TOWN OF MOFFAT, COLORADO
ORDINANCE NO. 2020-03 (2019-19 Amended)

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), accept that such products sold within the jurisdictional limits shall not be manufactured using butane, unless such MIP facility is located within the boundaries of the subdivision known as CO Area 420, and meets all State & Federal regulations & standards for such facility, inspections, and usage.

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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:

- Tier 1 Retail New License Application fee: Per the Town's Business License Applications a total fee of $3000.00. $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).
- Tier 1 Medical New License Application Fee: Per the Town's Business License Applications a total fee of $3000.00 paid directly to the Town of Moffat.
- Annual License renewal fee Tier 1 Medical or Retail: Per Town of Moffat Business License Application Renewal $2,000 (paid in full to the Town of Moffat)
- Annual License Renewal (Tier up) Tier 2 Retail Cultivation: $3200.00
- Modification of the licensed premises: $250
- Redistributing interest among the current ownership group, adding new owners, removing owners: $250
- Full Transfer of Ownership from one party to another Medical or Retail: $3000.00 (paid in full to the Town of Moffat

- 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 commercial marijuana 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.

(4) 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.

(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 over the age of twenty one (21).

(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. Green mesh must be maintained at all times and cannot be in disarray, falling off, torn, or otherwise. 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. Greenhouse lighting should not be visible during dark hours to the neighboring properties of Marijuana operations, and a light deprivation system must be implemented at each facility. Dark hours will be defined as a half hour after sunset to sunrise. 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.

(j) All marijuana cultivation and manufacturing facilities shall have at least six (6) parking spaces. One (1) parking space must be designated Handicap and be 11 feet wide by 20 feet long, all other spaces must be 10 feet wide and 20 feet long. Parking Spaces are allowed to be located inside the facility, outside the facility, or both. Parking on Town roads in Colorado Area 420 is not permitted. Driveway access off the road into the facility or into designated parking spaces shall not impede or damage existing Town infrastructure including piping, wiring, roads, or otherwise.

(k) All marijuana cultivation and manufacturing facilities are required to have a septic system or septic vault installed at their property. All septic systems or vaults must be 100 feet from the water tap and 25 feet from the water main if installed after May of 2020.

(l) All marijuana cultivation and manufacturing facilities are required to have a sign posted visible from the road with their company name, phone number, and physical address. Font size must be at least 2 inches. The sign must be legible, weather appropriate, and of professional quality.

(m) Dogs must be securely located in your facility or must be on a leash at all times. Dogs or other domestic animals are not permitted to be within 3 feet of marijuana plants.

(n) Trash service is required for all marijuana cultivation and manufacturing facilities. All trash and other debris must be secured to prevent littering, destruction of neighboring properties, and to protect the health & safety of Moffat residents.

(o) The intentional outdoor burning of non-biodegradable materials, hazardous materials, chemicals, and/or rubbish is not permitted. Burning of Marijuana product is not permitted. The burning of vegetation, brush, weeds, and other such natural materials shall not constitute a nuisance as long as proper notification is given to the Sheriff's Office & Moffat Town Hall, a permit is obtained from Moffat Town Hall for burning time exceeding one (1) hour, and burning is done between the hours of 7:00am to 7:00pm. No burning will be accepted on "Red Flag" days, high wind days, or any weather advisory designating high fire risk. Any control burn, large burn, or extended burning time must be reported to Saguache County dispatch (719-655-2544) before burning begins and after burning is completed. A large fire is anything larger than a 55 gallon fire barrel, or controlled burning of any portion of land. Fires need to be in a controlled situation at all times and are not to be left unattended.

(p) Each marijuana cultivation and manufacturing facility will be required to have at least one (1) operational fire extinguisher per building on premises at all times.

(q) A retail marijuana cultivation in common ownership with a medical cultivation may be licensed in the same location and may share the same premises, to the extent allowed by the CRMC and regulations promulgated by the Colorado Marijuana Enforcement Division. Each cultivation must apply for and renew a license for each separate cultivation. However, each designated cultivation type, retail or medical, must be physically separated on the premises and be easily distinguishable.. If said premises also has a shared MIP facility, product may not be processed at the same time. Product must be separated and can not overlap processing times.

(r) The speed limit in the subdivision known as Colorado Area 420 is 25 miles per hour.

(s) Recreational vehicles (RV) and campers are permitted ONLY within your property lines. Parking of campers or RVs is not permitted on Town roads or within Town easements. If you are permanently residing in your RV or camper, or using it for your handwashing station or restroom facility, you must be connected to a septic vault or septic system.

(t) Propane tanks must adhere to required setbacks from buildings and property lines. 500+ gallon propane tanks must be at least 25 feet away from any structure and 10 feet away from any property line. Propane tanks must be 3 feet apart from one another.

(u) All marijuana facilities must adhere to the Marijuana Enforcement Divisions regulations on security systems and alarm systems. This includes, but is not limited to:

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.

2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.

3. A Licensee shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. See Rule 3-905 – Business Records Required.

4. Upon request, Licensees shall make available to agents of the Division or relevant Local Licensing Authority or Local Jurisdiction or state or local law enforcement agency, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.

5. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this Rule. An outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. It shall be the responsibility of the Licensee to maintain physical security in a manner similar to a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility located in an indoor Limited Access Area so it can be fully secured and alarmed. The fencing requirements shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas and shall meet at least the following minimum requirements:

e. A Licensee or Applicant for initial licensure may, in writing, request that the Division waive one or more of the security requirements described in this subparagraphs (a) through (d) of this Rule, by submitting on a form prescribed by the Division a security waiver request for Division approval. The Division may, in its discretion and on a case-by-case basis, approve the security waiver if it finds that the alternative safeguard proposed by the Licensee or Applicant for initial licensure meets the goals of the above security requirements or that the security requirements are in conflict with a local ordinance of general applicability. Approved security waivers expire at the same time as the underlying License and may be renewed at the time the License renewal application is submitted. The Licensee's or Applicant for initial licensure's request for a waiver shall include:

i. The specific rules and subsections of a rule that is requested to be waived;

ii. The reason for the waiver;

iii. A description of an alternative safeguard the Licensee will implement in lieu of the requirement that is the subject of the waiver; and

iv. An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.

(v) In order to protect public health and safety, or in the situation of a pandemic or widely spread illness, all marijuana business owners and their employees must adhere to any guidelines or regulations instated by public health agencies, or government agencies including Local and State government.

(w) All commercial retail marijuana cultivations must adhere to the State and Local laws and procedures for excise tax reporting.

(x) All Marijuana Infused Product manufacturing facilities must have a valid ServSafe Food Handler's certificate obtained through the successful completion of an online assessment or print exam. This applies to the operator and owner of such MIP facility.

(y) All Retail Marijuana Cultivations must start as a Tier 1 cultivation. In order to change to Tier 2 at the time of license renewal, such Marijuana Cultivation must have had 2 harvests of 90% plants processed successfully through their facility, and adhered to the State requirements for transfer to Tier 2 on the State level.

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.

This Ordinance, 2020-03, supersedes all previous ordinances: 2019-3, 2019-10. 2019-19.

FIRST READ on this 5th day of May, 2020.

SECOND READING and ADOPTED on this 9th day of June, 2020.

TOWN OF MOFFAT, COLORADO

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By: Patricia Reigel, Mayor

ATTEST:

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Ray Miller, Mayor Pro Tem

[SEAL]

CERTIFICATION

I hereby certify that the above Ordinance was introduced, read in full, on May 5, 2020 and then approved and adopted at the regular meeting of the Board of Trustees of the Town of Moffat, Colorado on June 9th, 2020, and published by posting at the following locations: Moffat Post Office, Moffat Town Hall and Grammy's Kitchen.

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Ray Miller, Mayor Pro Tem