

ORDINANCE NO. 18
Series of 2017

AN ORDINANCE OF THE TOWN OF CARBONDALE, COLORADO, REVISING ARTICLES 4 AND 5 OF CHAPTER 6 OF THE MUNICIPAL CODE TO REVISE THE PROCEDURE FOR MODIFICATION OF LICENSED PREMISES, CLARIFY LICENSE RENEWAL, SIGNAGE, AND ADVERTISING REQUIREMENTS, AND TO REMOVE THE EXISTING CAP OF FIVE RETAIL MARIJUANA STORES

WHEREAS, pursuant to Ordinance No. 11 Series of 2013 and Ordinance No. 7 Series of 2014, the Town licenses and regulates retail and medical marijuana establishments; and

WHEREAS, the Board of Trustees seeks to revise Articles 4 and 5 of Chapter 6 of the Town of Carbondale Municipal Code in order to more effectively regulate the licensing of medical and retail marijuana facilities, including to revise the procedure for modification of licensed premises, clarify license renewal requirements, and remove the existing cap of five (5) retail marijuana stores; and

WHEREAS, the Board of Trustees finds and determines that additional restrictions are needed concerning marijuana business signage and advertising in order to assure that marijuana businesses do not advertise in a manner that is false, misleading, deceptive, or designed to target or appeal to minors; and

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 concerning municipal police powers and municipal authority to regulate businesses and the Home Rule Charter of the Town of Carbondale; and

WHEREAS, the Board of Trustees finds, determines, and declares that the annual license renewal requirements in Articles 4 and 5 of Chapter 6 of the Town of Carbondale Municipal Code intend to permit the Town to respond to evolving community needs by revising the licensing requirements, *see Ficarra v. Dep't of Regulatory Agencies*, 849 P.2d 6, 21–22 (Colo. 1993); and

WHEREAS, the Board of Trustees finds and determines that it is in the interest of the public health, safety, and welfare to adopt the signage and advertising amendments to the licensing requirements set forth herein and for such amendments to apply retroactively; and

WHEREAS, the Board of Trustees also finds that it is in the interest of public health, safety, and welfare to remove the cap described above and make the other aforementioned regulatory changes to the licensing of medical and retail marijuana facilities in the Town of Carbondale.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO that the Town of Carbondale Municipal Code shall be amended as follows:

1. Sub-section 6-5-50(d) 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 provisions.

...

(d) ~~Until July 1, 2015-2017, no more than five (5) retail marijuana stores may be licensed within the Town of Carbondale; no~~ No more than five retail marijuana products manufacturing facilities may be licensed within the Town of Carbondale; no more than three retail marijuana cultivation facilities may be licensed within the Town of Carbondale; and no more than five retail marijuana testing facilities may be licensed within the Town of Carbondale.

2. Section 6-4-120 of the Town of Carbondale Municipal Code regarding *medical* marijuana licensing requirements shall be amended by adding the language underlined to read as follows:

6-4-120. Transfer of ownership.

Full transfer or partial transfer of ownership of any local license issued pursuant to this Article shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses. The public hearing requirements set forth in Subsection 6-4-80(f) of this Article shall apply to all applications for full or partial transfer of ownership of any local license, except in the instance that a license holder has filed a Statement of Agent Change, as set forth in this Article. The submission or pendency of an application for full or partial transfer of ownership does not relieve the license holder from the obligation to properly apply to renew such license in accordance with Subsection 6-4-140(g).

3. Section 6-5-160 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:

6-5-160. Transfer of ownership.

Full transfer or partial transfer of ownership of ~~Transfer of ownership of~~ any local license issued pursuant to this Article shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses. The public hearing requirements set forth in Subsection 6-5-110(f) above shall apply to all applications for full or partial transfer of ownership of any local license, except in the instance that a

license holder has filed a Statement of Agent Change, as set forth in this Article. The submission or pendency of an application for full or partial transfer of ownership does not relieve the license holder from the obligation to properly apply to renew such license in accordance with Subsection 6-5-180(g).

4. Section 6-4-130 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:

6-4-130 Change of location; modification of premises.

Any change of the location or any modification of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer applications to change location or modify premises in the same manner as the state licensing authority administers changes of location and modifications of premises for state licenses. Any application for a proposed change of location shall fully comply with the spacing and zoning requirements as set forth in this Article and shall be subject to the public hearing requirements pursuant to Subsection 6-4-80(f). Any application for a proposed modification of the licensed premises shall comply with the spacing and zoning requirements as set forth in this Article, and any application for a proposed modification of the licensed premises which seeks to increase facility size, or otherwise increase or enhance production of marijuana, or change the method of extraction, shall be subject to a new review and approval ~~pursuant to~~ under the Unified ~~Development~~ Code.

5. Section 6-5-170 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:

6-5-170. Change of location; modification of premises.

Any change of the location or any modification of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer applications to change location or modify premises in the same manner as the state licensing authority administers changes of location and modifications of premises for state licenses. Any application for a proposed change of location shall fully comply with the spacing and zoning requirements as set forth in this Article and shall be subject to the public hearing requirements pursuant to Subsection 6-5-110(f). Any application for a proposed modification of the licensed premises shall comply with the spacing and zoning requirements as set forth in this Article, and any application for a proposed modification of the licensed premises which seeks to increase facility size, or otherwise seeks to increase or enhance production of marijuana, or change the method of extraction,

shall be subject to a new review and approval pursuant to under the Unified ~~form~~
Development Code.

6. Sub-section 6-5-180(e) 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:

6-5-180. Ongoing license holder requirements; term of licenses; renewals.

...

(e) Notwithstanding anything else in this Article to the contrary, the Town Clerk shall deny an application for license renewal if the Town Clerk determines that the application concerns a licensed premise that was nonoperational, not open for business, and did not sell marijuana product or services from its licensed premises during the immediately preceding six months ~~license year~~. This subsection (e) shall only apply to applications for license renewal for which the underlying license, duly issued by the Town of Carbondale, stated the requirements of this subsection (e).

7. Sub-section 6-4-140(e) 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:

6-4-140. Ongoing license holder requirements; term of licenses; renewals.

...

(e) Notwithstanding anything else in this Article to the contrary, the Town Clerk shall deny an application for license renewal if the Town Clerk determines that the application concerns a licensed premise that was nonoperational, not open for business, and did not sell marijuana product or services from its licensed premises during the immediately preceding six months ~~license year~~. This subsection (e) shall only apply to applications for license renewal for which the underlying license, duly issued by the Town of Carbondale, stated the requirements of this subsection (e).

8. Sub-section 6-5-110(g) 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:

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

...

(g) *Signs and advertising.* Restrictions on signs and advertising shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and

any regulations adopted pursuant thereto. In addition, ~~signs for all~~ retail marijuana establishments are limited to: no more than two signs: one sign on the door of the establishment with a maximum size of two square feet, and one other sign to be located ~~in or on the windows with a maximum size of two square feet, which includes only the name and type of marijuana establishment; and one other sign per establishment located~~ in or on the windows, roof or walls of the establishment, or on the premises, with a maximum size of 12 square feet, or the sizes prescribed by Chapter 17.05, Section 5.9 of the Municipal Code (the Town Sign Code)-the Town Street Graphics Code, whichever is more restrictive. Both of these types of signs shall exist solely for the purpose of indicating the name, address, type and location of the retail marijuana establishment, and no sign shall contain additional logos, symbols or other visual information depicting or promoting marijuana plants, marijuana products, marijuana use, or the marijuana industry in general. All such signage shall also otherwise comply with this Article and any other applicable Town laws and regulations regarding signs and advertising, including the Town Sign Code. With the exception of these two types of signs allowed to be utilized by licensed retail marijuana establishments, it shall be unlawful for any person licensed under this Article or for any other person or entity to otherwise advertise any recreational marijuana establishment or product within the Town of Carbondale utilizing any of the following media: any billboard or other outdoor general advertising; any sign mounted on or otherwise affixed to a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. Any violation of these signage or advertising restrictions by any person licensed under this Article may be subject to the disciplinary actions, sanctions and penalties set forth in Section 6-5-190 of this Code, and/or serve as grounds for the Town Clerk to refer any license renewal application to the Board of Trustees for review and a public hearing pursuant to Sections 6-5-180(d) and 6-5-110 of this Article. Any violation of these retail marijuana signage and advertising restrictions by any other person may be subject to the penalties set forth in Section 1-4-20 of the Municipal Code. All such signs are subject to all requirements as set forth in the Town Street Graphics Code and all other Town ordinances regulating signs and advertising.

9. Sub-section 6-4-80(g) 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:

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

...

(g) *Signs and advertising.* Restrictions on signs and advertising shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code and any regulations adopted pursuant thereto. In addition, ~~signs for all~~ medical marijuana establishments are limited to: no more than two signs: one sign on the door of the

~~establishment with a maximum size of two square feet, and one other sign to be located in or on the windows with a maximum size of two square feet, which includes only the name and type of marijuana establishment; and one other sign per establishment located in or on the windows, roof or walls of the establishment, or on the premises, with a maximum size of 12 square feet, or the sizes prescribed by the Chapter 17.05, Section 5.9 of the Municipal Code (the Town Sign Code) Town Street Graphics Code, whichever is more restrictive. Both of these types of signs shall exist solely for the purpose of indicating the name, address, type and location of the retail marijuana establishment, and no sign shall contain additional logos, symbols or other visual information depicting or promoting marijuana plants, marijuana products, marijuana use, or the marijuana industry in general. All such signage shall also otherwise comply with this Article and any other applicable Town laws and regulations regarding signs and advertising, including the Town Sign Code. With the exception of these two types of signs allowed to be utilized by licensed medical marijuana establishments, it shall be unlawful for any person licensed under this Article or for any other person or entity to otherwise advertise any medical marijuana establishment or product within the Town of Carbondale utilizing any of the following media: any billboard or other outdoor general advertising; any sign mounted on or otherwise affixed to a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. Any violation of these medical marijuana signage and advertising restrictions by any other person may be subject to the penalties set forth in Section 1-4-20 of the Municipal Code. All such signs are subject to all requirements as set forth in the Town Street Graphics Code and all other Town ordinances regulating signs and advertising.~~


10. In light of the Board of Trustees' concerns about marijuana business signage being confusing or potentially appealing to minors, the Board of Trustees specifically finds and determines that the above-described amendments to sub-sections 6-5-110(g) and 6-4-80(g) of the Town of Carbondale Municipal Code shall apply retroactively.

11. If any other ordinance or parts of ordinances are in conflict with the standards set forth in this Ordinance, they are hereby repealed to the extent of such conflict only.


12. This Ordinance shall be effective upon posting and publication in accordance with the Carbondale Home Rule Charter.

INTRODUCED, READ AND PASSED THIS 14th day of November, 2017.

TOWN OF CARBONDALE, COLORADO
a Colorado home rule municipal corporation,


Dan Richardson, Mayor

ATTEST:


Cathy Derby, Town Clerk

POSTED: 11/15/17
PUBLISHED: 11/23/17
EFFECTIVE: 12/23/17