i) Toy pistols, toy canes, toy guns or other devices in which paper
36 caps containing not more than twenty-five hundredths grains of explosive
37 compound are used if constructed so that the hand cannot come in contact with
38 the cap when in place for the explosion.

39 (ii) Toy pistol paper caps that contain less than twenty-hundredths
40 grains of explosive mixture, or fixed ammunition or primers therefor.

41 (iii) Federally deregulated novelty items THAT ARE known as snappers,
42 snap caps, party poppers, ~~or~~ glow worms, SNAKES, TOY SMOKE DEVICES AND
43 SPARKLERS ~~that contain less than twenty five hundredths grains of explosive~~
44 ~~compound.~~

1 2- 4. "Governing body" means THE board of supervisors of a county as
2 to the area within the county but without the corporate limits of an
3 incorporated city or town, and means THE governing body of an incorporated
4 city or town as to the area within its corporate limits.

5 5. "PERMISSIBLE CONSUMER FIREWORKS":

6 (a) MEANS THE FOLLOWING TYPES OF CONSUMER FIREWORKS AS DEFINED BY THE
7 AMERICAN PYROTECHNICS ASSOCIATION STANDARD 87-1, STANDARD FOR CONSTRUCTION
8 AND APPROVAL FOR TRANSPORTATION OF FIREWORKS, NOVELTIES AND THEATRICAL
9 PYROTECHNICS, DECEMBER 1, 2001 VERSION:

10 (i) GROUND AND HAND-HELD SPARKLING DEVICES.

11 (ii) CYLINDRICAL FOUNTAINS.

12 (iii) CONE FOUNTAINS.

13 (iv) ILLUMINATING TORCHES.

14 (v) WHEELS.

15 (vi) GROUND SPINNERS.

16 (vii) FLITTER SPARKLERS.

17 (viii) TOY SMOKE DEVICES.

18 (ix) WIRE SPARKLERS OR DIPPED STICKS.

19 (x) MULTIPLE TUBE FIREWORKS DEVICES AND PYROTECHNIC ARTICLES.

20 (b) DOES NOT INCLUDE ANYTHING THAT IS DESIGNED OR INTENDED TO RISE
21 INTO THE AIR AND EXPLODE OR TO DETONATE IN THE AIR OR TO FLY ABOVE THE
22 GROUND, INCLUDING, FOR EXAMPLE, FIREWORK ITEMS COMMONLY KNOWN AS BOTTLE
23 ROCKETS, SKY ROCKETS, MISSILE-TYPE ROCKETS, HELICOPTERS, TORPEDOES, ROMAN
24 CANDLES AND JUMPING JACKS.

25 3- 6. "Person" includes AN individual, partnership, firm or
26 corporation.

27 Sec. 2. Section 36-1605, Arizona Revised Statutes, is amended to read:
28 36-1605. Permitted uses

29 This article ~~shall not be construed to~~ DOES NOT prohibit:

30 1. The sale at wholesale by a resident wholesaler, dealer or jobber of
31 fireworks ~~which~~ THAT are not prohibited by this article.

32 2. The sale of fireworks ~~which~~ THAT are to be and are shipped directly
33 out of the state.

34 3. The use of fireworks by railroads or other transportation agencies
35 for signal purposes or illumination.

36 4. The sale or use of explosives for blasting or other legitimate
37 industrial purposes.

38 5. The use of fireworks or explosives, or both, by farmers, ranchers
39 and their employees, and by state and federal employees who manage wildlife
40 resources, to rally, drive or otherwise disperse concentrations of wildlife
41 for the purpose of protecting property or wildlife.

42 6. THE SALE OF PERMISSIBLE CONSUMER FIREWORKS BY A RETAIL
43 ESTABLISHMENT IF THE RETAIL ESTABLISHMENT COMPLIES WITH THE RULES ADOPTED
44 PURSUANT TO SECTION 36-1609.

1 7. THE USE OF PERMISSIBLE CONSUMER FIREWORKS BY THE GENERAL PUBLIC,
2 UNLESS THE USE IS PROHIBITED BY A GOVERNING BODY OF AN INCORPORATED CITY OR
3 TOWN.

4 Sec. 3. Section 36-1606, Arizona Revised Statutes, is amended to read:

5 36-1606. Consumer fireworks regulation; state preemption;
6 further regulation of fireworks by local
7 jurisdiction

8 THE SALE AND USE OF PERMISSIBLE CONSUMER FIREWORKS ARE OF STATEWIDE
9 CONCERN. THE REGULATION OF PERMISSIBLE CONSUMER FIREWORKS PURSUANT TO THIS
10 ARTICLE AND THEIR USE IS NOT SUBJECT TO FURTHER REGULATION BY A GOVERNING
11 BODY. EXCEPT THAT AN INCORPORATED CITY OR TOWN MAY REGULATE THE USE OF
12 PERMISSIBLE CONSUMER FIREWORKS WITHIN ITS CORPORATE LIMITS AND A COUNTY MAY
13 REGULATE THE USE OF PERMISSIBLE CONSUMER FIREWORKS WITHIN THE UNINCORPORATED
14 AREAS OF THE COUNTY DURING TIMES WHEN THERE IS A REASONABLE RISK OF WILDFIRES
15 IN THE IMMEDIATE COUNTY. This article ~~shall not be construed to~~ DOES NOT
16 prohibit the imposition by ~~municipal~~ ordinance of further regulations and
17 prohibitions ~~upon~~ ON the sale, use and possession of fireworks ~~within an~~
18 ~~incorporated city or town~~ OTHER THAN PERMISSIBLE CONSUMER FIREWORKS BY A
19 GOVERNING BODY. ~~No such city or town~~ A GOVERNING BODY shall NOT permit or
20 authorize the sale, use or possession of any fireworks in violation of this
21 article.

22 Sec. 4. Title 36, chapter 13, article 1, Arizona Revised Statutes, is
23 amended by adding sections 36-1609 and 36-1610, to read:

24 36-1609. State fire marshal; adoption of code; sale of
25 permissible consumer fireworks

26 A. THE STATE FIRE MARSHAL SHALL ADOPT RULES PURSUANT TO TITLE 41,
27 CHAPTER 6 TO CARRY OUT THIS ARTICLE, INCLUDING A RULE THAT ADOPTS THE
28 NATIONAL FIRE PROTECTION ASSOCIATION CODE FOR THE MANUFACTURE,
29 TRANSPORTATION, STORAGE AND RETAIL SALES OF FIREWORKS AND PYROTECHNIC
30 ARTICLES, 2006 EDITION. A PERSON WHO SELLS PERMISSIBLE CONSUMER FIREWORKS TO
31 THE PUBLIC SHALL COMPLY WITH THOSE RULES RELATING TO THE STORAGE OF CONSUMER
32 FIREWORKS AND RELATING TO THE RETAIL SALES OF CONSUMER FIREWORKS BEFORE
33 SELLING PERMISSIBLE CONSUMER FIREWORKS TO THE PUBLIC.

34 B. A PERSON SHALL NOT SELL OR PERMIT OR AUTHORIZE THE SALE OF
35 PERMISSIBLE CONSUMER FIREWORKS TO A PERSON WHO IS UNDER SIXTEEN YEARS OF AGE.

36 36-1610. Prohibited use of fireworks on state land; civil
37 penalty

38 A. THE STATE FIRE MARSHAL MAY IMPOSE A CIVIL PENALTY OF ONE THOUSAND
39 DOLLARS FOR EACH INCIDENT OF PROHIBITED USE OF FIREWORKS ON STATE LAND IN
40 VIOLATION OF THIS ARTICLE.

41 B. THE STATE FIRE MARSHAL SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
42 AND 35-147, CIVIL PENALTIES COLLECTED PURSUANT TO THIS SECTION IN THE FIRE
43 SUPPRESSION REVOLVING FUND ESTABLISHED BY SECTION 37-623.02.

1 Sec. 5. Section 37-623.02, Arizona Revised Statutes, is amended to
2 read:

3 37-623.02. Emergencies; prohibiting fireworks; liabilities and
4 expenses; fire suppression revolving fund

5 A. On request of the state forester, the governor may authorize the
6 state forester to incur liabilities for suppressing wildland fires and
7 responding to other unplanned all risk activities from unrestricted monies in
8 the state general fund whether or not the legislature is in session.

9 B. The state forester has the authority to prohibit the use of
10 fireworks during times of high fire potential in the unincorporated areas of
11 the state.

12 C. The state forester or the state forester's designee shall review
13 all liabilities incurred and expenditures made under this section and shall
14 report the expenditures to the department of administration for audit
15 according to department of administration rules. The state forester shall
16 transmit a copy of the report to the state emergency council.

17 D. Liabilities incurred under this section are subject to the
18 following limitations:

19 1. Wildland fire suppression or other unplanned all risk emergency
20 liabilities shall not exceed three million dollars of state general fund
21 monies pursuant to subsection A of this section in a fiscal year for costs
22 associated with suppressing wildland fires, supporting other unplanned all
23 risk activities such as fire, flood, earthquake, wind and hazardous material
24 responses and preparing for periods of extreme fire danger and pre-position
25 equipment and other fire suppression resources to provide for enhanced
26 initial attack on wildland fires. The state forester shall not incur
27 nonreimbursable liabilities for support of nonfire all risk activities. The
28 governor shall determine when periods of extreme fire danger exist and must
29 approve any expenditure for pre-positioning activities.

30 2. If the funding authorization in paragraph 1 of this subsection is
31 exhausted, or if the nonreimbursable liabilities incurred exceed the cash
32 balance of the fire suppression revolving fund, the state forester shall not
33 incur additional liabilities without the consent of a majority of the state
34 emergency council as authorized by section 35-192.

35 E. The state forester shall process and pay claims for reimbursement
36 for wildland fire suppression services as follows:

37 1. Except as provided by paragraph 2 of this subsection, within thirty
38 days after receiving a complete and correct claim for wildland fire
39 suppression services, the state forester shall pay the claim from available
40 monies that have not been committed to the payment of other wildfire
41 expenses.

42 2. Within thirty days after receiving a complete and correct claim for
43 wildland fire suppression services on federal lands, the state forester shall
44 complete the processing of the claim and forward the claim to the appropriate
45 federal agency.

1 3. For any valid claim other than for federal reimbursement, if there
2 is insufficient funding in the fire suppression revolving fund, the holder of
3 the unpaid claim shall be issued a certificate pursuant to section 35-189.

4 F. No later than December 31 of each year the state forester shall
5 submit a report to the joint legislative budget committee and the governor
6 detailing the specific uses of all monies authorized to be expended from the
7 fire suppression revolving fund and any additional monies authorized by the
8 governor to prepare for periods of extreme fire danger and pre-position
9 equipment and other fire suppression resources to provide for enhanced
10 initial attack on wildland fires.

11 G. Monies received for suppressing wildland fires, pre-positioning
12 equipment and firefighting resources and other unplanned all risk activities
13 may be used for the purposes of section 37-623 and this section.

14 H. The state forester shall adopt rules for administering the wildland
15 fire suppression monies authorized under this section, subject to approval of
16 the governor.

17 I. The state forester may require reimbursement from cities and other
18 political subdivisions of this state and state and federal agencies for costs
19 incurred in the suppression of wildland fires, pre-suppression or unplanned
20 all risk activities. Reimbursement shall be based on the terms and
21 conditions in cooperative agreements, land ownership or negligence. The
22 state forester may require reimbursement from individuals or businesses only
23 for costs incurred in the suppression of wildland fires or unplanned all risk
24 activities caused by their negligence or criminal acts.

25 J. ~~A~~ THE fire suppression revolving fund is established ~~for deposit~~
26 ~~of~~ CONSISTING OF CIVIL PENALTIES COLLECTED PURSUANT TO SECTION 36-1610 AND
27 monies received by the state forester for wildland fire suppression and
28 pre-positioning equipment and resources and for payment for activities
29 related to combating wildland fires and supporting other unplanned all risk
30 activities such as fire, flood, earthquake, wind and hazardous material
31 responses. The state forester shall not incur nonreimbursable liabilities
32 for support of nonfire all risk activities. The state forester shall
33 administer the fund, and all monies received for these activities shall be
34 deposited, pursuant to sections 35-146 and 35-147, in the fund. Monies in
35 the fire suppression revolving fund are continuously appropriated to the
36 state forester, except that if the unobligated balance of the fund exceeds
37 two million dollars at the end of any calendar year, the excess shall be
38 transferred to the state general fund. Monies in the fire suppression
39 revolving fund are otherwise exempt from the provisions of section 35-190
40 relating to lapsing of appropriations.

ORDINANCE NO. 2010- 33

AN ORDINANCE OF THE CITY OF PEORIA MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 9 OF THE PEORIA CITY CODE (1992) BY ENACTING SECTION 9-46 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; DEFINITIONS; ENACTING SECTION 9-47 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; PROHIBITED; EXCEPTIONS; ENACTING SECTION 9-48 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; SALE OF FIREWORKS; VIOLATIONS; ENACTING SECTION 9-49 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS; CIVIL PENALTY; ENACTING SECTION 9-50 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; AUTHORITY TO ENFORCE VIOLATIONS OF THIS ARTICLE; MEANS OF ENFORCEMENT; ENACTING SECTION 9-51 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; LIABILITY FOR EMERGENCY RESPONSES RELATED TO USE OF FIREWORKS; DEFINITIONS; ENACTING SECTION 9-52 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; PENALTY AND ESTABLISHING SECTIONS 9-53, 9-54, AND 9-55 AS RESERVED; PROVIDING FOR AN EXPIRATION DATE; AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council deem it necessary to adopt certain regulations to protect, enhance and promote the health, safety and welfare of the City of Peoria and its residents, and

WHEREAS, the Mayor and Council desire to prevent fire hazards which threaten the safety of individuals and private and public improvements, including residential, commercial and industrial dwellings, and

WHEREAS, due to the dry/desert like conditions, risk of fires, and terrain of the community there is a danger of fire with the use of consumer fireworks in the community that can cause significant harm to the community and its residents.

THEREFORE, It is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-46 which was previously reserved and now pertains to Fireworks; definitions and providing that Section 9-46 shall read as follows:

Sec. 9-46. Fireworks; definitions.

(a) The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Consumer fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601.

(2) *Display fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601.

(3) *Fireworks* means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework, display firework or permissible consumer firework as defined by Arizona Revised Statutes Section 36-1601.

(4) *Novelty item* means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers and certain toys as defined in Arizona Revised Statutes Section 36-1601.

(5) *Permissible consumer fireworks* means those fireworks as defined by Arizona Revised Statutes Section 36-1601 that may be sold within the City of Peoria even where the use of those items has been prohibited.

(6) *Supervised public display* means a monitored performance of display fireworks open to the public and authorized by permit by the Fire Marshall and/or Fire Chief or their designee.

SECTION 2. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-47 which was previously reserved and now pertains to Fireworks; prohibited; exceptions and providing that Section 9-47 shall read as follows:

Sec. 9-47. Fireworks; prohibited; exceptions.

(a) The use, discharge or ignition of fireworks within the City of Peoria is prohibited. The use of all consumer fireworks is banned within the incorporated City of Peoria.

(b) Permits may be granted by the Fire Marshal and/or Fire Chief or their designee for conducting a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection and in a manner that does not endanger persons, animals or property. A permit shall not be issued and may be revoked, during time periods of High Fire Danger warnings. The Fire Marshal and/or Fire Chief have authority to impose conditions on any permits granted.

(c) Failure to comply with any permit requirements issued by the Fire Marshal and/or Fire Chief shall result in the immediate termination of the permit and imposition of a civil penalty of not less than five hundred dollars (\$500.00) imposed by the Fire Chief. A revocation of the permit or imposition of a civil penalty may be appealed in the manner provided for license appeals pursuant to Chapter 11 of this code.

SECTION 3. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-48 which was previously reserved and now pertains to Fireworks; sale of fireworks and providing that Section 9-48 shall read as follows:

Sec. 9-48. Fireworks; sale of fireworks; violations.

(a) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen years of age.

(b) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.

(c) It shall be a class one misdemeanor to sell, permit or authorize the sale of permissible consumer fireworks in violation of state law.

SECTION 4. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-49 which was previously reserved and now pertains to Fireworks; posting of signs by persons engaged in the sale of fireworks; civil penalty and providing that Section 9-49 shall read as follows:

Sec. 9-49. Fireworks; posting of signs by persons engaged in the sale of fireworks; civil penalty.

(a) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:

(1) NOTICE: Use of fireworks, including permissible consumer fireworks is not allowed in the City of Peoria.

(2) Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.

(b) Any person who obtains a business license for the sale of retail fireworks under this section shall have signage placed at each cash register and in each area where fireworks are displayed for sale informing customers that the use of fireworks in the City of Peoria is prohibited.

(c) The prominently displayed signs are required to be at least 8½ X 11 at a minimum and the type (font) size cannot be less than 1 inch in size.

(d) Failure to comply with subparts a, b, and c of this section is a civil offense punishable by a civil fine of not less than two hundred dollars (\$250.00) for each violation.

SECTION 5. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-50 which was previously reserved and now pertains to Fireworks; authority to enforce violations of this article; means of enforcement and providing that Section 9-50 shall read as follows:

Sec. 9-50. Fireworks; authority to enforce violations of this article; means of enforcement.

(a) The Fire Marshal and/or Fire Chief or their designee, a police officer or the Peoria City Attorney may issue civil complaints to enforce violations of this article designated as civil offenses.

(b) Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil or criminal complaint.

(c) A Peoria police officer or the Peoria City Attorney may issue criminal complaints to enforce sections 9-46 through 9-52.

SECTION 6. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-51 which was previously reserved and now pertains to Fireworks; liability for emergency responses related to use of fireworks; definitions and providing that Section 9-51 shall read as follows:

Sec. 9-51. Fireworks; liability for emergency responses related to use of fireworks; definitions.

(a) A person who uses, discharges or ignites permissible consumer fireworks, fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this article is prima facie evidence of liability under this section.

(b) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subpart (a) of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities or not-for-profit entities that incurred the expenses. The person's liability for the expense of an emergency response shall not exceed five hundred sixty-nine dollars (\$569.00) per hour of emergency response time for a single incident depending on the apparatus and personnel required to respond. The person will be liable for a minimum hourly rate upon response. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

(c) For the purpose of this section:

(1) "Expenses of an emergency response" means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.

(2) "Reasonable costs" includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

SECTION 7. Chapter 9 of the Peoria City Code (1992) is amended by enacting Section 9-52 which was previously reserved and now pertains to Fireworks; penalty and providing that Section 9-52 shall read as follows:

Sec. 9-52. Fireworks; penalty.

The penalty for violating any prohibition or requirement imposed by this article is a class two misdemeanor and is punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) or jail time not to exceed four (4) months.

SECTION 8. Chapter 9 of the Peoria City Code (1992) is amended by establishing Sections 9-53, 9-54 and 9-55 as Reserved.

SECTION 9. The provisions of this ordinance shall automatically terminate on November 30, 2011.

SECTION 10. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 11. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,
Arizona, this 16th day of November, 2010.

CITY OF PEORIA, Arizona, an
Arizona municipal corporation



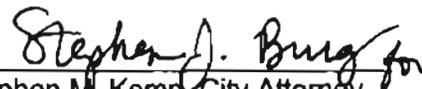
Bob Barrett, Mayor
DATE: 11/20/2010

ATTEST:


for Linda Beasly
City Clerk



APPROVED AS TO FORM:


Stephen M. Kemp, City Attorney

Published in Peoria Times

Publication Dates: November 19 and 26, 2010

Effective Date: December 21, 2010



ZONING ORDINANCE TEXT AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: TA 10-0239
DATE: December 16, 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 www.azdhs.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 statute 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 Facilities 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
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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

2010 Ballot Propositions & Judicial Performance Review

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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; classification

- 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 ADDRESS IS REQUIRED.

- (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 DISPENSARY 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 USER'S 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 NEGLIGENCE 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 WORKING WHILE UNDER THE INFLUENCE OF MARIJUANA.

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 DEVICES 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:



P & Z DEVELOPMENT SUMMARY

ACACIA

Name/Address	File #/Type	Comments	Case Status	Next Step
<u>An Old Town Get-Away</u> 8250 W MONROE ST	CU10-0245 Conditional Use Permit	Conditional Use Permit to allow a bed and breakfast establishment.	In review. 1st Comments due 12/13/10.	
Circle K SEC 83rd Ave. & Olive Ave.	SP10-0217 Site Plan	Site Plan for a Convenience Store and Gas Pumps.	Project in review. 1st Comments due 11/15/10. 1st set of review comments out to applicant on 11/9/10.	Awaiting resubmittal from applicant.
All-Pro Hydrojetting SEC 76th Dr. & Carol Ave.	SP10-0003 Site Plan	Onsite storage of restaurant oil and grease waste stored in tanks.	1st review comments sent 2/3/10.	Waiting for resubmittal.
Rock of Ages N/O NWC 79th Ave. & Cholla St.	PR09-11 Site Plan	Site Plan for addition to existing building.	2nd review comments sent out 2/4/10.	Awaiting applicants resubmittal.

IRONWOOD

Name/Address	File #/Type	Comments	Case Status	Next Step
<u>Amethyst Arbor</u> 9257 W UNION HILLS DR	DR10-0235 Design Review	Paint color change to existing façade.	1st Comments due 12/6/10.	Complete 1st review comments
<u>Inn at Amethyst</u> 18172 N 91ST AV	DR10-0233 Design Review	Paint color change to existing façade.	1st Comments due 12/6/10.	Complete 1st review comments

MESQUITE

Name/Address	File #/Type	Comments	Case Status	Next Step
<u>Lake Pleasant Pavilions 6A & 6B</u> W/O SWC Lake Pleasant Pkwy. & Happy Valley Pkwy.	SP10-0244 Site Plan	Site Plan for a 5,500 square foot retail building and a 4,343 square foot restaurant building.	1st Comments due 12/9/10.	
<u>Trilogy Parcel C9</u> NW of Trilogy Blvd. & Claret Cup Rd.	DR10-0237 Design Review	Design Review for Single Family homes.	1st Comments due 12/7/10.	Complete 1st review comments
Meritage Homes at Cibola Vista E/O Lake Pleasant Parkway & Pinnacle Vista Dr.	DR10-0081 Design Review	Plan additions to previously approved Single Family homes plans.	Approved 11/2/2010	Construction Documents
Sunset Ranch NEC Lake Pleasant Rd. & Williams Rd.	DR10-0220 Design Review	Design Review for Single Family Homes.	Approved 11/4/2010	Construction Documents
Cibola Vista N/E of Jomax Rd. & Lake Pleasant Pkwy.	Z00-10A.5 PAD Amendment	Increase lot coverage in R1-8 to allow 50% coverage for single story homes and 45% coverage for two-story homes.	Review completed. Amendment has been advertised in newspaper on 10/22/10. If no appeal received by 11/8/10, amendment will be approved administratively. Amendment was approved on 11/9/10.	Home builder may submit building plans.
Terramar 9B SWC Bronco Trail & Terramar Blvd.	WW10-0191 Wall Waiver	To increase the allowable wall height for 3 lots adjacent to an undeveloped exception parcel between the subdivision lots.	Case has been withdrawn. Current survey concludes the wall will be able to be constructed in accordance with Zoning Ordinance guidelines.	Withdraw Case and close file.

MESQUITE

Name/Address	File #/Type	Comments	Case Status	Next Step
67th Ave. & Happy Valley Rd. 67th Ave. & Happy Valley Rd.	V10-0179 Variance	Setback & Landscape Buffer Reduction.	Waiting for rezoning results to complete review of variance. Case expected to go to BOA in December.	Advertise case for BOA after Rezoning passes P&Z.
67th Ave. & Happy Valley Rd. S/O SWC 67th Ave. & Happy Valley Rd.	Z10-0119 Rezone	Rezone approximately .113 acres from Suburban Ranch (SR-43) to Intermediate Commercial (C-2).	Advertised and prepared for 10/7/10 P&Z and 11/16/10 CC.	11/16/10 CC hearing
Clearwire Cellular @ Sunrise Water Company 8040 W. Williams Rd.	SP10-0123 Site Plan	Site Plan for a new Mono-Palm.	Awaiting responses from applicant regarding acceptable tree irrigation methods.	Awaiting applicants response.
Happy Valley Basic School 7140 W. Happy Valley Rd.	PR99-30A.1 Site Plan Amendment	Site Plan Amendment to add two modular class room buildings.	1st review comments sent 7/7/10.	Waiting for resubmittal.
Meadows Parcel 4 NWC 95th Ave. & Deer Valley Rd.	P10-0112 Preliminary Plat	Preliminary Plat for 227 Single Family residential lots.	1st review comments sent out on July 8th.	Awaiting resubmittal by applicant.
Vistancia Parcel C1 NWC Vistancia Blvd. & Whispering Ridge.	P10-0113 Preliminary Plat	Preliminary Plat for 19 Single Family Residential Lots.	3rd Review Comments Due 12/8/2010	Complete 3rd Review
Vistancia Parcel C4 Trilogy Blvd. & Mayberry Trail	P10-0114 Preliminary Plat	Preliminary Plat for 39 Single Family Residential Lots.	3rd Submittal Received.	Comments due December 8, 2010.
Vistancia Parcel C8 NWC Trilogy Blvd. & Dixileta Pkwy.	P10-0115 Preliminary Plat	Preliminary Plat for 21 Single Family Residential Lots.	3rd Review Comments Due 12/8/2010	Complete 3rd Review
Clearwire Sun Groves N/O NWC Lake Pleasant Rd. & Beardsley Rd.	CU10-0093 Conditional Use	Conditional Use Permit for a 65' monopalm.	1st Review comments sent out 5/12/10.	Awaiting 2nd Submittal.
Clearwire Sun Groves N/O NWC Lake Pleasant Rd. & Beardsley Rd.	SP10-0092 Site Plan	Site Plan for a monopalm and ground equipment.	1st Review comments sent out 5/12/10.	Awaiting 2nd Submittal. See associated CUP (CU10-0093).
Agua Fria 426 NWC Old Carefree Highway and the 91st Ave alignment	Z07-02 Rezone	Rezone for 426 acres from AG to PAD (mixed use - residential/commercial/resort/open space). Have met with owner's rep since the issuance of comments (2010).	Review comments out to applicant on 4/29/2008.	Awaiting resubmittal.
Agua Fria 426 NWC Old Carefree Highway and 91st Ave alignment	GPA07-01 General Plan Amendment	General Plan Amendment for a portion of a 426 acre site to allow for a mixed use - residential/commercial/resort/open space development. Have met with owner's rep since the issuance of comments (2010).	Review comments out August 6, 2007.	Awaiting applicant's resubmittal.
Pecoria Shell S/O SEC Lake Pleasant Pkwy. & Happy Valley Rd.	CU10-0045 Conditional Use	Conditional Use Permit for a gas station and convenience store.	Approved by Council on 11/16.	

MESQUITE

Name/Address	File #/Type	Comments	Case Status	Next Step
Peoria Shell S/O SEC Lake Pleasant Pkwy. & Happy Valley Rd.	SP10-0058 Site Plan	Site Plan for a 3,000 square foot convenience store and gas station.	3rd review complete.	Council approval required changes to site plan. Waiting for 4th submittal.
Offices at 83rd Ave. & Pinnacle Peak SWC 83rd Ave. & Pinnacle Peak Rd.	Z07-09 Rezone	Rezone 10 acres from Agriculture to Office Commercial.	Continued indefinitely.	Last contact w/ applicant 3/31/10 seeking status update. Property supposedly in foreclosure. Multiple calls received by investors. No submittal/hearing activity since 8/26/08.
Offices at 83rd Ave. & Pinnacle Peak Rd. SWC 83rd Ave. & Pinnacle Peak Rd.	GPA07-05 Minor General Plan Amendment	Change General Plan designation from Residential Estate to Office.	Indefinite continuance approved by City Council on 8/26/08.	Last contact w/ applicant 3/31/10 seeking status update or request for withdrawal. Property supposedly in foreclosure. Multiple calls received by investors. No submittal/hearing activity since 8/26/08.
Southwest Sand & Gravel NWC 107th Ave. & Jomax Rd.	Z08-09 Rezone	Rezone approximately 75 acres to allow mining for sand & gravel.	Comments issued 9/19/08. Awaiting 2nd submittal.	Legal Department is working on a proposed agreement with ASLD regarding all mining operations; case to remain active until agreement reached or normal case review activity ceases.
Offices at 83rd Ave. & Pinnacle Peak Rd. SWC 83rd Ave. & Pinnacle Peak Rd.	PR07-24 Site Plan	Site Plan for an office complex.	Associated zoning and GPA applications continued indefinitely.	No submittal activity since 8/26/08.
APS Annexation Loop 303, Dysart Rd, 115th Ave, Jomax Rd	ANX07-04 Annexation	Combination annexation of State and private land. Includes APS Westwing site.	On-going discussion with State Land regarding appropriate land uses within annexation area.	Awaiting state selection board hearing.
Boulders @ White Peak SWC Dixileta Pkwy. & Dysart Rd.	P05-19 Preliminary Plat	465 Single Family Residential lots on 160 acres.	Case inactive since 4th submittal comments sent out on 2/2/09.	Inactivity letter sent on 9/14/10. If no response received within 30 days, the case will be administratively closed. **Update: Applicant has requested a 6-month extension. New expiration date is April 5, 2011.
City of Peoria Annexation Section 6/T5N/R1E - N/O Happy Valley Rd.	ANX09-02 Annexation	Annexation of 168 acres	BLM Annexation. Documents to DOR/Assessor 6/4/09.	Need to process petition.
City of Peoria Annexation Section 29/T5N/R1E - N/O Happy Valley Rd.	ANX09-01 Annexation	Annexation of 101 acres.	BLM Annexation. Documents to DOR/Assessor 6/4/09.	Need to process petition.
Columbia Communities/Verona Estates S/O SWC Lone Mountain & Vistancia Blvd.	Z06-23 Rezone	Rezone SR-43 (Single Family) to PAD (Planned Area Development. Related to case GPA06-19.	Case inactive since 3rd review comments sent 6/17/08.	Inactivity letter sent on 9/14/10. If no response received within 30 days, the case will be administratively closed. **Update: Applicant has requested a 6-month extension. New expiration date is April 20, 2011.

MESQUITE

Name/Address	File #/Type	Comments	Case Status	Next Step
Columbia Communities/Verona Estates S/O SWC Lone Mountain & Vistancia Blvd.	GPA06-19 Minor General Plan Amendment	Change land use designation from Estate Residential (0-2 du/ac) to Low Density Residential (2-5 du/ac).	To move forward together with rezone case Z06-23.	Inactivity letter sent on 9/14/10. If no response received within 30 days, the case will be administratively closed. **Update: Applicant has requested a 6-month extension. New expiration date is April 20, 2011.
Mt. Pleasant N/O SR 74 & Castle Hot Springs Rd.	Z07-04 Rezone	Rezone AG (General Agricultural) to PAD (Planned Area Development) for residential & resort.	1st review comments sent 7/31/07. Meeting with applicant on 3/27/08. Case inactive since 3/27/08.	Inactivity letter sent on 9/14/10. If no response received within 30 days, the case will be administratively closed. **Update: New ownership has responded to inactivity letter. The case will be granted a six-month extension (expiration date of 4/18/2011).
Retail Center SWC 67th Ave. & Happy Valley Rd.	PR08-04 Site Plan	4 acre site plan multiple retail pads	Site plan review on hold until rezoning of 15' strip (south of property) is complete. Rezoning set for 11/16/10 City Council Hearing.	Continue review of site plan and approve once rezoning is complete.
Retail Center at Pinnacle Peak SEC Lake Pleasant Rd. & Pinnacle Peak Rd.	PR07-40 Site Plan	Site Plan for retail shops on 1.3 acres.	Administratively withdrawn (11/19/10).	New submittal required.
The Villages at Aloravita SEC 83rd Ave. & Jomax Rd.	Z08-02 Rezone	Rezone 628 acres from AG (General Agricultural) to PCD (Planned Community District).	Had several meetings with applicant to discuss PCD submittal materials; met with engineering consultant(s) regarding utilities, pressure zones, submittal requirements and timelines; met with applicant and Legal Dept. regarding development agreement.	Awaiting formal submittal of PCD and supporting documents
Tierra Del Rio NWC 99th Ave. & Jomax Rd.	Z04-34A.5 Rezone	Proposed changes to density, varying lot sizes, and access.	Scheduled for 1/7/10 P&Z. Update - Property has been sold from Pulte to Corona (Sunbelt Holdings is managing). Indefinite continuance has been requested.	Awaiting new P&Z hearing date request by applicant.
Village at Lake Pleasant S/O SEC Happy Valley Rd. & Lake Pleasant Pkwy.	PR08-43 Site Plan	Site Plan for commercial project.	1st review comments sent 2/17/09.	Awaiting resubmittal.
Village at Lake Pleasant S/O SEC Happy Valley Rd. & Lake Pleasant Pkwy.	V08-07 Variance	Variance request for a reduction in landscape buffer width from 30 feet to 20 feet.	1st comments sent 1/30/09.	Awaiting resubmittal
Village at Lake Pleasant S/O SEC Happy Valley Rd. & Lake Pleasant Pkwy.	Z08-13 Rezone	Rezone from SR-43 (Suburban Ranch residential) to C-2 (Intermediate Commercial).	1st review comments sent 1/30/09.	Awaiting resubmittal.

MESQUITE

Name/Address	File #/Type	Comments	Case Status	Next Step
Village at Lake Pleasant S/O SEC Happy Valley Rd. & Lake Pleasant Pkwy.	GPA08-11 General Plan Amendment	General Plan Amendment to change 20 acres from Residential/Estate to Community Commercial.	1st review comments sent 1/30/09.	Awaiting resubmittal.

PALO VERDE

Name/Address	File #/Type	Comments	Case Status	Next Step
Casa del Sol NEC 91st Ave. & Yucca St.	CU10-0214 Conditional Use Permit	Conditional Use Permit to allow RV's in an existing Manufactured Home Park.	Project in review. Case has been scheduled for 12/2/10 Planning and Zoning Commission Hearing.	

PINE

Name/Address	File #/Type	Comments	Case Status	Next Step
AT&T Country Meadows SEC 111th Ave. & Butler Dr.	SP10-0211 Site Plan	Monopole co-location on golf safety net.	Comments sent 11/22	Waiting for 2nd submittal
AT&T Country Meadows SEC 111th Ave. & Butler Dr.	CU10-0213 Conditional Use Permit	Monopole co-location on golf safety net.	Comments sent 11/22	Waiting for 2nd submittal
Clearwire Alta Loma SWC 87th Ave. & Mountain View Rd.	SP10-0135 Site Plan	Site Plan for a 57 foot mono-palm.	2nd review comments sent 8/9/10.	Waiting for resubmittal.
SPR Telecom NEC 91st Ave. & Butler Dr.	SP10-0078 Site Plan	Site Plan for an 80 foot cell tower.	3rd review comments sent 9/16/10.	Waiting for resubmittal.
SRP Telecom NEC 91st Ave. & Butler Dr.	CU10-0077 Conditional Use Permit	Conditional Use Permit to allow an 80 foot cell tower.	3rd review comments sent 9/16/10.	Waiting for resubmittal.
Loan Mart SEC 91st Ave. & Olive Ave.	CU10-0118 Conditional Use Permit	Conditional Use Permit application to allow a gold buying business in conjunction with an existing payday loans establishment.	Approved 11/4/10 by the Planning & Zoning Commission.	Applicant may begin operating gold buying business in conformance with all other City requirements (business license, etc.)

WILLOW

Name/Address	File #/Type	Comments	Case Status	Next Step
<u>America's Gold Buyers</u> 7518 W THUNDERBIRD RD #102	CU10-0232 Conditional Use Permit	Conditional Use Permit to allow a Gold Buying business.	1st review comments sent 11.23.10.	Waiting for applicant to resubmit plans.
<u>Target</u> 8055 W BELL RD	DR10-0246 Design Review	Paint color changes to façade.	1st Comments due 12/14/10.	Complete 1st review comments
Old Navy SWC 77th Ave. & Bell Rd	DR10-0210 Design Review	Façade change to building at new location.	Approved 11/16/2010	Construction Documents & Sign Permit Submittal
Cost Plus World Market SEC 75th Ave. & Bell Rd.	CU10-0192 Conditional Use Permit	Conditional Use Permit to change their current Series 10 liquor license to a Series 7 liquor license.	Scheduled for the 12/16 P&Z hearing.	12/16 - P&Z hearing
Salty Seniorita W/O SWC 77th Ave. & Paradise Lane	CU10-0185 Conditional Use Permit	Conditional Use Permit to change their current Series 12 liquor license to a Series 6 liquor license.	P&Z 11/4 - Approved.	

WILLOW

Name/Address	File #/Type	Comments	Case Status	Next Step
Clearwire Wireless - Heritage Mortuary W/O NWC 67th Ave. & Thunderbird Rd.	SP10-0042 Site Plan	Site Plan for a 65' mono-pine and ground equipment.	CUP appealed to City Council- case continued, to be heard before council prior to Sept. 2011.	See associated Conditional Use Permit (CU10-0042).
Clearwire Wireless - Heritage Mortuary W/O NWC 67th Ave. & Thunderbird Rd.	CU10-0044 Conditional Use	Conditional Use Permit for a 65' mono-pine and ground equipment.	CUP appealed to City Council- case continued, to be heard before council prior to Sept. 2011.	Await City Council decision.