

ORDINANCE NO. (O) 20-10

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE ORO VALLEY TOWN CODE BY ADOPTING CHAPTER 8 ARTICLE 8-6 “RECREATIONAL MARIJUANA BUSINESS”; AND THE ZONING RELATED CHAPTER 23 “ZONING DISTRICTS”, TABLE 23.1 “PERMITTED USES”, CHAPTER 25 “USE REGULATIONS”, SECTION 25.1 “REQUIREMENTS FOR SPECIFIC USE”, CHAPTER 31 “DEFINITIONS” AND ASSOCIATED CHAPTERS; REPEALING ALL RESOLUTIONS, ORDINANCES, AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER

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 for the establishment and operation of nonprofit medical marijuana dispensaries in the Town of Oro Valley (the “Town”) according to a prescribed statutory and regulatory process; and

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 or 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; and

WHEREAS, the Town 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

WHEREAS, the Town seeks to protect public health, safety, and welfare by enacting reasonable regulations to limit the number of marijuana establishments and/or marijuana testing facilities in Town;

WHEREAS, in addition to the proposed adoption of Article 8-6 of the Oro Valley Town Code, the zoning related chapters need to be updated for the Town to regulate recreations marijuana to the same standards currently applied to medical marijuana.

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

SECTION 1. The Oro Valley Town Code is hereby amended by adding Article 8-6; and amending the zoning related Chapter 23-Table 23-1, Chapter 25-Section 25.1, Chapter 31 and associated chapters, are hereby amended with additions being shown in ALL CAPS and deletions being shown in ~~Strikethrough~~ text. The Town Code and the zoning related amendments are attached hereto as Exhibit “A” and incorporated herein by reference.

SECTION 2. All Oro Valley ordinances, resolutions or motions and parts of ordinance, resolutions or motions of the Council in conflict with the provisions of this Ordinance are hereby appealed.

SECTION 3. The recitals above are fully incorporated in this Ordinance by reference.

SECTION 4. Because of the urgent need for the implementation of the Town’s regulations concerning recreational marijuana in the event Smart and Safety Act (“Proposition 207”) is approved by Arizona Voters, 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 but if and only if Proposition 207 becomes law by being approved by Arizona voters on the November 3, 2020 general election and on proclamation of the governor. This Ordinance shall become immediately effective upon the governor’s proclamation.

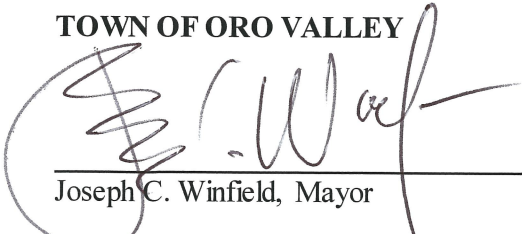
SECTION 5. In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the Oro Valley Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

SECTION 6. 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 7. 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 Oro Valley,
Arizona, this 4th day of November, 2020.

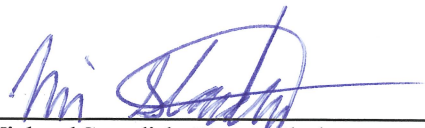
TOWN OF ORO VALLEY

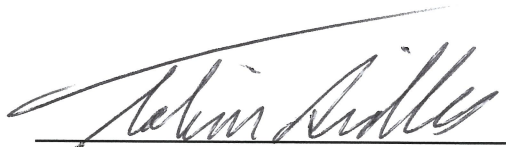


Joseph C. Winfield, Mayor

ATTEST:

APPROVED AS TO FORM:



Michael Standish, Town Clerk

Tobin Sidles, Legal Services Director

Date: 11/5/2020

PUBLISH: DAILY TERRITORIAL
NOVEMBER 9, 10, 12, 13, 2020

Date: 11/5/2020
POSTED: 11/9/20 - 12/10/20

EXHIBIT “A”

AMEND the following in Town Code Chapter 8 and the zoning related Chapter 23, Chapter 25 and Chapter 31. Additions shown in ALL CAPS, Deletions shown in strikethrough

ARTICLE 8-6 RECREATIONAL MARIJUANA BUSINESS

SECTIONS:

- 8-6-1 PURPOSE.
- 8-6-2 DEFINITIONS.
- 8-6-3 MARIJUANA PROHIBITED ON PUBLIC PROPERTY.
- 8-6-4 MARIJUANA ESTABLISHMENT PROHIBITED; DUAL
LICENSEE EXCEPTION
- 8-6-5 LICENSING AND PROHIBITED ACTIVITIES
- 8-6-6 INDIVIDUAL’S PRIMARY RESIDENCE FOR
PERSONAL USE
- 8-6-7 TAXATION OF RETAIL SALES FROM MARIJUANA
AND MARIJUANA PRODUCTS
- 8-6-8 FEES.
- 8-6-9 VIOLATIONS.
- 8-6-10 ENFORCEMENT; PENALTIES.

8-6-1 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 TOWN ENACTS REASONABLE REGULATIONS AND REQUIRES COMPLIANCE WITH TOWN CODES AND ZONING CODES 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.

8-6-2 DEFINITIONS.

FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING DEFINITIONS APPLY:

- 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. "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.
- G. "DEPARTMENT" MEANS THE STATE OF ARIZONA DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.
- H. "DUAL LICENSEE" MEANS AN ENTITY THAT HOLDS BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION AND A MARIJUANA ESTABLISHMENT LICENSE.
- I. "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.

- J. "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.
- K. "MANUFACTURE" AND "MANUFACTURING" MEAN TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.
- L. "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.
- M. "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.
- N. "MARIJUANA ESTABLISHMENT" MEANS AN ENTITY LICENSED BY THE DEPARTMENT TO OPERATE ALL 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.
- O. “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.
- P. “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.
- Q. “NONPROFIT MEDICAL MARIJUANA DISPENSARY” MEANS A NONPROFIT ENTITY AS DEFINED IN A.R.S. § 36-2801(12).
- R. “OPEN SPACE” MEANS A PUBLIC PARK, PUBLIC SIDEWALK, PUBLIC WALKWAY OR PUBLIC PEDESTRIAN THOROUGHFARE.
- S. “PERSON” MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION, OR ANY OTHER ENTITY OF WHATEVER KIND OR NATURE.
- T. “PROCESS” AND “PROCESSING” MEAN TO HARVEST, DRY, CURE, TRIM OR SEPARATE PARTS OF THE MARIJUANA PLANT.
- U. “PUBLIC PLACE” HAS THE SAME MEANING PRESCRIBED IN THE SMOKE-FREE-ARIZONA ACT, A.R.S. § 36-601.01.
- V. “SMOKE” MEANS TO INHALE, EXHALE, BURN, CARRY OR POSSESS ANY LIGHTED MARIJUANA OR LIGHTED MARIJUANA PRODUCTS, WHETHER NATURAL OR SYNTHETIC.

8-6-3 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.
- B. IT IS UNLAWFUL FOR AN INDIVIDUAL TO SMOKE MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE IN THE TOWN

8-6-4 MARIJUANA ESTABLISHMENT PROHIBITED; DUAL LICENSEE EXCEPTION.

- A. TO THE FULLEST EXTENT ALLOWABLE BY LAW, THE OPERATION OF A MARIJUANA ESTABLISHMENT IS PROHIBITED IN TOWN, EXCEPT WHERE AUTHORIZED FOR A DUAL LICENSEE WHO:
 - 1. OPERATES BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY AND MARIJUANA ESTABLISHMENT COOPERATIVELY IN A SHARED LOCATION; AND
 - 2. HAS NOT FORFEITED OR TERMINATED THE NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION FROM THE DEPARTMENT.

8-6-5 LICENSING AND PROHIBITED ACTIVITIES

- A. DUAL LICENSE MARIJUANA ESTABLISHMENT ZONING: DUAL LICENSED MARIJUANA ESTABLISHMENTS AS PROVIDED IN OVTC § 8-6-4(B) SHALL BE ALLOWED TO LOCATE WITHIN NON-RESIDENTIALLY ZONED PROPERTIES IN TOWN AS PROVIDED IN OVZC § 23, TABLE 23.1 AND SUBJECT TO THE RESTRICTIONS IN OVZC § 25.1.B.19.
- B. ASSOCIATED PROHIBITED ACTIVITIES.
 - a. TO THE FULLEST EXTENT ALLOWABLE BY LAW AND AS PROVIDED IN ARS § 36-2857(A)(3) THE OPERATION OF A MARIJUANA TESTING FACILITY IS PROHIBITED IN THE TOWN.
 - b. TO THE FULLEST EXTEND ALLOWABLE BY LAW AND AS PROVIDED IN ARS § 36-2857(A)(6) ANY AND ALL DELIVERY OF MARIJUANA AND/OR MARIJUANA PRODUCT OR DERIVATIVE IS PROHIBITED IN THE TOWN.

8-6-6 INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE.

A. TO THE FULLEST EXTENT ALLOWABLE BY LAW, MARIJUANA POSSESSION, CONSUMPTION, PROCESSING, MANUFACTURING, TRANSPORTATION, AND CULTIVATION IS PERMITTED IN A RESIDENTIAL ZONING DISTRICT IN TOWN 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 TOWN LIMITS.
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 TOWN.
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.

8-6-7 TAXATION OF 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 TOWN 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.

8-6-8 FEES.

- A. THE BUSINESS LICENSE TAX FOR A MARIJUANA ESTABLISHMENT SHALL BE PURSUANT OVTC §8-2-6 AND SCHEDULED \$80 ANNUALLY.

8-6-9 VIOLATIONS.

- A. 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.
- B. IT IS A VIOLATION OF THIS ARTICLE FOR ANY PERSON TO PROVIDE FALSE INFORMATION ON ANY APPLICATION.
- C. EACH DAY ANY VIOLATION OF ANY PROVISION OF THIS ARTICLE SHALL CONTINUE SHALL CONSTITUTE A SEPARATE OFFENSE.

8-6-10 ENFORCEMENT; PENALTIES.

- A. ANY REQUIRED PERMIT ISSUED UNDER OVZC §25.1.B.19. OR BUSINESS LICENSE ISSUED UNDER OVTC §8-2-2 MAY BE REVOKED BY THE TOWN FOR VIOLATION OF ANY PROVISION OF THIS ARTICLE, OR FOR ANY VIOLATION OF THE REQUIREMENTS FOR SAID PERMIT OR LICENSE. IF A PERMIT OR LICENSE IS REVOKED, THE PERMITTEE SHALL HAVE THE RIGHT TO APPEAL THE DECISION OF THE TOWN TO THE ORO VALLEY MAGISTRATE COURT.
- B. VIOLATIONS OF THIS ARTICLE ARE 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 WHICH MAY BE TAKEN BY THE TOWN FOR ANY VIOLATION OF THIS ARTICLE, WHICH IS ALSO A VIOLATION OF ANY OTHER ORDINANCE OR CODE PROVISION OF THE TOWN 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. PENALTIES: VIOLATIONS OF ANY PROVISION OF THIS ARTICLE SHALL BE AS SPELLED OUT IN ARS § 36-2853.

Chapter 23 Zoning Districts

TABLE 23-1: PERMITTED USES																				
	Single-Family									Multi-Family				Commercial			Other			
SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	NOTES
AGRICULTURAL USES																				
Commercial Stables	C	C	C																	25.1.B.4
Farms and Ranches	C	P	C	C	C	C	C	C												25.1.B.10
Marketing of Products Raised on the Premises		P																		25.1.B.18
Medical Marijuana Dispensary Off-site Cultivation Location, Designated Caregiver Cultivation Location, Designated Qualifying Patient Cultivation Location															P	P				25.1.B.19
Plant Nursery														C	C	P				
COMMERCIAL USES																				
Medical Marijuana Dispensary ESTABLISHMENT															P	P				25.1.B.2019

Chapter 25 Use Regulations

Section 25.1 Requirements for Specific Uses

This section applies to all non-residential uses, excluding parks. The requirements specified herein are in addition to those in the corresponding zoning district.

B. *Requirements for Specific Nonresidential Uses*

19. ~~MEDICAL-MARIJUANA USES ESTABLISHMENTS~~

a. STANDARDS FOR ALL MARIJUANA ESTABLISHMENTS

- i. ALL STORAGE FACILITIES FOR MARIJUANA STORED OR GROWN ON SITE MUST PREVENT THE EMISSION OF DUST, FUMES, VAPORS OR ODORS INTO THE ENVIRONMENT.
- ii. THE FOLLOWING ACTIVITIES ARE PROHIBITED:
 - a) OPERATION OF A MARIJUANA TESTING FACILITY
 - b) ANY AND ALL DELIVERY OF MARIJUANA AND/OR A MARIJUANA PRODUCT OR DERIVATIVE
 - c) CONSUMPTION OF MARIJUANA ON THE PREMISES OF A MARIJUANA DISPENSARY OR DISPENSARY OFF-SITE CULTIVATION LOCATION
- iii. MARIJUANA ESTABLISHMENTS SHALL BE IN COMPLIANCE WITH THE APPLICABLE SECTIONS OF TITLE 8 (BUSINESS RESTRICTIONS) OF THE ORO VALLEY TOWN CODE.

b. ~~Medical Marijuana Dispensary~~

~~A permitted use subject to the standards below:~~

i. *Supplemental Application*

~~In addition to the standard required permit application, an applicant applying for a medical marijuana dispensary must complete a supplemental application that includes all of the following information~~ IS REQUIRED:

a) If the application is by an agent for the owner, the authorization must include an explicit acknowledgment from the owner ~~that the owner knows~~ that the proposed use of the property is as a medical marijuana dispensary

b) The legal name of the ~~medical marijuana dispensary~~-ESTABLISHMENT.

c) The name and address of each principal officer and board member of the nonprofit medical marijuana dispensary AFFILIATED WITH THE ESTABLISHMENT.

d) A copy of the operating procedures ~~adopted in~~ AND NARRATIVE DEMONSTRATING compliance with A.R.S. Section 36-2804(B)(1)(c) AND THE SECURITY REQUIREMENTS ADOPTED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES.

e) A floor plan showing the location, dimensions and type of security measures AND NARRATIVE demonstrating ~~that the medical marijuana dispensary will meet~~ COMPLIANCE WITH the definition of “enclosed, locked facility” contained in A.R.S. Section 36-2801(6).

ii. *Development Standards*

a) A RECREATIONAL MARIJUANA DISPENSARY MAY ONLY BE OPERATED IN A SHARED LOCATION WITH A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

b) ~~A medical marijuana dispensary~~-A DISPENSARY SHALL be located in a permanent building and may not be ~~located~~ in a trailer, modular building, cargo container, or motor vehicle.

c) ~~A medical marijuana dispensary shall be~~ THE PROPERTY SHALL BE set back a minimum of two thousand (2,000) feet from all other ~~medical marijuana~~ dispensaries measured from the parcel boundaries.

d) ~~A medical marijuana dispensary shall be set back a minimum of one thousand (1,000) feet from a public, private, parochial, charter, dramatic, dancing, music, or other similar school or educational or activity facility where children may be enrolled, measured from the parcel boundaries.~~ THE PROPERTY SHALL BE SET BACK A MINIMUM OF ONE THOUSAND

(1,000) FEET FROM THE FOLLOWING USES, MEASURED FROM THE PARCEL BOUNDARIES:

1. PUBLIC, PRIVATE, PAROCHIAL, CHARTER, DRAMATIC, DANCING, MUSIC, OR OTHER SIMILAR SCHOOLS OR EDUCATIONAL OR ACTIVITY FACILITIES WHERE CHILDREN MAY BE ENROLLED
2. CHILD CARE CENTERS
3. LIBRARIES OR PUBLIC PARKS
4. CHURCHES
5. RESIDENTIAL SUBSTANCE ABUSE DIAGNOSTIC AND TREATMENT FACILITIES OR OTHER DRUG OR ALCOHOL REHABILITATION FACILITIES.

~~d) A medical marijuana dispensary shall be set back a minimum of one thousand (1,000) feet from a child care center, measured from the parcel boundaries.~~

~~e) A medical marijuana dispensary shall be set back a minimum of one thousand (1,000) feet from a library or public park.~~

~~f) A medical marijuana dispensary shall be set back a minimum of one thousand (1,000) feet from a church.~~

~~g) A medical marijuana dispensary shall be set back a minimum of one thousand (1,000) feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.~~

~~h) A medical marijuana dispensary may~~ SHALL not have a drive-through service.

e) The maximum floor area ~~of a medical marijuana dispensary~~ SHALL NOT EXCEED is two thousand (2,000) square feet.

f) The secure storage area for ~~the medical marijuana stored at the medical marijuana dispensary~~ shall not exceed four hundred (400) square feet.

g) The permitted hours of operation ~~of a medical marijuana dispensary~~ are ~~between the hours of 7:00 a.m. to 10:00 p.m.~~ 9:00 AM TO 5:00 PM.

iii. ~~Permit Conditions~~ ISSUANCE: The Town may include any conditions it finds necessary to conserve and promote the public health, safety, convenience and general welfare. ~~The Town must include the following permit conditions for issuance of the medical marijuana dispensary permit:~~ AT A MINIMUM, THE FOLLOWING REQUIREMENTS MUST BE SPECIFIED ON THE PERMIT FOR ISSUANCE:

- ~~a) An expiration date that requires reapplication or renewal of the permit after a specified period of time.~~
- a) A requirement that the medical marijuana dispensary meets security requirements adopted by the Arizona Department of Health Services. SECTION 25.1.B.19.B.i.d.
- b) A requirement that the storage facilities for the medical marijuana stored or grown on site prevent the emission of dust, fumes, vapors or odors into the environment. SECTION 25.1.B.19.a.ii.
- c) A requirement that the medical marijuana dispensary is prohibited from permitting anyone to consume marijuana on the premises. SECTION 25.1.B.19.a.iii.c.
- ~~e) A requirement that the medical marijuana dispensary comply~~ Applicable sections of Title 10 (Offenses) of the Oro Valley Town Code.

C. MARIJUANA CULTIVATION

i. ~~e. Medical Marijuana Dispensary Off-Site Cultivation Location~~

~~A permitted use subject to the standards below:~~

a) ~~i. Supplemental Application~~

In addition to the standard ~~required~~ permit application, ~~an applicant applying for a medical marijuana dispensary must complete a supplemental application that includes all of the following information~~ IS ALSO REQUIRED:

1. ~~a) If the application is by an agent for the owner, the authorization must include an explicit acknowledgment from the owner that the owner~~

knows that the proposed use of the property is as a ~~medical-marijuana~~ dispensary off-site cultivation location.

2. ~~b)~~ The legal name and address of the affiliated ~~medical-marijuana~~ dispensary.
 3. ~~e)~~ The name and address of each principal officer and board member of the NONPROFIT medical marijuana dispensary affiliated with THE ESTABLISHMENT ~~the off-site cultivation location~~ and the name and address of each ~~medical-marijuana~~ dispensary agent.
 4. ~~d)~~ A copy of the operating procedures ~~adopted in~~ AND NARRATIVE DEMONSTRATING compliance with A.R.S. Section 36-2804(B)(1)(c) AND THE SECURITY REQUIREMENTS ADOPTED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES.
 5. ~~e)~~ A floor plan showing the location, dimensions and type of security measures AND NARRATIVE demonstrating ~~that the medical-marijuana dispensary will meet~~ COMPLIANCE WITH the definition of “enclosed, locked facility” contained in A.R.S. Section 36-2801(6).
- b) ~~ii.~~ *Development Standards*
1. ~~a)~~ ~~Medical marijuana dispensary off-site cultivation location must be~~ ALL ACTIVITIES MUST BE CONTAINED INDOORS ~~located~~ WITHIN ~~in~~ a permanent building and may not be located in a trailer, cargo container or motor vehicle.
 2. ~~b)~~ ~~A medical marijuana dispensary off-site cultivation location~~ THE PROPERTY shall be set back a minimum of two thousand (2,000) feet from all other medical marijuana dispensary off-site cultivation locations measured from the parcel boundaries.
 3. ~~e)~~ ~~A medical marijuana dispensary off-site cultivation location~~ THE PROPERTY shall be set back a minimum of one thousand (1,000) feet from THE FOLLOWING USES, MEASURED FROM THE PARCEL BOUNDARIES:

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- a. ~~a~~ Public, private, parochial, charter, dramatic, dancing, music, or other similar schools or educational or activity facilities where children may be enrolled.

- b. CHILD CARE CENTERS

- ~~4. d) A medical marijuana dispensary off-site cultivation location shall be set back a minimum of one thousand (1,000) feet from a child care center.~~
 - 4. e) The maximum floor area of a medical marijuana dispensary off-site cultivation location SHALL NOT EXCEED is two thousand (2,000) square feet.
 - 5. ~~f) The secure storage area for the medical marijuana stored at the medical marijuana dispensary off-site cultivation location shall not exceed one thousand (1,000) square feet.~~
 - ~~6. g) A medical marijuana dispensary off-site cultivation location must be contained indoors.~~
- c) ~~iii. Permit Conditions~~ ISSUANCE: The Town may include any conditions it finds necessary to conserve and promote the public health, safety, convenience and general welfare. ~~The Town must include the following conditions for issuance of the permit for a medical marijuana dispensary off-site cultivation location:~~ AT A MINIMUM, THE FOLLOWING REQUIREMENTS MUST BE SPECIFIED ON THE PERMIT FOR ISSUANCE:
 - ~~1. a) An expiration date that requires reapplication or renewal of the permit after a specified period of time.~~
 - 1. b) A requirement that the medical marijuana dispensary meets security requirements adopted by the Arizona Department of Health Services. SECTION 25.1.B.19.C.i.A.4.
 - 2. e) A requirement that the storage facilities for the medical marijuana stored or grown on site prevent the emission of dust, fumes, vapors or odors into the environment. SECTION 25.1.B.19.a.ii.

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3. ~~d) A requirement that the medical marijuana dispensary is prohibited from permitting anyone to consume marijuana on the premises.~~

SECTION 25.1.B.19.a.iii.c.

4. ~~e) A requirement that the medical marijuana dispensary comply~~
Applicable sections of Title 10 (Offenses) of the Oro Valley Town Code.

ii. ~~e.~~ *Medical Marijuana Designated Caregiver Cultivation Location.*

~~A permitted use subject to the standards below:~~

a) ~~i.~~ *Development Standards*

1. ~~a)~~ All conditions and restrictions for medical marijuana dispensary off-site cultivation locations except that the designated caregiver cultivation location cultivation area is limited to two hundred fifty (250) square feet.
2. ~~b)~~ More than one (1) designated caregiver may co-locate cultivation locations as long as the total cultivation area does not exceed two hundred fifty (250) square feet.
3. ~~e)~~ The designated caregiver location must comply with the security requirements of A.R.S. Title 36, Chapter 28.

iii. ~~d.~~ *Medical Marijuana Qualifying Patient Cultivation Location.*

~~A permitted use subject to the standards below:~~

a) ~~i.~~ *Development Standards*

1. ~~a)~~ The qualifying patient cultivation location must be located in the C-1 or C-2 Commercial District as a permitted use or as an ancillary use to the qualifying patient's primary residence.
2. ~~b)~~ Medical marijuana cultivation as an accessory use to the qualifying patient's primary residence must not be detectable from the exterior of the building in which the cultivation takes place.
3. ~~e)~~ The qualifying patient cultivation location must comply with the security requirements of A.R.S. Title 36, Chapter 28.

Chapter 31 Definitions

MARIJUANA USE

MARIJUANA IS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, AS DEFINED IN A.R.S. § 13-3401 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.

MARIJUANA 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.

TYPES OF MARIJUANA USES INCLUDE:

Medical Marijuana

Marijuana used for a medical use as those terms are defined in A.R.S Section 36-2081(11).

RECREATIONAL MARIJUANA

MARIJUANA USED FOR ENJOYMENT RATHER THAN AS A MEDICAL TREATMENT.

MARIJUANA ESTABLISHMENT

AN ENTITY LICENSED BY THE STATE OF ARIZONA DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY TO ACQUIRE, POSSESS, CULTIVATE, MANUFACTURE, SUPPLY, SELL OR DISPENSE MARIJUANA AND MARIJUANA PRODUCTS.

TYPES OF ESTABLISHMENTS INCLUDE:

Designated Caregiver Cultivation Location

An enclosed facility, that does not exceed two hundred fifty (250) square feet of cultivation space, where a designated caregiver, as defined by A.R.S. Section 36-2801(5),

cultivates marijuana if the designated caregiver's registry identification card provides that the designated caregiver is authorized to cultivate marijuana.

NONPROFIT MEDICAL MARIJUANA Dispensary

A ~~not-for-profit~~ NONPROFIT entity, ~~defined in A.R.S. Section 36-2801(11),~~ that acquires, possesses, cultivates, manufactures, ~~delivers, transfers, transports,~~ supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders.

RECREATIONAL MARIJUANA DISPENSARY

A SINGLE RETAIL LOCATION, IN COOPERATION WITH A MEDICAL MARIJUANA DISPENSARY, THAT ACQUIRES, POSSESSES, CULTIVATES, MANUFACTURES AND SELLS MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

Dispensary Off-Site Cultivation Location

~~The additional location where marijuana is cultivated by a medical marijuana dispensary as referenced in A.R.S. Section 36-2804(B)(1)(b)(ii).~~ A SINGLE OFF-SITE LOCATION WHERE MARIJUANA OR MARIJUANA PRODUCTS ARE CULTIVATED, PROCESSED, PACKAGED, STORED OR MANUFACTURED BY A MARIJUANA DISPENSARY, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

Qualifying Patient Cultivation Location

An enclosed facility, that does not exceed fifty (50) square feet of cultivation space for each location, where a qualifying patient, as defined by A.R.S. Section 36-2801(13), cultivates marijuana if the qualifying patient's registry identification card states that the qualifying patient is authorized to cultivate marijuana.