

**TOWN OF RED CLIFF, COLORADO
ORDINANCE 8, SERIES 2013**

AN ORDINANCE AMENDING ARTICLE 6 OF CHAPTER 10 OF THE TOWN OF RED CLIFF MUNICIPAL CODE TO CONFORM TO SECTION 16 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION REGARDING PERSONAL USE AND REGULATION OF MARIJUANA, AMENDING ARTICLE 4 OF CHAPTER 16 OF THE TOWN OF RED CLIFF MUNICIPAL CODE TO ALLOW MARIJUANA ESTABLISHMENTS IN CERTAIN ZONE DISTRICTS IN THE TOWN OF RED CLIFF AND ENACTING AS ARTICLE 13 OF CHAPTER 16 OF THE TOWN OF RED CLIFF MUNICIPAL CODE A MARIJUANA ESTABLISHMENTS CODE.

WHEREAS, the Town of Red Cliff (“Town”) is a municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law;

WHEREAS, on November 6, 2012, the voters of the State of Colorado approved the addition of Section 16 to Article XVIII of the Colorado Constitution concerning personal use and regulation of marijuana;

WHEREAS, Section 16 of Article XVIII of the Colorado Constitution permits persons twenty-one years of age or older to possess, use, display, purchase, transport, grow, process, transfer and consume certain amounts of marijuana, marijuana products and marijuana accessories pursuant to the restrictions therein;

WHEREAS, the Town of Red Cliff Municipal Code (“Code”) presently contains provisions concerning possession of marijuana, marijuana products and marijuana accessories that are in conflict with Section 16 of Article XVIII of the Colorado Constitution;

WHEREAS, the Town desires to amend the Code to delete those provision that conflict with Section 16 of Article XVIII of the Colorado Constitution;

WHEREAS, Section 16 of Article XVIII of the Colorado Constitution permits the State of Colorado to license and regulate marijuana establishments to grow, sell, produce and test marijuana and marijuana products;

WHEREAS, pursuant to § 12-43.4-101, *et seq.*, C.R.S., otherwise known as the Colorado Retail Marijuana Code, a state licensing authority is authorized to issue licenses for the lawful sale of marijuana, marijuana products and marijuana accessories by licensed marijuana establishments;

WHEREAS, the State of Colorado, through the Department of Revenue’s Marijuana Enforcement Division, has adopted permanent rules and regulations related to the Colorado Retail Marijuana Code governing the licensing and operation of marijuana establishments;

WHEREAS, Section 16 of Article XVIII of the Colorado Constitution authorizes the Town to enact ordinances or regulations governing the time, place, manner and number of marijuana establishments in the Town so long as such ordinances or regulations are not in

conflict with Section 16 of Article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code and the rules and regulations adopted by the Department of Revenue's Marijuana Enforcement Division;

WHEREAS, Section 16 of Article XVIII of the Colorado Constitution authorizes the Town to establish a schedule of of operating fees for marijuana establishments; and,

WHEREAS, the Town desires to amend the Code to allow it to regulate the time, place, manner and number of marijuana establishments and establish a schedule of operating fees for marijuana establishments as contemplated by Section 16 of Article XVIII of the Colorado Constitution.

NOW, THEREFORE, THE TOWN OF RED CLIFF ORDAINS:

Section 1: Section 50 of Article 6 of Chapter 10 of the Code is deleted.

Section 2: Section 60 of Article 6 of Chapter 10 of the Code is deleted.

Section 3: Section 20 of Article 4 of Chapter 16 of the Code is amended by the addition of a new sub-subsection (7) to subsection (c) to read in its entirety:

(7) "Marijuana establishments" but only insofar as defined, licensed, permitted and operated in accordance with the Marijuana Establishments Code set forth in Article 13 of this Chapter.

Section 4: Section 30 of Article 4 of Chapter 16 of the Code is amended by the addition of a new sub-subsection (4) to subsection (c) to read in its entirety:

(4) "Marijuana establishments" but only insofar as defined, licensed, permitted and operated in accordance with the Marijuana Establishments Code set forth in Article 13 of this Chapter.

Section 5: Chapter 16 of the Code is amended by the addition of a new Article 13 entitled Marijuana Establishments Code to read in its entirety:

ARTICLE 13

Marijuana Establishments Code

Sec. 16-13-10. Definitions.

As used in this Chapter 16:

(a) "Colorado Retail Marijuana Code" shall mean Article 43.4 of Title 12 of the Colorado Revised Statutes and all rules and regulations duly and lawfully promulgated and enacted thereunder.

(b) "Marijuana" shall have the meaning attributed to it in section 2(f) of Section 16 of Article XVIII of the Colorado Constitution.

(c) “Marijuana accessories” shall have the meaning attributed to it in section 2(g) of Section 16 of Article XVIII of the Colorado Constitution.

(d) “Marijuana establishment” shall have the meaning attributed to it in section 2(i) of Section 16 of Article XVIII of the Colorado Constitution.

(e) “Marijuana products” shall have the meaning attributed to it in section 2(k) of Section 16 of Article XVIII of the Colorado Constitution.

Sec. 16-13-20. Marijuana establishments as a special review use.

(a) A marijuana establishment shall be considered a special review use subject to the provisions of this Article 13.

(b) A special review use permit must be obtained in accordance with this Article 13 prior to the operation of any marijuana establishment.

Sec. 16-13-30. Special review use permit application and public hearing.

(a) An applicant seeking a special review use permit for operation of a marijuana establishment shall submit an application to the Town on a form to be provided and pay any special review use permit fee established by the Town pursuant to this Article 13.

(b) Upon receipt of an application and payment of any special review use permit fee, the Town shall set a public hearing on the application to be held before the Board of Trustees no more than twenty-one days after submission of the application.

(c) Notice of the time, place and subject matter of the public hearing shall be (i) posted at the office of the Town Clerk at least twelve days prior to the hearing date, (ii) posted in a conspicuous location on the property at which the applicant proposes to operate a marijuana establishment at least twelve days prior to the hearing date, (iii) posted in at least three public places within the Town at least twelve days prior to the hearing date and (iv) published, at the expense of the applicant, once in the *Vail Daily* and *Eagle Valley Enterprise* at least twelve days prior to the hearing date.

(d) All public hearings on a special review use permit application for a marijuana establishment shall be conducted pursuant to procedures designed to ensure fairness and due process for all interested parties.

Sec. 16-13-40. Approval or denial of special review use permit application.

(a) In deciding whether to approve or deny a special review use permit application for a marijuana establishment, the Town will consider the number, type and location of existing marijuana establishments in the Town. The Town may deny a special review use permit application for a marijuana establishment if it determines that granting the application will result in greater density of marijuana establishments than reasonable and appropriate.

(b) The Town may deny a special review use permit application for a marijuana establishment if granting the permit will be contrary to the public health, safety and welfare of the Town and its inhabitants.

(c) The Town may impose such conditions on the approval of a special review use permit application for a marijuana establishment as it deems just and necessary for the preservation of the public health, safety and welfare of the Town and its inhabitants.

(d) A special review use permit shall remain valid so long as any conditions of approval imposed by the Town are maintained and the marijuana establishment is operated in strict compliance with Section 16-13-60.

(e) If a special review use permit application for a marijuana establishment is denied, the special review use permit fee shall not be refunded.

Sec. 16-13-50. Modification of special review use.

(a) Any special review use permit for a marijuana establishment issued pursuant to this Article 13 shall not be transferrable or assignable and shall be limited to the location for which the permit was issued.

(b) If the holder of a special review use permit for a marijuana establishment issued pursuant to this Article 13 transfers ownership of the marijuana establishment, the transferee shall be required to obtain a new special review use permit for a marijuana establishment pursuant to this Article 13.

(c) If the holder of a special review use permit for a marijuana establishment issued pursuant to this Article 13 changes, alters or modifies the marijuana establishment in such a way as to require prior approval from the State of Colorado pursuant to the Colorado Retail Marijuana Code, the holder of the special review use permit shall be required to obtain a new special review use permit for a marijuana establishment pursuant to this Article 13.

Sec. 16-13-60. Manner of operation.

In addition to any other conditions imposed by the Town in conjunction with its approval of any special review use permit for a marijuana establishment, all special review use permits for marijuana establishments are subject to the following conditions:

(a) Marijuana establishments shall be operated in all respects in strict compliance with the Colorado Retail Marijuana Code.

(b) Marijuana establishments shall be subject to and comply with all applicable Town ordinances and regulations.

(c) Marijuana establishments shall only be permitted in those zone districts for which marijuana establishments are an authorized special use.

(d) No marijuana establishment shall sell, serve, distribute or initiate the transport of marijuana, marijuana accessories or marijuana products at any time other than between the hours of 10:00 am and 7:00 pm, Monday through Sunday.

(e) All marijuana establishments shall be equipped with a ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the lot on which the marijuana establishment is located.

(f) All marijuana establishments shall operate from a permanent and fixed location. No marijuana establishment shall operate from a vehicle or other moveable location.

(g) All marijuana establishments shall have staff members present during hours of operation. No vending machine or other unsupervised transactions shall be permitted.

(h) The owner, operator or licensee for any marijuana establishment shall obtain all necessary sales tax licenses and, upon the Town's request, provide evidence of the same to the Town.

(i) The holder of a special use permit for a marijuana establishment shall pay all annual operating fees imposed by the Town pursuant to this Article 13.

Sec. 16-13-70. Revocation of special review use permit.

(a) Any special review use permit for a marijuana establishment issued pursuant to this Article 13 shall be revocable by the Town if the holder of the special review use permit fails to adhere to conditions imposed by the Town upon issuance of the special review use permit and/or the conditions of operation set forth in Section 16-13-60.

(b) The Town shall notify in writing the holder of a special review use permit for a marijuana establishment of its intent to revoke the permit pursuant to subsection (a) at least twelve days before the Board of Trustees meeting at which revocation will be addressed by the Board. The holder shall be entitled to appear at that meeting and present arguments as to why the permit should not be revoked.

(c) At the meeting described in subsection (b), the Board may revoke the special review use permit or impose such fines and/or additional conditions as are reasonable and warranted under the circumstances.

Sec. 16-13-80. Fees.

(a) The Town shall establish by resolution a special review use application fee for marijuana establishments.

(b) The Town shall establish by resolution annual operating fees for any marijuana establishment operating in Town pursuant to a special review use permit.

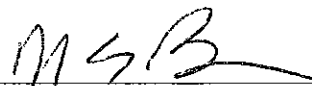
Section 6: Severability. If any section, provision or part of this Ordinance is for any reason held to be unconstitutional or invalid, the remainder of this Ordinance shall continue in full force and effect, it being the legislative intent that this Ordinance would have been adopted even if such unconstitutional or invalid matter had not been included therein. It is further declared that if any section, provision or part of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance and the application thereof to other persons shall not be affected thereby.

Section 7: Effective Date. This Ordinance shall become effective thirty (30) days after publication thereof.

Section 8: The Board of Trustees hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Red Cliff and the its inhabitants.


INTRODUCED, TITLE READ IN FULL, APPROVED ON THE FIRST READING, APPROVED AND ORDERED POSTED IN FULL THIS 15th DAY OF OCTOBER, 2013. A public hearing on the SECOND READING of this Ordinance shall be held at the regular meeting of the Board of Trustees of the Town of Red Cliff, Colorado, on the 7th day of NOVEMBER, 2013 at 7:00 p.m. in the Town Hall of the Town of Red Cliff, Colorado.

TOWN OF RED CLIFF, COLORADO



M. Scott Burgess, Mayor

ATTEST:



Barb Smith, Town Clerk

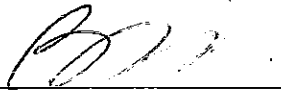
ADOPTED AND ORDERED PUBLISHED on this 1th day of November, 2013.

TOWN OF RED CLIFF, COLORADO



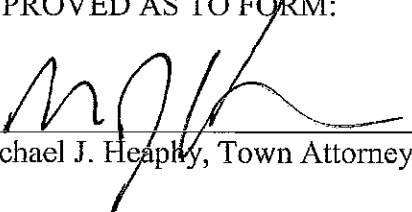
M. Scott Burgess, Mayor

ATTEST:



Barb Smith, Administrator/Town Clerk

APPROVED AS TO FORM:



Michael J. Heaphy, Town Attorney