

STATE OF COLORADO
TOWN OF PAONIA, COLORADO
ORDINANCE NO. 2017-04

AN ORDINANCE OF THE TOWN OF PAONIA, COLORADO, BASED ON THE RESULTS OF THE 2014 BALLOT QUESTIONS TO THE VOTERS, WITHIN THE TOWN OF PAONIA, COLORADO, PROHIBITING THE OPERATION OF RETAIL MARIJUANA ESTABLISHMENTS AND PROVIDING CRIMINAL PENALTIES FOR VIOLATION OF SUCH PROHIBITIONS

WHEREAS, on November 6, 2012, the voters of the State of Colorado approved Amendment 64 that added Section 16 of Article XVIII to the Colorado Constitution and created a limited exception from criminal liability under Colorado law for personal consumption of marijuana for adults 21 and over, as well as for the commercial cultivation, manufacture, and sale thereof; and

WHEREAS, the Colorado legislature has adopted legislation that enacted Article 43.4 to Title 12 of the Colorado Revised Statutes, known as the Colorado Retail Marijuana Code; and

WHEREAS, pursuant to Article XVIII, §16(5)(f) of the Colorado Constitution, the Town of Paonia 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, Article 43.4 of Title 12 of the Colorado Revised Statutes recognizes the right of local jurisdictions to prohibit the operation of marijuana establishments; and

WHEREAS, the Town of Paonia Board of Trustees at a special election on November 4, 2014, referred to the registered electors of the Town, “Ballot Question 2B” on the issue of whether Retail Marijuana Establishments would be permitted within the Town of Paonia pursuant to Ordinance 2014-06; and

WHEREAS, a majority of all votes cast at the special election were against the measure and the Town Clerk, certified such election results and informed the Colorado Department of Revenue, Marijuana Enforcement Division, that the registered electors of the Town of Paonia rejected a measure referred to them by the Town Board of Trustees that would have permitted the operation of retail marijuana establishments within the Town and that, consistent with that decision, the Town of Paonia will not accept, act upon or approve applications to operate retail marijuana establishments within the Town; and

WHEREAS, the Town of Paonia Board of Trustees, pursuant to the special election results and the provisions of Article XVIII, Section 16, of the Colorado Constitution, finds that, as an exercise of its local authority, such retail marijuana establishments shall not be located within the corporate limits of the Town; and

WHEREAS, pursuant to Article 3, §1-3-70 of the Paonia Municipal Code, the Town is authorized to adopt amendments to the Code by Ordinance.

WHEREAS, the Board of Trustees finds it necessary for the public health, safety, and welfare to amend the Paonia Municipal Code to prohibit the operation of retail marijuana establishments in the Town and providing criminal penalties for violation of such prohibitions; and

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

Section 1. Incorporation of Recitals. The aforementioned recitals are hereby fully incorporated herein.

Section 2. Marijuana Establishments Prohibited. The Town of Paonia Municipal Code is hereby amended by the addition thereto of a new Article 4 to Chapter 6, entitled “Retail Marijuana”, to read as follows:

CHAPTER 6.
ARTICLE 4.
RETAIL MARIJUANA

Sections:

6-4-10 Authority

6-4-20 Definitions

6-4-30 Uses Prohibited

6-4-40 Penalty

Section 6-4-10. Authority. The Town’s authority to adopt this Section is found in: Article XVIII, Section 16, of the Colorado Constitution; The Colorado Retail Marijuana Code, C.R.S. §12-43.4-101, et seq.; The Local Government Land Use Control Enabling Act, C.R.S. 29-20-101, et seq.; C.R.S. 31-23-101, et seq. (municipal zoning powers); C.R.S. §§ 31-15-103, 31-15-401 (municipal police powers); and C.R.S. § 31-15- 501 (municipal authority to regulate businesses).

Section 6-4-20. Definitions. For this Chapter, the following terms shall have the following meanings:

Marijuana 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 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “Marijuana” 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.

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.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

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.

Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, director, servant, officer or employee thereof.

Section 6-4-30. Uses prohibited. It is unlawful for any person to operate, cause to be operated, or permit to be operated any marijuana establishment that may be licensed pursuant to Article XVIII, Section 16 of the Colorado Constitution, including marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores within the Town, or within any area hereinafter annexed to the Town.

Section 6-4-40. Penalty. A violation of the provisions of this Chapter shall be punishable as follows:

- (1) By a fine of not exceeding two thousand six hundred and fifty dollars (\$2,650.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment;
- (2) Each and every day a violation of the provisions of this Chapter is committed, exists or continues shall be deemed a separate violation;
- (3) The Town is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate, or remove the violation; and

(4) Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity.

Section 3. If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of remaining portions of this Ordinance. The Town Board hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

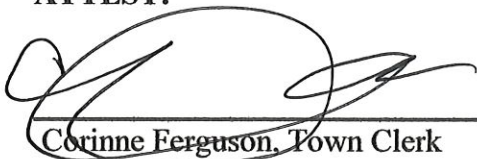
INTRODUCED, read, passed, approved and ordered published, at the Regular Meeting of the Board of Trustees of the Town of Paonia, Colorado this 28th day of February, 2017.

TOWN OF PAONIA, COLORADO

By: 

Charles Stewart, Mayor

ATTEST:



Corinne Ferguson, Town Clerk

