

### **Ordinance No. 883**

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 " RECREATIONAL MARIJUANA REGULATIONS" (DECLARED BY RESOLUTION NO. 2174 TO BE A PUBLIC RECORD), WHICH AMENDS SECTIONS 13-06-020 "USE REGULATIONS"; 13-14-020 "USE REGULATIONS"; 13-14-080 "PERFORMANCE STANDARDS"; AND 13-15-070 "PERFORMANCE STANDARDS" IN CHAPTER 13 "ZONING" RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; PROVIDING THAT ALL OTHER ARTICLES, SECTIONS, AND SUBSECTIONS IN CHAPTER 13 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 PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

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 States Code sections 841-865; and

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes title 36, chapter 28.1, and the Department of Health Services Medical Marijuana Program codified rules in title 9, chapter 17 of the Arizona Administrative Code allow the establishment and operation of medical marijuana dispensaries in the Town according to a prescribed statutory and regulatory process; 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 (1) prohibiting recreational marijuana retail sales and marijuana testing facilities in the Town to the extent permitted by law, and (2) enacting reasonable regulations on marijuana establishments in the incorporated areas of the Town

WHEREAS, the prohibition on retail recreational marijuana sales in the Town shall not apply to establishments permitted by the State of Arizona as a dual licensee to operate as both a nonprofit medical marijuana dispensary and a recreational marijuana retail establishment at a shared location.

WHEREAS, the Town Council now finds that the proposed amendments to Chapter 13 are in the best interests of the community and meet 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 amending Chapter 13 has been declared by Resolution No. 2174 to be a "public record";

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 "Recreational Marijuana Regulations", declared to be a public record by Resolution No. 2174 (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 all other Articles, Sections and Subsections of Chapter 13 "ZONING" of the Town Code, not herein amended, shall remain in full force and effect.

SECTION THREE. 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 FOUR. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 11<sup>th</sup> day of February, 2021.



Kell Palguta, Mayor



*Fatima Fernandez*  
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Fatima Fernandez, Town Clerk

APPROVED AS TO FORM:

*Ivan Legler*  
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Ivan Legler, Town Attorney