

**ORDINANCE NO. 2021-895**

**AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, DECLARING THE DOCUMENT ENTITLED “RECREATIONAL MARIJUANA REGULATIONS (FEBRUARY 9, 2021),” AS A PUBLIC RECORD; ADOPTING THE “RECREATIONAL MARIJUANA REGULATIONS (FEBRUARY 9, 2021)” BY REFERENCE; AMENDING THE CODE OF THE TOWN OF CHINO VALLEY, ARIZONA, TITLE XI, BUSINESS REGULATIONS, BY ADOPTING A NEW CHAPTER 117, RECREATIONAL MARIJUANA REGULATIONS; RELATED TO THE REGULATION OF RECREATIONAL MARIJUANA; IMPOSING FEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; 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 seq.*, and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 *et seq.*; and

**WHEREAS**, the Arizona Medical Marijuana Act, ARIZ. REV. STAT. § 36-2801 *et seq.*, and Title 9, Chapter 17 of the Arizona Administrative Code, allow the establishment and operation of nonprofit medical marijuana dispensaries in the Town of Chino Valley 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, placed on the November 3, 2020, general election ballot, and approved by voters; and

**WHEREAS**, the Smart and Safe Arizona Act contains provisions: (i) authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual 21 years of age or older; (ii) authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults 21 years of age or older; (iii) allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the State of Arizona Department of Health Services (the “Department”) to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation, and manufacturing of marijuana; and (iv) 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 of Chino Valley finds that the Smart and Safe Arizona Act 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 of Chino Valley departments to respond to violations of state and local laws, including building, electrical, and fire codes; and

**WHEREAS**, the Town Council seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations to limit the number of marijuana establishments and marijuana testing facilities in the Town of Chino Valley; and

**WHEREAS**, that certain document entitled “Recreational Marijuana Regulations (February 9, 2021),” one paper copy and one electronic copy maintained in compliance with ARIZ.

REV. STAT. § 44-7041 of which are on file in the office of the Town Clerk as required by ARIZ. REV. STAT. § 9-802 and are available for public use and inspection during normal business hours, which Recreational Marijuana Regulations (February 9, 2021) are hereby declared to be public records, which public records are hereby referred to, adopted and made a part hereof as if fully set forth in this Ordinance and which are hereby ordered to remain on file with the Town Clerk.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. The Chino Valley Town Code, Title XI (Business Regulations), is hereby amended by adding a new Chapter 117 (Recreational Marijuana Regulations), to read as set forth in that certain document entitled "Town of Chino Valley Recreational Marijuana Regulations (February 9, 2021)," which document is hereby adopted by reference and incorporated herein by reference as if fully set forth in this Ordinance.

Section 3. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Town of Chino Valley Recreational Marijuana Regulations (February 9, 2021) adopted herein by reference are hereby repealed.

Section 4. 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.

Section 5. Violation of any provision of this Ordinance shall be subject to the following penalties as set forth in the Town of Chino Valley Recreational Marijuana Regulations (February 9, 2021) and provided herein:

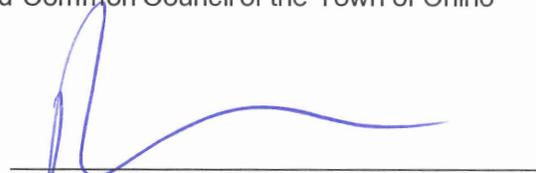
1. Except as otherwise provided in ARIZ. REV. STAT. § 36-2853, violation of any provision of this Ordinance is a class one misdemeanor.
2. Violation of this Ordinance is in addition to any other violation enumerated within the Town ordinances or the Town Code and in no way limits the penalties, actions or abatement procedures that may be taken by the Town for any violation of this Ordinance, that is also a violation of any other ordinance or code provision of the Town or Federal or State law. Conviction and punishment or judgment against any person under this Ordinance 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. Marijuana establishment permits may be revoked by the Town for violation of any provision of this Ordinance, for any violation of the requirements of the permit, or if the Department revokes the license for the establishment.

Section 6. Because of the urgent need for implementation of Town regulations in response to the Smart and Safe Arizona Act (Proposition 207), the immediate operation of this Ordinance is necessary for the preservation of health, safety, and welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately upon adoption by the Town Council.

Section 7. In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

Section 8. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

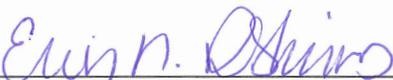
**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 9th day of February, 2021.



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Jack W. Miller, Mayor

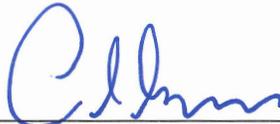
ATTEST:



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Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:



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Gust Rosenfeld PLC, Town Attorney  
By: Andrew J. McGuire

I hereby certify the above foregoing Ordinance No. 2021-895 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on February 9, 2021, and that quorum was present, and that the vote thereon was 7 ayes and 0 nays and 0 abstentions. Council members were absent or excused.



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Erin N. Deskins, Town Clerk