

TOWN OF PINETOP-LAKESIDE

ORDINANCE NO. 11-346

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE ARIZONA, ADOPTING NEW TOWN CODE TITLE 17, CHAPTER 17.102, “MEDICAL MARIJUANA” BY REFERENCE, AMENDING TOWN CODE TITLE 17, CHAPTER 17.64 “(C-1) LIGHT COMMERCIAL ZONING DISTRICT” TO ALLOW CERTAIN MEDICAL MARIJUANA FACILITIES, AMENDING TOWN CODE TITLE 17, CHAPTER 17.68 “(C-2) HEAVY COMMERCIAL ZONING DISTRICT” TO ALLOW CERTAIN MEDICAL MARIJUANA FACILITIES, AND FIXING THE EFFECTIVE DATE.

WHEREAS, the Arizona Medical Marijuana Act, A.R.S. Title 36, Chapter 28.1 allows municipalities to enact reasonable zoning regulations that limit the use of land for medical marijuana dispensaries; and

WHEREAS, the possession, delivery, manufacture, cultivation, or sale of marijuana is illegal under both the federal Controlled Substances Act and the Arizona Controlled Substances Act; and

WHEREAS, the Arizona Medical Marijuana Act may be preempted or limited by the federal Controlled Substances Act or the Arizona Controlled Substances Act; and

WHEREAS, nothing in this ordinance is intended to permit or assist in the violation of either the Federal Controlled Substances Act or the Arizona Controlled Substances Act; and

WHEREAS, states permitting the medical use of marijuana have experienced various problems associated with medical marijuana dispensaries and medical marijuana manufacturing facilities, including increased marijuana distribution and marijuana dispensary proliferation; and

WHEREAS, states permitting the medical use of marijuana have reported increased occurrences of crime associated with medical marijuana dispensaries; and

WHEREAS, the Mayor and Town Council of the Town of Pinetop-Lakeside, find that the revisions adopted by this Ordinance address these problems and are in the best interests of the Town of Pinetop-Lakeside and the general public.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, as follows:

SECTION 1. Adoption. Title 17, Chapter 17.102 “Medical Marijuana,” is hereby adopted and made a part of that certain document known as the “Pinetop-Lakeside Town Code” three copies of which are on file with the Town Clerk of the Town of Pinetop-Lakeside, Arizona, which document was made a public record by Resolution No. 11-1161 of the Town of Pinetop-Lakeside, Arizona; and is hereby referred to, adopted and made a part hereof as if fully set forth in this Ordinance.

SECTION 2. Amendment. Title 17, Chapter 17.64 (C-1) Light Commercial Zoning District is hereby amended to include new subsection 17.64.020(44) "Medical Marijuana Cultivation in conformance with the requirements of Chapter 17.102 'Medical Marijuana,'" and new subsection 17.64.020(45) "Medical Marijuana Dispensary" in conformance with the requirements of Chapter 17.102 "Medical Marijuana," and renumbering current subsections 17.64.020(44) "Miniature Golf Courses" through current subsection 17.64.020(66) "And other similar uses as determined by the Director and/or the Planning and Zoning Commission" accordingly.

SECTION 3. Amendment. Title 17, Chapter 17.68 (C-2) Heavy Commercial Zoning District is hereby amended to include new subsection 17.68.020(20) "Medical Marijuana Cultivation in conformance with the requirements of Chapter 17.102 'Medical Marijuana,'" and new subsection 17.68.020(21) "Medical Marijuana Infusion (Manufacturing) Facilities in conformance with the requirements of Chapter 17.102 'Medical Marijuana,'" and renumbering current subsections 17.68.020(20) "Milk Depots" through current subsection 17.68.020(40) "And other similar uses as determined by the Director and/or the Planning and Zoning Commission" accordingly.

SECTION 4. Invalidity. If any section, subsection, sentence, clause or portion of this Ordinance or any part of Chapter 17.102 "Medical Marijuana," Section 17.64.020(44) "Medical Marijuana Cultivation in conformance with the requirements of Chapter 17.102 'Medical Marijuana,'" Section 17.64.020(45) "Medical Marijuana Dispensary in conformance with the requirements of Chapter 17.102 'Medical Marijuana,'" Section 17.68.020(20) "Medical Marijuana Cultivation in conformance with the requirements of Chapter 17.102 'Medical Marijuana,'" or Section 17.68.020(21) "Medical Marijuana Infusion (Manufacturing) Facility in conformance with the requirements of Chapter 17.102 'Medical Marijuana,'" adopted herein by reference, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of Title 17, Chapters 17.20, 17.64, 17.68 and 17.102 or the remaining Articles, Chapters and Sections of the Pinetop-Lakeside Town Code.

SECTION 4. Effective Date. The Effective Date of this Ordinance shall be the 7th day of February 2011.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, this 6th day of January 2011.

TOWN OF PINETOP-LAKESIDE

/s/ LUKE S. SMITH, Mayor

ATTEST:

/s/ LU ANNE FROST, Town Clerk

APPROVED AS TO FORM:

/s/ JACK BARKER, Town Attorney