

Direction to Staff  
RE: Voter Approval of Smart  
and Safe Arizona Act  
(Recreational Marijuana)



**City of Apache Junction**  
**City Council Direction to Staff Item**  
**November 17, 2020**



# Background

On November 3, 2020, the voters of Arizona passed the “Smart and Safe Arizona Act”, a citizen initiative.....*“relating to the responsible adult use, regulation and taxation of marijuana”,* (also referred to as the “recreational marijuana act”).

The act declares that in the interest of public health and safety, the legal adult use of marijuana should be regulated so that:

- Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana;
- Marijuana sold in this state is tested, labeled and subject to additional regulations to ensure that consumers are informed and protected;

## Background (cont.)

- Employers retain their rights to maintain drug and alcohol free places of employment;
- The health and safety of employees in the marijuana industry are protected;
- Individuals must show proof of age before purchasing marijuana;
- Selling, transferring or providing marijuana to minors and other individuals under the age of 21 remains illegal;
- Driving, flying or boating while impaired to the slightest degree by marijuana remains illegal.

## Newly Defined Uses:

*A marijuana establishment* includes:

- a retail establishment at which the sale of marijuana and marijuana products is conducted, along with the possible cultivation and manufacture of marijuana products;
- an off-site location where marijuana is cultivated, processed and products are made, but which does not conduct sales to consumers;
- an off-site location at which marijuana products are manufactured, packaged and stored, but which does not conduct sales to consumers.

## Newly Defined Uses (cont.)

- A *marijuana testing facility* includes ADHS facilities or facilities operated by another licensed entity to analyze the potency of, and test the marijuana for, harmful contaminants.

## The act does not:

- change the medical marijuana laws, except that a licensed medical marijuana dispensary may also apply to offer recreational marijuana products to consumers over 21 years of age (referred to as being a “dual licensee”);
- allow smoking in public or open spaces;
- allow persons to operate motor vehicles, boats or fly aircraft under the influence.

## The act does:

- impose a sales tax of 16% on recreational marijuana products;
- allow people to consume marijuana products in private places, carry small quantities of marijuana and/or marijuana products and paraphernalia;
- allow a person over the age of 21 to securely cultivate up to 6 plants in their own private residence (no more than 12 plants if two or more persons over the age of 21 reside together);
- set penalties for violators.

# City's Options for Regulation – A City May:

- Enact reasonable zoning regulations that limit the use of land for marijuana establishments and marijuana testing facilities to specified areas;
- Limit the number of marijuana establishments or marijuana testing facilities, or both;
- Prohibit marijuana establishments or marijuana testing facilities, or both;
- Regulate the time, place and manner of marijuana establishment and marijuana testing facility operations;
- Establish reasonable restrictions on public signage regarding marijuana, marijuana establishments and marijuana testing facilities;
- Prohibit or restrict delivery within its jurisdiction.



# City's Options for Regulation – A City May Not:

Enact any ordinance, regulation or rule that:

- Is more restrictive than a comparable ordinance, regulation or rule that applies to non-profit medical marijuana dispensaries;
- Makes the operation of a marijuana establishment or marijuana testing facility unduly burdensome if the locality has not prohibited marijuana establishments or marijuana testing facilities;
- Conflicts with state law or rules adopted pursuant to state law;
- Prohibits the transportation of marijuana by a marijuana establishment or marijuana testing facility on public roads;

# City's Options for Regulation – A City May Not:

.....enact a rule that:

- Restricts or interferes with the ability of a dual licensee or an entity eligible to become a dual licensee to operate a nonprofit medical marijuana dispensary and a marijuana establishment cooperatively at shared locations;
- Except as expressly authorized by state law (Section 36-2851), prohibits or restricts any conduct or transaction allowed by this chapter, or imposes any liability or penalty in addition to that prescribed by this chapter for any conduct or transaction constituting a violation of this chapter.

## Possible Direction to Staff:

- Draft an ordinance to amend the Zoning Ordinance (“ZO”) to regulate marijuana establishments and marijuana testing facilities in the same manner as medical marijuana dispensaries and cultivation facilities; through the city’s CUP process, which includes specific zoning, limit on number of establishments, imposes separation distances and other requirements (see med-mar regulations attached);
- Draft an ordinance to amend the ZO to allow marijuana establishments and marijuana testing facilities outright in certain zoning districts, to include limit on number, specify separation distances, delivery and signage considerations, subject to the city’s normal development and design requirements, etc.;

## Possible Direction to Staff (cont.):

- Draft an ordinance to amend the ZO to prohibit marijuana establishments and marijuana testing facilities in the city;
- Draft an ordinance to amend the ZO to allow existing medical marijuana dispensaries to become dual licensees, through a CUP amendment process.
- Research and report on what other AZ cities are contemplating regarding regulating recreational use of marijuana
- Other?

# Final Comments:

- Staff report also contains a model ordinance drafted by the League of Cities and Towns for the possible regulation of marijuana establishments and marijuana testing facilities.
- AJ presently has two licensed dispensaries which could apply to be dual licensees.

Questions/direction to staff?: