

**TOWN OF MOFFAT, COLORADO
ORDINANCE NO. 2019-3**

**AN ORDINANCE REGULATING
MARIJUANA CULTIVATIONS & M.I.Ps**

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 regards to retail, medical, cultivations, and marijuana infused products marijuana establishments.

Section 2. Unlawful Acts and Penalty.

(a) It shall be unlawful for any person to operate any marijuana grow or 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 marijuana grow or 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) 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) Marijuana cultivation facility.
- (c) 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 marijuana license of any kind 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
- Application to transfer the location of license, change principals, modify the licensed premises or otherwise amend, change or alter an existing license: \$2,000
- 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. The MED will be notified of any licenses that expire locally.

(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 marijuana 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 (1,500) 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.

No marijuana cultivation or MIP licenses shall be issued for the following locations:

- (1) Within one thousand (1,500) feet of any school or child care establishment, park, or post office, with the distance computed by direct measurement from the nearest property line of the land used for school, park, post office or child care purposes to the nearest portion of the building in which the marijuana establishment is located, using a route of direct pedestrian access.
- (2) In accordance with any Town restrictions per the Town's marijuana moratorium, or where prohibited by the zoning code.
- (3) Within 500 feet of an indoor Hemp cultivation, or within 1 mile of an outdoor Hemp cultivation, with the distance computed by direct measurement from the nearest property line of the cultivations.

(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, greenhouse, facility, or within the outdoor grow premises.

(g) Any and all cultivation, processing, storage, display, sales or other distribution of marijuana from a cultivation or manufacturer shall occur within an enclosed area in accordance with State law and shall not be visible from the exterior of the building or facility. Town of Moffat requires all grow facilities to line/wrap their fencing with green mesh or netting material to lower visibility from the public and to

assist with lighting nuisances. Fencing shall be in accordance with all State regulations including height of 8 feet tall, or 6 feet tall with an additional foot or more of at least 3 strings of barbed/razor wire.

(h) All marijuana cultivation and manufacturing facilities, whether indoor or outdoor, must comply with a "light pollution" policy. Lighting must be obstructed from the view of the highway and residential zones. Lighting should not be visible at night to the neighboring properties of Marijuana operations. Motion lights and night lighting should be bright enough to provide safety & abide by State law, but not bright enough to be offensive to the surrounding community, or a distraction to drivers. All lighting must be white light, no color lighting permitted.

(i) All marijuana cultivation and manufacturing facilities, whether indoor or outdoor, must comply with a "Noise Pollution" policy. No generators are allowed if heard from neighboring properties. Quiet generators are required, or a cinder block baffle box can be used if it is sufficient and no complaints are received.

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

(a) Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in the Colorado 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, the Town's affiliates, 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) Per the Marijuana Enforcement Division's (MED) Statement of Understanding, all licensed marijuana owners understand that the licensed premises, including any places of storage where medical marijuana and/or retail marijuana and/or infused products are stored, sold, dispensed, or tested, shall be subject to inspection by the state or local jurisdictions and their investigators, during all business hours and other times of apparent activity. (Rules M 1202/R 1202)

(d) The Town of Moffat and Town of Moffat representatives and/or third-party contractors hired by the Town involved in auditing, compliance investigations, or other similar oversight activities related to regulating compliance are held harmless from any liability arising from conducting such investigations or services. It is solely the responsibility of any Marijuana License Holder or its designated operator to comply with all State, Federal, or Local laws, codes, agencies, and regulations. Marijuana license holders are not to rely on any audit, or its results performed by the Town of Moffat or its representatives/contractors as a measure of compliance with State, Federal, or Local laws, codes, agencies, and regulations.

(e) The Town of Moffat adopts all regulations and codes provided by the Marijuana Enforcement Division, Department of Agriculture, and other regulatory agencies. In reinforcement of the MED, the Town has opted to include the MED Statement of Understanding as Exhibit A in this Ordinance.

(f) 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.

(g) All Marijuana establishments must adhere to State regulations on waste removal including, but not limited to, Department of Agriculture and Marijuana Enforcement Division regulations.

FIRST READ on this 5th day of March 2019.

SECOND READING and ADOPTED on this 12th day of March, 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 March 5, 2019 and then approved and adopted at the regular meeting of the Board of Trustees of the Town of Moffat, Colorado on March 12, 2019, and published by posting at the following locations: Moffat Post Office, Moffat Town Hall and Grammy's Kitchen on February 26, 2019 and March 05, 2019.

Sarah Van Horn, Town Clerk