

**TOWN OF MOFFAT, COLORADO
ORDINANCE NO. 2019-11**

**AMENDING ORDINANCE 2019-8- REGULATING RETAIL
MARIJUANA ESTABLISHMENTS**

WHEREAS, on November 6, 2012, the voters of the State of Colorado approved Amendment 64 which added Section 16 of Article XVIII to the Colorado Constitution and created a limited exception from criminal liability under Colorado law for the cultivation, manufacture, testing and sale of marijuana and marijuana products under a system of licensed establishments regulated by State and local governments; and

WHEREAS, the Colorado General Assembly has adopted enabling legislation for Amendment 64 at Senate Bill 13-283, House Bill 13-1317; and House Bill 13-1318; and the Department of Revenue has issued emergency rules related to the Colorado Retail Marijuana Code (CRMC) at 1 CCR 212-2; and

WHEREAS, pursuant to C.R.S. § 12-43.4-104(3) the Board of Trustees has opted to regulate and license retail marijuana establishments;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MOFFAT, COLORADO, THAT:

Section 1. Local Licensing Authority. The Board of Trustees is hereby designated to act as the local licensing authority for the town in regard to retail marijuana establishments.

Section 2. Unlawful Acts and Penalty.

(a) It shall be unlawful for any person to operate any retail marijuana establishment in the town without a license duly issued therefore by the state licensing authority under the Marijuana Code and compliance with any and all applicable state law.

(b) It shall be unlawful for any person to operate any retail marijuana establishment in the town without a license duly issued therefore by the Board of Trustees under this Ordinance and compliance with any and all applicable town laws.

(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 other than those forms of businesses and commerce that are expressly contemplated by section 16 of article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code, or the Colorado Medical Marijuana Code.

(d) It shall be unlawful for any person to sell marijuana or marijuana products at a licensed retail marijuana store or licensed medical marijuana dispensary at any time other than between the hours of 7:00 a.m. and 9:00 p.m. daily.

(e) Any person engaging in any unlawful activity may be enjoined by the Town from engaging in such activity and may be fined in an amount not to exceed \$300 a day for each offense or by imprisonment not to exceed 90 days, or both. Each day shall constitute a separate and continuing offense. Nothing contained herein shall limit the Town from seeking any other remedies that may be available at law and in equity. Any person who violates this ordinance shall pay all of the Town's costs and reasonable attorneys' fees incurred in any civil action to ensure compliance with this Ordinance. All remedies shall be cumulative and may be concurrently pursued.

Section 3. Authorized Classes of Licenses. For the purpose of regulating the cultivation, manufacture, testing, distribution, offering for sale, and sale of retail marijuana, the Town hereby authorizes issuance of the licenses of the following classes by the State licensing authority in the town, subject to the provisions and restrictions in this Ordinance and applicable State laws:

- (a) Retail marijuana store.
- (b) Retail marijuana cultivation facility.
- (c) Retail Manufacture of Infused Products (MIPS), except that such products sold within the jurisdictional limits shall not be manufactured using butane.

Retail marijuana stores will be limited to commercial zoned areas only and will be limited to two stores only within the Town limits.

Section 4. Application for License.

(a) All applicants for a local retail marijuana license shall submit a complete application to the Board of Trustees made upon the form prescribed by the Town Clerk. The Town Clerk may refuse to accept an application that is incomplete.

(b) Each applicant must provide any additional information requested by the Board of Trustees to process and investigate the application. An applicant's failure to provide such information may be grounds for denial of the license.

(c) Applicants shall pay the following non-refundable fees, in addition to any fees payable to the State:

- New License Application fee: Per the Town's Business License Application and Renewal \$500 plus \$2,500.00 (\$2,500 paid to the State accompanying other State fees to be reimbursed by State of Colorado to the Town of Moffat).
- Annual License renewal fee: Per Town of Moffat Business License Application and Renewal \$2,000
- modify the licensed premises or otherwise amend, change or alter an existing license: \$250
- Application to transfer the location of license, change principals or ownership: \$1,500
- Late renewal fee: \$500
- Any other costs incurred by the Town associated with processing the application, such as costs for background inspections, and attorney's fees.

The Board of Trustees may approve any changes in fees set forth in this Ordinance by resolution.

(d) The Town shall inform the State of all decisions made on any applications.

(e) Each license granted shall be valid for one year from the date it is issued, unless such license is revoked earlier.

Section 5. Licensed Premises.

(a) All retail marijuana establishment licenses shall be issued for a specific location which shall be considered the licensed premises.

(b) No retail marijuana establishment licenses shall be issued for the following locations:

(1) In any residential zone district as defined by the zoning code of the town, or in any other location where retail sales are prohibited by the zoning code.

(2) Within one thousand (1,000) feet of any school or child care establishment, with the distance computed by direct measurement from the nearest property line of the land used for school or child care purposes to the nearest portion of the building in which the retail marijuana establishment is located, using a route of direct pedestrian access.

(c) A retail marijuana store in common ownership with a medical marijuana center may be licensed in the same location and may share the same licensed premises, to the extent allowed by the CRMC and regulations promulgated by the Colorado Marijuana Enforcement Division.

(d) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the property of the licensed premises.

(e) No person under twenty one years of age shall be permitted on the licensed premises, unless the person has been qualified to possess marijuana for medical use in accordance with Ordinance XVIII, Section 14(6) of the Colorado Constitution and the person is accompanied by a parent.

(f) The name and contact information for the owner or owners and any manager of the establishment shall be conspicuously posted in the dispensary.

(g) Any and all cultivation, processing, storage, display, sales or other distribution of marijuana shall occur within an enclosed building and shall not be visible from the exterior of the building.

Section 6. Relationship to Colorado Retail Marijuana Code and other laws.

(a) Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code and regulations promulgated pursuant thereto. In the event of a conflict of laws, the more restrictive provision shall control. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and non-compliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any licensed marijuana establishment may be required to demonstrate, upon demand by the town, or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises is in full compliance with any applicable state law or regulation.

(c) If the state prohibits the sale or other distribution of marijuana, any license issued pursuant to this Ordinance shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licenses.

This Ordinance, 2019-11, supersedes all previous ordinances: 0011-05-2013, 01-12-2015, 01-01-2016, 2016-4, 2017-2, 2018-5, and 2019-8.

FIRST READ on this 7th day of May 2019.

SECOND READING and ADOPTED on this 4th day of June, 2019.

TOWN OF MOFFAT, COLORADO

By: Patricia Reigel, Mayor

ATTEST:

Sarah Van Horn, Town Clerk

[SEAL]

CERTIFICATION

I hereby certify that the above Ordinance was introduced, read in full, on May 7, 2019 and then approved and adopted at the regular meeting of the Board of Trustees of the Town of Moffat, Colorado on June 4, 2019, and published by posting at the following locations: Moffat Post Office, Moffat Town Hall and Grammy's Kitchen on April 30, 2019 and May 28, 2019.

Sarah Van Horn, Town Clerk