



Town of Mammoth Lakes

Planning & Economic Development Commission Staff Report

Date:	February 28, 2018	File No.:	ZCA 17-001
Place:	Council Chambers, 2 nd Floor Minaret Village Shopping Center Mammoth Lakes, CA 93546	Project:	Town of Mammoth Lakes Cannabis Regulations
Time:	After 2:00 p.m.	General Plan:	Town-wide
Appeal Status:	Not Applicable	Specific Plan:	Not Applicable
Applicant / Owner:	Town of Mammoth Lakes	Zoning:	Town-wide
Environmental Review:	Exempt pursuant to CA Business and Professions Code Section 26055(h)	Location:	Town-wide

TITLE: Consider recommending to the Town Council approval of Zoning Code Amendment 17-001 to amend the Town's cannabis regulations

A. EXECUTIVE SUMMARY

1. Requested Actions

The Commission is requested to evaluate the proposed Zoning Code Amendment, determine if the required findings can be made, and take the following action:

Adopt the attached Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code findings, and recommending to the Town Council approval of Zoning Code Amendment 17-001 as recommended by staff or with modifications.

2. Required Findings to Support Requested Actions

- Is the proposed project consistent with the California Environmental Quality Act (CEQA)?
- Can the findings be met for a Zoning Code Amendment pursuant to Municipal Code (MC) Chapter 17.112?

3. Report Summary

The Zoning Code Amendments described in this staff report proposes changes to the Zoning Code to reflect changes in the allowed uses of cannabis in California as a result of CA Proposition 64 (the "Adult Use of Marijuana Act (AUMA)") and to update the Zoning Code to be consistent with CA Senate Bill 94 (the "Medical and Adult-Use Cannabis Regulations and Safety Act (MAUCRSA)"). The AUMA was

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approved by the voters of CA in November 2016 and allowed the personal, recreational use of cannabis by adults over the age of 21 and legalized adult-use commercial cannabis activities. The MAUCRSA was adopted in June 2017 and consolidated the licensing requirements for medicinal- and adult-use cannabis into one set of regulations.

In addition to the updates to the Zoning Code (Title 17), staff has completely rewritten Chapter 5.38 (Medical Marijuana Cooperatives). “Medical Marijuana Cooperatives” are no longer a permitted type of entity pursuant to the State regulations and all references to “Medical Marijuana Cooperatives” have been removed from the Zoning Code and Chapter 5.38. Chapter 5.38 will now pertain to Commercial Cannabis Permits, which all commercial cannabis businesses are required to obtain. The PEDC does not have authority over Chapter 5.38 since it is not related to land use or zoning, but the draft chapter has been included as Attachment 2 for reference purposes to provide context to the Zoning Code regulations for cannabis.¹

Based on staff analysis provided in this report, it is staff’s opinion that the required findings to support the requested approval can be made, and staff recommends that the Commission recommend to the Town Council approval of the Zoning Code Amendment.

B. ANALYSIS

1. Background and Project History

The voters of the Town of Mammoth Lakes approved Measure M on June 8, 2010 which allowed a maximum of two medical marijuana cooperatives within the Town. In addition to Measure M, the Town Council adopted Municipal Code Chapter 5.38 in June 2010, which established regulations for medical marijuana cooperatives. The Municipal Code limited medical marijuana cooperatives to the Downtown (D), Old Mammoth Road (OMR), and Industrial (I) zoning districts, subject to a use permit. The Municipal Code also required that medical marijuana cooperatives be separated by 500 feet and be 1,000 feet away from public schools, parks, and libraries for cooperatives located in the commercial zones. In October 2010, the Commission approved two medical marijuana cooperatives, Mammoth Green (UPA 10-002) and Mammoth Lakes Wellness (UPA 10-003). Since 2010, Mammoth Green closed and was replaced by Green Mammoth in 2012 (UPA 12-002).

In 2016, the Town Council adopted an urgency ordinance (Ordinance No. 16-04) allowing medical marijuana cultivation operations in the Industrial zone with approval of a use permit. The ordinance prohibited marijuana cultivation in commercial zones, unless those operations were conducted by a permitted cooperative and occurring either in or immediately adjacent to the cooperative’s premises. The ordinance did not limit the number of medical marijuana cultivation facilities that could be permitted in the Industrial zone, but did require compliance with the operational standards that apply to cooperatives. Currently, there are two medical cannabis manufacturing facilities with approved use permits and a third facility that has a use permit allowing for storage of cannabis plant material.

The CA Medical Cannabis Regulations and Safety Act (MCRSA) was adopted in September 2015 and became effective on January 1, 2016. The MCRSA created a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis. The state indicated that it needed until January 2018 to set up the necessary agencies, information systems, and regulations to begin issuing licenses.

The CA voters adopted Proposition 64, known as the “Adult Use of Marijuana Act (AUMA)” in November 2016 which allowed the personal, recreation use of marijuana by adults over the age of 21. The State began issuing temporary licenses for recreational commercial marijuana operations on January 1,

¹ Chapter 5.38 is within Title 5 of the Municipal Code, which is intended for Business Taxes, Licenses, and Regulations.

2018. Proposition 64 did not change what is permitted or allowed under the MCRSA and the regulations and requirements that were adopted as part of the MCRSA regarding licensing remained the same.

In June 2017, the CA Legislature approved Senate Bill (SB) 94, commonly referred to as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).² The MAUCRSA repealed the MCRSA and consolidated the licensing requirements for medicinal- and adult-use cannabis into one set of regulations. In December 2017, the State released emergency regulations that implemented the MAUCRSA and the State began issuing temporary licenses on January 1, 2018 that are valid for 120 days.³

Due to the threat that the State was to begin issuing licenses for commercial non-medicinal cannabis activities prior to the Town adopting appropriate land use, zoning, and public safety regulations, the Town Council adopted a moratorium on new cannabis businesses in October 2017. That moratorium is in place until September 6, 2018, unless otherwise repealed by the Town Council.⁴ See Attachment 4 for the moratorium ordinance.

Since the passage of AUMA in November 2016, staff have been actively engaging the public, various cannabis stakeholders, the PEDC, and the Town Council on cannabis related matters. Below is a summary of the various meetings that were held:

a. Public Workshop - April 26, 2017

A public cannabis workshop was held in April 2017 and there were approximately 25 members of the public in attendance at this workshop and staff presented various potential regulations and asked a series of questions in order to get public feedback on the regulations. A summary of the response to the questions asked of the public at the workshop is available online at: <http://www.townofmammothlakes.ca.gov/768/Cannabis-Regulations>.

b. PEDC Workshop – August 8, 2017

A workshop was held with the PEDC in August 2017 and the Commission was provided a summary of the feedback provided at the April 2017 public workshop and asked a series of questions in order to get feedback on the regulations. At that meeting, there was direction given by the Commission on various components of the regulations.

c. Cannabis Working Group Meetings

Based on the responses received at the PEDC workshop in August 2017, staff assembled a cannabis working group to discuss the Town's cannabis regulatory framework and provide recommendations on the cannabis regulations. The input received from the working group was used to develop the draft cannabis regulations. The cannabis working group was comprised of Town Planning, Finance, and Police Department staff; Fire and Water District staff, members of the Town Council and PEDC, and Mono County staff from Planning, Finance, and the Administrators office. Below is a summary of the items discussed at the working group meetings:

- *Taxes*

The working group discussed various tax scenarios and timing and the recommendation from the group was to retain a consultant who specializes in the development of cannabis tax ballot measures. Mono County staff indicated they had entered into a contract with Hdl to provide assistance with their tax measure. Based on the County's use of Hdl and the Town's previous use of Hdl for sales tax reporting, the Town has entered into a contract with Hdl. A draft tax ordinance was discussed at the Town Council meetings on February 7th and there was

² The full text of SB-94 is available online at: http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB94.

³ All of the medical cannabis businesses within the Town have been approved for temporary licenses from the State for medicinal cannabis activities.

⁴ Adoption of the ordinance by the Town Council for this Zoning Code Amendment will repeal the moratorium.

consensus from the Council on maximum tax rates for the various commercial cannabis activities. It is anticipated that the cannabis tax measure will be on the general election ballot in June.

- *Peer Resort Comparison*

At the first working group meeting in September 2017, it was suggested to look at what peer resort communities in Colorado had done with regards to legalization of cannabis and provide a summary of issues they had encountered. Staff analyzed seven resort communities in Colorado and were able to draw relevant conclusions from each community about the successes and/or failures of various ways of regulating cannabis businesses. The comparison report was presented at the working group meeting in November 2017 (See Attachment 5 for the Peer Resort Comparison, dated November 2017).

- *Buffers*

Based on the conclusions drawn from the Peer Resort Comparison, the working group provided feedback that it was logical to use a land use approach to determine where cannabis retailers could be located. Based on that feedback, staff proposed using buffers from sensitive land uses and minimum distance requirements between cannabis retailers to regulate the locations. The alternative to this approach would be to select an arbitrary number of retailers that would be permitted within the Town. At the December 2017 working group meeting, a series of maps were presented to the group showing the areas that could be available for a cannabis retailer based on various buffer scenarios.⁵ The recommendation from the working group was to use the State required 600-foot buffer from schools (K-12), day care centers, and youth centers and require a minimum separation of at least 500-feet between cannabis retail businesses and add a 600-foot buffer from parks for cannabis retail businesses. For other commercial cannabis uses (i.e., manufacturing, testing, distribution, and cultivation), the recommendation was to only use the State required buffers from schools (K-12), day care centers, and youth centers since these uses will only be permitted in the Industrial zone and will not be open to the public.

- *Industrial Zone Uses*

Staff presented information on various quasi-industrial cannabis activities, such as cultivation, manufacturing, distribution, and testing to the working group and discussed the various issues associated with each use. Staff indicated that at a recent workshop staff had attended, the presenters provided the following impact summary of the various commercial cannabis uses:

- The impacts of manufacturing, distribution, and testing are relatively benign and that the use should be treated the same as any other industrial use. Specific operating standards related to security measures, fire protection requirements, and product handling will minimize impacts for the surrounding area.
- The impacts of cultivation are unique and are related to odor and plant theft. By allowing indoor cultivation only, the risk of plant theft can be minimized through the implementation of adequate security measures and odor issues can be minimize by requiring specialized air filtering and ventilation.
- The impacts of retailers are the most evident and are mostly related to loitering and public use of products.

⁵ The areas are dependent on the availability of retail space and the willingness of the property owner/landlord to lease space to the cannabis retailer.

The following summarizes the recommendations of the working group for the Industrial zone:

- Cannabis retailers should not be permitted in the Industrial zone since the use is not consistent with the intended purpose of the Industrial zone and the lack of visibility and traffic during the evening hours, which could lead to an increase in crime.
- Based on the increased fire danger and the numerous unknowns associated with volatile extraction, manufacturing that utilize volatile solvents (i.e., butane, hexane, propane) for extraction should not be allowed.
- There is no definitive data to support a need to place a limitation on the number of commercial cannabis businesses in the Industrial zone. The recommendation of the group was to monitor the number of inquiries or applications that are received for cannabis businesses in the Industrial zone and if the need arises due to a lack of available space for other industrial uses, implement a cap on the number of cannabis businesses allowed in the Industrial zone.
- With regards to operating and development standards, the group recommended looking at the standards adopted in other cities and in the State regulations.

- *Personal Cultivation*

Under the AUMA, adults 21 years of age or older are allowed to possess and use up to 28.5 grams of marijuana and up to 8 grams of concentrated cannabis, and to possess up to six (6) living cannabis plants and the cannabis produced by those plants. The AUMA allows cities to prohibit outdoor growing of cannabis and to enforce reasonable regulations to regulate the indoor growing of cannabis.

The recommendations of the working group was to prohibit outdoor grows and for indoor grows, review the regulations other agencies have adopted.

d. **Town Council Cannabis Updates/Workshops**

As a condition of approval for the adoption of the moratorium, the Town Council requested monthly updates on the status of the amendments to the cannabis regulations. At these updates, staff provided a general overview of the work completed since the previous update. As development of the regulations progressed, staff conducted workshops with the Town Council to allow the Council the opportunity to provide feedback on the draft regulations.

January 17, 2018 Town Council Cannabis Workshop

Below is a summary of the items discussed at the January 17, 2018 Town Council cannabis workshop (see Attachment 6 for the Town Council Staff Report):

- *Buffer Areas*

Based on the recommendation from the cannabis working group, the Town Council was supportive of moving forward with the following buffers:

- For cannabis retailers, use the state required 600 foot buffer from schools providing instruction in grades K-12, day care centers, youth centers and add an additional 600 foot buffer from public parks and maintain a minimum separation between cannabis retailers of 500 feet.

- For all other commercial cannabis activities (e.g., cultivation, manufacturing, distribution, and testing), use the state required 600 foot buffer from schools providing instruction in grades K-12, day care centers, and youth centers.

Under this buffer scenario, there would not be a specified cap on the number of cannabis retailers, but would use the buffer areas and separation requirements to effectively limit the total number of retailers that would be permitted within the Town. When these buffers and separation requirements are applied to a map of the eligible cannabis retail areas (i.e., the Downtown and Old Mammoth Road zoning districts), the map indicates that there would be the potential for 4 – 5 additional cannabis retail businesses. However, the majority of the eligible parcels are developed with uses that would preclude cannabis retailers (i.e., restaurants, hotels, apartments, condos, and stores that sell alcohol and/or tobacco) or are owned by property owners not willing to lease space to cannabis retailers, and the likely scenario is that a maximum of 1 – 2 additional cannabis retailers would be able to find suitable retail space (see Attachment 3 for a map of the eligible retail areas using the buffers and separation requirements described above).

All other commercial cannabis activities will only be allowed in the Industrial zoning district and are uses that will not have retail sales nor be open to the general public and therefore the need for additional buffers or separation between uses is not applicable since these uses will not have the traffic or visual impacts of a cannabis retailer (see Attachment 3 for a map of the Industrial zoning district using the buffers described above).

- *Commercial Cannabis Uses*

The Town Council reviewed the proposed commercial cannabis uses and did not have any changes to the recommended allowed uses or locations where the uses would be permitted. The proposed uses included the following:

- Downtown and Old Mammoth Road Commercial Zoning Districts: Allow cannabis retailers (adult-use and medicinal) and prohibit deliveries to consumers, cultivation, manufacturing, distribution, and testing.⁶
- Mixed Lodging / Residential Commercial Zoning District: Prohibit all commercial cannabis activities.
- Industrial Zoning District: Allow commercial cannabis cultivation, nonvolatile manufacturing, distribution, and testing and prohibit cannabis retailers.

- *Personal Cultivation Regulations*

The Town Council reviewed a matrix of the regulations and requirements that other cities and counties implemented for personal cultivation of cannabis and recommended imposing similar requirements. The consensus from the Town Council was to ban outdoor cultivation of cannabis. The State does not allow local jurisdictions to completely ban personal cultivation of cannabis, but does allow local jurisdictions to reasonably regulate it and does allow them to ban outdoor cultivation.

⁶ The proposed regulations do allow limited cultivation and manufacturing at a cannabis retailer when those uses are accessory to the cannabis retailer and adhere to specific operating requirements.

February 6, 2018 Town Council Cannabis Workshop

At the February 6, 2018 Town Council meeting, the Town Council reviewed the entire draft cannabis regulatory framework and provided comments and feedback, as needed (see Attachment 7 for the Staff Report and Cannabis Draft Regulatory Framework). The revisions that the Council recommended were minor and did not require any major changes to the draft regulations prior to consideration of the draft regulations by the PEDC.

2. Proposed Zoning Code Amendments

The proposed changes to the cannabis regulations in the Zoning Code (Title 17) are consistent with the changes to the allowed uses brought about by AUMA and the MAUCRSA regulations. Below is a summary of the proposed changes to the Zoning Code (see Attachment 1 – Exhibit(s) “A – C” for the draft regulations):

- a. Changes to Chapter 17.24 – Commercial Zoning Districts
Table 17.24.020 was updated to reflect the proposed commercial cannabis activities within the Commercial Zoning Districts.
- b. Changes to Chapter 17.28 – Industrial Zoning Districts
Table 17.28.020 was updated to reflect the proposed commercial activities within the Industrial Zoning District.
- c. Changes to Section 17.52.040 – Accessory Uses and Structures – Residential
An additional residential accessory use was added to this section for the personal cultivation and use of cannabis.
- d. Delete Section 17.52.160 – Medical Marijuana Cooperatives
This section was deleted since the medical marijuana cooperative model is no longer a business model supported by State regulations and they cannot obtain state licenses for the use.
- e. Changes to Section 17.52.100 – Requirements for Marijuana Cultivation
This Section was amended to reflect all commercial cannabis businesses and provide a reference to Section 17.52.085 where the specific requirements for each commercial cannabis activity will be located.
- f. Changes to Chapter 17.144 – Use Classifications
This chapter was updated to provide use classification descriptions for all of the proposed commercial cannabis activities.
- g. Changes to Chapter 17.148 – Definitions
This Chapter was updated to provide definitions for relevant cannabis terms used in Section(s) 17.52.085 and 17.52.086.
- h. Added Section(s) 17.52.085 for Commercial Cannabis Businesses and 17.52.086 for the Personal Use and Cultivation of Cannabis.
 - Section 17.52.085: Cannabis – Commercial Businesses
This is a new section of the Zoning Code and provides operating requirements for all types of commercial cannabis activities. The majority of the regulations mirror the State regulations and the Town has limited discretion over those regulations. The following is a summary of the regulations that differ from the State regulations or are in addition to the State regulations:
 - All commercial cannabis activities will require a Town issued use permit and an annual commercial cannabis permit in addition to the required State licenses.

- The Town proposes prohibiting the following activities: (1) delivery of cannabis and cannabis products to consumers outside of a licensed cannabis retailer; (2) outdoor cultivation of cannabis; (3) manufacturing of cannabis products using volatile solvents; and (4) operating a commercial cannabis business prior to obtaining all required permits and licenses.
- In addition to the State required 600-foot buffer from schools (K-12), day care center, and youth centers, cannabis retailers are required to be located at least 600 feet from public parks and maintain a 500-foot separation between cannabis retailers.
- The Town is requiring training of cannabis retail employees on best practices related to cannabis retail sales.
- For cannabis retailers, they cannot use the terms or symbols of “cannabis” or “marijuana” in any advertising or signage
- The State allows retailers to be open 6am – 10pm; however, the Town’s regulations limit the hours of retailers to 9am – 9pm.
- For cultivators, manufacturers, distributors, and testers, the Town has the ability to impose additional parking requirements beyond what is specified in Municipal Code Chapter 17.44 if it determined that the use and anticipated number of employees will have an adverse effect on the surrounding area.
- Cultivators, manufacturers, distributors, and testers are permitted to operate 24-hours per day, but are limited to the hours of 7am – 10pm for delivery and shipping activities.
- Section 17.52.086: Cannabis – Personal Cultivation and Use
This is a new section of the Zoning Code and provides regulations and requirements specific to the personal cultivation and use of cannabis in accordance with the State regulations. The State allows local jurisdictions to reasonably regulate the personal cultivation of cannabis and allows local jurisdictions to ban outdoor cultivation. The Town’s regulations propose a ban on outdoor cultivation of cannabis and the other regulations are consistent with what other cities and counties have adopted and to the maximum extent possible under the State regulations, ensures that the personal cultivation of cannabis will be done in a manner that protects the health, safety, and welfare of the community and minimize the potential nuisance, security, and safety issues associated with cannabis use and cultivation.

3. Staff Analysis and Recommendation

The proposed changes to the cannabis regulations are consistent with the provisions of Proposition 64 and the MAUCRSA and the subsequent regulations that implement the MAUCRSA. As described above, the majority of the code language mirrors the State regulations, with the exception of those sections noted. Below is an analysis of those Sections which differ from the State or that the Town has discretion over:

- a. The proposed locations and zones where the various commercial cannabis activities are permitted align with the overall intended uses for those zones. The retail uses (i.e., cannabis retailers) are only permitted in the Commercial zoning districts and the quasi-industrial uses (i.e., cultivation, manufacturing, distribution, and testing) are only permitted in the Industrial zoning district. Regarding what uses are permitted, staff relied on the information provided at various workshops regarding the unique impacts related to commercial cannabis activities discussed in the Working Group summary section above.
- b. The basis for the Town requiring a use permit and an annual commercial cannabis permit is that the use permit is a land use approval that generally runs with the land and the commercial cannabis permit is an annual permit that is issued to the persons operating the commercial cannabis activity.

Once issued, use permits are difficult to revoke, whereas the annual commercial cannabis permit can be revoked through a much easier process if the permittee is violating the terms of their permit.

- c. The proposed prohibited activities are based on discussions had with the working group and the following summarizes the basis for each prohibition:
 - Deliveries are currently prohibited within the Town and the recommendation from the Police chief was to maintain that prohibition for security purposes.
 - Outdoor cultivation is recommended to be prohibited due to the potential for increase theft and neighborly disputes over odors and visual impacts. Additionally, the outdoor growing season in Mammoth is relatively short.
 - Manufacturing using volatile solvents is recommended to be prohibited due to the increased fire danger that results from the use of volatile solvents.
- d. The basis for using a land use approach to regulate the location cannabis retailers, rather than specifying a total number of allowed cannabis retailers, was the research and analysis of the Colorado resorts (see Attachment 5). The analysis concluded that it is important for cities to identify the sensitive uses that cannabis retailers should be separated from and that distance requirements between retailers will alleviate the threat of an over concentration of retailers in one location. Additionally, the analysis highlighted the difficulties in selecting an appropriate number of retailers for a community where the population varies as widely as it does in Mammoth Lakes.
- e. Training for cannabis retail employees was proposed by a group of health industry professionals and was supported by the Mono County Health Department. The training is similar to training offered for servers in restaurants that serve alcohol and is meant to provide the employees with the ability to educate customers about the effects of the various products.
- f. The limitations on advertising is similar to language in the Town's current cannabis regulations and is intended to minimize the exposure of cannabis marketing to minors.
- g. The recommended hours of operation for cannabis retailers were established through communications with the existing dispensary operators. Staff felt that the hours allowed by the State were too liberal and the operators agreed that the proposed 9am – 9pm hours of operation were fair.
- h. The recommendation to allow for staff to require additional parking for commercial cannabis activities in the Industrial zone is a result of the uniqueness of these types of business. These types of businesses don't require a large footprint to operate, but can have a large number of employees at various times (e.g., trimming cannabis plants). If staff uses the standard method for determining parking spaces based on the square footage of the premises, there would be impacts to surrounding businesses due to a lack of parking for the additional employees. Due to this uniqueness, staff felt it was important to be able to require additional parking be provided or the implementation of alternative parking provisions.
- i. The recommendation to allow the uses in the Industrial zone operate 24-hours per day was because these businesses are conducted almost entirely indoors, out of sight of the public, and they are in an area that does not have residential uses. The recommended limitations on the shipping and delivery hours is to prevent any impacts due to noise or lighting that result from the loading or unloading of delivery trucks. The proposed hours align with when deliveries could occur at the local cannabis retailers.
- j. The proposed regulations for the personal cultivation and use of cannabis were based off of the State regulations and what made sense to ensure the safety and welfare of the community.

4. Agency / Public Comments

Staff has been engaged with the public, various cannabis stakeholders, the PEDC, the Town Council, and Mono County since November 2016 regarding cannabis issues and regulations. Comments received at the public workshops, PEDC workshops, Town Council workshops, and the Cannabis Working Group meetings were used to develop the updated cannabis regulations.

No public comments have been received related to the PEDC public hearing for Zoning Code Amendment 17-001.

5. Environmental Analysis

The Zoning Code Amendment discussed in this report is exempt from the California Environmental Quality Act (CEQA) pursuant to CA Business and Professions Code Section 26055(h) since (1) the Town's ordinance requires discretionary review and approval of a use permit to engage in commercial cannabis activity's; (2) the discretionary review and approval of the subsequent use permit requires environmental review pursuant to the CEQA Guidelines; and (3) the Town's ordinance for commercial cannabis activity's will have been adopted prior to July 1, 2019.

C. OPTIONS

Option 1.

Adopt the attached Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code findings, and recommending to the Town Council approval of Zoning Code Amendment 17-001 as recommended by staff or with modifications.

Option 2.

Recommended that the Town Council deny Zoning Code Amendment 17-001.

Option 1 would allow the amendment to proceed to a public hearing with the Town Council with a recommendation for approval.

Option 2 would also allow the amendment to proceed to a public hearing with the Town Council; however, the Commission recommendation would be to deny the amendment. The Commission would need to make findings for denial.

D. RECOMMENDATION

Staff recommends that the Planning and Economic Development Commission choose Option 1:

Adopt the attached Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code findings, and recommending to the Town Council approval of Zoning Code Amendment 17-001 as recommended by staff or with modifications.

Attachments

Attachment 1: Planning and Economic Development Commission Resolution

Exhibit "A" – Zoning Code Changes

Exhibit "B" – Section 17.52.085: Cannabis – Commercial Businesses

Exhibit "C" – Section 17.52.086: Cannabis – Personal Cultivation and Use

Attachment 2: Changes to Municipal Code Chapter 5.38

Attachment 3: Buffer area maps – Commercial Zones and Industrial Zones

Attachment 4: Ordinance 17-09 – Moratorium on the Establishment or Expansion of Cannabis Businesses

Attachment 5: Peer Resort Comparison, November 2017

Attachment 6: Town Council Staff Report, January 17, 2018 (Available Online at <https://ca-mammothlakes2.civicplus.com/DocumentCenter/View/8163>)

Attachment 7: Town Council Staff Report, February 6, 2018 (Available Online at <https://ca-mammothlakes2.civicplus.com/DocumentCenter/View/8164>)

Attachment I

Planning and Economic Development Commission Resolution

RESOLUTION NO. PEDC 2018-__

**A RESOLUTION OF THE MAMMOTH LAKES PLANNING AND
ECONOMIC DEVELOPMENT COMMISSION
RECOMMENDING TO THE TOWN COUNCIL APPROVAL OF
ZONING CODE AMENDMENT 17-001**

WHEREAS, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11365.5 et seq.), entitled the Compassionate Use Act of 1996, the intent of which was to enable persons in need of marijuana (also known as cannabis) for medicinal purposes to obtain and use it under limited, specified, circumstances; and

WHEREAS, as a result of Proposition 215, individuals began establishing medical marijuana cooperatives in various cities; and

WHEREAS, in June 2010 the voters of the Town of Mammoth Lakes approved Measure M to allow a maximum of two (2) medical marijuana cooperatives within the Town and added Section 17.52.160 to the Municipal Code; and

WHEREAS, also in June 2010, the Town Council adopted Municipal Code Chapter 5.38, thereby establishing regulations for medical marijuana cooperatives located within the Town; and

WHEREAS, in September 2015 the California Legislature adopted a series of laws collectively comprising the Medical Cannabis Regulations and Safety Act (MCRSA), thereby establishing a framework for the licensure and regulations of medical cannabis; and

WHEREAS, in May 2016 the Town Council adopted an urgency ordinance allowing medical cannabis cultivation operations in the Industrial zoning district with approval of a use permit; and

WHEREAS, Proposition 64, also known as the Adult Use of Marijuana Act (AUMA), was approved by the voters on November 8, 2016 and as a result, it is no longer illegal under State law, regardless of medical purposes, to: (1) possess, process, transport, purchase, obtain, or give away certain amounts of cannabis or concentrated cannabis, including as contained in cannabis products, to those 21 years of age or older; (2) possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and the cannabis produced by those plants; (3) smoke or ingest cannabis or cannabis products; and (4) possess, transport, purchase, obtain, use, manufacture, or give away cannabis accessories without compensation to those 21 years of age or older; and

WHEREAS, to regulate the commercial adult-use (i.e., non-medicinal) cannabis industry, the AUMA added Division 10 to the California Business and Professions Code, establishing state licensing requirements for commercial cannabis activity, defined as the cultivation, possession, or sale of cannabis and cannabis products, regardless of medicinal

purposes and granting state agencies the “exclusive authority to create, issue, renew, discipline, suspend, or revoke” licenses for businesses including the transportation, storage, distribution, sale, cultivation, manufacturing, and testing of cannabis, except as otherwise authorized; and

WHEREAS, the AUMA gave local governments authority to prohibit or regulate commercial cannabis activities and subject the commercial cannabis activities to zoning and permitting requirements; and

WHEREAS, in June 2017 the California legislature adopted the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which repealed MCRSA and further developed the state’s regulatory framework for both medicinal and adult-use cannabis, while preserving the authority of cities and counties to determine whether and how to allow medicinal and adult-use cannabis businesses, commercial cultivation, and sales to occur within their jurisdictions; and

WHEREAS, Municipal Code Section 17.52.160, which was adopted by voter initiative in June 2010, and established a limit of two “medical marijuana cooperatives” within Town limits, has been superseded by subsequent state voter initiatives and legislation, because “medical marijuana cooperatives” are no longer a permitted type of entity and cannot obtain state licenses to operate; and

WHEREAS, in September 2017 the California Legislature adopted Assembly Bill (AB) 133, which further developed the state’s regulatory framework for both medicinal and non-medicinal cannabis and clarified and corrected some elements of the MAUCRSA; and

WHEREAS, in September 2017 the Town Council adopted an urgency ordinance establishing a 45-day moratorium on the establishment or expansion of cannabis businesses within the Town in order to give the Town additional time to develop regulations for commercial adult-use cannabis activities and to eliminate the threat that the State might issue licenses for commercial adult-use cannabis activities within the Town prior to the Town adopting appropriate land use, zoning, and public safety regulations; and

WHEREAS, in October 2017 the Town Council adopted an urgency ordinance extending the moratorium for one-year on the establishment or expansion of cannabis businesses within the Town; and

WHEREAS, the Town of Mammoth Lakes currently regulates the production and sale of cannabis for medicinal purposes through the Mammoth Lakes Municipal Code, but does not have explicit land use, zoning, and permitting requirements in place regarding commercial adult-use cannabis activities; and

WHEREAS, in order to allow existing medical cannabis businesses to pursue licensing for adult-use cannabis activities with the State and to allow new non-medicinal commercial cannabis activities within the Town pursuant to the uses allowed by the AUMA and the regulations provided in the MAUCRSA, amendments to Municipal Code Title 17 (Zoning Code) are necessary; and

WHEREAS, the Planning and Economic Development Commission conducted a noticed public hearing on the Zoning Code Amendment to amend the Town’s cannabis regulations to be consistent with the uses allowed by the AUMA and the regulations

provided in the MAUCRSA on February 28, 2018, at which time all those desiring to be heard were heard; and

WHEREAS, the Planning and Economic Development Commission considered, without limitation:

1. The staff report to the Planning and Economic Development Commission with exhibits;
2. The General Plan and Municipal Code;
3. Oral evidence submitted at the hearing; and
4. Written evidence submitted at the hearing.

NOW THEREFORE, THE PLANNING AND ECONOMIC DEVELOPMENT COMMISSION OF THE TOWN OF MAMMOTH LAKES DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

SECTION 1. FINDINGS.

1. CEQA.

- a. Subdivision (h) of Section 26055 of the California Business and Professions Code specifies that Division 13 (commencing with Section 21000) of the California Public Resources Code (i.e., CEQA Statute) does not apply to the adoption of cannabis regulations by local jurisdictions so long as the local jurisdiction requires (1) discretionary review and approval of subsequent permits, licenses, or other authorizations to engage in commercial cannabis activity; (2) the subsequent review and approval includes any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the California Public Resources Code; and (3) the local jurisdictions cannabis regulations are adopted prior to July 1, 2019.

The Town's cannabis regulations qualify for this exemption since (1) the regulations require approval of a discretionary use permit for all commercial cannabis activities; (2) the approval of the subsequent discretionary use permits are subject to environmental review pursuant to Division 13 (commencing with Section 21000) of the California Public Resources Code; and (3) the Town's cannabis regulations will be adopted prior to July 1, 2019.

2. MUNICIPAL CODE FINDINGS.

FINDINGS FOR ZONING CODE AMENDMENT (Municipal Code Section 17.112.060)

- a. The proposed amendment is internally consistent with all provisions of the General Plan because the proposed uses are consistent with the land use designations for the areas where the uses are permitted. Cannabis retailers are

only permitted in the Commercial-2 (C-2) land use designation, which allows for medium- and large scale commercial uses. The quasi-industrial cannabis uses (i.e., cultivation, manufacturing, distribution, and testing) are only permitted in the Industrial (I) land use designation, which allows for light manufacturing uses and service uses.

Additionally, the uses and facilities that will be allowed as a result of the Zoning Code Amendment are consistent with General Plan Goal L.5 (*“Provide an overall balance of uses, facilities, and services to further the town’s role as a destination resort community.”*) Cannabis sales and products are popular tourist items and having uses and facilities that sell those items furthers the town’s role as a destination resort community that caters to a wide range of people and interests.

- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the town because the proposed amendments create a regulatory framework that sites the proposed uses in areas that have similar uses and the regulations are intended to minimize or eliminate nuisances to the immediate neighborhood and community. Additionally, by legalizing cannabis for adults 21 years of age or older, it will reduce the demand for cannabis in the black market, thereby protecting the public safety and welfare of the community.
- c. The proposed amendment is consistent with the provisions of the California Environmental Quality Act (CEQA) pursuant to the findings made in Section 1 of this Resolution, which finds this amendment to be exempt from further CEQA review pursuant to California Business and Professions Code Section 26055(h).
- d. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code because the amendments allow uses that are consistent with the zones they are proposed to be allowed in and the proposed uses require compliance, where applicable, with other sections of the Zoning Code.

SECTION 2. PLANNING AND ECONOMIC DEVELOPMENT COMMISSION ACTIONS. The Planning and Economic Development Commission hereby takes the following actions:

- 1. Recommends that the Town Council find this project exempt from the California Environmental Quality Act pursuant to the California Business and Professions Code Section 26055(h); and
- 2. Recommends to the Town Council approval of Zoning Code Amendment 17-001 as described in Exhibit(s) “A,” “B”, and “C”

PASSED AND ADOPTED this 28th day of February 2018, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

Sandra Moberly,
Community and Economic Development
Director

Amy Callanan,
Chair of the Mammoth Lakes Planning
and Economic Development
Commission

NOTE: This action is subject to Chapter 17.104 of the Municipal Code, which specifies time limits for legal challenges.

EXHIBIT “A”
Resolution No. PEDC 2018-__
Case No. ZCA 17-001

Amendments to the Zoning Code

(Additions are shown in Blue Underlined and deletions are shown in ~~Red Strikeout~~)

a. **Additions and deletions to Table 17.24.020 (Commercial District Land Uses and Permit Requirements):**

TABLE 17.24.020: ALLOWED USES AND PERMIT REQUIREMENTS FOR COMMERCIAL ZONING DISTRICTS				
P: PERMITTED USE; U: USE PERMIT REQUIRED; A: ADMINISTRATIVE PERMIT REQUIRED; - : USE NOT ALLOWED; (#) LIMITATION APPLIES, SEE FOOTNOTE				
<i>Land Use</i>	<i>D</i>	<i>OMR</i>	<i>MLR</i>	<i>See Specific Use Regulations:</i>
Retail Use Classifications				
<u>Commercial Cannabis Activity</u>	<u>See subclassifications below</u>			
<u>Adult-Use Cannabis Retailer</u>	<u>U(1)</u>	<u>U(1)</u>	-	<u>See 17.52.085 (Cannabis - Commercial Businesses)</u>
<u>Medicinal Cannabis Retailer</u>	<u>U(1)</u>	<u>U(1)</u>	-	<u>See 17.52.085 (Cannabis - Commercial Businesses)</u>
<u>Cannabis Delivery</u>	-	-	-	
Service Use Classification				
Medical Marijuana Cooperatives	U(1)	U(1)	-	See 17.52.160 (Medical Marijuana Cooperatives)
Industry, Manufacturing, & Processing Use Classifications				
Marijuana Cultivation <u>Commercial Cannabis Cultivation, Manufacturing, Distribution, and/or Testing</u>	-	-	-	
1. Limited to no more than 75% of the ground floor area when located along Primary and Secondary Active Frontages. A minimum of 25% of the ground floor area shall be occupied by uses permitted by right or by Administrative Permit (i.e. active uses) and shall occupy the building or structure's frontage for a minimum depth of 20 feet (Administrative Permit required for depths less than 20 feet).				

b. **Additions and deletions to Table 17.28.020 (Industrial Zoning District Land Uses and Permit Requirements):**

TABLE 17.28.020: ALLOWED USES AND PERMIT REQUIREMENTS FOR THE INDUSTRIAL ZONING DISTRICT		
P: PERMITTED USE; U: USE PERMIT REQUIRED; A: ADMINISTRATIVE PERMIT REQUIRED		
<i>Land Use</i>	<i>Permit Requirements</i>	<i>See Specific Use Regulations:</i>
Service Use Classifications		
Medical Marijuana Cooperatives	U	See 17.52.160 (Medical Marijuana Cooperatives)
Industry, Manufacturing, & Processing Use Classifications		
Marijuana Cultivation	U	See 17.68.100 (Marijuana Cultivation)
<u>Commercial Cannabis Activity</u>	<u>See subclassifications below</u>	
<u>Commercial Cannabis Cultivation</u>	<u>U</u>	<u>See 17.52.085 (Cannabis - Commercial Businesses)</u>
<u>Commercial Cannabis Nonvolatile Manufacturing</u>	<u>U</u>	<u>See 17.52.085 (Cannabis - Commercial Businesses)</u>
<u>Commercial Cannabis Volatile Manufacturing</u>	<u>=</u>	
<u>Commercial Cannabis Distribution</u>	<u>U</u>	<u>See 17.52.085 (Cannabis - Commercial Businesses)</u>
<u>Commercial Cannabis Testing</u>	<u>U</u>	<u>See 17.52.085 (Cannabis - Commercial Businesses)</u>

c. **Addition of the following text in Section 17.52.040 – Accessory Uses and Structures – Residential**

10. Cannabis - Personal Cultivation and Use. The personal use and cultivation of cannabis at private residences shall comply with the requirements of Section 17.52.086 (Cannabis – Personal Cultivation and Use).

d. **Addition of Section 17.52.085 (See Exhibit “B”)**

e. **Addition of Section 17.52.086 (See Exhibit “C”)**

f. **Deletion of Section 17.52.160 – Medical Marijuana Cooperatives**

17.52.160 ~~Medical Marijuana Cooperatives~~

~~Notwithstanding any other provision of this Code, no more than two medical marijuana cooperatives shall be allowed within the corporate limits of the Town of Mammoth Lakes.~~

~~Further, no medical marijuana cooperative shall be located within 500 feet of any other medical marijuana cooperative.~~

g. **Additions and deletions to Section 17.68.100**

17.68.100 Requirements for ~~Marijuana Cultivation~~Commercial Cannabis Businesses

~~Any use permit issued for marijuana cultivation shall, in addition to complying with the requirements of this chapter, require the permittee to comply with Municipal Code Section 5.38.090 subsections D (security and lighting plan), E (no retail sales), F (affidavit required), G (no sales or consumption of alcohol and tobacco), H (no onsite consumption of marijuana), I (no sale of marijuana for profit), J (operating hours), M (recordkeeping), O (no minors on the premises), and Q (additional conditions) as though the permittee were operating, or operating as a, medical marijuana cooperative. The Town may add other conditions to the use permit as necessary to ensure that the permittee is operating safely, securely, and in compliance with applicable laws and provisions of this code.~~

Any use permit issued for a commercial cannabis activity shall, in addition to complying with the requirements of this chapter, shall comply with all of the requirements and regulations for the intended commercial cannabis activities pursuant to Municipal Code Section 17.52.085.

h. **Additions and deletions to Chapter 17.144 – Use Classifications**

17.144.040 – Retail Use Classifications

Commercial Cannabis Activity.

Cannabis Retailer. A facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale. Unless otherwise specified, “Cannabis Retailer” includes both a retailer selling medicinal cannabis and cannabis products to patients with valid physician’s recommendations, and a retailer selling adult-use cannabis and cannabis products for adults 21 years of age and over.

Adult-Use Cannabis Retailer. A cannabis retailer that sells cannabis and cannabis products to individuals 21 years of age and older.

Medicinal Cannabis Retailer. A cannabis retailer that sells medicinal cannabis and medicinal cannabis exclusively to individuals with a valid physician’s recommendation and are 21 years of age and older.

17.144.050 – Service Use Classifications

~~**Medical Marijuana Cooperatives.** A location where marijuana is cultivated collectively by more than one qualified patient, person with valid identification card or designated primary caregiver of a person with a valid identification card, in order to collectively or cooperatively cultivate and/or store marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775.~~

17.144.060 – Industry, Manufacturing, & Processing Use Classifications

~~**Marijuana Cultivation.** All activities included within the “commercial cannabis activity” definition in Section 19300.5 of the California Business & Professions Code as it existed~~

~~on the effective date of this ordinance, provided that activities engaged in by a medical marijuana cooperative operating in compliance with a permit issued by the Town pursuant to Section 5.38.030 of this code, which activities occur within the space occupied by such cooperative or in a space immediately adjacent thereto, shall be excluded from this use.~~

Commercial Cannabis Activity.

Commercial Cannabis Cultivation Facility. A facility engaged in the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. This also includes: (1) facilities that operate only as a nursery and produce only clones, immature plants, seeds, or other agricultural products used specifically for the planting, propagation, and cultivation of cannabis and (2) facilities that only package and label non-manufactured cannabis products. This use does not include outdoor cultivation of cannabis, as that use is prohibited within the Town limits.

Commercial Cannabis Nonvolatile Manufacturing Facility. A facility engaged in the compounding, blending, extracting, infusing, or otherwise making or preparing a cannabis product by means of chemical synthesis or by a combination of extraction and/or infusion and chemical synthesis, using nonvolatile solvents. This also includes: (1) facilities that process, prepare, hold, or store components and ingredients used in the manufacturing of cannabis products and (2) facilities engaged in the holding, storing, packaging, or labeling of cannabis products. This use does not include manufacturing of cannabis products using volatile solvents, as that use is prohibited within the Town limits.

Commercial Cannabis Distribution Facility. A facility engaged in the procurement, sales, and transport of cannabis or cannabis products between State-licensed cannabis businesses. This also includes facilities that offer storage-only services for a licensed cultivator, manufacturer, or another distributor.

Commercial Cannabis Testing Facility. A facility, laboratory, or entity that offers or performs tests of cannabis or cannabis products and that is accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the State.

i. Additions to Section 17.148.020 – Definitions

Cannabis Terms. The following terms are defined for the purposes of Section(s) 17.52.085 (Cannabis – Commercial Businesses) and 17.52.086 (Cannabis – Personal Cultivation and Use).

Adult-Use License. A state license issued pursuant to California Business and Professions Code Sections 26000, et seq. for cannabis or cannabis products that are intended for adults who are 21 years of age and older and who do not possess a valid physician's recommendation. Also referred to as an "A-License."

Attractive to Children or Youth. Products, packaging, labeling, or advertising that may especially encourage persons under age 21 to initiate cannabis consumption or otherwise to consume (accidentally or purposefully) cannabis or cannabis products and includes:

- 1. Products that (1) resemble a non-cannabis product of a type that is typically consumed by, or marketed to, children or youth, such as a specific candy or baked**

- treat; or (2) occur in the shape of a cartoon, human, or any other animate creature including an insect, toy, fruit, vehicle, or robot.
2. Packaging or labeling that (1) resembles packaging or labeling of a non-cannabis consumer product of a type that is typically consumed by, or marketed to, children or youth; (2) contains images depicting a cartoon, human, or any other animate creature including an insect, toy, fruit, vehicle, or robot, or images of a candy or baked goods resembling a non-cannabis consumer product of a type that is typically consumed by, or marketed to, children or youth, (3) contains text referring to a Cartoon, or any other animate creature including insects, toy, fruit, vehicle or robot, (4) Any likeness to images, characters, or phrases that are popularly used to advertise to children; or (5) describes any characterizing flavor; except that, for edible products only, terms such as “lemon-flavored” describing a characterizing flavor may be used in font sizes that do not exceed that of the largest word in the “Warning” on the packages.
3. The term includes advertising that (1) mimics advertising of a non-cannabis consumer product of a type that is typically consumed by, or marketed to children or youth; or (2) depicts a Cartoon, or any non-human animate creature including insects, toy, fruit, vehicle or robot, candy, baked goods, vehicles or robots typically marketed to youth.

Bureau. The Bureau of Cannabis Control within the California Department of Consumer Affairs.

Cannabis. All parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code. “Marijuana” shall have the same meaning as cannabis.

Cannabis Concentrate. Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Section. A cannabis concentrate is not considered food, as defined in Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

Cannabis Product. Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. “Marijuana Product” shall have the same meaning as cannabis product.

Canopy. All areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.

Certificate of Accreditation. A certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the State.

Commercial Cannabis Activity or Commercial Cannabis Business. Any commercial activity or business (i.e., non-personal use) involving the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or retailing of cannabis, of cannabis products, or of ancillary products and accessories, whether or not carried on for gain or profit.

Commercial Cannabis Permit. A permit issued by the Town of Mammoth Lakes to an applicant to perform commercial cannabis activities pursuant to Municipal Code Chapter 5.38.

Cultivation. Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

Cultivation – Outdoor. Cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors.

Cultivation – Indoor. Cultivation of cannabis within a permanent structure using exclusively artificial lighting.

Cultivator. A permittee that performs any commercial cannabis cultivation activity.

Customer. A natural person 21 years of age or older.

Day Care Center. “Day Care Center” shall have the same meaning as in Section 1596.76 of the California Health and Safety Code.

Delivery. The commercial transfer of cannabis or cannabis products to a customer in a location other than a licensed retail premise. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

Distribution. The procurement, sale, and transport of cannabis and cannabis products between licensed entities.

Distributor. A permittee that engages in the procurement, sale, or transport of cannabis and cannabis products between licensed entities.

Edible Cannabis Product. A cannabis product that is intended to be used orally, in whole or in part, for human consumption. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

Labeling. Any label or other written, printed, or graphic matter upon cannabis or a cannabis product, upon its container or wrapper, or that accompanies any cannabis or cannabis product.

Licensee. Any person holding a state license under California Business and Professions Code Sections 26000, et seq.

Licensing Authority. The State agency responsible for the issuance, renewal, or reinstatement of the State license, or the state agency authorized to take disciplinary action against the licensee.

Limited Access Area. An area in which cannabis goods are stored or held and is only accessible to a permittee and its employees and contractors.

Manufacture. Compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

Manufacturer. A permittee that produces, prepares, propagates, or compounds manufactured cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location.

Medicinal Cannabis or Medicinal Cannabis Product. Cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation. "Medicinal Marijuana" and "Medicinal Marijuana Product" shall have the same meaning as medicinal cannabis and medicinal cannabis product.

Medicinal License. A state license issued pursuant to California Business and Professions Code Sections 26000, et seq. for commercial cannabis activity involving medicinal cannabis or medicinal cannabis products. Also referred to as an "M-License."

Nonvolatile Solvents. Any solvent used in the extraction process that is not a volatile solvent and includes carbon dioxide and ethanol.

Nursery. A facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

Opaque Exit Packaging. An opaque bag, box, or similar container provided by the retailer, in which purchased cannabis or cannabis products are placed prior to departing the store.

Owner. An owner shall mean any of the following:

1. A person with an aggregate ownership interest of 20 percent or more in the person applying for a permit or a permittee, unless the interest is solely a security, lien, or encumbrance;
2. The chief executive officer of a nonprofit or other entity; or
3. An individual who will be participating in the direction, control or management of the person applying for a permit.

Permittee. A person issued a Town permit pursuant to Municipal Code Chapter 5.38/

Person. Any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

Physician's Recommendation. A recommendation by a physician that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code.

Plant - Dried Flower. All dead cannabis plant that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

Plant - Flowering. A cannabis plant that has formed a mass of pistils measuring greater than one half inch wide at its widest point.

Plant - Immature. A cannabis plant that is not flowering.

Plant - Live. Living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

Plant - Mature. A cannabis plant that is flowering.

Premises. The designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted.

Primary Caregiver. "Primary caregiver" shall have the same meaning as in Section 11362.7 of the California Health and Safety Code, as it may be amended from time to time. A person asserting primary caregiver status must establish by written documentation that (1) he or she has been designated as such by the medicinal cannabis patient and (2) he or she is a person "who has consistent assumed responsibility for the housing, health, or safety of the patient."

Property Owner. The individual or entity who is the record owner of the subject property or premises where commercial cannabis activities are located or are proposed to be located.

Public Park. An area created, established, designated, or maintained by the Town for public play, recreation, or enjoyment or for the protection of natural resources and features at the site.

Qualified Patient. "Qualified Patient" shall have the same meaning as in Section 11362.7 of the California Health and Safety Code, as it may be amended from time to time.

Retail Area. A building, room, or other area that is open to the public, upon the retailer premises in which cannabis goods are sold or displayed.

Retailer. A facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually, or in any combination for retail sale.

State License. A state license issued pursuant to California Business and Professions Code Sections 26000, et seq.

Tamper Evident Packaging. Packaging with a one-time-use seal that is affixed to the opening of the package, allowing a person to recognize whether or not the package has been opened.

Temporary State License. A temporary license issued pursuant to the California Code of Regulations which allow commercial cannabis activities for a period of 120 days from the effective date of the State emergency regulations (i.e., January 1, 2018).

Tester. A permittee that engages in the testing of cannabis products in a licensed testing laboratory and does not hold any other license for a cannabis activity.

Testing Laboratory. A facility, entity, or site in the State that offers or performs tests of cannabis or cannabis products and that is accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the State.

THC. The compound tetrahydrocannabinol.

Track-and-Trace System. The state approved system used to track commercial cannabis activity and movement.

Transport. The transfer of cannabis or cannabis products between licensees.

Unique Identifier. An alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant. Also referred to as a “UID.”

Volatile Solvents. Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

Youth Center. “Youth Center” shall have the same meaning as in Section 11353.1 of the California Health and Safety Code.

EXHIBIT “B”
Resolution No. PEDC 2017-__
Case No. ZCA 17-001

Amendments to the Zoning Code
[See Attached Code Section]

Addition of Section 17.52.085: Cannabis – Commercial Businesses
(Not shown in track changes since the entire Section is new)

17.52.085 Cannabis – Commercial Businesses

A. **Purpose.** The purpose of this Section is to: (1) protect the public health, safety, and welfare of the community; (2) enact strong and effective regulatory and enforcement controls in compliance with state law; (3) protect neighborhood character; and (4) minimize potential for negative impacts on people, the community, and the environment in the Town.

B. **Permits Required.**

The operation of commercial cannabis activities shall not be allowed in the Town without first securing all permits, licenses, or other entitlements required by State and local laws and regulations.

1. A use permit shall be required for all commercial cannabis activities and a separate use permit shall be required for each location at which cannabis activities are to occur. Conducting a commercial cannabis activity without a use permit shall be unlawful and considered to be a public nuisance pursuant to Municipal Code Chapter 17.132. The application for a use permit, and for amendments thereto and extensions thereof, shall be processed in accordance with Municipal Code Chapter 17.68 (Use Permits). In addition to the findings and procedures identified in Municipal Code Chapter 17.128 for the revocation and modification of a use permit, additional grounds which warrant the revocation/modification of a use permit specific to commercial cannabis activities are provided in Municipal Code Section 17.52.085.K.
2. In addition to a use permit, a commercial cannabis permit pursuant to Chapter 5.38 (Commercial Cannabis Permits) shall be required for all commercial cannabis activities. The commercial cannabis permit shall be renewed on an annual basis and the permittee shall maintain such permit in good standing order to continue operations.
3. A valid State license for each commercial cannabis activity that is to be conducted at a location shall be required prior to commencement of the commercial cannabis activity and at all times during operations.
4. The owner shall post or cause to be posted on site all required Town and state permits and licenses required to operate. Such posting shall be in a central location, visible to the patrons at the operating site, and in all vehicles that transport cannabis or cannabis products.
5. The owner and all permittees shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from, and are provided to, other permitted and licensed cannabis operations or individual purchasers. The Town shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the Town upon request.
6. The owner and all permittees shall conduct commercial cannabis activities in compliance with all required Town permits and regulations and State licenses, laws, and regulations. The owner shall be responsible for the payment of all required inspection fees, permit fees, and taxes.
7. Existing medical cannabis businesses that were legally established prior to January 1, 2018 may obtain temporary adult-use licenses for the various commercial cannabis activity

type(s) from the State of California if all of the following conditions are met and adhered to:

- a. The business shall only be approved for the State 120 day temporary Adult-Use licenses and any permitted extensions by the State of the temporary Adult-Use licenses for the use types that the business was originally approved for (i.e., retailer, manufacturer, cultivator, etc.).
- b. The business shall continue to maintain compliance with all conditions of approval of the original use permit, with the exception of those conditions that are no longer applicable (i.e., prohibition of retail sales; prohibition of sales for profit; the requirement to be incorporated as a non-profit, etc.). It shall be at the sole discretion of the Town which conditions of approval are no longer applicable during the interim transition period.
- c. The business shall comply with all regulations listed in Municipal Code Section 17.52.085 and Municipal Code Chapter 5.38 for the commercial cannabis activity type(s) that they are approved for.
- d. The business may apply for permanent State licenses for adult-use commercial cannabis activities in advance of obtaining a revised use permit for the adult-use component, but are doing so at their own risk and shall acknowledge that the Town is under no obligation to approve the revised use permit and/or the permanent State license. Furthermore, the Town will deny approval of the permanent State license for adult-use if either of the following occur: (1) a complete application for a use permit amendment to convert to adult-use has not been received prior to contact by the State licensing agency verifying local compliance; or (2) the subsequent use permit amendment to convert to adult-use is denied by the Town.
- e. A signed affidavit acknowledging acceptance of these terms and conditions on a form provided by the Town shall be required.

C. Prohibited Activities.

The following commercial cannabis activities are prohibited within the Town of Mammoth Lakes:

1. Delivery of cannabis or cannabis products to customers in a location other than licensed retail premises. All sales and dispensing of cannabis and cannabis products shall be conducted in-person and entirely within the licensed premises of a cannabis retailer.
2. Outdoor cultivation of cannabis.
3. Manufacturing of cannabis concentrates and/or products using volatile solvents.
4. Operating a commercial cannabis business prior to obtaining all of the following: (1) a Town issued use permit pursuant to Municipal Code Section 17.52.085 and Chapter 17.68; (2) a Town issued commercial cannabis permit pursuant to Municipal Code Chapter 5.38; and (3) a State license pursuant to Section 26000 of the California Business and Professions Code. Such licenses and permits shall specifically include all commercial cannabis activities that are occurring on the premises.

D. Regulations for Cannabis Retailers (Adult-Use and Medicinal).

Where cannabis retailers are a land use allowed by Article II (Zoning Districts and Allowable Land Uses), cannabis retailers shall comply with all the following regulations and operating requirements:

1. Cannabis retail facilities shall be located only in zoning districts that specifically allow for this use.
2. Cannabis retailers shall be permitted to have on-site cultivation and/or nonvolatile manufacturing uses as accessory uses secondary to the primary retail use, subject to the following conditions:
 - a. A new use permit or a use permit amendment is required for the additional uses.
 - b. The cultivation and manufacturing areas are not visible from the public right-of-way and the retail use of the facility remains as the primary use. The cultivation area and manufacturing area shall be located in the rear of the premises and not be accessible to the public.
 - c. The cultivation area and the manufacturing area and equipment shall comply with all applicable California Building Code regulations including, but not limited to, building, electrical, fire, and plumbing code regulations.
 - d. In addition to the State retailer license, a Microbusiness State license or other applicable State license is required for the cultivation and manufacturing uses, and all applicable State laws and regulations shall be adhered to.
 - e. The cultivation and/or manufacturing uses shall be on the same physical premises as the cannabis retailer and all activities shall be held under common ownership that is identical in name, business formation, and ownership as the cannabis retailer.
 - f. In addition to complying with all of the requirements for a Cannabis Retailer, compliance with all of the requirements for Commercial Cannabis Cultivation facilities (Municipal Code Section 17.52.085.E) and Commercial Cannabis Manufacturing facilities (Municipal Code Section 17.52.085.F) shall be required.
3. Cannabis retail facilities shall be subject to the following location requirements:
 - a. Cannabis retail facilities shall not be located on any parcel which is located within six hundred (600) feet of any school providing instruction in kindergarten or any grades 1 through 12, day care center, youth center, or public park that is in existence at the time the use is approved.
 - b. Cannabis retail facilities shall not be located within five hundred (500) feet of another cannabis retail facility regardless of the adult-use or medicinal designation.
 - c. The distance between a cannabis retail facility, and the uses described above, shall be measured in a straight line, without regard to intervening structures or objects,

from the closest property line or a portion of the building or structure if located on a property line in which the retail facility is located, to the boundary or closest property line where the uses described above is located.

- d. Adult-use and medicinal cannabis retailers shall be permitted to be colocated on the same licensed premises, so long as all of the State regulations pertaining to colocation of license types are adhered to.
4. Cannabis retailers shall keep accurate records of all business operations and provide such records for inspection consistent with Section 26160 of the California Business and Professions Code.
5. Cannabis retailers shall implement and maintain sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products in compliance with Section 26070 of the California Business and Professions Code and any rules enacted by the licensing authority. Security measures shall include, but are not limited to, the following:
 - a. Take reasonable measures to prevent individuals from loitering on the premises or in the area(s) immediately surrounding the premises, including common area(s) or parking area(s), if they are not engaging in activity expressly related to the operations of the retailer;
 - b. Establish limited access areas accessible only to authorized retailer personnel;
 - c. Store all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis and cannabis products used for display purposes, samples, or immediate sale;
 - d. Install a video surveillance system on the premises that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5044 and captures all areas of the premises, including the area outside the premises for a minimum distance of 20-feet.;
 - e. Install and maintain an alarm system that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5047;
 - f. Require all owners, employees, and agents of a cannabis retailer to display an identification badge issued by the permittee at all times while engaging in the permitted commercial cannabis activities and the identification badge shall, at a minimum, meet the requirements provided in the California Code of Regulations Title 16, Section 5043; and
 - g. Provide for on-site security personnel in a manner consistent with the State cannabis retail security personnel requirements provided in the California Code of Regulations Title 16, Section 5045. On-site security shall not carry firearms or other lethal weapons.

6. Cannabis retailers shall obtain cannabis and cannabis products from licensed distributors only and shall ensure that all cannabis and cannabis products received came from a licensed cultivator or manufacturer and that all products underwent testing pursuant to state and local regulations.
7. Retailers shall not sell any cannabis or cannabis product unless the cannabis and cannabis products are labeled and in a tamper-evident package in compliance with Section 26120 of the California Business and Professions Code. All products sold shall be in an opaque exit package when the products leave the premises.
8. Retailers shall notify the Mammoth Lakes Police Department within 24 hours after discovering any of the following:
 - a. Significant discrepancies identified during inventory;
 - b. Diversion, theft, loss, or any criminal activity involving the retailer or any agent or employee of the retailer;
 - c. The loss or unauthorized alteration of records related to cannabis, customers, or retailer's employees or agents; or
 - d. Any other breach of security.
9. No owner, employee, or agent of a cannabis retailer shall allow entry into the premises, or sell or transfer cannabis or cannabis products to another person, without first examining the identification of the recipient to confirm that the recipient is 21 years of age or older.
10. No cannabis retailer shall employ a person who is less than 21 years of age or allow a person who is less than 21 years of age to be on the premises.
11. All employees and agents of a cannabis retailer involved in face-to-face sales of cannabis and/or cannabis products shall complete a Responsible Cannabis Retailing Education training program that the Town authorizes as meeting the objectives specified below. New employees shall complete the training prior to beginning work on the sales floor. All employees shall participate in an annual refresher course and provide evidence of completion to the Town.

Responsible Cannabis Retailing Education training programs shall, at a minimum, achieve the following objectives: (1) educate employees on state and local regulatory requirements and best practices for cannabis retailing; (2) provide them with the education and ability to verify age requirements and inform customers about the potential effects that various dosages and products may cause; (3) describe practices that can lower any risks associated with cannabis use; and (4) inform customers about best practices for the storage and use of cannabis to prevent access and accidental use by minors under the age of 18.

Evidence that all employees have completed the authorized course and/or the refresher course shall be provided upon request by a Town official.

12. Alcohol shall not be sold or consumed on the premises or in the area(s) immediately surrounding the premises, including the common area(s) or parking area(s). Cannabis

retailers shall prohibit patrons from entering or remaining on the premises if they are in possession of or are consuming alcoholic beverages or are under the influence of alcohol.

13. Tobacco and/or tobacco products shall not be sold or consumed on the premises of a cannabis retailer or in any of the public places where smoking is prohibited pursuant to Municipal Code Section 9.26.020.
14. Cannabis retail facilities shall not be colocated within a facility permitted as a food facility by the Mono County Health Department. Food products (i.e., non-cannabis products) shall not be sold on the premises.
15. Cannabis and/or cannabis products shall not be smoked, ingested, or otherwise consumed on the premises of the cannabis retailer or in any of the public places where smoking is prohibited pursuant to Municipal Code Section 9.26.020 and shall be compliant with the Town of Mammoth Lakes “No Smoking in Public Places Ordinance” at all times. Cannabis retailers shall post a sign near their entrances and exits providing notice of this policy.
16. Cannabis retailers shall not display cannabis goods in a place where they are visible from outside the licensed premises and shall ensure that the area where cannabis sales are occurring is not visible from outside the licensed premises. This may be accomplished through obstructing the windows with curtains or tinting, dividing the business operations to have a lobby that is visible from the exterior with the sales area being in enclosed rooms not visible from the exterior, or other method as approved by the Town.
17. Bathrooms that are under the direct control of the cannabis retailer and are located within their licensed premises shall remain locked and under control of the management.
18. Cannabis retailers shall provide the Mammoth Lakes Police Department and all neighbors within three hundred feet of the retail facility with the name, phone number, and email address of an on-site staff person to notify if there are problems with the establishment.
19. Cannabis retailers shall not include the words “cannabis” or “marijuana” in any signage nor shall any graphic display of cannabis leaves or plants be displayed on the building signage nor shall any graphics of cannabis leaves or plants be used in advertising collateral materials.
20. The cannabis retailer shall not engage in any advertising targeted towards minors or promoting the use of cannabis by minors.
21. All sales and dispensing of cannabis and cannabis products shall be conducted in-person and entirely within the licensed premises of the cannabis retailer. The delivery of any cannabis or cannabis products to a consumer is prohibited within the Town of Mammoth Lakes.
22. The maximum hours of operation for a cannabis retailer shall be 9:00 a.m. Pacific Time and 9:00 p.m. Pacific Time.
23. Cannabis retailers and any of the cannabis retailer’s agents or employees shall not sell or offer for sale any of the following prohibited product types:

- a. Any cannabis or cannabis product that is attractive to children or youth or easily confused with commercially sold candy or foods that do not contain cannabis;
 - b. Any edible product that contains more than 10 milligrams THC per serving;
 - c. Any edible product that contains more than one hundred (100) milligrams of THC per package for products that contains more than one (1) serving;
 - d. Cannabis or cannabis products that contain any non-cannabinoid additive such as nicotine, caffeine, or alcohol. Minimal amounts of alcohol, in as much as are residual from manufacturing or required solvents for the cannabis containing product, are allowed provided that the alcohol content is ten percent (10%) or less, the amount of alcohol in an individual serving would not create alcohol intoxication with ingestion of a single dose, and the product is clearly labeled with both the alcohol content and a statement that reads: "Warning: This Product Contains Alcohol."; and
 - e. Any product that would otherwise be classified as a potentially hazardous food (as defined in Section 113871 of the California Health and Safety Code), including a food that requires time or temperature control to limit pathogenic microorganism growth or toxin formation.
24. The cannabis retailer shall use a track-and-trace system that is compatible with the State approved track-and-trace system to track commercial cannabis activity and shall record all transactions in the system including, but not limited to, sales of cannabis goods, receipt of cannabis goods, return of cannabis goods, and destruction and disposal of cannabis goods.
 25. Parking for cannabis retailers shall be provided in compliance with Municipal Code Table 17.44.030.B and shall use the Retail Use Classification land use metric.
 26. Cannabis retailers shall adhere to the Cannabis Waste Management regulations provided in the California Code of Regulations Title 16, Section(s) 5054 and 5055.

E. Regulations for Commercial Cannabis Cultivation (Adult-Use and Medicinal).

Where commercial cannabis cultivation is a land use allowed by Article II (Zoning Districts and Allowable Land Uses), commercial cannabis cultivation activities shall comply with all of the following regulations and operating requirements:

1. All cultivation of cannabis shall be done indoors using exclusively artificial lighting. Outdoor cultivation of cannabis is prohibited within the Town limits.
2. Commercial cannabis cultivation facilities shall be located only in zoning districts that specifically allow for this use.

A cannabis retailer may cultivate cannabis as an accessory use, so long as the activity is on the same physical premises as the cannabis retailer and all activities are held under common ownership that is identical in name, business formation, and ownership and the use complies with all of the requirements identified in Municipal Code Section 17.52.085.D.2.

3. No direct sales to the public shall occur at a cultivation facility and all cannabis shall pass through a licensed distributor prior to being sold to customers at a cannabis retail location.
4. Commercial cannabis cultivation facilities shall not be open to the public.
5. Commercial cannabis cultivation facilities shall not be located on any parcel which is located within six hundred (600) feet of any school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the use is approved.
6. Commercial cannabis cultivation facilities shall use a track-and-trace system that is compatible with the State approved track-and-trace system to track commercial cannabis activity and movement. Unique identifiers (UIDs) consistent with the State requirements shall be attached to the base of each plant and shall be traceable through the supply chain back to the cultivation site. All activities shall be documented in the track-and-trace system including, but not limited to, the planting of cannabis seeds, the harvesting of cannabis, the packaging of cannabis, the transportation of cannabis goods to a licensee, and the testing of cannabis.
7. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis shall be provided and maintained. Security measures shall include, but are not limited to, the following:
 - a. Take reasonable measures to prevent individuals from loitering on the premises or in the area(s) immediately surrounding the premises, including common area(s) or parking area(s), if they are not engaging in activity expressly related to the operations of the cultivation facility;
 - b. Maintain a secured area where the mature and immature cannabis plants are located in order to prevent theft, diversion, and loss;
 - c. Install a video surveillance system on the premises that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5044 and captures all areas of the premises, including the area outside the premises for a minimum distance of 20-feet;
 - d. Install and maintain an alarm system that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5047; and
 - e. Establish an identification and sign-in/sign-out procedure for authorized personnel, suppliers, and/or visitors.
8. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosions, leakage, or inadvertent damage from rodents, pests, or wildlife. A permit from the California Department of Food and Agriculture shall be required for the use of pesticides.
9. All scales used by commercial cannabis cultivators shall be registered for commercial use and sealed by the California Department of Food and Agriculture/Weights and Measures.

10. Water conservation measures, water capture systems, or grey water systems shall be incorporated in cannabis cultivation operations in order to minimize use of water where feasible.
11. Waste water discharge resulting from the cultivation activities shall be done in accordance with the requirements of the Mammoth Community Water District.
12. Cannabis plants shall not be visible from off-site and no visual markers indicating that cannabis is cultivated on the site shall be visible from off-site.
13. The permittee shall ensure that the total canopy size of cannabis cultivated at the site does not exceed the cumulative canopy size authorized by their State license.
14. Permittees who hold a use permit for commercial cannabis cultivation may transport their own cannabis grown on-site to another permitted and licensed cannabis business at an off-site facility provided the cultivator permittee holds the appropriate State distributor license that allows for the transportation of cannabis. If the cultivator permittee holds a Distributor Transport-Only State license, they shall be prohibited from delivering cannabis and cannabis products to retailers, except for the delivery of immature plants to retailers.

The distribution use shall be approved in conjunction with the use permit for cultivation or an amendment of the use permit to allow distribution will be required. Failure to adhere to Town or State laws and regulations for cannabis transportation shall be grounds for revocation/modification of a use permit pursuant to Municipal Code Chapter 17.128 (Revocations and Modifications) and/or Municipal Code Section 17.52.085.K.
15. All cannabis cultivated at a cultivation facility shall undergo quality assurance review and testing by a licensed testing facility prior to distribution to a retailer pursuant to Section 26104 of the California Business and Professions Code and shall adhere to all State testing regulations.
16. Pursuant to Section 26053 of the California Business and Professions Code, commercial cannabis cultivators shall only conduct business with other cannabis businesses that hold a State license.
17. All structures used for cultivation shall be equipped with odor control, filtration, and ventilation systems that are adequate to prevent humidity, mold, odor, and other related problems. A building permit shall be obtained, as necessary, for the installation of required equipment.
18. All structures used for cultivation shall be legally constructed and shall comply with all applicable California Building Code regulations including, but not limited to, building, electrical, fire, and plumbing code regulations. A building permit from the Town shall be required for all tenant improvements to a structure or site.
19. Parking for commercial cannabis cultivation facilities shall be provided in compliance with Municipal Code Table 17.44.030.B and shall use the Industrial, Manufacturing, & Processing Use Classification land use metric. Additional parking or the implementation and usage of alternative parking provisions pursuant to Municipal Code Section 17.44.040

may be required by the Director if it is determined that the use and the anticipated number of employees will have an adverse effect on the surrounding area.

20. All commercial cultivation facilities shall adhere to the Cannabis Waste Management regulations provided in the California Code of Regulations Title 3, Section(s) 8108 and 8308.
21. Indoor cultivation facilities may operate seven days a week, 24-hours per day as needed. Deliveries and shipping activities shall be limited to the hours of 7 a.m. to 10 p.m., unless stated otherwise in the use permit.

F. Regulations for Commercial Cannabis Manufacturing (Adult-Use and Medicinal).

Where commercial cannabis manufacturing is a land use allowed by Article II (Zoning Districts and Allowable Land Uses), commercial cannabis manufacturing activities shall comply with all of the following regulations and operating requirements:

1. Facilities that manufacture cannabis concentrates and/or products using nonvolatile solvents shall be located only in zoning districts that specifically allow for this use.

A cannabis product manufacturer may manufacture cannabis products as an accessory use, so long as the activity is on the same physical premises as the cannabis retailer and all activities are held under common ownership that is identical in name, business formation, and ownership and the use complies with all of the requirements identified in Municipal Code Section 17.52.085.D.2.

“Nonvolatile solvents” means any solvent used in the extraction process that is not a volatile solvent. For purposes of this section, nonvolatile solvents include carbon dioxide and ethanol when used in a closed-loop system.
2. No direct sales to the public shall occur at a manufacturing facility and all cannabis products shall pass through a licensed distributor prior to being sold to customers at a cannabis retail location.
3. Commercial cannabis manufacturing facilities shall not be open to the public.
4. Commercial cannabis manufacturing facilities shall not be located on any parcel which is located within six hundred (600) feet of any school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the use is approved.
5. Commercial cannabis manufacturing facilities shall use a track-and-trace system that is compatible with the State approved track-and-trace system to track commercial cannabis activity and all activities shall be documented in the track-and-trace system including, but not limited to, the receiving of raw cannabis materials, the packaging of cannabis products, the transportation of cannabis products to a licensee, and the testing of cannabis product batches.

6. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis and cannabis products shall be provided and maintained. Security measures shall include, but are not limited to, the following:
 - a. Take reasonable measures to prevent individuals from loitering on the premises or in the area(s) immediately surrounding the premises, including common area(s) or parking area(s), if they are not engaging in activity expressly related to the operations of the manufacturing facility;
 - b. Maintain a secured and locked area where the cannabis and cannabis products are stored in order to prevent theft, diversion, and loss;
 - c. Install a video surveillance system on the premises that, at a minimum, meets the requirements provided in the California Code of Regulations Title 17, Section 40205 and captures all areas of the premises, including the area outside the premises for a minimum distance of 20-feet;
 - d. Install and maintain an alarm system that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5047; and
 - e. Establish an identification and sign-in/sign-out procedure for authorized personnel, suppliers, and/or visitor.
7. Any employee of a cannabis manufacturing facility operating potentially hazardous equipment shall be trained on the proper use of equipment and on the property hazard response protocols in the event of equipment failure. In addition, employees handling edible products or ingredients shall be trained on proper food safety practices.
8. No visual markers indicating that manufacturing of cannabis products is occurring on the site shall be visible from off-site.
9. Permittees who hold a use permit for commercial cannabis manufacturing may transport their own cannabis products manufactured on-site to another permitted and licensed cannabis business at an off-site facility provided the manufacturing permittee holds the appropriate State distributor license that allows for the transportation of cannabis products. If the manufacturer permittee holds a Distributor Transport-Only State license, they shall be prohibited from delivering cannabis products to retailers.

The distribution use shall be approved in conjunction with the use permit for manufacturing or an amendment of the use permit to allow distribution will be required. Failure to adhere to Town or State laws and regulations for cannabis transportation shall be grounds for revocation/modification of a use permit pursuant to Municipal Code Chapter 17.128 (Revocations and Modifications) and/or Municipal Code Section 17.52.085.K.
10. All cannabis products manufactured at a cannabis manufacturing facility shall undergo quality assurance review and testing by a licensed testing facility prior to distribution to a retailer pursuant to Section 26104 of the California Business and Professions Code and shall adhere to all State testing regulations.

11. Pursuant to Section 26053 of the California Business and Professions Code, commercial cannabis manufacturers shall only conduct business with other cannabis businesses that hold a State license.
12. All structures used for manufacturing of cannabis products shall be equipped with odor control, filtration, and ventilation systems that are adequate to prevent humidity, mold, odor, and other related problems. A building permit shall be obtained, as necessary, for the installation of required equipment.
13. All structures used for manufacturing of cannabis products shall be legally constructed and shall comply with all applicable California Building Code regulations including, but not limited to, building, electrical, fire, and plumbing code regulations. A building permit from the Town shall be required for all tenant improvements to a structure or site.
14. Parking for commercial cannabis manufacturing facilities shall be provided in compliance with Municipal Code Table 17.44.030.B and shall use the Industrial, Manufacturing, & Processing Use Classification land use metric. Additional parking or the implementation and usage of alternative parking provisions pursuant to Municipal Code Section 17.44.040 may be required by the Director if it is determined that the use and the anticipated number of employees will have an adverse effect on the surrounding area.
15. All commercial cannabis manufacturing facilities shall adhere to the Cannabis Waste Management regulations provided in the California Code of Regulations Title 17, Section 40290.
16. Waste water discharge resulting from the manufacturing activities shall be done in accordance with the requirements of the Mammoth Community Water District.
17. All equipment used in the manufacturing of cannabis products shall be compliant with all applicable State laws and regulations and all building and fire code regulations. Manufacturers spec sheets for all equipment shall be provided and any change of equipment shall require additional review and approval from the Town.
18. All scales used by commercial cannabis manufacturers shall be registered for commercial use and sealed by the California Department of Food and Agriculture/Weights and Measures.
19. Manufacturing facilities may operate seven days a week, 24-hours per day as needed. Deliveries and shipping activities shall be limited to the hours of 7 a.m. to 10 p.m., unless stated otherwise in the use permit.

G. Regulations for Commercial Cannabis Distribution (Adult-Use and Medicinal).

Where commercial cannabis distribution is a land use allowed by Article II (Zoning Districts and Allowable Land Uses), commercial cannabis distribution activities shall comply with all of the following regulations and operating requirements:

1. Commercial cannabis distribution facilities shall be located only in zoning districts that specifically provide for this use.

2. Commercial cannabis distribution facilities shall not be open to the public.
3. Commercial cannabis distribution facilities shall not be located on any parcel which is located within six hundred (600) feet of any school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the use is approved.
4. Commercial cannabis distribution facilities shall use a track-and-trace system that is compatible with the State approved track-and-trace system to track commercial cannabis activity and all activities shall be documented in the track-and-trace system including, but not limited to, the receiving of cannabis and cannabis products, the transportation of cannabis products to a retailer licensee, and the testing of cannabis and cannabis products.
5. Prior to transporting cannabis and/or cannabis products, the distributor shall complete an electronic shipping manifest. The shipping manifest shall include the unique identifier (UID) information from the cultivation source.
6. A physical copy of the shipping manifest shall be maintained during transportation and shall be made available upon request to law enforcement or any agents of the State, Town, or Mono County charged with enforcement.
7. Cannabis distribution facilities shall maintain appropriate records of transactions and shipping manifests. An organized and clean method of storing and transporting cannabis and cannabis products shall be provided to maintain a clear chain of custody.
8. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis and cannabis products shall be provided and maintained. Security measures shall include, but are not limited to, the following:
 - a. Take reasonable measures to prevent individuals from loitering on the premises or in the area(s) immediately surrounding the premises, including common area(s) or parking area(s), if they are not engaging in activity expressly related to the operations of the distribution facility;
 - b. Maintain a secured and locked area where the cannabis and cannabis products are stored in order to prevent theft, diversion, and loss;
 - c. Install a video surveillance system on the premises that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5044 and captures all areas of the premises, including the area outside the premises for a minimum distance of 20-feet;
 - d. Install and maintain an alarm system that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5047; and
 - e. Establish an identification and sign-in/sign-out procedure for authorized personnel, suppliers, and/or visitors.
9. No visual markers indicating that the facility is a cannabis distribution facility shall be visible from off-site.

10. Distributors shall ensure that appropriate samples of cannabis and/or cannabis products are tested by a licensed testing facility prior to distribution.
11. Prior to distribution, the distributor shall inspect the cannabis and/or cannabis products for quality assurance.
12. Cannabis and cannabis products shall be packaged and labeled in accordance with the requirements of State law.
13. The driver of a vehicle transporting cannabis and/or cannabis products shall be directly employed by persons that hold all required permits, licenses, and entitlements for a cannabis distributor.
14. All vehicles used for transporting cannabis and cannabis products shall meet all of the State regulations and requirements for cannabis transport vehicles.
15. Pursuant to Section 26053 of the California Business and Professions Code, cannabis and cannabis products shall only be transported between permitted and licensed commercial cannabis operations.
16. All structures used for distribution of cannabis products shall be equipped with odor control, filtration, and ventilation systems that are adequate to prevent humidity, mold, odor, and other related problems. A building permit shall be obtained, as necessary, for the installation of required equipment.
17. All structures used for distribution of cannabis products shall be legally constructed and shall comply with all applicable California Building Code regulations including, but not limited to, building, electrical, fire, and plumbing code regulations. A building permit from the Town shall be required for all tenant improvements to a structure or site.
18. Parking for commercial cannabis distribution facilities shall be provided in compliance with Municipal Code Table 17.44.030.B and shall use the Industrial, Manufacturing, & Processing Use Classification land use metric. Additional parking or the implementation and usage of alternative parking provisions pursuant to Municipal Code Section 17.44.040 may be required by the Director if it is determined that the use and the anticipated number of employees and/or transport vehicles will have an adverse effect on the surrounding area.
19. Distribution activities within the Town shall be limited to the hours of 7 a.m. to 10 p.m., unless stated otherwise in the use permit.

H. Regulations for Commercial Cannabis Testing.

Where commercial cannabis testing is a land use allowed by Article II (Zoning Districts and Allowable Land Uses), commercial cannabis testing activities shall comply with all of the following regulations and operating requirements:

1. Commercial cannabis testing facilities shall be located only in zoning districts that specifically provide for this use.
2. Commercial cannabis testing facilities shall not be open to the public.

3. Commercial cannabis testing facilities shall not be located on any parcel which is located within six hundred (600) feet of any school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the use is approved.
4. A person that holds a State cannabis testing laboratory license shall not hold a State license for any other cannabis activity and shall not employ an individual who is also employed by any other licensee that does not hold a State cannabis testing laboratory license.
5. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis and cannabis products shall be provided and maintained. Security measures shall include, but are not limited to, the following:
 - a. Take reasonable measures to prevent individuals from loitering on the premises or in the area(s) immediately surrounding the premises, including common area(s) or parking area(s), if they are not engaging in activity expressly related to the operations of the testing facility;
 - b. Maintain a secured and locked area where the cannabis and cannabis products are stored in order to prevent theft, diversion, and loss;
 - c. Install a video surveillance system on the premises that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5044 and captures all areas of the premises, including the area outside the premises for a minimum distance of 20-feet;
 - d. Install and maintain an alarm system that, at a minimum, meets the requirements provided in the California Code of Regulations Title 16, Section 5047; and
 - e. Establish an identification and sign-in/sign-out procedure for authorized personnel, suppliers, and/or visitors.
6. No visual markers indicating that the facility is a cannabis testing facility shall be visible from off-site.
7. Cannabis testing facilities shall destroy the remains of any samples of cannabis and/or cannabis products tested upon completion of the analysis. Destruction of samples shall be done in a manner consistent with State laws and regulations.
8. All testing procedures and operations shall be done in a manner consistent with State laws and regulations.
9. All structures used for testing of cannabis products shall be equipped with odor control, filtration, and ventilation systems that are adequate to prevent humidity, contamination of the testing equipment, odor, and other related problems. A building permit shall be obtained, as necessary, for the installation of required equipment.
10. All structures used for testing of cannabis products shall be legally constructed and shall comply with all applicable California Building Code regulations including, but not limited

to, building, electrical, fire, and plumbing code regulations. A building permit from the Town shall be required for all tenant improvements to a structure or site.

11. Parking for commercial cannabis testing facilities shall be provided in compliance with Municipal Code Table 17.44.030.B and shall use the Industrial, Manufacturing, & Processing Use Classification land use metric. Additional parking or the implementation and usage of alternative parking provisions pursuant to Municipal Code Section 17.44.040 may be required by the Director if it is determined that the use and the anticipated number of employees will have an adverse effect on the surrounding area.
12. Testing facilities may operate seven days a week, 24-hour per day as needed. Deliveries and shipping activities shall be limited to the hours of 7 a.m. to 10 p.m., unless stated otherwise in the use permit.
13. Cannabis testing facilities shall adhere to the Cannabis Waste Management regulations provided in the California Code of Regulations Title 16, Section(s) 5054 and 5055.

I. Findings and Conditions of Approval.

1. ***Required Findings.*** In addition to the use permit findings required by Municipal Code Section 17.68.050, a use permit for a commercial cannabis activity shall be approved only if all of the following additional findings can be made:
 - a. The commercial cannabis business, as proposed, has demonstrated that it can and will comply with all of the requirements of the State and the Town for all of the commercial cannabis activities proposed.
 - b. The commercial cannabis business includes adequate measures that minimize, to the extent feasible, nuisance to the immediate neighborhood and community including, but not limited to, minimizing detection of odor from off-site, minimizing the effects of loitering, provision of adequate parking, and provision of adequate security measures.
 - c. For cannabis cultivation facilities, a finding shall also be made that the cannabis cultivation facility includes adequate measures that minimize use of water for cannabis cultivation at the site.
 - d. For cannabis manufacturing facilities, a finding shall also be made that the manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, or substances.
 - e. For cannabis testing facilities, a finding shall also be made that the owners, permittees, operators, and employees of the testing facility are not associated with any other commercial cannabis activities within the State.
2. ***Required Conditions of Approval.*** In addition to any other required conditions and mitigation measures imposed, all of the following conditions shall apply to all use permits for commercial cannabis activities:

- a. The commercial cannabis business shall allow access to its facilities and records if requested by the Town, its officers, or agents, and shall pay for annual financial and regulatory compliance audits and submit to inspections from the Town or its officers to verify compliance with all relevant rules, regulations, and conditions.
- b. Any person operating a commercial cannabis business shall obtain a commercial cannabis permit pursuant to Municipal Code Chapter 5.38 prior to commencing operations and must maintain such permit in good standing in order to continue operations.
- c. The commercial cannabis business shall operate only in accordance with the operating plans reviewed and approved by the Town.
- d. The applicant and its successors of interest shall acknowledge and agree that the Town makes no representations or guarantees that operations carried out under the auspices of the use permit or the commercial cannabis permit will comply with federal law, that the applicant's premises and the real property in which the premises are situated will not be raided or closed by law enforcement personnel, and/or that the applicant, its staff, or anyone connected with the applicant's operations will not be criminally prosecuted under the applicable law.
- e. The applicant and its successors of interest in the commercial cannabis business shall indemnify, defend, and hold the Town harmless from and against any and all claims and proceedings, losses, damages, and cause of action relating to the approval of the permit or relating to any damage to property or person stemming from the commercial cannabis activity.

J. Application Requirements

All applications for a use permit for a commercial cannabis activity shall be filed in accordance with Municipal Code Chapter 17.60 (Applications, Processing, and Fees) and shall include, without limitation, the following documentation:

- 1. Proof of ownership of the premises, or if the premises on which the commercial cannabis operation is to occur is rented or leased, a copy of the lease signed by the property owner. A signed affidavit from all persons and entities having a right, title, or interest in the premises that is the subject of the application consenting to the application and the operation of the proposed commercial cannabis activity on the subject premises is required.
- 2. A complete description of the type, nature, and extent of the commercial cannabis activities to be conducted.
- 3. A description of the type of State license(s) that will be required for the proposed operations pursuant to California Business and Professions Code Sections 26000, et seq., including a description of the proposed total canopy area of any cultivation or nursery operation.
- 4. A scaled site plan that shows, at a minimum, the property lines, all buildings (existing and proposed), adjacent buildings within 20 feet of the property line, impermeable surfaces, parking areas, delivery/truck loading and parking areas, entry and exits to the building(s),

propane tank(s), trash enclosures, fences, walls, site lighting, and snow storage area(s). Additional items may be required by the review authority.

5. Scaled floor plan(s) showing the layout of the interior space(s) and identifying all areas where commercial cannabis activities will occur.
6. Building elevations if any exterior modifications are proposed.
7. An operations plan including at a minimum, the following information:
 - a. A security plan outlining the on-site security measures, both physical and operational, that ensure the safety of persons and the protection of the premises from theft. The plan shall include, at a minimum, installation of security cameras, installation of commercial-grade, nonresidential locking mechanisms, continuous operation of a commercial burglary and robbery alarm system that is monitored by a state-licensed operator, use of security guards when required by State regulations, and an annual written security assessment of the site by a qualified professional. The security plan must also include a lighting plan showing exterior and interior lighting that will be implemented to provide adequate security and provide evidence of compliance with all Town standards regarding lighting design and installation (see Municipal Code Section 17.36.030 – Exterior Lighting).
 - b. Standard operating procedures manual detailing how operations will comply with State and local regulations; how safety and quality of products will be ensured; record keeping procedures for financing, testing, and adverse effect recording; and product recall procedures.
 - c. Proposed hours of operation.
 - d. Waste management plan.
 - e. Product supply chain information including where cultivation occurs, where the product is processed or manufactured, where the testing of cannabis and/or cannabis products will occur, how the product is being transported, and packaging and labeling criteria.
 - f. Record keeping policy.
 - g. Track-and-trace measures.
 - h. Procedures for verifying age of customers and employees and medical recommendations (if applicable).
 - i. Information on the proposed odor control, filtration, and ventilation systems, if required.
 - j. Size, height, colors, and design of any proposed signage at the site.
 - k. Parking plan that shows employee vehicle parking, truck parking, and transport vehicle loading and parking areas.

- l. Such other information that is deemed necessary by the Director.
8. Submittal of the commercial cannabis permit application pursuant to Municipal Code Chapter 5.38. The application for the commercial cannabis permit shall include all of the application items listed in Municipal Code Section 5.38.040.
9. Additional application items that shall be required based on the type of commercial cannabis activities proposed.
 - a. For commercial cannabis cultivation facilities, the following additional information shall be required:
 - i. A water management plan including the proposed water supply and proposed water conservation measures;
 - ii. Projected energy demand and information on any proposed renewable energy features, such as installation of solar panels;
 - iii. Unique identifier (UID), inventory, and quality control procedures; and
 - iv. A floor plan identifying the location, dimensions, and boundaries of all proposed canopy areas taking into account space needed for ongoing care of plants and a description of the proposed method of physically delineating those boundaries at the site.
 - b. For commercial cannabis manufacturing facilities, the following additional information shall be required:
 - i. Information on products used in the manufacturing process including the cannabis supply chain, liquids, solvents, agents, and processes. Evidence that all cannabis will be obtained from a licensed cultivator or licensed distributor operating in compliance with all local and State laws will be required;
 - ii. Storage protocol and hazard response plan; and
 - iii. Quality control measures.
 - c. For commercial cannabis distribution facilities, the following additional information shall be required:
 - i. An operations plan detailing how, and from where, cannabis and cannabis products will be received; how any storage, distribution, and transportation operations will be secured to prevent theft and trespass; and to whom the product will be distributed;
 - ii. Quality control measures;
 - iii. Truck parking and loading areas plan; and
 - iv. Cannabis storage and handling plans.
 - d. For commercial cannabis testing facilities, the following additional information shall be required:

- i. An operations plan detailing how cannabis and cannabis products will be received, secured, tested, and destroyed upon completion;
- ii. Certificate of accreditation from an approved accrediting body or evidence that the accreditation process has begun; and
- e. Proposed procedures for record keeping, including chain of custody control and certificate issuance.

K. Grounds for Revocation or Modification.

- 1. In addition to the findings and procedures identified in Municipal Code Chapter 17.128 for the revocation and modification of a use permit, additional grounds which warrant the revocation/modification of a use permit specific to commercial cannabis activities include:
 - a. Any act or omission by an owner or permittee in violation of the provisions of Municipal Code Section 17.52.085.
 - b. Any act or omission by an owner or permittee that results in the denial, revocation, or suspension of the owner's or permittee's State commercial cannabis activity license(s).
 - c. Any act or omission by an owner or permittee that results in the denial, revocation, or suspension of the owner's or permittee's commercial cannabis permit issued under Municipal Code Chapter 5.38.
 - d. Any act or omission by an owner or permittee in violation of State law or the Town's Municipal Code.
 - e. Conduct of the commercial cannabis business in a manner that constitutes a nuisance, where the owner or permittee has failed to comply with Town direction to abate the nuisance.

L. Procedure for Revocation or Modification.

In addition to the procedures identified in Municipal Code Chapter 17.128 for the revocation and modification of a use permit, the following additional procedures shall apply to revoke or modify a use permit specific to commercial cannabis activities:

- 1. If the Director determines that grounds for revocation/modification of the use permit exist pursuant to Municipal Code Chapter 17.128 or Section 17.52.085.I, the Director, or his or her designee shall issue a written Notice of Intention to revoke or modify the use permit, as the case may be. The Notice of Intention to revoke or modify shall be served on the property owner and shall also be served on permittees on the property, as reported on the commercial cannabis permits issued pursuant to Chapter 5.38. The Notice of Intention shall be served by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested. The Notice of Intention shall describe the property, the intention to revoke or modify the use permit, the grounds for revocation or modification, the action necessary to abate the violation, and the time limit for compliance.

2. Failure to abate the violation prior to the end of the specified time limit for compliance in the Notice of Intention shall result in proceeding with the revocation or modification of the user permit pursuant to the procedures set forth in Municipal Code Chapter 17.128 (Revocation and Modification).
- M. **Enforcement.** The enforcement of Municipal Code Section 17.52.085 shall be in accordance with the provisions of Municipal Code Chapter 17.132 (Enforcement) and all violations of this section are hereby declared to be unlawful and a public nuisance and may be abated by the Town through civil proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances.

EXHIBIT “C”
Resolution No. PEDC 2017-__
Case No. ZCA 17-001

Amendments to the Zoning Code
[See Attached Code Section]

Addition of Section 17.52.086: Cannabis – Personal Cultivation and Use
(Not shown in track changes since the entire Section is new)

17.52.086 Cannabis – Personal Cultivation and Use

- A. **Purpose.** The standards and requirements contained in this section are intended to regulate the personal use and cultivation of cannabis at private residences in a manner that protects the health, safety, and welfare of the community and minimizes the potential nuisance, security, and safety issues associated with cannabis use and cultivation. This section is not intended to interfere with a patient's right to medical cannabis pursuant to the Compassionate Use Act, as may be amended, nor does it criminalize cannabis possession or cultivation otherwise authorized by State law. This section is not intended to interfere with the ability of persons 21 years of age or older to grow, possess and use cannabis pursuant to the Adult Use of Marijuana Act, so long as the quantities and use are consistent with State law. This section is not intended to give any person or entity independent legal authority to operate a cannabis business. It is intended simply to impose zoning restrictions regarding personal cultivation of cannabis in the Town pursuant to this Code and State law.
- B. **Applicability.** No part of this section shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21. U.S.C. § 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. Nothing in this section shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, or consumption of cannabis that is otherwise illegal under local or state law. No provision of this section shall be deemed a defense or immunity to any action brought against any person by the Mono County District Attorney's office, the Attorney General of the State of California or the United States of America.
- C. **Requirements.** The following standards shall apply to the personal use and cultivation of cannabis at private residences.
1. ***Persons Authorized to Cultivate Cannabis for Personal Use.***
 - a. A qualified patient, as that term is defined in Section 11362.7 of the California Health and Safety Code, provided the qualified patient possesses, stores, manufactures, transports, or cultivates cannabis exclusively for his or her personal medical use, and does not provide, donate, sell, or distribute cannabis to any other person. Qualified patients shall, upon request, provide appropriate documentation to law enforcement demonstrating that they have a valid physician's recommendation to use cannabis for medicinal purposes.
 - b. A primary caregiver, as that term is defined in Section 11362.7 of the California Health and Safety Code, provided the primary caregiver possesses, stores, manufactures, transports, donates, provides, or cultivates medical cannabis exclusively for the personal medical purposes of no more than three (3) qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the California Health and Safety Code. Primary caregivers shall, upon request, provide appropriate documentation to law enforcement demonstrating that they are a primary caregiver for a maximum of three (3) qualified patients.

- c. For persons other than qualified patients or primary caregivers, all personal cannabis cultivation shall be conducted by persons 21 years of age or older.

2. ***Use and Possession Limitations.***

- a. Qualified patients with a valid physician's recommendation, or the designated primary caregiver of that qualified patient or person, may possess and use amounts of cannabis consistent with Section 11362.77 of the California Health and Safety Code.
- b. Qualified patients and primary caregivers may maintain mature and immature cannabis plants in an amount consistent with Section 11362.77 of the California Health and Safety Code; however, at no time shall the cumulative cultivation area for qualified patients and primary caregivers exceed one hundred (100) square feet of canopy area per qualified patient and primary caregivers shall only be permitted to cultivate for a maximum of three (3) qualified patients at any individual address or on any individual parcel. The cultivation area within a dwelling unit shall not exceed ten percent or one hundred square feet, whichever is greater, of the total floor area of the dwelling unit. For the purposes of this Section, total floor area of a dwelling unit does not include garage, attic, or other spaces not customarily used for living purposes. All cultivation areas shall comply with the location requirements specified in Section 17.52.086.C.3.
- c. Pursuant to Section 11362.1 and 11362.2 of the California Health and Safety Code, persons 21 years of age or older may do the following:
 - i. Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams (i.e., 1 ounce) of cannabis (not in the form of concentrated cannabis) and not more than 8 grams of concentrated cannabis, including as contained in cannabis products;
 - ii. Possess, plant, cultivate, harvest, dry, or process not more than six (6) living cannabis plants within a single dwelling unit at any one time, regardless of the number of persons residing in that dwelling unit and the cultivation area shall comply with the location requirements specified in Section 17.52.086.C.3; and
 - iii. Smoke or ingest cannabis or cannabis products pursuant to the regulations in Section 11362.3 of the California Health and Safety Code and Municipal Code Chapter 9.26.

3. ***Location Requirements.*** Cannabis cultivation for personal use shall be permitted in all zones where accessory residential uses are permitted pursuant to Article II (Zoning Districts and Allowable Land Uses) and shall be subject to the following requirements and limitations:

- a. The cultivation of cannabis for personal use is permitted to occur in the following areas:
 - i. If located on a parcel with one (1) single-family residence, the cultivation area shall be located indoors within the dwelling unit or within a fully-

enclosed accessory structure. If the cultivation area is located in an accessory structure, the accessory structure shall comply with the following standards:

- (1) Be located on the same legal parcel as the single-family residence;
- (2) Not be located within the front yard setback;
- (3) Maintain a minimum twenty (20) foot setback along a street side yard;
- (4) Maintain a minimum ten (10) foot setback along the interior side and rear yard;
- (5) Maintain a minimum distance of thirty (30) feet from the nearest residence which is not located on the same parcel;
- (6) Maintain the minimum number of required enclosed parking spaces pursuant to Municipal Code Chapter 17.44 if the cultivation area is located within a garage; and
- (7) “Structure” shall have the same meaning as specified in Section 17.148.020 of this Code and does not include cargo containers, recreational vehicles, or any other style of temporary structure.

ii. If located on a parcel with multiple dwelling units (e.g., multi-family residential), the cultivation of cannabis for personal use shall only be allowed indoors within the individual dwelling units. Parcels that have a legal secondary dwelling unit along with a single-family dwelling shall be subject to the location requirements specified in Section 17.52.086.C.3(a)(i).

b. Outdoor cultivation of cannabis is prohibited within the Town limits.

4. ***Safety, Security, and Nuisance Prevention.***

- a. No exterior evidence of cannabis cultivation occurring at the property shall be visible from the public right-of-way.
- b. Light systems shall be fully shielded, including adequate coverings on windows, so as to confine the light and glare to the interior of the structure.
- c. All structures used for cultivation shall be legally constructed and shall comply with all applicable California Building Code regulations including, but not limited to, building, electrical, fire, and plumbing code regulations. Total electrical loads of the lighting equipment used for cultivation shall not exceed one thousand two hundred (1,200) watts, unless a licensed electrical contractor certifies in a form acceptable to the Town’s Building Official, that the additional lighting loads meet the requirements of the currently adopted California Electrical Code.
- d. All structures used for cultivation shall be equipped with odor control, filtration, and ventilation systems that are adequate to prevent humidity, mold, odor, and other related problems. A building permit shall be obtained, as necessary, for the installation of required equipment.

- e. The cannabis plants and any cannabis produced by the plants in excess of 28.5 grams shall be kept within a fully enclosed structure and be secured by lock and key or other security device which prevents unauthorized entry and is inaccessible to minors.
 - f. The use of gas products (e.g., CO2, butane, propane, etc.) for cannabis cultivation and/or any other processing or manufacturing of cannabis products is prohibited at private residential dwelling units.
 - g. The use of generators is prohibited, except as emergency back-up systems.
 - h. The cultivation of cannabis shall not adversely affect the health or safety of nearby residents, or cause annoyance or discomfort to any reasonable person of normal sensitiveness, by creating glare, heat, noxious gasses, odor, smoke, vibration, or other impacts, or be hazardous due to the use or storage of materials, processes, products, or wastes.
5. **Accessory Use.** Cannabis cultivation for personal use shall be clearly secondary to the full-time use of the property as a residence and the residence shall maintain a fully functional kitchen, bathroom(s), and primary bedroom. These rooms shall not be used for personal cannabis cultivation where such cultivation will prevent their primary use for sleeping, bathing, and/or preparation of meals.
6. **Prohibited Uses.** A private residential dwelling unit shall not be used for the commercial cultivation of cannabis or the operation of any other cannabis business and cannabis cultivation is prohibited as a home occupation.
7. **Residency Requirement.** A full-time resident shall reside on the premises where the cultivation of cannabis is occurring and said resident shall be either 21 years of age or older, a qualified patient, or a primary caregiver.
8. **Landlord Authorization.** Nothing in this section is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting personal cultivation of cannabis by tenants or from requiring tenants to obtain written consent from the landlord prior to any cultivation commencing.
- D. **Enforcement.** A violation of this Section is unlawful and any person that violates any of the provisions of this Section may be prosecuted for an infraction or a misdemeanor pursuant to Title 1, Chapter 1.12 of this Code. Notwithstanding the foregoing, this Section does not authorize a criminal prosecution, arrest, or penalty inconsistent with or prohibited by Section 11362.7 et seq. or Section 11357 et seq. of the California Health and Safety Code. In the event of a conflict between the penalties set forth in Title 1, Chapter 1.12 of this Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.

Attachment 2

Changes to Municipal Code Chapter 5.38

Chapter 5.38 – Commercial Cannabis Permits

5.38.010	Applicability
5.38.020	Definitions
5.38.030	Commercial Cannabis Permit
5.38.040	Commercial Cannabis Permit Application Process
5.38.050	Review of Application for Commercial Cannabis Permit
5.38.060	Commercial Cannabis Permit Renewal and Grounds for Denial
5.38.070	Fees
5.38.080	Commercial Cannabis Permit Nontransferable
5.38.090	Commercial Cannabis Operating Requirements
5.38.100	Additional Cultivation, Manufacture, and Testing Requirements
5.38.110	Suspension or Revocation of a Commercial Cannabis Permit
5.38.120	Procedures for Suspension or Revocation
5.38.130	Appeals
5.38.140	Service Requirements
5.38.150	Enforcement and Penalties

5.38.010 Applicability

The requirements in this Chapter apply to all commercial cannabis business within the Town. These requirements do not apply to personal use of cultivation and cannabis.

5.38.020 Definitions

The following words and phrases, wherever used in this Chapter, shall have the meanings set forth below.

Applicant. A person who has submitted an application for a permit or renewal of a permit issued pursuant to this Chapter. If the applicant is an entity and not a natural person, applicant shall include all persons having a 20 percent or more financial interest in the entity.

Application. The form provided by the Town of Mammoth Lakes in accordance with this Chapter for the purpose of seeking a commercial cannabis permit.

Cannabis. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

Cannabis Product. Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

Cannabis Review Authority. The Cannabis Review Authority is comprised of Town staff that have the responsibility and authority to review and approve or deny commercial cannabis permits. The review authority includes, but is not limited to, town staff from the Community and Economic Development Department, the Finance Department, and the Police Department. “Review Authority” shall have the same meaning.

Canopy. All areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.

Chief of Police. The Chief of Police for the Town of Mammoth Lakes Police Department or his/her designee.

Commercial Cannabis Activity. Any commercial activity (i.e., non-personal use) involving the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products.

Commercial Cannabis Operation. An entity that engages in commercial cannabis activities.

Commercial Cannabis Permit. A permit issued by the Town of Mammoth Lakes to an applicant to perform commercial cannabis activities under this Chapter. “Permit” shall have the same meaning.

Hearing Officer. The designated person that conducts administrative hearings for appeals of any action taken pursuant to this Chapter. The person designated as the Hearing Officer for appeals pursuant to this Chapter is the Town Manager.

Medicinal Cannabis or Medicinal Cannabis Product. Cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

Owner. An owner shall mean any of the following:

1. A person with an aggregate ownership interest of 20 percent or more in the person applying for a permit or a permittee, unless the interest is solely a security, lien, or encumbrance;
2. The chief executive officer of a nonprofit or other entity; or
3. An individual who will be participating in the direction, control or management of the person applying for a permit.

Permittee. The person issued a Town permit under this Chapter.

Person. Any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

Premises. The designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted.

Primary Caregiver. “Primary caregiver” shall have the same meaning as in Section 11362.7 of the California Health and Safety Code, as it may be amended from time to time. A person asserting primary caregiver status must establish by written documentation that (1) he or she has been designated as such by the medicinal cannabis patient and (2) he or she is a person “who has consistent assumed responsibility for the housing, health, or safety of the patient.”

Property Owner. The individual or entity who is the record owner of the subject property or premises where commercial cannabis activities are located or are proposed to be located.

Qualified Patient. “Qualified Patient” shall have the same meaning as in Section 11362.7 of the California Health and Safety Code, as it may be amended from time to time.

State. State of California

State License. A state license issued pursuant to California Business and Professions Code Sections 26000, et seq.

Town. Town of Mammoth Lakes

5.38.030 Commercial Cannabis Permit

- A. Any person who intends to engage in a commercial cannabis activity shall obtain a commercial cannabis permit for the fixed location in which the commercial cannabis activity is to occur. Each separate location where commercial cannabis activities are to occur will require a separate commercial cannabis permit.
- B. It is unlawful for any person to conduct, engage in, or allow to be conducted or engaged in a commercial cannabis activity within the Town, unless the Town has issued such person a permit under this Chapter and the permit is in effect. Notwithstanding the above, the permits issued under this Chapter do not provide any protection or immunity for any person from state or federal laws, or from protection pursuant to any applicable state or federal laws.
- C. The fact that an applicant possesses other types of State or Town permits or licenses, shall not exempt the applicant from obtaining a commercial cannabis permit under this Chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this Chapter, except that the commercial cannabis permit must be consistent with the land use entitlement issued by the Town pursuant to Municipal Code Title 17.
- D. The applicant must receive all necessary land use entitlements as required by Municipal Code Title 17 before the Town will issue a commercial cannabis permit under this Chapter.
- E. All of the following activities are exempt from the commercial cannabis permit requirements under this Chapter:
 - 1. Possession, storage, manufacturing, or transportation of medicinal cannabis, or cultivation of medical cannabis in an amount consistent with Section 11362.77 of the California Health and Safety Code by a qualified patient, as that term is defined in Section 11362.7 of the California Health and Safety Code, provided the qualified patient possesses, stores, manufactures, transports, or cultivates cannabis exclusively for his or her personal medical use, and does not provide, donate, sell, or distribute cannabis to any other person. Qualified

patients shall, upon request, provide appropriate documentation to law enforcement demonstrating that they have a valid physician's recommendation to use cannabis for medicinal purposes.

2. Possession, storage, manufacturing, or transportation of medicinal cannabis, or cultivation of medicinal cannabis in an amount consistent with Section 11362.77 of the California Health and Safety Code by a primary caregiver on behalf of a qualified patient, within the meaning of Section 11362.7 of the California Health and Safety Code, provided the primary caregiver does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the California Health and Safety Code and the primary caregiver does not act on behalf of more than three (3) qualified patients. Primary caregivers shall, upon request, provide appropriate documentation to law enforcement demonstrating that they are a primary caregiver for a maximum of three (3) qualified patients.
3. Possession, processing, storage, transportation, or donation of not more than 28.5 grams (i.e., 1 ounce) of cannabis or not more than eight (8) grams of concentrated cannabis to persons 21 years of age or older by persons 21 years of age or older pursuant to Section 11362.1 of the California Health and Safety Code.
4. The cultivation of up to six (6) living cannabis plants by persons 21 years of age or older as allowed pursuant to Section 11362.1 of the California Health and Safety Code.

5.38.040 Commercial Cannabis Permit Application Process

- A. Each application for the establishment of a commercial cannabis permit shall be filed with the Town's Community and Economic Development Department on the form and in the manner prescribed by the Cannabis Review Authority. The Cannabis Review Authority shall be responsible for administering the application process set forth in this Chapter.
- B. In all cases, the application shall contain, without limitation, the following documentation:
 1. All applicants' and owners names, mailing addresses, phone numbers, and e-mail addresses.
 2. A 24-hour or night-time contact phone number.
 3. The physical address and assessor parcel number (APN) of the property upon which the proposed commercial cannabis operation will be located.
 4. Proof of ownership of the premises, or if the premises on which the commercial cannabis operation is to occur is rented or leased, a copy of the lease signed by the property owner. A signed affidavit from all persons and entities having a right, title, or interest in the premises that is the subject of the application consenting to the application and the operation of the proposed commercial cannabis activity on the subject premises is required.
 5. A scaled diagram of the premises, showing, without limitation, a site plan of the entire property, all entry ways and exits to the building(s), parking areas, delivery/truck loading areas, trash enclosures, fences, walls, site lighting, and a floor plan showing the layout of

the interior space(s) and identifying all areas where commercial cannabis activities will occur.

6. If the applicant is a business entity or any form of 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 California Secretary of State, if applicable.
7. The full name, date of birth, present address and previous addresses for the past five years of all owners, supervisors, and employees of the commercial cannabis activity that is the subject of the application or, if the applicant is an entity, having a 20 percent or more financial interest in the entity.
8. The businesses, occupations, and employment history for the ten years immediately preceding the date of the application that all persons responsible for the operation of the commercial cannabis activity, including owners and managers, have been involved in.
9. All owners, supervisors, and employees of the commercial cannabis activity shall submit the following information to allow the Chief of Police to conduct a background check and investigation:
 - a. The name, address, phone number, and fingerprints of each person identified above.
 - b. For each person identified above, a list of each criminal conviction, if any, whether each such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the location of the arrest, the offense charged, the court in which the applicant was prosecuted, and the offense of which the applicant was convicted.
 - c. Such other information as may be required by the Chief of Police.
10. A copy of all applicants', supervisors', and employees' state issued driver's license or other form of identification.
11. The names and address of any other commercial cannabis operations currently being operated by the applicant or owner, or that had previously been operated by the applicant or owner, and a statement of whether the authorization for any such operation had been revoked or suspended and, if so, the reason therefor.
12. A complete description of the type, nature, and extent of the commercial cannabis activities to be conducted.
13. A description of the type of State license(s) that will be required for the proposed operations pursuant to California Business and Professions Code Sections 26000, et seq., including a description of the proposed total canopy area of any cultivation or nursery operation.
14. A detail of the procedures to be utilized at the premises including a description of how chemicals, pesticides and fertilizers will be stored, handled, used and disposed of; and if

applicable, manufacturing methods, the transportation process, inventory procedures, and quality control procedures.

15. A security plan outlining the on-site security measures, both physical and operational, that ensure the safety of persons and the protection of the premises from theft. The plan shall include, at a minimum, installation of security cameras, installation of electronic locking mechanisms, continuous operation of a commercial burglary and robbery alarm system that is monitored by a state-licensed operator, use of security guards when required by State regulations, and an annual written security assessment of the site by a qualified professional. The security plan must also include a lighting plan showing exterior and interior lighting that will be implemented to provide adequate security.
16. Proposed hours of operation.
17. A waste disposal plan.
18. If applicable, provide the applicant's seller's permit number issued pursuant to Part 1 (Commencing with Section 6001) of Division 2 of the California Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.
19. A statement by the applicant that it has the ability to comply with all laws regulating businesses in the State of California and that it shall maintain compliance during the term of the permit.
20. Authorization for the Town, its agents, and employees to seek verification of the information contained in the application.
21. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
22. Any other information required by the Town.

5.38.050 Review of Application for Commercial Cannabis Permit

- A. The Review Authority shall review the application for a commercial cannabis permit and associated documents and shall require, if he or she deems necessary, additional information to complete the application. The Review Authority may deem the application incomplete if it does not contain all required information and documents. Upon notification that an application is incomplete, the applicant shall have ten (10) calendar days to submit all materials required to complete the application. If the application remains incomplete in excess of ten (10) calendar days, the application shall be deemed withdrawn.
- B. An application shall not be deemed complete unless all required application fees have been paid.
- C. Each commercial cannabis permit shall be granted for a one (1) year period and shall expire one (1) year after the date of its issuance.
- D. Upon review of a complete application for a commercial cannabis permit, the Review Authority shall grant the application if:

1. The proposed commercial cannabis activities will comply with all the requirements of the State and the Town's Municipal Code;
2. The applicant has received all necessary land use entitlements as required by Municipal Code Title 17;
3. The proposed commercial cannabis activity will comply with all provisions of this Chapter;
4. The Chief of Police has approved the application based on the following criteria:
 - a. Whether the location is identified as having calls for police services significantly in excess of the average number of calls for services for similar businesses during the most recent reporting period for which statistics are available.
 - b. Whether the floor plan, security plan and lighting plan incorporate features sufficient to reduce or eliminate potential crime-related problems.
 - c. Whether any of the owners, supervisors, or employees of the commercial cannabis activity have violated any local or state law, statute, rule or regulation respecting the distribution, possession or consumption of illegal drugs or controlled substances.
 - d. Whether any of the owners of the commercial cannabis activity have engaged in unlawful, fraudulent, unfair, or deceptive business practices or acts.
 - e. Whether any of the owners, supervisors, or employees of the commercial cannabis activity have knowingly made a false statement of material fact or have knowingly omitted to state a material fact in a permit application, or have provided false, inaccurate, or otherwise misleading information, or failed to submit or otherwise refuse to submit to fingerprinting.
 - f. Whether any of the owners, supervisors, or employees of the commercial cannabis activity have committed any act involving dishonesty, fraud, or deceit with intent to substantially benefit him or herself, or another, or substantially injure another, or has engaged in illegal use, possession, distribution, or similar action relating to illegal drugs or controlled substances.
 - g. Notwithstanding the above, an applicant shall not be denied solely on the basis that the applicant or any of the owners, supervisors, or employees have been convicted of a felony if the applicant has obtained a certificate of rehabilitation under California law or solely on the basis that the applicant has been convicted of a misdemeanor if the applicant has met all applicable requirements of rehabilitation pursuant to California law.
5. If applicable, the applicant has obtained a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the California Revenue and Taxation Code.

E. The Review Authority may deny any application that meets any of the following criteria:

1. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application;
 2. Any owner, supervisor, or employee of the commercial cannabis activity has been convicted of a felony, as specified in subdivision (c) of Section 667.5 and subdivision (c) of Section 1192.7 of the California Penal Code, or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;
 3. If the Chief of Police determines that there is a substantial risk to the community based on the criteria in Section 5.38.050 of this Chapter.
 4. If applicable, the applicant failed to obtain or maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the California Revenue and Taxation Code.
 5. If any person who is listed on the application is less than 21 years of age;
 6. If the proposed commercial cannabis activity does not comply with the provisions of this Chapter or State law; or
 7. If the applicant has not received all necessary land use entitlements as required by Municipal Code Title 17.
- F. If the Review Authority intends to deny the application, the Review Authority shall specify in writing the reason for the denial of the application, and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to Section 5.38.130 of this Chapter within ten (10) calendar days of the date of service of the Review Authority's decision. Service of the decision shall be provided in accordance with the requirements set forth in Section 5.38.140 of this Chapter.

5.38.060 Commercial Cannabis Permit Renewal and Grounds for Denial

- A. Each commercial cannabis permit shall expire one (1) year after the date of its issuance. Any permit may be renewed by the Review Authority upon the submission of a renewal application by the permittee and upon determination by the Review Authority that the applicant meets the standards for grant of application pursuant to Section 5.38.050 of this Chapter. At the time of consideration of a renewal application, the Review Authority shall consider compliance with conditions in the prior term.
- B. An application for renewal shall be filed with the Review Authority at least sixty (60) calendar days before expiration of the permit. If any of the documentation and information supplied by the applicant pursuant to Section 5.38.040 has changed since the grant of the permit, the applicant shall submit updated information and documentation with the application for renewal and shall provide such other information as the Review Authority may require.
- C. If a commercial cannabis permit expires without being renewed, the permittee of the expired permit must apply for a new permit pursuant to this chapter. Operations at the location shall cease until such new permit is issued.

- D. Any application for renewal may be denied if:
1. The application is filed fewer than sixty (60) calendar days before its expiration;
 2. The permittee fails to conform to the criteria set forth in this Chapter;
 3. The permittee is delinquent in payment of Town taxes on commercial cannabis activity; or
 4. The permit is suspended or revoked at the time of the application.
- E. If a renewal application is denied, an applicant may file a new application pursuant to this Chapter.
- F. An application for renewal shall not be deemed complete until all application fees have been paid.
- G. If the Review Authority intends to deny the renewal, the Review Authority shall specify in writing the reasons for the denial of the renewal, and notify the permittee that the decision shall become final unless the permittee seeks an appeal pursuant to Section 5.38.130 of this Chapter within ten (10) calendar days of the date of service of the Review Authority's decision. Service of the decision shall be provided in accordance with the requirements set forth in Section 5.38.140 of this Chapter.

5.38.070 Fees

The filing of an application for a commercial cannabis permit and for the renewal of a commercial cannabis permit shall be accompanied by payment of such fees as the Town Council may establish to recover the cost of administration of this Chapter. Permit applicants and permittees are responsible for the costs of inspections, regulatory audits, financial audits, investigations, and any other fee-associated activity established by this Chapter. Fees, fines, and costs specified by this Chapter shall be as established by the Town Council and as set forth in the Town of Mammoth Lakes schedule of fees, as may be amended from time to time.

5.38.080 Commercial Cannabis Permit Nontransferable

- A. A commercial cannabis permit does not create any interest in value, is not transferrable, and automatically terminates upon transfer of ownership.
- B. Whenever any individual, corporation, limited liability company, partnership or other type of business entity permitted under this Chapter sells or transfers all or part of its corporate stock, partnership interest, or other business interest in a commercial cannabis operation, a new commercial cannabis permit shall be obtained pursuant to Section 5.38.40 of this Chapter.
- C. A commercial cannabis permit is issued to and covers only the permittee identified on the permit with respect to the premises identified on the permit. The commercial cannabis permit does not run with the land.

5.38.090 Commercial Cannabis Operating Requirements

- A. Throughout the term of the commercial cannabis permit, each permittee shall not violate this Chapter and shall comply with all of the following:
1. A permittee shall not change or alter the premises in a matter which materially or substantially alters the premises, the usage of the premises, or the mode or character of the

business operation conducted from the premises, from the site plan contained in the diagram on file with the application, unless and until written approval by the Review Authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

2. No cannabis shall be smoked, ingested, or otherwise consumed on the premises.
3. No person who is less than 21 years of age may be employed or otherwise engaged in the operation of the commercial cannabis permit.
4. No person under the age of 21 years of age shall be allowed on the premises.
5. Each permittee shall conspicuously display its permit on the premises. Each commercial cannabis operation that engages in transportation shall carry a copy of the permit in all vehicles that transport cannabis or cannabis products.
6. Odor prevention devices and techniques, such as a ventilation system with a carbon filter, shall be incorporated to ensure that odors from cannabis are not detectable off-site.
7. A permittee shall not allow any alcohol to be stored, sold, displayed, or consumed on the premises.
8. A permittee shall not allow any tobacco products to be stored, displayed, sold, or consumed on the premises.
9. No cannabis or cannabis products, or graphics depicting cannabis or cannabis products shall be visible from the exterior of the premises.
10. All cannabis and cannabis products shall be stored in a secured and locked safe room, safe, or vault, and in a manner to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.
11. Each permittee shall keep accurate records of its commercial cannabis activities pursuant to the requirements of Sections 26120 and 26162 of the California Business and Professions Code, as they may be amended.
12. Each permittee shall be responsible and liable for safety and security in and around the commercial cannabis operation, and shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of the persons and to protect the premises from theft and other crimes. Each permittee shall install and maintain in proper working order, video monitoring equipment capable of providing surveillance of both interior and exterior areas of the permitted establishment. Each permittee shall maintain such surveillance video tapes for a period of at least ninety (90) days and shall make such videotapes available to the Town upon demand.
13. Each permittee shall notify the Mammoth Lakes Police Department immediately after discovering any of the following: diversion, theft, loss, or any criminal activity involving

the commercial cannabis operation; significant discrepancies identified during inventory, or any other breach of security.

14. Each permittee shall provide the Review Authority with the name, telephone number, and e-mail address of a community relations contact to whom the public can provide notice of problems associated with the commercial cannabis operation. The permittee shall make a good faith effort to resolve problems without the need for intervention by the Town.
 15. Any new owners, employees, or other persons otherwise engaged in the operation of the commercial cannabis operation must submit their information to the Review Authority within ten (10) days prior to their new employment or engagement, including fingerprints and other necessary information for a criminal background check.
 16. No owner, supervisor, or employee may have been convicted of a felony, as specified in subdivision (c) of Section 667.5 and subdivision (c) of Section 1192.7 of the California Penal Code, or a drug or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 17. A permittee shall not be delinquent in the payment of all applicable State and Town taxes and fees.
 18. A permittee shall follow all local and state requirements for waste disposal.
 19. The premises where the commercial cannabis operation is located must at all times have valid land use entitlements as required by Municipal Code Title 17 and the land use entitlements must be operative.
 20. When applicable, the permittee must legally hold all required State licenses under the Medicinal and Adult-Use Cannabis Regulatory and Safety Act (MAUCRSA) (California Business and Professions Code Sections 26000, et seq.), as it may be amended, and under all other applicable State codes.
- B. At any time between 9:00 a.m. and 5:00 p.m. and without notice, Town officials may enter the premises for the purpose of observing compliance of the commercial cannabis operation with this Section, including access to and inspection of the commercial cannabis operation's records, books, accounts, financial data, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination.
- C. It is unlawful for any person having any responsibility over a commercial cannabis operation to refuse to allow, impede, obstruct, or interfere with an inspection, or the review of the copying of records and monitoring (including recordings) including, but not limited to, the concealment, destruction, and falsification of any recordings or records.

5.38.100 Additional Cultivation, Manufacture, and Testing Requirements

- A. The canopy area of cannabis located at any cultivation facility shall not exceed the maximum canopy limits set by State law. The commercial cannabis permit shall specify the maximum canopy limit allowed by the permit.

- B. Each permittee must follow all pesticide use requirements of local, state, and federal law and pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife. A permit from the California Department of Food and Agriculture is required for the use of pesticides,
- C. Each permittee must maintain all weighing devices in compliance with local, state, or federal law and comply with the registration requirements of the California Department of Food and Agriculture.
- D. In no case shall any hazardous, flammable, or explosive substances be used to process or manufacture cannabis products on-site unless all necessary permits have been obtained from the Mammoth Lakes Fire Protection District, and any other appropriate agencies.
- E. All food products, food storage facilities, food-related utensils, equipment, and materials shall be approved, used, managed, and handled in accordance with Sections 113700 – 114437 of the California Health and Safety Code, and California Retail Food Code. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health, and free from communicable diseases.

5.38.110 Suspension or Revocation of a Commercial Cannabis Permit

Any of the following shall be grounds for suspension or revocation of a commercial cannabis permit, based on substantial evidence and following the procedures outlined in Section 5.38.130 of this Chapter.

- A. Failure to comply with one or more of the terms and conditions of the commercial cannabis permit.
- B. The commercial cannabis permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant.
- C. Any act or omission by a permittee in violation of the provisions of this Chapter.
- D. Any act or omission by a permittee in violation of State law, or the Town's Municipal Code.
- E. Any act or omission by a permittee that results in the suspension or revocation of the applicable use permit issued under Municipal Code Title 17 for the commercial cannabis activities.
- F. Any act or omission by a permittee that results in the denial, revocation, or suspension of that permittee's State license.
- G. Failure to pay applicable State or Town taxes or fees on commercial cannabis activity.
- H. Conduct of the commercial cannabis operations in a manner that constitutes a nuisance, where the permittee has failed to comply with reasonable conditions to abate the nuisance.

5.38.120 Procedures for Suspension or Revocation

- A. Upon determining grounds for suspension or revocation of the commercial cannabis permit exist pursuant to Section 5.38.110 of this Chapter, the Town will issue the permittee a written Notice of Intention to suspend or revoke the permit, as the case may be. The Notice of Intention shall be served on the permittee, as reported on the permit, and on the property owner. The Notice of Intention shall describe the premises, the intention to revoke or suspend the permit, the time limit

for compliance, and the right to an appeal hearing. The Notice of Intention shall notify the permittee and the property owner to request an appeal hearing before the Board of Review to present evidence as to why the permit should not be suspended or revoked, and shall notify them of the ten (10) day deadline to submit a written request for an appeal hearing.

- B. The permittee shall have ten (10) calendar days from the service of the Notice of Intention to submit a written request for an appeal hearing before the Board of Review. Failure to submit the written request for an appeal hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the commercial cannabis permit and a failure to exhaust administrative remedies. If the request is not timely requested, the Town may suspend or revoke the permit in accordance with the Notice of Intention. If the permittee files an appeal hearing request within the time and manner prescribed, the permit shall remain in effect until the appeal is finally determined.
- C. If a written request for an appeal hearing is submitted, the processing of the appeal shall be conducted as set forth in Section 5.38.130 of this Chapter.

5.38.130 Appeals

Appeals of any action taken pursuant to this Chapter shall be heard by the Hearing Officer at an Administrative Hearing.

- A. Upon receipt of a timely written request for an appeal hearing, the Review Authority shall set a date for an administrative hearing to be held within thirty (30) days of receipt of the request, unless an immediate threat to the public health, safety, and welfare necessitates an earlier hearing date. Notice of the administrative hearing, including the time, date, and location of the hearing, shall be served in accordance with the requirements set forth in Section 5.38.140 of this Chapter.
- B. Administrative Hearing
 - 1. At the hearing, the permittee, or their representative, and the review authority representative shall have the opportunity to testify and submit evidence as they believe to be relevant to their respective positions. The Hearing Officer may require the presentation of additional evidence from either the permittee or the Review Authority representative, or both. The Hearing Officer may continue the hearing from time to time for the purpose of allowing the presentation of additional evidence.
 - 2. Upon completion of the hearing, the Hearing Officer may:
 - a. Affirm the decision of the Review Authority;
 - b. Reverse the Review Authority's decision; or
 - c. Refer the matter to the Town Council.
 - 3. Written notice of the Hearing Officer's decision shall be given to the permittee and the written decision shall constitute the final administrative decision of the Town.
 - 4. In the event a civil action is initiated to obtain enforcement of the decision of the Hearing Officer, and judgment is entered to enforce the decision, the person against whom the order

of enforcement has been entered shall be liable to pay the Town's total costs of enforcement, including reasonable attorney fees.

5. If the permittee, or their representative, fails to appear at the noticed hearing, such failure to appear shall constitute an abandonment of the appeal hearing request and a failure to exhaust administrative remedies.

5.38.140 Service Requirements

Wherever this Chapter requires the Town to serve notice to an applicant, permittee, or property owner, such notice shall be given by the Review Authority, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice may be posted at the physical address of the premises on the date of the mailing of notice.

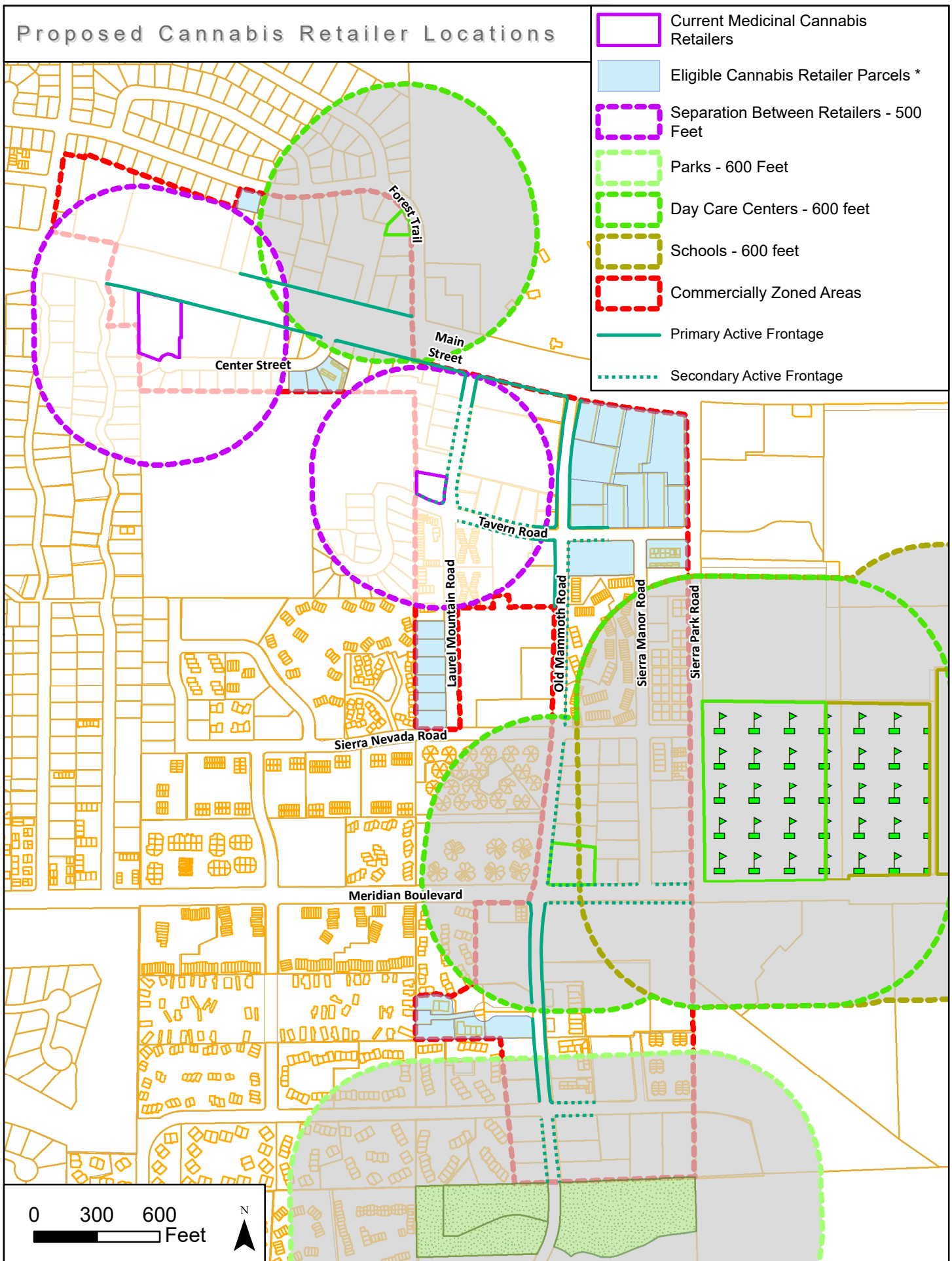
5.38.150 Enforcement and Penalties

A violation of this Section is unlawful and any person that violates any of the provisions of this Section may be prosecuted for an infraction or a misdemeanor pursuant to Title 1, Chapter 1.12 of this Code.

Attachment 3

Buffer Area Maps – Commercial Zones and Industrial Zones

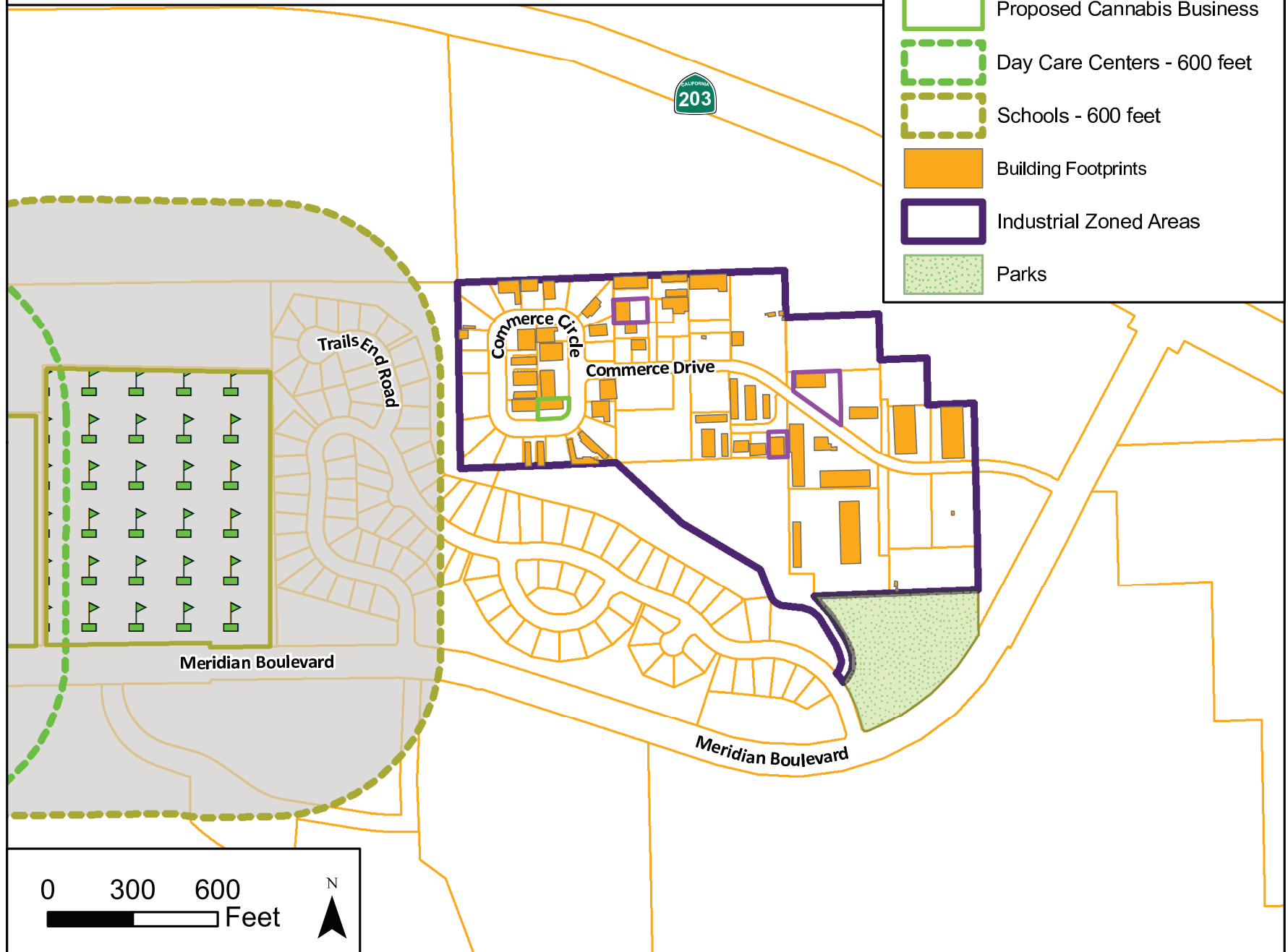
Proposed Cannabis Retailer Locations



* Limited to no more than 75% of the ground floor when located along Primary and Secondary Active Frontages and are not permitted within the front 20 feet of the building frontage, unless an Administrative Permit is approved for the reduced depth.

Proposed Industrial Buffers

- Existing Cannabis Business
- Proposed Cannabis Business
- Day Care Centers - 600 feet
- Schools - 600 feet
- Building Footprints
- Industrial Zoned Areas
- Parks



Attachment 4

Ordinance 17-09

Moratorium on the Establishment or Expansion of Cannabis Businesses

ORDINANCE NO. 17-09

**INTERIM URGENCY ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF
CALIFORNIA, EXTENDING A MORATORIUM ON THE
ESTABLISHMENT OR EXPANSION OF CANNABIS BUSINESSES
PURSUANT TO GOVERNMENT CODE SECTION 65858**

WHEREAS, the voters of the State of California approved Proposition 215, entitled the Compassionate Use Act of 1996, the intent of which was to enable persons in need of marijuana (also known as cannabis) for medicinal purposes to obtain and use it under limited, specified circumstances; and

WHEREAS, in 2015 the California Legislature adopted a series of laws collectively comprising the Medical Cannabis Regulation and Safety Act (MCRSA), establishing a framework for the licensure and regulation of medical cannabis; and

WHEREAS, Proposition 64, also known as the Adult Use of Marijuana Act (AUMA), was approved by the voters on November 8, 2016. As a result, it is no longer illegal under state law, regardless of medical purposes, to: (1) possess, process, transport, purchase, obtain, or give away certain amounts of marijuana or concentrated cannabis, including as contained in marijuana products, to those 21 years old or older; (2) possess, plant, cultivate, harvest, dry, or process not more than six living plants and the marijuana produced by those plants; (3) smoke or ingest marijuana or marijuana products; and (4) possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories without compensation to those 21 years old or older; and

WHEREAS, to regulate the commercial non-medical marijuana industry, the AUMA added Division 10 to the California Business and Professions Code, establishing state licensing requirements for commercial marijuana activity, defined as the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery, or sale of marijuana and marijuana products, regardless of medical purposes and granting state agencies the "exclusive authority to create, issue, renew, discipline, suspend, or revoke" licenses for businesses including the transportation, storage, distribution, sale, cultivation, manufacturing, and testing of marijuana, except as otherwise authorized. The AUMA states that these state agencies shall create the rules and regulations relating to these activities and begin issuing licenses by January 1, 2018; and

WHEREAS, the AUMA allows local governments authority to prohibit or regulate commercial marijuana activities and subject the commercial marijuana activities to zoning and permitting requirements; and

WHEREAS, in June 2017 the California Legislature adopted the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which repealed MCRSA and further developed the state's regulatory framework for both medicinal and non-medicinal marijuana, while preserving the authority of cities and counties to determine whether and how to allow medicinal and non-medicinal marijuana businesses, commercial cultivation, and sales to occur within their jurisdictions, and

WHEREAS, in September 2017 the California Legislature adopted Assembly Bill (AB) 133, which further developed the state's regulatory framework for both medicinal and non-medicinal marijuana and clarified and corrected some elements of the MAUCRSA; and

WHEREAS, the Town of Mammoth Lakes currently regulates the production and sale of marijuana for medicinal purposes through the Mammoth Lakes Municipal Code, but does not have explicit land use, zoning, and permitting requirements or prohibitions in place regarding commercial cannabis activities; and

WHEREAS, the California Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, if the State of California begins issuing licenses for commercial non-medicinal marijuana activities prior to the Town adopting appropriate land use, zoning, and public safety regulations, negative effects on the public health, safety, and welfare would likely occur as a result of commercial non-medicinal marijuana activities near schools, parks, residential zones, and other sensitive receptors; and

WHEREAS, based on the findings herein, the state legalization of commercial marijuana activities in the Town without regulation poses a current and immediate threat to the public health, safety, and welfare in the Town due to the negative land use and public safety impacts of such unregulated uses; and

WHEREAS, it is in the interest of the Town and its residents that the Town undertake a review to consider zoning, land use, and public safety measures to prohibit or regulate commercial marijuana activities and to establish how existing and future medicinal marijuana-related land uses should be regulated in light of the regulation of commercial marijuana activities; and

WHEREAS, on September 6, 2017, the Town Council of the Town of Mammoth Lakes adopted an INTERIM URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, ESTABLISHING A MORATORIUM ON THE ESTABLISHMENT OR EXPANSION OF CANNABIS BUSINESSES PURSUANT TO GOVERNMENT CODE SECTION 65858, Ordinance No. 17-08 (Urgency Ordinance) pursuant to California Government Code Section 65858, and said Urgency Ordinance expires on October 21, 2017; and

WHEREAS, Government Code Section 65858(a) authorizes the Town Council to adopt by four-fifths (4/5) vote an extension to an interim urgency ordinance establishing a moratorium for "10 months and 15 days" after public notice pursuant to Government Code Section 65090 is provided and a public hearing is conducted; and

WHEREAS, on October 18, 2017, the Town Council conducted a duly noticed public hearing on the extension of the Urgency Ordinance, and considered testimony and materials in the staff report and accompanying documents and exhibits; and

WHEREAS, the Town of Mammoth Lakes has previously adopted an interim urgency ordinance pursuant to Government Code section 65858 regulating the operation of medicinal marijuana dispensaries, which ordinance was adopted on November 18, 2009 and subsequently expired as provided by law; and

WHEREAS, Government Code Section 65858(f) permits the Town of Mammoth Lakes, following termination of a previous interim urgency ordinance, to adopt another interim urgency ordinance to protect the public safety, health, and welfare from an event, occurrence or set of circumstances different from the event, occurrence or set of circumstances that led to the adoption of the prior interim urgency ordinance; and

WHEREAS, the Town's previous interim urgency ordinance regulating medicinal marijuana dispensaries was adopted at a time when there was considerable uncertainty regarding cities' authority to regulate medicinal marijuana dispensaries and cities had very little experience with regulating medicinal marijuana dispensaries and observing the effects of the operation of dispensaries on neighborhoods and communities, and the Town wished to have more time to decide how to regulate dispensaries in Mammoth Lakes; and

WHEREAS, following the Town Council's adoption of an ordinance permitting dispensaries to operate, the passage of MCRSA, AUMA, and MAUCRSA has completely changed the treatment of non-medicinal marijuana under state law, and created numerous new issues for the Town to consider in deciding how to regulate medicinal and non-medicinal marijuana, thus satisfying the requirement of Government Code Section 65858(f); and

WHEREAS, the Town of Mammoth Lakes wishes to continue studying its options for regulating the establishment and operation of non-medicinal marijuana businesses and new or expanded medicinal marijuana businesses, land uses, or operations, and wishes to extend the interim ordinance prohibiting: (i) the operation of non-medicinal marijuana businesses in Mammoth Lakes; (ii) the operation of medicinal marijuana businesses, land uses, dispensaries, cooperatives, or facilities that do not have a valid use permit in Mammoth Lakes; and (iii) the issuance of any new use permit, or the amendment of any existing use permit for any purpose other than the expansion of storage space, for any medicinal marijuana businesses, land uses, dispensaries, cooperatives, or facilities in Mammoth Lakes, while the Town studies its options for the regulation of such establishments; and

WHEREAS, the Town Council intends to keep this urgency ordinance in effect only until the adoption of an ordinance that establishes a comprehensive policy as it relates to commercial and medicinal marijuana activities; and

WHEREAS, the Town Council also intends for the Town to continue working on the development of a comprehensive policy regarding commercial and medicinal marijuana activities and enact a policy as soon as possible; and

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The recitals above are incorporated herein.

Section 2. The Town Council hereby finds, determines, and declares that this interim ordinance extending the temporary moratorium as set forth below and adopted pursuant to California Government Code 65858 is necessary because:

A. Certain provisions of AUMA became effective immediately on November 9, 2016, and the AUMA directs the State of California to start issuing licenses for non-medical marijuana-related businesses by January 1, 2018 or sooner. As stated in the recitals, if the State of California begins issuing licenses for commercial non-medical marijuana activities prior to the Town adopting appropriate land use, zoning, and public safety regulations, negative effects on the public health, safety, and welfare would likely occur as a result of commercial non-medical marijuana activities near schools, parks, residential zones, and other sensitive receptors. The AUMA allows local governments to prohibit or reasonably regulate certain activities thereunder.

B. The Town of Mammoth Lakes does not currently have explicit land use, zoning, and permitting requirements in place governing activities relating to commercial marijuana activities.

C. The Town needs time to consider, review, and enact a comprehensive policy relating to commercial marijuana activities, and therefore, it is necessary to suspend any establishment of medicinal or commercial marijuana activities, or the expansion of existing medicinal marijuana activities, as such uses may be in conflict with the development standards and implementation regulations that the Town will ultimately impose after the Town has considered and studied the issue, which shall be accomplished in an expedited fashion.

D. A temporary moratorium will provide the Town with time to study commercial marijuana activities and potential impacts such land uses may have on the public health, safety, and welfare, as well as how medicinal marijuana activities should be regulated in conjunction with commercial marijuana activities.

E. A temporary moratorium will also provide clarity and consistency that the Town will not allow the establishment of commercial non-medical marijuana activities until the Town has established a comprehensive policy regulating such operations and the State of California begins issuing licenses for such operations.

F. There is a current and immediate threat to the public health, safety, and welfare of the Town and its residents, thereby necessitating the extension of this moratorium as an interim ordinance in order to ensure commercial marijuana activities, and new or expanded medicinal marijuana activities, are prohibited in the Town until a comprehensive policy is adopted. Extension of the moratorium will allow the Town sufficient time to conclude the preparation and enactment of a comprehensive ordinance for the regulation of commercial marijuana activities.

Section 3. The following are prohibited pursuant to this ordinance, so long as this ordinance and any extensions are in effect, provided that italicized terms shall be interpreted in accordance with their definitions in the AUMA as amended by the MAUCRSA: (i) the application, establishment, or operation of any *commercial non-medicinal cannabis activities*, defined as the *cultivation*, possession, *manufacture*, *distribution*, processing, storing, laboratory *testing*, labeling, transportation, *delivery*, or *sale* of non-medicinal *cannabis*, *cannabis products*, and *cannabis*

accessories; (ii) the establishment of any new medical marijuana cooperative, cultivation facility, processing facility, or other land use or activity that does not have a valid use permit and for which a permit is required pursuant to Chapter 5.38, Chapter 17.24, Chapter 17.28, and/or Section 17.68.100 of the Mammoth Lakes Municipal Code; and (iii) the issuance of any new use permit, or the amendment of any existing use permit for any purpose other than the expansion of storage space, for any existing and/or approved medical marijuana cooperative, cultivation facility, processing facility, or other related land use or activity for which a permit is required pursuant to Chapter 5.38, Chapter 17.24, Chapter 17.28, and/or Section 17.68.100 of the Mammoth Lakes Municipal Code.

Section 4. The Town Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5. Pursuant to Section 65858(d) of the Government Code, a written report has been issued by the Town Council of the Town of Mammoth Lakes describing the measures that have been taken thus far to alleviate the condition which led to the adoption of the Interim Urgency Ordinance.

Section 6. The Town Council hereby adopts the extension of the interim urgency ordinance for “10 months and 15 days” to September 6, 2018 by not less than a four-fifths vote, and in light of the findings set forth herein, under the authority granted to it by Article XI, Section 7 of the California Constitution and Section 65858(a) of the California Government Code, which allows the Town to extend an interim urgency ordinance after public notice is given pursuant to Government Code Section 65090 and a public hearing is conducted, in order to protect the public safety, health, and welfare, prohibiting any uses that may be in conflict with a zoning proposal that the Town Council, planning commission or the planning department is considering or studying or intends to study within a reasonable time.

Section 7. The Town Council hereby directs the Community and Economic Development Department and Police Department to continue studying possible means of regulating or prohibiting medical marijuana dispensaries, including zoning-based regulations and other regulations.

Section 8. Pursuant to Section 65858(d) of the Government Code, the Town Council shall issue a written report ten (10) days prior to the expiration of this extension of the Interim Urgency Ordinance describing the measures that the Town has taken to alleviate the condition which led to the adoption of this ordinance extension.

Section 9. This ordinance shall become effective immediately upon adoption and shall be in effect for “10 months and 15 days” from the expiration date of the initial 45-day period (i.e., October 21, 2017) and shall expire on September 6, 2018, unless otherwise extended by the Town Council as provided for in Government Code Section 65858.

Section 10. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 11. The Town Clerk shall certify to the passage of this ordinance and cause the same or a summary thereof to be published within fifteen (15) days after adoption in a newspaper of general circulation, printed and published in Mammoth Lakes, California.

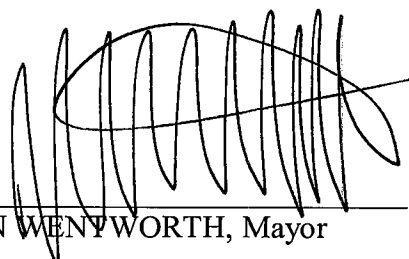
PASSED AND ADOPTED this 18th day of October, 2017 by the following vote:

AYES: Councilmembers Colin Fernie, Shields Richardson, Bill Sauser, and Mayor John Wentworth

NOES:

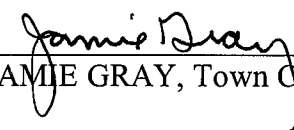
ABSENT: Mayor Pro Tem Cleland Hoff

ABSTAIN:



JOHN WENTWORTH, Mayor

ATTEST:



JAMIE GRAY, Town Clerk

Attachment 5

Peer Resort Comparison, November 2017



Community & Economic Development

P.O. Box 1609, Mammoth Lakes, CA, 93546

(760) 965-3630

www.townofmammothlakes.ca.gov

DATE: NOVEMBER 8, 2017

TO: TOML CANNABIS WORKING GROUP

FROM: NOLAN BOBROFF, ASSISTANT PLANNER

RE: PEER RESORT COMPARISON OF CANNABIS REGULATIONS AND ISSUES

This comparison report is intended to provide insight into what other peer resort communities in Colorado allow with regards to cannabis and highlight some of the unique issues that have arisen since recreational cannabis use in Colorado was legalized in January 2014. The comparison resorts were selected based on the community's physical similarities to Mammoth Lakes (i.e., proximity to a major ski resort, full-time population, and proximity to major cities). Mammoth Lakes and all of the cities selected have a relatively low full-time population base, but are popular winter and summer resort destinations for the nearby large population centers (i.e., Los Angeles, Denver, Colorado Springs, Fort Collins, Boulder, etc.) and their population during the busy periods of the year can radically increase by tens of thousands of people. Additionally, the communities are adjacent to a major ski resort(s) and are largely surrounded by public lands (i.e., National Forest, BLM, etc.) and unincorporated areas that have intermittent development.

Five out of the seven comparison cities allow cannabis establishments in various forms and the remaining two cities prohibit cannabis establishments within the Town limits. However, in those two cities, cannabis establishments are permitted in the adjacent unincorporated areas and cannabis is readily available in those cities despite the prohibition. Each city has taken a different approach to regulation of cannabis establishments and some insights into what has been effective and not effective can be gleaned from the data.

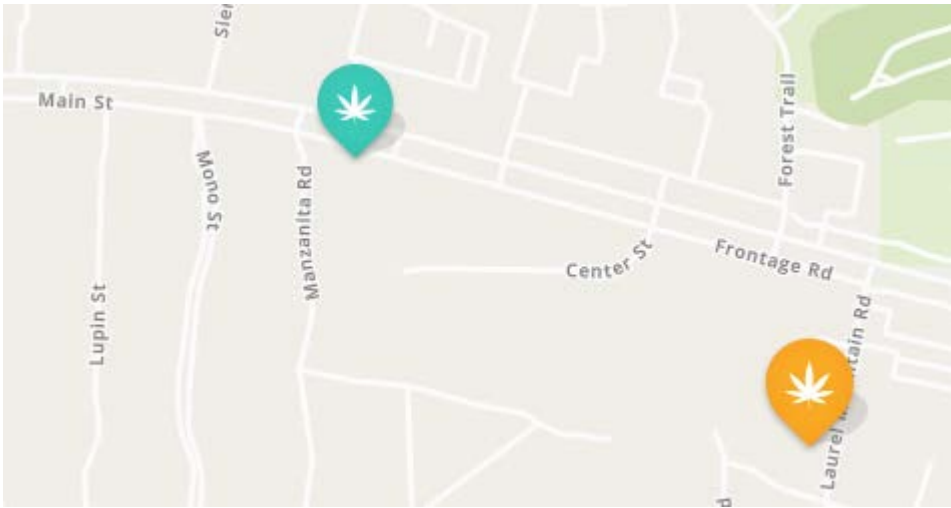
The conclusions made from this analysis and research are:

- Buffers between cannabis retail sales establishments can help prevent an over-saturation of shops in one location or building. In Telluride, the four longtime existing dispensaries began wanting limitations on the number of dispensary licenses and additional regulations regarding the permit locations when a new dispensary opened up directly below a longtime existing dispensary.
- Providing sufficient space that is zoned appropriately and determining the locations where cannabis establishments are most appropriate within the community can lead to a successful cannabis program with minimal conflicts. In Crested Butte, cannabis establishments are only permitted in a 4-block commercial area, which subsequently led to three out of the four being directly next to one another. Alternatively, in Aspen, cannabis establishments are permitted in all of their commercial districts and the majority of their lodging districts and that broad allowance has led to the City questioning whether they need greater restrictions on where cannabis establishments are permitted. In Breckenridge, the City originally approved cannabis

establishments in their downtown commercial areas and later voted to restrict them from the downtown area, which subsequently forced an existing dispensary business to relocate.

- For rural areas, cities and counties need to collaborate on their cannabis policies in order to prevent a situation where one entity prohibits cannabis establishments and the other allows/encourages cannabis establishments. In the case of Vail and Winter Park, the cities elected to prohibit all cannabis establishments, but the uses are permitted in the adjacent unincorporated areas. This has led to a situation where cannabis is readily available within those two cities, but the cities receive no benefits from the sales.
- Having a transition period to allow for existing medical cannabis businesses to convert to recreational cannabis businesses will allow for municipalities to evaluate their regulations prior to the submittal of new applications and will give priority to those existing businesses to convert to recreational.

Limitations on the zoning districts where cannabis establishments are permitted (i.e., specific commercial zones only), buffers from sensitive uses (i.e., schools, parks, day care centers), and buffers between establishments (i.e., X amount of feet between dispensaries) will achieve a regulatory framework that allows for the siting of dispensaries in appropriate locations and ensures that a community will not have an oversaturation of dispensaries in one location. This approach will effectively limit the total number of dispensaries that could be sited within a community without selecting an arbitrary number of dispensaries that are allowed. Determining the correct number of dispensaries in a resort community that experiences large population swings throughout the year is extremely difficult, if not impossible, and cannot be substantiated by data or facts.

MAMMOTH LAKES, CA			
Nearby Resort: Mammoth Mountain		Town Characteristic: ski resort; close proximity to Yosemite; summer festivals and events; destination for Los Angeles	
Size: 4.25 sq. miles	Pop. (2010): 8234	Pop. over 21: 6173	Percentage: 75%
What is permitted: • Maximum of two (2) medical cannabis cooperatives • Cultivation and manufacturing of medical cannabis in the Industrial zone • Cultivation and manufacturing in the commercial zones only when legally and physically connected to a medical cannabis dispensary.			
Current Conditions / Issues: • 2 dispensaries in operation • 3 use permits approved for manufacturing; 1 in operation • Since 2010, 2 attempted break-ins have occurred			
Regulations: • Maximum of two (2) dispensaries • Permitted in the Old Mammoth Road, Downtown, and Industrial zones • 1,000 foot buffer from schools, parks, and libraries when located in a commercial zone • 500 feet between dispensaries • Limited to no more than 75% of the ground floor area when located along primary and secondary active frontages and not permitted in the front 20 feet of the building when on the ground floor (Administrative permit can authorize a reduction of the 20-foot requirement)			
			

TELLURIDE, CO			
Nearby Resort: Telluride		Town Characteristic: ski resort; summer festivals and events	
Size: 2.18 sq. miles	Pop. (2010): 2325	Pop. over 21: 1872	Percentage: 81%
What is permitted: • Retail and medical cannabis sales • Cultivation when associated with a Telluride retailer and/or manufacturer • Manufacturing of infused edible cannabis products • Retail cannabis testing facility			
Current Conditions / Issues: • Treat dispensaries the same as liquor stores and chose to let the market regulate itself; regulate the zones that they are permitted in only • 5 dispensaries (historically have been 4 since retail sales were permitted in 2014) • The 5th and newest dispensary is a larger chain store that recently opened on the ground floor in their historic district in a location that is almost directly beneath a longtime existing dispensary ○ Existing shops worry that the new larger business will threaten their existence by undercutting the others on pricing ○ Existing businesses have all been on the 2nd floor or above, although not required to be ○ Existing businesses want the Town to limit the number of dispensaries and/or ban chain cannabis stores ○ The Town has had minor compliance issues with the newest store related to signage and visibility of the inside of the dispensary due to existing large storefront windows			
Regulations: • Licensing authority processes all cannabis applications • Uses are permitted outright by the Municipal Code; application requires zoning compliance verification and affidavits certifying compliance with state laws • Dispensaries allowed in the Commercial and Historic Commercial zone districts only • No limit on the number of dispensary's or manufacturing facilities • 500 feet from any public or private school • Licenses valid for one (1) year and require annual renewal • Cultivation facilities are required to be contiguous to the licensed premises or be located outside of the Town and associated with said business through a vertically integrated state license • Manufacturers are required to: ○ Have a contract w/ a licenses establishment stating the type and quantity of products that the establishment will buy from the licensee ○ Required to cultivate at least 70% or the cannabis necessary for their operation ○ Are permitted to use cannabis from only 5 cultivators, inclusive of their own cultivation operation • Ordinance's contain a clause stating that if the voters of Telluride vote to prohibit any activity, then all licenses for said activity shall become void and the activity shall become illegal on the effective day of the ordinance			

Medical

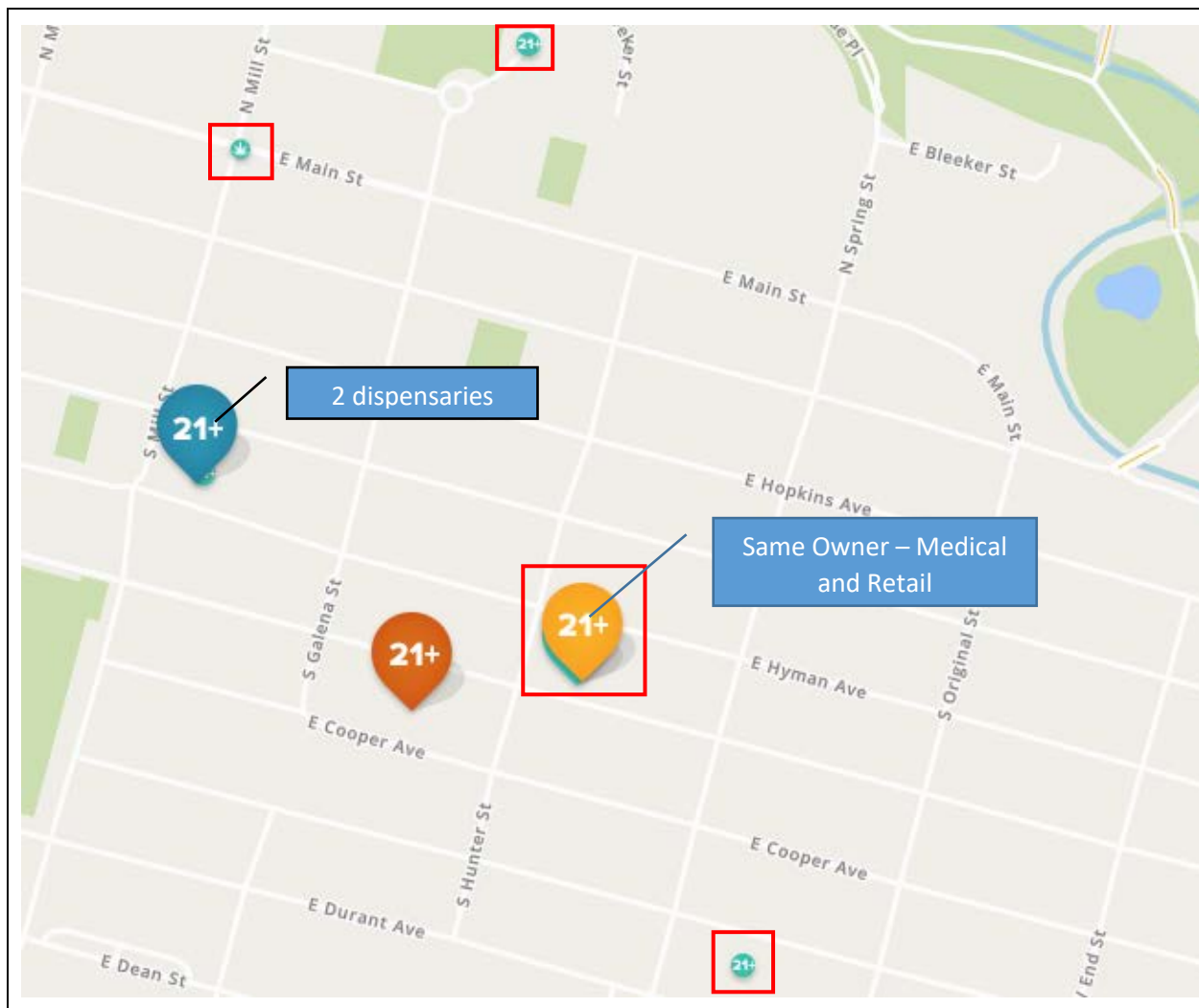
- Dispensaries are required to certify on an annual basis to the State that they cultivate a minimum of 70% of the cannabis they distribute (either through on-site cultivation or through a vertical integration methodology)

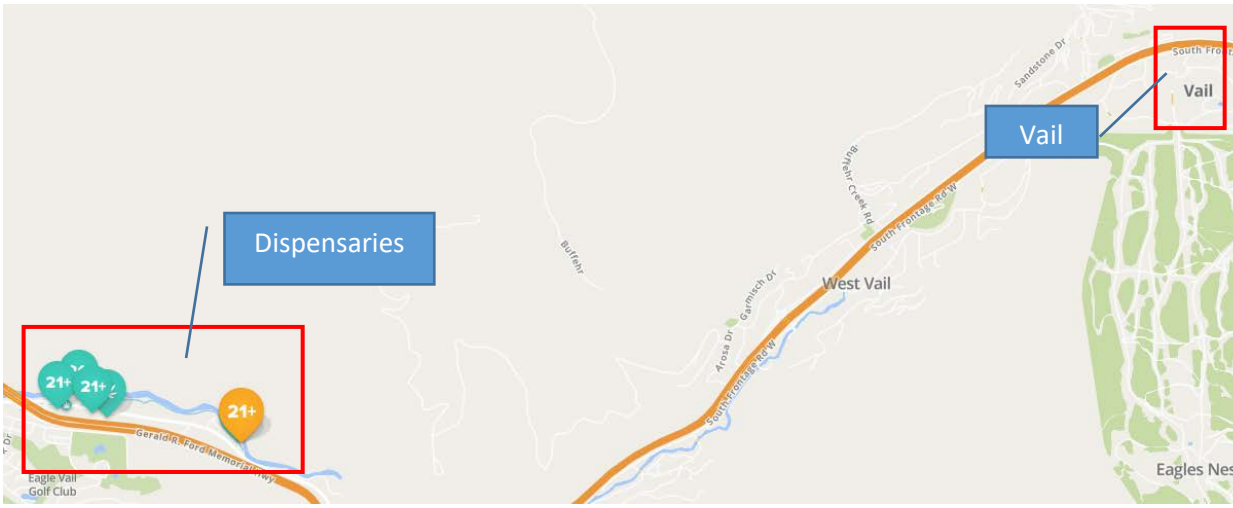
Recreational

- Colocation is allowed in same licensed premises, but premises are required to be separate and distinct (physical wall) or certify by affidavit that it will only sell to those 21 and older

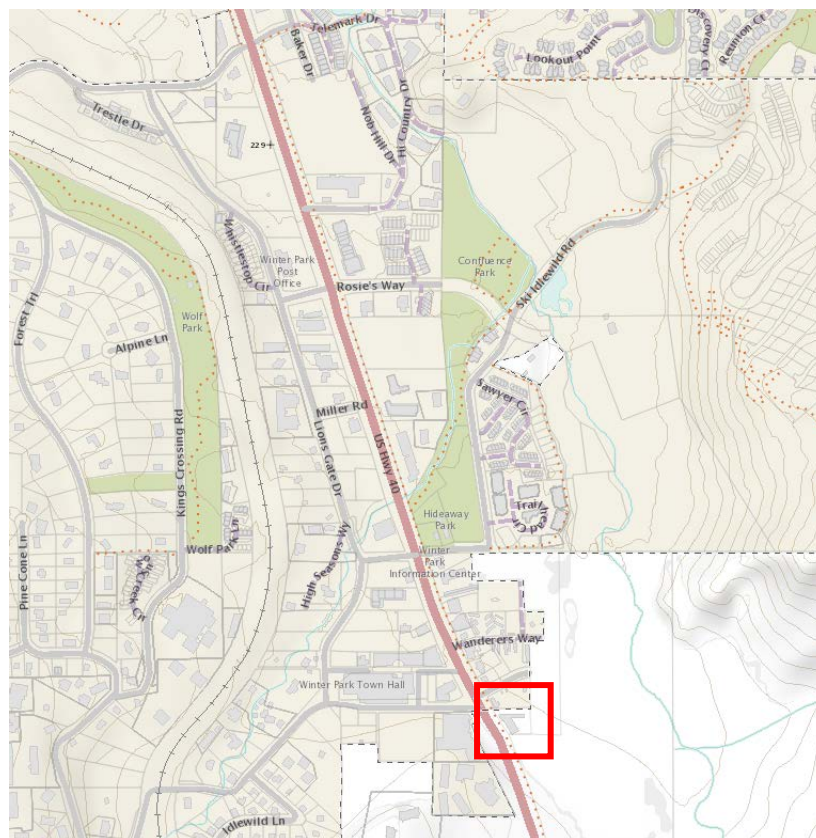


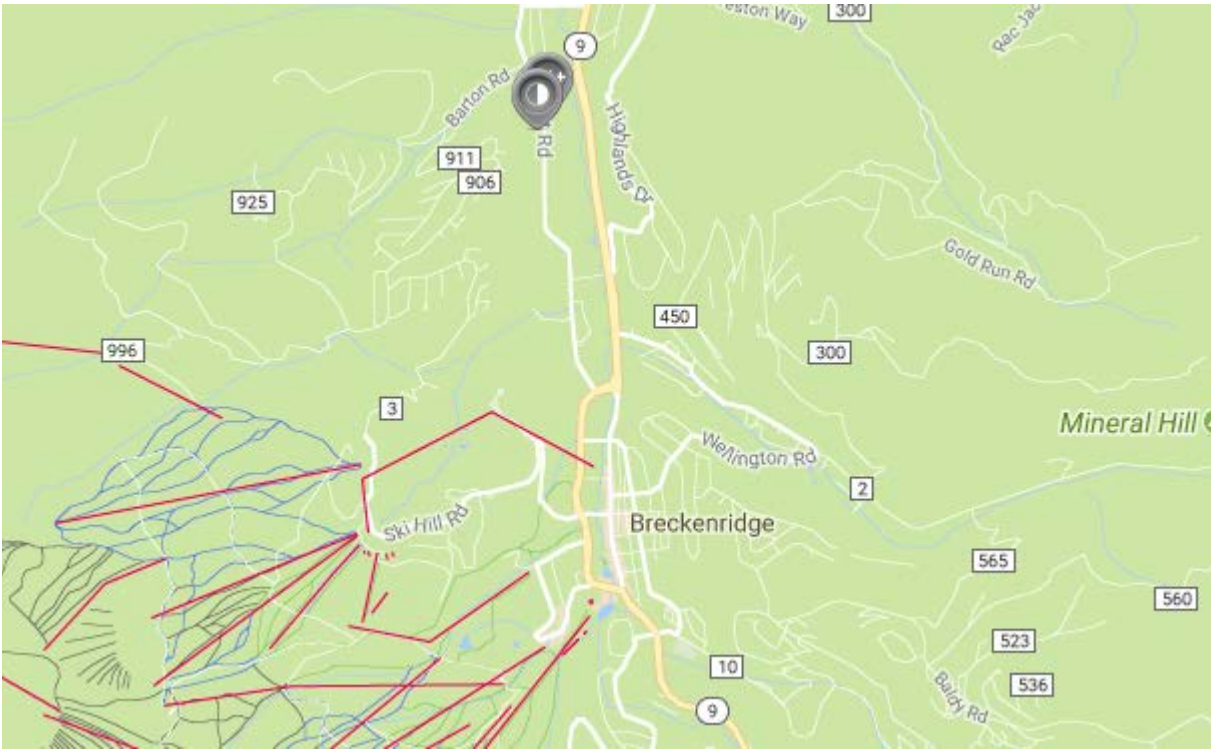
ASPEN, CO			
Nearby Resort: Aspen, Buttermilk, Highlands, Snowmass		City Characteristic: ski resort; summer recreation in nearby National Forest	
Size: 3.88 sq. miles	Pop. (2010): 6658	Pop. over 21: 5502	Percentage: 83%
What is permitted: • Retail and medical cannabis sales • Retail cultivation • Medical cultivation when associated with a medical center • Retail cannabis product manufacturing and manufacturing of medical infused edible cannabis products • Retail cannabis testing facility			
Current Conditions / Issues: • Treat dispensaries the same as liquor stores and chose to let the market regulate itself • Classifies retail cannabis establishments and stores as a General Retail use • Classifies medical cannabis establishments as a Service use • 8 dispensary licenses (5 Retail only, 1 Medical only, and 2 that are colocated together in separate suites) • The Town does not regulate the number of dispensaries or cultivation/manufacturing facilities and allows them in all commercial zones in all building locations (i.e., ground floor, second floor, etc.) ○ This broad allowance has led the mayor to begin discussions with the City Council about whether the number and location of shops has negatively affected the city. ○ Previous interviews with the owners of the dispensaries were generally in favor of no cap and embraced the competition that multiple shops created. They felt that competition forces the owners to maintain quality products and customer service. • Adopted a 1-year transition period to allow for existing medical establishments to convert to retail before acceptance of any new applications			
Regulations: • Licensing authority processes all cannabis applications • Uses are permitted outright by the Municipal Code; application requires zoning compliance verification • No limit on the number of dispensary's or cultivation/manufacturing facilities • 500 feet from any public or private school • Licenses valid for one (1) year and require annual renewal • Cannabis establishments are permitted in the Commercial Core, Commercial, Service/Commercial/Industrial (25% of floor area can be retail), Neighborhood Commercial, Mixed-Use, Lodge (Conditional use), and Commercial Lodge (Conditional use) zone districts			

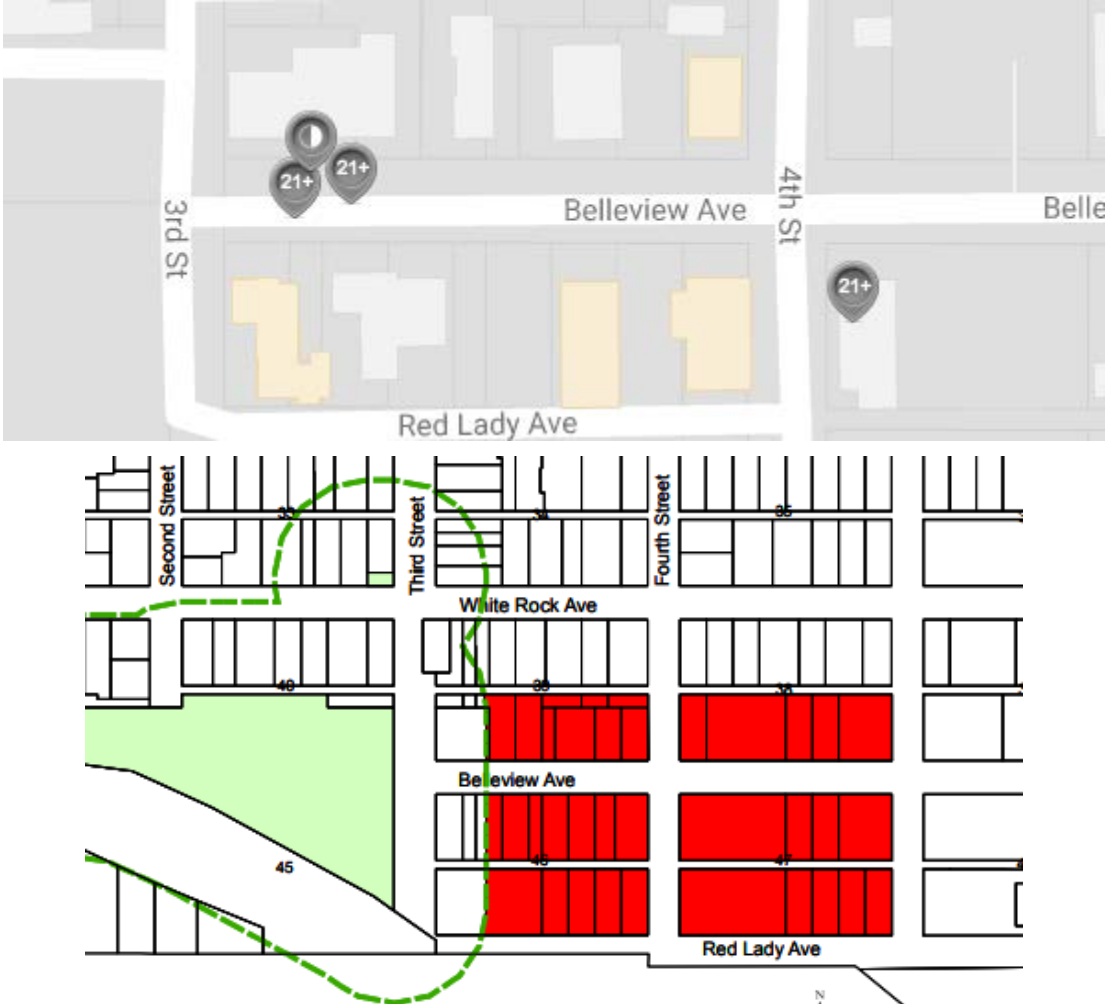


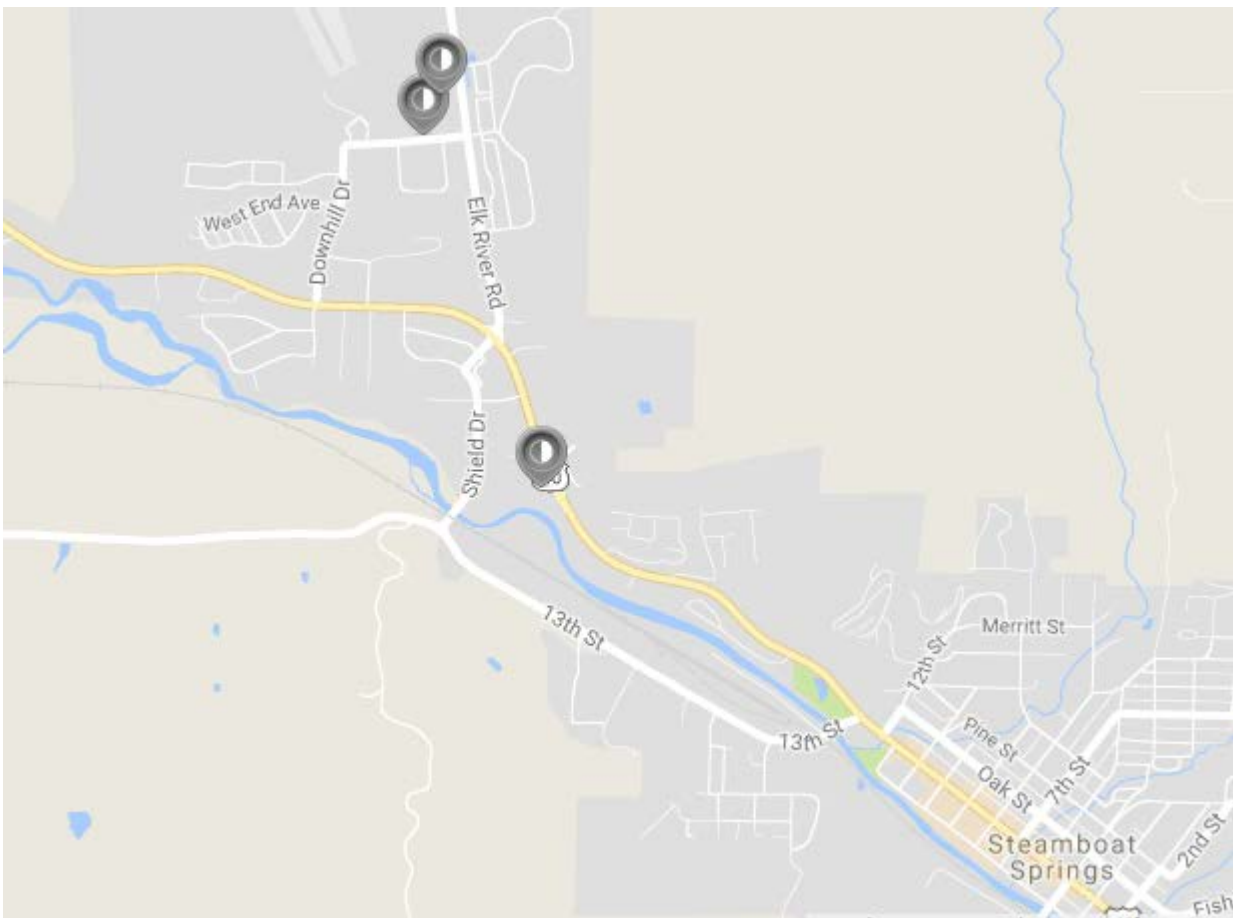
VAIL, CO			
Nearby Resort: Vail		Town Characteristic: largest ski resort in CO	
Size: 4.69 sq. miles	Pop. (2010): 5305	Pop. over 21: 4663	Percentage: 88%
What is permitted: All cannabis businesses are banned in Vail			
Current Conditions / Issues: 5 dispensaries located just outside Town limits in an unincorporated area that is approximately 5-10 minutes from Vail village in a stretch called the “Green Mile” - Hotels and/or shops will send shuttle vans to pick-up customers - Cannabis is easily accessible for residents and visitors to Vail, but because the Town does not permit cannabis businesses, the Town loses out on all tax revenue and it forces the businesses to be all in close proximity to one another in the “Green Mile.”			
Regulations: All cannabis businesses are prohibited within Town limits.			
			

WINTER PARK, CO			
Nearby Resort: Winter Park		Town Characteristic: ski resort; Summer hiking, mountain biking, concerts, and fishing	
Size: 16.53 sq. miles	Pop. (2010): 999	Pop. over 21: 829	Percentage: 83%
What is permitted: All cannabis businesses are banned in Winter Park			
Current Conditions / Issues: 1 dispensary approved by Grand County for a location at an existing motel near the entrance to Winter Park - Surveying error left the subject property that is bordered by the Town limits on 3 sides to be left out of the incorporated area of the Town - The County approved a dispensary in this location despite strong opposition from the Town and Winter Park resort. The Town has sued the county over the approval of the dispensary. - Since the property is outside the Town limits, no revenue from the business will come to the Town			
Regulations: All cannabis businesses are prohibited within Town limits.			



BRECKENRIDGE, CO			
Nearby Resort: Breckenridge		Town Characteristic: ski resort; summer and winter festivals	
Size: 5.99 sq. miles	Pop. (2010): 4540	Pop. over 21: 3768	Percentage: 83%
What is permitted: • Indefinite moratorium in place on new cannabis businesses • Retail and medical cannabis sales • Retail and medical cannabis cultivation • Retail and medical cannabis manufacturing			
Current Conditions / Issues: • 4 dispensaries • Located away from downtown commercial core in a quasi-industrial area • The Town previously allowed cannabis businesses in their commercial downtown. ○ In December 2014, the Town banned all cannabis businesses from their downtown and adopted a Feb 2015 deadline for said businesses to either close or relocate ○ 1 existing popular businesses was forced to relocate			
Regulations: • Indefinite moratorium in place on new cannabis businesses • Permitted in a quasi-industrial zone on the north end of Town near the airport • 500-foot buffer from childcare facilities, school, and halfway houses • Cannot be adjacent to a residential use or located in a building with a residential unit			
			

CRESTED BUTTE, CO			
Nearby Resort: Crested Butte		Town Characteristic: ski resort; Summer mountain biking and outdoor activities	
Size: 0.84 sq. miles	Pop. (2010): 1487	Pop. over 21: 1237	Percentage: 83%
What is permitted: • Retail and medical cannabis sales • Manufacturing of cannabis products • Testing			
Current Conditions / Issues: • 4 dispensaries • Due to the very small area where businesses are permitted, 3 out of the 4 are in close proximity to one another			
Regulations: • Permitted in Commercial zone only • 500-foot buffer from child care facilities and schools and 175 feet from parks			
			

STEAMBOAT SPRINGS, CO			
Nearby Resort: Steamboat		City Characteristic: ski resort	
Size: 10.16 sq. miles	Pop. (2010): 12088	Pop. over 21: 9348	Percentage: 77%
What is permitted: • Retail and medical cannabis sales • Retail and medical cannabis cultivation • Retail and medical cannabis manufacturing • Testing facility's			
Current Conditions / Issues: • Cap of 3 dispensaries • Not permitted in their downtown or at the base of the ski area • At the end of 2016, almost \$10 million in cannabis sales in the city from the 3 dispensaries			
Regulations: • 1,000 feet from schools, public parks, and child care facility's • Retail stores are required to produce 70% of the product sold • Adopted a 6-month transition period to allow for existing medical establishments to convert to retail before acceptance of any new applications			
			

Attachment 6

Town Council Staff Report, January 17, 2018

(Available Online at <https://ca-mammothlakes2.civicplus.com/DocumentCenter/View/8163>)

Attachment 7

Town Council Staff Report, February 6, 2018

(Available Online at <https://ca-mammothlakes2.civicplus.com/DocumentCenter/View/8164>)