

**ARTICLE 14, CHAPTER 25
MEDICAL
MARIJUANA DISPENSARIES**

14-25-1 GENERAL

The Town Council adopts the ordinance codified in this chapter based upon the following findings and determinations.

A. ARIZONA MEDICAL MARIJUANA ACT. The voters of the State of Arizona approved Proposition 203 (Amending Title 36, Arizona Revised Statutes, by adding Chapter 28.1; amending section 43-1201, Arizona Revised Statutes, relating to the medical use of marijuana) entitled "Arizona Medical Marijuana Act". The intent the Arizona Medical Marijuana Act was to enable persons residing in the State of Arizona who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances. The Arizona Medical Marijuana Act allows a "qualifying patient" who has a "debilitating medical condition" as defined by therein to obtain an "allowable amount of marijuana" from a "nonprofit medical marijuana dispensary" and to possess and use the marijuana to treat or alleviate the debilitating medical condition or symptoms associated with the condition. The Arizona Department of Health Services (DHS) is required to adopt and enforce a regulatory system for the distribution of marijuana for medical use, including a system for approving, renewing and revoking the registration of qualifying patients, designated caregivers, nonprofit dispensaries and dispensary agents. The DHS is also responsible for promulgating regulations pertaining to record keeping and security requirements for dispensaries.

B. DISPENSARY LOCATIONS. The determination of appropriate locations for dispensaries requires a balance of patient access and security and public security on the one hand and the desire to reduce public visibility of dispensaries on the other.

Registered patients are persons suffering from specified chronic or debilitating disease or medical conditions. Many of these persons are disabled or constrained by their illness and mobility is often compromised. Furthermore, because of their weakened condition, patients are more vulnerable to crime. It is therefore essential that dispensaries be located in an easily accessible and safe environment. Also, for the purpose of public safety, it is important that dispensaries be located in an area that is easily monitored by law enforcement. Part of the ability to monitor activities in and around the dispensary involves the requirement that dispensaries are located in windowed store front facilities so that law enforcement can easily view activities taking place therein. For these reasons, locating dispensaries in industrial districts is not appropriate.

At the same time, the community seeks to limit the public visibility of dispensaries and locate dispensaries in areas away from high tourist areas and residential neighborhoods. Accordingly, the best zones for Medical Marijuana Dispensaries include C and IND-1.

C. PURPOSE. The purpose of this chapter is to implement the Arizona Medical Marijuana Act and to regulate the locations and operations of medical marijuana dispensaries in Mammoth so as to promote and protect the public health, safety and welfare of the residents of Mammoth. It is neither the intent nor the effect of this chapter to condone or legitimize the use or possession of marijuana except as allowed by Arizona law. Further, the purpose of this chapter is to: More specifically, the purpose of this chapter is to:

1. Provide for the safe sale and distribution of marijuana to patients who qualify to obtain,

possess and use marijuana for medical purposes under the Medical Marijuana Amendment.

2. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, neighborhood and patient safety, security for the business and its personnel and other health and safety concerns.
3. Adopt a mechanism for monitoring compliance with the provisions of this chapter.
4. Create regulations that address the particular needs of the patients and residents of the Town and coordinate with laws that may be enacted by the state regarding the issue.
5. Facilitate the implementation of the Arizona Medical Marijuana Act without going beyond the authority granted by it.

It is the Town Council's intention that nothing in this chapter shall be construed to do any of the following:

1. To allow persons to engage in conduct that endangers others or causes a public nuisance;
2. To allow the use of marijuana for non-medical purposes; or
3. To allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal and not permitted by state law.

D. This chapter is compatible with the current general plan and any applicable specific plan. This amendment to the Municipal Code shall be incorporated into any future plans as succinctly as possible and the intent of the provisions of this amendment shall be preserved in the new plan as completely as possible.

E. This chapter will not adversely affect the orderly development of property in Mammoth, in that dispensaries are subject to a careful review process, strict operating requirements and regular physical monitoring by the Arizona Department of Health Services. Dispensary applicants will be screened and chosen by the DHS. Only 124 total dispensaries will be permitted state-wide (10% of the total registered pharmacies). All marijuana is required to be grown and stored in an enclosed locked facility.

14-25-2

Title 14, Chapter 25, of the Mammoth Municipal Code is amended by adding a new chapter, Section One, et seq., entitled "Medical Marijuana Dispensaries," which reads as follows:

A. DEFINITIONS.

As set forth in the Arizona Medical Marijuana Act and for the purpose of this chapter, the following words and phrases shall have the following meanings:

1. **"Dispensary Agent"** means medical marijuana dispensary director, officer, employee or volunteer who has been issued a valid registry identification card by the DHS.

2. **"DHS"** means the Arizona department of health services or its successor agency.
3. **"Medical marijuana dispensary"** and **"dispensary"** means a not-for-profit entity approved to operate by the DHS that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders.
4. **"Operator"** means the chief executive officer of the medical marijuana dispensary, whether referred to as the Executive Director, President CEO or other designation.
5. **"Patient"** means a person who has been issued a Registry Identification Card by the DHS authorizing him/her to use marijuana to treat his/her debilitating medical condition or symptoms associated with the debilitating medical condition.
6. **"School"** means an institution of learning for minors, whether public or private, offering a regular course of instruction required by Arizona Revised Code Title 15. This definition includes a pre-school or daycare provider, an elementary school, middle or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private.

B. REGISTRY IDENTIFICATION CARD REQUIRED TO OPERATE A DISPENSARY.

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the Town, the operation of a dispensary, unless the person first obtains and continues to maintain in full force and effect a Registry Identification Card issued by the DHS. Any dispensaries that conduct business without a permit are subject to immediate shutdown and all penalties under current municipal code that apply to businesses operating without a valid license.

C. BUSINESS LICENSE AND TAX LIABILITY.

LICENSE REQUIRED: An operator of a dispensary shall be required to apply for and obtain a Transaction Privilege (Sales) Tax License from the Town of Mammoth.

APPLICATION REQUIREMENTS: In addition to the information required in the standard application, a Medical Marijuana Dispensary shall also provide the following information as part of an application for a Transaction Privilege (Sales) Tax License.

1. Proof of an approved registration with the DHS permitting operation as a Medical Marijuana Dispensary.
2. A dimensioned floor plan, clearly labeled, showing:
 - a. The layout of the structure and the floor plan in which the medical marijuana business is to be located;
 - b. The principal uses of the floor area depicted on the floor plan, including but not limited to the areas where nonpatients will be permitted, private consulting areas, storage areas, retail areas and areas where medical marijuana will be dispensed and cultivated;

INITIAL INSPECTION. An inspection of the proposed medical marijuana business by the Town shall be required prior to issuance of a license. Such inspection shall occur after the licensed premises are ready for operation, but prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and operated in accordance with the application submitted and the applicable requirements of this ordinance and any other applicable law, rule or regulation. The inspection shall not unreasonably delay the opening of the dispensary for business and in no case shall delay the issuance of the license by more than seven (7) days.

CONSENT TO FUTURE INSPECTIONS. Acceptance of the Transaction Privilege (Sales) Tax License by a Medical Marijuana Dispensary from the Town of Mammoth constitutes consent by the licensee, owners, managers and employees to permit the Town to conduct routine inspections of the licensed medical marijuana business to ensure compliance with this chapter or any other applicable law, rule or regulation. The Town shall provide 48 hours notice of any intended inspection.

SUSPENSION OR REVOCATION OF LICENSES. A medical marijuana business license may be suspended or revoked for any of the following violations:

- a. Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the Town related to the medical marijuana business;
- b. Conviction of any person named on the application or amendment thereto of a crime which, if occurring prior to submittal of the application, would have been cause for denial of the registration by the DHS;
- c. Nonpayment of Tax. In the event a medical marijuana business that has been open and operating and submitting sales tax returns to the Town ceases providing sales tax returns to the Town for a period of three months or longer, the medical marijuana license shall be deemed to have expired and a new license required prior to reopening at the location of the business.

Additional Licenses and Permits May be Required. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law, including, by way of example, a state retail sales and use tax license, a retail food establishment license or any applicable health, safety or building permit.

D. LIMITATIONS ON THE PERMITTED LOCATION OF A DISPENSARY.

1. **SINGLE OR SEPARATE LOCATIONS.** Pursuant to the Arizona Medical Marijuana Act, dispensaries can be located at the same location as grow operations or the dispensary and grow operation may be located at separate locations.
2. **PERMISSIBLE ZONING FOR DISPENSARIES.** A dispensary or combined dispensary

and grow operation may only be located within the C and Ind. zoned areas of Mammoth as so designated in the Mammoth Municipal Code and official zoning maps.

3. **PERMISSIBLE ZONING FOR SEPARATE GROW OPERATIONS:** A separate grow operation may only be located within the C and Ind. zoned areas of Mammoth as so designated in the Mammoth Municipal Code and official zoning maps.

4. **STOREFRONT LOCATIONS.** A dispensary shall only be located in a visible store-front type location which provides public views of the dispensary entrance, its windows, and the entrance to the dispensary premises from a public street or parking lot. Windows should not be impeded, so that citizens and law enforcement can see into the dispensary and visit the non-marijuana area of the dispensary.

5. **AREAS AND ZONES WHERE DISPENSARIES NOT PERMITTED.** Notwithstanding subparagraph (A) above, a dispensary shall not be allowed or permitted in the following locations or zones:

- a. On a parcel located within 1,000 feet of a school existing before the date of the Medical Marijuana Dispensary DHS application date.
- b. 1,000 feet from a public, private, parochial, charter, dramatic, dancing, music, learning center, or other similar school or educational facility that caters to children. To include any childcare or daycare center.
- c. 1,000 feet from a public library or public park, including town ball parks, recreation parks and so designated areas.
- d. 1,000 feet from a church or any building used for religious purposes.
(Example: there is an old gas station that is being used for services.)
- e. 1,000 feet from a facility devoted to family recreation or entertainment.
- f. 1,000 feet from any parcel zoned for residential use.

LOCATIONAL MEASUREMENTS. The distance between a dispensary and the above-listed uses shall be made in a straight line measuring pedestrian walking routes from any parcel line of the real property on which the dispensary is located to the parcel line of the real property on which the facility, building, or structure, or portion of the building or structure, in which the above-listed use occurs or is located.

E. OPERATING REQUIREMENTS FOR DISPENSARIES.

1. **PATIENT RULES.** The operator shall provide patients with a list of the rules and regulations governing medical marijuana dispensaries and the use and consumption of medical marijuana within the Town of Mammoth. Each patient shall sign a copy of the rules and regulations and the operator shall keep said copy in its business records.

2. **CONSUMPTION OF MARIJUANA.** Marijuana shall not be consumed by patients on the premises of the dispensary. Nor shall it be consumed via smoking or vaporization form in any public area within the Town. The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas which are part of the approved location.

3. **RETAIL SALES OF OTHER PRODUCTS AND SERVICES BY A DISPENSARY.** The retail sales of marijuana use items and other health care services to registered patients is also permitted.

a. **MARIJUANA PARAPHERNALIA.** No dispensary shall display any medical marijuana paraphernalia or any implement that may be used to administer medical marijuana in the public areas of the dispensary.

b. **OTHER HEALTH CARE SERVICES:** The dispensary may provides other caregiver services consistent with a wellness center, including but not limited to health treatments or therapy generally not performed by a medical doctor or physician, such as physical therapy, massage, acupuncture, aromatherapy, yoga, audiology or homeopathy or knowledgeable consultation on the effects of amount and forms of ingestion of different types of marijuana for medical use;

4. **FLOOR PLAN.** A dispensary shall ideally have an open door policy with an integrative approach to natural health. The floor plan should have a waiting area at the entrance of the dispensary to receive patients and as required by the Arizona Medical Marijuana Act, must have a separate enclosed, locked and secure area for dispensing medical marijuana to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

5. **SECURITY PLANS.** Pursuant to the Arizona Medical Marijuana Act, the DHS is responsible for promulgating regulations pertaining to dispensary security. A dispensary shall comply with DHS security requirements provide for adequate lighting, alarms, security cameras and locks in order to ensure the safety of persons and to protect the premises from theft.

6. **HOURS OF OPERATION.** Dispensaries are permitted to operate between the hours of 9:00 AM and 7:00 PM only. Sunday hours limited to noon, 12:00 PM to 7 PM

7. **AFTER-HOURS AND DURING HOURS OF DARKNESS.** Dispensaries shall illuminate all areas of the premises, including adjacent public sidewalks, so that all areas are readily visible by law enforcement personnel. During all hours, the medical marijuana dispensary shall illuminate the entire interior of the building, with particular emphasis on the locations of the counter, a safe, and any location where people are prone to congregate.

F. SITE MANAGEMENT.

The dispensary must be located in a permanent building, not a manufactured home, trailer or other movable building.

NO drive thru service.

NO off site delivery of medical marijuana.

NO outdoor seating is permissible.

1. **GOOD NEIGHBOR.** The operator shall be responsible for monitoring the real property of the dispensary site activity (including the adjacent public sidewalk and rights-of-way) and , if directly related to the patrons of the subject dispensary, shall take all reasonable steps to discourage and correct loitering and other objectionable conditions that:

(a) affect the health, peace, or safety of persons living or working in the surrounding area

(b) constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises

and adjacent properties during business hours.

2. **IMAGE.** Dispensaries shall be responsible for maintaining a professional medical/pharmaceutical image and appearance consistent with those types of business currently in operation in Mammoth.

3. **VENTILATION.** The licensed premises shall be properly ventilated to filter the odor from marijuana so that the odor cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

4. TRASH, LITTER, GRAFFITI.

a. The operator shall undertake reasonable efforts clear the sidewalks adjoining the premises as well as any parking lots under the control of the operator, as needed to control litter, debris and trash.

b. The operator shall report to Police Dept within 24 hours. Option of removal by offender (re: security videos required.) whenever possible. Otherwise owner must remove graffiti within 48 hours of its application or from the time incident reported to police Dept. whichever is first.

G. DISPENSARY SIGNAGE AND NOTICES.

1. The Registration document issued by the DHS shall be clearly, conspicuously and legibly posted in the dispensary so that the same may be readily seen by all persons entering the dispensary.

2. A notice shall be clearly, conspicuously and legibly posted in the dispensary indicating the name and contact information for the owner or owners and operator of the medical marijuana business.

3. The Transaction Privilege (Sales) Tax License issued by the Town of Mammoth DHS shall be clearly, conspicuously and legibly posted in the dispensary.

4. A notice shall be clearly, conspicuously and legibly posted in the dispensary indicating that ingesting or consuming marijuana with in any public area within the Town is prohibited and that ingesting or consuming marijuana on the premises is prohibited.

5. Signs on the premises shall not obstruct the entrance or windows.

6. A "No Loitering" sign shall be posted on the front exterior of the premises.

7. Business identification signage shall comply with the all applicable signage ordinances in Mammoth and be limited to that needed for identification only, consisting of a single window sign or wall sign that shall not exceed twelve square feet in area or 20 percent of the window area, whichever is less.

8. Dispensaries must not under any circumstances advertise within the town limits of Mammoth.

H. COMMUNITY MEETINGS.

Upon formal request by the Town of Mammoth, dispensaries shall meet, on site, no more than once per quarter with police, appropriate Town personnel, businesses operating in the same 2 block area, and interested neighborhood groups to assess the dispensary's impact on the neighborhood, ensure compliance, and address any issues caused by the operation of the dispensary and to be part of the neighborhood activities and projects. The designated employee of the Town of Mammoth should organize this meeting, issue invitations and notifications, take attendance, and follow up on concerns raised or rectify problems identified.

I. COMPLIANCE WITH OTHER REQUIREMENTS.

The dispensary operator shall comply with all provisions of all local and state regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

J. ALCOHOLIC BEVERAGES.

No dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

14-25-3 – PRE-EXISTING USE.

Those Dispensaries which were operating prior to the date of the adoption of the ordinance enacting this Chapter shall be deemed pre-existing legal uses of real property upon which they are situated. All medical marijuana dispensaries operating as allowed dispensaries which pre-date the adoption of this Ordinance shall either relocate to a proper zoning district or discontinue such use not later than the end of a one (1) year amortization period. Until the one (1) year relocation/termination period expires, a dispensary shall be considered to be in compliance with the Town's zoning law.

14-25-4 – RETROACTIVE EFFECT.

The requirements of this Chapter shall also apply to all dispensaries existing in the Town of Mammoth prior to the date of the adoption of the ordinance enacting this chapter.

14-25-5 – RULES AND REGULATIONS.

The Town manager may adopt rules and regulations that the Town manager determines are reasonably necessary to implement the requirements of this chapter.