

ORDINANCE NO. 2022-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 6, POLICE REGULATIONS, CHAPTER 6-10, REGULATION OF RECREATIONAL MARIJUANA; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the “Smart and Safe Arizona Act,” certified as Proposition 207 (the “Act”), was passed by Arizona voters at the November 3, 2020 general election; and

WHEREAS, the Act authorizes in part (1) the sale of non-medicinal recreational marijuana to adults who are at least twenty-one years of age, (2) adults over age twenty-one to possess marijuana for recreational use, (3) adults over age twenty-one to possess, transport, cultivate, or process marijuana plants in a primary residence, and (4) cities to enact regulations relating to marijuana including limitations on recreational marijuana retail establishments, marijuana testing facilities, and delivery of recreational marijuana; and

WHEREAS, on March 16, 2021, the Flagstaff City Council adopted Ordinance 2021-03, which enacted certain regulations regarding the use and sale of recreational marijuana in Flagstaff; and

WHEREAS, one of the regulations adopted by Council prohibits the operation of recreational marijuana establishments in Flagstaff, except where authorized by a dual licensee that is permitted by the State of Arizona to operate both a nonprofit medical marijuana dispensary and a marijuana establishment at a shared location; and

WHEREAS, in accordance with and as permitted by state law and codified rule, the City Council seeks to protect public health, safety, and welfare by amending Chapter 6-10, Regulation of Recreational Marijuana to allow for the operation of recreational marijuana retail establishments that may not be dual licensees.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. Flagstaff City Code Title 6, *Police Regulations*, Chapter 6-10, *Regulation of Recreational Marijuana*, Section 6-10-001-0004 is hereby amended as follows:

6-10-001-0004 MARIJUANA ESTABLISHMENT PROHIBITED; EXCEPTION RESERVED

~~The operation of a marijuana establishment is prohibited in Flagstaff, except where authorized for a dual licensee that:~~

- ~~(1) — Is permitted by the State of Arizona to operate both a nonprofit medical marijuana dispensary and a marijuana establishment at a shared location, and~~

~~(2) — Has not terminated its status as a dual licensee with the Arizona Department of Health Services by forfeiting either its marijuana establishment license or nonprofit medical marijuana dispensary registration.~~

SECTION 2. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of September 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY