

ORDINANCE NO. ___ - 2009

AN ORDINANCE AMENDING THE USE SCHEDULE OF CHAPTER 21, ARTICLE V, SECTION 21-97 OF THE ZONING CODE OF THE *CODE OF ORDINANCES OF THE CITY OF ALAMOSA, COLORADO*, AND ESTABLISHING A NEW SECTION OF CHAPTER 21, ARTICLE VII OF THE ZONING CODE OF THE *CODE OF ORDINANCES OF THE CITY OF ALAMOSA, COLORADO*, FOR THE PURPOSE OF REGULATING MEDICAL MARIJUANA DISPENSARIES

WHEREAS, because federal and state law prohibit the possession and sale of marijuana generally, marijuana sales have never been addressed by the City's zoning ordinances; and

WHEREAS, the voters of the State of Colorado affirmed the medical use of marijuana by voting for Amendment 20 in November of 2000; and

WHEREAS, the intent of Amendment 20 was to enable persons who are in medical need of marijuana to be able to obtain and use it without fear of criminal prosecution; and

WHEREAS, there appears to be a chance that businesses wishing to provide medical marijuana to those who qualify under state law ("medical marijuana dispensaries") may come into existence within the City; and

WHEREAS, the existing City zoning regulations do not provide for the location and regulation of medical marijuana dispensaries and such uses might be permissible in any zone that allows retail uses, drug stores, or medical facilities; and

WHEREAS, if medical marijuana dispensaries were allowed to be established without appropriate regulation as to the location, such uses might be established in areas that would conflict with the City's comprehensive land use plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare; and

WHEREAS, the City Council of the City of Alamosa believes this ordinance is necessary to safeguard the urban environment by permitting compliance with state law in a manner consistent with the aforementioned concerns.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Alamosa, Colorado, as follows:

Section 1. Amendment of Use Schedule. Schedule A of Chapter 21, Article V, Section 21-97 of the is hereby amended to add the following use group:

USE GROUPS		Zoning Districts						
		A	RE/RL	RM	RH	CL	CB	I
C-33	Medical Marijuana Dispensaries	No	No	No	No	No	R	R

Section 2. Establishment of Medical Marijuana Dispensaries. Chapter 25, Article VII, Section 21-154 is hereby established to read as follows:

Sec. 21-154. Medical Marijuana Dispensaries.

(1) **Definition.** The term “medical marijuana dispensary” shall mean and include the use of any property or structure to distribute, transmit, give, dispense, or otherwise provide marijuana in any manner, in accordance with Section 14 of Article XVIII of the Colorado Constitution.

(2) **Location.** No medical marijuana dispensary shall be located within 1,000 feet of the following:

- (a) The exterior boundary of any residential zone district;
- (b) The exterior boundary of any existing or occupied mobile home;
- (c) The exterior boundary of any lot on which there is located a single family or multifamily residence, whether located within or outside of the city;
- (d) Any church or religious institution;
- (e) Any educational institution or school, either public or private;
- (f) Any licensed child care facility;
- (g) Any alcohol or drug rehabilitation facility;
- (h) Any public community center, park, fairground, or recreation center, or any publicly owned or maintained building open for use to the general public;
- (i) Any existing medical marijuana business whether such business is located within or outside of the city; or
- (j) Any halfway house or correctional facility.

(3) **Advertisements.** Advertisements, signs, displays, or other promotional material depicting medical marijuana uses shall not be shown or exhibited off the premises or in any manner which is visible to the public, from roadways, pedestrian sidewalks or

walkways, or from other public areas.

(4) **Indoor Use.** All business related to, or consumption of, medical marijuana shall be conducted indoors, and all building openings, entries, and windows shall be located, covered, or screened in such a manner as to prevent a view into the interior; and for new construction, the building shall be constructed so as to prevent any possibility of viewing the interior from the exterior of such structure.

(5) **Security.** Medical marijuana dispensaries shall provide adequate security on the premises. At a minimum, such security shall include:

- (a) Security surveillance cameras installed to monitor the main entrance and the exterior of the premises to discourage and to facilitate the reporting of criminal acts as well as nuisance activities. Security video shall be preserved for at least 72 hours.
- (b) Robbery and burglary alarm systems which are professionally monitored and maintained in good working conditions.

Section 3. Repealer. All acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

Section 4. Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

Section 5. Effective Date. This ordinance shall take effect ten (10) days after publication following final passage.

Section 6. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

INTRODUCED, READ AND APPROVED on first reading the ___ of _____, 2009, and ordered published as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the ___ day of _____, 2009, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

APPROVED, AND ADOPTED after public hearing the ___ day of _____, 2009.

CITY OF ALAMOSA

By _____
Farris J. Bervig, Mayor

ATTEST:

Judy A. Egbert, City Clerk