

Motion to deny
08302021
Vote 7-0
ms.

**TOWN OF MEAD, COLORADO
ORDINANCE NO. 971**

**AN INITIATIVE TO STRICTLY REGULATE, CONTROL AND PERMIT A LIMITED
NUMBER OF STATE-AUTHORIZED MEDICAL/ RETAIL MARIJUANA BUSINESSES
WITHIN THE TOWN OF MEAD AND TO ESTABLISH REASONABLE
RESTRICTIONS ON THE SIGNAGE AND ADVERTISING OF THESE
BUSINESSES TO MATCH STATE REGULATIONS**

WHEREAS Amendment 20&64 of the Colorado State Constitution, title 44, article 10 was approved by Colorado voters in 2000 and 2012 respectively, permitting municipalities to license and regulate marijuana businesses.

WHEREAS the Colorado Legislature in 2018 enacted the Colorado Marijuana Code permitting municipalities to license and regulate medical and retail marijuana businesses in order to provide marijuana and related products in a safe, professional and quality-controlled manner.

WHEREAS, it is the intent and desire of the citizens of the Town of Mead that the Board of Trustees of the Town of Mead, Colorado, adopt AN INITIATIVE TO STRICTLY REGULATE, CONTROL AND PERMIT A LIMITED NUMBER OF STATE-AUTHORIZED MEDICAL/ RETAIL MARIJUANA BUSINESSES WITHIN THE TOWN OF MEAD AND TO ESTABLISH REASONABLE RESTRICTIONS ON THE SIGNAGE AND ADVERTISING OF THESE BUSINESSES TO MATCH COMMUNITY NEEDS or, if the within Initiated Ordinance is not adopted by the Board of Trustees in the form presented herein, that the within Initiated Ordinance be referred in the form presented herein to the registered electors of the municipality at a special election, specifically the November 2021 coordinated election as provided by Law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MEAD, COLORADO, OR THE REGISTERED ELECTORS OF THE TOWN OF MEAD:

Section 1. That Sections 6-6-10 through 6-6-30 of Article VI, of the Town of Mead are hereby repealed, and 6-6-40 is renumbered to 6-6-280 the following sections are reenacted to read as follows:

**ARTICLE VI
MEDICAL/ RETAIL MARIJUANA**

Sec. 6-6-10 Purpose

The purpose of this Article is to implement the provisions of Article 10 of Title 44, C.R.S., known as the Colorado Marijuana Code.

Sec. 6-6-20 Incorporation of state law.

The provisions of the Colorado Marijuana Code, and any rules and regulations promulgated thereunder, are incorporated herein by reference except to the extent that

more restrictive or additional regulations are set forth in this Article.

Sec. 6-6-30 Definitions.

(a) The following words, terms, and phrases, when used in this Article, 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 Article. 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 Marijuana Code shall mean Title 10, Article 44 of the Colorado Revised Statutes 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 officer ship; or any creditor interest, whether or not such interest is evidenced by any written document.

License shall mean a document issued by the Town of Mead officially authorizing an applicant to operate a retail marijuana business pursuant to this Article.

Licensee shall mean the person to whom a license has been issued pursuant to this Article.

Medical/Retail marijuana business or *business* shall mean a medical/retail marijuana store, optional premises medical/retail marijuana cultivation facility, or medical/retail marijuana products manufacturing facility, medical/retail marijuana testing facility, and licensed hospitality businesses as defined in the Colorado Marijuana Code.

Marijuana paraphernalia or *paraphernalia* shall mean devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers, related tools, water pipes and vaporizers.

Place of worship or *religious assembly* shall mean a building containing a hall, auditorium or other suitable room used for the purpose of conducting religious services or meetings of the occupants of such structure.

(b) In addition to the definitions contained in Subsection (a) of this Section, other terms used in this Article shall have the meaning ascribed to them in Article 10, Title

44 of the Colorado Marijuana Code, and such definitions are hereby incorporated into this Article by this reference.

Sec. 6-6-40 Creation.

There shall be and is hereby created a Medical/ Retail Marijuana Licensing Authority, hereafter referred to in this Article as the "Authority".

Sec. 6-6-50 Composition.

The Authority shall be a person appointed by the Town of Mead Manager.

Sec. 6-6-60 Functions.

(a) The Authority shall have the duty and authority pursuant to the Colorado Marijuana Code and this Article to grant or refuse licenses; to grant or refuse transfers of ownership or location of the license; and levy penalties against licensees in the manner provided by law.

(b) The Authority shall have all the powers of a Local Licensing Authority as set forth in the Colorado Marijuana Code.

(c) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before the Authority.

(d) The Authority shall have the power to require any applicant or licensee to furnish any relevant information required by the Authority.

(e) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.

Sec. 6-6-70 License required.

It shall be unlawful for any person to establish or operate a medical/ retail marijuana business in the Town of Mead without first having obtained from the Town of Mead and the State a license for each facility to be operated in connection with such business. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section.

Sec. 6-6-80 Requirements of application for license; payment of application fee; denial of license.

(a) A person seeking a license pursuant to the Colorado Marijuana Code and the provisions of this Article shall submit an application to the Town of Mead on forms provided by the State and Town of Mead. At the time of application, each applicant shall pay a nonrefundable application fee to be set by resolution by the board of trustees for each license issued to defray the costs incurred by the Town of Mead for background investigations 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 a suitable form of identification.

The applicant shall also provide the following information on a form approved by, or acceptable to, the Authority, which information may be required for the applicant and all persons having a financial interest in the retail marijuana business that is the subject of the application or, if the applicant is an entity, having a financial interest in the entity:

- (1) name, address, date of birth;
 - (2) an acknowledgment and consent that the Town of Mead, may conduct a background investigation, including a criminal history check and that the Town of Mead will be entitled to full and complete disclosure of all financial records of the medical retail marijuana business, including records of deposit, withdrawals, balances and loans;
 - (3) 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;
 - (4) if the applicant is not the owner of the proposed licensed premises, a statement from the owner of such property authorizing the use of the property for a retail marijuana business;
 - (5) a copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, the proposed licensed premises;
 - (6) a "to scale" diagram of the proposed licensed premises, no larger than 11" x 17", showing, without limitation, building layout, all entry ways and exits to the proposed licensed premises, loading zones and all areas in which retail marijuana will be stored, grown, manufactured or dispensed;
 - (7) a comprehensive business operation plan for the retail marijuana business which shall contain, at a minimum, the following:
 - a. a security plan meeting the requirements of this Article,
 - b. a general description of all products to be sold,
 - c. a plan for exterior signage that is in compliance with all applicable requirements of this Code and the Land Use Code, including photographs and/or illustrations of proposed signage; and
 - (8) any additional reasonable information that the Town of Mead Manager determines to be necessary in connection with the investigation and review of the application.
- (b) All retail marijuana businesses shall obtain other required permits of licenses related to the operation of the medical/ retail marijuana business, including, without limitation, any development approvals or building permits required by this Code and the

Land Use Code.

(c) Upon receipt of a completed application, the Town of Mead Manager may circulate the application to all affected service areas and departments of the Town Mead to determine whether the application is in full compliance with all applicable laws, rules and regulations.

(d) The Town of Mead may, prior to issuance of the license, perform an inspection of the proposed licensed premises to determine compliance with any applicable requirements of this Article or other provisions of this Code or the Land Use Code.

Sec. 6-6-90 Denial of application.

The Authority may deny any application that does not meet the requirements of the Colorado Marijuana Code or this Article. The Authority may deny any application that contains any false, misleading or incomplete information.

Sec. 6-6-100 Persons prohibited as licensees.

No license shall be issued to, held by, or renewed by any applicant who does not have the applicable State license,

Sec. 6-6-110 Location and Selection Criteria.

(a) No medical/ retail marijuana center shall be issued a license if, at the time of application for such license, the proposed location is:

- (1) within one thousand (1,000) feet of any full time private or public preschool, elementary, secondary, vocational or trade school, college or university;
- (2) within one thousand (1,000) feet of any public playground;
- (3) within five hundred (500) feet of:
 - a. any licensed child care center,
 - b. any place of worship or religious assembly,
 - c. any public park, pool, or recreation facility,
 - d. any juvenile or adult halfway house, correctional facility or substance abuse rehabilitation or treatment center, or
- (4) within the boundaries of any residential zoned district;

(b) The location criteria contained in subsection (a) of this Section shall apply to all proposed changes in the location of an existing license.

(c) The distances described in Subsection (a) above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in Paragraphs (a)(1), (a)(2) and (a)(3) above to the nearest portion of the building or unit in which the retail marijuana center is located.

Sec. 6-6-120 Inspection fee.

(a) Upon issuance of a license, and upon renewal thereafter, the licensee shall pay to the Town of Mead a reasonable fee in an amount determined by the Town of Mead Manager to be sufficient to cover the cost of inspections conducted pursuant to this Article.

(b) The inspection fee required under Subsection (a) of this Section shall be due and payable prior to or upon issuance of each license and upon the renewal of any such license and shall not be refundable.

Sec. 6-6-130 Signage and advertising.

All signage and advertising for a medical/ retail marijuana center shall comply with all applicable provisions of the State Code and the Land Use Code.

(a) The prohibition's set forth in this Section shall not apply to political speech or any signage advocating the passage or defeat of a Town of Mead or state ballot measure.

(b) Violation of this Section shall result in a \$100 fine per day per violation. Such fine shall be levied on the licensee by the Authority upon the Authority finding by a preponderance of the evidence a violation of this Section. Repeated and continuous failure to comply with the requirements of this Section shall be considered by the Authority in any action relating to the issuance, revocation, suspension or nonrenewal of a license.

Sec. 6-6-140 Warning signs.

All warning signs at the premises shall comply with the requirements of the Colorado Marijuana Code and all applicable rules and regulations promulgated thereunder.

Sec. 6-6-150 Security requirements.

Security measures at all licensed premises shall comply with the requirements of the Colorado Marijuana Code and all applicable rules and regulations promulgated thereunder.

Sec. 6-6-160 Report of disturbances and unlawful activity.

(a) All licensees and any agent, manager or employee thereof, shall immediately report to the Town of Mead Police Department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed premises.

(b) Failure to comply with the requirements of this Section shall be considered by the Authority in any action relating to the issuance, revocation, suspension or nonrenewal of a license.

Sec. 6-6-170 Labeling.

All medical /retail marijuana sold or otherwise distributed by the licensee shall be labeled in a manner that complies with the requirements of the Colorado Marijuana

Code and all applicable rules and regulations promulgated thereunder.

Sec. 6-6-180 Prohibited acts.

(a) 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.

(b) It shall be unlawful for any licensee holding a medical/ retail marijuana center licensed, or for any agent, manager or employee thereof, to:

(1) sell, give, dispense or otherwise distribute retail marijuana or retail marijuana paraphernalia from any outdoor location;

(2) sell, give, dispense or otherwise distribute retail marijuana to anyone under twenty-one (21) years of age.

(3) Sell, give, dispense or otherwise distribute more than one ounce (1) of retail marijuana to a legal consumer within a twenty-four (24) hour period of time;

(c) It shall be unlawful for any optional premises cultivation operation, testing facilities and Research and Development facilities to post or allow to be posted signs or other advertising materials identifying the premises as being associated with the use of medical/ retail marijuana.

(d) It shall be unlawful for any medical/ retail marijuana-infused products manufacturer, or hospitality business to post or allow to be posted signs or other advertising materials identifying the premises as being associated with the production or use of medical/ retail marijuana.

Sec. 6-6-190 Visibility of activities; control of emissions.

(a) All activities of medical/ retail marijuana businesses, including, without limitation, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted out of public view per the provisions of the Colorado Marijuana Code.

(b) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical/ retail marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Sec. 6-6-200 Sales tax.

Each medical/ retail marijuana business shall collect and remit to the Town of Mead, sales and use tax on all medical/ retail marijuana, paraphernalia and other tangible personal property used or sold at the licensed premises.

Sec. 6-6-210 Inspection of licensed premises.

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Town of Mead Police Department and all other Town of Mead departments designated by the Town of Mead Manager for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations.

Sec. 6-6-220 Nonrenewal, suspension or revocation of license.

(a) The Authority may, after notice and hearing, suspend, revoke or refuse to renew a license for any of the following reasons:

(1) the applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Article or with any applicable State or local law or regulation;

(2) the applicant or licensee, or his or her agent, manager or employee, have failed to comply with any special terms or conditions of its license pursuant to an 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

(3) the medical/ retail marijuana business has been operated in a manner that adversely affects the public health, safety or welfare.

(b) Evidence to support a finding under Subsection (a) of this Section may include, without limitation a continuing pattern of disorderly conduct, a continuing pattern of drug-related criminal conduct within the premises of the medical/retail marijuana business or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical/ retail marijuana business, or an ongoing nuisance condition emanating from or caused by the retail marijuana business. Criminal conduct shall be limited to the violation of a state or Town of Mead law or regulation.

(c) The Authority shall conduct a review of all licenses at least annually and in addition to examining the factors enumerated in this subsection, may hold a hearing on each license at which the general public shall be invited to appear and provide testimony as to the effects of the license on the surrounding community and the town of Mead at large and the Authority may take such views into consideration when deciding whether to continue or renew such license.

Sec. 6-6-230 Violations and penalties.

In addition to the possible denial, suspension revocation or nonrenewal of a license under the provisions of this Article, any person, including, but not limited to, any licensee, manager or employee of a medical/ retail marijuana business, or any customer of such business, who violates any of the provisions of this Article, shall be guilty of a misdemeanor unless a different penalty is provided herein.

Sec. 6-6-240 No Town of Mead liability; indemnification.

(a) By accepting a license issued pursuant to this Article, the licensee waives and releases the Town of Mead, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of State or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the Town of Mead, 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 retail marijuana business that is the subject of the license.

Sec. 6-6-250 Other laws remain applicable.

(a) To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical/ retail marijuana, the additional or stricter regulation shall control the establishment or operation of any medical/ retail marijuana business in the Town of Mead. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) If the State prohibits the sale or other distribution of marijuana through medical/ retail marijuana centers, any license issued hereunder shall be deemed immediately revoked by operation of law.

Sec. 6-6-260 Severability.

If any section, sentence, clause, phrase, word or other provision of this Article is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Article or the validity of this Article as an entirety, it being the legislative intent that this Article shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Sec. 6-6-270 Administrative regulations; Action by the Board of Trustees.

(a) The Town of Mead Manager is authorized to promulgate such rules and regulations as are necessary to effectuate the implementation, administration and enforcement of this Article.

(b) The Board of Trustees shall be permitted to lessen any restriction contained in this Article.

(c) Should the Board of Trustees refer this Initiated Ordinance to the registered electors of the Town of Mead at a regular or special municipal election, this Initiated Ordinance shall take effect immediately upon certification by the designated election official that a majority of registered electors voted in favor of this Ordinance at such regular or special election.

(d) If any section, sentence, clause, phrase, word or other provision of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Ordinance or the validity of this Ordinance as an entirety, it being the legislative intent that this Article shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 30TH DAY OF AUGUST, 2021.

ATTEST:

TOWN OF MEAD:

By: _____
Mary E. Strutt, MMC, Town Clerk

By: _____
Colleen G. Whitlow, Mayor

DENIED 08302021