

**TOWN COUNCIL OF DEWEY-HUMBOLDT  
STUDY SESSION MEETING NOTICE AND AGENDA**

**Tuesday, December 8, 2020, 6:30 P.M.**

**DEWEY-HUMBOLDT TOWN HALL  
COUNCIL CHAMBERS  
2735 S. HWY 69, SUITE 10  
HUMBOLDT, ARIZONA 86329**

**NOTICE OF MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Dewey-Humboldt Town Council and to the general public that the Town Council will hold a public meeting (see notes about public participation below) on **Tuesday, December 8, 2020, at 6:30 p.m.**, at the **Dewey-Humboldt Town Hall Council Chambers, 2735 S. Highway 69, Suite 10, Humboldt, Arizona 86329**. Members of the Town Council will attend by audio/video conference call.

***THIS MEETING WILL BE HELD BY REMOTE PARTICIPATION ONLY***

Due to the federal government's declaration of a COVID-19 pandemic and the resulting Executive Orders from Arizona Governor Ducey to limit events of people in personal contact and Mayor Nolan's declaration of an emergency based on the COVID-19 pandemic, the following accommodations are provided for public participation at the Council Meeting:

- Viewing live streaming audio only on the Town's website, at:  
<http://az-deweyhumboldt.civicplus.com/2164/Town-Meeting-Documents-and-Videos>
- Viewing and potentially participating in the meeting via Join Zoom Meeting:
  - Computer: <https://zoom.us/j/84302850913>
  - Telephone: (301) 715-8592
  - Meeting ID: 843 0285 0913
- Submitting comments via email to the Interim Town Clerk at [BethEvans@dhaz.gov](mailto:BethEvans@dhaz.gov). Comments should be submitted no later than 3:30 p.m. on the day of the meeting. Please identify the agenda item and your first and last name.

**DEWEY-HUMBOLDT TOWN COUNCIL STUDY SESSION AGENDA**

The issues that come before the Town Council are often challenging and potentially divisive. To make sure we benefit from the diverse views to be presented, the Council believes public meetings to be a safe place for people to speak, and asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Council may vote to go into Executive Session for legal advice regarding any matter on the open agenda pursuant to A.R.S. § 38-431.03(A)(3), which will be held immediately after the vote and will not be open to the public. Upon completion of the Executive Session, the Council may resume the meeting, open to the public, to address the remaining items on the agenda. Agenda items may be taken out of order. Please turn off all cell phones. Council Meetings are broadcast via live streaming video on the internet in both audio and visual formats. One or more members of the Council may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

**1. Call To Order.**

**2. Roll Call.** Town Council Members Barry Thomas, Glen Blomgren, Lynn Collins, Karen Brooks; Mark McBrady, Vice Mayor Amy Lance and Mayor John Hughes.

### 3. Public Comment on Non-agendized Items

The Council wishes to hear from Citizens at each meeting. Those wishing to address the Council need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Council. Individuals may address the Council on any issue within its jurisdiction. According to the Arizona Open Meeting Law, Councilmembers may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Councilmembers are forbidden from discussing or taking legal action on matters raised during Public Comment unless the matters are properly noticed for discussion and legal action. A 3 minute per speaker limit shall be imposed. Everyone is asked to please be courteous and silent while others are speaking.

**4. Study Session.** Study Sessions are held for the purpose of detailed review and Council discussion. As such, Council may discuss and provide feedback on any matter listed on the agenda. No final decisions or voting occurs at Study Sessions. Agenda language may vary from that in CAARFs for Open Meeting Law purposes.

Page 3 **A. Overview and discussion of Statewide Proposition 207, passed by the voters at the November 3, 2020, General Election, which allows limited marijuana possession, use and cultivation by adults 21 or older (Attorney CC)**

### 5. Adjourn.

#### For Your Information:

Next Town Council Meeting: Tuesday, December 15, 2020 at 6:30 p.m.  
Next Planning & Zoning Meeting: Thursday, January 7, 2021 at 6:00 p.m.  
Next Town Council Work Session: Tuesday, January 12, 2021 at 6:30 p.m.

Persons with a disability may request reasonable accommodations by contacting the Town Hall at (928) 632-7362 at least 24 hours in advance of the meeting.

#### Certification of Posting

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the \_\_\_\_\_ of \_\_\_\_\_, 2020, at \_\_\_\_\_ a.m./p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: \_\_\_\_\_, Town Clerk's Office.

If you would like to receive Town Council agendas via email, please sign up at [AgendaList@dhaz.gov](mailto:AgendaList@dhaz.gov) and type Subscribe in the subject line, or call (928) 632-7362 and speak with Beth Evans, Interim Town Clerk.



# COUNCIL COMMUNICATION

Study Session Date: **December 8, 2020**

Agenda Item: **4.A.**

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**Submitted by:** Kay Bigelow, Town Attorney

**Subject:**

Discussion about the recent citizen approval of Proposition 207 legalizing the use and cultivation by certain adults (21 years old or more) of recreational marijuana.

**Background:**

Voters approved Proposition 207 legalizing use and cultivation of marijuana for recreational purposes at the November 3, 2020 election. The governor signed the proclamation on November 30, 2020.

Unlike medical marijuana, this law allows municipalities to prohibit recreational marijuana from locating in municipalities unless they want to co-locate in a medical marijuana shop. Since Dewey Humboldt does not have any medical marijuana dispensaries, you can prohibit recreational marijuana completely if the Council desires.

**Financial Impact:**

Proprietors will have to pay fees and taxes as set by Town and other relevant governmental entities.

**Direction Requested:**

This is an educational item without a request for Council action at this meeting.

**Suggested Motion:**

n/a

**Attachments:**

Governor's Proclamation, League of Arizona Cities and Town model ordinance.

**League of Arizona Cities and Towns**  
**Model Ordinance Relating to Recreational Marijuana**  
**(September 29, 2020)**

Options are highlighted in **yellow**.

Notes are in **red**.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE COMMON COUNCIL OF THE [CITY/TOWN] OF \_\_\_\_\_, ARIZONA, AMENDING THE CODE OF \_\_\_\_\_, ARIZONA BY ADOPTING A NEW ARTICLE \_\_\_ RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; **PROHIBITING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES OR REGULATING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES**]; ESTABLISHING REGULATIONS FOR PERSONAL USE AT AN INDIVIDUAL’S PRIMARY RESIDENCE; AUTHORIZING RETAIL SALES FROM MARIJUANA AND MARIJUANA PRODUCTS; IMPOSING FEES; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, marijuana contains tetrahydrocannabinol (“THC”), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in [City/Town] according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as “Smart and Safe Arizona Act” has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the [City/Town] finds that Proposition 207 authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other [City/Town] departments to respond to violations of state and local laws, including building, electrical and fire codes;

**[OPTION: If Prohibiting establishments/facilities]**

WHEREAS, the [City/Town] seeks to protect public health, safety, and welfare by prohibiting marijuana establishments and/or marijuana testing facilities in the [City/Town];

**[OPTION: If Allowing/Regulating establishments/facilities]**

WHEREAS, the [City/Town] seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations to limit the number of marijuana establishments and/or marijuana testing facilities in [City/Town];

NOW THEREFORE, BE IT ORDAINED by the Common Council of the [City/Town] of \_\_\_\_\_, Arizona, as follows:

Section I. In General.

The Code of \_\_\_\_\_, Arizona, is hereby amended by adding a new Article \_\_, Recreational Marijuana to read as follows:

**Article X-X**

**Sec. X-X-1 Purpose**

**Sec. X-X-2 Definitions**

**Sec. X-X-3 Marijuana Prohibited on Public Property**

***Option A: Prohibits Marijuana Establishments and Marijuana Testing Facilities***

**Sec. X-X-4(A) Marijuana Establishment Prohibited**

**Sec. X-X-5(A) Marijuana Testing Facility Prohibited**

***Option B: Prohibits Marijuana Establishments Except for Dual Licensees; Prohibits Marijuana Testing Facilities***

**Sec. X-X-4(B) Marijuana Establishment Prohibited; Dual Licensee Exception.**

**Sec. X-X-5(B) Marijuana Testing Facility Prohibited**

***Option C: Prohibits Marijuana Establishments (with or without exception for dual licensees); Permits Marijuana Testing Facilities***

**Sec. X-X-4(C) INSERT Sec. X-X-4(A) or Sec. X-X-4(B)**

**Sec. X-X-4(C) Marijuana Testing Facility Permitted**

***Option D: Permits Marijuana Establishments; Prohibits or Permits Marijuana Testing Facilities***

**Sec. X-X-4(D) Marijuana Establishments Permitted; Nonresidential**

**Sec. X-X-5(D) INSERT Sec. X-X-5(A) or X-X-5(C)**

**Sec. X-X-6 Individual’s Primary Residence for Personal Use**

**Sec. X-X-7 Retail Sales from Marijuana and Marijuana Products**

**Sec. X-X-8 Fees**

**Sec. X-X-9 Violations**

**Sec. X-X-10 Enforcement; Penalties**

**Sec. X-X-1 Purpose.**

**[OPTION: If prohibiting marijuana.]**

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the [City/Town] prohibits the retail sale, cultivation, and manufacturing of marijuana or marijuana products in [City/Town]. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

**OR**

**[OPTION: If regulating marijuana.]**

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the [City/Town] enacts reasonable regulations and requires compliance with zoning laws for the retail sale, cultivation and manufacturing of marijuana or marijuana products in a marijuana establishment or marijuana testing facility and the cultivation, processing and manufacturing of marijuana in a primary residence. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

**Sec. X-X-2 Definitions.**

The below words and phrases, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. “*Chemical Extraction*” means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- B. “*Chemical Synthesis*” means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
- C. “*Consume*,” “*Consuming*,” and “*Consumption*” mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.

- D. “*Consumer*” means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- E. “*Cultivate*” and “*Cultivation*” mean to propagate, breed, grow, prepare and package marijuana.
- F. “*Deliver*” and “*Delivery*” mean the transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.
- G. “*Department*” means the State of Arizona Department of Health Services or its successor agency.
- H. “*Dual Licensee*” means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- I. “*Enclosed Area*” means a building, greenhouse, or other structure that has:
  1. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
  2. Is secure against unauthorized entry;
  3. Has a foundation, slab or equivalent base to which the floor is securely attached; and
  4. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors.
- J. “*Extraction*” means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- K. “*Manufacture*” and “*Manufacturing*” mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- L. “*Marijuana*”
  1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound,



manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.

2. Includes cannabis as defined in A.R.S. § 13-3401.
3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

M. “*Marijuana Concentrate*:”

1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

N. “*Marijuana Establishment*” means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

O. “*Marijuana Products*” means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

P. “*Marijuana Testing Facility*” means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

Q. “*Nonprofit Medical Marijuana Dispensary*” means a nonprofit entity as defined in A.R.S. § 36-2801(12).

R. “*Open Space*” means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

- S. “Person” means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- T. “Process” and “Processing” means to harvest, dry, cure, trim or separate parts of the marijuana plant.
- U. “Public Place” has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
- V. “Smoke” means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

**Sec. X-X-3 Marijuana Prohibited on Public Property.**

- A. The use, sale, cultivation, manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by [City/Town].
- B. It is unlawful for an individual to smoke marijuana in a public place or open space in [City/Town].

***[OPTION A: Sec. X-X-4(A) and X-X-5(A) prohibits a marijuana establishment and marijuana testing facility – a municipality may prohibit either or both.]***

**Sec. X-X-4(A) Marijuana Establishment Prohibited.**

- A. To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in [City/Town].
- B. To the fullest extent allowable by law, the operation of a marijuana establishment by a dual licensee is prohibited in [City/Town].

**Sec. X-X-5(A) Marijuana Testing Facility Prohibited.**

- A. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in [City/Town].

***[OPTION B: Sec. X-X-4(B) and X-X-5(B) prohibits a marijuana establishment with the exception of dual licensees who operate both medical dispensaries and marijuana establishments at a shared location; prohibits a marijuana testing facility].***

**Sec. X-X-4(B) Marijuana Establishment Prohibited; Dual Licensee Exception.**

- A. To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in [City/Town], except where authorized for a dual licensee who:
  - 1. Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
  - 2. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

**Sec. X-X-5(B) Marijuana Testing Facility Prohibited.**

- B. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in [City/Town].

***[OPTION C: Sec. X-X-4(C) and X-X-5(C) prohibits a marijuana establishment but allows a marijuana testing facility].***

**Sec. X-X-4(C)**

***[INSERT Sec. X-X-4(A) prohibition of all Marijuana Establishments or Sec. X-X-4(B) prohibition of Marijuana Establishment with dual licensee exception].***

**Sec. X-X-5(C) Marijuana Testing Facility Permitted.**

- A. It shall be unlawful for a person to operate a marijuana testing facility at any location within the [City/Town] without obtaining a \_\_\_\_\_ permit from the [City/Town] clerk in accordance with [City/Town] Zoning Code Section \_\_\_\_\_, including any application and review procedures pursuant to \_\_\_\_\_.
- B. A marijuana testing facility is permitted in [City/Town] subject to the following conditions:
  - 1. There are no more than \_\_\_ number of marijuana testing facilities operating in [City/Town].
  - 2. Shall ensure that access to the area of the facility where marijuana or marijuana products are being tested or stored for testing is limited to a facility's owners or authorized agents.
  - 3. Shall ensure that transportation of marijuana or marijuana products is in compliance with applicable law.
  - 4. Shall comply with all testing processes, protocols, standards, and criteria adopted by the Department for testing marijuana and marijuana products.
  - 5. Shall maintain records, equipment and instrumentation as required by the Department.

6. Shall submit a written security plan to the [City/Town] that specifies the measures that will be taken to deter and prevent unauthorized entrance into limited access areas including the use of security equipment to detect unauthorized intrusion, exterior lighting to facilitate surveillance, and electronic monitoring such as video cameras that provide coverage of all entrances to and exits from limited access areas and all entrances to and exits from the building and has sufficient recording resolution.

**OR**

Shall comply with all security protocols required by the Department.

***[OPTION D: Sec. X-X-4(D) and X-X-5(D) permits a Marijuana Establishment and has an option for prohibiting or permitting a Marijuana Testing Facility].***

***[NOTE: The following provisions are provided as examples to include in your ordinance to regulate a Marijuana Establishment. However, if your city or town has existing medical marijuana regulations it may be simpler to reference back to those provisions since the Act prohibits a city or town from enacting an ordinance, regulation or rule that is unduly burdensome or more restrictive than a comparable ordinance, regulation, or rule that applies to nonprofit medical marijuana dispensaries.]***

#### **Sec. X-X-4(D) Marijuana Establishments Permitted; Nonresidential.**

Marijuana establishments shall be regulated as outlined in Section \_\_\_ of the [City/Town] Code (reference to nonprofit medical marijuana dispensary regulations instead of including the following provisions).

**OR**

- A. It shall be unlawful for a person to operate a marijuana establishment at any location within the [City/Town] without obtaining a \_\_\_\_\_ permit from the [City/Town] clerk in accordance with [City/Town] Zoning Code Section \_\_\_\_\_, including any application and review procedures pursuant to \_\_\_\_\_.
- B. If authorized by state law and a valid permit has been obtained from the [City/Town], a marijuana establishment is permitted in [City/Town] subject to the following conditions and limitations:

***[OPTION: Dual licensee only]***

1. To the fullest extent allowable by law, shall be authorized for a dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a

shared location and has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.

**OR**

***[OPTION: Dual licensee (who is not limited to a shared location or maintaining dispensary registration) or any other licensed applicant; the Act allows the Department to issue social equity ownership program licenses that will be authorized to operate as marijuana establishments].***

1. To the fullest extent allowable by law, shall be authorized in [City/Town] for:
  - a. A dual licensee who operates both a nonprofit medical marijuana dispensary and marijuana establishment.
  - b. Any other entity licensed by the Department to provide marijuana or marijuana products to consumers.
2. Shall not be more than \_\_\_ marijuana establishments operating in [City/Town].
3. Shall be authorized in \_\_\_\_\_ zoning districts.
4. Shall not be located within \_\_\_\_\_ hundred feet of the same type of use or a nonprofit medical marijuana dispensary. This distance shall be measured from the lot line of the property in which the businesses are conducted or proposed to be conducted.
5. Shall not be located within \_\_\_\_\_ hundred feet of a residentially zoned property. This distance shall be measured from the lot line of the property in which the business is conducted or proposed to be conducted to the property boundary line of the residentially zoned property.
6. Shall not be located within \_\_\_\_\_ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, public cemetery or community center. This distance shall be measured from the lot line of the property in which the business is conducted or proposed to be conducted to the property line of the protected use.
7. Shall be located in a permanent building on an established foundation adhering to [City/Town] building codes and shall not include any temporary, portable or self-powered mobile facilities, or trailer, cargo container or motor vehicle.

8. Shall be a total maximum \_\_\_\_\_ square feet. Maximum square footage may be expanded subject to Use Permit application and hearing procedures set forth under [City/Town Code].
9. The secure storage area for the marijuana stored at the location shall not exceed \_\_\_\_\_ square feet of the total \_\_\_\_\_ square foot maximum floor area of the facility. Maximum square footage may be expanded subject to Use Permit application and hearing procedures set forth under [City/Town Code].
10. Shall have operating hours not earlier than \_\_\_\_ a.m. and not later than \_\_\_\_ p.m.
11. Shall not provide drive-thru services or offsite deliveries of marijuana or marijuana products.
12. Shall not allow a person to consume marijuana or marijuana products on the premises or provide outdoor seating areas.
13. Shall provide for proper disposal of marijuana remnants or by-products. The remnants or by-products shall not to be placed within the facility's exterior refuse containers, [City/Town] trash can, bin or other [City/Town] facility, or in any park refuse container unless authorized by the [City/Town].
14. Shall not emit dust, fumes, vapors or odors into the environment from the facility and shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of [City/Town].
15. Shall not sell marijuana or marijuana products, except as permitted by state law to consumers.
16. Shall not display or keep marijuana or marijuana products that are visible from outside the premises.
17. Shall comply with applicable county health regulations for food preparation and handling.
18. Shall comply with applicable laws to safely and securely engage in extraction processes.
19. Shall submit a written security plan to the [City/Town] that describes the actions taken to deter and prevent unauthorized

entrance into limited access areas including use of security equipment, exterior lighting to facilitate surveillance, and electronic monitoring such as video cameras.

20. For a marijuana establishment that engages in cultivation or manufacturing, shall submit a written operations plan to the [City/Town] that describes the following:
- i. Procedures showing that the marijuana cultivation will be conducted in accordance with state and local laws and regulations regarding use and disposal of pesticides and fertilizers.
  - ii. The legal water source, irrigation plan, wastewater systems to be used, and projected water use.
  - iii. The plan for addressing odor and other public nuisances that may derive from the establishment.

**Sec. X-X-5(D)**

**[INSERT Sec. X-X-5(A) to prohibit a Marijuana Testing Facility or Sec. X-X-5(C) to permit a Marijuana Testing Facility]**

**Sec. X-X-6 INDIVIDUAL’S PRIMARY RESIDENCE FOR PERSONAL USE**

*[NOTE: Your city or town may want to reference or incorporate any existing regulations for medical marijuana use and cultivation in residential areas.]*

- A. To the fullest extent allowable by law, marijuana possession, consumption, processing, manufacturing, transportation, and cultivation is permitted in a residential zoning district in [City/Town] and is subject to the following conditions and limitation:
- 1. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.
  - 2. It shall be unlawful for two or more individuals who are at least twenty-one (21) year of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals’ primary residence.
  - 3. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the [City/Town] limits.
  - 4. Individuals shall not process or manufacture marijuana by means of any liquid or gas other than alcohol, that has a flashpoint below one hundred (100) degrees Fahrenheit.

5. Kitchen, bathrooms, and primary bedroom(s) shall be used for their intended use and shall not be used primarily for residential marijuana processing, manufacturing, or cultivation.
6. A residence shall not emit dust, fumes, vapors, or odors into the environment and individuals shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of [City/Town].
7. Cultivation shall be limited to a closet, room, greenhouse, or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.
8. Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft, or other optical aids.

***[NOTE: Cities and towns are not allowed to impose any tax rate above or below their regular retail tax rate on sales or purchases of marijuana or marijuana products.]***

**Sec. X-X-7 Retail Sales from Marijuana and Marijuana Products.**

To the fullest extent allowable by law, the sale of marijuana and marijuana products is authorized within the [City/Town] from a marijuana establishment and is tangible personal property as defined in A.R.S. § 42-5001 and subject to the transaction privilege tax in the retail classification and use tax.

***[OPTIONAL: If marijuana establishments and/or marijuana testing facilities are permitted in your city or town].***

**Sec. X-X-8 Fees.**

- A. [FOR PERMITS] The fee for the permit shall be established by [RESOLUTION OF THE CITY/TOWN COUNCIL/FEE SCHEDULE].

OR

The permit fee for a marijuana establishment pursuant to Sec. X-X-\_\_ is (\$\_\_\_\_\_) annually.

The permit fee for a marijuana testing facility pursuant to Sec. X-X-\_\_ is (\$\_\_\_\_\_) annually.



**Sec. X-X-9 Violations.**

- A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.
- B. It is a violation of this article for any person to provide false information on any permit application.
- C. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

**Sec. X-X-10 Enforcement; Penalties.**

- A. The \_\_\_\_\_ permit may be revoked by the [City/Town] for violation of any provision of this article, for any violation of the requirements of the permit, or if the Department revokes the license for a marijuana establishment or marijuana testing facility. If a permit is revoked, the permittee shall have the right to appeal the decision of the [City/Town] to \_\_\_\_\_ as outlined in Section \_\_\_\_ of the [City/Town] Code.
- B. Violations of this article are in addition to any other violation enumerated within the [City/Town] ordinances or the [City/Town] Code and in no way limits the penalties, actions or abatement procedures which may be taken by the [City/Town] for any violation of this article, which is also a violation of any other ordinance or Code provision of the [City/Town] or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.
- C. Civil Penalty: Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the [City/Town] civil hearing process set forth in subsection \_\_\_\_\_ or [City/Town] Court under Section \_\_\_ of the [City/Town Code].

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

Section IV. Effective Date.

**[OPTION: Conditional Effective Date]**

This Ordinance does not become effective unless the Smart and Safety Act (Proposition 207) becomes law when approved by a majority of the votes cast at the November 3, 2020 general election and on proclamation of the governor. Upon the governor's proclamation, the effective date of this Ordinance shall be \_\_\_\_ days following adoption by the [City/Town] Council.

**OR**

**[OPTION: Emergency Act]**

Emergency.

Because of the urgent need for the implementation of the [City/Town]'s regulations concerning recreational marijuana, the immediate operation of this Ordinance is necessary for the preservation of the health, safety, and general welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Council as required by law.

Section V. Zoning Considerations.

In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the [City/Town] Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

Section VI. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VII. Providing for Severability.

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

PASSED AND ADOPTED by the Common Council of the [City/Town] of \_\_\_\_\_, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 202\_, by the following vote:

AYES: \_\_\_\_\_

NAYES: \_\_\_\_\_ ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_ ABSTAINED: \_\_\_\_\_

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 202\_.

\_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, [City/Town] Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
[City/Town] Attorney

I, \_\_\_\_\_, [CITY/TOWN] CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. \_\_\_\_\_ ADOPTED BY THE COMMON COUNCIL OF THE [CITY/TOWN] OF \_\_\_\_\_ ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_, WAS POSTED IN THREE PLACES ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_.

\_\_\_\_\_  
\_\_\_\_\_, [City/Town] Clerk