

**TOWN OF MOFFAT, COLORADO
ORDINANCE NO. 2021-02**

**AN ORDINANCE REPEALING 2017-6, 2019-11, 2019-12, 2019-17, 2020-03 and 2021-01
AND CREATING A FRAMEWORK FOR REGULATED MARIJUANA IN THE TOWN OF
MOFFAT**

Section 1 - Purpose and legislative intent.

- (A) The purpose of this Ordinance is to exercise the authority of the Town of Moffat to allow state-licensed Regulated Marijuana Businesses to operate in the Town, in accordance with applicable state laws and regulations as well as the additional local licensing requirements set forth herein.

Section 2 - Local Licensing Authority.

- (A) The Office of the Town Clerk is hereby designated as the Local Licensing Authority for the Town of Moffat with respect to Regulated Marijuana Businesses.
- (B) The Office of the Town Clerk is authorized to delegate responsibilities of the Local Licensing Authority to the Office of the City Attorney.
- (C) The Local Licensing Authority shall have the power to determine the qualifications of Applicants and Licensees and determine whether Regulated Marijuana Business Licenses should be issued, denied, renewed, suspended, fined, revoked or modified, pursuant to the procedures and standards set forth by the Colorado Marijuana Code, the Colorado Marijuana Rules and this Ordinance.
- (D) The Local Licensing Authority shall notify the State Licensing Authority of any Licenses that are issued, denied, renewed, suspended, fined, revoked, or expired, including any required written findings.

Section 3 - Relationship to Colorado Marijuana Code.

- (A) Except as otherwise specifically provided herein, this Ordinance incorporates the requirements set forth in the Colorado Marijuana Code and the Colorado Marijuana Rules.
- (B) In the event of a conflict of laws, the more restrictive provision shall control.
- (C) Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance, denial or suspension or any License under this Ordinance.
- (D) Non-compliance with any applicable state law or regulation shall be grounds for revocation or suspension of any Regulated Marijuana Business License issued by the Local Licensing Authority.

Section 4 - Definitions.

- (A) Except as provided below, the definitions set forth in subsection 16(2) of article XVIII of the Colorado Constitution, section 44-10-103 of the Colorado Revised Statutes, and section 1-115 of the Colorado Marijuana Rules shall be incorporated to this Ordinance. In addition, the following terms shall have the meanings respectively assigned to them:
 - (1) "Applicant" means any person applying for a Regulated Marijuana Business License.

- (2) "Colorado Marijuana Code" means Article 10 of Title 44 of the Colorado Revised Statutes, as amended.
- (3) "Colorado Marijuana Rules" means the rules promulgated by the Colorado Department of Revenue Marijuana Enforcement Division, as amended.
- (4) "License" means the license, permit, or registration granted pursuant to the Colorado Marijuana Code, the Colorado Marijuana Rules, or this Ordinance.
- (5) "Licensed Premises" means the premises specified in an application for a License pursuant to the Colorado Marijuana Code, the Colorado Marijuana Rules, or this Ordinance, that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, test or allow the use or consumption of Marijuana or Marijuana Products, in accordance with applicable provisions.
- (6) "Licensee" means any person licensed, registered, or permitted pursuant to the Marijuana Code, the Colorado Marijuana Rules, or this Ordinance.
- (7) "Location" means a particular parcel of land that may be identified by an address or other descriptive means.
- (8) "Marijuana" means both Medical Marijuana and Retail Marijuana but does not encompass hemp or hemp-derived products.
- (9) "Marijuana Product" means a product that is comprised of Marijuana infused with other ingredients that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures.
- (10) "Office of the City Attorney" or "City Attorney" means an attorney-at-law licensed to practice in the state of Colorado hired by the Town to represent its interests.
- (11) "Office of the Town Clerk", "Town Clerk" or "Clerk" means the clerk of the Town of Moffat, who is the custodian of the official records of the Town or any person delegated by the clerk to exercise any of his or her powers, duties, or functions.
- (12) "Park" means a Federal, State, County or Municipal-owned land that is open to the public for purposes of recreational activities.
- (13) "Post Office" means the United States Postal Service (USPS) building. USPS being an independent agency of the executive branch of the United States federal government responsible for providing postal service in the United States, including its insular areas and associated states.
- (14) "Regulated Marijuana Businesses" means any licensed Medical Marijuana Businesses and Retail Marijuana Businesses.
- (15) "School or Childcare Establishment" means any public or private school providing instruction to students in kindergarten through grade twelve. Any public or private schools or preschools that provide preparatory schooling for children of any age younger than the state age of mandatory attendance, or any commercial childcare establishment that is licensed by the State as such.
- (16) "State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture,

distribution, sale, and testing of Regulated Marijuana in Colorado, pursuant to section 44-10-201, C.R.S

- (17) "State or local law enforcement agency" means: (i) The Colorado state patrol created pursuant to section 24-33.5-201 C.R.S.; (ii) The Colorado bureau of investigation created pursuant to section 24-33.5-401 C.R.S.; (iii) A county sheriff's office; (iv) A municipal police department; (v) A municipal fire department; (vi) The division of parks and wildlife within the department of natural resources created pursuant to section 24-1-124 C.R.S; or (vii) A town marshal's office.
- (18) "Town" means the Town of Moffat, defined by its boundaries and local government.

Section 5 - Unlawful Acts.

- (A) It shall be unlawful for any person to operate a Regulated Marijuana Business in the Town without a valid License issued by the State Licensing Authority.
- (B) It shall be unlawful for any person to operate any Regulated Marijuana Business in the Town without a valid License issued by the Local Licensing Authority.
- (C) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of Marijuana and Marijuana Products other than those forms of businesses and commerce that are expressly contemplated by section 16 of Article XVIII of the Colorado Constitution or those set forth by Colorado Marijuana Code and the Colorado Marijuana Rules.
- (D) It shall be unlawful for any person to sell Marijuana or Marijuana Products at a Medical Marijuana Store or at a Retail Marijuana Store at any time other than between the hours of 8:00 a.m. and 12:00 a.m. daily.

Section 6 - Authorized Classes of Licenses.

- (A) For the purposes of regulating the cultivation, processing, manufacturing, storage, sale, and transfer of Marijuana and Marijuana Products, the Town hereby authorizes issuance of the following classes of licenses:
- (1) Medical marijuana store license;
 - (2) Medical marijuana cultivation facility license;
 - (3) Medical marijuana products manufacturer license;
 - (4) Retail marijuana store license;
 - (5) Retail marijuana cultivation facility license;
 - (6) Retail marijuana products manufacturer license.
- (B) Licenses issued by the Town of Moffat shall grant the same privileges and impose the same restrictions set forth in the Colorado Marijuana Code and the Colorado Marijuana Rules.

Section 7 - Application for Marijuana Business Licenses.

- (A) An application for a Regulated Marijuana Business License shall be made to the Local Licensing Authority upon forms provided for that purpose.

- (B) At a minimum, the application shall require the following information:
- (1) A copy of the state application, at the time of submission or within 30 (thirty) days from when the initial application is received by the Local Licensing Authority.
 - (2) Proof of ownership or legal possession of the Licensed Premises.
 - (a) If the Licensed Premises will be leased, the application shall include written consent by the owner of the property to the licensing of the premises to a Regulated Marijuana Business.
- (C) An application shall not be accepted unless it is filed on current forms and payment for all associated fees set forth on Section 16 of this Ordinance (Fees) are made.
- (D) An application shall be considered received upon the day it is submitted to the Local Licensing Authority.
- (E) If an application received by the Local Licensing Authority is deemed incomplete or otherwise deficient, the Local Licensing Authority shall notify the Applicant and permit the Applicant 30 (thirty) days to amend the application to complete it or cure any deficiencies. If the applicant cannot complete the application or cure any deficiencies, the Local Licensing Authority shall deny the application.
- (1) The Local Licensing Authority shall deny an application if a copy of the application submitted to the State Licensing Authority is not received by the Local Licensing Authority within 30 (thirty) days of initial application date.
- (F) The Local Licensing Authority shall review all complete and sufficient applications for compliance with this Ordinance. Applications in compliance with this Ordinance shall be approved. Applications found not to be in compliance shall be denied.
- (1) The Local Licensing Authority may issue a conditional license to applicants that have not submitted a copy of their state application, provided all other aspects of the application are in compliance with this Ordinance.
- (G) A local License shall be valid for 1 (one) year from the date of issuance and may be renewed in accordance with Section 8 of this Ordinance (Renewals).
- (H) The Local Licensing Authority shall notify the State Licensing Authority of all decisions made on applications of Regulated Marijuana Businesses Licenses in accordance with the Colorado Marijuana Code and Colorado Marijuana Rules.

Section 8 - Renewals.

- (A) Any local License issued pursuant to this Ordinance shall be valid for a period of 1 (one) year from the date of issuance. Any renewal of the License shall be governed by the standards and procedures set forth in the Colorado Marijuana Code and the Colorado Marijuana Rules, and this Ordinance.
- (1) The Local Licensing Authority shall administer License renewals in the same manner as the State Licensing Authority administers renewals of state Licenses, subject to any additional restrictions on renewal as provided in this Ordinance.
- (B) Upon payment of a renewal fee as set forth by Section 16 of this Ordinance (Fees), and completion of any required forms, any Licensee may apply to renew a License prior to the License expiration date.
- (1) A Licensee may apply for a renewal within 90 (ninety) days prior to the expiration date of the License.

- (2) A Licensee whose License has been expired for no more than 30 (thirty) days may file a late renewal application, upon the payment of a late fee and renewal fee, as set forth in Section 16 of this Ordinance (Fees), in accordance with Section 2-225(D)(1) of the Colorado Marijuana Rules.
- (C) A Licensee may not operate with an expired License or exercise any of the privileges of the License.
 - (1) The Local Licensing Authority may temporarily administratively continue a license if a renewal was submitted in a timely manner until a determination on the renewal application has been rendered. A Licensee whose License has been administratively continued may operate until a determination has been made on its renewal application.
 - (2) A Retail Marijuana Cultivation Facility License or Medical Marijuana Cultivation Facility License that has an expired License but submitted a renewal within 90 days from expiration shall be permitted to continue cultivating Marijuana plants but not transfer any Marijuana until a determination has been made on its renewal application.
- (D) The Local Licensing Authority shall notify the State Licensing Authority of all decisions made on renewals of Regulated Marijuana Businesses Licenses

Section 9 - Licensed Premises.

- (A) All Regulated Marijuana Business Licenses shall be issued for a specific Location, which may only be part of a building or address, that shall be considered the Licensed Premises.
- (B) A Licensee must maintain possession of its Licensed Premises at all times during licensure. Possession is a prerequisite of licensure and any loss of possession while licensed invalidates the License.
- (C) No Regulated Marijuana Business Licenses shall be issued for the following locations:
 - (1) Within 1,000 (one thousand) feet of any School or Childcare Establishment, Park or Post Office.
 - (a) The distance shall be computed by direct measurement in a straight line from the nearest legal parcel line of the land used for a School, Childcare Establishment, Park, or Post Office to the nearest external portion of the building or the land use in which the Regulated Marijuana Business is to be located.
- (D) The Town of Moffat shall not permit more than two (2) medical marijuana store Licenses and two (2) retail marijuana store Licenses. Medical marijuana store Licenses and retail marijuana store Licenses shall not be issued outside of Moffat Township of 1910 (original city limits) and the "Randall Addition", which will hereunder be referred to as Section 1 of Town of Moffat. Section 1 is defined as WEST 1/2 OF SECTION 5, THE EAST 1/2 OF SECTION 6, AND THE NORTH 1/2 OF SECTION 8, ALL IN TOWNSHIP 43 NORTH, RANGE 10 EAST, NEW MEXICO PRINCIPAL MERIDIAN, SAGUACHE COUNTY, COLORADO.
- (E) No medical marijuana cultivation facility license, medical marijuana products manufacturer license, retail marijuana cultivation facility license, or retail marijuana products manufacturer license shall be issued outside of the following permissible areas:

- (1) A tract of land situated in the Northwest $\frac{1}{4}$ of Section 6, Township 43 North, Range 10 East, New Mexico Principal Meridian, Saguache County, Colorado, and more particularly described as follows: Beginning at the northeast corner of the herein described tract and also being the northeast Corner of Oklahoma Land and Colonization Company Tract 20, and from whence the north $\frac{1}{4}$ Corner of said Section 6, being identical with the Northwest Corner of The Town of Moffat as shown on that plat filed in the Book of Plats at the Office of the Saguache County Clerk on June 27, 1910 bears N $03^{\circ} 38' 04''$ E a distance of 640.58 feet; Thence S $03^{\circ} 38' 04''$ W along the west line of the said Town of Moffat and the east line of said Oklahoma Land and Colonization Company Tracts 20, 29, 36, and 45 a distance of 1,324.34 feet to the southeast corner of said Tract 45 and the northeast corner of United States General Land Office Lot 9 as shown on The said USGLO Plat accepted by the Surveyor General on August 4, 1875; Thence continuing S $03^{\circ} 38' 04''$ W along the said west line of the Town of Moffat a distance of 1,992.12 feet to a point on the north Right-of-Way Line of Saguache County Road U 60; Thence N $53^{\circ} 15' 52''$ W along said Saguache County Road U 60 a distance of 3,127.52 feet to a point on the west Line of said Section 6, lying within the Right-of-Way of Saguache County Road 59; Thence N $02^{\circ} 20' 54''$ E along the said west line of Section 6 a distance of 154.68 feet to the northwest corner of USGLO Lot 10; Thence S $89^{\circ} 11' 29''$ E along the north line of said USGLO Lot 10 a distance of 1,313.31 feet to the southwest corner of Tract 46 of said Oklahoma Land and Colonization Company Tracts; Thence N $02^{\circ} 59' 28''$ E along the west line of said Oklahoma Land and Colonization Company Tracts 46, 35, 30 and 19 a distance of 1324.47 to the northwest corner of said Tract 19; Thence S $89^{\circ} 09' 28''$ E along the north line of said Tracts 19 and 20 a distance of 1,328.15 feet to the Point of Beginning. Said Tract containing 104.688 Acres, more or less.
- (2) The Southwest $\frac{1}{4}$ of Section 31, Township 44 North, Range 10 East, New Mexico Principal Meridian, Saguache County, Colorado, more particularly described as follows: Beginning at the Southwest corner of said Section 31, thence N $01^{\circ} 17' 26''$ E along the west line of said Section 31 a distance of 2605.41 feet to the West $\frac{1}{4}$ corner of said Section 31; Thence S $89^{\circ} 31' 25''$ E along the east-west centerline of said Section 31 a distance of 2646.80 feet to the center of said Section 31; Thence S $00^{\circ} 46' 22''$ W along the north-south centerline of said Section 31 a distance of 2644.56 feet to the South $\frac{1}{4}$ corner of said Section 31; Thence N $88^{\circ} 40' 43''$ W along the south line of said Section 31 a distance of 2670.19 feet to the Southwest corner of said Section 31 and the Point of Beginning. Said Tract containing 160.198 Acres, more or less.
- (3) The Southeast $\frac{1}{4}$ of Section 36, Township 44 North, Range 9 East, New Mexico Principal Meridian, Saguache County, Colorado, more particularly described as follows: Beginning at the Southeast corner of said Section 36, thence N $89^{\circ} 08' 41''$ W along the south line of said Section 36 a distance of 2645.85 feet to the South $\frac{1}{4}$ corner of said Section 36; Thence N $01^{\circ} 22' 13''$ E along the north-south centerline of said Section 36 a distance of 2629.47 feet to the center of said Section 36; Thence S $88^{\circ} 37' 25''$ E along the east-west centerline of said Section 36 a

distance of 2641.88 feet to the East 1/4 corner of said Section 36; Thence S 01° 17' 07" W along the south line of said Section 36 a distance of 2605.41 feet to the Southeast corner of said Section 36 and the Point of Beginning. Said Tract contains 158.862 Acres, more or less.

- (4) Property that has previously been licensed for marijuana use by the Town that may have inadvertently been left out of the aforementioned legal description.
- (F) Notwithstanding subsection (E), no more than two (2) medical marijuana cultivation facility licenses and two (2) retail marijuana cultivation facility licenses may be issued within the Moffat Township of 1910 (original city limits) and the "Randall Addition".

Section 10 - Ownership.

- (A) A transfer of ownership or change in business structure for a Regulated Marijuana Business License shall be governed by the standards and procedures set forth in the Colorado Marijuana Code and the Colorado Marijuana Rules.
- (B) A Licensee shall provide a copy of all applications submitted, or intended to be submitted, to the State Licensing Authority for a transfer of ownership. The Local Licensing Authority shall provide an acknowledgement of receipt of the copy of the application.
- (C) A Licensee shall notify the Local Licensing Authority upon receipt of approval or denial of its application for a transfer of ownership from the State Licensing Authority prior to completing any change in ownership.

Section 11 - Changes of Location.

- (A) An application for change of location for a Regulated Marijuana Business shall be made to the Local Licensing Authority upon forms provided for that purpose.
- (B) A Licensee shall not change location of its License without prior approval from the Local Licensing Authority. A Regulated Marijuana Business must apply for and receive approval from the State Licensing Authority before changing the location of its Licensed Premises.
- (C) If the change of location is to a different location within the Town of Moffat, the Local Licensing Authority shall review all applications for a change of location to determine whether the new location meets all zoning and other relevant requirements. Applications in compliance with this ordinance shall be approved, those not in compliance shall be denied.
- (D) If the change of location is to a different local jurisdiction outside of the Town of Moffat, the Licensee must obtain a license from the appropriate licensing authority or local jurisdiction where the Licensee intends to locate.
 - (1) The Licensee must provide the Local Licensing Authority a copy of the application submitted to the State Licensing Authority.
 - (2) The Licensee must notify the Local Licensing Authority of any approval or denial by the State Licensing Authority of an application for a change of location to another jurisdiction.
 - (3) The Licensee must notify the Local Licensing Authority of the date that Licenses Premises shall be moved and shall surrender its Moffat local License upon completion of its change of location.

Section 12 - Modification of Premises.

- (A) After obtaining a License, a Licensee shall not make physical changes, alterations, or modifications of the Licensed Premises that materially or substantially alters the Licensed Premises or the usage of the Licensed Premises from the originally approved plans without the State Licensing Authority's prior written approval.
- (B) A Licensee needs to comply with the requirements of the Colorado Marijuana Code and section 2-260 of the Colorado Marijuana Rules when modifying its premises.
- (C) A Licensee shall provide a copy of all applications submitted, or intended to be submitted, to the State Licensing Authority for a modification of premises. The Local Licensing Authority shall provide an acknowledgement of receipt of the copy of the application.
- (D) A Licensee shall notify the Local Licensing Authority upon receipt of approval or denial of its application for a modification of premises to the State Licensing Authority prior to making the changes to the Licensed Premises proposed in its application.

Section 13 - Operational Requirements.

- (A) A Licensee in the Town of Moffat must comply with the following requirements:
 - (1) A Regulated Marijuana Business must comply with the Town's light pollution policy.
 - (a) A medical marijuana cultivation facility, medical marijuana products manufacturer, retail marijuana cultivation facility, or retail marijuana products manufacturer shall have a light deprivation system.
 - (b) Lighting coming from a medical marijuana cultivation facility, medical marijuana products manufacturer, retail marijuana cultivation facility, or retail marijuana products manufacturer shall be obstructed from the view of the highway and residential zones.
 - (c) A medical marijuana cultivation facility, medical marijuana products manufacturer, retail marijuana cultivation facility, or retail marijuana products manufacturer shall comply with requirements on Section 3-220 of the Colorado Marijuana Rules regarding motion lights and night lights in a manner that complies with lighting nuisance requirements.
 - (2) A Regulated Marijuana Businesses shall comply with the Town's noise pollution policy.
 - (a) A medical marijuana cultivation facility, medical marijuana products manufacturer, retail marijuana cultivation facility, or retail marijuana products manufacturer shall have quiet generators or sound muffling structures around generators.
 - (3) A Regulated Marijuana Businesses shall have regular trash services, in addition to the requirements set forth in Section 3-230 of the Colorado Marijuana Rules on waste disposal.
 - (a) All trash and other debris shall be secured to prevent littering, destruction of neighboring properties, and to protect the health and safety of Town residents.
 - (4) A Regulated Marijuana Business shall comply with all fire restrictions imposed by the Town or Moffat, the Saguache County, or the State of Colorado, in addition to

the requirements set forth in Section 3-230 of the Colorado Marijuana Rules on Waste Disposal.

- (a) A Regulated Marijuana Business shall have at least 1 (one) operational fire extinguisher in the Licensed Premises at all times.
- (5) A medical marijuana cultivation facility, medical marijuana products manufacturer, retail marijuana cultivation facility, or retail marijuana products manufacturer shall have a septic system or septic vault installed at their location.
 - (a) If installed on or after May of 2020, a septic system or septic vault shall be installed 100 (one hundred) feet from the water tap and 25 (twenty-five) feet from the water main.
- (6) A medical marijuana cultivation facility or a retail marijuana cultivation facility shall have a green mesh or netting material around their fencing, in addition to the requirements set forth in Section 3-220 of the Colorado Marijuana Rules on security alarm systems and lock standards.
 - (a) The fence shall be sufficient to ensure that the medical marijuana cultivation facility or the retail marijuana cultivation facility has low visibility to the public from a public place.
 - (b) The fencing shall be sufficient to assist with lighting nuisances from the medical marijuana cultivation facility or retail marijuana cultivation facility.
 - (c) The medical marijuana cultivation facility or retail marijuana cultivation facility shall ensure that the green mesh or netting material be maintained at all times and not be in disarray, falling off or torn.
- (7) Persons working at a medical marijuana products manufacturer or a retail marijuana products manufacturer must have a valid ServSafe Food Handler certificate obtained through the successful completion of an online or in person assessment.
 - (a) A copy of the certificate shall be maintained by the Licensee and presented upon request by the Local Licensing Authority or any other municipal, county or state public health official.

Section 14 - Inspections.

- (A) Every Applicant, Licensee, or employee of the Regulated Marijuana Business shall permit the State Licensing Authority, and any agent of the Local Licensing Authority, or anyone authorized to inspect pursuant to the Colorado Marijuana Code and the Colorado Marijuana Rules, to inspect the Licensed Premises during business hours to ensure compliance with the Colorado Marijuana Code, the Colorado Marijuana Rules, this Ordinance and any other applicable rules and regulations.
- (B) Any Regulated Marijuana Business may be required to demonstrate, upon demand by a State or Local Law Enforcement Agency, that the source and quantity of any marijuana found upon the licensed premises is in full compliance with any applicable state law or regulation.

Section 15 - Disciplinary Action, sanctions, and penalties.

- (A) A Licensee shall notify the Local Licensing Authority of any disciplinary action taken against its license by the State Licensing Authority, including but not limited to fines, fines in lieu of suspensions, suspensions, or revocations.
- (B) The Local Licensing Authority may notify the State Licensing Authority of suspected violations of this ordinance or the Code and coordinate with the State Licensing Authority in their investigations of Licensees.

Section 16 - Fees.

- (A) Applicants and Licensees shall pay the following non-refundable fees, in addition to any fees payable to the State of Colorado:
 - (1) New License Application Fee: \$75.00
 - (2) Annual License Renewal Fee: \$500.00
 - (3) Late Renewal Fee: \$500.00
 - (4) Transfer of Location Fee: \$100.00
 - (5) Transfer or Ownership Fee: \$75.00
 - (6) Modification of Premises Fee: \$100.00
 - (7) Tier-Up Fee: \$500.00

Section 17 - Recording and Authentication.

- (A) This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the Town Book of Ordinances kept for that purpose, and published according to law.

Section 18 - Publication and Effective Date.

- (A) This ordinance shall take effect immediately following final passage and shall be published thereafter.
- (B) The Town of Moffat Ordinances numbers 2017-6, 2019-11, 2019-12, 2019-17, 2020-03 and 2021-01 are hereby repealed from the publication date of this Ordinance.

FIRST READ and ADOPTED on this 9th day of March, 2021.



[SEAL]

TOWN OF MOFFAT, COLORADO

By: Cassandra Foxx, Mayor

ATTEST:

Amy Hardin, Town Clerk