

RESOLUTION NO. 2021-2122

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING AS PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED “AMENDMENT TO GOODYEAR CITY CODE, CHAPTER 11 (OFFENSES) AND CHAPTER 10 (HEALTH AND SANITATION) RELATED TO MARIJUANA REGULATIONS, RESTRICTIONS AND PENALTIES.”

Be it resolved by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That certain document entitled, “Amendment to Goodyear City Code, Chapter 11 (Offenses) and Chapter 10 (Health and Sanitation) Related to Marijuana Regulations, Restrictions and Penalties,” a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned document is declared public records in connection with the adoption of Ordinance No. 2021-1491.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Three copies of the aforementioned document are declared a public record herein and are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this _____ day of _____, 20____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Resolution No. 2021-2122 is a true, correct and accurate copy of Resolution No. 2021-2122, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the _____ day of _____, 20____, at which a quorum was present and, by a _____ vote, _____ voted in favor of said resolution.

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

seal

City Clerk

EXHIBIT 'A' TO RESOLUTION 2021-2122

AMENDMENT TO GOODYEAR CITY CODE, CHAPTER 11 (OFFENSES) AND CHAPTER 10 (HEALTH AND SANITATION) RELATED TO MARIJUANA REGULATIONS, RESTRICTIONS AND PENALTIES

PURSUANT TO ORDINANCE NO. 2021-1491 ADOPTED BY GOODYEAR CITY COUNCIL ON JANUARY 25, 2021, GOODYEAR CITY CODE CHAPTER 11 (OFFENSES) SHALL BE AMENDED TO ESTABLISH A NEW SECTION 11-1-38 ENTITLED, "REGULATION OF MARIJUANA," TO READ AS FOLLOWS:

11-1-38 REGULATION OF MARIJUANA.

A. Purpose. The Mayor and Council of the City of Goodyear, Maricopa County, Arizona declare that the purpose of this section is to regulate and ensure the responsible adult use of marijuana within city limits and to protect the health, safety, and welfare of Goodyear citizens. Nothing in this Article is intended to promote or condone the consumption, cultivation, extraction, manufacturing, processing, sell or distribution of marijuana or marijuana products in violation of any applicable law.

B. Definitions. The following words, terms and phrases, when used in this section, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

ADVERTISE means any public communication in any medium that offers or solicits a commercial transaction involving sale, purchase, or delivery of marijuana or marijuana products.

CHEMICAL EXTRACTION means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.

CHEMICAL SYNTHESIS means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.

CONSUME, CONSUMING, AND CONSUMPTION mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.

CONSUMER means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.

CULTIVATE AND CULTIVATION mean to propagate, breed, grow prepare, and package marijuana.

DEPARTMENT means the State of Arizona Department of Health Services or its successor agency.

DUAL LICENSEE means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.

EXTRACT AND 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.

MANUFACTURE AND MANUFACTURING means to compound, blend extract, infuse or otherwise make or prepare a marijuana product.

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) Includes marijuana concentrate.
- (4) Includes marijuana products.
- (5) 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.

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.

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.

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.

NONPROFIT MEDICAL MARIJUANA DISPENSARY means a non-profit entity as defined in A.R.S. § 36-2801(12).

OPEN SPACE means a public park, public sidewalk, public walkway, public trail, preserve, or public pedestrian thoroughfare.

PERSON means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

PROCESS AND PROCESSING means to harvest, dry, cure, trim or separate parts of the marijuana plant.

PUBLIC PLACE has the same meaning prescribed in the Smoke-Free Arizona Act, A.R.S. § 36-601.01 and means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

SMOKE OR SMOKING means the act of inhaling, exhaling, burning, vaping, or carrying, or possessing any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, water pipe, Smoking Device, or any other device that delivers Marijuana or a Marijuana Product to a person, whether natural or synthetic.

SMOKING DEVICE means any device that delivers or is capable of delivering Marijuana or a Marijuana Product to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, electronic hookah, e-cigarette, vape-pen, or any other device that delivers Marijuana or a Marijuana Product to a person. Notwithstanding any provision of this section to the contrary, "Smoking Device" includes any component, part, or accessory intended or reasonably expected to be used with a Marijuana or a Marijuana Product, whether or not sold separately.

C. Marijuana Prohibited on City Facilities.

To the fullest extent permitted by law, it is unlawful for an individual to:

- (1) Smoke, consume, possess, cultivate, extract, manufacture, process, or sell, marijuana or a marijuana product on property that is occupied, owned, controlled, or operated by the City.
- (2) Open or display a package containing marijuana or a marijuana product which are reasonably identifiable by sight or smell as marijuana or a product derived from marijuana in view of the general public while on property that is occupied, owned, controlled, or operated by the City.

D. Marijuana Prohibited at Parks and Public Trails. Except as otherwise allowed by law, it shall be unlawful for any person to smoke marijuana or a marijuana product while on or within any public bike trail, hiking trail, river trail, horse trail, city park or preserve, picnic area, ball field, court, play ground or other area designated or reserved for any other temporary gathering of people. As provided in the definition of smoke, vaping marijuana or marijuana products is included and is prohibited.

E. Marijuana Prohibited at Public Places and Open Spaces.

To the fullest extent permitted by law, it is unlawful for an individual to:

- (1) Smoke, cultivate, extract, manufacture, process, or sell, marijuana or a marijuana product in an open space in the City.
- (2) Smoke, cultivate, extract, manufacture, process, or sell, marijuana or a marijuana product in a public place in the City.
- (3) Smoke or consume marijuana or a marijuana product where smoking is prohibited in this Chapter.
- (4) Open or display a package containing marijuana or a marijuana product which are reasonably identifiable by sight or smell as marijuana or a product derived from marijuana in view of the general public while in a public place or open space in the city.

F. Marijuana Retail; Dual Licensee Only

- (1) To the fullest extent allowable by state and local laws, the operation of a marijuana establishment is prohibited in the City, except where authorized for a dual licensee who:
 - a. Operates both a nonprofit medical marijuana dispensary and marijuana establishment cooperatively in a shared location; and
 - b. Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Department.
- (2) It is unlawful for an individual or entity, other than a dual licensee, non-profit medical marijuana dispensary or marijuana establishment to do any of the following in city limits in a manner not authorized by A.R.S. Chapter 28.2 or rules adopted by the Department:
 - a. Sell marijuana or marijuana products;

- b. Solicit or accept orders for marijuana or marijuana products in any manner or on any platform.

G. Marijuana at a Primary Residence for Personal Use.

To the extent allowable by law, marijuana consumption, cultivation, extraction, manufacture, and processing is permitted in an individual's primary residence for personal use subject to the following conditions and limitations:

- (1) The cultivation, extraction, manufacture, and processing of marijuana, for personal use, shall be limited to an enclosed area within the primary residence or an accessory building on the property with a lock or other security device that prevents access by minors.
- (2) Cultivation, extraction, manufacturing, and processing of marijuana for personal use shall take place in an area where the marijuana plants or products are not visible from public view without using binoculars, aircraft, or other optical aids.
- (3) Individuals shall not extract, manufacture, or process marijuana by chemical extraction or chemical synthesis, excluding manual or mechanical means.
- (4) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises anywhere in the city to allow chemical extraction or chemical synthesis of marijuana concentrate to be processed or manufactured on the premises unless otherwise permissible by applicable law.

H. Disposal of Legally Permissible Amounts of Marijuana

- a. A person may dispose of legally permissible amounts of marijuana and marijuana products in a waste receptacle if:
 - i. The marijuana or marijuana product is rendered unusable and combined with other waste in a separate enclosed container or bag.
 - ii. Marijuana or marijuana product is not left out for bulk trash collection.
 - b. Legally permissible amounts for this subsection includes up to twelve marijuana plants and up to five grams of marijuana concentrate.
 - c. This subsection is not applicable to marijuana establishments and medically marijuana dispensary.
- I. Delivery.** Except as otherwise allowed by law or state regulations, it is unlawful for a marijuana establishment or its employees to deliver marijuana or marijuana products to a consumer within the city limits of Goodyear.
- J. Advertisement of Transfer.** It is unlawful for an unlicensed individual to advertise or promote the transfer of legally permissible amounts of marijuana or marijuana products.

K. Violations; Enforcement; Penalties.

- (1) It is a violation of this section for a person to sell, cultivate, process, manufacture, store, or transport marijuana or marijuana products if the person fails to meet all the requirements in this section or state law, including the Department's rules.
- (2) Any person found guilty of violating the requirements of subsection C may be charged with and found guilty of a class 1 misdemeanor punishable in accordance with Article 1-8 of this code.
- (3) Any person found guilty of violating the requirements of this subsections D, E, F, G, H, I or J shall be guilty of a petty offense punishable in accordance with Article 1-8 of this code.
- (4) Violations of this section are in addition to any other violation enumerated within the City ordinances or 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 section, which is also a violation of any other ordinance or Code provision of the City or any other applicable State law.
- (5) Conviction and punishment of judgment and civil sanction against any person under this section 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.
- (6) The remedies provided in this section shall be cumulative and in addition to any other applicable law or remedy, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order, or regulation.

PURSUANT TO ORDINANCE NO. 2021-1491 ADOPTED BY GOODYEAR CITY COUNCIL ON JANUARY 25, 2021, CHAPTER 10 (HEALTH AND SANITATION), ARTICLE 10-1-1 (DEFINITIONS) OF GOODYEAR CITY CODE, SHALL AMEND THE DEFINITION OF HAZARDOUS WASTE, DANGEROUS REFUSE AS FOLLOWS:

10-1-1

HAZARDOUS WASTE, DANGEROUS REFUSE means any potentially flammable items, medical waste, explosives, radioactive materials, hazardous or toxic substances, mixture, article, material or waste or related materials, including any substances defined as or included in the definition of hazardous substances, hazardous waste, hazardous materials or toxic substances, now or subsequently regulated under any applicable Federal, State or local laws or regulations, including without limitation petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, compound, mixture, substance or article, asbestos, PCBs and similar compounds, ~~medical~~ marijuana byproducts and associated waste PRODUCED BY A MARIJUANA ESTABLISHMENT OR DISPENSARY, and including any different products and materials which are subsequently found to have adverse effects on the environment and health and safety of persons. This definition shall include anything defined or designated as hazardous by the United States Environmental Protection Agency or other applicable Federal, State or local law or regulations. Hazardous waste shall not be disposed of in City containers or placed curbside for collection and will not be collected by the City.