

**ORDINANCE NO. 511**  
**Series 2012**

**FOR AN ORDINANCE AMENDING TITLES 17 & 9 OF THE TOWN OF DOLORES  
LAND USE CODE BY AMENDING AND ADDING A SECTION REGULATING THE  
GROWING OF MEDICAL MARIJUANA BY CAREGIVERS AND PATIENTS  
AND AMENDING THE DOLORES MUNICIPAL CODE TO PROHIBIT SALE, USE OR  
CULTIVATION OR POSSESSION OF MARIJUANA EXCEPT AS AUTHORIZED BY  
CONSTITUTION STATUTE OR ORDINANCE**

**WHEREAS**, Article XVIII, Section 14 of the Colorado Constitution allows for the use and possession of medical marijuana by patients suffering from a chronic or debilitating disease or medical condition and the possession of medical marijuana by a primary caregiver who has significant responsibility for managing the well-being of a patient; and

**WHEREAS**, the Colorado Constitution and statutes fail to address local regulation of the growing of medical marijuana in residential areas, which the Dolores Town Board has found to be a substantial and important issue for the health, welfare and safety concerns for the citizens of the Town of Dolores; and

**WHEREAS**, the density and close proximity of housing units can affect the health, safety and welfare concerns of neighboring units, the Dolores Town Board finds that differentiating space requirements for the growing of medical marijuana is necessary; and

**WHEREAS**, the Town of Dolores is a Statutory Town created and organized pursuant to the Colorado Constitution and Colorado Revised Statutes; and

**WHEREAS**, The Colorado Revised Statutes grant Statutory Towns the authority to plan for and regulate the planned and orderly use of land on the basis of the impact thereof on the community; and

**WHEREAS**, it is necessary to enforce on a local level use, cultivation, possession and sale of marijuana.

**NOW, THEREFORE, BE IT ORDAINED BY THE DOLORES TOWN BOARD:**

The Town of Dolores Land Use Code is hereby amended by adding a paragraph, to Title 17 Article III C, which Chapter reads as follows:

Title 17, Article III, C,q. Growing Medical Marijuana by Patients and Caregivers:

1. The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, shall be allowed in residential structures subject to the following conditions:

- (a) Such cultivation, production, or possession of marijuana plants must be in full compliance with all applicable provisions of Article XVIII, Section 14 of the

Colorado Constitution, the Colorado Medical Marijuana Code, C.R.S. §§12- 43.3-101 et seq., and the Medical Marijuana Program established by C.R.S §25-1.5-106; and

(b) Such marijuana plants are cultivated, produced, or possessed within a licensed patient's or registered caregiver's primary residence, as defined by paragraph (h) below; and

(c) The patient or caregiver must reside in the primary residence where the medical marijuana is grown; and

(d) The cultivation, production, or possession of such marijuana plants must not be perceptible from the exterior of the primary residence, including but not limited to:

(1) Common visual observation, which also prohibits any form of signage;

(2) Unusual odors, smells, fragrances, or other olfactory stimulus;

(3) Light pollution, glare, or brightness that disturbs the repose of another;

(4) Undue vehicular or foot traffic, including excess parking within the residential zone; and

(5) Excess noise from the primary residence which noise is created as a consequence of growing medical marijuana.

(e) Such marijuana plants shall not be grown or processed in the common areas of a multi-family or attached residential development; and

(f) Such marijuana plants are used exclusively by a licensed patient for the patient's personal use and solely to address a debilitating medical condition; and

(g) Such cultivation, production, or possession of marijuana plants shall be limited to the following space limitations within a primary residence:

1) Within a single-family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Title 15, Section 15.04.010 of the Dolores Municipal Code: a secure, defined, contiguous 150 square foot area within the primary residence of the licensed patient or registered caregiver.

2) Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code, as adopted in title 15 Section 15.04.010 of the Dolores Municipal Code: a secure, defined, contiguous 100 square foot area within the primary residence of the patient or registered caregiver.

(h) Such cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted Town of Dolores building, life/safety codes and other applicable state electrical and other codes.

(i) For purposes of this ordinance, "primary residence" means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation.

Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one primary residence. A primary residence shall not include accessory buildings.

(j) For purposes of this ordinance, "a secure" area means an area within the primary residence accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals, or anyone not licensed and authorized to possess medical marijuana.

(k) If a licensed patient or registered caregiver raises quantities of marijuana requiring more than the square footage limitations of paragraph (g) above, such patient or caregiver must be in full compliance with the Colorado medical marijuana program as provided in C.R.S. §25-1.5-106 (14); and

(1) Such patient or caregiver may grow medical marijuana for personal use and solely to address a debilitating medical condition within the zoned districts of the Town; and

(2) Such patient or caregiver must submit plans, obtain a building permit, and pass inspections to ensure that the, CBD or C premises are in compliance with the Town of Dolores Building Code, State Electrical Code, Fire Code, and all other relevant life/safety codes in order to obtain a certificate of occupancy from the Town of Dolores Building Division.

(3) Such patient or caregiver must ensure that the premises are secure, as defined in paragraph (j) above; however, within the setting, so that no children, visitors, passersby, vandals, or anyone else not licensed to possess medical marijuana may access the premises.

(4) The patient or caregiver must reside on premises in an apartment or living area constructed in compliance with the Town of Dolores Building Code, State Electrical Code and all other relevant live/safety codes.

**NOW THEREFORE BE IT ORDAINED BY TOWN OF DOLORES TOWN BOARD:**

**Title 9, Chapter 9.36 Unlawful Use, Cultivation Possession, or Sale of Marijuana.**

It shall be unlawful for any person, persons, business, or entity unless authorized by the Colorado Constitution, State Statutes or Dolores Ordinance to possess, sell, cultivate or use marijuana.

A violation of this section is punishable as set forth in Title 1, Section 1.12.010 Violation-Penalty Dolores Municipal Code now in effect or as may be amended from time to time.

**Repealer.** All orders, bylaws, ordinances, and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

**Severability.** If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

**Recording and Authentication.** Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the City Clerk.

**Effective Date.** This ordinance shall be effective July 18, 2012.

**PUBLIC HEARING.** This ordinance shall be considered for second or final reading on the 18th day of June, 2012, at the hour of 6:30 p.m. in the Town Board Chambers in Town Hall, Dolores Colorado, at which time and place all persons may appear and be heard concerning the same.

PASSED, ADOPTED AND APPROVED ON FIRST READING THIS 14TH DAY OF MAY, 2012.

TOWN OF DOLORES

ATTEST:



A handwritten signature in cursive script, appearing to read "Jane Arnold", is written over a horizontal line.



A handwritten signature in cursive script, appearing to read "Duvall Truelsen", is written over a horizontal line.

DUVALL TRUELSEN, Mayor

LANA HANCOCK, Town Clerk

PASSED, ADOPTED AND APPROVED ON SECOND AND FINAL READING  
THIS 18TH DAY OF JUNE, 2012.

TOWN OF DOLORES

ATTEST:



DUVALL TRUELSEN, Mayor



LANA HANCOCK, Town Clerk



APPROVED AS TO FORM:



MICHAEL F. GREEN, Town Attorney