

When recorded, return to:
Paradise Valley Town Attorney
6401 East Lincoln Drive
Paradise Valley, Arizona 85253

ORDINANCE NUMBER 2020-_____

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES; AMENDING THE ZONING ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARTICLE II – DEFINITIONS AND SECTION 1027; SETTING FORTH VIOLATIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AN 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.;

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 Town 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 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;

WHEREAS, the Town seeks to protect public health, safety, and welfare by prohibiting marijuana establishments and/or marijuana testing facilities in the Town;

WHEREAS, this ordinance is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the Town prohibits the retail sale, cultivation, and manufacturing of marijuana or marijuana products in the Town. Nothing in this ordinance 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.

WHEREAS, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this ordinance shall be in full force and effective from and after its passage by the Council.

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Article II of the Zoning Ordinance is hereby amended as follows with deletions shown as ~~strikethroughs~~ and additions shown in **bold type**:

Article II. DEFINITIONS

Section 201.

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, the singular; the word "building" shall include the word "structure;" the word "lot" shall include the word "plot;" and the word "shall" is mandatory.

Accessory Building / Structure⁵⁶⁴: A subordinate building, the use of which is incidental to that of the dominant use of the main building, or premises, including residential staff quarters; provided, however, that neither a building nor an enclosure for horses is an accessory building.

Alley: A public thoroughfare which affords only a secondary means of access to abutting property.

Anomaly: ⁵⁴⁸ A natural occurring, localized surface deviation from the natural land contour. Anomalies may include outcroppings, ridges, craters, or washes. When an anomaly affects the Open Space Criteria measurement for a building or structure, the Town Manager or designee shall eliminate the anomaly from the calculation and interpolate a simulated natural grade between the contour on each side of the anomaly for use when measuring the height of the building or structure.

Apartment House: See "Dwelling, Multiple."

Area of Jurisdiction: The boundaries of Paradise Valley.

Assisted Living Home: A dwelling shared as a primary residence by persons who are disabled, as defined in Arizona Revised Statutes §41-1491, who do not meet the definition of "family" as set forth in this section, who live together as a single housekeeping unit in an environment in which staff persons provide supervisory care, personal care and/or custodial care for the residents. This definition shall not apply to a home for the developmentally disabled as regulated by Arizona Revised Statutes §36-582.

Basement: A story having more than one-half (1/2) its height below natural grade.

Building: Any structure for the shelter, support or enclosure of persons, animals, or property; and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.

Camper: A camper is a unit designed for travel, recreational, and vacation uses, which may be placed upon or attached to a vehicle.

Cluster Plan (CP) District: A development approach that may be used in the R-43 or R-35 Cluster Plan zoning district that retains the same house per acre ratio as the R-43 or R-35, zoning districts permitting reduced lot sizes in order to allow undeveloped land to be preserved as open space. This approach may be utilized to preserve natural features or provide greater than normal setbacks from heavily traveled thoroughfares.

Country Club: A use of land, with traditional accessory uses, the primary purpose of which is for playing golf, tennis, handball or other similar recreational activities. Memberships or fees may be required for participation.

DHS: The Arizona Department of Health Services.

DHS Rules and Regulations: The adopted regulations of DHS relating to the provisions of Title 36, A.R.S. § 36-2801 et seq.

Dwelling: Any building, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Single-Family: A building designed for occupancy by one (1) family.

Dwelling, Two-Family: A building designed for occupancy by two (2) families.

Dwelling, Multiple: A building or portion thereof designed for occupancy by three (3) or more families.

Dwelling Unit: One (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own cooking and sanitary facilities.

Elevation: Height above mean sea level (MSL) as established by the United States Coast and Geologic Survey.

Encroachment Line: Boundaries shown on Plates 7 & 8 of Volume I, Indian Bend Wash Report prepared by the U. S. Army Corps of Engineers which show lateral limits or lines along streams within which in the direction of the stream no structure of fill may be added without reducing the natural flood carrying capacity of the stream and its flood plain. Their location should be such that the natural floodway between them will handle a designated floodflow. The encroachment lines will be based upon the volumetric flow rate of a 100-year flood.

Family: An individual or two (2) or more persons related by blood or marriage or a group of not more than five (5) persons, excluding residential staff, who need not be related by blood or marriage living together as a housekeeping unit.

Fifty-year Flood: A flood that has a two percent (2%) chance of occurring in any one year based upon the criteria established by the Arizona Water Commission.

Finished Grade: The prepared elevation of the ground surface under a structure and within the lot setback lines.

Flood or Flood Waters: A temporary overflow of water on lands not normally covered by water.

Flood Plain: The relatively flat areas or low lands adjoining the channel of a watercourse, or areas where drainage is or may be restricted by manmade structures which have been or may be covered partially or wholly by floodwater, but shall compose an area not less than that area contained between the fifty-year flood line and the one hundred year flood line.

Floodplain Board: The Town Council of the Town of Paradise Valley.

Floodplain Regulations: The codes, ordinances, and other regulations relating to the use of land and construction within the channel and floodplain areas, including zoning ordinances, subdivision regulations, building codes, setback requirements, open area regulations and similar methods of control affecting the use and development of the areas.

Floodway: The channel of the stream or body of water and that portion of the flood plain that is inundated by a flood and therefore used to carry the flow of the flood.

Floor Area, Total: The area under roof added to the floor area of any second story. The total floor area also includes any courtyard areas, the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building.

Floor Area Ratio: The total floor area divided by the total lot area.

Frontage: All property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is dead end, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street including property fronting on a cul-de-sac.

Garage, Private: Any accessory building designed or used for the storage of motor-driven vehicles.

Garage, Public: A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

Garage, Storage: A building or portion thereof designed or used exclusively for housing of four (4) or more motor-driven vehicles.

Golf Course: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and associated uses.

Grade Slope: The degree of rise or descent of the ground surface. Please refer to illustration 201.

Guardgate: A manually, mechanically, or electrically controlled gate device built as a free-standing structure or in conjunction with a guardhouse in compliance with all the terms granted in a special use permit, and located on a private road as shown on the site plan approved with the special use permit, for the purpose of regulating and monitoring pedestrian and/or vehicular traffic into a subdivision or neighborhood and promoting security within the subdivision or neighborhood.

Guardhouse: A building built in compliance with all building codes of the Town of Paradise Valley and all the terms granted in a special use permit and located on a private road or on private property adjacent to a private road as shown on the site plan approved with the special use permit, for the purpose of manually or electronically regulating and monitoring pedestrian and/or vehicular traffic into a subdivision or neighborhood and promoting security with the subdivision or neighborhood; provided, however, a guardhouse shall not be designed or used for sleeping or living purposes.

Guest Ranch: A building or group of buildings containing two (2) or more guest units, other than a hotel, motel or resort hotel, and having outdoor recreational facilities such as horseback riding, swimming, tennis courts, shuffleboard courts, barbecue and picnic facilities.

Guest House: An accessory building of one or more rooms designed for occupancy by not more than one family. A guest house shall have its own sanitary facilities.

Height Measurement: The height of a building or structure is measured based on the following criteria: 1) The vertical distance from the lowest point of the natural grade below the structure to the highest point of the structure. Maximum building height varies with lot size. See Article X for detail; and 2) The Open Space Criteria which limits allowable building height near the perimeter of the lot. See definition of Open Space Criteria.

Hillside Development Area: Any parcel of land in which any portion of the parcel lies within the areas marked in Figure II and any other parcel with a building site slope of ten percent (10%) or greater, measured as a vertical rise of ten (10) feet in a horizontal distance of 100 feet.

Home Occupation: An occupation, profession, or other business activity conducted at a residence.

Hotel: A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

Institution: A building or buildings occupied by a non-profit corporation or a non-profit establishment for public use.

Loading Space: A permanently-maintained space on the same lot as the main building accessible to a street or alley and not less than ten (10) feet in width, twenty (20) feet in length, and fourteen (14) feet in height.

Lot: A parcel of land occupied or intended for occupancy by one main building, together with any accessory buildings including the open spaces required by this Ordinance and having either:

- a. adequate frontage upon a public street, or
- b. adequate and recorded access to a public street by a private road as defined by this ordinance.

Lot Area: The area bounded by the recorded property description of a lot, excluding any dedicated right of way, street or alley, and excluding any private road for which a Special Use Permit has been granted.

Lot, Corner: A lot adjoining two (2) or more streets at their intersection.

Lot, Depth of: The main horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two (2) non-intersection streets, as distinguished from a corner lot.

Lot, Interior: A lot other than a corner.

Lot, Key: A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and facing on the street which forms a side boundary of the corner lot.

Lot Lines: The lines bounding a lot.

Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Clerk of Maricopa County Recorder's office; or parcel of land, the deed of which is recorded in the office of the County Recorder.

Lot Width: The diameter of the circle described in Section 6-3-5.G of the Town Code. Minimum lot widths are shown on Table 1001-A1.

Marijuana Establishment: A 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 Testing Facility: The State of Arizona Department of Health Services or its successor agency or another entity that is licensed by the Department of Health Services to analyze the potency of marijuana and test marijuana for harmful contaminants.

Medical Marijuana: Marijuana or cannabis, including all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant, approved under state law for treatment of persons suffering from debilitating medical conditions, as designated in A.R.S. § 36-2801 et seq. and the DHS rules and regulations.

Medical Marijuana Cultivation: The process by which a person grows a medical marijuana plant as allowed by A.R.S. § 36-2801 et seq. and the DHS rules and regulations.

Medical Marijuana Designated Caregiver Cultivation: The cultivation of medical marijuana by a designated caregiver, as defined in A.R.S. § 36-2801 et seq. and 36-2804 et seq.

Medical Marijuana Dispensary: A non-profit entity, as defined in A.R.S. § 36-2801(11), that acquires, possesses, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to qualifying patients, caregivers or dispensary agents, as defined in A.R.S. § 36-2801(2).

Medical Marijuana Dispensary Offsite Cultivation Site: A building, dwelling, or structure used for the cultivation or storage of medical marijuana for use by a medical marijuana dispensary, as designated in Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq. or DHS rules and regulations.

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana into consumable/edible goods by means of cooking, blending or incorporation.

Medical Marijuana Qualifying Patient Cultivation: Cultivation of medical marijuana by a qualifying patient, as defined in A.R.S. § 36-2801(13), who is authorized to cultivate marijuana plants pursuant to the provisions of A.R.S. § 36-2801 et seq. and 36-2804 et seq.

Microwave Antenna: A device for the reception and amplification of microwave frequency electromagnetic energy, typically in the shape of a shallow dish, and which may be mounted on a permanent, temporary, or portable structure.

Mobile Home: A mobile home is a unit which : a) is not self-propelled, b) may be placed upon or attached to a vehicle, c) is constructed in such a manner as to permit occupancy as a dwelling or sleeping place for one or more persons, and d) is or may be used as a conveyance upon streets or highways.

Motel: Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor court, motor lodge, and tourist court, but not trailer court, guest ranch or resort hotel.

Motor Home: A self-propelled vehicle capable of being used for the living, sleeping, eating, or accommodation of persons.

Natural Grade: The elevation of the ground surface in its natural state before man-made alterations.

One-hundred-year Flood: A flood that has one per cent chance of occurring in any one year based upon the criteria established by the Arizona Water Commission.

Open Space: Land and water areas retained for active or passive recreation purposes or for essentially undeveloped areas retained for the purpose of resource protection or preservation.

Open Space Criteria: This criterion maintains view corridors around the perimeter of the lot by further limiting building height near property lines. Maximum allowable structure height shall not exceed a plane beginning at 16 feet above the natural grade, at 20 feet setback from all property lines and sloping upward at a 20% angle, perpendicular to the nearest property line. See Article X for detail and refer to Figure 1001-2 for example.

Open Space Preserve District (OSP): This Zoning District is intended to preserve and protect in perpetuity undeveloped real property and developed real property that can be returned to its natural state, , including scenic and conservation easements, on and around the Mountain Preserve in the Town of Paradise Valley, with the goal of preserving the natural landscape, desert plants, wildlife, and the scenic beauty of mountain areas of the Town.

Parking Lot: A parcel of land devoted to unenclosed parking spaces.

Parking Space: A permanently surfaced area, enclosed or unenclosed, having an area of not less than one hundred eighty (180) square feet, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Person: Any individual or his agent, firm, partnership, association, corporation, or agent of the aforementioned groups, or the state or any agency or political subdivision thereof.

Private Road: Where this Ordinance refers to the term “Private Road” any such Private Road shall meet and be in compliance with the following criteria:

- (1) The minimum right-of-way width shall be fifty (50) feet.
- (2) Where the said private road is to provide access to one or two residences, driving surface shall not be less than 16 feet in width and shall be covered at a minimum with a 4-inch depth of aggregate base course meeting Town Standards (Article 5-6 of the Town Code) or a minimum of a 4-inch depth of decomposed granite.
- (3) Where access to a public road for three (3) or more residences is to be provided by way of a private road, all standards and requirements for subdivisions as contained in the Code and Ordinances of the Town of Paradise Valley shall apply, and such private road shall be subject to those conditions imposed by reason of the issuance of a use permit in accordance with the Code and Ordinances of the Town of Paradise Valley.
- (4) All private roads, for so long as they shall remain private, shall be maintained to the foregoing standards, and in the event the Town of Paradise Valley is required to perform any maintenance upon the same for the health and welfare of the people of the Town of Paradise Valley, the said Town may assess the cost thereof against the party, his heirs, executors, administrators, legatees and assigns, having applied for a residential building permit utilizing the provisions of this sub-paragraph (b); agreement thereto by such applicant shall be a condition of issuance of any residential building permit.

Public/Quasi Public: Structures and uses principally of an institutional nature and serving a public need, such as religious institutions, schools, libraries, governmental offices, museums, post offices, police and fire stations, public utilities, and other public services that provide governmental, educational, institutional, cultural, recreational, religious, or

other similar types of public services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

Resort: A resort is a facility, operated under a single unified management structure, containing guest units primarily for the temporary residency of persons in a physical setting that provides a high level of guest amenities, recreational opportunities and a quality of design that may include architectural features, extensive open space and landscaping.

R-175 District: This district is intended to promote and preserve—a very low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 175,000 sq. ft. is required in this District.

R-43 District: This district is intended to promote and preserve a low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 43,560 sq. ft is required in this district.

R-35 District: This district is intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 35,000 sq. ft. is required in this district.

R35A District: This district only applies to portions of previously annexed subdivisions known as Firebrand Ranch and Mountain View Estates Replat, as shown on the Zoning Map. This district is intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 35, 000 sq. ft. is required in this District.

R-18 District: This district is intended to promote and preserve residential development associated with the desert landscape. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 18,000 sq. ft is required in this district.

R-18 A District: This district applies to previously annexed subdivisions known as Arcadia Square, Orange Valley Estates No. 3, Grosse Point Two, Quail Vista and to certain portions of Firebrand Ranch and Mountain View Estates Replat, as shown on the Zoning Map. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 18,000 sq. ft. is required in this district.

R-10 District: This district applies to previously annexed subdivisions known as Mountain Shadows East, Mountain Shadows West, and Colonia Miramonte. This district is intended for single-family dwellings and uses incidental or accessory thereto, with a lot size of at least 10,000 square feet.

Residential Staff: An accessory building occupied only by a person employed for a substantial portion of his time in the performance of domestic or agricultural tasks on the premises, and by the immediate family of such person. Residential staff quarters may have cooking facilities, and may not be rented for profit.

School: Unless otherwise specified, the term "school and college" shall be limited to private or public places of general instruction and shall not include nursery schools, dancing schools, riding academies, or trade or specialized vocational schools.

Service Station: Any building or premises used principally for the storing, dispensing or offering for sale at retail of automobile fuels or oils.

Shopping Center: A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit.

Sign: Any device for visual communication including political handbills and posters but not including any flag, badge or insignia of a government or governmental agency, nor of any civic, charitable, religious, patriotic, fraternal or similar organization.

a. Area of Sign:

(1) Free-standing Letters Sign: The area of such sign is ninety percent (90%) of the area enclosed within the smallest regular geometric figure needed to encompass all letters, insignias or symbols.

(2) Other Signs: The area of other signs is the total area within the outer edge of the sign.

(3) Computations: In every event, computation of all allowable sign area includes

all existing signs on the premises, whether such signs be conforming or valid nonconforming under the terms of this Ordinance. Identifying street numbers shall not be computed as part of the total sign area.

b. Banner sign: Means a canvas, flexible plastic device or other cloth material which can be supported and mounted by the use of ropes and intended for visual communication, and directly related to activities on site.

c. Double-faced sign means a sign with two faces; in computing the number of signs, a double-faced sign shall be considered as two (2) signs.

d. Free-standing Letters Sign: A sign composed of letters superimposed on a wall.

- e. Indirect lighting means a source of external illumination located a distance away from the sign which lights the sign, but which is itself not visible to persons viewing the sign from any ordinary position of view.
- f. Internal lighting means a source of illumination which is entirely within the sign and is not visible.
- g. Non-commercial sign means a sign for the expression of a personal communication such as religious, philosophical, or political views.
- h. Permanent Sign: Any sign which is intended to be of a lasting and enduring nature, remaining unchanged in character and position and affixed in a permanent manner to the ground, wall or building; made of or composed of materials of such quality that the sign will not deteriorate in appearance due to exposure to wind, rain, sun or the passage of time.
- i. Temporary Sign: Any sign not permanently attached to the ground, wall, or building; made of or composed of materials of such quality that the sign will not deteriorate in appearance due to exposure to wind, rain, sun or the passage of time.

Stable: Any building or structure used to house or provide shelter for horses, provided that when a stable building is used for additional purposes, including by way of example, but not limited to, housing of horse attendants, etc., only the portions of the building used for the housing of horses and/or the keeping of feed or tack shall be deemed stable area; remaining portions of the building shall be deemed accessory building area. The term, "stable", shall not include within the scope of its definition what is commonly referred to as a corral.

Story: That portion of a building, other than a basement included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor is finished off for use. The half story containing independent apartment or living quarters shall be counted as a full story.

Street, Public: A passageway for general use of pedestrian or vehicular traffic, established as such by governmental authority.

Street, Private: Any other passageway for pedestrian or vehicular traffic.

Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street (right-of-way).

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground.

SUP District R-18 CP Single-Family Residential District: A residential subdivision approved by prior Special Use Permit only and applicable only to those subdivisions known as Cheney Estates (and only a portion thereof) and Via Vista.

Time-Share Project: A project in which a purchaser receives the right in perpetuity, for life or for a term of years to the recurrent, exclusive use or occupancy of a lot, parcel, unit or segment of real property, annually or on some other periodic basis for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

Trailer, Transport: Any vehicle so constructed that is suitable for being attached to a motor vehicle and capable of being used for transporting goods, materials, equipment, boats, vehicles, or livestock.

Use: The purpose for which land or a building is occupied, maintained, arranged, designed or intended.

Use, Accessory: A subordinate use customarily incident to and conducted on the same lot with the principal use or building including bona fide residential staff quarters.

Watercourse: Any lake, river, stream, wash, arroyo, channel or other body of water having banks and bed through which waters flow at least periodically. The term may include specifically designated areas in which substantial flood damage may occur.

Yard: An open space at grade level between the setback line and the nearest parallel lot line, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard, Front: A yard extending across the front width of a lot and being the minimum horizontal distance between the right-of-way line and the front setback line.

Yard, Rear: A yard extending across the rear width of a lot and being the minimum horizontal distance between the rear lot line and the rear setback line. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side: A yard between the side setback line and the side lot line of a lot and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side setback line. An interior side yard is defined as the side yard adjacent to a common lot line.

ZONING ORDINANCE

Figure 201 Grade Slope



Section 2. Article X, Section 1027, of the Zoning Ordinance is hereby amended as follows with deletions shown as ~~strikethroughs~~ and additions shown in **bold type**:

Section 1027. Prohibition of Specific Types of Medical Marijuana Facilities **and Other Marijuana-related Facilities or Uses.**

The following specified types of medical marijuana facilities, as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance: (1) Medical Marijuana Designated Caregiver Cultivation Site; (2) Medical Marijuana Dispensary Offsite Cultivation Site; and (3) Medical Marijuana Infusion Facility. Medical Marijuana Qualifying Patient Cultivation with the Town of Paradise Valley shall be prohibited if a Medical Marijuana Dispensary receives a registration certificate from DHS for any location within the Town of Paradise Valley or within twenty-five (25) miles of the residence of a Qualifying Patient living in the Town of Paradise Valley. **Except as otherwise required by law, the following specified types of other marijuana-related facilities and uses, as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance: (1) Marijuana Establishments; and (2) Marijuana Testing Facilities.**

Section 3. Any person violating any provision of this Ordinance shall be guilty of a Class 1 misdemeanor, and may be fined an amount up to \$2,500, or imprisoned for a period up to 6 months, or both. Each day that any violation continues shall be a separate offense punishable as above-described or by civil sanction.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town 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. Emergency. Whereas the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this ordinance shall be in full force and effective from and after its passage by the Council.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this _____ day of _____, 2020.

Jerry Bien-Willner, Mayor

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2020.

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney