



Recreational Marijuana

Smart and Safe Arizona Act





Objectives

- 1. Provide Overview of Smart and Safe Arizona Act**
 - a. History
 - b. Key Provisions
 - c. Enforcement Issues
- 2. Review Prior Council Direction**
- 3. First Read of Proposed Ordinance**



History

- **Smart and Safe Arizona Act**
 - Certified as Proposition 207 (statewide voter initiative).
 - Passed by Arizona voters at Nov. 3, 2020 general election.
 - State: 60% Yes, 40% No
 - Coconino: 65% Yes, 35% No
 - Became effective on December 1, 2020.
 - The Act declared that “the responsible adult use of marijuana should be legal for persons twenty one years of age or older, subject to state regulation, taxation, and local ordinance.”



Key Provisions

Legalizes Sale, Use, and Possession of Recreational Marijuana

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



Key Provisions

The Act does not:

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



Key Provisions

The Act Authorizes Cities to:

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



Key Provisions

The Act Authorizes Cities to:

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



Enforcement Issues

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



Enforcement Issues



Penalties under the Acts:

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



Prior Council Direction

Direction Given at January 12, 2021 Work Session

- Do not limit recreational establishments to dual licensees.
- Do not prohibit testing facilities.
- Wait on potential regulation of delivery.
- Prohibit consuming, growing, transferring, selling, etc., on City property. Look into possible exception for City housing facilities.
- Prohibit use on private property if posted.
- Add violations that did not carry over in the Act and make penalties consistent with penalties in Act.
- Same zoning as applied to medical establishments.



Proposed Ordinance

- Reflects prior Council direction.
- No exception for use in City housing facilities.
 - After consulting with Housing staff and reviewing Federal housing laws and guidance from the U.S. Department of Housing and Urban Development (HUD), we determined that an exception to allow the use of marijuana in our housing facilities would conflict with applicable federal laws and HUD guidance.
- Added requirement that individuals lawfully detained provide full name, date of birth, and current address.
- Zoning amendments will be brought to Council at a later date.



The End



Questions?



FAQ



- **What are social equity licenses?**
 - Licensing program “to promote the ownership and operation of marijuana establishments and marijuana testing facilities by individuals from communities disproportionately impacted by the enforcement of previous marijuana laws.”
 - 26 allowed statewide.
 - Waiting on rules from Arizona Department of Health Services.



FAQ



- **Definition of “Public Place”**

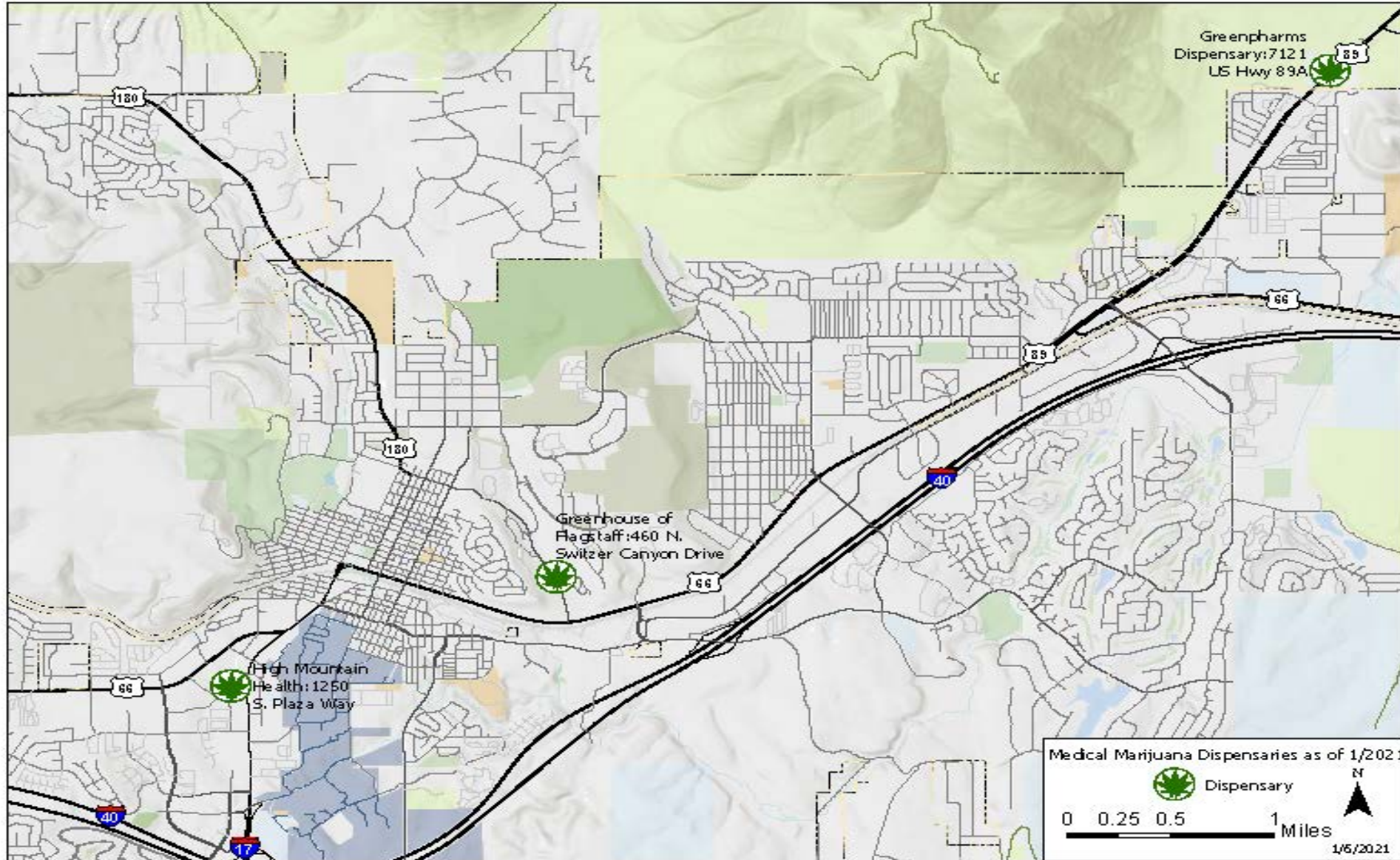
"Public place" means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

- **Definition of “Open Space”**

"Open space" means a public park, public sidewalk, public walkway, or public pedestrian thoroughfare.



Medical Establishments





Medical Dispensary Zoning

Summary of Requirements:

- Located in a Permanent building that has:
 - secure storage facilities
 - secure entrance
 - alarm
- No drive-through service is allowed.
- No emissions of dust, fumes, vapors, smoke, or odors are allowed.
- No outdoor seating areas.
- No consumption on the property is allowed.



Medical Dispensary Zoning

Location Requirements:

Minimum of a 2,000 foot separation from another dispensary or off-site cultivation location.

Minimum of a 500 foot separation from a/an:

- substance abuse treatment or residential rehabilitation facility.
- community college or university.
- any public, private, parochial, charter, dramatic, dancing, music learning center, or other similar school or educational facility that caters to children.
- daycare home or daycare center.
- public library or public park.
- facility devoted to family recreation or entertainment.



FAQ



- **If City does not limit to dual licensees, how many retail sites could be located in Flagstaff?**
 - Limited by zoning.
 - Licenses allowed statewide:
 - No more than 1:10 ratio with pharmacies.
 - 26 social equity licenses.
- **How many medical dispensaries can be located in Flagstaff?**
 - Case by case under current zoning -- multiple likely.