

**ORDINANCE NO. 12
SERIES OF 2016**

AN ORDINANCE OF THE TOWN OF CARBONDALE, COLORADO, APPROVING REVISIONS TO CHAPTER 6 OF THE MUNICIPAL CODE OF THE TOWN OF CARBONDALE TO CAP LICENSING OF MEDICAL AND RETAIL MARIJUANA ESTABLISHMENTS, PROVIDE THAT LICENSING CAPS FOR MEDICAL AND RETAIL MARIJUANA ESTABLISHMENTS SHALL REMAIN IN PLACE UNTIL DULY AMENDED, TO ADD REVIEW CRITERIA THE BOARD OF TRUSTEES MAY CONSIDER DURING HEARINGS FOR LICENSURE, & TO ENACT A NEW CLASS OF MEDICAL MARIJUANA TESTING FACILITY LICENSE.

WHEREAS, the Town has licensed and regulated retail and medical marijuana establishments for the past three years, and the Board of Trustees has identified changes or additions to existing provisions within the existing Retail Marijuana Licensing Ordinance and Medical Marijuana Licensing Ordinance that more effectively regulate marijuana licensing applications and Town's marijuana licensing approval, suspension, and revocation process;

WHEREAS, in order to address, in part, the concentration of impacts of the licensed marijuana industry on certain neighborhoods within the Town, the Board of Trustees seeks to reduce the cap on licenses granted for retail marijuana cultivation facilities and medical marijuana optional premises cultivation facilities, provide that licensing caps for medical and retail marijuana establishments shall remain in place until duly amended, and add certain review criteria that the Board of Trustees may consider during hearings on applications for licensure (including proximity to the same class of marijuana establishment, proximity to other medical marijuana and retail marijuana establishments, degree of concentration of marijuana establishments, reasonable requirements of the neighborhood, and potential impacts to the neighborhood by the granting of the subject license);

WHEREAS, given changes in Colorado law that provide for the licensing of medical marijuana testing facilities, the Town seeks to enact provisions to license such medical marijuana testing facilities;

WHEREAS, the Board of Trustees finds, determines, and declares that it has the power to adopt this Ordinance pursuant to Article XX of the Colorado Constitution and the Home Rule Charter of the Town of Carbondale; and

WHEREAS, the Board of Trustees finds that it is in the interest of public health, safety, and welfare to adopt revisions to Chapter 6 of the Municipal Code in order to more effectively regulate retail and medical marijuana establishments.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO that:

1. Chapter 6, Article 4 of the Town of Carbondale Municipal Code regarding *medical marijuana* licensing requirements shall be amended by deleting the language stricken and adding the language underlined to read as follows:

6-4-30. Definitions.

...

Medical marijuana establishment means a medical marijuana center, optional medical marijuana cultivation premises, ~~or~~ medical marijuana-infused products manufacturer, or medical marijuana testing facility.

...

6-4-41. Transition provisions.

The following provisions shall govern all applications for licensing of medical marijuana establishments submitted to the Town: No more than three optional premises cultivation facilities may be licensed within the Town.

...

6-4-70. Classes of licensing authorized.

...

- (1) Medical marijuana center ~~license~~;
- (2) Medical marijuana-infused products manufacturing facility license; ~~and~~
- (3) Optional premises cultivation facility license; and
- (4) Medical marijuana testing facility

6-4-80. Licensing requirements and procedure; provisions applicable to all licenses.

...

(f) *Public hearing.* The following public hearing procedure applies when an application has been deemed complete and has been found to comply with all zoning laws and other medical marijuana location restrictions set forth in Town laws. This public hearing procedure applies to any application for licensing of any medical marijuana establishment and to any application for licensing renewal if the renewal application is referred to the Board of Trustees by the Town Clerk pursuant to Section 6-4-140 of this Article.

...

- (2) At the public hearing held pursuant to this Section:

a. The Board of Trustees must make a finding and determination as to the good moral character of the applicant, meaning that the applicant has a personal history demonstrating honesty, fairness and respect for the right of others and for the law.

b. The Board of Trustees may consider the number, type and availability of the same type of medical marijuana establishment in the Town; the proximity of the subject license to the same class of medical marijuana establishment; the proximity of the subject license to other medical marijuana and retail marijuana establishments; the degree of concentration of medical marijuana and retail marijuana establishments; the reasonable requirements of the neighborhood; and potential impacts to the neighborhood by the granting of the subject license;

~~b.~~ c. The Board of Trustees may deny the application to license any retail marijuana establishment in the same location where any medical marijuana establishment or retail marijuana establishment is or has been previously licensed if there is evidence that the previously licensed premises ~~has been previously~~ was operated in a manner that adversely affects the public health, welfare or safety of the residents of the Town.

~~e.~~ d. Any party in interest shall be allowed to present evidence relevant to the issuance of a license ~~to the applicant~~. The term *party in interest* means the applicant or an adult resident of the Town. The Board of Trustees, in its discretion, may limit the presentation of evidence so as to prevent repetitive and cumulative evidence or examination.

~~d.~~ e. The Board of Trustees shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, ~~the number, type and availability of the same type of retail marijuana establishment in the Town~~ and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

...

6-4-111. Medical marijuana testing facility licensing requirements.

In addition to the requirements set forth in the Colorado Medical Marijuana Code and any rules or regulations adopted pursuant thereto, the following requirements shall apply to the issuance of a medical marijuana testing facility license:

(1) Compliance with zoning. A local license for a medical marijuana testing facility may only be issued for those lots on which, at the time of application for the license, testing laboratories constitute a permitted use pursuant to the Uniform Development Code.

(2) No shared interest. No local medical marijuana testing facility license may be issued to any applicant that shares an interest in a medical marijuana establishment or retail marijuana establishment located within the Town.

2. Chapter 6, Article 5 of the Town of Carbondale Municipal Code regarding *retail* marijuana licensing requirements shall be amended by deleting the language stricken and adding the language underlined to read as follows:

6-5-50. Transition ~~provision~~ provisions.

The following ~~timeline~~ provisions shall govern all applications for licensing of retail marijuana establishments submitted to the Town:

...

(2) ~~Until July 1, 2017, no~~ No more than five retail marijuana stores may be licensed within the Town; no more than five marijuana products manufacturing facilities may be licensed within the Town; no more than ~~five~~ three retail marijuana cultivation facilities may be licensed within the Town; and no more than five retail marijuana testing facilities may be licensed within the Town.

...

6-5-110. Licensing requirements and procedure; provisions applicable to all licenses.

...

(f) Public hearing. The following public hearing procedure applies when an application has been deemed complete and has been found to comply with all zoning laws and other retail marijuana location restrictions set forth in Town laws. This public hearing procedure applies to any application for licensing of any retail marijuana establishment and to any application for licensing renewal if the renewal application is referred to the Board of Trustees by the Town Clerk pursuant to Section 6-5-180 of this Article.

...

(2) At the public hearing held pursuant to this Section:

a. The Board of Trustees must make a finding and determination as to the good moral character of the applicant, meaning that the applicant has a personal history demonstrating honesty, fairness and respect for the right of others and for the law.

b. The Board of Trustees may consider the number, type and availability of the same type of retail marijuana establishment in the Town; the proximity of the subject license to the same class of retail marijuana establishment; the proximity of the subject license to other medical marijuana and retail marijuana establishments; the degree of concentration of medical marijuana and retail marijuana establishments; the reasonable requirements of the

neighborhood; and potential impacts to the neighborhood by the granting of the subject license;

~~b-~~ c. The Board of Trustees may deny the application to license any retail marijuana establishment in the same location where any ~~medical marijuana center~~ medical marijuana establishment or retail marijuana establishment is or has been previously licensed if there is evidence that the previously licensed premises ~~has been previously~~ was operated in a manner that adversely affects the public health, welfare or safety of the residents of the Town.

~~e-~~ d. Any party in interest shall be allowed to present evidence relevant to the issuance of a license ~~to the applicant~~. The term *party in interest* means the applicant or an adult resident of the Town. The Board of Trustees, in its discretion, may limit the presentation of evidence so as to prevent repetitive and cumulative evidence or examination.

~~d-~~ e. The Board of Trustees shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, ~~the number, type and availability of the same type of retail marijuana establishment in the Town~~ and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

...

6-5-150. Retail marijuana testing facility licensing requirements.

In addition to the requirements set forth in the Colorado Retail Marijuana Code and any rules or regulations adopted pursuant thereto, the following requirements shall apply to the issuance of a retail marijuana testing facility license:

(1) Compliance with zoning. A local license for a retail marijuana testing facility may only be issued for those lots on which, at the time of application for the license, testing laboratories constitute a permitted use pursuant to the Unified Development Code.

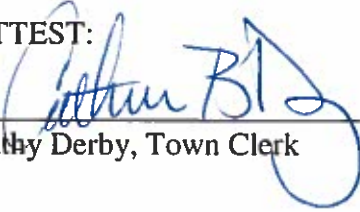
(2) No shared interest. No local retail marijuana testing facility license may be issued to any applicant that shares an interest in a ~~local retail marijuana store, product manufacturing facility or cultivation facility~~ medical marijuana establishment or retail marijuana establishment located within the Town.

INTRODUCED, READ AND PASSED this 13th day of July, 2016.

THE TOWN OF CARBONDALE


Dan Richardson, Mayor Pro Tem

ATTEST:


Cathy Derby, Town Clerk

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