RESOLUTION NUMBER 2577

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, DECLARING THAT CERTAIN DOCUMENT ENTITLED SECTION 308. MEDICAL MARIJUANA FACILITIES, PERTAINING TO THE COTTONWOOD ZONING ORDINANCE, A PUBLIC RECORD.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, YAVAPAI COUNTY, ARIZONA, THAT:

Section 1: Declaration of Public Record. That certain document known as Section 308. Medical Marijuana Facilities, attached hereto as Exhibit A, of the Cottonwood Zoning Ordinance is hereby declared to be a public record.

Section 2: Copies with City Clerk. Three copies are ordered to remain on file with the City Clerk.

Section 3. Effective Date. This Resolution shall be effective upon adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA THIS 1ST DAY OF MARCH 2010.

Diane Joens, Mayor

APPROVED AS TO FORM:

Steven B. Horton, Esq.
City Attorney

ATTEST:

Marianne Jiménez, City Clerk

Exhibit A.

SECTION 308. MEDICAL MARIJUANA FACILITIES

A. PURPOSE. The purpose of this Section is to implement the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*) and to regulate the locations and operations of medical marijuana dispensaries and related cultivation and processing uses in the City of Cottonwood so as to promote and protect the public health, safety and welfare of the residents of Cottonwood. It is neither the intent nor the effect of this chapter to condone or legitimize the use or possession of marijuana except as allowed by Arizona law. Further, the purpose of this section is to:

1. Provide for the safe sale and distribution of medical marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Arizona Medical Marijuana Act and as managed through the Arizona Department of Health Services.

2. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, building safety, neighborhood and patient safety, security for the business and its personnel and other health and safety concerns.

3. Adopt a mechanism for monitoring compliance with the provisions of this Section.

4. Create regulations that address the particular needs of the patients and residents of the City and coordinate with rules and regulations that may be enacted by the state regarding the issue.

5. Facilitate the implementation of the Arizona Medical Marijuana Act without going beyond the authority granted by it.

B. DEFINITIONS. The definitions contained in the Arizona Medical Marijuana Act (A.R.S. § 36-2801, *et seq.*) shall serve as the primary guide for the enforcement and practices of all such related activities. In addition, definitions contained herein are intended to further assist with the enforcement of this Ordinance, as follows:

1. DHS - The Arizona Department of Health Services or its successor agency.

2. DISPENSARY AGENT - A medical marijuana dispensary director, officer, employee or volunteer who has been issued a valid registry identification card by the DHS.

3. MEDICAL MARIJUANA - Means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

4. MEDICAL MARIJUANA CULTIVATION FACILITY- A cultivation facility shall mean a building or structure and the associated premises used to grow the marijuana plant, which may include accessory storage and processing of medical marijuana grown on premises.

5. MEDICAL MARIJUANA DISPENSARY- A non-profit entity defined in Arizona Revised Statutes § 36-2801, *et seq.*, that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

6. MEDICAL MARIJUANA FACILITY - The term shall apply to a medical marijuana dispensary, cultivation facility, qualified patient or designated patient or caregiver cultivation facility, infusion or manufacturing facility, or similar operations or any combination thereof, as authorized by law.

7. MEDICAL MARIJUANA INFUSION (MANUFACTURING) FACILITY - A facility that incorporates medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable/edible goods or similar products.

8. MEDICAL MARIJUANA QUALIFYING PATIENT - A person who has been diagnosed by a physician as having a debilitating medical condition as defined in Arizona Revised Statutes; and who has been issued a Registry Identification Card by DHS authorizing him/her to use marijuana to treat his/her debilitating medical condition or symptoms associated with the debilitating medical condition.

9. MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION FACILITY - Enclosed, locked facilities approved for the cultivation of medical marijuana plants by registered qualifying patients or their designated caregivers where a registered nonprofit medical marijuana dispensary is not operating within twenty-five miles of the qualifying patient's home.

10. OPERATOR - The chief executive officer of the medical marijuana dispensary, whether referred to as the principal officers, board members, designated agents, executive director, president, CEO or other designation.

11. SCHOOL – Public and private educational and child development facilities certified by the State of Arizona, including a daycare facility, preschool, kindergarten, elementary school, middle school or high school.

C. REQUIREMENTS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.

1. General Requirements: The establishment of medical marijuana dispensaries, cultivation sites and other related facilities shall be subject to the provisions of the Arizona Medical Marijuana Act as described in Arizona Revised Statutes, Title 36. and any associated rules subsequently enacted by the Arizona Department of Health Services or the City of Cottonwood for the implementation the Act, including, but not limited to, authorization of and registration of dispensaries and cultivation facilities, registration of qualifying patients and designated caregivers, review and inspection of facilities and security measures, and other standards and procedures expressed in the Act for similar purposes. The regulations in this Ordinance are intended to allow the uses authorized under the state law to the extent permissible while ensuring such uses are established in a reasonable manner to protect the health, safety and general welfare of the residents of the City of Cottonwood.

Exhibit A.

2. Medical Marijuana Dispensary.

   a. Registration with the City of Cottonwood is required for a Medical Marijuana Dispensary, as described in this Ordinance.

   b. A medical marijuana dispensary facility shall be a Permitted Use in the C-1 (Light Commercial), C-2 (Heavy Commercial), and I-2 (Heavy Industrial) Zoning Districts, subject to meeting required development standards.

   c. A dispensary may be located in association with a cultivation facility in the I-2 Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.

   d. The dispensary sales area that may be accessed by the patients or the public shall be limited to the distribution and sales of medical marijuana and related information and products for qualifying patients. There shall be no other retail or health care services provided from the dispensary sales area nor shall access to such services be provided from the dispensary sales area.

   e. The dispensary shall be located in a permanent building and may not be located in a temporary structure, trailer, cargo container, motor vehicle or other similar non-permanent enclosure.

   f. Dispensary Entrance. A dispensary may have more than one means of egress from the interior so as to meet building codes and public safety concerns; however, it shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana. The dispensary entrance shall be located and maintained clear of any barriers, landscaping and similar obstructions that may block the view so that the entrance and pedestrian access is clearly visible from the public street, sidewalk and parking area.

   g. Parking: A dispensary shall provide on-site parking or parking immediately adjacent to the building used as the dispensary.

   h. Minimum Separation Requirements. Medical marijuana dispensary and cultivation facilities shall not be located within five-hundred (500) feet of the exterior property lines of a public or private school, including a daycare facility or preschool, kindergarten, elementary school, middle school or high school.

   i. Method for Computing Measurement. For the purposes of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation.

   j. Operating hours shall not be earlier than 7:00 a.m. and not later than 7:00 p.m.

   k. Drive-through services are prohibited.

Exhibit A.

3. Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities.

   a. Registration with the City of Cottonwood is required for Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities, as described in this Ordinance.

   b. A medical marijuana cultivation facility, whether separate or combined with an authorized medical marijuana dispensary and/or infusion facility, shall be allowed in the I-2 (Heavy Industrial) Zoning District subject to obtaining a Conditional Use Permit, as per Section 302 of this Ordinance.

   c. Medical marijuana cultivation facilities located in the I-2 Zone shall be limited to no more than 10,000 square feet of gross floor area, including growing area, storage and office uses.

   d. Medical marijuana infusion facilities located in the I-2 Zone shall be limited to no more than 5,000 square feet of gross floor area, including processing, storage and office uses.

   e. Minimum Separation Requirements.

      1) Medical marijuana cultivation facilities or infusion facilities shall not be located within five-hundred (500) feet of the exterior property lines of a school, including a daycare facility, preschool, kindergarten, elementary, middle school or high school.

      2) Medical marijuana cultivation facilities or infusion facilities shall not be located within one-thousand (1,000) feet of the exterior property lines of another medical marijuana cultivation facility or infusion facility.

   f. Method for Computing Measurement. For the purposes of calculating the separation requirements, the distance shall be measured from the closest portion of the exterior surface of the wall of the building in which the medical marijuana is to be dispensed, cultivated or processed to the nearest point of the property line of the use requiring a minimum separation

   g. Retail sales of medical marijuana shall be prohibited from a medical marijuana cultivation facility or infusion facility; however, a separate authorized dispensary may be located at the same site subject to the development standards described in this Ordinance.

   h. There shall be no emission of dust, fumes, vapors, smoke or odors into the environment from the facility.

4. Medical Marijuana Qualifying Patient Cultivation and Medical Marijuana Designated Caregiver Cultivation.

   a. Qualifying Patients or their Designated Caregivers may be authorized by the Arizona Department of Health Services to cultivate marijuana plants for the qualifying patient's medical use if a registered nonprofit medical marijuana dispensary is not operating within twenty-five (25) miles of the qualifying patient or designated caregiver's home. Such facilities within the City of Cottonwood shall be considered a permitted accessory use in all residential zoning districts provided the primary residence of the qualifying patient or designated caregiver is more than twenty-five (25) miles from an operating medical marijuana dispensary, as per the standards contained herein.

   b. If the qualifying patient or designated caregiver is authorized to cultivate marijuana, there shall be no more than twelve (12) marijuana plants per patient contained in an enclosed, locked facility that permits access by the cardholder, as per the applicable sections of Arizona Revised Statutes and related rules established by DHS.

   c. The cultivation facility may be in a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by the cardholder.

D. FACILITY REGISTRATION REQUIREMENTS. Medical Marijuana Dispensary, Cultivation and Infusion Facilities; and Qualifying Patient or Designated Caregiver Home Grow Cultivation operations shall register the location of the facility with the City of Cottonwood and provide the following information:

1. Registration for Medical Marijuana Dispensary, Cultivation Facility and/or Infusion Facility. A medical marijuana dispensary, cultivation facility or infusion facility, or combined use; is required to register the location with the City of Cottonwood Community Development Department. The following information shall be provided with the registration:

   a. The name, address, phone number, e-mail address and contact information for the property owner, operator, applicant and non-profit organization operating the facility;

   b. The name, location, address and contact information for the operator of any off-site cultivation facility or facilities related to the dispensary;

   c. A written narrative describing the use and facilities and how the location and improvements associated with the proposed facility comply with the requirements of this Ordinance;

   d. A copy of the operating procedures submitted to and approved by DHS prepared in accordance with A.R.S. § 36-2804(B)(1)(c), including the required security plan for medical marijuana facilities;

e. An accurate vicinity map drawn to scale showing the location of the proposed medical marijuana dispensary, cultivation facility or infusion facility in relation to any school property boundary or cultivation and/or infusion facility boundary so as to document the required minimum separation requirement;

f. An accurate dimensioned site plan indicating buildings, building entrances, parking, sidewalks, adjacent streets and immediately surrounding uses;

g. A floor plan of the interior of the facility indicating public areas and secured areas. The floor plan for a dispensary should have a waiting area at the entrance to receive patients and as required by the Arizona Medical Marijuana Act, must have a separate enclosed, locked and secure area for dispensing medical marijuana to qualified patients or designated caregivers. Indicate the principal uses on the floor plan, including areas where non-patients will be permitted, private consulting areas, storage areas, retail areas and areas where medical marijuana will be dispensed, processed, cultivated and stored; and

h. An exterior refuse control plan providing for proper disposal of marijuana remnants or byproducts, which shall not to be placed within the facility's exterior refuse containers.

2. Registration for Qualifying Patient or Designated Caregiver Home Grow Cultivation. A qualifying patient or designated caregiver authorized by DHS to cultivate medical marijuana at their primary residence shall register the location with the City of Cottonwood and provide the following information:

   a. The name, address, phone number, e-mail address and contact information for the qualifying patient or designated caregiver; and

   b. A accurate vicinity map drawn to scale showing a twenty-five mile radius from the qualifying patient or designated caregiver cultivation location to ensure there are no registered dispensaries within such area, as per current data available from DHS; Medical marijuana qualifying patient or designated caregiver cultivation are prohibited in all zoning districts if located within 25 miles of a medical marijuana dispensary.

E. OPERATING REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES.

1. Consumption of Marijuana. Marijuana in any form shall not be consumed by patients or others on the premises of a medical marijuana dispensary, cultivation facility, infusion facility or any type of medical marijuana facility. Nor shall it be consumed via smoking or vaporization form in any public place within the City. The term "premises" includes the actual building, as well as any accessory structures, outdoor areas, vehicles, parking lot or parking areas which are part of the approved location.

2. Retail Sales of Other Products and Services by a Dispensary. The retail sales of marijuana use items and other health care services to registered patients shall be subject to the following limitations:

a. Marijuana Paraphernalia. No retail sales of marijuana paraphernalia are permitted at a medical marijuana dispensary, except as permitted by law to qualifying patients and/or designated caregivers.

b. Product Display: No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana dispensary so as to be visible from outside the premises.

c. Other Health Care Services: The dispensary may provide consultation regarding medical marijuana to qualifying patients and designated caregivers as per the rules and regulations established by DHS. The dispensary shall not provide other health care services or products unrelated to medical marijuana as part of the dispensary operations for the general public or qualifying patients.

3. Business Registration. A Medical Marijuana Dispensary, Cultivation Facility or Infusion Facility shall be required to obtain and maintain a valid Business Registration from the City of Cottonwood.

4. Suspension or Revocation of Business Registration. The City of Cottonwood business registration for a medical marijuana use may be suspended or revoked for any of the following violations:

b. Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the medical marijuana business;

c. The business registration shall be considered automatically revoked by the revocation, expiration or suspension of any required Conditional Use Permit for the medical marijuana facility and all such operations shall cease immediately.

5. Additional Licenses and Permits. The facility registration and business registration requirement set forth in this Section shall be in addition to, and not in lieu of, any other licensing, permitting or registration requirements imposed by any other federal, state or local jurisdiction, including, but not limited to, DHS approval, building permits, fire alarm permits, zoning approval, a state retail sales and use tax license, a retail food establishment license or any applicable health, safety, building or development license or permit.

6. Infusion (Manufacturing) facilities must obtain any and all permits and licenses from Yavapai County Health Department for all food handling and preparation in connection with infusion operations.

3. Security Plans. Pursuant to the Arizona Medical Marijuana Act, the DHS is responsible for promulgating regulations pertaining to dispensary security. A dispensary shall comply with DHS security requirements provided for adequate lighting, alarms, security cameras and locks in order to ensure the safety of persons and to protect the premises from theft. All security and alarm systems shall be installed and operated in compliance with applicable City of Cottonwood codes, ordinances, and regulations.

4. Security Lighting. During all night time hours, dispensaries shall illuminate exterior areas of the premises, including related parking areas, sidewalks and building entrances so that all areas are readily visible. During all hours, the medical marijuana dispensary shall illuminate those areas of the interior of the building where the public has access, including the public entry, reception area, and counter area, as well as the interior hallways, other building ingress/egress locations and locations where medical marijuana may be located, stored or processed. All outdoor lighting shall be in compliance with City of Cottonwood Zoning Ordinance, Section 408. Outdoor Lighting Code.

E. FEES.

A facility registration for a medical marijuana facility shall be accompanied by a filing fee in an amount established by a schedule adopted by resolution of the City Council and filed in the office of the City Clerk. No part of the filing fee shall be refundable.

G. APPEAL

Any registrant for a medical marijuana facility who is dissatisfied or aggrieved by an official decision of the Community Development Director/Zoning Administrator may appeal such decision to the Board of Adjustment by filing a written notice of appeal with the City Clerk, not later than fifteen (15) days from the date of the Community Development Director/Zoning Administrator's decision.