

ORDINANCE NO. 2023- 01

AN ORDINANCE AMENDING ORDINANCE 2021-05 AND THE FRAMEWORK FOR REGULATED MARIJUANA IN THE TOWN OF MOFFAT

WHEREAS, the Board of Trustees of the Town of Moffat, Colorado, has determined it necessary to amend its current Ordinance 2021-05 (Concerning the Framework for Regulated Marijuana in the Town of Moffat) in order to incorporate updates from the Colorado Marijuana Rules, as well as more clearly state licensing and inspection requirements within the Town of Moffat.

NOW THEREFORE, be it ordained by the Board of Trustees of the Town of Moffat, that Ordinance 2021-05, be amended to read as follows:

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 Town Attorney is hereby designated as the Local Licensing Authority for the Town of Moffat with respect to Regulated Marijuana Businesses.
- (B) The Local Licensing Authority shall have the power to determine the qualifications of Applicants and Licensees and to 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.
- (C) The Local Licensing Authority shall notify the State Licensing Authority (Colorado Marijuana Enforcement Division, (MED)) 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, suspension, or revocation of 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(s) applying for a Regulated Marijuana Business License.
 - (2) “*Audit of Compliance*” means a written document provided by the Local Licensing Authority or its delegates analyzing a Licensee’s compliance with the Colorado Marijuana Code, the Colorado Marijuana Rules, this Ordinance or other applicable laws and regulations.
 - (3) “*Colorado Marijuana Code*” means Article 10 of Title 44 of the Colorado Revised Statutes, as amended.

- (4) "*Colorado Marijuana Rules*" means the rules promulgated by the Colorado Department of Revenue Marijuana Enforcement Division, as amended.
- (5) "*Excise Tax*" means a tax directly levied on certain goods by a local, state, or federal government.
- (6) "*License*" means the license, permit, or registration granted pursuant to the Colorado Marijuana Code, the Colorado Marijuana Rules, or this Ordinance.
- (7) "*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 are 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.
- (8) "*Licensee*" means any person licensed, registered, or permitted pursuant to the Marijuana Code, the Colorado Marijuana Rules, or this Ordinance.
- (9) "*Location*" means a particular parcel of land that may be identified by an address or other descriptive means.
- (10) "*Marijuana*" means both Medical Marijuana and Retail Marijuana but does not encompass hemp or hemp-derived products.
- (11) "*Marijuana Product*" means a product that is comprised of Marijuana infused with other ingredients, and that is intended for use or consumption other than by smoking including, but not limited to, edible products, ointments, and tinctures.
- (12) "*Notice of Violation*" means a written document provided by the Local Licensing Authority or its delegates affirming a Licensee's lack of compliance with the Colorado Marijuana Code, the Colorado Marijuana Rules, this Ordinance, or other applicable laws and regulations.
- (13) "*Office of the Town Attorney*" or "*Town Attorney*" means an attorney-at-law licensed to practice in the state of Colorado and hired by the Town to represent its interests.
- (14) "*Office of the Town Clerk*," "*Town Clerk*," or "*Clerk*" means the Clerk of the Town of Moffat, who acts as the custodian of the official records of the Town, or any person designated by said Clerk to exercise any of their powers, duties, or functions.
- (15) "*Park*" means a Federal, State, County, or Municipal-owned land that is open to the public for purposes of recreational activities.
- (16) "*Post Office*" means the United States Postal Service (USPS) building, with the 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.
- (17) "*Regulated Marijuana Business*" means any licensed Medical Marijuana Businesses and Retail Marijuana Businesses.
- (18) "*School or Childcare Establishment*" means any public or private school providing instruction to students in Kindergarten through grade twelve (12), 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.
- (19) "*Smoking*" shall have the same meaning as set forth in section 25-14-203, C.R.S., as amended.
- (20) "*State Licensing Authority*" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale,

transportation, consumption, and testing of Regulated Marijuana in Colorado, pursuant to section 44-10-201, C.R.S., and may more commonly be known as the Colorado Marijuana Enforcement Division, (MED).

(21) “*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.

(22) “*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, transportation, 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 the 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 2:00 a.m. daily.
- (E) It shall be unlawful for any person(s) to operate a *Regulated Marijuana Business* in the Town while violating any provisions set forth by the Colorado Marijuana Code, the Colorado Marijuana Rules, and/or this Ordinance. Any such violation(s) shall be grounds for revocation, suspension, or denial of renewal of any *Regulated Marijuana Business License* issued by the Local Licensing Authority.

Section 6 – Authorized Classes of Licenses.

- (A) For the purposes of regulating the cultivation, processing, manufacturing, storage, sale, transfer, transportation, and consumption 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) Medical Marijuana Transporter License;
 - (5) Retail Marijuana Store License;
 - (6) Retail Marijuana Cultivation Facility License;
 - (7) Retail Marijuana Products Manufacturer License;
 - (8) Retail Marijuana Transporter License;
 - (9) Marijuana Hospitality Business License;
 - (10) Retail Marijuana Hospitality And Sales Business License;
 - (11) Accelerator Cultivator License;
 - (12) Accelerator Manufacturer License; and
 - (13) Accelerator Store License.

- (B) Licenses issued by the Town of Moffat shall grant the same privileges and impose the same restrictions as set forth in the Colorado Marijuana Code, the Colorado Marijuana Rules, and this Ordinance.
- (C) Issuance of any license type requires Licensee to affirm that they authorize any agent of the Local Licensing Authority, including third party contractors, to access the Licensed Premises during business hours to perform an inspection, according to Section 15 of this Ordinance (Inspections, Audits of Compliance and Notices of Violation).

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 thirty (30) days from when the Local Licensing Authority receives the initial application.
 - (2) Proof of ownership or legal possession of the Licensed Premises. If the Licensed Premises is leased, the application shall include written consent by the owner of the property to the licensing of the premises as a Regulated Marijuana Business.
- (C) An application shall not be accepted unless it is filed on current forms and payment of all associated fees in accordance with Section 17 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 thirty (30) 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.
 - (a) 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 thirty (30) days of the initial application date.
- (F) The Local Licensing Authority shall review all applications for compliance with this Ordinance. Applications in compliance with this Ordinance shall be approved. Applications not in compliance with this Ordinance shall be denied. 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 comply with this Ordinance.
- (G) An applicant shall affirm that they authorize any agent of the Local Licensing Authority, including third party contractors, to access the Licensed Premises during business hours to perform an inspection, according to Section 15 of this Ordinance (Inspections, Audits of Compliance and Notices of Violation).
- (H) A local License shall be valid for one (1) year from the date of issuance and may be renewed in accordance with Section 8 of this Ordinance (Renewals).
- (I) The Local Licensing Authority shall notify the State Licensing Authority of all decisions made on applications for *Regulated Marijuana Businesses Licenses* in accordance with the Colorado Marijuana Code and Colorado Marijuana Rules.

Section 8 – Renewals.

- (A) Any License issued pursuant to this Ordinance shall be valid for a period of one (1) 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.

- (B) The Local Licensing Authority shall process License renewal 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.
- (C) At the time of renewal, a Licensee shall affirm that they authorize any agent of the Local Licensing Authority, including third party contractors, to access the Licensed Premises during business hours to perform an inspection, according to Section 15 of this Ordinance (Inspections, Audits of Compliance and Notices of Violation).
- (D) The Local Licensing Authority may analyze a Licensee's compliance with the Colorado Marijuana Code, the Colorado Marijuana Rules, and this Ordinance prior to issuing a Renewal.
 - (1) The Local Licensing Authority may require a hearing in front of the Board of Trustees if the Licensee is found to be non-compliant with the Colorado Marijuana Code, the Colorado Marijuana Rules, or this Ordinance.
 - (a) The hearing in front of the Board of Trustees is advisory in nature and does not constitute a final decision. The Local Licensing Authority shall issue a final decision at its discretion.
- (E) Upon payment of a renewal fee, payment of any accumulated or outstanding fines, in accordance with Section 17 of this Ordinance (Fees & Fines), 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 ninety (90) days prior to the expiration date of the License.
 - (2) A Licensee whose License has been expired for no more than thirty (30) days may file a late renewal application, upon the payment of a late fee and renewal fee, in accordance with Section 17 of this Ordinance (Fees), and in accordance with Section 2-225(D)(1) of the Colorado Marijuana Rules.
 - (3) The Local Licensing Authority may revoke or suspend a license if the renewal in accordance with Section 17 of this Ordinance (Fees) is not executed in ninety (90) days.
- (F) A Licensee may not operate with an expired License, or exercise any of the privileges of the License:
 - (1) The Local Licensing Authority may 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 ninety (90) days from expiration shall be permitted to continue cultivating Marijuana plants but may not transfer any Marijuana until a determination has been made on its renewal application.
- (G) 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, which 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. 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) *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” (hereunder referred to as “Section 1”), or at the AREA420 Addition (hereunder be referred to as “Section 2”).

(1) “*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.

(2) “*Section 2*” is defined as: Lots 9, 10, 11 and 12 OF BLOCK 23, TOWN OF MOFFAT, 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 permissible areas, attached hereto as Attachment A, and incorporated herein by reference, and property(s) that has previously been licensed for marijuana use by the Town, and which may have inadvertently been left out of the attached legal descriptions (Attachment A).

(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”.

(G) No *Marijuana Hospitality Business License* or *Retail Marijuana Hospitality and Sales Business License* shall be issued for locations that are not compliant with this Section of the Ordinance.

(H) No *Medical Marijuana Transporter License* or *Retail Marijuana Transporter License* shall be issued for locations that are not compliant with this Section of the Ordinance.

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 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 regarding 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 Licensed Premises shall be moved and shall surrender its original local License from the Town of Moffat 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 (MED) 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 and follow the guiding principles of the International Dark Sky Association (IDA).
 - (a) All outdoor light fixtures shall be fully shielded and installed and maintained in such a manner that the shielding does not permit light trespass in excess. Lighting shall be directed away from public viewing areas in a manner to ensure no lamp is directly visible from public viewing areas.
 - (b) Light pollution shall be minimized through the use of directional lighting, fixture location, height, or the use of shielding and/or motion sensors and timers.
 - (c) A Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer shall have a light deprivation system.
 - (d) 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.
 - (e) A Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer shall comply with requirements of the Colorado Marijuana Rules regarding motion lights and night lights in a manner that complies with lighting nuisance requirements.
- (2) *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) *Regulated Marijuana Businesses* shall have regular trash services, in addition to the requirements set forth in 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) *Regulated Marijuana Businesses* shall comply with all fire restrictions imposed by the Town of Moffat, Saguache County, or the State of Colorado, and all requirements set forth in the Colorado Marijuana Rules on waste disposal.
 - (a) A *Regulated Marijuana Business* shall always have at least one (1) operational fire extinguisher in the Licensed Premises.
- (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 31, 2020, a septic system or septic vault shall be installed one hundred (100) feet from the water tap and twenty-five (25) 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 its fencing in addition to the requirements set forth in 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 minimize light pollution from the *Medical Marijuana Cultivation Facility* or *Retail Marijuana Cultivation Facility*, in accordance with this Section.
 - (c) The *Medical Marijuana Cultivation Facility* or the *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 SERV Safe Food Handler certificate obtained through the successful completion of an online or in person assessment. 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.
- (8) A *Medical Marijuana Transporter License* or *Retail Marijuana Transporter License* shall comply with the following provisions:
 - (a) *Medical and Retail Marijuana Transporter Licensees* shall not possess unsealed packages or containers of cannabis on the Licensed Premises. *Medical and Retail Marijuana Transporter Licensees* shall not open sealed packages or containers of cannabis. *Medical and Retail Marijuana Transporter Licensees* shall not re-package cannabis on the Licensed Premises.
 - (b) *Medical and Retail Marijuana Transporters* that do not maintain a Licensed Premises within the town shall not temporarily store cannabis or otherwise exercise any license privileges for which a Licensed Premises would be required.

Section 14 – Licensed Hospitality Businesses.

- (A) *Marijuana Hospitality Businesses* and *Retail Marijuana Hospitality and Sales Businesses* are authorized in the Town of Moffat and must comply with all local and state laws and regulations.
- (B) A local *Marijuana Hospitality Business License* may be issued to allow for the on-premises consumption of Marijuana and Marijuana Product(s) at a fixed location and must comply with rules established by the Colorado Marijuana Code, the Colorado Marijuana Rules, and this Ordinance.
- (1) A *Marijuana Hospitality Business Licensee* shall not sell, transfer, or distribute, with or without remuneration, or allow the sale, transfer, or distribution, with or without remuneration, of Marijuana or Marijuana Products on the Licensed Premises.
 - (2) A *Marijuana Hospitality Business Licensee* shall not allow any person under the age of twenty-one (21) on the Licensed Premises.
 - (3) A *Marijuana Hospitality Business Licensee* shall not engage in or allow any activity that would require an additional License, including, but not limited to, planting, growing, harvesting, storing, drying, trimming, processing, or manufacturing Marijuana, or Marijuana Products. Nothing in this section prohibits a Marijuana Hospitality Business from storing marijuana consumer waste on the Licensed Premises, in compliance with state law.
 - (4) A *Marijuana Hospitality Business* is allowed to operate between the hours of 8:00 a.m. and 2:00 a.m. daily.
 - (5) A *Marijuana Hospitality Business* may allow smoking and vaping of Marijuana or Marijuana Products in indoor and outdoor portions of the Licensed Premises.
 - (6) A *Marijuana Hospitality Business* shall ensure that the display and consumption of any Marijuana or Marijuana Product is not visible from outside of its Licensed Premises.
 - (7) A *Marijuana Hospitality Business* with outdoors areas shall ensure that all Marijuana is kept out of plain sight, is not visible from a public place without the use of optical aids, and that the consumption area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque barrier.
- (C) A local *Retail Marijuana Hospitality and Sales Business License* may be issued to allow for the sale and on-premises consumption of Marijuana and Marijuana Product(s) at a fixed location and must comply with rules established by the Colorado Marijuana Code, the Colorado Marijuana Rules, and this Ordinance.
- (1) A *Retail Marijuana Hospitality and Sales Business* shall permit the sale, transfer, distribution, use, or consumption of regulated marijuana between the hours of 8:00 a.m. and 2:00 a.m. daily.
 - (a) All transfers of Marijuana or Marijuana Product(s) by a *Retail Marijuana Hospitality and Sales Business* to a consumer shall not exceed the following sales limit per person, per day:
 - (i) More than two (2) grams of Retail Marijuana Flower;
 - (ii) More than one-half of one (½) gram of Retail Marijuana Concentrate; or
 - (iii) A Retail Marijuana Product containing more than twenty (20) milligrams of active THC. For any transfer of Retail Marijuana Product containing more than ten (10) milligrams of active THC, the Retail Marijuana Product must be Transferred to a consumer in separate serving sizes containing no more than ten (10) milligrams of active THC per serving.
 - (b) A *Retail Marijuana Hospitality and Sales Business* shall not permit a consumer to leave the Licensed Premises with any unconsumed marijuana unless the *Retail Marijuana Hospitality and Sales Business* has ensured the unconsumed marijuana is packaged and labeled in accordance Packaging and Labeling Requirements.

- (2) A *Retail Marijuana Hospitality and Sales Business Licensee* shall not allow any person under the age of twenty-one (21) on the Licensed Premises.
- (3) A *Retail Marijuana Hospitality and Sales Business Licensee* shall not engage in or allow any activity that would require an additional License, including but not limited to planting, growing, harvesting, storing, drying, trimming, processing, or manufacturing Marijuana or Marijuana Products. Nothing in this section prohibits a *Marijuana Hospitality Business* from storing marijuana consumer waste on the Licensed Premises, in compliance with state law.
- (4) A *Retail Marijuana Hospitality and Sales Business* is allowed to operate between the hours of 8:00 a.m. and 2:00 a.m. daily.
- (5) A *Retail Marijuana Hospitality and Sales Business* may allow smoking and vaping of Marijuana or Marijuana Products in indoor and outdoor portions of the Licensed Premises.
- (6) A *Retail Marijuana Hospitality and Sales Business* shall ensure that the display and consumption of any Marijuana or Marijuana Product is not visible from outside of its Licensed Premises.
- (7) A *Retail Marijuana Hospitality and Sales Business* with outdoors areas shall ensure that all Marijuana is kept out of plain sight and is not visible from a public place without the use of optical aids and that the consumption area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque barrier.

Section 15 – Inspections, Audits of Compliance and Notices of Violation.

- (A) Every Applicant, Licensee, or employee of the *Regulated Marijuana Business* shall permit any agent of the Local Licensing Authority, including third party contractors, to access the Licensed Premises during business hours to perform an inspection and issue an Audit of Compliance with the Colorado Marijuana Code, the Colorado Marijuana Rules, this Ordinance.
 - (1) The auditing agent shall issue a written result for the Audit of Compliance within ninety (90) days of the visit and send a copy to the Licensee.
 - (2) In case a third-party contractor conducts the inspection, a copy of the Audit of Compliance shall be issued to the Local Licensing Authority.
 - (3) The Audit of Compliance may be attached to the License's records. An Audit of Compliance may be used during proceedings for revocation, suspension, or denial of renewal of the License.
 - (4) The Local Licensing Authority may issue a copy of the Audit of Compliance to the State Licensing Authority.
- (B) The Local Licensing Authority may require a re-inspection of the License Premises at its discretion and depending on the severity of the violations stated in the Audit of Compliance. If an inspecting agent continues to see a recurring violation, the Local Licensing Authority may issue a Notice of Violation to the Licensee.
 - (1) If the Local Licensing Authority decides to issue a Notice of Violation to the Licensee, the Local Licensing Authority shall do so within ninety (90) days of the re-inspection and send a copy to the Licensee.
 - (2) In case a third-party contractor conducts the re-inspection, the inspecting agent shall notify the Local Licensing Authority, in writing, with a statement describing the recurring violation. The Local Licensing authority will decide, based on the stated facts, whether to issue a Notice of Violation.
 - (3) The Local Licensing Authority may give up to ninety (90) days from the re-inspection date for the Licensee to comply with the Rules described in the Notice of Violation.

- (4) If the Licensee does not comply with the Notice of Violation in the time stipulated by the Local Licensing Authority, the Local Licensing Authority may begin proceedings for revocation or suspension of the license.
- (5) In the event of such proceedings, the Local Licensing Authority may require a hearing in front of the Board of Trustees relative to the revocation or suspension of the License, and the Board of Trustees may issue recommendations concerning the matter. The Local Licensing Authority may consider the recommendations and records of the proceedings before issuing a final decision.
 - (i) The hearing in front of the Board of Trustees is advisory in nature and does not constitute a final decision. The Local Licensing shall issue a final decision at its discretion.
- (C) 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 16 – Disciplinary Action, Sanctions, and Penalties.

- (A) In addition to any other penalties prescribed by the Colorado Marijuana Code and the Colorado Marijuana Rules, the Local Licensing Authority may, on their own motion or upon complaint, and after investigation in which the licensee shall be afforded an opportunity to be heard, suspend, revoke, fine, fine in lieu of suspension, or place conditions on any License for any of the following circumstances:
 - (1) Any fact or condition exists which would qualify for the denial of the License;
 - (2) The Licensee has failed to furnish information that may be reasonably required by the Local Licensing Authority or its agents;
 - (3) The Licensee, either knowingly or without the exercise of due care to prevent the same, has violated the Colorado Marijuana Code, the Colorado Marijuana Rules, or this Ordinance;
 - (4) The Licensee has failed to maintain the Licensed Premises in compliance with the requirements of the Colorado Marijuana Code, the Colorado Marijuana Rules, this Ordinance, or any other applicable local and state laws;
 - (5) The Licensee, or employee of the *Regulated Marijuana Business* violated any Ordinance of the Town or any state or federal laws or have permitted such a violation by another.
- (B) No suspension under this section shall be for a longer period than six (6) months. Notice of suspension or revocation, as well as any required notice hearing, shall be given by mailing the same in writing to the Licensee at the Licensee's last address of record with the Local Licensing Authority.
- (C) Revocation of a license may occur immediately or while a license is suspended.
- (D) 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 suspension, suspensions, or revocations.
- (E) 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 17 – Fees & Fines.

- (A) Applicants and Licensees shall pay all the non-refundable fees listed in the Town of Moffat Consolidated Fee Schedule, in addition to any fees payable to the State of Colorado.
- (B) Fines and fines in lieu of suspension issued by the Local Licensing Authority are discretionary and may be modulated between one hundred (100) and five thousand (5,000) dollars per violation.

Section 18 – Taxes.

(A) Procedures.

- (1) Excise Tax Reporting forms shall be due by the 20th of each month for the preceding month's sales. If the 20th of the month falls on a Sunday or Holiday in which the Town Hall is closed, forms and payment may be remitted no later than the next available business day.
- (2) Excise Tax Forms will need to be filed every month regardless of whether the Licensee owes the Town taxes, sales were generated for that month, or the License is in full operation.
- (3) Excise Tax Forms shall be updated monthly, therefore Licensees cannot use the same Tax form as months prior due to changes in market rates.
- (4) Excise Tax Forms shall only be accepted by in person delivery, mail, or fax. Electronic delivery such as email shall not be accepted due to security purposes.
- (5) Payments may only be made by mail or in person delivery.
- (6) A copy of the Licensee's Colorado Department of Revenue Reporting Form must accompany the submission of the local Excise Tax Reporting Form.
- (7) If the "Contract Price" section of the Excise Tax Reporting Form is filled out, the Licensee must provide a copy of the contract dated prior to the sale.
- (8) If an individual or entity has more than one License within the Town of Moffat, a separate reporting form will need to be filled out for each *Retail Marijuana Businesses*.
- (9) Licensees must certify on their Excise Tax Form that the information reported on the reporting form is true and correct and agree to promptly submit an amended return if any errors are discovered and agree to reimburse the Town for all costs and attorney's fees in recovering any under reported amounts and otherwise enforcing its excise tax.

(B) Penalty for Violation

- (1) Per the Excise Tax Reporting Form, if payment and/or the tax return is filed after the due date a ten percent (10%), penalty will be assessed on the amount of tax owed to the Town.
- (2) For each month, the payment and/or return is late, a twenty five percent (25%) interest will accrue on the excise tax amount past due.
- (3) In the event the amount of tax due to the Town is zero dollars (\$0.00), and a return is not filed with the Town by the due date, then a penalty shall be assessed for such return(s) each month the return is late, in accordance with the Town of Moffat Consolidated Fee Schedule.
- (4) If the payment and/or reporting form is late, an email shall be sent to the Licensee indicating that the Licensee is late on their deadline. After a week of the deadline, a late notice will be mailed, and a phone call made to the owner on file.
- (5) Each Licensee shall have sixty (60) days to pay their past due excise tax, after which point their water tap shall be shut off and fines assessed. The Local Licensing Authority may revoke or suspend the local license, and the State Licensing Authority (MED) may be notified. Within the sixty (60) day late period, the Licensee may request a Public Hearing with the Moffat Board of Trustees to present a proposal for payment to be considered by the Local Licensing Authority. If the Local Licensing Authority finds the proposal sufficient, an extension will be granted to the Licensee to allow for a payment plan no longer than ninety (90) days from approval at the Public Hearing. If the Local Licensing Authority finds the proposal insufficient, or the Licensee does not apply for a Public Hearing, the Local Licensing Authority may temporarily suspend or permanently revoke the local license for such entity, at which time the State Licensing Authority (MED) shall be notified.
- (6) The Town may impose a penalty for a check remitted to the Town for payment of tax that is returned to the Town due to insufficient funds, a closed account, or a stop payment order, pursuant to the Town of Moffat Consolidated Fee Schedule.

- (7) Failure to pay may cause the Town to charge the local business with the following:
- i. Fraud with intent to evade tax.
 - ii. Negligence or intentional disregard of rules and regulations, without intent to defraud.
 - iii. Making retail sales without a valid license.

Section 19 – Recording and Authentication.

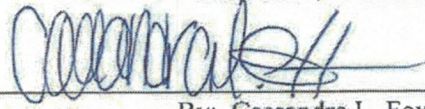
(A) This Ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and Town Clerk, recorded in the Town Book of Ordinances kept for that purpose, and published according to law.

Section 20 – Publication and Effective Date.

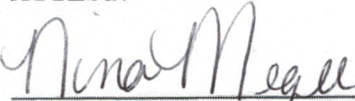
(A) This Ordinance shall take effect immediately following final passage and shall be published thereafter. The Town of Moffat Ordinances numbers 2017-6, 2019-11, 2019-12, 2019-17, 2020-03, 2021-01, 2021-2 were previously repealed. This Ordinance amends Ordinance 2021-05.

FIRST READ and **ADOPTED** on this 22nd day of February, 2023

TOWN OF MOFFAT, COLORADO



By: Cassandra L. Foxx, Mayor

ATTEST:


Nina Magee, Town Clerk

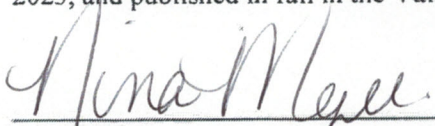
[SEAL]

APPROVED AS TO FORM:


Seth Walker, Town Attorney

CERTIFICATION

I hereby certify that the within Ordinance was introduced, read in full, approved and adopted at meeting of the Board of Trustees of the Town of Moffat, Colorado on the 21 day of February, 2023, and published in full in the Valley Courier, a legal newspaper in the Town of Moffat, on ___[date].


Nina Magee, Town Clerk

Feb 28, 2023

ATTACHMENT A:

- (1) A tract of land situated in the Northwest 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 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° 38' 04" E a distance of 640.58 feet; Thence S 03° 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° 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° 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° 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° 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° 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° 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 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° 17' 26" E along the west line of said Section 31 a distance of 2605.41 feet to the West 1/4 corner of said Section 31; Thence S 89° 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° 46' 22" W along the north-south centerline of said Section 31 a distance of 2644.56 feet to the South 1/4 corner of said Section 31; Thence N 88° 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 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° 08' 41" W along the south line of said Section 36 a distance of 2645.85 feet to the South 1/4 corner of said Section 36; Thence N 01° 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° 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) A parcel of land located entirely within United States General Land Office Lots 4 and 5, Section 6, Township 43 North, Range 10 East, New Mexico Principal Meridian also known as: 17848 CO RD 59, Moffat, CO §1143, more particularly described as follows: Beginning at the northwest corner of the herein described parcel whence the northwest corner of said Section 6 bears N 88°40'43" W a distance of 60.01 feet; Thence S 88°40'43" E along the north line of said Section 6 a distance of 1,275.08 feet to the northeast corner of the herein described tract which is identical with the northeast corner of said USGLO Lot 4; Thence S 02°58'50" W along the east line of said USGLO Lot 4 a distance of 651.44 feet to the southeast corner of said Lot 4 and the northeast corner of said USGLO Lot 5; Thence S 02°59'28" W along the east line of said USGLO Lot 5 a distance of 1,324.48 feet to the southeast corner of the herein Described parcel which is identical with the southeast corner of said USGLO Lot 5; Thence N 89°11'29" W along the south line of said USGLO Lot 5 a distance of 1,253.28 feet to the southwest corner of the herein described parcel, being a point on the east Right of Way Line of Saguache County Road 59; Thence N 02°20'54" E along the said east Right of Way Line of Saguache County Road 59 a distance of 1,986.60 feet to the Point of Beginning; Said Parcel containing 57.475 Acres, more or less.