

Ordinance No. 887

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, ADOPTING BY REFERENCE A DOCUMENT ENTITLED "ARTICLE 10-07 - RECREATIONAL MARIJUANA" (DECLARED BY RESOLUTION NO. 2177 TO BE A PUBLIC RECORD), WHICH ENACTS A NEW ARTICLE 10-07 "RECREATIONAL MARIJUANA" IN CHAPTER 10 "OFFENSES" IN THE TOWN CODE TO REGULATE OR PROHIBIT CERTAIN ASPECTS OF USE, SALE, CULTIVATION, MANUFACTURE, TRANSPORT, PRODUCTION, DISTRIBUTION, OR POSSESSION OF MARIJUANA OR MARIJUANA PRODUCTS; PROVIDING THAT ALL OTHER ARTICLES, SECTIONS, AND SUBSECTIONS IN CHAPTER 10 NOT HEREIN AMENDED SHALL REMAIN IN FULL FORCE AND EFFECT; PROVIDING THAT, IF ANY PROVISION IN THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND DECLARING THIS ORDINANCE TO BE AN EMERGENCY MEASURE PURSUANT TO ARS §19-142(B) AND §2-05-060 OF THE PRESCOTT VALLEY TOWN CODE.

WHEREAS, the statewide ballot measure I-23-2020, known as the "Smart and Safe Arizona Act," certified as Proposition 207, was passed by Arizona voters at the November 3, 2020 General Election; and

WHEREAS, Proposition 207 authorizes in part (1) possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one years of age; (2) possession, transporting, cultivation or processing of marijuana plants in a primary residence by individuals at least twenty-one years of age; and (3) towns to enact regulations relating to marijuana including limitations on recreational marijuana retail establishments, marijuana testing facilities, and delivery of recreational marijuana; and

WHEREAS, the Town Council finds that Proposition 207 authorizes marijuana establishments and testing facilities 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, plumbing, and fire codes; and

WHEREAS, marijuana contains tetrahydrocannabinol, which remains on Schedule I of the Controlled Substances Act pursuant to 21 United States Code sections 811-814, and any possession or use is a violation of federal law pursuant to 21 United State Code sections 841-865; and

WHEREAS, in accordance with and as permitted by state law and codified rule, the Town Council seeks to protect public health, safety, and welfare by enacting reasonable regulations and prohibitions on certain aspects of use, sale, cultivation, manufacture, transport, production, distribution, or possession of marijuana or marijuana products; and

WHEREAS, the Town Council now finds that the proposed enactment of a new Article 10-07 "Recreational Marijuana" is in the best interests of the community and meets the health, safety and welfare needs thereof; and

WHEREAS, ARS §9-801 et seq. provides for adoption by reference of particularly lengthy or complex ordinances when they are declared to be "public records"; and

WHEREAS, the document enacting a new Article 10-07 "Recreational Marijuana" has been declared by Resolution No. 2177 to be a "public record"; and

WHEREAS, ARS §9-803 requires penalty clauses in such public records to be set forth in full in the adopting ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

SECTION ONE. That that certain document known as "Article 10-07 - Recreational Marijuana", declared to be a public record by Resolution No. 2177 (and available for public inspection in the Office of the Town Clerk, 7501 East Skoog Blvd., Prescott Valley, Arizona, 86314), be hereby referred to, adopted and made a part hereof as if fully set forth herein.

SECTION TWO. That the following penalty clause in Section 10-07-070 "Enforcement Penalties" in Chapter 10 "Offenses" of the Town Code be hereby enacted as follows:

10-07-070 Enforcement; Penalties.

A. Each day any violation of any provision of this Article shall continue shall constitute a separate offense.

B. Violations of this Article are in addition to any other violation enumerated within the Town Code and in no way limit the penalties, actions or abatement procedures that may be taken by the Town for any violation of this Article, which is also a violation of any other Town Code provision 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. Violation of this Article shall be a Class 1 Misdemeanor.

(Ord. No. 887, Enacted, 01/28/21)

SECTION THREE. That all other Articles, Sections and Subsections of Chapter 10 "OFFENSES" of the Town Code, not herein amended, shall remain in full force and effect.

SECTION FOUR. That, if any provision in this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION FIVE. That, inasmuch as it is necessary for the peace, health and safety of the Town of Prescott Valley that this Ordinance be effective upon its passage and approval according to ARS §19-142(B) and §2-05-060 of the Town Code (due to the need to enact regulations associated with the “Smart and Safe Arizona Act” approved by voters at the November 3, 2020 general election and certified by the Governor), this Ordinance is hereby declared to be an emergency measure and effective upon its passage and approval.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 28th day of January, 2021.



A handwritten signature in black ink, appearing to read 'Kell Palguta', is written above a horizontal line.

Kell Palguta, Mayor

A handwritten signature in black ink, appearing to read 'Fatima Fernandez', is written above a horizontal line.

Fatima Fernandez, Town Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'Ivan Legler', is written above a horizontal line.

Ivan Legler, Town Attorney