

RESOLUTION NO. 1825

A RESOLUTION OF THE CITY OF GLOBE, GILA COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD CERTAIN TEXT AMENDMENTS TO THE CITY OF GLOBE CODE, CHAPTER 14 ZONING CODE, FILED WITH THE CITY CLERK AND ENTITLED "ORDINACNE NO. 868", TO REGULATE RECREATIONAL MARIJUANA USE, SALES, TESTING AND CULTIVATION, AND AMENDING SECTION 14-5-18(A)(5) MEDICAL MARIJUANA RELATED FACILITIES

WHEREAS, pursuant to A.R.S. Section 9-802, the Mayor and Council have determined to adopt by reference that certain documents entitled "Ordinance No. 868", one copy of which is on file in the office of the City Clerk, is hereby declared to be a public record and is ordered to remain on file with the City Clerk.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Globe, Arizona, that certain documents entitled "Ordinance No. 868" attached hereto as "Exhibit A", one copy of which are on file in the office of the City Clerk, is hereby declared to be a public record and is ordered to remain on file with the City Clerk and shall be codified as an amendment to Chapter 14 of the Globe City Code. Section J of "Exhibit A" attached hereto is a penalty provision that will be set forth in the published version of Ordinance No. 868 as required by A.R.S. Section 9-803.

PASSED AND ADOPTED by the Mayor and Council of the City of Globe, Gila County, Arizona, this _____ day of _____ 2021.

Al Gameros, Mayor

ATTEST:

APPROVED AS TO FORM:

Shelly Salazar, City Clerk

Bill Sims, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Gila)

I, the undersigned Shelly Salazar, being the duly appointed, qualified City Clerk of the City of Globe, Gila County, Arizona, certify that the foregoing Resolution No. 1825 is a true, correct and accurate copy of Ordinance No. 868, passed and adopted at a regular meeting of the Council of the City of Globe, Gila County, Arizona, held on the 23rd day of February 2021, at which a quorum was present and, by a majority vote, seven voted in favor of said resolution.

Given under my hand and sealed this _____ day of _____, 20____.

City Clerk

“EXHIBIT A”

ORDINANCE NO. 868

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF GLOBE, ARIZONA, AMENDING THE ZONING CODE BY RE-NUMBERING SECTION 14-5-19 “DONATION BOXES, APPROVAL REQUIRED”, TO NEW SECTION 14-5-20; AMENDING SECTION 14-5-18(A)(5) TO ALLOW UP TO TWO (2) MEDICAL MARIJUANA DISPENSARIES AND TWO (2) RECREATIONAL MARIJUANA DISPENSARIES AND ADDING SUBSECTIONS SIX THROUGH FOURTEEN; AND ADOPTING A NEW SECTION 14-5-19 RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; REGULATING MARIJUANA ESTABLISHMENTS AND 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 the City 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 of Globe 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 departments to respond to violations of state and local laws, including building, electrical and fire codes;

WHEREAS, the City 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 the city;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Globe, Arizona, as follows:

Section I. In General.

The Zoning Code of Globe, Arizona, is hereby amended by moving Section 14-5-19, “Donation Boxes, Approval Required” to new Section 14-5-20 and adding a new Section 14-5-19, Recreational Marijuana to read as follows:

Section 14-5-19 Recreational Marijuana

A. Purpose.

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 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.

B. 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.

1. “*Chemical Extraction*” means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
2. “*Chemical Synthesis*” means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
3. “*Consume*,” “*Consuming*,” and “*Consumption*” mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.
4. “*Consumer*” means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
5. “*Cultivate*” and “*Cultivation*” mean to propagate, breed, grow, prepare and package marijuana.
6. “*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.
7. “*Department*” means the State of Arizona Department of Health Services or its successor agency.
8. “*Dual Licensee*” means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
9. “*Enclosed Area*” means a building, greenhouse, or other structure that has:
 - a. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
 - b. Is secure against unauthorized entry;
 - c. Has a foundation, slab or equivalent base to which the floor is securely attached; and
 - d. 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.

10. “*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.
11. “*Manufacture*” and “*Manufacturing*” mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
12. “*Marijuana*”
 - a. 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.
 - b. Includes cannabis as defined in A.R.S. § 13-3401.
 - c. 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.
13. “*Marijuana Concentrate:*”
 - a. 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.
 - b. 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.
14. “*Marijuana Establishment*” means an entity licensed by the Department to operate all of the following:
 - a. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
 - b. 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.
 - c. 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.
15. “*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.

16. “*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.
17. “*Nonprofit Medical Marijuana Dispensary*” means a nonprofit entity as defined in A.R.S. § 36-2801(12).
18. “*Open Space*” means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.
19. “*Person*” means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
20. “*Process*” and “*Processing*” means to harvest, dry, cure, trim or separate parts of the marijuana plant.
21. “*Public Place*” has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
22. “*Smoke*” means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

C. Marijuana Prohibited on Public Property.

1. 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 the City.
2. It is unlawful for an individual to smoke marijuana in a public place or open space in the City.

D. Marijuana Establishments Permitted; Nonresidential.

Marijuana Establishments shall be regulated with an approved Conditional Use Permit in accordance with the Medical Marijuana provisions of Section 14-5-18 of the Zoning Code, unless otherwise specified by the regulations contained in this section and ARS Title 36, Chapter 28.2. Recreational Marijuana Establishments shall:

1. Not allow a person to consume marijuana or marijuana products on the premises or provide outdoor seating areas.

2. Provide for proper disposal of marijuana remnants or by-products. The remnants or by-products shall not be placed within the facility's exterior refuse containers, City trash can, bin or other City facility, or in any park refuse container unless authorized by the City.
3. 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.
4. Not sell marijuana or marijuana products, except as permitted by state law to consumers.
5. Not display or keep marijuana or marijuana products that are visible from outside the premises.
6. Comply with applicable county health regulations for food preparation and handling.
7. Comply with applicable laws to safely and securely engage in extraction processes.
8. Submit a written security plan to the City 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.
9. For a marijuana establishment that engages in cultivation or manufacturing, shall submit a written operations plan to the City that describes the following:
 - a. 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.
 - b. The legal water source, irrigation plan, wastewater systems to be used, and projected water use.
 - c. The plan for addressing odor and other public nuisances that may derive from the establishment.

E. Marijuana Testing Facility Permitted.

1. It shall be unlawful for a person to operate a marijuana testing facility at any location within the City without first obtaining a Conditional Use Permit from the City in accordance with City Zoning Code Section 14-9-6. Conditional Use Permits for

Marijuana Testing Facilities require approval from the City Council upon recommendation from the Planning and Zoning Commission.

2. Marijuana testing facilities are permitted with an approved Conditional Use Permit in the C-2, C-3, M-1 and M-2 Zoning Districts and subject to the following conditions:
 - a. 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.
 - b. Shall ensure that transportation of marijuana or marijuana products is in compliance with applicable law.
 - c. Shall comply with all testing processes, protocols, standards, and criteria adopted by the Department for testing marijuana and marijuana products.
 - d. Shall maintain records, equipment and instrumentation as required by the Department.
 - e. Shall submit a written security plan to the City 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. Security plans shall include all security protocols required by the Department.

F. Individual's Primary Residence for Personal use

To the fullest extent allowable by law, marijuana possession, consumption, processing, manufacturing, transportation, and cultivation is permitted in a residential zoning district in the City 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 municipal boundaries.

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 the City.
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.

G. 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 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.

H. Fees.

1. The permit fees for marijuana establishments and marijuana testing facilities shall be established by Resolution of the Globe City Council pursuant to the adoption of a fee schedule.

I. Violations.

1. 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.
2. It is a violation of this article for any person to provide false information on any permit application.

3. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

J. Enforcement; Penalties.

1. The Conditional Use Permit may be revoked by the City 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 to the City Council.
2. Violations of this article are in addition to any other violation enumerated within the City Code and in no way limits the penalties, actions or abatement procedures which may be taken by the City for any violation of this article, which is also a violation of any other Code provision of the City 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.
3. Civil Penalty: Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the City civil hearing process set forth in subsection 1-5-1(A) or City Court under Chapter 6 of the City Code.

Section II. In General.

The Zoning Code of Globe, Arizona, is hereby amended by amending Section 14-5-18 Medical Marijuana Related Facilities; Conditional Use Permit Required, Subsection (A) Location, to read as follows (added text shown with underline, deleted text shown with ~~strikethrough~~):

5. Not more than ~~one~~ two (2) Medical Marijuana ~~Dispensary~~ Dispensaries and two (2) Recreational Marijuana Dispensaries may be located within the City pursuant to A.R.S. 36-2804 (C), ~~or as otherwise allowed by statute.~~ City Council may allow additional Medical Marijuana cultivation facilities within the City that are not collocated with a dispensary licensed by the State to operate within the City. A Dual-Licensee Dispensary shall consist of one (1) Non-profit medical Dispensary and one (1) Recreational Dispensary operating from the same location.

6. Retail Marijuana Establishments shall not be located within 2,640 feet of the same type of use or a nonprofit medical marijuana dispensary. This distance shall be measured from the building in which the businesses are conducted or proposed to be conducted.
7. Marijuana Establishments shall not be located within 250 feet of improved R-2, R1-6, R1-9, and R1-43 zoned lots within the City unless separated by a highway or arterial road. This distance shall be measured from the nearest point of the building in which the business is conducted or proposed to be conducted to the nearest property boundary line of the residential property.
8. Marijuana Establishments shall not be located within 500 feet of an active kindergarten, primary, secondary or high school. This distance shall be measured from the building in which the business is conducted or proposed to be conducted to the nearest school building.
9. Marijuana Establishments shall not be located within 100 feet of an active church located on the same block fronting the same street. This distance shall be measured from the building in which the business is conducted or proposed to be conducted to the nearest church building.
10. Where geographic conditions warrant exceptions, the City Council may grant applicants reduced distance separations to protected uses through the Conditional Use Permit approval process.
11. Marijuana Establishments shall be located in a permanent building of Conventional Construction on an established foundation adhering to all City building codes and shall not include any temporary, portable or self-powered mobile facilities, or trailer, cargo container or motor vehicle.
12. Certain Marijuana Establishment manufacturing and extraction processes are known to be hazardous and pose life safety concerns. If manufacturing or extraction processes are proposed as part of a Conditional Use request, the type of materials being used or stored along with the quantities of materials shall be detailed in the request and is subject to approval.
13. Marijuana Establishments shall have all exterior business signage approved as part of the Conditional Use Permit.
14. Shall have operating hours as determined appropriate and approved as part of the Conditional Use Permit.

Section III. 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 IV. Emergency.

Because of the urgent need for the implementation of the City'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 Council has considered the individual property rights and personal liberties of the residents of the City 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 of Globe, Arizona, this ____ day of _____, 2021, by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this ____ day of _____, 2021.

Honorable Al Gameros, Mayor

ATTEST:

Shelly Salazar, City Clerk

APPROVED AS TO FORM:

William J. Sims, City Attorney

I, _____, CITY CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 868 ADOPTED BY THE COMMON COUNCIL OF THE CITY OF GLOBE ON THE ____ DAY OF _____, 2021, WAS POSTED IN THREE PLACES ON THE ____ DAY OF _____, 2021.

Shelly Salazar, City Clerk