



# Staff Report

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**Agenda Item: A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA, AMENDING CHAPTER 10 - OFFENSES, SECTION TWO – SMOKING, OF THE TOWN CODE BY AMENDING SECTION 10-2-2 DEFINITIONS, SECTION 10-2-4 REGULATIONS OF SMOKING IN ENCLOSED PUBLIC PLACES, SECTION 10-2-5 REGULATIONS OF SMOKING IN PLACES OF EMPLOYMENT, SECTION 10-2-8.01 WHERE MEDICAL MARIJUANA SMOKING IS PROHIBITED, AND SECTION 10-2-9 POSTING REGULATIONS BY ADDING SMOKING MEDICAL MARIJUANA; SECTION 10-2-10 SEVERABILITY; AND CHAPTER 3 OF THE ZONING CODE BY AMENDING SECTIONS 3-1 THROUGH 3-8 RESIDENTIAL DISTRICTS BY ADDING MEDICAL MARIJUANA CAREGIVER FACILITY AS A CONDITIONAL USE; SECTION 3-9 CENTRAL BUSINESS DISTRICT AND SECTION 3-11 COMMERCIAL DISTRICT BY ADDING MEDICAL MARIJUANA DISPENSARY; AND SECTION 3-15 INDUSTRIAL DISTRICT BY ADDING MEDICAL MARIJUANA CULTIVATION FACILITY; PROVIDING SEVERABILITY; AND REPEALING CONFLICTING ORDINANCES - Discussion and consideration of Resolution # 1358, a Resolution declaring the above named Ordinance which establishes Medical Marijuana regulations in the Town of Clarkdale a public record to be adopted by Ordinance #331.**

**Staff Contact:** Sherry Bailey, Community Development Director

**Meeting Date:** February 8, 2011

**Background:** The Arizona voters have approved Proposition 203, the Medical Marijuana Initiative. The new state law provides for reasonable zoning requirements as part of a community's approach to regulating medical marijuana. As a result, communities are trying to establish zoning to accommodate the non-profit dispensaries, the cultivation district, and the production facility district.

In November the Town Council held a worksession on the new law and gave direction to staff relating to the creation of an ordinance providing for medical marijuana facilities. At the December Planning Commission, a worksession was held and the public was invited to participate in the crafting of an ordinance that provides for the intent of the new state law. Public was present at that meeting and made suggestions that were included in the development of the ordinance. At their January meeting, the Planning Commission held a public hearing for the new medical marijuana ordinance. The Planning Commission voted unanimously at their January meeting to recommend to the Town Council that the proposed ordinance be approved.

The new ordinance places medical marijuana dispensaries in the Central Business District [CBD] and Commercial Districts [CD] of the Town. It requires a 500 foot distance from any school to the dispensary. It places medical marijuana cultivation facilities in the Industrial District [ID] and it requires a Conditional Use Permit [CUP] for any caregiver facility within a residential district. The Planning Commission felt that a dispensary was a retail use and the appropriate placement for that use was in a Commercial District. However, a cultivation facility/packaging facility was more in keeping with other large scale industrial uses that may be significant users of utilities or chemicals. The caregiver use was seen as a small scale commercial use within a Residential District and as such, should be handled as a Conditional Use where noise, traffic, security and signage conditions could be placed on that use. The Planning Commission also felt that the CUP should be renewed annually and be valid only for the original applicant. The ordinance before the Council contains those restrictions.

Recommendation: Approval of Resolution # 1358, a Resolution declaring Ordinance #331, An Ordinance Of The Mayor And Common Council Of The Town Of Clarkdale, Arizona, Amending Chapter 10 - Offenses, Section Two – Smoking, Of The Town Code By Amending Section 10-2-2 Definitions, Section 10-2-4 Regulations Of Smoking In Enclosed Public Places, Section 10-2-5 Regulations Of Smoking In Places Of Employment, Section 10-2-8.01 where Medical Marijuana Smoking Is Prohibited, And Section 10-2-9 Posting Regulations By Adding Smoking Medical Marijuana; Section 10-2-10 Severability; And Chapter 3 Of The Zoning Code By Amending Sections 3-1 Through 3-8 Residential Districts By Adding Medical Marijuana Caregiver Facility As A Conditional Use; Section 3-9 Central Business District And Section 3-11 Commercial District By Adding Medical Marijuana Dispensary; And Section 3-15 Industrial District By Adding Medical Marijuana Cultivation Facility; Providing Severability; And Repealing Conflicting Ordinances which establishes Medical Marijuana regulations in the Town of Clarkdale a public record.

## RESOLUTION NO. 1358

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED “AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA, AMENDING CHAPTER 10 - OFFENSES, SECTION TWO – SMOKING, OF THE TOWN CODE BY AMENDING SECTION 10-2-2 DEFINITIONS, SECTION 10-2-4 REGULATIONS OF SMOKING IN ENCLOSED PUBLIC PLACES, SECTION 10-2-5 REGULATIONS OF SMOKING IN PLACES OF EMPLOYMENT, SECTION 10-2-8.01 WHERE MEDICAL MARIJUANA SMOKING IS PROHIBITED, AND SECTION 10-2-9 POSTING REGULATIONS BY ADDING SMOKING MEDICAL MARIJUANA; SECTION 10-2-10 SEVERABILITY; AND CHAPTER 3 OF THE ZONING CODE BY AMENDING SECTIONS 3-1 THROUGH 3-8 RESIDENTIAL DISTRICTS BY ADDING MEDICAL MARIJUANA CAREGIVER FACILITY AS A CONDITIONAL USE; SECTION 3-9 CENTRAL BUSINESS DISTRICT AND SECTION 3-11 COMMERCIAL DISTRICT BY ADDING MEDICAL MARIJUANA DISPENSARY; AND SECTION 3-15 INDUSTRIAL DISTRICT BY ADDING MEDICAL MARIJUANA CULTIVATION FACILITY; PROVIDING SEVERABILITY; AND REPEALING CONFLICTING ORDINANCES.”**

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA:**

That certain document entitled “AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA, AMENDING CHAPTER 10 - OFFENSES, SECTION TWO – SMOKING, OF THE TOWN CODE BY AMENDING SECTION 10-2-2 DEFINITIONS, SECTION 10-2-4 REGULATIONS OF SMOKING IN ENCLOSED PUBLIC PLACES, SECTION 10-2-5 REGULATIONS OF SMOKING IN PLACES OF EMPLOYMENT, SECTION 10-2-8.01 WHERE MEDICAL MARIJUANA SMOKING IS PROHIBITED, AND SECTION 10-2-9 POSTING REGULATIONS BY ADDING SMOKING MEDICAL MARIJUANA; SECTION 10-2-10 SEVERABILITY; AND CHAPTER 3 OF THE ZONING CODE BY AMENDING SECTIONS 3-1 THROUGH 3-8 RESIDENTIAL DISTRICTS BY ADDING MEDICAL MARIJUANA CAREGIVER FACILITY AS A CONDITIONAL USE; SECTION 3-9 CENTRAL BUSINESS DISTRICT AND SECTION 3-11 COMMERCIAL DISTRICT BY ADDING MEDICAL MARIJUANA DISPENSARY; AND SECTION 3-15 INDUSTRIAL DISTRICT BY ADDING MEDICAL MARIJUANA CULTIVATION FACILITY; PROVIDING SEVERABILITY; AND REPEALING CONFLICTING”, as set forth in Exhibit A and incorporated herein, to be adopted by Ordinance #331 constitutes a public record to be adopted by reference pursuant to ARS 9-802.

At least three (3) copies of this public record shall be filed in the office of the City Clerk and kept available for public use and inspection.

PASSED AND ADOPTED by the Mayor and Council of the Town of Clarkdale, Arizona, this 8th day of February, 2011.

ATTEST:

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Doug Von Gausig, Mayor

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Kathy Bainbridge, Town Clerk

APPROVED AS TO FORM:

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Robert Pecharich, Town Attorney

**ORDINANCE NO. 331**

**AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA, AMENDING CHAPTER 10 - OFFENSES, SECTION TWO – SMOKING, OF THE TOWN CODE BY AMENDING SECTION 10-2-2 DEFINITIONS, SECTION 10-2-4 REGULATIONS OF SMOKING IN ENCLOSED PUBLIC PLACES, SECTION 10-2-5 REGULATIONS OF SMOKING IN PLACES OF EMPLOYMENT, SECTION 10-2-8.01 WHERE MEDICAL MARIJUANA SMOKING IS PROHIBITED, AND SECTION 10-2-9 POSTING REGULATIONS BY ADDING SMOKING MEDICAL MARIJUANA; SECTION 10-2-10 SEVERABILITY; AND CHAPTER 3 OF THE ZONING CODE BY AMENDING SECTIONS 3-1 THROUGH 3-8 RESIDENTIAL DISTRICTS BY ADDING MEDICAL MARIJUANA CAREGIVER FACILITY AS A CONDITIONAL USE; SECTION 3-9 CENTRAL BUSINESS DISTRICT AND SECTION 3-11 COMMERCIAL DISTRICT BY ADDING MEDICAL MARIJUANA DISPENSARY; AND SECTION 3-15 INDUSTRIAL DISTRICT BY ADDING MEDICAL MARIJUANA CULTIVATION FACILITY; PROVIDING SEVERABILITY; AND REPEALING CONFLICTING ORDINANCES**

BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA:

**SECTION 1. AMENDMENTS TO CHAPTER 10 OF THE TOWN CODE:**

**Section 10-2-2 Definitions** is amended to read:

- J. “SMOKE MEDICAL MARIJUANA” or “SMOKING MEDICAL MARIJUANA” or “SMOKING OF MEDICAL MARIJUANA” as defined in this chapter includes:
1. The use of medical marijuana as authorized under the provisions of the Arizona Medical Marijuana Act, including smoking or any method of consumption other than smoking.

**Section 10-2-4 Regulation of Smoking in Enclosed Public Places** is amended to read:

- A. No person shall smoke in any enclosed public place except in designated smoking areas.
- B. No person shall smoke medical marijuana in any public place, as defined by regulations for the Arizona Medical Marijuana Act promulgated by the Arizona Department of Health Services or its successor agency.
  1. A designated medical marijuana smoking area shall not be considered a public place.

- C. Any violation of this section is a petty offense punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) shall be imposed.

**Section 10-2-5 Regulation of Smoking in Places of Employment** is amended to read:

- B. Notwithstanding the provisions of subsection A of this section, every employer shall have the right to designate any place of employment, or portion thereof, as a nonsmoking area. Notwithstanding the provisions of this section, no employer is required to provide a separate nonsmoking area for smoking medical marijuana.
  - 1. If an employer permits employees to smoke medical marijuana, such employer shall provide an area to smoke medical marijuana separate from any smoking area provided for smoking. Any such medical marijuana smoking area shall comply with the requirements of Arizona law and the Town Code.

**Section 10-2-8.01 Where Medical Marijuana Smoking is Prohibited**

- A. Smoking medical marijuana is prohibited in the following areas:
  - 1. Bars.
  - 2. Bowling lanes, billiards/recreation rooms.
  - 3. Hotel and motel rooms rented to guests (except such rooms designated as smoking medical marijuana rooms).
  - 4. Retail stores.
  - 5. Conference and meeting rooms and private meeting rooms.
  - 6. On stage smoking as part of a stage production, ballet or similar exhibition.
  - 7. Public areas of restaurants.
  - 8. Public areas of hotels and motels.
- B. Any employer or landlord may prohibit or further restrict the smoking of medical marijuana, subject to the provisions of the Arizona Medical Marijuana Act.

**Section 10-2-9 Posting Regulations** is amended by renumbering existing subsection (C) as subsection (D) and adding the following as subsection (C):

- C. Any employer permitting the smoking of medical marijuana shall clearly and conspicuously post a sign stating that the smoking of medical marijuana is only permitted in the designated smoking medical marijuana area.

**Section 10-2-10 Severability**

If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof.

## **SECTION 2. AMENDMENTS TO CHAPTER THREE OF THE ZONING CODE**

**Section 2-1 Definitions** is amended to read:

**Medical Marijuana:** 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 patient’s debilitating 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 that 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 provide medical marijuana to qualifying patients.

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

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

**Section 3-1 Single Family Residential (R1)** is amended to read:

C. Conditional Uses Permitted: (Requires a use permit).

5. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the State of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (c) Limited to original applicant only.
- (d) Must be renewed annually.
- (e) Only permitted if the Medical Marijuana Caregiver facility is located more than a radius of 25 miles from a Medical Marijuana Dispensary.
- (f) Only permitted as an accessory use to a permitted residence.
- (g) Marijuana plants must be contained in an enclosed, locked facility as required by the Arizona Medical Marijuana Act.

**Section 3-2 Single Family Residential (R1A)** is amended to read:

C. Conditional Uses Permitted: (Requires a use permit).

4. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the State of Arizona to cultivate medical marijuana and registered as a caregiver.

- (b) Must have approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (c) Limited to original applicant only.
- (d) Must be renewed annually.
- (e) Only permitted if the Medical Marijuana Caregiver facility is located more than a radius of 25 miles from a Medical Marijuana Dispensary.
- (f) Only permitted as an accessory use to a permitted residence.
- (g) Marijuana plants must be contained in an enclosed, locked facility as required by the Arizona Medical Marijuana Act.

**Section 3-3 Single Family Residential Limited (R1L) is amended to read:**

C. Conditional Uses Permitted: (Requires a use permit).

6. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the State of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures., as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (c) Limited to original applicant only.
- (d) Must be renewed annually.
- (e) Only permitted if the Medical Marijuana Caregiver facility is located more than a radius of 25 miles from a Medical Marijuana Dispensary.
- (f) Only permitted as an accessory use to a permitted residence.
- (g) Marijuana plants must be contained in an enclosed, locked facility as required by the Arizona Medical Marijuana Act.

**Section 3-4 Single Family and Limited Multiple Family Residential (R2) is amended to read:**

C. Conditional Uses Permitted: (Requires a use permit).

7. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the State of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (c) Limited to original applicant only.
- (d) Must be renewed annually.
- (e) Only permitted if the Medical Marijuana Caregiver facility is located more than a radius of 25 miles from a Medical Marijuana Dispensary.
- (f) Only permitted as an accessory use to a permitted residence.
- (g) Marijuana plants must be contained in an enclosed, locked facility as required by the Arizona Medical Marijuana Act.

**Section 3-5 Multiple Family Residential (R3)** is amended to read:

C. Conditional Uses Permitted: (Requires a use permit).

5. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the State of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (c) Limited to original applicant only.
- (d) Must be renewed annually.
- (e) Only permitted if the Medical Marijuana Caregiver facility is located more than a radius of 25 miles from a Medical Marijuana Dispensary.
- (f) Only permitted as an accessory use to a permitted residence.
- (g) Marijuana plants must be contained in an enclosed, locked facility as required by the Arizona Medical Marijuana Act.

**Section 3-6 Manufactured Home Residential (R4)** is amended to read:

C. Conditional Uses Permitted: (Requiring a use permit).

3. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the State of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (c) Limited to original applicant only.
- (d) Must be renewed annually.
- (e) Only permitted if the Medical Marijuana Caregiver facility is located more than a radius of 25 miles from a Medical Marijuana Dispensary.
- (f) Only permitted as an accessory use to a permitted residence.
- (g) Marijuana plants must be contained in an enclosed, locked facility as required by the Arizona Medical Marijuana Act.

**Section 3-7 Manufactured Home Residential Alternate (R4A)** is amended to read:

C. Conditional Uses Permitted: (Requiring a use permit).

3. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the State of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (c) Limited to original applicant only.
- (d) Must be renewed annually.
- (e) Only permitted if the Medical Marijuana Caregiver facility is located more than a radius of 25 miles from a Medical Marijuana Dispensary.

- (f) Only permitted as an accessory use to a permitted residence.
- (g) Marijuana plants must be contained in an enclosed, locked facility as required by the Arizona Medical Marijuana Act.

**Section 3-8 Suburban Residential (RS3)** is amended to read:

C. Conditional Uses Permitted: (Requires a use permit).

5. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the State of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (c) Limited to original applicant only.
- (d) Must be renewed annually.
- (e) Only permitted if the Medical Marijuana Caregiver facility is located more than a radius of 25 miles from a Medical Marijuana Dispensary.
- (f) Only permitted as an accessory use to a permitted residence.
- (g) Marijuana plants must be contained in an enclosed, locked facility as required by the Arizona Medical Marijuana Act.

**Section 3-9 Central Business District (CB)** is amended by renumbering existing Section 3-9, Subsection (C)(4) as (C)(5) and adding the following:

C. Conditional Uses Permitted: (Use permit required).

4. Medical Marijuana Dispensary in a storefront location

- (a) Floor areas not to exceed 1500 square feet
- (b) The facility must have windows open to the street with window coverings open during business hours.
- (c) One secure entrance/exit where the purchasing area is located.
- (d) Must be a State licensed, registered non-profit dispensary. However, the Town shall issue a statement, upon request, whether a potential applicant has satisfied the requirements of subsections (a), (b), (c), (e), (g), (h), (i), and (j) to satisfy the requirements of the Arizona Department of Health Services or its successor agency for any license or registration.
- (e) Located no closer than 500 feet from a public school (grades K through 12), day care, pre-school, private school, or charter school, and may not be located on a parcel zoned for residential use.
- (f) No use of medical marijuana shall be allowed on the premises. the Medical Marijuana Dispensary shall not 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.

- (g) Approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (h) Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers. The Medical Marijuana Dispensary 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 Dispensary or at any adjoining use or property.
- (i) Any storage facility for the Medical Marijuana Dispensary must use an enclosed, locked facility that can only be accessed by registered Medical Marijuana Dispensary Agents associated in the registry with the non-profit medical marijuana dispensary. Such storage facility shall be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle.
- (j) Shall have operating hours no earlier than 8 a.m. and no later than 6 p.m. and shall post a "No Loitering" sign outside the dispensary. During hours of darkness, the Medical Marijuana Dispensary 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,
- (k) The use permit must be renewed annually and is limited to the approved location. If the Medical Marijuana Dispensary is relocated, a new use permit must be submitted.
- (l) Applicants shall provide: (1) proof of an approved registration with the Arizona Department of Health Services or its successor agency, permitting operation as a Medical Marijuana Dispensary (2) the name(s) and location(s) of the offsite medical marijuana cultivation facility associated with the dispensary operation; (3) the site plan, floor plan, building permits for occupancy change; and, (4) a detailed security plan.
- (m) Any dispensary conducting business without a permit is subject to immediate shutdown and any applicable penalties under current town code.
- (n) Initial Inspection. The town may require an inspection of the proposed medical marijuana dispensary before a license is issued. Such inspection shall occur after the licensed premises are ready for operation, but before 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.

- (o) Consent to Future Inspections. Acceptance of a permit and Transaction Privilege (Sales) Tax License by a Medical Marijuana Dispensary 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 written notice to the operator at the address of the Medical Marijuana Dispensary at least 72 hours before any intended inspection.
- (p) The permit shall be deemed revoked if any person named on the application or amendment thereto is convicted of a crime which, if occurring prior to submittal of the application, would have been cause for denial of the registration by the DHS;
- (q) If a Medical Marijuana Dispensary that has been open and operating and submitting sales tax returns ceases providing sales tax returns for a period of three months or longer, the use permit shall be deemed to have expired and a new use permit license required prior to reopening.

**Section 3-11 Commercial (C)** is amended by renumbering existing Section 3-11, Subsection (C)(6) as (C)(7) and adding the following

C. Conditional Uses Permitted: (Use permit required).

6. Medical Marijuana Dispensary in a storefront location

- (a) Floor areas not to exceed 1500 square feet
- (b) The facility must have windows open to the street with window coverings open during business hours.
- (c) One secure entrance/exit where the purchasing area is located.
- (d) Must be a State licensed, registered non-profit dispensary. However, the Town shall issue a statement, upon request, whether a potential applicant has satisfied the requirements of subsections (a), (b), (c), (e), (g), (h), (i), and (j) to satisfy the requirements of the Arizona Department of Health Services or its successor agency for any license or registration.
- (e) Located no closer than 500 feet from a public school (grades K through 12), day care, pre-school, private school, or charter school, and may not be located on a parcel zoned for residential use.
- (f) No use of medical marijuana shall be allowed on the premises. the Medical Marijuana Dispensary shall not 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.
- (g) Approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (h) Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers. The Medical Marijuana Dispensary 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 Dispensary or at any adjoining use or property.

- (i) Any storage facility for the Medical Marijuana Dispensary must use an enclosed, locked facility that can only be accessed by registered Medical Marijuana Dispensary Agents associated in the registry with the non-profit medical marijuana dispensary. Such storage facility shall be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle.
- (j) Shall have operating hours no earlier than 8 a.m. and no later than 6 p.m. and shall post a "No Loitering" sign outside the dispensary. During hours of darkness, the Medical Marijuana Dispensary 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,
- (k) The use permit must be renewed annually and is limited to the approved location. If the Medical Marijuana Dispensary is relocated, a new use permit must be submitted.
- (l) Applicants shall provide: (1) proof of an approved registration with the Arizona Department of Health Services or its successor agency, permitting operation as a Medical Marijuana Dispensary (2) the name(s) and location(s) of the offsite medical marijuana cultivation facility associated with the dispensary operation; (3) the site plan, floor plan, building permits for occupancy change; and, (4) a detailed security plan.
- (m) Any dispensary conducting business without a permit is subject to immediate shutdown and any applicable penalties under current town code.
- (n) Initial Inspection. The town may require an inspection of the proposed medical marijuana dispensary before a license is issued. Such inspection shall occur after the licensed premises are ready for operation, but before 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.
- (o) Consent to Future Inspections. Acceptance of a permit and Transaction Privilege (Sales) Tax License by a Medical Marijuana Dispensary 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

written notice to the operator at the address of the Medical Marijuana Dispensary at least 72 hours before any intended inspection.

- (p) The permit shall be deemed revoked if any person named on the application or amendment thereto is convicted of a crime which, if occurring prior to submittal of the application, would have been cause for denial of the registration by the DHS;
- (q) If a Medical Marijuana Dispensary that has been open and operating and submitting sales tax returns ceases providing sales tax returns for a period of three months or longer, the use permit shall be deemed to have expired and a new use permit license required prior to reopening.

**Section 3-15 Industrial District (I)** is amended to read:

A. Uses Permitted: (Not requiring a use permit).

13. Medical Marijuana Cultivation Facility

- (a) Must be a State licensed facility associated with a licensed Medical Marijuana Dispensary.
- (b) Must occur in an enclosed, locked facility, which can only be accessed by registered Medical Marijuana Dispensary Agents associated in the registry with the non-profit medical marijuana dispensary.
- (c) Must have approved security measures, including electronic security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (d) Shall not be located within 2,000 feet of a residentially zoned property. This distance shall be measured from lot line to lot line from the lot in which the cultivation business is conducted or proposed to be conducted to the lot line of the residentially zoned property.
- (e) There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.
- (f) Retail sales of medical marijuana are prohibited.
- (g) No use of medical marijuana shall be allowed on the premises. No alcoholic beverages shall be allowed or consumed on the premises.
- (h) Approved security measures, as directed pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- (i) Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers. The Medical Marijuana Cultivation Facility 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 any adjoining use or property.
- (j) Any storage facility for the Medical Marijuana Cultivation Facility must use an enclosed, locked facility that can only be accessed by an agent registered with Arizona Department of Health Services or its successor agency. Such storage facility shall be located in a permanent

building and may not locate in a trailer, cargo container, or motor vehicle.

- (k) Shall have operating hours no earlier than 7 a.m. and no later than 7 p.m. During hours of darkness, the Medical Marijuana Cultivation Facility 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.

