



# 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)
<b>Medical Marijuana Card holder</b>	No Charge	36-2853(C) Petty Offense	No Charge	No Charge	13-3405(A)(1) POM 13-3408(A)(1) POND
<b>21 and Over</b>	No Charge	36-2853(C) Petty Offense	No Charge	36-2853(A) Petty Offense	13-3405(A)(1) POM 13-3408(A)(1) POND
<b>Under 21</b>	36-2853(B) 1 <sup>st</sup> Offense = Civil Violation 100.00 2 <sup>nd</sup> Offense = Petty Offense 3 <sup>rd</sup> or More Offense = Class 1 Misdemeanor	36-2853(C) Petty Offense	36-2853(B) 1 <sup>st</sup> Offense = Civil Violation 100.00 2 <sup>nd</sup> Offense = Petty Offense 3 <sup>rd</sup> 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, with two exceptions:
  - Council amended the proposed ordinance at the first read on March 2 to limit marijuana establishments to dual licensees.
  - 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?