

Staff Summary Report



Development Review Commission Date: 12/14/10

Agenda Item Number: 5

SUBJECT: Hold a public hearing for a Code Text Amendment for AZ MEDICAL MARIJUANA ACT.

DOCUMENT NAME: DRCr_MedicalMarijuanaAct_121410
ZONING AND DEVELOPMENT CODE (0414-03, 0414-06, 0414-07)
CITY CODE (0503-26)

COMMENTS: Request for **AZ MEDICAL MARIJUANA ACT (PL100378)** (City of Tempe, Community Development, applicant) consisting of changes within the Zoning and Development Code and City Code regarding Proposition 203, a voter-approved initiative for the legalization of Medical Marijuana. The request includes the following:

ZOA10003 – (Ordinance No. 2011.01) Code Text Amendment for Zoning and Development Code Sections 3-102, 3-202, 3-302, 3-426, 6-313, 7-114 and City Code Section 26-70.

PREPARED BY: Ryan Levesque, Senior Planner (480-858-2393)

REVIEWED BY: Lisa Collins, Community Development Deputy Director (480-350-8989)

LEGAL REVIEW BY: Teresa Voss, Assistant City Attorney (480-350-8814)

DEPARTMENT REVIEW BY: Lisa Collins, Community Development Deputy Director (480-350-8989) 

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval

ADDITIONAL INFO: On November 23, 2010, the Development Review Commission conducted a study session regarding potential regulations for medical marijuana.
On December 1, 2010, the Neighborhood Advisory Commission was provided a presentation by staff on potential regulations.

PAGES:

1. List of Attachments
- 2-4. Comments
5. History & Facts / Zoning & Development Code Reference

ATTACHMENTS:

- 1-6. Ordinance No. 2011.01
- 7-18. Proposition 203 ballot initiative
- 19-24. Arizona League of Cities and Towns – Model Ordinance
25. Public Comments from Website (as of 12/09/10)

COMMENTS:

This is a request for code text amendments within the Zoning and Development Code pertaining to the regulation of medical marijuana dispensaries within the City of Tempe, including an amendment within the City Code related to Security Plans. Proposition 203, cited as the "Arizona Medical Marijuana Act", is a voter-approved initiative that will enable a "qualifying patient" who is registered with the Arizona Department of Health Services (ADHS), to legally obtain an "allowable amount of usable marijuana" from a "nonprofit medical marijuana dispensary" and possess and use the marijuana to treat or alleviate symptoms associated with a "debilitating medical condition." With the adoption of Proposition 203, ADHS has up to 120 days to adopt rules which govern medical marijuana procedures. ADHS has indicated they will give municipalities time to adopt zoning regulations before they start issuing permits. The League of Arizona Cities and Towns recommends municipalities adopt local dispensary zoning regulations as soon as possible.

City staff has been participating in a workgroup formed by the League of Arizona Cities and Towns which includes city attorneys, planning and zoning, and intergovernmental staff in the region to develop a model ordinance to implement Proposition 203, Medical Marijuana. The ballot initiative gives cities and towns the ability to "...enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries to specified areas..."

Applicants for medical marijuana dispensaries must apply to ADHS for a permit and must certify that their dispensary location is in compliance with local ordinances; there is a limit of 120 dispensaries statewide, which may include an additional off-site cultivation.

The City of Tempe, Community Development Department, has prepared an ordinance addressing land use regulations applicable to Tempe. These base regulations reflect the initial work and resources prepared by the Arizona League of Cities and Towns, factoring Tempe's existing land use regulations that have use separation requirements and coordination with our Tempe Police Department on security requirements. We are considering the following criteria for zoning ordinance regulations in Tempe:

- Locations limited to commercial districts (without cultivation) and industrial zoning districts.
- 1,320 foot (1/4 mile) separation requirement from churches, schools, other dispensaries or cultivation facilities, child care facilities, public parks, libraries or public community buildings, and residential districts. (The initiative prohibits dispensaries from locating within five hundred feet of a public or private school)
- Security Plan required to address access to facility, closed circuit television cameras, dusk to dawn light and conformance with our lighting standard, age restrictions, proper disposal of remnants and by-products, etc. (The initiative requires an on-site alarm system and limits of only one secured entrance.)
- Limit hours of operation to daytime hours (8 A.M. to 6 P.M.).
- A maximum square footage limitation based on only one (1) exterior doorway allowed. Size will be restricted by applicable Building and Fire Codes.
- Permanent buildings required for facility; no trailers, mobile units, etc.
- Prohibiting a drive-through.

COMPARISON WITH THE LEAGUE OF CITIES AND TOWNS – MODEL ORDINANCE

In Late October 2010, the League of Cities and Towns, through collaboration with local municipalities, drafted a model ordinance which included among other items: definitions, permitted land use districts, application and operation requirements.

City of Tempe's proposed ordinance provides the similar zoning district classifications that are identified in the model ordinance: Commercial districts would allow a medical marijuana dispensary without cultivation; and General and Heavy Industrial districts would allow either dispensary and/or cultivation. Tempe's proposed ordinance proposes separation of uses, as does the Arizona League of Cities and Town's model ordinance. Tempe's proposed distance separation uses the limitations previously established for other uses in Tempe's Code.

TEMPE'S CURRENT SEPARATION REQUIREMENTS FOR OTHER USES

The City's Zoning and Development Code currently contains reasonable regulations concerning separation requirements for land uses that are not considered compatible with certain uses. The distance separation requirements proposed for medical marijuana coincide with other uses with separation requirements in the Zoning and Development Code. Current separation requirements are measured from the lot line to another property's lot line, which include the following:

Group Homes for Adult Care

1,200 foot separation from another Group Home

Adult-Oriented Business

1,320 foot separation from another Adult-Oriented Business, Child Care Facility, Public or Private School, Place of Worship, Library, Public Playground, Community Building, Public or Private Recreational Facility, Bar, and Residential Districts or lot devoted to such use.

Non-Chartered Financial Institutions (Pay Day Loan companies)

1,320 foot separation from another Non-Chartered Financial Institution

500 foot separation from a Residential District

Auto Title Loan

1,320 foot separation from another Auto Title Loan company

Tobacco Retailer (includes a smoke shop)

1,320 foot separation from a Public or Private School

Tattoo, Body Piercing Establishment

1,320 foot separation from another Tattoo or Body Piercing Establishment

500 foot separation from a Residential District, and a Public or Private School

SECURITY PLAN

Specific security measures are proposed in this ordinance for all medical marijuana dispensaries, in addition to the process procedures of conducting a security plan with the Tempe Police Department. These measures will ensure safety for the customers, for the business, as well as surrounding areas.

ACCEPTANCE PROCEDURES

In addition to the location and operation regulations set forth by this ordinance, an acceptance procedure is included outlining the administrative review required for such business. A complete application is required to be submitted to the Planning Division in order to receive proper clearance of the use location, compliance with the ordinance requirements and review procedures with the Police Department and Building Safety Division for tenant improvements. City of Tempe will be working closely with the Arizona Department of Health Services as they begin preparation for their process procedures for cardholders, caregivers and dispensary permits. Once those procedures are determined, Tempe can set a date where applications may be submitted for review. ADHS will provide draft procedures by December 17, 2010, open for public input, and finalize procedures by March 2011. ADHS expects to start accepting applications by April 2011.

PUBLIC INPUT

At the December 1, 2010, Neighborhood Advisory Commission meeting, staff presented a Powerpoint outline of preliminary draft separation requirements and regulations to be considered for medical marijuana dispensaries. The presentation also included the current separation requirements for the City and what other municipalities are considering at this time. In addition to the members there were about 4-5 citizens in attendance. Most of the comments from the Commission were around clarification and understanding of the proposition and its process. The Neighborhood Advisory Commission did not elect to take a voting position on the proposed regulations.

To date, staff has received numerous calls from potential dispensary businesses, attorney representatives and journalists who are following the process. Most of the inquiries come from potential businesses preparing to apply for a dispensary certificate and securing a location within Tempe's boundaries. Primarily the questions center around what process requirements will be necessary for an application within Tempe and when can someone apply. This ordinance will identify the requirements for achieving land use acceptance. What is yet to be finalized are the dates Tempe may begin accepting requests and the completion steps in order to be in full operation.

Conclusion

The current Zoning and Development Code for the City of Tempe does not address or regulate the establishment, location or operation of Medical Marijuana Dispensaries and related cultivation activities. The regulations, limits and prohibitions established in this Ordinance, including, among other things, minimum separation requirements, environmental issues and security plans, will reduce or eliminate threats to the public health, safety and general welfare. The regulations, limits, and prohibitions established in this Ordinance are necessary to protect and preserve the public health, safety and general welfare.

The City of Tempe recognizes federal law and related regulations classifying marijuana as a Schedule I controlled substance which prohibit its cultivation, possession, dispensing and use, among other things. Nothing in this Ordinance is intended to establish any land use which violates federal or state law, nor to sanction or assist any violation of any federal or state law. Under the Arizona Medical Marijuana Act, the State is authorized to issue Registry Identification Cards for "qualifying patients" and adopts rules governing Nonprofit Medical Marijuana Dispensaries. Under this Act, the City of Tempe is permitted to enact reasonable zoning regulations that limit the use of land for registered Nonprofit Medical Marijuana Dispensaries. Arizona law also allows the City of Tempe to enact zoning regulations to protect and promote the public health, safety and general welfare and regulate the use of buildings, structures and land.

Therefore, staff concludes that the proposed ordinance meets the criteria for a Code Text Amendment, pursuant to Section 6-304. The proposed code text amendment is in the public interest as defined in this report. Further more, the proposed code text amendment is consistent and conforms to the General Plan, by assuring necessary protection and preservation of the public health, safety and general welfare of our citizens.

HISTORY & FACTS:

October 29, 2010	Staff provided City Council a Friday memo update outlining the City of Tempe's current involvement with the Arizona League of Cities and Towns with potential provisions for the proposed Proposition 203, cited as the Arizona Medical Marijuana Act.
November 2, 2010	Election date, including the ballot initiative for Proposition 203, Arizona Medical Marijuana Act.
November 23, 2010	Development Review Commission held a study session with staff presenting an outline of proposed draft amendments regarding the regulation of medical marijuana.
December 1, 2010	Neighborhood Advisory Commission received a presentation by staff of an outline of proposed draft amendments regarding the regulation of medical marijuana.
December 14, 2010	Development Review Commission to hold the first public hearing for this ordinance regarding rules and regulations for medical marijuana dispensaries in Tempe.
December 17, 2010	The Arizona Department of Health Services (ADHS) will post the initial draft of rules governing the regulatory system for the medical marijuana program.
January 13, 2010	Proposed City Council introduction and first public hearing for this request.
January 27, 2010	Proposed City Council second public hearing (potential action taken) for this request.
February 26, 2010	Proposed 30-day effective date of ordinance.
April 2010	ADHS begins to accept applications for registry identification cards and for dispensary certificates.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-304, Zoning Map Amendment Code Text Amendments

ORDINANCE NO. 2011.01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE ZONING AND DEVELOPMENT CODE, PART 3 – LAND USE, SECTIONS 3-202, 3-302, 3-426; PART 6 – APPLICATION AND REVIEW PROCEDURES, SECTION 6-313; PART 7 – DEFINITIONS, SECTION 7-114, AND AMENDING THE TEMPE CITY CODE, SECTION 26-70.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

SECTION 1. That a portion of Table 3-202A and Table 3-202B of Section 3-202 of the Zoning and Development Code, pertaining to medical marijuana, is hereby amended to read as follows:

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)

Uses	Status of Use District					
	R/O	CSS	CC	PCC-1	PCC-2	RCC
MEDICAL MARIJUANA DISPENSARY (WITHOUT CULTIVATION) [SECTION 3-426]	N	S	S	S	S	S
MEDICAL MARIJUANA CULTIVATION [SECTION 3-426]	N	N	N	N	N	N

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4 and MU-Ed)

Uses	Districts				
	MU-1	MU-2	MU-3	MU-4	MU-Ed
MEDICAL MARIJUANA DISPENSARY [SECTION 3-426]	N	N	N	N	N
MEDICAL MARIJUANA CULTIVATION [SECTION 3-426]	N	N	N	N	N

SECTION 2. That a portion of Table 3-302A of Section 3-302 of the Zoning and Development Code, pertaining to medical marijuana, is hereby amended to read as follows:

Table 3-302A Permitted Land Uses (LID, GID, HID)

Uses	Districts		
	LID	GID	HID
MEDICAL MARIJUANA DISPENSARY [SECTION 3-426]	<u>S</u>	<u>S</u>	<u>S</u>
MEDICAL MARIJUANA CULTIVATION [SECTION 3-426]	<u>N</u>	<u>S</u>	<u>S</u>

SECTION 3. That Part 4, Land Use, Chapter 4 – Special Use Standards, within the Zoning and Development Code, is hereby amended by adding the following:

SECTION 3-426 MEDICAL MARIJUANA.

A. PURPOSE. THE PURPOSE OF THIS SECTION IS TO IMPLEMENT ARIZONA REVISED STATUTES, TITLE 36, CHAPTER 28.1; ENTITLED "ARIZONA MEDICAL MARIJUANA ACT". THE INTENT OF THE ARIZONA MEDICAL MARIJUANA ACT IS TO ENABLE PERSONS RESIDING IN THE STATE OF ARIZONA WHO ARE IN NEED OF MARIJUANA FOR MEDICAL PURPOSES TO BE ABLE TO OBTAIN IT UNDER LIMITED, SPECIFIED CIRCUMSTANCES. UNDER THE ARIZONA MEDICAL MARIJUANA ACT CITIES MAY ENACT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND. LOCATION AND OPERATIONS OF *MEDICAL MARIJUANA* IN TEMPE WILL BE REGULATED SO AS TO PROMOTE AND PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF OUR RESIDENTS. IT IS NEITHER THE INTENT NOR THE EFFECT OF THIS SECTION TO CONDONE OR LEGITIMIZE THE USE OR POSSESSION OF MARIJUANA UNDER FEDERAL LAW, EXCEPT AS ALLOWED BY ARIZONA LAW. FURTHERMORE, THE PURPOSE OF THIS SECTION IS TO PROVIDE REASONABLE LIMITATIONS ON BUSINESS OPERATIONS AS THEY RELATE TO NOISE, AIR AND WATER QUALITY, FOOD SAFETY, NEIGHBORHOOD AND PATIENT SAFETY, SECURITY FOR THE BUSINESS AND ITS PERSONNEL AND OTHER HEALTH AND SAFETY CONCERNS.

CROSS REFERENCE—SEE ALSO THE FOLLOWING DEFINITIONS IN PART 7 OF THIS CODE: *MEDICAL MARIJUANA*, *MEDICAL MARIJUANA CULTIVATION FACILITY*, AND *MEDICAL MARIJUANA DISPENSARY*.

STATE LAW REFERENCE – ARIZONA REVISED STATUTES, TITLE 36, CHAPTER 28.1, CITED AS THE ARIZONA MEDICAL MARIJUANA ACT.

B. LOCATION REQUIREMENTS. A *MEDICAL MARIJUANA DISPENSARY*, WITHOUT *CULTIVATION*, IS ALLOWED IN THE CSS, CC, PCC-1, PCC-2, RCC, AND LID DISTRICTS. A *MEDICAL MARIJUANA DISPENSARY* OR *CULTIVATION FACILITY* IS ALLOWED IN THE GID AND HID ZONING DISTRICTS. THE LOCATIONS ARE LIMITED TO THE FOLLOWING:

1. A *MEDICAL MARIJUANA DISPENSARY* OR *MEDICAL MARIJUANA CULTIVATION FACILITY* SHALL NOT BE OPERATED OR MAINTAINED ON A PARCEL WITHIN 1,320 FEET, MEASURED BY A STRAIGHT LINE IN ALL DIRECTIONS, WITHOUT REGARD TO INTERVENING STRUCTURES OR OBJECTS, FROM THE NEAREST POINT ON THE PROPERTY LINE OF A PARCEL CONTAINING THE FOLLOWING:
 - a. ANOTHER *MEDICAL MARIJUANA DISPENSARY* OR *CULTIVATION FACILITY*;
 - b. A CHILD CARE FACILITY;
 - c. A *CHARTER SCHOOL*, *PRIVATE SCHOOL*, OR *PUBLIC SCHOOL*, WHICH PROVIDES ELEMENTARY OR SECONDARY EDUCATION;
 - d. A *CHURCH*, SYNAGOGUE, TEMPLE OR SIMILAR RELIGIOUS WORSHIP BUILDING; OR

- e. A PUBLIC PARK, LIBRARY, OR PUBLIC COMMUNITY *BUILDING*;
 - 2. A *MEDICAL MARIJUANA DISPENSARY* OR *MEDICAL MARIJUANA CULTIVATION* FACILITY SHALL NOT BE OPERATED OR MAINTAINED ON A PARCEL WITHIN FIVE HUNDRED (500) FEET FROM A RESIDENTIAL ZONING DISTRICT OR THE PROPERTY LINE OF A PARCEL SOLELY DEVOTED TO A RESIDENTIAL USE IN ANY ZONING DISTRICT, MEASURED BY A STRAIGHT LINE IN ALL DIRECTIONS, WITHOUT REGARD TO INTERVENING STRUCTURES OR OBJECTS, FROM THE NEAREST POINT OF THE PROPERTY LINE OF A PARCEL CONTAINING SUCH USE.
 - 3. *MEDICAL MARIJUANA CULTIVATION* FOR A CAREGIVER OR PATIENT'S RESIDENCE IN A RESIDENTIAL DISTRICT IS NOT PERMITTED, UNLESS SUFFICIENT EVIDENCE EXISTS THAT THE LOCATION IS GREATER THAN TWENTY-FIVE (25) MILES FROM A *MEDICAL MARIJUANA DISPENSARY* WITHIN THE STATE OF ARIZONA.
- C. OPERATION REQUIREMENTS.** ANY *MEDICAL MARIJUANA DISPENSARY* OR *CULTIVATION* FACILITY, EXCEPT A RESIDENTIAL HOME, SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS, AS WELL AS THOSE CONTAINED WITHIN ARIZONA REVISED STATUTES, TITLE 36, CHAPTER 28.1:
- 1. THE BUSINESS SHALL BE LOCATED IN A PERMANENT BUILDING AND NOT LOCATED IN A TRAILER, CARGO CONTAINER, MOTOR VEHICLE, OR SIMILAR PERSONAL PROPERTY.
 - 2. THE MAXIMUM SIZE TENANT SPACE SHALL BE LIMITED TO THE SQUARE FOOTAGE DEDICATED FOR SUCH USE PERMITTED WITH ONLY ONE (1) SECURED EXTERIOR DOORWAY FOR THE PURPOSE OF INGRESS OR EGRESS.
 - 3. THE BUSINESS AND TENANT SPACE MUST COMPLY WITH TEMPE'S APPLICABLE BUILDING CODE AND FIRE CODE REQUIREMENTS.
 - 4. DRIVE-THROUGH FACILITIES ARE PROHIBITED.
 - 5. THE BUSINESS IS LIMITED TO THE HOURS OF OPERATION NOT EARLIER THAN 8:00 A.M. AND NOT LATER THAN 6:00 P.M.
 - 6. *MEDICAL MARIJUANA* REMNANTS OR BI-PRODUCTS SHALL BE DISPOSED OF ACCORDING TO AN APPROVED PLAN AND NOT PLACED WITHIN THE FACILITIES EXTERIOR REFUSE CONTAINERS.
 - 7. THERE SHALL BE NO EMISSION OF DUST, FUMES, VAPORS, OR ODORS INTO THE ENVIRONMENT FROM THE PREMISE.
 - 8. A SECURITY PLAN IS REQUIRED, WHICH SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

- A. THE SINGLE DOORWAY FOR THE FACILITY SHALL PROVIDE A SECURITY VISION PANEL PURSUANT TO SECTION 4-406, EMPLOYEE SERVICE ENTRANCES AND EXITS, OR A 180 DEGREE ROTATABLE VIEWER. IF DOORWAY IS TRANSPARENT, THE DOOR SHALL BE DESIGNED WITH A MATERIAL THAT IS EITHER IMPACT RESISTANT OR RESTRICTS ENTRY BY MEANS OF A WROUGHT IRON GATE;
 - B. CLOSED CIRCUIT TELEVISION CAMERAS, OPERATING 24 HOURS A DAY, SHALL BE PROVIDED AT THE BUILDING'S EXTERIOR ENTRANCE AND INSIDE THE BUILDING AT A DESIGNATED SERVICE AREA;
 - C. ALL LIGHTING FOR THE SITE SHALL BE BROUGHT INTO CONFORMANCE WITH THE CURRENT LIGHTING STANDARDS IDENTIFIED IN PART 4, CHAPTER 8, LIGHTING. THE BUILDING ENTRANCE OF THE BUSINESS SHALL BE ILLUMINATED FROM DUSK TILL DAWN ACTIVATED BY PHOTOCELL RELAY TO THE LIGHTING CONTROLLER ;
 - D. NO ONE UNDER THE AGE OF TWENTY-ONE (21) SHALL ENTER THE ESTABLISHMENT.
 - E. ALL PATIENTS OR CAREGIVERS, PRIOR TO ENTERING THE ESTABLISHMENT, SHALL REMOVE ALL HATS, SUNGLASSES OR OTHER SIMILAR OBJECTS, TO AVOID OBSTRUCTION OF PHYSICAL IDENTIFICATION.
- D. USE ACCEPTANCE.** A ZONING ADMINISTRATIVE APPLICATION SHALL BE PROCESSED, CERTIFYING THAT ALL CITY OF TEMPE REGULATIONS FOR THE *MEDICAL MARIJUANA DISPENSARY OR CULTIVATION* FACILITY ARE IN COMPLIANCE WITH THE PROVISIONS SET FORTH IN SECTION 3-426 OF THIS CODE. THE USE SHALL NOT COMMENCE WITHOUT THE ZONING ADMINISTRATOR, OR DESIGNEE, ACCEPTANCE LETTER. THE APPLICATION SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING ITEMS:
- 1. A PROJECT SUBMITTAL FORM WITH APPLICABLE FEE;
 - 2. THE PROPERTY OWNER'S LETTER OF AUTHORIZATION FOR THE USE;
 - 3. THE NAME AND LOCATION OF THE DISPENSARY'S OFF-SITE *MEDICAL MARIJUANA CULTIVATION FACILITY*, IF APPLICABLE;
 - 4. A MAP SHOWING THE LOCATION IN COMPLIANCE WITH THE SEPARATION REQUIREMENTS LISTED IN SECTION 3-426(B);
 - 5. A COPY OF OPERATING PROCEDURES ADOPTED IN COMPLIANCE WITH A.R.S. 36-2804(B)(1)(C);
 - 6. A SITE PLAN;
 - 7. A FLOOR PLAN OF THE BUILDING OR TENANT SPACE;
 - 8. IF APPLICABLE, BUILDING PERMITS (SEPARATE SUBMITTAL), IN COMPLIANCE WITH TEMPE'S BUILDING CODE AND FIRE CODE; AND

9. A SECURITY PLAN, IN COMPLIANCE WITH SECTION 3-426(C)(4).

SECTION 4. That Section 6-313(B), within the Zoning and Development Code, relating to security plans, is hereby amended to read as follows:

B. Applicability and Procedure. Security plans are required for the following uses subject to the standards contained in Chapter 26, Article V, Security Plans, of the Tempe City Code:

1. *Bars*, cocktail lounges, taverns, discotheques, nightclubs and similar businesses;
2. *Adult-oriented businesses*;
3. Recreational or amusement businesses, including both indoor and outdoor activities, including pool halls and *video arcades*;
4. *Entertainment* as accessory to *restaurant* facilities, *bars* or similar establishments;
5. Hotels and motels;
6. Convenience stores;
7. *MEDICAL MARIJUANA DISPENSARY OR CULTIVATION FACILITY*; and
8. Any other use determined by the Community Development Director or the Chief of Police, or their designees, to be similar to a use listed immediately above.

SECTION 5. That Section 7-117, within the Zoning and Development Code, relating to definitions, is hereby amended to read as follows:

MEDICAL MARIJUANA MEANS ALL PARTS OF ANY PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, AND THE SEEDS OF SUCH PLANT TO TREAT OR ALLEVIATE A REGISTERED QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE PATIENT'S DEBILITATING MEDICAL CONDITION.

MEDICAL MARIJUANA CULTIVATION MEANS A NOT-FOR-PROFIT ENTITY THAT CULTIVATES OR MANUFACTURES MARIJUANA BY THE MEANS OF COOKING, BLENDING, OR INCORPORATING INTO CONSUMABLE/EDIBLE GOODS OR OTHER MEANS FOR A *MEDICAL MARIJUANA DISPENSARY*.

MEDICAL MARIJUANA DISPENSARY MEANS A NOT-FOR-PROFIT ENTITY THAT ACQUIRES, POSSESSES, DELIVERS, TRANSFERS, TRANSPORTS, SUPPLIES, SELLS OR DISPENSES MARIJUANA OR RELATED SUPPLIES TO CARDHOLDERS.

SECTION 6. That Section 26-70(b), within Tempe City Code Chapter 26, Article V. Security Plans, is hereby amended to read as follows:

(b) *Uses requiring security plans.* A security plan shall be required upon the commencement or assumption of any of the following uses:

- (1) Bars, cocktail lounges, taverns, discotheques, nightclubs and similar businesses;
- (2) Adult-oriented businesses;
- (3) Recreational or amusement business, both indoor and outdoor activities, including pool halls and video arcades;
- (4) Entertainment as accessory to restaurant facilities, bars or similar establishments;
- (5) Hotels and motels;
- (6) Convenience stores; ~~and~~
- (7) MEDICAL MARIJUANA DISPENSARY OR CULTIVATION FACILITY;
AND
- (8) Any other use determined by the community development director or the chief of police, or their designees, to be similar to a use listed above.

SECTION 7. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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.
7. 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 USERS LOG-IN INFORMATION SHALL BE DEACTIVATED AFTER 5 INCORRECT LOGIN ATTEMPTS UNTIL THE AUTHORIZED USER CONTACTS THE DEPARTMENT AND VERIFIES HIS IDENTITY.

3. THE SERVER MUST REJECT ANY LOG-IN REQUEST THAT IS NOT OVER AN ENCRYPTED CONNECTION.

36-2808. Notifications to department; civil penalty

A. A REGISTERED QUALIFYING PATIENT SHALL NOTIFY THE DEPARTMENT WITHIN TEN DAYS OF ANY CHANGE IN THE REGISTERED QUALIFYING PATIENT'S NAME, ADDRESS, DESIGNATED CAREGIVER OR PREFERENCE REGARDING WHO MAY CULTIVATE MARIJUANA FOR THE REGISTERED QUALIFYING PATIENT OR IF THE REGISTERED QUALIFYING PATIENT CEASES TO HAVE HIS DEBILITATING MEDICAL CONDITION.

B. A REGISTERED DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT SHALL NOTIFY THE DEPARTMENT WITHIN TEN DAYS OF ANY CHANGE IN HIS NAME OR ADDRESS.

C. WHEN A CARDHOLDER NOTIFIES THE DEPARTMENT OF ANY CHANGES LISTED IN SUBSECTION A BUT REMAINS ELIGIBLE UNDER THIS CHAPTER, THE DEPARTMENT SHALL ISSUE THE CARDHOLDER A NEW REGISTRY IDENTIFICATION CARD WITH NEW RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBERS WITHIN TEN DAYS OF RECEIVING THE UPDATED INFORMATION AND A TEN-DOLLAR FEE. IF THE PERSON NOTIFYING THE DEPARTMENT IS A REGISTERED QUALIFYING PATIENT, THE DEPARTMENT SHALL ALSO ISSUE HIS REGISTERED DESIGNATED CAREGIVER, IF ANY, A NEW REGISTRY IDENTIFICATION CARD WITHIN TEN DAYS OF RECEIVING THE UPDATED INFORMATION.

D. IF THE REGISTERED QUALIFYING PATIENT'S CERTIFYING PHYSICIAN NOTIFIES THE DEPARTMENT IN WRITING THAT EITHER THE REGISTERED QUALIFYING PATIENT HAS CEASED TO SUFFER FROM A DEBILITATING MEDICAL CONDITION OR THAT THE PHYSICIAN NO LONGER BELIEVES THE PATIENT WOULD RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA, THE CARD IS VOID UPON NOTIFICATION BY THE DEPARTMENT TO THE QUALIFYING PATIENT.

E. WHEN A REGISTERED QUALIFYING PATIENT CEASES TO BE A REGISTERED QUALIFYING PATIENT OR CHANGES REGISTERED DESIGNATED CAREGIVER, THE DEPARTMENT SHALL PROMPTLY NOTIFY THE FORMER DESIGNATED CAREGIVER THAT HIS DUTIES AND RIGHTS UNDER THIS CHAPTER AS TO THAT QUALIFYING PATIENT EXPIRE FIFTEEN DAYS AFTER NOTIFICATION BY THE DEPARTMENT IS SENT.

F. A REGISTERED QUALIFYING PATIENT, DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO FAILS TO COMPLY WITH SUBSECTION A OR B IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED FIFTY DOLLARS.

36-2809. Annual report

THE DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE AN ANNUAL REPORT THAT DOES NOT DISCLOSE ANY IDENTIFYING INFORMATION ABOUT CARDHOLDERS, NONPROFIT MEDICAL MARIJUANA DISPENSARIES OR PHYSICIANS BUT CONTAINS AT LEAST ALL OF THE FOLLOWING INFORMATION:

1. THE NUMBER OF REGISTRY IDENTIFICATION CARD APPLICATIONS AND RENEWALS.
2. THE NUMBER OF QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS APPROVED IN EACH COUNTY.
3. THE NATURE OF THE DEBILITATING MEDICAL CONDITIONS OF THE QUALIFYING PATIENTS.
4. THE NUMBER OF REGISTRY IDENTIFICATION CARDS REVOKED.
5. THE NUMBER OF PHYSICIANS PROVIDING WRITTEN CERTIFICATIONS FOR QUALIFYING PATIENTS.
6. THE NUMBER OF REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
7. THE NUMBER OF NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS IN EACH COUNTY.

36-2810. Confidentiality

A. THE FOLLOWING INFORMATION RECEIVED AND RECORDS KEPT BY THE DEPARTMENT FOR PURPOSES OF ADMINISTERING THIS CHAPTER ARE CONFIDENTIAL, EXEMPT FROM TITLE 39, CHAPTER 1, ARTICLE 2, EXEMPT FROM SECTION 36-105 AND NOT SUBJECT TO DISCLOSURE TO ANY INDIVIDUAL OR PUBLIC OR PRIVATE ENTITY, EXCEPT AS NECESSARY FOR AUTHORIZED EMPLOYEES OF THE DEPARTMENT TO PERFORM OFFICIAL DUTIES OF THE DEPARTMENT PURSUANT TO THIS CHAPTER.

1. APPLICATIONS OR RENEWALS, THEIR CONTENTS AND SUPPORTING INFORMATION SUBMITTED BY QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS, INCLUDING INFORMATION REGARDING THEIR DESIGNATED CAREGIVERS AND PHYSICIANS.
2. APPLICATIONS OR RENEWALS, THEIR CONTENTS AND SUPPORTING INFORMATION SUBMITTED BY OR ON BEHALF OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN COMPLIANCE WITH THIS CHAPTER, INCLUDING THE PHYSICAL ADDRESSES OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
3. THE INDIVIDUAL NAMES AND OTHER INFORMATION IDENTIFYING PERSONS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY IDENTIFICATION CARDS.

B. ANY DISPENSING INFORMATION REQUIRED TO BE KEPT UNDER SECTION 36-2806.02, SUBSECTION B, OR DEPARTMENT REGULATION SHALL IDENTIFY CARDHOLDERS BY THEIR REGISTRY IDENTIFICATION NUMBERS AND NOT CONTAIN NAMES OR OTHER PERSONALLY IDENTIFYING INFORMATION.

C. ANY DEPARTMENT HARD DRIVES OR OTHER DATA RECORDING MEDIA THAT ARE NO LONGER IN USE AND THAT CONTAIN CARDHOLDER INFORMATION MUST BE DESTROYED. THE DEPARTMENT SHALL RETAIN A SIGNED STATEMENT FROM A DEPARTMENT EMPLOYEE CONFIRMING THE DESTRUCTION.

D. DATA SUBJECT TO THIS SECTION SHALL NOT BE COMBINED OR LINKED IN ANY MANNER WITH ANY OTHER LIST OR DATABASE AND IT SHALL NOT BE USED FOR ANY PURPOSE NOT PROVIDED FOR IN THIS CHAPTER.

E. NOTHING IN THIS SECTION PRECLUDES THE FOLLOWING NOTIFICATIONS:

1. DEPARTMENT EMPLOYEES MAY NOTIFY LAW ENFORCEMENT ABOUT FALSIFIED OR FRAUDULENT INFORMATION SUBMITTED TO THE DEPARTMENT IF THE EMPLOYEE WHO SUSPECTS THAT FALSIFIED OR FRAUDULENT INFORMATION HAS BEEN SUBMITTED HAS CONFERRED WITH HIS SUPERVISOR AND BOTH AGREE THAT THE CIRCUMSTANCES WARRANT REPORTING.

2. THE DEPARTMENT MAY NOTIFY STATE OR LOCAL LAW ENFORCEMENT ABOUT APPARENT CRIMINAL VIOLATIONS OF THIS CHAPTER IF THE EMPLOYEE WHO SUSPECTS THE OFFENSE HAS CONFERRED WITH HIS SUPERVISOR AND BOTH AGREE THAT THE CIRCUMSTANCES WARRANT REPORTING.

3. NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS MAY NOTIFY THE DEPARTMENT OF A SUSPECTED VIOLATION OR ATTEMPTED VIOLATION OF THIS CHAPTER OR DEPARTMENT RULES.

F. NOTHING IN THIS SECTION PRECLUDES SUBMISSION OF THE SECTION 36-2809 REPORT TO THE LEGISLATURE. THE ANNUAL REPORT SUBMITTED TO THE LEGISLATURE IS SUBJECT TO TITLE 39, CHAPTER 1, ARTICLE 2.

36-2811. Presumption of medical use of marijuana; protections; civil penalty

A. THERE IS A PRESUMPTION THAT A QUALIFYING PATIENT OR DESIGNATED CAREGIVER IS ENGAGED IN THE MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER.

1. THE PRESUMPTION EXISTS IF THE QUALIFYING PATIENT OR DESIGNATED CAREGIVER:

- (a) IS IN POSSESSION OF A REGISTRY IDENTIFICATION CARD.
- (b) IS IN POSSESSION OF AN AMOUNT OF MARIJUANA THAT DOES NOT EXCEED THE ALLOWABLE AMOUNT OF MARIJUANA.

2. THE PRESUMPTION MAY BE REBUTTED BY EVIDENCE THAT CONDUCT RELATED TO MARIJUANA WAS NOT FOR THE PURPOSE OF TREATING OR ALLEVIATING THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION PURSUANT TO THIS CHAPTER.

B. A REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER IS NOT SUBJECT TO ARREST, PROSECUTION OR

PENALTY IN ANY MANNER, OR DENIAL OF ANY RIGHT OR PRIVILEGE, INCLUDING ANY CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU:

1. FOR THE REGISTERED QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER, IF THE REGISTERED QUALIFYING PATIENT DOES NOT POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.

2. FOR THE REGISTERED DESIGNATED CAREGIVER ASSISTING A REGISTERED QUALIFYING PATIENT TO WHOM HE IS CONNECTED THROUGH THE DEPARTMENT'S REGISTRATION PROCESS WITH THE REGISTERED QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER IF THE REGISTERED DESIGNATED CAREGIVER DOES NOT POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.

3. FOR OFFERING OR PROVIDING MARIJUANA TO A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER FOR THE REGISTERED QUALIFYING PATIENT'S MEDICAL USE OR TO A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IF NOTHING OF VALUE IS TRANSFERRED IN RETURN AND THE PERSON GIVING THE MARIJUANA DOES NOT KNOWINGLY CAUSE THE RECIPIENT TO POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.

C. A PHYSICIAN SHALL NOT BE SUBJECT TO ARREST, PROSECUTION OR PENALTY IN ANY MANNER OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING BUT NOT LIMITED TO CIVIL PENALTY OR DISCIPLINARY ACTION BY THE ARIZONA BOARD OF MEDICAL EXAMINERS OR BY ANY OTHER BUSINESS, OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, BASED SOLELY ON PROVIDING WRITTEN CERTIFICATIONS OR FOR OTHERWISE STATING THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, A PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA TO TREAT OR ALLEVIATE THE PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE DEBILITATING MEDICAL CONDITION, BUT NOTHING IN THIS CHAPTER PREVENTS A PROFESSIONAL LICENSING BOARD FROM SANCTIONING A PHYSICIAN FOR FAILING TO PROPERLY EVALUATE A PATIENT'S MEDICAL CONDITION OR OTHERWISE VIOLATING THE STANDARD OF CARE FOR EVALUATING MEDICAL CONDITIONS.

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

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

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

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

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

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

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

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

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

36-2812. Affirmative defense

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

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

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

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

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

B. A PERSON MAY ASSERT THE MEDICAL PURPOSE FOR USING MARIJUANA IN A MOTION TO DISMISS, AND THE CHARGES SHALL BE DISMISSED FOLLOWING AN EVIDENTIARY HEARING WHERE THE PERSON SHOWS THE ELEMENTS LISTED IN SUBSECTION (A).
C. IF A QUALIFYING PATIENT OR A QUALIFYING PATIENT'S DESIGNATED CAREGIVER DEMONSTRATE THE QUALIFYING PATIENT'S MEDICAL PURPOSE FOR USING MARIJUANA PURSUANT TO THIS SECTION, THE QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER SHALL NOT BE SUBJECT TO THE FOLLOWING FOR THE QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA:

1. DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU.
2. FORFEITURE OF ANY INTEREST IN OR RIGHT TO NON-MARIJUANA, LICIT PROPERTY.

36-2813. Discrimination prohibited

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

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

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

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

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

36-2814. Acts not required; acts not prohibited

A. NOTHING IN THIS CHAPTER REQUIRES:

1. A GOVERNMENT MEDICAL ASSISTANCE PROGRAM OR PRIVATE HEALTH INSURER TO REIMBURSE A PERSON FOR COSTS ASSOCIATED WITH THE MEDICAL USE OF MARIJUANA.
2. ANY PERSON OR ESTABLISHMENT IN LAWFUL POSSESSION OF PROPERTY TO ALLOW A GUEST, CLIENT, CUSTOMER OR OTHER VISITOR TO USE MARIJUANA ON OR IN THAT PROPERTY.
3. AN EMPLOYER TO ALLOW THE INGESTION OF MARIJUANA IN ANY WORKPLACE OR ANY EMPLOYEE TO WORK WHILE UNDER THE INFLUENCE OF MARIJUANA, EXCEPT THAT A REGISTERED QUALIFYING PATIENT SHALL NOT BE CONSIDERED TO BE UNDER THE INFLUENCE OF MARIJUANA SOLELY BECAUSE OF THE PRESENCE OF METABOLITES OR COMPONENTS OF MARIJUANA THAT APPEAR IN INSUFFICIENT CONCENTRATION TO CAUSE IMPAIRMENT.

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

1. A school or landlord may not refuse to enroll or lease to a person registered pursuant to this proposition unless failing to do so would cause the school or landlord to lose a monetary or licensing benefit under federal law.
2. An employer may not discriminate against a person registered pursuant to this proposition in hiring, terminating or imposing employment conditions unless failing to do so would cause the employer to lose a monetary or licensing benefit under federal law. Further, an employer may not penalize a qualifying patient registered pursuant to this proposition for a positive drug test for marijuana, unless the patient used, possessed or was impaired by marijuana on the employment premises or during hours of employment.

By its terms, Proposition 203 would not:

1. Authorize a person to undertake any task under the influence of marijuana that constitutes negligence or professional malpractice.
2. Authorize possessing or using medical marijuana on a school bus, on the grounds of a preschool, primary school or high school or in a correctional facility.
3. Authorize smoking marijuana on public transportation or in a public place.
4. Authorize operating, navigating or being in actual physical control of a motor vehicle, aircraft or motorboat while under the influence of marijuana. A registered qualifying patient would not be considered to be under the influence of marijuana solely because of the presence of marijuana in the person's system that appears in a concentration insufficient to cause impairment.

5. Require a government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana.
6. Require an owner of private property to allow the use of marijuana on that property.
7. Require an employer to allow the ingestion of marijuana in the workplace.
8. Prevent a nursing care or other residential or inpatient healthcare facility from adopting reasonable restrictions on the provision, storage and use of marijuana by residents or patients.

FISCAL IMPACT STATEMENT

State law requires the Joint Legislative Budget Committee (JLBC) Staff to prepare a summary of the fiscal impact of certain ballot measures. Proposition 203 is projected to cost the state Department of Health Services \$600,000 to operate in the first year and \$1.5 million in the second year. Once fully established in the third year, the projected cost is \$3.1 million. Proposition 203 requires this cost to be funded from application and renewal fees, civil penalties, and private donations.

Amend Definition Section of the ordinance by adding definitions as follows:

Medical Marijuana: Means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Medical Marijuana Cultivation: The process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana that is physically separate and off-site from a medical marijuana dispensary.

Medical Marijuana Dispensary: A non-profit entity defined in A.R.S. § 36-2801(11), that sells, distributes, transmits, gives, dispenses, or otherwise provide medical marijuana to qualifying patients.

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable/edible goods.

Medical Marijuana Qualifying Patient: A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801.13.

Amend the agricultural district (s) by adding language to allow medical marijuana cultivation as a permitted use as follows:

- ___ Medical Marijuana Cultivation, subject to the following conditions and limitations:
 - a. Applicant shall provide:
 - 1) the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.
 - 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c) and
 - 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.

- b. Retail sales of medical marijuana is prohibited.
- c. Shall not be located within _____ feet of the same type of use or a medical marijuana dispensary. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
- d. Shall not be located within _____ feet of a residentially zoned property. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property boundary line of the residentially zoned property.
- e. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

Amend the Intermediate Commercial zoning district to allow medical marijuana dispensaries as a permitted use with conditions as follows:

Permitted Uses (sample insert to an existing ordinance):

- 99. Merchandise Brokers Office and Display
- 100. Medical Marijuana Dispensary (No Cultivation), subject to the following conditions and limitations:
 - a. Applicant shall provide:
 - 1) the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.
 - 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c) and
 - 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.
 - b. Shall be located in a permanent building and may not located in a trailer, cargo container or motor vehicle.

- c. Shall be a maximum _____ gross square feet.
- d. Shall not be located within _____ feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
- e. Shall not be located within _____ feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
- f. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
- g. Shall have operating hours not earlier than 8:00 a.m. and not later than 7:00 p.m.
- h. Drive-through services are prohibited.
- i. Cultivation of medical marijuana is prohibited.

400101. Messenger Service

renumber accordingly

Amend the light industrial district) as follows.

- 90. Meat Packing and Smoking (no slaughtering except rabbits and poultry)
- 91. Medical Marijuana Cultivation, subject to the following conditions and limitations:
 - a. Applicant shall provide:
 - 1) name(s) and location(s) of the offsite dispensary.
 - 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).

- 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.
 - b. Shall not be located within _____ feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
 - c. Shall not be located within _____ feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
 - d. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
92. Medical Marijuana Dispensary, subject to the following conditions and limitations:
- a. Applicant shall provide:
 - 1) name and location of the offsite cultivation location, if applicable.
 - 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).
 - 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.
 - b. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
 - c. Shall be a maximum _____ gross square feet.
 - d. Shall not be located within _____ feet of the same type of use. This distance shall be measured from the exterior walls of the

building or portion thereof in which the businesses are conducted or proposed to be conducted.

- e. Shall not be located within _____ feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
- f. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
- g. Shall have operating hours not earlier than 8:00 a.m. and not later than 7:00 p.m.
- h. Drive-through services are prohibited.

93. Medical Marijuana Infusion Production Facility

- a. Applicant shall provide:
 - 1) name(s) and location(s) of the offsite dispensary.
 - 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).
 - 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.
- b. The facility shall not be located within _____ feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
- c. The facility shall not be located within _____ feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.

- d. The facility shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
- e. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.

renumber accordingly

Pubic Input Comments from Tempe's Website:

Posted: Wed 12/01/2010 2:09 PM

The only concern i have is why are MM dispensaries possibly being zoned as "adult businesses? Prop 203 passed as specifically allowing the use and sale(non-profit) of marijuana for medicinal purposes only, then shouldn't it be zoned as such? It appears to me that the same bias that led the charge against prop 203 is at work here in the attempt to label the industry as a less desirable "adult" business. It is clearly stated in the new law (as well as existing laws) that marijuana is not for recreational use, and the creation of a venue to provide legally obtained prescriptions does nothing to change this. In my opinion, dispensaries should be zoned the same way as other businesses that provide medical services such as pharmacies and alternative treatment centers, not lumped into the same category as strip clubs and sex shops. This implies that they are involved in some type of illicit activity, clearly not the intention of the proposition or those who voted for it.

Thank you for your time.

Posted: Thu 12/09/2010 6:53 AM

I believe Tempe's opinion of the zoning requirements for a cultivation facility seem to be more stringent than the law envisioned. The law does not require separation from residentially zoned areas. Also, the activity expected at a cultivation facility would be much lighter than the City would prescribe with Industrial zoned. Since a cultivation facility must have only one entrance and be less than about 1400 square feet. It seems that a cultivation could most appropriately be accomplished on the upper floor of a medium sized residence. A few modifications to allow the entry of sunlight, like skylights and some enhancements to security could make for an efficient and pleasant looking cultivation facility that is visually compatible with other residences and hat also has a level of activity comensurate with residential gardening

Posted: Thu 12/09/2010 6:55 AM

Why does the city insist that a dispensary and a cultivation facility could not coexist in the same lot?

Posted: Thu 12/09/2010 7:51 AM

I got the impression from City staff that the products of dispensaries could not be taxable, but the proposition say," 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"

It appears that the law does not require the dispensaries to be tax-exempt. What am I missing?
