

ORDINANCE NO. 2013-1

AN ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES OR RETAIL MARIJUANA STORES WITHIN THE TOWN OF SAGUACHE, COLORADO.

WHEREAS, the Town of Saguache prohibited medical marijuana facilities within the Town by the provisions of Ordinance 2010-11 on September 20, 2010; and

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, Personal Use and Regulation of Marijuana; and

WHEREAS, said Amendment 64 became effective upon proclamation of the Governor by Executive Order D 2012-052 on December 10, 2012, pursuant to Section 1(4) of Article V, of the Colorado Constitution; and

WHEREAS, Amendment 64 will add a new Section 16 to Article XVIII of the Colorado Constitution; and

WHEREAS, Amendment 64 defines a "Locality" in part in section 2(e) of Section 16 to include a municipality; and

WHEREAS, PART 5(f) of Section 16 provides the following:

". . . A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; . . . and

WHEREAS, current confusion and uncertainty regarding regulating and enforcement issues compound the difficulty of adequately monitoring and policing retail recreational marijuana stores and cultivation facilities in small rural communities; and

WHEREAS, consistent with the authority granted to the Board of Trustees in Amendment 64, the Board desires to adopt this Ordinance prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores within the incorporated area of the Town Saguache, Colorado;

NOW THEREFORE, be it ordained by the Board of Trustees of the Town of Saguache, Colorado as follows:

Purpose. The purpose of this ordinance is to promote the general public welfare and safety throughout the Town of Saguache, Colorado by prohibiting the operation

of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores.

Definitions. Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution. These definitions include, but are not limited to the following:

- (1) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY CONPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCT.
- (2) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.
- (3) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.
- (4) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE AND INCLUDES A PRIVATE MEMBERSHIP MARIJUANA CLUB OR "HASH BAR".
- (5) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA

PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

- (6) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE AND CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.
- (7) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.
- (8) "MEDICAL MARIJUANA SAGUACHE" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.
- (9) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

Violation. The operation, ownership, establishment or conduct of marijuana cultivation facilities, marijuana establishments, marijuana product manufacturing facilities, marijuana products facilities, marijuana testing facilities and retail marijuana stores thereof is unlawful and prohibited within the Town of Saguache.

Penalty. Any person, corporation, company, partnership, business association or organization violating the provisions of this ordinance shall be subject to a fine not exceeding \$ 300.00 and/or incarceration not exceeding 90 days or both such fine and imprisonment. Each day of continued violation shall be considered a separate offense.

Severability. If any part or parts of this ordinance are for any reason held to be invalid, such provision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts hereof, irrespective of the fact that any one part or parts be declared invalid.

THE BOARD OF TRUSTEES FINDS THAT THIS ORDINANCE IS NECESSARY TO THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, AND SAFETY, DUE TO THE SECONDARY EFFECTS OF RETAIL MARIJUANA STORES AND CULTIVATION FACILITIES AND LACK OF ADEQUATE LOCAL RESOURCES TO MONITOR AND POLICE SUCH ESTABLISHMENTS, AND SHALL TAKE EFFECT AND BE ENFORCED FROM AND AFTER PASSAGE OF THE SAME.

Passed by the Board of Trustees and signed this 22nd day of January, 2013.

Milton Jones, Mayor

Therese Garcia, Town Clerk

Approved as to Form:

Eugene L. Farish, Town Attorney

CERTIFICATION

I hereby certify that the within Ordinance was first introduced and read in full and adopted at a regular meeting of the Saguache Board of Trustees on 22nd day of January 2013, that said Ordinance was first published by title in the Saguache Crescent on the 31st day of January, 2013.

Therese Garcia, Town Clerk