

ORDINANCE NO 2011-03

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF EAGAR, ARIZONA AMENDING THE TOWN CODE BY REVISING TITLE 18, SECTIONS 18.18.08 DEFINITIONS FOR MEDICAL MARIJUANA, 18.20.030 AG CONDITIONAL USES FOR MEDICAL MARIJUANA CULTIVATION, 18.56.040 C-2 CONDITIONAL USES FOR MEDICAL MARIJUANA DISPENSARY AND 18.60.030 I-1 CONDITIONAL USES FOR MEDICAL MARIJUANA CULTIVATION.

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF EAGAR, ARIZONA AS FOLLOWS:

WHEREAS, Proposition 203 Medical Marijuana was approved by the vote of the people of the state of Arizona for use by those with medical conditions defined by A.R.S. 36—2801.13.

WHEREAS, the Town council of the Town of Eagar, Arizona has determined that it is in the best interest of the health, safety and welfare of the Town of Eagar and its residents, that Title 18, Sections 18.18.08 Definitions for Medical Marijuana, 18.20.030 AG Conditional Uses for Medical Marijuana Cultivation, 18.56.040 C-2 conditional uses for Medical Marijuana Dispensary and 18.60.030 I-1 Conditional Uses for Medical Marijuana Cultivation.

WHEREAS, the Town Council desires to amend the Town code by revising Title 18, Sections 18.18.08 Definitions for Medical Marijuana, 18.20.030 AG Conditional Uses for Medical Marijuana Cultivation, 18.56.040 C-2 Conditional Uses for Medical Marijuana Dispensary and 18.60.030 I-1 Conditional Uses for Medical Marijuana Cultivation.

NOW THEREFORE LET IT BE ORDAINED by the Mayor and Town Council of the Town of Eagar, Apache County, Arizona, that the Town Code is hereby amended as shown on Exhibit "A".

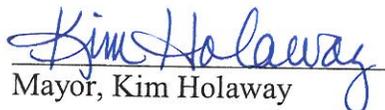
PASSED AND ADOPTED by the Mayor and Town Council of Eagar, Arizona this 1st day of March, 2011.

Approved this 1st day of March, 2011 by the affirmative vote of Eagar Town Council of Eagar, Arizona.

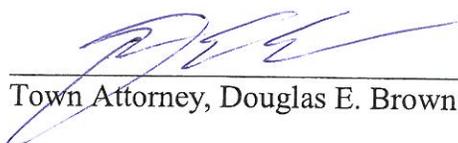
ATTEST:

APPROVED:


Town Clerk, Eva Wilson


Mayor, Kim Holaway

Approved as to Form:


Town Attorney, Douglas E. Brown

“Exhibit A”

Medical Marijuana Ordinance Conditional Use Option

Add the following definitions to Section 18.08 Definitions

Medical Marijuana: Means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patients medical condition.

Medical Marijuana Cultivation: The process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana this is physically separate and off-site from a medical marijuana dispensary.

Medical Marijuana Dispensary: A non-profit entity defined in A.R.S. 36-2801 (11), that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

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

Medical Marijuana Qualifying Patient: A person who has been diagnosed by a physician as having a debilitating medical condition as defined by A.R.S. 36--2801.13.

18.20.030 Conditional uses. In the AG zone, the following uses require a conditional use permit:

- A. Publicly owned and operated parks and recreation areas;
- B. Churches or similar places of worship;
- C. Schools, public and private elementary and high;
- D. Colleges and universities;
- E. Golf, rod and gun, tennis and country clubs;
- F. Commercial stables;
- G. Cemeteries;
- H. Public utility buildings, structures or appurtenances thereto for public service use.

Extension of public service lines in public or private right-of-way is exempt from this requirement;

- I. Medical Marijuana Cultivation, subject to the following conditions and limitations:
 - a. Applicant shall provide:
 - 1. the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.
 - 2. a copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c) and
 - 3. a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within 500 feet.
 - b. Retail sales of medical marijuana is prohibited.
 - c. Shall not be located within 500 feet of the same type of use or a medical marijuana dispensary. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.

d. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school, and 200 feet from a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

e. Shall provide for proper disposal (a manner set forth by Arizona Department of Health) of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.

J. Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those uses listed in this section and not detrimental to the public health, safety and general welfare.

(Ord. 89-2 § 407(C), 1989)

18.56.040 Conditional uses. In the C-2 zone, the following uses require a conditional use permit:

A. Residences and uses allowed in the RMH-7 zone, subject to the property development standards of the RMH-7 zone;

B. Mobile home parks, subject to the property development standards of the MHP zone;

C. Establishments serving food or beverage outside of a closed building and establishments serving alcoholic beverages for consumption on the premises;

D. Outdoor commercial amusement establishments such as miniature golf, drive-in theaters;

E. Pet shops, veterinary offices, clinics or pet salons; provided, that all pens and enclosures shall be within an enclosed building, with the exception of large animals;

F. All commercial broadcasting and receiving antennas;

G. Outdoor sales and storage of lumber and building materials, secondhand merchandise and used auto parts, rental of tools, equipment and machinery;

H. Sale of packaged grain, feed, seed and fertilizer, farm and garden supplies;

I. Public utility buildings, structures or appurtenances thereof for public service use, extension of public service lines in public or private right-of-way is exempt from this requirement;

J. Wholesaling, warehousing and enclosed storage of food, household goods and equipment, refrigerated warehousing, food lockers, general storage;

K. Building and ground maintenance services;

L. Medical and dental laboratories, research and testing laboratories;

M. Hospitals;

N. Public, private and trade schools;

O. Sexually oriented businesses;

P. MedicalMarijuana Dispensary (No Cultivation), subject to the following conditions and limitations:

a. Applicant shall provide:

1. the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.

2. a copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c) and

3. a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within 500 feet.

4. site plan, floor plan, building permits for occupancy change, and a security plan.

b. Shall be located in an enclosed permanent building and may not be located in a trailer, cargo container or motor vehicle.

c. Shall not be larger than a maximum of 1000 gross square feet.

d. Shall not be located within 500 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.

e. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school, and 200 feet from a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

f. Shall have operating hours not earlier than 10:00 A.M. and not later than 8:00 P.M.

g. Drive-through services are prohibited.

h. Cultivation of medical marijuana is prohibited.

i. Shall provide for proper disposal (a manner set forth by Arizona Department of Health) of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.

Q. Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those listed in this section and not detrimental to the public health, safety and general welfare. (Ord. 2003-3 Atth. A, 2003; Ord. 2000-5 Exh. B (part), 2000: Ord. 89-2 § 416 (part), 1989)

18.60.030 Conditional uses. In the I-1 zone, the following uses require a conditional use permit:

A. Residences for the owner, manager or watchman for an allowed use;

B. Outdoor storage yards, junkyard and automobile wrecking yards;

C. Sexually oriented businesses;

D. Medical Marijuana Cultivation, subject to the following Conditions and limitations

a. Applicant shall provide:

1. the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.

2. a copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c) and

3. a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within 500 feet.

b. Shall be located in an enclosed permanent building and may not be located in a trailer, cargo container or motor vehicle.

c. Shall not be larger than a maximum of 1000 gross square feet.

d. Shall not be located within 500 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.

e. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school, and 200 feet from a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

- f. Shall have operating hours not earlier than 10:00 A.M. and not later than 8:00 P.M.
- g. Drive-through services are prohibited.
- h. Shall provide for proper disposal (a manner set forth by Arizona Department of Health) of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.

E. Medical Marijuana Infusion Manufacturing Facility

- a. Applicant shall provide:
 - 1. name and location of the offsite cultivation location, if applicable.
 - 2. a copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c).
 - 3. a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within 500 feet.
- b. Shall not be located within 500 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.
- c. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school, and 200 feet from a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.
- d. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.
- e. Shall provide for proper disposal (a manner set forth by Arizona Department of Health) of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.

F. Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those uses listed in this section and not detrimental to the public health, safety and general welfare. (Ord. 2000-5 (part), 2000; Ord. 89-2 § 417(C), 1989)

