

MARANA ORDINANCE NO. 2020.019

RELATING TO OFFENSES; REVISING MARANA TOWN CODE TITLE 11 (OFFENSES) BY ADDING NEW CHAPTER 11-9 (RECREATIONAL MARIJUANA) RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA AND RENUMBERING THE CHAPTERS THAT FOLLOW TO CONFORM; AND DECLARING AN EMERGENCY

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.; and

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 the Town according to a prescribed statutory and regulatory process; and

WHEREAS the statewide ballot measure I-23-2020, known as “Smart and Safe Arizona Act” was certified as Proposition 207 and placed on the November 3, 2020 general election ballot and has been approved by a majority of the votes cast at the election; and

WHEREAS Proposition 207 contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least 21 years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of age; 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; and

WHEREAS the 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 Town departments to respond to violations of state and local laws, including building, electrical and fire codes; and

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

WHEREAS the Town Council finds that adoption of this ordinance is in the best interests of the Town and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

SECTION 1. Marana Town Code Title 11 (Offenses) is hereby amended by adding new Chapter 11-9 (Recreational Marijuana), which was made a public record by and attached as Exhibit A to Marana Resolution No. 2020-128 and is hereby adopted and made a part of this ordinance by reference as if fully set out here.

SECTION 2. The following penalty clause is included in Chapter 11-9 (Recreational Marijuana):

11-9-3 Smoking marijuana prohibited on public property; classification

- A. It is unlawful for a person to smoke marijuana in a public place or open space in the town.
- B. Any person who fails to comply with this section is guilty of a petty offense.

SECTION 3. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Since it is necessary for the preservation of the peace, health and safety of the Town of Marana that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, Arizona, this 17th day of November, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry L. Lawson, Town Clerk

Jane Fairall, Interim Town Attorney