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§ 180-59. Medical Marijuana Dispensaries [Added 09-22-09, Ord. 09-16; Repealed and Reenacted 06-14-11, Ord. 11-07]

- A. Purpose and Intent. The purpose of this Section is to implement the provisions of Article 43.3 of Title 12, C.R.S., known as the Colorado Medical Marijuana Code, and to regulate medical marijuana businesses in the interest of public health, safety and general welfare. In particular, this Section is intended to regulate the sale and distribution of marijuana in the interests of patients who qualify to obtain, possess and use marijuana for medical purposes under Article XVIII, Section 14 of the Colorado Constitution, while promoting compliance with other state laws that prohibit trafficking in marijuana for non-medical purposes. Nothing in this Section is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this Section shall not provide a defense to criminal prosecution under any applicable law.
- B. Definitions. The following words and phrases, when used in this Section, shall have the meanings ascribed to them in this Section:

Applicant shall mean any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this Section. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers, directors and shareholders of such entity.

Colorado Medical Marijuana Code shall mean Title 12, Article 43.3 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

Cultivation or *cultivate* shall mean the process by which a person grows a marijuana plant.

Financial interest shall mean any ownership interest, including, without limitation, a membership, directorship or officership, or any creditor interest, whether or not such interest is evidenced by any written document.

License shall mean a document issued by the Town officially authorizing an applicant to operate a medical marijuana business pursuant to this Section.

Licensee shall mean the person or entity to whom a license has been issued pursuant to this Section.

Medical marijuana business or *business* shall mean a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer as defined in the Colorado Medical Marijuana Code.

Residential zoning district shall mean and include the following Town of Frisco zone districts: (1) Residential Single-Household District; (2) Residential

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Neighborhood District; (3) Residential Low Density District; (4) Residential Moderate Density District; (5) Residential Highest Allowable Density District.

State shall mean the state of Colorado.

In addition to the definitions contained in this Section, other terms used in this Section shall have the meaning ascribed to them in Article XVIII, Section 14, of the Colorado Constitution or the Colorado Medical Marijuana Code, and such definitions are hereby incorporated into this Section by this reference.

- C. Licensing Authority Created. There shall be and is hereby created a Medical Marijuana Licensing Authority hereafter referred to in this Section as the "Authority.
- D. Composition of the Authority. The Authority shall be the Town Clerk.
- E. Functions of the Authority. The Authority shall have the duty and authority pursuant to the Colorado Medical Marijuana Code and this Section to grant or deny licenses, as well as all powers of a local licensing authority as set forth in the Colorado Medical Marijuana Code. The Authority shall have the power to: (i) promulgate rules and regulations concerning the procedures for hearings before the Authority; (ii) require any applicant or licensee to furnish any relevant information required by the Authority; and (iii) administer oaths and issue subpoenas to require the presence of persons and the production papers, books and records at any hearing that the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by a district court of the state.
- F. License Required; Term of License; Renewal Application.
1. It shall be unlawful for any person to establish or operate a medical marijuana business in the Town without first having obtained from the Town and the state a license for each facility to be operated in connection with such business. Such licenses shall be kept current at all times and shall be conspicuously displayed at all times in the premises to which they apply. The failure to maintain a current license shall constitute a violation of this Section.
 2. Any license issued by the Authority under this Section shall expire one year after the date of its issuance.
 3. An application for renewal of an existing license shall be made on forms provided by the Town and the state. At the time of the renewal application, each applicant shall pay a nonrefundable fee to the Town in the amount of \$1,500.00 to defray the costs incurred by the Town for background investigations, review of the application and inspection of the proposed premises, as well as any other costs associated with the processing of the application.

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G. Application Requirements; Payment of Application Fee.

1. A person seeking a license pursuant to the Colorado Medical Marijuana Code and the provisions of this Section shall submit an application to the Town on forms provided by the state and Town. At the time of application, each applicant shall pay a nonrefundable fee to the Town in the amount of \$3,000.00 to defray the costs incurred by the Town for background investigations, review of the application and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present for recording one (1) of the following forms of identification: (i) an identification card issued in accordance with Section 42-2-302, C.R.S.; (ii) a valid state driver's license; (iii) a valid driver's license containing a picture issued by another state; (iv) a United States military identification card; (v) a valid passport; or (vi) an alien registration card.
2. The applicant shall also provide the following information on a form approved by, and acceptable to, the Town, which information shall be required for the applicant, the proposed manager of the medical marijuana business, and all persons having a financial interest in the medical marijuana business that is the subject of the application or, if the applicant is an entity, having a financial interest in the entity:
 - a. name, address, date of birth, and other identifying information as may be required;
 - b. an acknowledgement and consent that the Town may conduct a background investigation, including a criminal history check, and that the Town will be entitled to full and complete disclosure of all financial records of the medical marijuana business, including but not limited to records of deposits, withdrawals, balances and loans;
 - c. if the applicant is a business entity, information regarding the entity, including without limitation the name and address of the entity, its legal status and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
 - d. a copy of the deed reflecting the applicant's ownership of, or a lease reflecting the right of the applicant to possess, the proposed licensed premises;
 - e. if the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana business;
 - f. evidence of the issuance of a valid Town business license;

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- g. a “to scale” diagram of the proposed licensed premises, no larger than 11” x 17””, showing, without limitation, the building layout, all entryways and exits to and from the proposed licensed premises, and all areas in which medical marijuana will be stored, grown, manufactured and/or dispensed;
 - h. a comprehensive business operation plan for the medical marijuana business that contains, at a minimum, the following:
 - i. a description of the security provisions and systems meeting the requirements of Subsection K.6 of this Section;

a description of all products to be sold;
 - ii. the hours of operation;
 - iii. an exterior lighting plan; and
 - iv. a description of any cultivation activities within the medical marijuana business which includes, without limitation, the area in which plants will be grown, and a description of the ventilation and odor filtration system for the premises, if any; and
 - v. any additional information that the Authority reasonably determines to be necessary in connection with the investigation, review and determination of the application.
3. A license issued pursuant to this Section does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana business including, without limitation, any development approvals or building permits required by this Code.
4. Upon receipt of a complete application, the Authority shall circulate the application to all affected service areas and departments of the Town to determine whether the application is in full compliance with all applicable laws, rules and regulations. No license shall be approved until after the Authority has caused the proposed premises to be inspected to determine compliance of the premises with any applicable requirements of this Article and Code, and with the plans and descriptions submitted as part of the application. Within thirty (30) days after the completion of the Authority’s investigation of the application, the Authority shall issue a written decision approving or denying the application for licensure, which decision shall state the reason(s) for the decision and be sent via certified mail to the applicant at the address shown in the application. In addition, the Authority shall promptly notify the state medical marijuana licensing authority of any approval of an application for local licensure.
5. After approval of an application, the Authority shall not issue a license or license certificate until the building in which the business is to be conducted is

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ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of this Section. After approval of an application, the Authority shall not issue a license or license certificate until the applicant provides written evidence that the applicant has paid all license application fees due to the state in connection with the state licensing authority's review of the application. Each license certificate issued by the Town pursuant to this Section shall specify the date of issuance, the period of licensure, the name of the licensee, and the premises or optional premises licensed.

- H. Denial of Application. The Authority shall deny any application that does not meet the requirements of this Section and may deny an application that does not meet the requirements of the Colorado Medical Marijuana Code. The Authority shall also deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall be subject to review by a court of competent jurisdiction.
- I. Persons Prohibited as Licensees. No license shall be issued to, held by, or renewed by any of the following:
1. any natural person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or any person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance;
 2. any entity whose directors, shareholders, partners or other persons having a financial interest in said entity have been convicted of any of the applicable offenses within the time periods set forth in subpart "1" above;
 3. any applicant who has made a false, misleading or fraudulent statement, or who has omitted pertinent information, on the application for a license;
 4. any applicant for an optional premises cultivation operation license unless the applicant is simultaneously applying for, or currently holds, a license for a medical marijuana center or a medical marijuana-infused products manufacturing facility in the Town; and
 5. any applicant for a medical marijuana-infused products manufacturer license unless the applicant is also applying for, or currently holds, a license for a medical marijuana center in the Town.
- J. Locational Criteria. No medical marijuana business shall be issued a license if, at the time of the initial application for such license, the proposed location is:
1. within 500 feet of any licensed child care facility;

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2. within 500 feet of any educational institution or school, either public or private;
3. within 500 feet of any halfway house or correctional facility;
4. within 500 feet of another medical marijuana business;
5. within 100 feet of a residential dwelling unit;
6. within any residential zoning district, or the Central Core Zoning District, or the Mixed Use Zoning District along East or West Main Street; or
7. within any building containing a residential dwelling unit, a pediatrician's office, or any hotel, motel, condominium hotel, boarding facility, lodging facility or rooming facility.

The distances set forth in this Section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated above, respectively, to the nearest portion of the building in which the medical marijuana business is located. The locational criteria contained in this Section shall apply to all proposed changes in the location of an existing license.

K. Requirements Related to the Premises. Medical marijuana businesses shall be subject to the following additional requirements:

1. All medical marijuana dispensing, production, manufacturing and cultivation activities shall be conducted indoors.
2. All product storage shall be indoors. Products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right of way. All medical marijuana or medical marijuana-infused products ready for sale shall be in a sealed or locked cabinet except when being accessed for distribution.
3. The business may only be open for the sale, service or distribution of medical marijuana between the hours of 8:00 a.m. and 7:00 p.m., Monday through Sunday.
4. No marijuana shall be consumed on the licensed premises.
5. The cultivation of marijuana is only permitted when the premises are equipped with a system that removes the odors of the marijuana being cultivated so that the odor is not detectable from the exterior of the business or from within any adjoining premises. Approval of the odor removal system by the Building Official is required prior to any cultivation process beginning. The Building Official's determination of the adequacy of any proposed odor-removing system shall be based on his reasonable determination of the ability of the proposed system to remove odors as required by this Subsection, which determination

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shall be based upon the manufacturer's or an engineer's design specifications for the system as they relate to the premises in question.

6. All medical marijuana businesses shall provide adequate security on the premises. At a minimum, the security shall include:
 - a. security surveillance cameras installed and properly maintained to monitor each entrance along the interior and exterior of the premises to discourage crime and to facilitate the reporting of criminal acts as well as nuisance activities; security video shall be preserved for at least 72 hours by the business;
 - b. robbery and burglary alarm systems that are professionally monitored and maintained in good working condition;
 - c. exterior lighting that illuminates the exterior walls of the business during evening hours and is compliant with the Town Code;
 - d. a secure safe that is utilized for the purposes of storing cash and medical marijuana that is not then being actively cultivated when the business is not open; and
 - e. locking systems for exterior doors that are designed and installed in such fashion as to deter unlawful entry and provide safe emergency egress.
- L. Limitations on Signage. All signage associated with a medical marijuana business shall meet the standards established in this Code for signs. In addition, no signage associated with a medical marijuana business shall use the word "marijuana," "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded or followed by the word "medical" or a word or phrase of substantially the same meaning, and unless such preceding or following word or phrase is set forth in a type size that is at least as large as the type size used for the word "marijuana," "cannabis" or other word, phrase or symbol commonly understood to refer to marijuana.
- M. Prohibited Acts.
 1. It shall be unlawful for any licensee to permit the consumption of alcohol beverages, as defined in the Colorado Liquor Code, on the licensed premises.
 2. It shall be unlawful for any licensee holding a medical marijuana center license, or any agent or employee thereof, to sell, give, dispense or otherwise distribute medical marijuana or any medical marijuana infused product from any outdoor location or vehicle.
 3. It shall be unlawful for any optional premises cultivation operation to:

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- a. operate in the Town, unless it operates as an optional premises to a medical marijuana center or a medical marijuana-infused products manufacturer located in the Town that is under the same ownership as the optional premises cultivation operation; or
 - b. sell, give, dispense or otherwise distribute medical marijuana except to a medical marijuana center or medical marijuana-infused products manufacturer located in the Town that is under the same ownership as the optional premises cultivation operation.
4. It shall be unlawful for any medical marijuana-infused products manufacturer to:
 - a. operate in the Town unless its owner also holds a medical marijuana center license in the Town; or
 - b. sell, give, dispense or otherwise distribute any of the products that it manufactures except to a medical marijuana center located in the Town that is under the same ownership as the medical marijuana-infused product manufacturer.
5. After issuance of a license, it shall be unlawful for a licensee to make a physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without obtaining the prior written approval of the Authority and the state licensing authority. For purposes of this Subsection, physical changes, alterations or modification of the licensed premises, or in the usage of the premises requiring prior written approval, shall include but not be limited to the following:
 - a. any increase or decrease in the size or physical capacity of the licensed premises;
 - b. the sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the cultivation, harvesting of, or sale or distribution of medical marijuana within the licensed premises;
 - c. any enlargement of a cultivation area; and
 - d. any change in the interior of the premises that would affect the basic character of the premises or physical structure that existed in the plan on file as part of the latest prior application.

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6. It shall be unlawful for any licensee holding a medical marijuana center license, or any agent or employee thereof, to sell, give, dispense or otherwise distribute medical marijuana or any medical marijuana infused product to any person unless:
 - a. the person receiving the medical marijuana or medical marijuana infused product has provided at least one of the following forms of identification, and the licensee or an agent or employee of the licensee has recorded the information from the form of identification provided in accordance with the requirements of subsection 180-59.N.3 below:
 - i. an identification card issued in accordance with Section 42-2-302, C.R.S.;
 - ii. a valid state driver's license;
 - iii. a valid driver's license containing a picture issued by another state;
 - iv. a United States military identification card;
 - v. a valid passport; or
 - vi. an alien registration card; and
 - b. the licensee or agent or employee of the licensee has confirmed that the form of identification provided matches, in all material respects, the identifying information contained on the person's patient registration card issued by the state or on the doctor's recommendation concerning medical marijuana.

N. Required Books and Records.

1. In addition to any requirements under the Colorado Medical Marijuana Code, and any rules or regulations promulgated thereunder requiring licensees to maintain books and records, every optional premises cultivation operation shall maintain an accurate and complete record of all medical marijuana cultivated, all medical marijuana processed into usable form, and all medical marijuana sold, given away, dispensed, or otherwise distributed or removed from the licensed premises. Such records shall include:
 - a. the total quantity of medical marijuana cultivated and the total usable quantity of medical marijuana produced from time to time, including the date(s) of cultivation and the date(s) on which cultivated medical marijuana was reduced to usable form; and
 - b. the date and time at which any medical marijuana was removed from the licensed premises, including the amount of medical marijuana removed, the

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person who removed it, the location to which the medical marijuana was delivered, and the date and time of such delivery.

2. In addition to any requirements under the Colorado Medical Marijuana Code, and any rules or regulations promulgated thereunder requiring licensees to maintain books and records, every medical marijuana-infused products manufacturer shall maintain an accurate and complete record of all medical marijuana obtained, all medical marijuana processed into infused product form, and all medical marijuana-infused products sold, given away, dispensed, or otherwise distributed or removed from the licensed premises. Such records shall include:
 - a. a description of each and every medical marijuana-infused product produced from time to time, including the total quantity of medical marijuana used to manufacture the item(s) and the number of individual products manufactured, including the date(s) on which the medical marijuana was obtained and the date(s) on which the medical marijuana was reduced to a particular salable product; and
 - b. the date and time at which any medical marijuana-infused product was removed from the licensed premises, including the amount of product removed, the person who removed it, the location to which the medical marijuana-infused product was delivered, and the date and time of such delivery.
3. In addition to any requirements under the Colorado Medical Marijuana Code, and any rules or regulations promulgated thereunder requiring licensees to maintain books and records, every medical marijuana center operation shall maintain an accurate and complete record of all medical marijuana or medical marijuana infused product sold, given away, dispensed, or otherwise distributed or removed from the licensed premises. Such records shall include:
 - a. the full name of the person to whom the medical marijuana or medical marijuana infused product was sold, given away, dispensed or otherwise distributed as such name is shown on the person's patient registration card issued by the state or on the doctor's recommendation concerning medical marijuana;
 - b. the form of identification provided by such person pursuant to subsection 180-59.M.6.a. above, including a listing of the full name as shown on the form of identification, the identification number contained on the form of identification, and the date of expiration of such form of identification; and
 - c. the date of the transaction and the amount of medical marijuana and/or medical marijuana infused product that was sold, given away, dispensed or otherwise distributed to such person.

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4. All events and/or transactions that are to be recorded pursuant to this Subsection shall be kept in a numerical register in the order in which they occur.
 5. All records required to be kept under this Section must be kept in the English language in a legible manner and must be preserved and made available for inspection by the Town for a period of three (3) years after the date of the occurrence and/or transaction.
- O. Inspection of Licensed Premises. During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Chief of Police or the Building Official, or the authorized representative of either of them, for the purpose of investigating and determining compliance with the provisions of this Section and any other applicable state or local law or regulation. Such inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.
- P. Nonrenewal, Suspension or Revocation of License.
1. The Authority may suspend, revoke or refuse to renew a license for any of the following reasons:
 - a. the applicant or licensee, or his or her agent, manager or employee, have violated, do not meet, or have failed to comply with, any of the terms, requirements, conditions or provisions of this Section or with any applicable state or local law or regulation;
 - b. the applicant or licensee, or his or her agent, manager or employee, have failed to conduct the licensed operations in conformance with the application pursuant to which the license was issued, or have failed to comply with any special terms or conditions of its license pursuant to the order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or
 - c. the medical marijuana business has been operated in a manner that adversely affects the public health, safety or welfare.
 2. The Authority shall not suspend or revoke a license until after notice and an opportunity for hearing has been provided to the licensee.
 3. The Authority shall not hold a hearing on a license renewal application unless a complaint has been filed concerning the licensee or there are allegations against the licensee that, if established, would be grounds for suspension, revocation or non-renewal under Subsection P.1. of this Section.

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4. Evidence to support a finding under Subsection P.1.c. of this Section may include, without limitation, a continuing pattern of disorderly conduct or drug-related criminal conduct within the premises of the marijuana business or in the area immediately surrounding such business, or a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana business.
- Q. Violations and Penalties. In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Section, any person, including but not limited to any licensee, manager or employee of a medical marijuana business, or any customer of such business, who violates any provision of this Section, shall be guilty of a misdemeanor punishable in accordance with Section 1-14 of this Code.
- R. No Town Liability; Indemnification; No Defense.
1. By accepting a license issued pursuant to this Section, the licensee waives any claim concerning, and releases the Town, its officers, elected officials, employees, attorneys and agents from, any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers of the licensee for a violation of state or federal laws, rules or regulations.
 2. By accepting a license issued pursuant to this Section, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana business that is the subject of the license.
 3. The issuance of a license pursuant to this Section shall not be deemed to create an exception, defense or immunity for any person in regard to any potential criminal liability the person may have under state or federal law for the cultivation, possession, sale, distribution or use of marijuana.
- S. Existing Medical Marijuana Businesses. Any medical marijuana business holding a Town license on the effective date of Town Council Ordinance 11-07, shall, on the next annual anniversary thereafter of the date on which the license was issued, make application to the Town for a medical marijuana business license pursuant to the provisions of Subsection G above and, thereafter, may make annual renewal applications pursuant to the provisions of Subsection F above.