



TOWN OF JEROME

POST OFFICE BOX 335, JEROME, ARIZONA 86331
(928) 634-7943 www.jerome.az.gov

ORDINANCE NO. 464

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING THE JEROME TOWN CODE BY ADOPTING A NEW CHAPTER 19, "RECREATIONAL MARIJUANA," ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; PROHIBITING MARIJUANA TESTING FACILITIES; PROHIBITING MARIJUANA ESTABLISHMENTS; SETTING FORTH VIOLATIONS; PROVIDING FOR PENALTIES; 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 Jerome according to a prescribed statutory and regulatory process; and

WHEREAS, the statewide ballot measure I-23-2020 ("Proposition 207"), known as "Smart and Safe Arizona Act" was approved by the voters at 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 Town of Jerome 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

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Voting record at adoption:

	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BARBER		X	X			
DILLENBERG			X			
HARVEY	X		X			
MOORE			X			
WORTH			X			

WHEREAS, the Town finds that marijuana establishments and marijuana testing facilities constitute a nuisance to public health, safety and welfare, and seeks to enact regulations to prohibit marijuana establishments and marijuana testing facilities in Jerome;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Jerome, Arizona, as follows:

Section I. In General.

The Code of Jerome, Arizona, is hereby amended by adding a new Chapter 19, "Recreational Marijuana," to read as follows:

CHAPTER 19 RECREATIONAL MARIJUANA

ARTICLE	19-1	Purpose
	19-2	Definitions
	19-3	Marijuana Prohibited on Public Property
	19-4	Marijuana Establishments Prohibited
	19-5	Marijuana Testing Facilities Prohibited
	19-6	Violations; Penalties

Article 19-1 Purpose.

This Chapter is adopted to protect the health, safety, and welfare of the community.

Article 19-2 Definitions.

The below words and phrases, wherever used in this Chapter, shall be construed as defined in this section. 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. *“Department”* means the State of Arizona Department of Health Services or its successor agency.
- G. *“Dual Licensee”* means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- H. *“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.
 5. Meets all applicable Fire Code, Building Code and Zoning Ordinance requirements.
- I. *“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.
- J. *“Manufacture”* and *“Manufacturing”* mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- K. *“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.
- L. *“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.
- M. *“Marijuana Establishment”* means an entity licensed by the Department to operate any 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.
- N. *“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.
- O. *“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.
- P. *“Nonprofit Medical Marijuana Dispensary”* means a nonprofit entity as defined in A.R.S. § 36-2801(12).
- Q. *“Open Space”* means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.
- R. *“Person”* means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- S. *“Process” and “Processing”* means to harvest, dry, cure, trim or separate parts of the marijuana plant.
- T. *“Public Place”* has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
- U. *“Smoke”* means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

Article 19-3 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 the Town of Jerome.

- B. It is unlawful for an individual to smoke marijuana in a public place or open space in Jerome.

Article 19-4 Marijuana Establishments Prohibited.

- A. To the fullest extent allowable by law, the operation of a marijuana establishment is not permitted in Jerome.
- B. To the fullest extent allowable by law, the operation of a marijuana establishment by a dual licensee is not permitted in Jerome.

Article 19-5 Marijuana Testing Facility Prohibited.

- A. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in Jerome.

Article 19-6 Violations; Penalties.

- A. Each day of any violation of any provision of this chapter shall continue shall constitute a separate offense.
- B. Civil Penalty: Except as otherwise provided herein, violations of any provision of this chapter shall be civil code offenses which may be adjudicated and enforced by the Town of Jerome civil hearing process set forth in Article 18-3 of the Jerome 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.

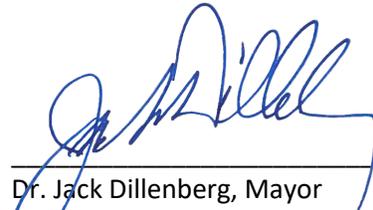
Section III. Emergency.

Because of the urgent need for the implementation of the 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 IV. 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 Town of Jerome, Arizona, this 18th day of November, 2020.



Dr. Jack Dillenberg, Mayor

APPROVED AS TO FORM:



William J. Sims, Esq.
Town Attorney

ATTEST:



Candace Gallagher, Town Manager/Clerk