



# TOWN OF HUACHUCA CITY

The Sunset City

## **PUBLIC NOTICE HUACHUCA CITY PLANNING & ZONING COMMISSION MEETS**

**November 6, 2019 AT 7 PM**

**COUNCIL CHAMBERS  
500 N. GONZALES BLVD.  
HUACHUCA CITY, AZ 85616**

### **AGENDA**

#### **A. Call to Order**

Chair

- Pledge of Allegiance
- Roll Call and Ascertain Quorum

#### **B. Call to the Public**

Chair

***P&Z Commission may make an open call to the public during a public meeting. Individual P&Z Commissioners may respond to criticism made by those who have addressed the Commission, they may ask staff to review a matter or they may ask that the matter be put on a future agenda. Commissioners shall not discuss or take legal action on matters raised during an open call to the public unless the matters have been properly noticed on the agenda for discussion and legal action A.R.S. 39-731.01 (G). In order to speak during Call to the Public, please specify what you wish to discuss when completing the call to the Public form but can be scheduled under future unfinished business.***

#### **C. Consent Agenda**

Chair

***All items listed in the Consent Agenda are considered routine matters and will be enacted by one motion of the Commission. There will be no separate discussion of these items unless a Member of the Planning & Zoning Commission requests that an item or items be removed for discussion. Commission Members may ask questions without the***

removal of the item from the Consent Agenda. Items removed from the Consent Agenda are considered in their normal sequence as listed on the agenda, unless called out of sequence.

C.1 Consider approval of the minutes of the regular P&Z commission meeting held on October 2, 2019.

D. **Zoning Administrator Report** Zoning Administrator

E. **Unfinished Business before the Commission** Chair

*Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the Chair and explained by staff. Any citizen who wishes, may speak one time for five minutes on each agenda item before or after Committee discussion. Questions from Committee Members, however, may be directed to staff or a member of the public through the Chair at any time.*

E.1 Discussion and/ or action: [Chair] Allowable uses in the business districts

E.2 Discussion and/or action: [Chair] Regulations for Industrial Hemp

F. **New Business before the Commission** Chair

*Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the Chair and explained by staff. Any citizen who wishes, may speak one time for five minutes on each agenda item before or after Committee discussion. Questions from Committee Members, however, may be directed to staff or a member of the public through the Chair at any time.*

F.1 None

G. Reports of Current Events by Committee Members

H. Items to be placed on future agendas

I. Adjournment

Posted on November 5, 2019 at the following locations:

<b>Town Hall Bulletin Board</b> 500 N. Gonzales Blvd. Huachuca City, AZ 85616	<b>Town Hall Lobby</b> 500 N. Gonzales Blvd. Huachuca City, AZ 85616	<b>Town Website</b> <a href="https://huachucacityaz.gov">https://huachucacityaz.gov</a>
<b>Huachuca City U.S. Post Office</b> 690 N. Gonzales Blvd. Huachuca City, AZ 85616	<b>Huachuca City Library</b> 506 N. Gonzales Blvd. Huachuca City, AZ 85616	<b>Huachuca City Police Department</b> 500 N. Gonzales Blvd. Huachuca City, AZ 85616

*Janine Collins*

Town Clerk

**Note:** This meeting is open to the public. All interested people are welcome to attend. A copy of agenda background material provided to the Councilmembers, with the exception of material relating to possible executive session, are available for public inspection at the Town Clerk's Office, 500 N. Gonzales Blvd., Huachuca City, AZ 85616, Monday through Friday from 8:00 a.m. to 5:00 p.m. or online at [www.huachucacityaz.gov](http://www.huachucacityaz.gov)

Individuals with disabilities who need a reasonable accommodation to attend or communicate at a town meeting, or who require this information in alternate format, may contact the Town at 456-1354 (TTY 456-1353) to make their needs known. Requests should be made as early as possible so there is sufficient time to respond.





# TOWN OF HUACHUCA CITY

The Sunset City

## MEETING MINUTES OF THE HUACHUCA CITY TOWN PLANNING AND ZONING REGULAR MEETING

WEDNESDAY, OCTOBER 2, 2019 AT 7:00 PM

HUACHUCA CITY TOWN HALL

500 N. GONZALES BLVD.

HUACHUCA CITY, AZ 85616

### AGENDA

#### A. Call to Order – Vice Chair

- a. Pledge of Allegiance
- b. Roll Call and Ascertain Quorum

The meeting was called to order at:  
The Pledge of Allegiance was led by:

7:00 PM  
Vice Chair Charlton

#### Roll Call- Joy Banks

<b>Individual</b>	<b>Position</b>	<b>Present</b>	<b>Absent</b>
Tiffany Chavez	Chair		X
Jeffrey Ferro	Committee Member	X	
Mary Charlton	Committee Member/ Vice Chair	X	
Jean Post	Committee Member	X	
Dr. Jim Johnson	Building Official	X	
Joy Banks	Town Liaison	X	

#### B. Call to the Public – Vice Chair

*P&Z Commission may make and open call to the public during a public meeting. Individual P&Z Commissioners may respond to criticism made by those who have addressed the Commission, they may ask staff to review a matter or they may ask that the matter be put on a future agenda. Commissioners shall not discuss or take legal action on matters raised during an open call to the public unless the matters have been properly noticed on the agenda for*

discussion and legal action A.R.S. 39-731.01 (G). In order to speak during Call to the Public, please specify what you wish to discuss when completing the call to the Public form but can be scheduled under future unfinished business.

**Call to Public: None**

**C. Consent Agenda –Vice Chair**

All items listed in the Consent Agenda are considered routine matters and will be enacted by one motion of the Commission. There will be no separate discussion of these items unless a Member of the Planning & Zoning Commission requests that an item or items be removed for discussion. Commission Members may ask questions without the removal of the item from the Consent Agenda. Items removed from the Consent Agenda are considered in their normal sequence as listed on the agenda, unless called out of sequence.

- C.1 Consider approval of the minutes of the regular P&Z commission meeting held on August 7, 2019.**
- C.2 Consider approval of the minutes of the P&Z Commission work session held on August 7, 2019.**
- C.3 Consider approval of the minutes of the regular P&Z Commission meeting held on September 4, 2019.**

<b>Motion C:</b>		<b>Action: Approved</b>
<b>Moved by: Vice Chair Charlton</b>	<b>Seconded by: Jeffrey Ferro</b>	

**D. Zoning Administrator Report - Zoning Administrator**

**Dr. Johnson:** It's been pretty quiet on this side

**E. Unfinished Business before the Commission –Vice Chair**

Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the Chair and explained by staff. Any citizen who wishes, may speak one time for five minutes on each agenda item before or after Committee discussion. Questions from Committee Members, however, may be directed to staff or a member of the public through the Chair at any time.

E.1 Discussion only [Chair]: Planning & Zoning Commissioner Duties Training by Zoning Administrator Dr. Jim Johnson

<b>Motion E.1: Move to another time</b>		<b>Action: Approved</b>
<b>Moved by: Vice Chair</b>	<b>Seconded by: Jeffrey Ferro</b>	
<b>Charlton</b>		

E.2 Discussion and/ or action: [Chair Chavez]: Allowable uses in the business districts

Dr. Johnson: There were a few questions from Committee Member Ferro.

1. I still feel that we need to define specifically what constitutes "farming" as opposed to "community gardening" or a backyard vegetable plot. What guidelines exist in ARS, County, or other municipal zoning codes that could help us?

**Dr. Johnson:** We will go ahead and define that more and have it for next month's meeting.

2. Define "large animals" - size/weight guidelines, species, etc?

**Dr. Johnson:** My office will look into better defining this one.

3. What is the threshold for pets vice smaller "livestock"? If I have 3 rabbits in an outdoor hutch, are they legally pets or livestock?

**Dr. Johnson:** It's already in our zoning code in two different areas. Yes it would be against code, code 18.100.260 under section E and 6.15.030. And we will come back to question 4.

5. No Construction Material Establishment in C-3? Why not?

**Dr. Johnson:** Construction type businesses are retail businesses. So you want to keep it where the customers can get to it.

**Jeffrey Ferro:** Then that line item should be moved to retail the category needs to be clarified.

**Dr. Johnson:** I'll have my tech writers take a look at that.

6. No Medical Marijuana Cultivation / Infusion Facility in B/C? Other types of nurseries/greenhouses are permitted, as well as State Licensed Medical Marijuana Dispensaries? Why is one type of cultivation being singled out?

**Dr. Johnson:** State regulations require that and you cannot have a dispensary and a cultivation together.

7. See 1. Above. How specifically is a "community garden" not a farm? Our existing community garden is growing food for the express purpose of distributing it to needy families... is the intended recipient the difference? If so, how is this regulated / adjudicated?

**Dr. Johnson:** My staff will be looking at this one also.

8. As mentioned during the September 4 meeting, this wording is too vague. If this is intended to mean 'detached sheds and garages,' then just say that.

**Dr. Johnson:** We reviewed that and we will reword it like that.

9. I assume the Conditional Use Permits are due to noise / odor / light issues. Otherwise, Why?

**Dr. Johnson:** Yes it is because of the noise, odor and light issues.  
Now onto question 4.

4. We have put a lot of allowed / conditional uses in C-2 (light industrial). Is this normal? Is this to open up developable land in non-residential areas? Given that the zones map (Fig. 7, pg 34 of General Development Plan Update, May 2017) shows no C-2 (or C-3, which is interesting since we have a gravel pit operating here) in Huachuca City, do we need to rezone some areas as C-2 (or C-3) or rework the Allowed Uses chart to delete C-2 (and/or C-3) (I doubt this is a good idea)?

**Dr. Johnson:** We do not have any C-2 or C-3 in city limits. The sand and gravel pit is what Mr. Ferro is talking about. When towns annex property they try to keep it as closely as to what the county had. It can be later rezoned. If you are next to a military base it is required to contact the military to consult with them. The military did not want a dense population there because it is in their flight path just in case something would happen to fall off of their planes. We are already looking into using Gsi for Huachuca City.

#### **F. New Business before the Commission Vice Chair**

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F.1 Discussion and/or action: [Chair Chavez]: Regulations for Industrial Hemp

<b>Motion F.1: Open Item for discussion and/or action</b>		<b>Action: Open</b>
<b>Moved by: Vice Chair Charlton</b>	<b>Seconded by: Jeffrey Ferro</b>	

**Dr. Johnson:** We need to move forward on this, we need to be proactive on these situations. The plant that does not flower is the hemp. Hemp has been used for a long time, as clothes, ropes and other products. This is brand new legislation with the state of Arizona.

An example of what we want to do/follow:

**[OPTIONAL]**

**Sec. X-X-4 Permit Requirements.**

**A.** It shall be unlawful for a person to grow, harvest, transport, or process industrial hemp at any location within the [City/Town] without obtaining a [special/conditional use] permit from the [City/Town] clerk in accordance with [City/Town] Zoning Code Section \_\_\_\_\_, including any application and review procedures pursuant to \_\_\_\_\_. **Dr. Johnson-We will do a conditional use permit and it will not be up to the town clerk but up to this board)**

**B.** A permit shall not be issued unless the applicant provides a legible copy of the proper valid license issued by the Department authorized under the Industrial Hemp Program. A suspended or revoked license is not a valid license. **Dr. Johnson-We will do a CUP permit.**

**C. [OPTIONAL]** A permit shall not be issued unless the applicant provides a legible copy of the valid fingerprint clearance card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 41-1758.07 and required by the Department pursuant to Title 3, Chapter 4, Article 10 of the Arizona Administrative Code. **Dr. Johnson-Yes we want to use this option, both my staff and the town attorney have said we want to use this.**

**Committee Member Ferro:** So it's not optional then.

**Dr. Johnson:** It is optional, some jurisdictions will not use this.

**E.** The applicant shall notify the [City/Town] within \_\_\_\_\_ hours if the Department imposes a corrective action plan on the applicant or suspends or revokes the applicant's license. **Dr. Johnson- We will have to pick a time, usually ordinances like this it's 48 hours but we can make it 24 hours or 72 hours.**

**F.** A permit issued pursuant to this article, including a renewal of a permit, is valid for a period of one (1) year from the date of issuance if the permittee is in compliance with this article. The permit is nontransferable **Dr. Johnson-Instead of permit it will say CUP.**

**Sec. X-X-5 Industrial Hemp Site Regulations**

**A.** Industrial Hemp Sites are subject to the following conditions and limitations:

1. May be permitted [as a special/conditional use] in **(C-3)** zoning districts and shall not be authorized to grow, harvest, process, or store industrial hemp in an area zoned for residential use.

2. Shall not be located within five hundred (500) feet of a residentially zoned property. This distance shall be measured from the lot line of the property in which the cultivation is

conducted or proposed to be conducted to the property boundary line of the residentially zoned property.

3. Shall not be located within one thousand (1,000) feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, public cemetery or community center. This distance shall be measured from the lot line of the property in which the cultivation is conducted or proposed to be conducted to the property line of the protected use.

4. Except as otherwise provided in A.R.S. § 9-462.01, disposal of agricultural composting from industrial hemp shall not be allowed in any [City/Town] trash can, bin or other [City/Town] facility, or in any park refuse container unless authorized by the [City/Town]. **Dr. Johnson-We are going to insert in there or trash collection vendors. We don't pick up trash anymore so we want to make sure to include the vendors.**

6. Exterior inspections by the [City/Town] Code Enforcement or a designee may be conducted any time during regular business hours. **Dr. Johnson-It will be changed to code official)**

**Jean Post:** Who does the inspections?

**Dr. Johnson:** Usually it's done by the building officials and the fire marshal. We are constantly getting training.

#### **Sec. X-X-7 Fees.**

A. [FOR PERMITS] The fee for the permit shall be established by [RESOLUTION OF THE CITY/TOWN COUNCIL/FEE SCHEDULE]. OR The permit fee for each industrial hemp site is (\$ \_\_\_\_\_) annually. **Dr. Johnson -Our recommendation is that we merge then together. We also insert for annually so it states "half of the original application fee". That gives us the chance to do an inspection every year to make sure everything is still as it says on the original application.**

#### **Sec. X-X-9 Enforcement; Penalties.**

A. The [special/conditional use] permit may be revoked by the [City/Town] for violation of any provision of this article or for any violation of the requirements of the permit. If a permit is revoked, the permittee shall have the right to appeal the decision of the [City/Town] to \_\_\_\_\_ as outlined in Section \_\_\_\_\_ of the [City/Town] Code. **Dr. Johnson -This is the part where we will add the council as the board of adjustments.**

C. Civil Penalty: Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the [City/Town] civil hearing process set forth in subsection \_\_\_\_\_ or [City/Town] Court under Section \_\_\_\_\_ of the [City/Town Code].

#### **[AND/OR]**

D. Criminal Penalty: Among other penalties that may apply, including revocation of a permit (when applicable), any person who violates any provision of this article, whether or not the act is specifically stated as being unlawful, shall be guilty of a class \_\_\_\_\_ misdemeanor and upon conviction shall be punished as provided in Section \_\_\_\_\_ of the \_\_\_\_\_ [City/Town Code.] 6/3/19. **Dr. Johnson -The attorney has recommended Civil. We're letting the attorney handle this part.**

**Dr. Johnson:** You will see this again next month. The town attorney has asked us to expedite this ordinance. We want to have the public hearing in January 2020 which is required with a new ordinance. In between December and January meetings the town will conduct a public input process. We do have the opportunity to do it online, we've done it before and it went really well. We will take public input and present it to the January meeting.

**Jeffrey Ferro:** X-X-5 are the distances given to us by the state?

**Dr. Johnson:** Yes

F.2 Discussion and/or action: [Chair Chavez]: Rescheduling of the Jan 1, 2020 meeting

<b>Motion F.2: Open item for discussion and/or action</b>		<b>Action: Open</b>
<b>Moved by: Vice Chair Charlton</b>	<b>Seconded by: Ferro</b>	

**Dr. Johnson:** Staff recommendation is that we move it to January 8<sup>th</sup>.

<b>Motion F.2:</b>		<b>Action: Approved</b>
<b>Moved by: Vice Chair Charlton</b>	<b>Seconded by: Jeffrey Ferro</b>	

**G. Reports of Current Events by Committee Members**

**H. Items to be placed on future agendas:** General Plan Update?, Hemp Ordinance

**I. Adjournment**

<b>Motion: to Adjourn</b>		<b>Action: Approved</b>
<b>Moved by: Vice Chair Charlton</b>	<b>Seconded by: Jeffrey Ferro</b>	

**Meeting Adjourned:** 8:06 pm October 2, 2019.

Approved by Chair Tiffany Chavez on November 6, 2019

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Tiffany Chavez  
Chair

Attest: \_\_\_\_\_  
Ms. Janine Collins,  
Town Clerk

Seal:

**Certification**

I hereby certify that the foregoing is a true and correct copy of the Minutes of the Meeting for the Huachuca City Town Council held on October 2, 2019. I further certify that the meeting was duly called and a quorum was present.

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Ms. Janine Collins,  
Town Clerk

USE CLASSIFICATIONS	ZONING DISTRICTS						
	R-1	R-2	R-3	R-4	BC	C-2	C-3
<b>ADULT BUSINESSES</b>							
Adult Oriented Businesses	NP	NP	NP	NP	P*	P*	NP
<b>AGRICULTURE/NATURAL RESOURCES</b>							
1 Farming (Open and Greenhouse). Does not include Medical Marijuana Cultivation	NP	NP	NP	NP	NP	NP	NP
Onsite retail sales of onsite produced seasonal goods	NP	NP	NP	NP	P*	P*	NP
Plant Nurseries and Greenhouses	NP	NP	NP	NP	P	P	NP
<b>ANIMAL RELATED SERVICES/ESTABLISHMENTS</b>							
Feed Stores	NP	NP	NP	NP	NP	P	NP
Pet Stores	NP	NP	NP	NP	P	NP	NP
Animal Arenas, Commercial Stables, Equestrian Centers	NP	NP	NP	NP	NP	P	NP
2 Veterinarians, Animal Hospitals and Clinics (no large animals)	NP	NP	NP	NP	P	NP	NP
Pet Resorts and Pet Grooming Services	NP	NP	NP	NP	P	NP	NP
Kennels	NP	NP	NP	NP	NP	P	NP
Livestock (Horses, burros, donkeys, mules)	P*	NP	NP	NP	NP	NP	NP
3 Livestock (Cattle, sheep, hogs, rabbits, poultry)	NP	NP	NP	NP	NP	NP	NP
<b>ANTENNAS AND TOWERS</b>							
Public and Commercial Sending or Receiving Towers for Radio, Television or Communications	NP	NP	NP	NP	CU*	CU*	CU*
Antennas, Owned and Operated by FCC Licensed Member of Amateur Radio Service	P*	P*	P*	P*	P*	P*	P*
Satellite Dish and All Other Small Antennas	A	A	A	A	A	A	A
<b>EATING/DRINKING ESTABLISHMENTS</b>							
Delicatessen, Bakery, Candy Store and Sales of Other Prepared Food Products	NP	NP	NP	NP	P	NP	NP
All Other Restaurants and Eating Establishments	NP	NP	NP	NP	P	NP	NP
Bars, Taverns and Nightclubs	NP	NP	NP	NP	P	NP	NP
Mobile Food Vendor	NP	NP	NP	NP	P*	P*	P*
<b>EDUCATIONAL AND RELIGIOUS</b>							
Public Schools, Primary, Elementary & Secondary	CU*	CU*	CU*	CU*	CU*	CU*	NP
Private Schools of General or Special Education	CU*	CU*	CU*	CU*	CU*	CU*	NP
Higher Education Facilities	CU*	CU*	CU*	CU*	CU*	CU*	NP
Day Care Center & Day Care Group Homes	CU*	CU*	CU*	CU*	CU*	NP	NP
Trade Schools	NP	NP	NP	NP	CU	CU	NP
Business or Vocational Schools	NP	NP	NP	NP	CU	CU	NP
Places of Worship	CU*	CU*	CU*	CU*	CU*	CU*	NP
Art Studios, Galleries & Centers; Fine Arts Conservatories, Music Schools, Dance Studios and Similar Cultural Uses	NP	NP	NP	NP	P	P	NP
Libraries	NP	NP	NP	NP	P	P	NP
Museums	NP	NP	NP	NP	P	P	NP
Fraternal, Sorority Clubs, Private Clubs & Lodges, Union Halls	CU*	CU*	CU*	CU*	CU*	CU*	NP

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USE CLASSIFICATIONS	ZONING DISTRICTS						
	R-1	R-2	R-3	R-4	BC	C-1	C-3
<b>MANUFACTURING/INDUSTRIAL</b>							
Construction Material Establishment	NP	NP	NP	NP	P*	P	NP
Construction Service Establishment	NP	NP	NP	NP	P*	P	NP
Distribution Center	NP	NP	NP	NP	NP	P	NP
Impound Yards	NP	NP	NP	NP	NP	P	NP
Industrial Workshops and Services	NP	NP	NP	NP	NP	P	NP
Junk Yard and Auto Salvage Yard	NP	NP	NP	NP	NC	P	NP
Landscape Service Establishments	NP	NP	NP	NP	NP	P	NP
Manufacturing – Heavy	NP	NP	NP	NP	NP	NP	P
Manufacturing - Light	NP	NP	NP	NP	NP	P	NP
Medical Marijuana Cultivation/Infusion Facility <b>INFUSION KITCHENS?</b>	NP	NP	NP	NP	NP	P*	NP
Microbrewery/Micro-Distillery	NP	NP	NP	NP	NP	P	NP
Mineral Extraction	NP	NP	NP	NP	NP	NP	P
Motor Freight Terminal	NP	NP	NP	NP	NP	P	NP
Motor Pool Facility	NP	NP	NP	NP	NP	P	NP
Wholesale Trade	NP	NP	NP	NP	NP	P	NP
<b>PROFESSIONAL OFFICES, SERVICES AND RESEARCH</b>							
Offices Intended to Attract and Serve Customers or Clients on Premises	NP	NP	NP	NP	P	NP	NP
Financial Institution	NP	NP	NP	NP	P	NP	NP
Healthcare Offices	NP	NP	NP	NP	P	NP	NP
Personal Service Establishment	NP	NP	NP	NP	P	NP	NP
Research and Development	NP	NP	NP	NP	P	P	NP
Services Offered Primarily Offsite	NP	NP	NP	NP	P	NP	NP
State Licensed Medical Marijuana Dispensaries	NP	NP	NP	NP	P	P	NP
<b>PARKING AREAS</b>							
Offsite Parking Lots for Commercial Uses	NP	NP	NP	NP	P	P	NP
<b>PUBLIC AND QUASI-PUBLIC USES</b>							
Airport and Related Services	NP	NP	NP	NP	NP	CU	CU
Alternative Energy Systems	NP	NP	NP	NP	NP	CU	CU
Cemeteries/Columbarium	CU	CU	CU	CU	CU	CU	CU
Community Gardens	CU	CU	CU	CU	CU	CU	NP
Emergency Service Facilities or other Public Service Facilities needing locations in the area to permit effective service within the area	CU*	CU*	CU*	CU*	CU*	CU*	CU*
Funeral Homes/Mortuary	NP	NP	NP	NP	CU	NP	NP
Golf Courses, Public or Private	P	P	P	P	NP	NP	NP
Governmental Offices	NP	NP	NP	NP	P	NP	NP
Hospitals	NP	NP	NP	NP	CU*	CU*	NP
Recycling Centers	CU*	CU*	CU*	CU*	CU*	CU*	CU*
Sewage Facilities, to include pump stations, sewage or storm water treatment plants	CU*	CU*	CU*	CU*	CU*	CU*	CU*
Solid Waste Transfer Stations and Solid Waste Landfills	CU*	CU*	CU*	CU*	CU*	CU*	CU*
Utility Structures, to include substations, telephone switching stations, electrical generation facilities and other facilities required for the transmission of power or communications	CU*	CU*	CU*	CU*	CU*	CU*	CU*
Water Systems, to include treatment plants, storage reservoirs, pump stations or other major facilities associated with the supply or distribution of water	CU*	CU*	CU*	CU*	CU*	CU*	CU*

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USE CLASSIFICATIONS	ZONING DISTRICTS						
	R-1	R-2	R-3	R-4	BC	C-2	C-3
<b>RECREATION, ENTERTAINMENT, PUBLIC ASSEMBLY (Activities Conducted Primarily Indoors)</b>							
Bowling Alleys, Skating Rinks, Pool Halls	NP	NP	NP	NP	P	NP	NP
Indoor Racquet Sports Clubs, Spas, Athletic, Exercise & Health Clubs and Similar Facilities	NP	NP	NP	NP	P	NP	NP
Youth Clubs, Senior Centers, Community Centers	NP	NP	NP	NP	P	NP	NP
Theaters and Cinemas	NP	NP	NP	NP	P	NP	NP
Playhouses/Performing Arts Theaters	NP	NP	NP	NP	P	NP	NP
Games, Amusements, Arcades	NP	NP	NP	NP	P	NP	NP
Indoor Gun Clubs, Archery Ranges, Axe Throwing Activities and Paintball Facilities	NP	NP	NP	NP	P	NP	NP
<b>RECREATION, ENTERTAINMENT, PUBLIC ASSEMBLY (Activities Conducted Primarily Outdoors)</b>							
Miniature Golf and Skateboard Parks	NP	NP	NP	NP	P	NP	NP
<b>RESIDENTIAL</b>							
Bed and Breakfast Facilities for short stays with meal service restricted to registered guests only.	CU*	CU*	CU*	CU*	CU*	NP	NP
Hotels/Motels	NP	NP	NP	NP	P	P	NP
Manufactured Home Parks	NP	NP	NP	NC	P	NP	NP
Recreational Vehicle Parks	NP	NP	NP	NC	P	NP	NP
<b>SALES, RENTAL, &amp; SERVICE BUSINESSES</b>							
Retail Sales	NP	NP	NP	NP	P	NP	NP
Miscellaneous Rental Merchandise & Equipment	NP	NP	NP	NP	P	NP	NP
Servicing of Goods, Merchandise & Equipment	NP	NP	NP	NP	P	NP	NP
Personal Services	NP	NP	NP	NP	P	NP	NP
Servicing of Appliances, Furniture, Lawn and Garden, Mechanical and Heating/Cooling Equipment or Merchandise	NP	NP	NP	NP	P	NP	NP
Services Offered Primarily Offsite	NP	NP	NP	NP	P	NP	NP
<b>STORAGE AND WAREHOUSING</b>							
All Storage Located Within Completely Enclosed Structures	A	A	A	A	A	A	A
Outdoor Storage or Combination of Indoor & Outdoor Storage	NP	NP	NP	NP	P*	P*	NP
Mini-Warehouses and Self-Storage Facilities	NP	NP	NP	NP	P	P	NP
<b>TRANSPORTATION</b>							
Taxi Service, Trolleys, Horse-Drawn Carriages or Similar Transportation Services	NP	NP	NP	NP	P	P	NP

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USE CLASSIFICATIONS	ZONING DISTRICTS						
	R-1	R-2	R-3	R-4	BC	C-2	C-3
<b>VEHICLE SALES, RENTAL &amp; SERVICING OF GOODS, MERCHANDISE &amp; EQUIPMENT</b>							
<b>New &amp; Used Sales and Rentals</b>	NP	NP	NP	NP	P	NP	NP
<b>Parts and Accessories Sales, which may include installation services</b>	NP	NP	NP	NP	P	NP	NP
<b>Service, Minor Repair &amp; Detail Shops</b>	NP	NP	NP	NP	CU	NP	NP
<b>Automobile-oriented Fuel Sales and Accessory Convenience Sales, With Accessory Service Bays</b>	NP	NP	NP	NP	CU	NP	NP
<b>Automobile-oriented Fuel Sales and Accessory Convenience Sales, Without Accessory Service Bays</b>	NP	NP	NP	NP	P	NP	NP
<b>Car Washes</b>	NP	NP	NP	NP	P	P	NP
<b>Paint and Body Work</b>	NP	NP	NP	NP	P*	NP	NP

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## QUESTIONS FOR TOWN ZONING ADMINISTRATOR

1. I still feel that we need to define specifically what constitutes “farming” as opposed to “community gardening” or a backyard vegetable plot.

**Farming: Commercial cultivation of crops or raising animals as a business**

**Gardening: Growing of food or plants for personal use.**

**Community Garden: A private or public facility for the cultivation of fruits, flowers, vegetables or ornamental plants for more than one person or family.**

2. Define “large animals” - size/weight guidelines, species, etc.?

**I propose to change the wording from “large animals” to livestock animals.**

3. What is the threshold for pet’s vice smaller “livestock”? If I have 3 rabbits in an outdoor hutch, are they legally pets or livestock?

**This is already defined within the Town Code. Section 18.100.260 prohibits cattle, sheep, hogs, rabbits, poultry or other livestock within the Town. Section 6.15.030 also prohibits the keeping of livestock within the Town limits.**

4. We have put a lot of allowed / conditional uses in C-2 (light industrial). Is this normal? Is this to open up developable land in non-residential areas? Given that the zones map (Fig. 7, pg 34 of General Development Plan Update, May 2017) shows no C-2 (or C-3, which is interesting since we have a gravel pit operating here) in Huachuca City, do we need to rezone some areas as C-2 (or C-3) or rework the Allowed Uses chart to delete C-2 (and/or C-3)(I doubt this is a good idea)?

**There will be discussions on these proposed conditional uses to further define their appropriateness within these zones. Some may be eliminated. At present the Town does not have any C-2 and C-3 zones; however, the General Plan does provide for an industrial area of Town that would allow for the rezoning of land to accommodate for these possible uses in the future.**

5. No Construction Material Establishment in C-3? Why not?

**C-3 Zoning is classified as Heavy Industrial and Mining. This type of zoning is not usually easily accessible to the general public. Construction Material Establishment is typically classified as a retail type business, so it would be more appropriate within a B/C or C-2 Light Industrial zone.**

**6. No Medical Marijuana Cultivation / Infusion Facility in B/C? Other types of nurseries/greenhouses are permitted, as well as State Licensed Medical Marijuana Dispensaries? Why is one type of cultivation being singled out?**

**At present commercial farms are not allowed in the current zoning code. They are typically not allowed within a City/Town setting. With the limited commercial land available within Town limits, it would not be wise to change the current zoning to allow for this, as this would take away potential sales tax revenues from the Town.**

**Medical marijuana dispensaries and cultivation sites are two completely different uses and cannot be combined into one site. The State ARS regulates each. The cultivation site is required to be in an enclosed and lock facility (a greenhouse may qualify). Although typical farming is not allowed within the Town limits, a marijuana cultivation site would not typically be as large as a commercial farm and is required to be secured from public view. Also, it would not be wise to zone out this type of use in the same way it is not wise to zone out adult oriented businesses.**

**Plant nurseries are typically retail businesses, which is why they are listed under B/C and C-2 zoning districts.**

**There are a few changes to the chart that I am proposing to clarify a few items. 1) I would recommend dropping the word “greenhouse” associated with plant nurseries, as it gives the impression of farming, which is already not permitted (NP) as associated with Farming; 2) I would recommend creating a new Use Category for “Medical Marijuana”, similar to Adult Oriented Businesses and listing the dispensaries, infusion and cultivation sites together.**

**7. See 1. above. How specifically is a “community garden” not a farm? Our existing community garden is growing food for the express purpose of distributing it to needy families... is the intended recipient the difference? If so, how is this regulated / adjudicated?**

**Community gardens are not intended for “making a profit”, which is the purpose of a “farm” as defined under Question #1. The “regulation” is the requirement for a community garden to obtain a conditional use permit.**

**8. As mentioned during the September 4 meeting, this wording is too vague. If this is intended to mean ‘detached sheds and garages,’ then just say that.**

**Agreed. The wording was taken from the current Town zoning code, but it does not work within the setting of a chart.**

**9. I assume the Conditional Use Permits are due to noise / odor / light issues. Otherwise, why?**

**Yes to all of the noted reasons. Plus, due to the main commercial district of the Town abutting residential properties there needs to be provisions made to separate the two uses without excluding the uses altogether as they would be a benefit to the overall community.**

### **3-311. Definitions**

**In this article, unless the context otherwise requires:**

- 1. "Agricultural pilot program" means the industrial hemp program that is designed to research the growth, cultivation and marketing of industrial hemp, hemp seeds and hemp products as authorized by this article and rules and orders adopted by the director pursuant to this article.**
- 2. "Crop" means any industrial hemp that is grown under a single industrial hemp license issued by the department.**
- 3. "Grower" means an individual, partnership, company or corporation that propagates industrial hemp under this article and rules and orders adopted by the director pursuant to this article.**
- 4. "Harvester" means an individual, partnership, company or corporation that is licensed by the department to harvest industrial hemp for a licensed grower.**
- 5. "Hemp products" means all products made from industrial hemp, including cloth, cordage, fiber, fuel, grain, paint, paper, construction materials, plastics and by-products derived from sterile hemp seed or hemp seed oil. Hemp products excludes any product made to be ingested except food made from sterile hemp seed or hemp seed oil.**
- 6. "Hemp seed" means any viable cannabis sativa L. seed that produces an industrial hemp plant that is subject to this article and rules and orders adopted by the director pursuant to this article.**
- 7. "Industrial hemp" means the plant cannabis sativa L. and any part of such a plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths percent on a dry-weight basis.**
- 8. "Industrial hemp site" means the location in which a grower, harvester, transporter or processor possesses a crop, a harvested crop or hemp seed.**
- 9. "License" means the authorization that is granted by the department to propagate, harvest, transport or process industrial hemp in this state under this article and rules and orders adopted by the director pursuant to this article.**
- 10. "Licensee" means a grower, harvester, transporter or processor with a valid license.**
- 11. "Processor" means an individual, partnership, company or corporation that is licensed by the department to receive industrial hemp for processing into hemp products or hemp seed.**
- 12. "Transporter" means an individual, partnership, company or corporation that is licensed by the department to transport industrial hemp for a licensed grower to a processor.**

**3-312. Legislative findings: purpose: authorization**

A. The legislature finds and determines that developing and using industrial hemp can improve the economy and agricultural vitality of this state and that the production of industrial hemp can be regulated so as not to interfere with strict regulation of marijuana in this state.

B. The purposes of this article are:

1. To promote the economy and agriculture in this state by allowing institutions of higher learning and the department to develop and regulate industrial hemp as part of an agricultural pilot program for the purpose of research into the growth, cultivation and marketing of industrial hemp as authorized by the agricultural act of 2014 (P.L. 113-79; 128 Stat. 649; 7 United States Code section 5940).

2. To allow the commercial growth, cultivation and marketing of industrial hemp if the commercial growth, cultivation and marketing of industrial hemp is authorized by federal law, while maintaining strict control of marijuana.

C. Industrial hemp is an agricultural product that is subject to regulation by the department.

D. Industrial hemp propagation, processing, manufacturing, distribution and market research are authorized in this state under a preapproved agricultural pilot program. Hemp seed that is authorized for an agricultural pilot program shall be certified solely through the department. Unauthorized hemp seed may not be planted. Hemp seed that is derived from previously authorized hemp seed is considered authorized hemp seed for the purposes of this article.

E. If authorized under federal law, the commercial production, processing, manufacturing, distribution and commerce of industrial hemp in this state is allowed outside of the agricultural pilot program.

**3-313. Rulemaking: fees: intent**

A. For the purposes of carrying out this article, the director shall:

1. Adopt rules pursuant to title 41, chapter 6 to oversee the licensing, production and management of industrial hemp and hemp seed in this state pursuant to this article.

2. Adopt fees by rule.

3. Authorize qualified applicants to propagate, harvest, transport or process, or any combination thereof, industrial hemp according to rules adopted by the director.

B. The legislature intends that the fees adopted pursuant to subsection A, paragraph 2 of this section be used to fund the department's activities in licensing, testing, inspecting and supervising industrial hemp production.

**3-314. Industrial hemp licenses: applications; fees; fingerprinting requirements; renewal; revocation**

**A. A grower, harvester, transporter or processor shall obtain an industrial hemp license from the department.**

**B. A grower, harvester, transporter or processor shall apply for a license pursuant to rules and orders adopted by the director.**

**C. An application for an original or renewal industrial hemp license shall comply with all of the following:**

**1. Be on a form that is provided by the department.**

**2. Include complete and accurate information.**

**3. Be accompanied by the license fee prescribed by the director. The director shall deposit, pursuant to sections 35-146 and 35-147, fees collected under this paragraph in the industrial hemp trust fund established by section 3-315.**

**D. An applicant shall provide proof to the department of having a valid fingerprint clearance card issued pursuant to section 41-1758.07 for the purpose of validating applicant eligibility.**

**E. A license issued pursuant to this section is valid for one year, unless revoked, and may be renewed as provided by the department. Rather than renewing a licensee's license every year, a licensee may renew the licensee's license every two years by paying a license fee that is twice the amount designated by the fee schedule in rule that is adopted by the director and other applicable fees. Licensees that renew every two years shall comply with any annual reporting requirements.**

**F. The department may revoke or refuse to issue or renew a license for a violation of any law of this state, any federal law or any rule or order adopted by the director.**

**G. A member of an Indian tribe may apply for a license pursuant to this section. If a member of an Indian tribe is issued a license pursuant to this section, the member is subject to the requirements prescribed in this article.**

**3-315. Industrial hemp trust fund**

**A. The industrial hemp trust fund is established for the exclusive purpose of implementing, continuing and supporting industrial hemp licensing. The trust fund consists of monies received from legislative appropriations, licensing fees and all other sources under this article. The monies collected constitute a separate and permanent fund for use by the director in administering and enforcing this article.**

**B. The director shall administer the trust fund as trustee. The state treasurer shall accept, separately account for and hold in trust any monies deposited in the state treasury, which are considered to be trust monies as defined in section 35-310 and may not be commingled with any other monies in the state treasury except for investment purposes. On notice from the director, the state treasurer shall invest and divest any trust fund monies deposited in the state treasury as provided by sections 35-313 and 35-314.03, and monies earned from investment shall be credited to the trust fund.**

C. The director may accept and spend federal monies and private grants, gifts, contributions and devises to assist in carrying out the purposes of this article.

D. The beneficiary of the trust is the industrial hemp program established pursuant to this article, including salaries, fees and office, administrative, bonding and travel expenses that are incurred as a result of the industrial hemp program.

E. Any monies remaining unexpended in the trust fund on June 30 of each year shall be carried forward to the following year and do not revert to the state general fund.

### 3-316. Recordkeeping, inspection, transportation and distribution requirements

A. A grower, harvester, transporter or processor of industrial hemp that is licensed pursuant to this article shall keep and maintain records as required by rule or order. The director or the director's designee may inspect or audit the records during normal business hours to ensure compliance with this article or any department rule or order.

B. The director or the director's designee may physically inspect an industrial hemp site to ensure compliance with this article or any department rule or order. During any physical inspection of an industrial hemp site, the director or the director's designee may take a representative sample for analysis by the state agricultural laboratory or a laboratory that is certified by the state agricultural laboratory. If a crop contains an average carboxylated delta-9 tetrahydrocannabinol concentration that exceeds three-tenths percent on a dry-weight basis or violates any other pesticide law, the department may take corrective action pursuant to section 3-317.

C. Notwithstanding section 13-3405, the director or the director's designee may possess and transport samples of cannabis sativa L. collected for testing to determine delta-9 tetrahydrocannabinol concentration for eligibility as industrial hemp.

D. Only a licensed grower, harvester, processor or transporter or the director or the director's designee may transport industrial hemp off the industrial hemp site. When transporting industrial hemp off the industrial hemp site, the licensed grower, processor or transporter shall carry the licensing documents as evidence that the industrial hemp was grown by a licensed grower. This subsection does not apply to the transportation of hemp products.

E. A licensed grower shall notify the department of all of the following:

1. The sale or distribution of any industrial hemp grown under the grower's license.
2. The name and address of the person or entity receiving the industrial hemp.
3. The amount of the industrial hemp sold or distributed.

### 3-317. Corrective actions: hearing

A. The director shall adopt rules to address, correct and remediate violations of this article and rules or orders adopted pursuant to this article.

**B. The director may:**

**1. Issue and enforce a written cease and desist order against a grower, harvester, transporter or processor of any industrial hemp that the director finds is in violation of this article. The order shall prohibit the further sale, processing or transportation of the industrial hemp except on approval of the director.**

**2. Issue a stop sale order.**

**3. Seize and destroy any crop, harvested crop or hemp seed that does not comply with this article or any rule or order adopted pursuant to this article.**

**4. Take any other action to enforce this article and the rules and orders adopted pursuant to this article.**

**C. A person who violates this article or any rule or order adopted pursuant to this article may request a hearing before an administrative law judge pursuant to title 41, chapter 6, article 10. The decision of the administrative law judge is subject to review by the director as provided by title 41, chapter 6, article 10. A request pursuant to this subsection does not stay a cease and desist order issued pursuant to this section.**

**3-318. Industrial hemp advisory council; members; duties**

**A. The director shall establish by rule or order an industrial hemp advisory council to assist and make recommendations to the director regarding the administration and implementation of this article. The director shall appoint five members to the council, including one public member.**

**B. The industrial hemp advisory council shall:**

**1. Advise the director regarding expenditures from the industrial hemp trust fund.**

**2. Provide additional assistance as the director deems necessary.**

**3-319. Violations; classification; civil penalties**

**A. In addition to any liability established by this article or any penalty provided by law, the director may impose a civil penalty of not more than five thousand dollars for each violation of any of the following:**

**1. A licensing requirement.**

**2. A license term or condition.**

**3. A rule or order adopted by the director that relates to propagating, harvesting, transporting or processing industrial hemp.**

**B. A person who intentionally violates this article or any rule or order related to this article is guilty of a class 1 misdemeanor.**

**C. A person who does not hold a license issued by the department or who is not a designee or agent of a person who holds a license issued by the department may not propagate, harvest, transport or process industrial hemp. A person who violates this subsection is subject to section 13-3405.**

**3-320. Affirmative defense**

**A. It is an affirmative defense to any prosecution for the possession or cultivation of marijuana pursuant to title 13, chapter 34 that the defendant is a licensee, or a designee or agent of a licensee, who is in compliance with this article.**

**B. This section is not a defense to a charge of possession, sale, transportation or distribution of marijuana pursuant to title 13, chapter 34 that is not industrial hemp.**



**9-462.01. Zoning regulations: public hearing: definitions**

**A. Pursuant to this article, the legislative body of any municipality by ordinance may in order to conserve and promote the public health, safety and general welfare:**

- 1. Regulate the use of buildings, structures and land as between agriculture, residence, industry, business and other purposes.**
- 2. Regulate signs and billboards.**
- 3. Regulate the location, height, bulk, number of stories and size of buildings and structures, the size and use of lots, yards, courts and other open spaces, the percentage of a lot that may be occupied by a building or structure, access to incident solar energy and the intensity of land use.**
- 4. Establish requirements for off-street parking and loading.**
- 5. Establish and maintain building setback lines.**
- 6. Create civic districts around civic centers, public parks, public buildings or public grounds and establish regulations for the civic districts.**
- 7. Require as a condition of rezoning public dedication of rights-of-way as streets, alleys, public ways, drainage and public utilities as are reasonably required by or related to the effect of the rezoning.**
- 8. Establish floodplain zoning districts and regulations to protect life and property from the hazards of periodic inundation. Regulations may include variable lot sizes, special grading or drainage requirements, or other requirements deemed necessary for the public health, safety or general welfare.**
- 9. Establish special zoning districts or regulations for certain lands characterized by adverse topography, adverse soils, subsidence of the earth, high water table, lack of water or other natural or man-made hazards to life or property. Regulations may include variable lot sizes, special grading or drainage requirements, or other requirements deemed necessary for the public health, safety or general welfare.**
- 10. Establish districts of historical significance provided that:**
  - (a) The ordinances may require that special permission be obtained for any development within the district if the legislative body has adopted a plan for the preservation of districts of historical significance that meets the requirements of subdivision (b) of this paragraph, and the criteria contained in the ordinance are consistent with the objectives set forth in the plan.**
  - (b) A plan for the preservation of districts of historical significance shall identify districts of special historical significance, state the objectives to be sought concerning the development or preservation of sites, area and structures within the district, and formulate a program for public action including the provision of public facilities and the regulation of private development and demolition necessary to realize these objectives.**
  - (c) The ordinance establishing districts of historical significance shall set forth standards necessary to preserve the historical character of the area so designated.**

(d) The ordinances may designate or authorize any committee, commission, department or person to designate structures or sites of special historical significance in accordance with criteria contained in the ordinance, and no designation shall be made except after a public hearing on notice of the owners of record of the property designated of special historical significance. The ordinances may require that special permission be obtained for any development respecting the structures or sites.

11. Establish age-specific community zoning districts in which residency is restricted to a head of a household or spouse who must be of a specific age or older and in which minors are prohibited from living in the home. Age-specific community zoning districts shall not be overlaid over property without the permission of all owners of property included as part of the district unless all of the property in the district has been developed, advertised and sold or rented under specific age restrictions. The establishment of age-specific community zoning districts is subject to all of the public notice requirements and other procedures prescribed by this article.

12. Establish procedures, methods and standards for the transfer of development rights within its jurisdiction. Any proposed transfer of development rights from the sending property or to the receiving property shall be subject to the notice and hearing requirements of section 9-462.04 and shall be subject to the approval and consent of the property owners of both the sending and receiving property. Before any transfer of development rights, a municipality shall adopt an ordinance providing for:

(a) The issuance and recordation of the instruments necessary to sever development rights from the sending property and to affix development rights to the receiving property. These instruments shall be executed by the affected property owners and lienholders.

(b) The preservation of the character of the sending property and assurance that the prohibitions against the use and development of the sending property shall bind the landowner and every successor in interest to the landowner.

(c) The severance of transferable development rights from the sending property and the delayed transfer of development rights to a receiving property.

(d) The purchase, sale, exchange or other conveyance of transferable development rights before the rights being affixed to a receiving property.

(e) A system for monitoring the severance, ownership, assignment and transfer of transferable development rights.

(f) The right of a municipality to purchase development rights and to hold them for resale.

(g) The right of a municipality at its discretion to enter into an intergovernmental agreement with another municipality or a county for the transfer of development rights between jurisdictions. The transfer shall comply with this paragraph, except that if the sending property is located in an unincorporated area of a county, the approval of the development rights to be sent to a municipality shall comply with section 11-817.

B. For the purposes of subsection A of this section, the legislative body may divide a municipality, or portion of a municipality, into zones of the number, shape and area it deems best suited to carry out the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

**C. All zoning regulations shall be uniform for each class or kind of building or use of land throughout each zone, but the regulations in one type of zone may differ from those in other types of zones as follows:**

**1. Within individual zones, there may be uses permitted on a conditional basis under which additional requirements must be met, including requiring site plan review and approval by the planning agency. The conditional uses are generally characterized by any of the following:**

**(a) Infrequency of use.**

**(b) High degree of traffic generation.**

**(c) Requirement of large land area.**

**2. Within residential zones, the regulations may permit modifications to minimum yard lot area and height requirements.**

**D. To carry out the purposes of this article and articles 6 and 6.2 of this chapter, the legislative body may adopt overlay zoning districts and regulations applicable to particular buildings, structures and land within individual zones. For the purposes of this subsection, "overlay zoning district" means a special zoning district that includes regulations that modify regulations in another zoning district with which the overlay zoning district is combined. Overlay zoning districts and regulations shall be adopted pursuant to section 9-462.04.**

**E. The legislative body may approve a change of zone conditioned on a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period the property has not been improved for the use for which it was conditionally approved, the legislative body, after notification by certified mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.**

**F. All zoning and rezoning ordinances or regulations adopted under this article shall be consistent with and conform to the adopted general plan of the municipality, if any, as adopted under article 6 of this chapter. In the case of uncertainty in construing or applying the conformity of any part of a proposed rezoning ordinance to the adopted general plan of the municipality, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan. A rezoning ordinance conforms with the land use element of the general plan if it proposes land uses, densities or intensities within the range of identified uses, densities and intensities of the land use element of the general plan.**

**G. A regulation or ordinance under this section may not prevent or restrict agricultural composting on farmland that is five or more contiguous acres and that meets the requirements of this subsection. An agricultural composting operation shall notify in writing the legislative body of the municipality and the nearest fire department of the location of the composting operation. If the nearest fire department is located in a different municipality from the agricultural composting operation, the agricultural composting operation shall also notify in writing the fire department of the municipality in which the operation is located. Agricultural composting is subject to sections 3-112 and 49-141. Agricultural composting may not be conducted within one thousand three hundred twenty feet of an existing residential use, unless the operations are conducted on farmland or land leased in association with farmland. Any disposal of manure shall comply with section 49-247. For the purposes of this subsection:**

**1. "Agricultural composting" means the controlled biological decomposition of organic solid waste under in-vessel anaerobic or aerobic conditions where all or part of the materials are generated on the farmland or will be used on the farmland associated with the agricultural composting operation.**

**2. "Farmland" has the same meaning prescribed in section 3-111 and is subject to regulation under section 49-247.**

**H. A municipality may not adopt a land use regulation or impose any condition for issuance of a building or use permit or other approval that violates section 9-461.16.**

**I. In accordance with article II, sections 1 and 2, Constitution of Arizona, the legislative body of a municipality shall consider the individual property rights and personal liberties of the residents of the municipality before adopting any zoning ordinance.**

**J. A municipality may not adopt or enforce a land use regulation that requires the property on which a nongovernmental primary or secondary school operates to be larger than one acre.**

**K. For the purposes of this section:**

**1. "Development rights" means the maximum development that would be allowed on the sending property under any general or specific plan and local zoning ordinance of a municipality in effect on the date the municipality adopts an ordinance pursuant to subsection A, paragraph 12 of this section respecting the permissible use, area, bulk or height of improvements made to the lot or parcel. Development rights may be calculated and allocated in accordance with factors including dwelling units, area, floor area, floor area ratio, height limitations, traffic generation or any other criteria that will quantify a value for the development rights in a manner that will carry out the objectives of this section.**

**2. "Receiving property" means a lot or parcel within which development rights are increased pursuant to a transfer of development rights. Receiving property shall be appropriate and suitable for development and shall be sufficient to accommodate the transferable development rights of the sending property without substantial adverse environmental, economic or social impact to the receiving property or to neighboring property.**

**3. "Sending property" means a lot or parcel with special characteristics, including farmland, woodland, desert land, mountain land, floodplain, natural habitats, recreation or parkland, including golf course area, or land that has unique aesthetic, architectural or historic value that a municipality desires to protect from future development.**

4. "Transfer of development rights" means the process by which development rights from a sending property are affixed to one or more receiving properties.



The **Huachuca City Municipal Code** is hereby amended by adding a new **Section 18.85.020** to the **Zoning Code** entitled **Cultivation of Industrial Hemp** to read as follows:

- A. Purpose.** This Section is adopted to protect the health, safety, and welfare of the community of **Huachuca City** by enacting reasonable regulations for the cultivation of industrial hemp by requiring compliance with applicable zoning laws. Nothing in this Section is intended to promote or condone the sale, distribution, possession, or use of marijuana in violation of any applicable law.
- B. Definitions.** The following words and phrases, wherever used in this Section, shall be construed as defined in this Section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

*“Applicant”* means the person who applies for a **conditional use** permit pursuant to this **Section**.

*“Department”* means the State of Arizona Department of Agriculture.

*“Designated agent”* means the person designated by the applicant to receive notices from the **Town of Huachuca City** pursuant to this **Section**.

*“Grower”* means an individual, partnership, company, or corporation that propagates industrial hemp under Title 3, Chapter 2, Article 4.1 of the Arizona Revised Statutes and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.

*“Harvester”* means an individual, partnership, company, or corporation that is licensed by the State of Arizona Department of Agriculture to harvest industrial hemp for a licensed grower.

*“Hemp Products”* means all products made from industrial hemp, including cloth, cordage, fiber, fuel, grain, paint, paper, construction materials, plastics, and by-products derived from sterile hemp seed or hemp seed oil. Hemp products exclude any product made to be ingested except food made from sterile hemp seed or hemp seed oil.

*“Hemp Seed”* means any viable cannabis sativa L. seed that produces an industrial hemp plant that is subject to Title 3, Chapter 2, Article 4.1 of the Arizona Revised Statutes and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.

*“Industrial Hemp”* means any viable cannabis sativa L. and any part of such a plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.300% percent on a dry-weight basis.

*“Industrial Hemp Site”* means the location in which a grower, harvester, transporter, or processor possesses a crop, a harvested crop, or hemp seed.

**“Nursery”** means real property or other premises on or in which industrial hemp stock is propagated, grown, or cultivated and intended for sale, gift, or propagation, either cultivated or collected in the wild, or from which source industrial hemp stock is offered for distribution or sale.

**“Permit”** means a conditional use permit issued in accordance to Chapter 18.20 of the Town Zoning Code.

**“Permittee”** means the person who applied for a conditional use permit pursuant to this Section and in whose name such permit was issued by the Town of Huachuca City pursuant to this Section.

**“Person”** means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

**“Processor”** means an individual, partnership, company or corporation that is licensed by the State of Arizona Department of Agriculture to receive industrial hemp for processing into hemp products or hemp seed.

**“Town”** means the Town of Huachuca City.

**“Transporter”** means an individual, partnership, company or corporation that is licensed by the State of Arizona Department of Agriculture to transport industrial hemp for a state-licensed grower to a processor.

#### **C. Compliance with State Licensing Requirements.**

- 1.** It shall be unlawful for any person to grow, harvest, transport or process industrial hemp, or propagate eligible seed and propagative materials for planting in the Town without having first obtained a valid license from the Department pursuant to A.R.S. § 3-314 and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.
- 2.** It shall be unlawful for a person to grow, harvest, process, or store industrial hemp in any residential dwelling pursuant to Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.

#### **D. Permit Requirements.**

- 1.** It shall be unlawful for a person to grow, harvest, transport, or process industrial hemp at any location within the Town without first obtaining a conditional use permit from the Town in accordance with the provisions of the Zoning Code Chapter 18.20, including any application and review procedures pursuant to Section 18.20.060.
- 2.** A permit shall not be issued unless the applicant provides a legible copy of the proper valid license issued by the Department authorized under the Industrial Hemp Program. A suspended or revoked license is not a valid license.





# Town of Huachuca City

The Sunset City

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## ORDINANCE NO. 2020-XX

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF HUACHUCA CITY, COCHISE COUNTY, ARIZONA, AMENDING THE TOWN CODE TITLE 18 "ZONING," CHAPTER 18.85 "C-3 – HEAVY INDUSTRIAL AND MINING ZONE" BY ADDING NEW SECTION 18.85.020 RELATING TO THE REGULATION OF INDUSTRIAL HEMP; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; REQUIRING COMPLIANCE WITH STATE LICENSING REQUIREMENTS; PROVIDING FOR PERMIT REQUIREMENTS; ESTABLISHING INDUSTRIAL HEMP SITE REGULATIONS; AUTHORIZING RETAIL SALES FROM INDUSTRIAL HEMP; IMPOSING FEES; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES .**

**WHEREAS**, the Town Council of the Town of Huachuca City has adopted by Resolution No. 84-002 a code known as the Town Code of the Town of Huachuca City, Arizona [the "Code"], and has amended and republished the Code from time to time, as authorized by A.R.S. 9-240 (B) (28) and Town Ordinance No. 15-02; and

**WHEREAS**, pursuant to A.R.S. 9-462.01 (A) and 9-240(B)(19), the Town is empowered to adopt and amend zoning regulations and issue business licenses; and

**WHEREAS**, the Agricultural Improvement Act of 2018, Pub. L. No 115-334, 132 Stat 4490 authorizes the growth or cultivation of industrial hemp with a tetrahydrocannabinol ("THC") concentration of not more than three-tenths percent (0.300%) on a dry-weight basis and removes industrial hemp from Schedule I of the Controlled Substances Act; and

**WHEREAS**, the federal law did not preempt or limit a state from regulating the production of hemp in a more stringent manner (7 U.S.C. § 1639p) and state law allows the commercial growth, cultivation, and marketing of industrial hemp with a THC concentration of not more than 0.300% percent on a dry-weight basis pursuant to Arizona Revised Statutes § 3-312; and

**WHEREAS**, industrial hemp is an agricultural product subject to regulation by the Department of Agriculture and Arizona Revised Statutes § 3-313 directs the Department to adopt rules pursuant to Title 41, Chapter 6 of the Arizona Revised Statutes to oversee the licensing, production, and management of industrial hemp and hemp seed in Arizona; and

**WHEREAS**, the Town is authorized to enact and enforce reasonable zoning regulations on the production of industrial hemp pursuant to applicable state law, including Arizona Revised Statutes Sections 3-313 and 9-462.01, and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code; and

**WHEREAS**, the Town recognizes that the cultivation of industrial hemp creates opportunities for economic development and agricultural vitality; and

**WHEREAS**, industrial hemp and cannabis are derivatives of the same plant, cannabis sativa L., and the appearance of industrial hemp and cannabis cannot be distinguished under their legal definitions without a laboratory performed chemical analysis for THC content; and

**WHEREAS**, the Town seeks to protect public health, safety, and welfare through a reasonable regulatory program of industrial hemp that does not interfere with the unlawful use of marijuana or the strict regulation of medical marijuana in Arizona; and

**WHEREAS**, a public hearing was held on January 14, 2020, to receive public comment, pro and con, for adopting the following Code amendments; and

**WHEREAS**, as required by the Code, section 2.25.040, this Ordinance was first read at a public meeting of the Town Council on January 23, 2020, and at a subsequent meeting on February 13, 2020.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Huachuca City, as follows:

**SECTION 1.** The Code, Title 18 “ZONING,” Chapter 18.85 “C-3 – HEAVY INDUSTRIAL AND MINING ZONE,” is amended by adding new Section 18.85.020 to the Code entitled “Cultivation of Industrial Hemp” reading as follows:

**18.85.020 Cultivation of Industrial Hemp.**

- A. Purpose.** This Section is adopted to protect the health, safety, and welfare of the community of Huachuca City by enacting reasonable regulations for the cultivation of industrial hemp by requiring compliance with applicable zoning laws. Nothing in this Section is intended to promote or condone the sale, distribution, possession, or use of marijuana in violation of any applicable law.
- B. Definitions.** The following words and phrases, wherever used in this Section, shall be construed as defined in this Section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

*“Applicant”* means the person who applies for a conditional use permit pursuant to this Section.

***“Department”*** means the State of Arizona Department of Agriculture.

***“Designated agent”*** means the person designated by the applicant to receive notices from the Town of Huachuca City pursuant to this Section.

***“Grower”*** means an individual, partnership, company, or corporation that propagates industrial hemp under Title 3, Chapter 2, Article 4.1 of the Arizona Revised Statutes and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.

***“Harvester”*** means an individual, partnership, company, or corporation that is licensed by the State of Arizona Department of Agriculture to harvest industrial hemp for a licensed grower.

***“Hemp Products”*** means all products made from industrial hemp, including cloth, cordage, fiber, fuel, grain, paint, paper, construction materials, plastics, and by-products derived from sterile hemp seed or hemp seed oil. Hemp products exclude any product made to be ingested except food made from sterile hemp seed or hemp seed oil.

***“Hemp Seed”*** means any viable cannabis sativa L. seed that produces an industrial hemp plant that is subject to Title 3, Chapter 2, Article 4.1 of the Arizona Revised Statutes and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.

***“Industrial Hemp”*** means any viable cannabis sativa L. and any part of such a plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.300% percent on a dry-weight basis.

***“Industrial Hemp Site”*** means the location in which a grower, harvester, transporter, or processor possesses a crop, a harvested crop, or hemp seed.

***“Nursery”*** means real property or other premises on or in which industrial hemp stock is propagated, grown, or cultivated and intended for sale, gift, or propagation, either cultivated or collected in the wild, or from which source industrial hemp stock is offered for distribution or sale.

***“Permit”*** means a conditional use permit issued in accordance with Chapter 18.20 of the Town Zoning Code.

***“Permittee”*** means the person who applied for a conditional use permit pursuant to this Section and in whose name such permit was issued by the Town of Huachuca City pursuant to this Section.

***“Person”*** means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

**"Processor"** means an individual, partnership, company or corporation that is licensed by the State of Arizona Department of Agriculture to receive industrial hemp for processing into hemp products or hemp seed.

**"Town"** means the Town of Huachuca City.

**"Transporter"** means an individual, partnership, company or corporation that is licensed by the State of Arizona Department of Agriculture to transport industrial hemp for a state-licensed grower to a processor.

#### **C. Compliance with State Licensing Requirements.**

1. It shall be unlawful for any person to grow, harvest, transport or process Industrial Hemp, or propagate eligible seed and propagative materials for planting in the Town without having first obtained a valid license from the Department pursuant to A.R.S. § 3-314 and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.
2. It shall be unlawful for a person to grow, harvest, process, or store Industrial Hemp in any residential dwelling pursuant to Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.

#### **D. Permit Requirements.**

1. It shall be unlawful for a Person to grow, harvest, transport, or process Industrial Hemp at any location within the Town without first obtaining a conditional use permit from the Town in accordance with the provisions of the Zoning Code Chapter 18.20, including any application and review procedures pursuant to Section 18.20.060.
2. A Permit shall not be issued unless the Applicant provides a legible copy of the proper valid license issued by the Department authorized under the Industrial Hemp Program. A suspended or revoked license is not a valid license.
3. A Permit shall not be issued unless the Applicant provides a legible copy of the valid fingerprint clearance card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 41-1758.07 and required by the Department pursuant to Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.
4. The Applicant shall comply with the requirements of this Section.
5. The Applicant shall notify the Town within 72 hours if the Department imposes a corrective action plan on the Applicant or suspends or revokes the Applicant's license.
6. A Permit issued pursuant to this Section, including a renewal of a Permit, is valid for a period of one (1) year from the date of issuance if the Permittee is in compliance with this Section. The Permit is nontransferable.

#### **E. Industrial Hemp Site Regulations**

**Industrial Hemp Sites are subject to the following conditions and limitations:**

- 1. May be permitted as a conditional use in C-3 zoning districts and shall not be authorized to grow, harvest, process, or store Industrial Hemp in any area zoned for residential use.**
- 2. Shall not be located within five hundred (500) feet of any residentially zoned property. This distance shall be measured from the lot line of the property in which the cultivation is conducted or proposed to be conducted to the property boundary line of the residentially zoned property.**
- 3. Shall not be located within one thousand (1,000) feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, public cemetery or community center. This distance shall be measured from the lot line of the property in which the cultivation is conducted or proposed to be conducted to the property line of the protected use.**
- 4. Except as otherwise provided in A.R.S. § 9-462.01, disposal of agricultural composting from Industrial Hemp shall not be allowed in any trash can or bin located within Town limits, any Town facility, or in any park refuse container unless authorized by the Town.**
- 5. Must eliminate the smell or odor of Industrial Hemp, or unusual smells or odors generated by or connected to such storage or processing and not generally found in a residential environment, so that such odors cannot be detected by a person with a normal sense of smell from a minimum distance of ten (10) feet of a building's exterior or at the property's boundaries, whichever distance is less, except during periods while a door is open for the purpose of transporting Industrial Hemp not to exceed fifteen (15) minutes per period; and**
- 6. Exterior inspections by the Town Code Official or a designee may be conducted any time during regular business hours.**
- 7. No vehicle used to transport Industrial Hemp to or from an Industrial Hemp Site shall park in any residential zone or be left unattended on any public street, sidewalk, alley or other public right-of-way in the Town. In addition to any penalty provided in this Section, any vehicle which is parked in violation of this subsection may be towed and impounded, or the contents of said vehicle may be removed and impounded or destroyed. Reasonable charges may be made for towing, content removal, and impounding.**

#### **F. Retail Sales from Industrial Hemp.**

**The sale of Industrial Hemp products is authorized within the Town limits in accordance with all applicable zoning regulations. Industrial Hemp and**

Industrial Hemp products are taxable to the end user under the retail classification of the transaction privilege tax.

**G. Fees.**

1. The fee for the conditional use permit shall be according to the fee schedule established in Section 18.150.010 of the Zoning Code.
2. The conditional use permit shall be renewed annually. The fee for the annual renewal shall be half the original conditional use permit application fee.

**H. Violations.**

1. It is a violation of this Section for a person to grow, harvest, process, or transport Industrial Hemp if the person fails to meet all the requirements in this Section or state law, including the Department's rules regulating the Industrial Hemp Program pursuant to Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.
2. It is a violation of this Section for any person to provide false information on any Permit application.
3. Each day any violation of any provision of this Section shall continue shall constitute a separate offense.

**I. Enforcement; Penalties.**

1. The Permit may be revoked by the Town for violation of any provision of this Section or for any violation of the requirements of the Permit. If a Permit is revoked, the Permittee shall have the right to appeal the decision to the Town of Huachuca City Board of Adjustment as outlined in Section 18.145.040 of the Zoning Code.
2. Violations of this Section are in addition to any other violation enumerated within Town ordinances or the Huachuca City Municipal Code and in no way limits the penalties, actions or abatement procedures which may be taken by the Town for any violation of this Section, which is also a violation of any other ordinance or Code provision of the Huachuca City Municipal Code or federal or state law. Conviction and punishment of judgment and/or civil sanctions 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.
3. Violations of this Section may be criminal or civil. First offense: civil \$100 fine; second offense: civil \$300.00 fine; third and subsequent offenses: criminal class 1 misdemeanor, punishable as determined by the court, not to exceed \$2,500 fine, six months in jail and three years' probation.

4. Citations for civil and criminal violations of this Section may be filed in the Huachuca City Magistrate Court by the Police Department or the Town Attorney.

**SECTION 2.** The Recitals in this Ordinance are incorporated herein by this reference.

**SECTION 3.** 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 4.** All ordinances, parts of ordinances, resolutions, parts of resolutions, policies, and parts of policies in conflict with the provisions of this Ordinance, or any part hereof, are hereby repealed.

**SECTION 5.** If any section, subsection or portion of this Ordinance is for any reason held to be invalid or unenforceable by the decision of a court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions hereof.

**SECTION 6.** The Town Clerk is hereby directed, pursuant to the Code, sections 2.25.080 and 2.25.090, to post this Ordinance in three or more public places within the Town, and to publish this Ordinance as required by A.R.S. 9-812 and 39-204 (C)(3).

**PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF HUACHUCA CITY, COCHISE COUNTY, ARIZONA, THIS 13TH DAY OF FEBRUARY, 2020.**

\_\_\_\_\_  
Johann Wallace, Mayor

ATTEST:

\_\_\_\_\_  
Janine Collins, Town Clerk

Approved as to Form:

\_\_\_\_\_  
Thomas Benavidez, Town Attorney

