

ORDINANCE NUMBER 18-05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, APPROVING ZONING CODE AMENDMENT 18-002, AMENDING THE REGULATIONS FOR CANNABIS RETAILER BUSINESSES WITHIN MUNICIPAL CODE TABLE 17.24.020 AND MUNICIPAL CODE SECTION 17.52.085.D (REGULATIONS FOR CANNABIS RETAILERS)

WHEREAS, a request for consideration of a Zoning Code Amendment was filed by Robert Calvert for an amendment to the regulations for commercial cannabis retailer businesses within Municipal Code Table 17.24.020 and Municipal Code Section 17.52.085.D, in accordance with Chapter 17.112 of the Town of Mammoth Lakes Municipal Code; and

WHEREAS, on October 11, 2018, the Planning and Economic Development Commission conducted a duly noticed public hearing at which time all those desiring to be heard were heard; and

WHEREAS, following the receipt of all oral and written testimony, the Planning and Economic Development Commission closed the public hearing on October 11, 2018 and adopted Resolution No. PEDC 2018-11 thereby finding Zoning Code Amendment 18-002 to be consistent with the General Plan and with the applicable provisions of the Town of Mammoth Lakes Municipal Code, Section 17.112, and recommending to the Town Council, with a 3-0 vote, adoption of the required California Environment Quality Act and Municipal Code findings, and approval of Zoning Code Amendment 18-002; and

WHEREAS, on November 7, 2018, the Town Council conducted a duly noticed public hearing on Zoning Code Amendment 18-002, at which time all those desiring to be heard were heard; and

WHEREAS, the Town Council considered, without limitation:

1. The Staff Report to the Town Council with exhibits;
2. The General Plan and Municipal Code;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing; and

WHEREAS, all legal prerequisites for the adoption of this Ordinance have occurred.

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

Section 1. Recitals. The above recitals are all true and correct.

Section 2. Environmental Review. The Town Council makes the following findings and takes the following actions pursuant to the requirements of the California Environmental Quality Act (CEQA):

CEQA Findings: Based on the information provided in the staff report accompanying this Ordinance and the Recitals set forth above, the oral presentation of staff, other such written and oral evidence presented to the Town Council, and the administrative record for the amendments to the Municipal Code as a whole, the Town Council finds and determines that this amendment to the Municipal Code related to the Town's cannabis regulations are exempt from further CEQA review pursuant to Subdivision (h) of Section 26055 of the California Business and Professions Code which 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 authorization 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.

This amendment to the Town's cannabis regulations qualifies for this exemption since (1) the Town's cannabis regulations continue to 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) this amendment to the Town's cannabis regulations will be adopted prior to July 1, 2019. Consequently, pursuant to CEQA Guidelines Section 15002(k)(1), when a project is exempt from CEQA, the environmental review process does not need to proceed any further and the agency may file a Notice of Exemption with the County clerk once the project has been approved.

CEQA Action: The Town Council directs staff to file a Notice of Exemption.

Section 3. Findings. The Town Council HEREBY FINDS AND DETERMINES based on the information presented herewith:

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 no changes to the permitted uses will result from this amendment, and therefore the uses remain consistent with the land use designations for the areas where the uses are permitted.

The uses that will be allowed as a result of the Zoning Code Amendment are consistent with the following General Plan Goals and Policies:

- General Plan Policy E.3.D ("*Encourage adequate and appropriate commercial services for residents and visitors*") because the removal of the ground floor use restriction will allow for additional locations where a cannabis retailer can be located which then allows for adequate commercial services to be provided for those seeking to purchase cannabis products.
- General Plan Goal S.2 ("*Ensure that landscaping, signage, public art, street enhancements, and building design result in a more hospitable and attractive pedestrian environment*") because the allowance for cannabis products to be visible from outside the premises will allow for businesses on the ground floor

to maintain visibility into the retail space, thereby enhancing the pedestrian environment.

- B. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the town because the proposed amendments allow for cannabis retailers to be sited in appropriate commercial locations and the existing regulations are intended to minimize or eliminate nuisances to the immediate neighborhood and community. Additionally, by having regulations that allow cannabis retailers to find suitable retail space, the demand for cannabis in the black market may be reduced since there can be an adequate number of retail locations available to serve the market demand and will thereby enhance or contribute to 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 2 of this Ordinance, 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.

Additionally, the proposed amendment remains internally consistent with the Zoning Code for the following reasons:

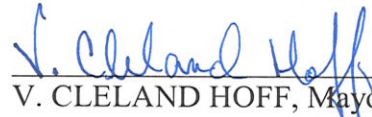
- The removal of the ground floor use restriction for cannabis retailer businesses will allow cannabis retailer businesses to have the same opportunities for finding suitable retail space that other similar retail uses that are open to the public have (i.e., liquor stores, bars, etc.).
- The removal of the restriction that prohibits cannabis goods from being visible from outside the premises allows for cannabis retailer businesses that are on the ground floor to be consistent with the vision stated in Municipal Code Chapter 17.24 for commercial building. That vision encourages commercial buildings along the ground floor adjacent to active frontages to be pedestrian friendly and have visibility into the retail space.

Section 4. Approval. Based on the findings contained in this Ordinance and all other evidence in the record of proceedings in this matter, the Town Council hereby approves Zoning Code Amendment 18-002 and amends Mammoth Lakes Municipal Code Table 17.24.020 and Section 17.52.085.D to read as shown in Exhibit "B" attached hereto and incorporated herein by this reference.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance, or any part thereof, is held invalid or unconstitutional, then such decision shall not affect the validity of the remaining sections or portions of this Ordinance or part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 6. Effective Date. The Mayor shall sign and the Town Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty days after its final passage.

ADOPTED, SIGNED and APPROVED this 19th day of November 2018.



V. CLELAND HOFF, Mayor

ATTEST:



JAMIE GRAY, Town Clerk

Exhibit “A”

Amendments to the Zoning Code

(Additions are shown in Underlined Text and deletions are shown in ~~Strikeout Text~~)

- a. Table 17.24.020 (Commercial District Land Use and Permit Requirements) within Section 17.24.020 is hereby amended by deleting the footnotes for the cannabis retailer uses, to read and be depicted as follows:

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				
Land Use	D	OMR	MLR	See Specific Use Regulations:
Retail Use Classifications				
Commercial Cannabis Activity	See subclassifications below			
Adult-Use Cannabis Retailer	U(+)	U(+)	-	See 17.52.085 (Cannabis - Commercial Businesses)
Medicinal Cannabis Retailer	U(+)	U(+)	-	See 17.52.085 (Cannabis - Commercial Businesses)

- b. Subsection 17.52.085.D.16 is hereby amended by deleting therefrom and adding thereto the following text:

17.52.085.D.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.~~

Cannabis goods that are packaged in a manner consistent with Section 26120 of the CA Business and Professions Code, as it may be amended from time to time, may be visible from outside the premises provided that displays that are visible from outside the premises shall not include the words “cannabis” or “marijuana” nor shall the display include any graphic display of cannabis leaves or plants.

- c. Section 17.52.085.D is hereby amended by adding thereto the following text:

17.52.085.D.27. Cannabis retailers that are located on the ground level shall maintain transparency into the building pursuant to the requirements specified in Section 17.24.040.C.1 (Design of Required Openings). Any security cages or walls (i.e., accordion security cages or roll down cages) shall not be visible during regular business hours and shall not substantially reduce visibility into the building when closed. The Director or designee shall have design review authority over the design and shall approve any such security cages.

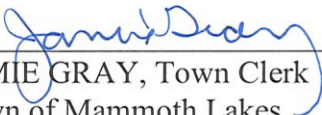
TOWN OF MAMMOTH LAKES

Notice is hereby given that on November 7, 2018 the Town Council introduced an Ordinance entitled:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES,
STATE OF CALIFORNIA, APPROVING ZONING CODE AMENDMENT 18-002,
AMENDING THE REGULATIONS FOR CANNABIS RETAILER BUSINESSES WITHIN
MUNICIPAL CODE TABLE 17.24.020 AND MUNICIPAL CODE SECTION 17.52.085D
(REGULATIONS FOR CANNABIS RETAILERS).

A copy of the complete text of the Ordinance is posted and may be read at the Town Offices, Minaret Mall, Old Mammoth Road, Mammoth Lakes, and/or a copy may be obtained from the office of the Town Clerk at a nominal charge.

Dated: November 9, 2018



JAMIE GRAY, Town Clerk
Town of Mammoth Lakes

TOWN OF MAMMOTH LAKES

Notice is hereby given that on November 19, 2018 the Town Council adopted an Ordinance entitled:

ORDINANCE NO. 18-05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES,
STATE OF CALIFORNIA, APPROVING ZONING CODE AMENDMENT 18-002,
AMENDING THE REGULATIONS FOR CANNABIS RETAILER BUSINESSES WITHIN
MUNICIPAL CODE TABLE 17.24.020 AND MUNICIPAL CODE SECTION 17.52.085D
(REGULATIONS FOR CANNABIS RETAILERS).

by the following vote:

AYES: Councilmembers Salcido, Stapp, Wentworth, Mayor Pro Tem Sauser, and Mayor Hoff

NOES: None

ABSENT: None

ABSTAIN: None

DISQUALIFICATION: None

A certified copy of the complete text of the Ordinance is posted and may be read at the Town Offices, Minaret Mall, Old Mammoth Road, Mammoth Lakes, and /or a copy may be obtained from the office of the Town Clerk at a nominal charge.

Dated: November 28, 2018



JAMIE GRAY, Town Clerk
Town of Mammoth Lakes

STATE OF CALIFORNIA)
COUNTY OF MONO)
TOWN OF MAMMOTH LAKES) ss.

I, JAMIE GRAY, Town Clerk of the Town of Mammoth Lakes, DO HEREBY CERTIFY under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. 18-05, which was introduced at a meeting of the Town Council of the Town of Mammoth Lakes, California, held on November 7, 2018 and adopted at a meeting of the Town Council on November 19, 2018 by the following vote:

AYES: Councilmembers Salcido, Stapp, Wentworth, Mayor Pro Tem Sauser, and Mayor Hoff

NOES: None

ABSENT: None

DISQUALIFICATION: None


JAMIE GRAY, Town Clerk

STATE OF CALIFORNIA)
COUNTY OF MONO)
TOWN OF MAMMOTH LAKES) ss.

AFFIDAVIT
OF PUBLISHING
AND POSTING

JAMIE GRAY, being first duly sworn, deposes and says: That she is the duly appointed Town Clerk of the Town of Mammoth Lakes; that in compliance with State laws of the State of California, Ordinance No. 18-05, being:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, APPROVING ZONING CODE AMENDMENT 18-002, AMENDING THE REGULATIONS FOR CANNABIS RETAILER BUSINESSES WITHIN MUNICIPAL CODE TABLE 17.24.020 AND MUNICIPAL CODE SECTION 17.52.085D (REGULATIONS FOR CANNABIS BUSINESSES).

was published in summary in The Sheet newspaper on November 16, and 30, 2018 and was posted at the Town Administrative Offices.


JAMIE GRAY, Town Clerk