

**AMENDED  
ORDINANCE NO. 0-2008-18**

AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF DURANGO THROUGH THE ADOPTION OF A NEW SECTION 13-110, PERTAINING TO MEDICAL MARIJUANA DISPENSARIES, AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the voters of Colorado approved Amendment 20 at the 2000 general election, which was subsequently codified as Section 14 of Article XVIII of the Colorado Constitution, and which authorizes the medical use of marijuana by persons in Colorado suffering from debilitating medical conditions; and

WHEREAS, as a result of recent modifications to Federal law enforcement policy concerning the prosecution of Federal marijuana violations in States which have legitimized the use of marijuana for medical purposes, medical marijuana dispensaries have increased within the State of Colorado, as well as other states that have adopted constitutional provisions authorizing the medical use of marijuana; and

WHEREAS, marijuana remains a controlled substance, the possession or use of which is unlawful under both State and Federal law, with the limited exception of the medical use of marijuana authorized by Section 14 of Article XVIII of the Colorado Constitution; and

WHEREAS, the regulation of the location and operation of medical marijuana dispensaries within the City is necessary to assure that such facilities are appropriately located, and that the hours and manner of operation of such facilities are consistent with the requirements of applicable law, as well as the health, safety and welfare of the community; and

WHEREAS, the definition of a medical marijuana dispensary is a storefront facility, which grows marijuana for the provision to or provides marijuana to ill, state certified medical marijuana patients. Dispensaries are operated by state-certified medical marijuana caregivers. As defined under Colorado law, a caregiver is an individual who has a significant responsibility for managing the well-being of a person with a debilitating medical condition; and

WHEREAS, the City Council finds that existing regulations within the Code of Ordinances of the City of Durango do not adequately address the protection of medical marijuana patients or the potential impacts of medical marijuana dispensaries within the community and that new and additional regulations are required to address these new facilities within the community; and

WHEREAS, public hearing has heretofore been held pursuant to notice, and the Council has concluded, subsequent to said hearing, that the amendment of Chapter 13 of the Code of Ordinances of the City of Durango through the adoption of a new Section 13-110 setting forth regulations pertaining to medical marijuana dispensaries would be in the best interests of the citizens of the City of Durango;

NOW, THEREFORE, THE CITY OF DURANGO HEREBY ORDAINS:

**Section 1.** That Chapter 13 of the Code of Ordinances of the City of Durango should be and the same is hereby amended through the adoption of a new §13-110 pertaining to medical marijuana dispensaries, which section reads, in its entirety, as follows:

DIVISION 15. MEDICAL MARIJUANA DISPENSARIES

**Sec. 13-110. Medicinal Marijuana Dispensaries.**

- (a) Medical marijuana dispensaries are defined as facilities which grow marijuana for provision to or provide marijuana to ill, state-certified medical marijuana patients. Medical marijuana dispensaries shall only be allowed in the light commercial (LC), heavy commercial (HC), industrial (I), and central business (CB) zones. Medical marijuana dispensaries shall not be allowed within any residentially zoned areas and shall not be allowed as a home occupation.
- (b) Any medical marijuana dispensary located within the City shall be located not less than 500 feet from any public, private or charter school, licensed day care facility, licensed pre-school, or dedicated public park, whether located within or outside the corporate limits of the City. The suitability of a location for the medical marijuana dispensary shall be determined at the time of the issuance of the first license for such dispensary. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a medical marijuana dispensary under this section shall not be grounds to suspend, revoke or refuse to renew the license for such dispensary so long as the license for the dispensary remains in effect. Nothing within this section shall preclude the establishment of a public, private or charter school, licensed day care facility, licensed pre-school or dedicated public park within 500 feet of a pre-existing medical marijuana dispensary.

For purposes of this section, distances shall be measured consistent with the language set forth in C.R.S., §12-47-313(1)(d)(II).

- (c) All medical marijuana dispensaries shall be required to obtain a city business license and shall collect and remit all applicable state, county and city sales taxes in a timely manner.
- (d) Medical marijuana dispensaries shall limit their hours of operation to between 8:00 a.m. and 8:00 p.m.
- (e) Any medical marijuana dispensary within the city shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video and voice surveillance coverage of the premises at all times and shall have redundant power supplies and circuitry to prevent de-activation, either intentional or unintentional. If an alarm system is deactivated, the company monitoring the systems must immediately notify the police department.

Medical marijuana dispensaries shall be equipped with a steel door or a solid wood core door with deadbolts in place and engaged for purposes of securing the space or location where medical marijuana is stored or where any medical marijuana transaction is to take place. In addition thereto, each medical marijuana dispensary shall be equipped with at least one silent alarm for every 500 square feet of interior business space.

- (f) Medical marijuana dispensaries shall apply for a sign permit through the Planning and Community Development Department. All exterior signage associated with a medical marijuana dispensary will meet the standards established in the City Code. In addition, no exterior signage shall use the work “marijuana,” “cannabis” or any other word, phrase or symbol commonly understood to refer to marijuana.
- (g) The smoking of marijuana in an within a perimeter of 15 feet of a medical marijuana dispensary is prohibited.
- (h) All inventory containing any form of marijuana must be placed within a locked safe on the premises during hours that the business is closed. The safe must be securely bolted to the floor or installed as part of the foundation of the building in which the dispensary is located.
- (i) It shall be unlawful for and medical marijuana dispensary to employ any person who is not at least 18 years of age.
- (j) Each medical marijuana dispensary must be operated by a legitimate medical marijuana caregiver certified as such by the State of Colorado. Medical marijuana dispensaries shall meet all operation criteria for the dispensing of medical marijuana as required by the State of Colorado.
- (k) All owners, managers and certified care-givers working within a medical marijuana dispensary shall be required to undergo a criminal background investigation at the time of application and upon annual renewal. The criminal background investigation shall consist of a fingerprint verification of the identity and criminal history of the owner, manager or care-giver employee(s). The issuance of a business license for a medical marijuana dispensary or the renewal of

such license shall be denied if the background check reflects any misrepresentation, fraud or deceit within the application, or if such background check reflects that any proposed owner, manager or care-giver has a prior felony conviction related to narcotics, drugs or controlled substances.

- (l) There shall be posted in a conspicuous location in each medical marijuana dispensary a legible sign containing the following warnings:
  - 1. A warning that the diversion of marijuana for non-medical purposes is a violation of state law;
  - 2. A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;
  - 3. A warning that loitering in or around the medical marijuana dispensary is prohibited by state law;
  - 4. A warning that possession and distribution of marijuana is a violation of federal law;
  - 5. A warning that smoking of marijuana within the dispensary or within 15 feet of the dispensary is unlawful; and
  - 6. A warning that the smoking or consumption of marijuana in public is prohibited by state law..

**Section 2.** That §17-26 of the Code of Ordinances of the City of Durango should be and the same is hereby amended, in its entirety, to read as follows;

**Sec. 17-26/ Possession or use of marijuana prohibited.**

It shall be unlawful for any person, other than a state-certified medical marijuana patient or medical marijuana care-giver, to possess more than one (1) ounce of marijuana. It shall be unlawful for any person to openly and publicly display, consume or use more than one (1) ounce of marijuana. Marijuana shall, for purposes of this section, be defined as set forth in C.R.S., §18-18-102 (18) or (19).

**Section 3.** This ordinance shall become effective ten (10) days after its passage and final publication as provided by law.

CITY COUNCIL OF THE CITY OF  
DURANGO

Attest:

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City Clerk

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Mayor

