

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, APPROVING AMENDMENTS TO PORTIONS OF CHAPTER 16,
ZONING, OF THE MUNICIPAL CODE OF THE TOWN OF BASALT,
COLORADO, PRIMARILY CONCERNING RETAIL MARIJUANA STORES**

**Ordinance No. 14
Series of 2014**

RECITALS

1. The Town of Basalt ("Town") acting by and through its Town Council has the power to amend the Municipal Code of the Town of Basalt ("Town Code") pursuant to state statutes, Section 1.3, Home Rule Charter, and Section 1-58, Town Code, and all such amendments shall become a part of the Town Code.

2. At a public meeting held on May 6, 2014 the Planning and Zoning Commission considered the proposed code amendments. At the public meeting, the Planning and Zoning Commission heard evidence and testimony as offered by the Town Staff. The Planning and Zoning Commission recommended approval of the code amendments.

3. At a public meeting on May 13, 2014, the Town Council approved this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for May 27, 2014, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

4. At a public hearing and second reading on May 27, 2014, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public.

5. The provisions of Colorado Constitution Article XVIII § 16 and C.R.S. § 12-43.3-101 *et seq.* authorize operation of licensed retail marijuana facilities and provides municipalities with the authority to prohibit or regulate marijuana establishments within their respective jurisdictions. Marijuana is considered an illegal drug under Federal Law. The Town seeks to allow state licensed marijuana establishments to exist in the Town in accordance with applicable state laws and regulations as well as the additional requirements set forth herein. However, the Town does not in any way endorse or take a position on the use of retail marijuana.

6. The Basalt Town Council finds, determines and concludes that it has a legitimate public purpose in regulating retail marijuana establishments to protect the health, safety, welfare and quality of life for the citizens of the Town.

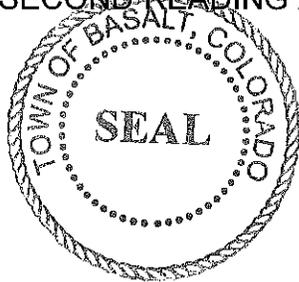
7. The Town Council finds and determines it is in the best interests of the Town to amend the Town Code as provided herein.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Basalt, Colorado, as follows:

1. Chapter 16, Zoning, is hereby amended as shown in **Exhibit A**.
2. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.
3. This Ordinance shall be effective 14 days after final publication of the Ordinance in accordance with the Town Home Rule Charter.

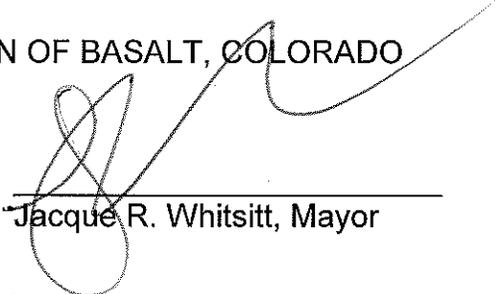
READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON May 27, 2014 by a vote of 6 to 0 on May 13, 2013.

READ ON SECOND READING AND ADOPTED, by a vote of 5 to 0, on May 27, 2014.

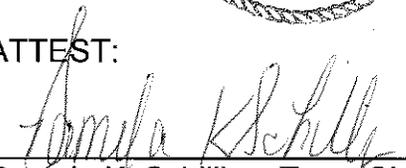


TOWN OF BASALT, COLORADO

By:


Jacquie R. Whitsitt, Mayor

ATTEST:


Pamela K. Schilling, Town Clerk

First Publication: Thursday, May 22, 2014
Final Publication: Thursday June 5, 2014
Effective Date: Thursday, June 19, 2014

Language underlined is being added to the current code and language ~~struck through~~ is being deleted.

Exhibit A

Proposed Changes to Chapter 16 Zoning.

Section 16-4 Definitions

Medical center means a facility where multiple professional health and medical services are provided, such as general medical practice, chiropractic, psychological, nutritional advice and physical therapy and where the focus is providing both diagnostic services and treatment. A medical center must contain at least three (3) of these types of practices, and there must be at least six (6) licensed professionals. A medical center must contain at least five thousand (5,000) square feet of contiguous, leasable floor area either under single ownership or other Town-approved form of unified coordination.

Medical marijuana center shall have the same meaning as set forth in C.R.S. § 12-43.3-104 (a person licensed to operate a medical marijuana center that sells medical marijuana to registered patients or primary caregivers, as defined in Article XVIII, Section 14, of the Colorado Constitution, but is not a primary caregiver), as amended. ~~means a person licensed pursuant to Title 12 Article 43.3 to operate a business that sells medical marijuana to registered patients or primary caregivers, as defined in Article XVIII, Section 14, of the Colorado Constitution, but is not a primary caregiver.~~

Medical marijuana-infused product shall have the same meaning as set forth in C.R.S. § 12-43.3-104 (means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. These products, when manufactured or sold by a licensed medical marijuana center or a medical marijuana-infused product manufacturer, shall not be considered a food or drug for the purposes of the “Colorado Food and Drug Act”, part 4 of article 5 of title 25, C.R.S.), as amended.

Medical marijuana infused products manufacturer shall have the same meaning as set forth in C.R.S. § 12-43.3-104 (means a person licensed pursuant licensed pursuant to C.R.S. Title 12 Article 43.3 to manufacture medical marijuana infused products), as amended.

Medical marijuana facility ~~means the approved premises where a person who has a valid state and a valid local license may operate a business related to medical marijuana including a medical marijuana center, an optional premise, or medical marijuana-infused product manufacturer. The term “medical marijuana facility” expressly excludes patients and primary caregivers, which are regulated pursuant to C.R.S. § 25-1.5-106. The portion of a dwelling unit or a single family lot that is used to grow marijuana plants and convert the plants into medical marijuana for one (1) person with a valid registry identification card is not considered a medical marijuana facility.~~

Optional premises shall have the same meaning as set forth in C.R.S. § 12-43.3-104 (means the premises specified in an approved application for a medical marijuana center license with related growing facilities in Colorado for which the licensee is authorized to grow and cultivate marijuana for a purpose authorized by section 14 of article XVIII of the state constitution), as amended.

Optional premises cultivation operation shall have the same meaning as set forth in C.R.S. § 12-43.3-104 (means a person and facility licensed pursuant to C.R.S. Title 12 Article 43.3 to operate a medical marijuana business to grow and cultivate marijuana at an optional premises), as amended.

Patient, when used within definitions and provisions in this Code regulating the use of medical marijuana, means a person with a valid registry identification card pursuant to C.R.S. § 25-1.5-106, issued by the Colorado Department of Public Health and Environment authorizing the medical use of marijuana for that individual under the specific limits of Colorado Constitution Article XVIII § 14, Section 18-18-406.3, C.R.S., and Section 25-1.5-106, C.R.S.

Premises shall have the same meaning as set forth in C.R.S. § 12-43.3-104 means (a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area), as amended.

Primary caregiver, when used within definitions and provisions regulating the use of marijuana, shall have the same meaning as set forth in in Article XVIII, Section 14, of the Colorado Constitution (a person, other than the patient and the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition), as amended, and who is regulated under the provisions of C.R.S. § 25-1.5-106, as amended. means a person, other than the patient and the patient's physician, who is eighteen (18) years of age or older and who has significant responsibility for managing the well-being of a patient who has a debilitating medical condition and who has a valid registry identification card issued by the Colorado Department of Public Health and Environment under the provisions of Colorado Constitution Article XVIII § 14, Section 18-18-406.3, C.R.S., and Section 25-1.5-106, C.R.S.

Retail Marijuana Cultivation Facility shall have the same meaning as set forth in subsection 16(2) of article XVIII of the Colorado Constitution under "marijuana cultivation facility" (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), as amended.

Retail Marijuana Establishment shall have the same meaning as set forth in subsection 16(2) of article XVIII of the Colorado Constitution under "marijuana establishment" (a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store), as amended.

Retail Marijuana Product shall have the same meaning as set forth in subsection 16(2) of article XVIII of the Colorado Constitution under "marijuana establishment" (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), as amended.

Retail Marijuana Products Manufacturing Facility shall have the same meaning as set forth in subsection 16(2) of article XVIII of the Colorado Constitution under "marijuana products manufacturing facility (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), as amended.

Retail Marijuana Store shall have the same meaning as set forth in subsection 16(2) of article XVIII of the Colorado Constitution (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), as amended.

Retail marijuana testing facility shall have the same meaning as set forth in subsection 16(2) of article XVIII of the Colorado Constitution under “marijuana testing facilities” (an entity licensed to analyze and certify the safety and potency of marijuana), as amended.

...

Sec. 16-22. Schedules of uses and requirements.

...

Note to facilitate ease in understanding areas changed in the code in the Schedules of uses and requirements, areas bolded are proposed for change. As with the other areas of this exhibit Underlined language shows language being added to the code and language ~~struck through~~ is proposed to be deleted.

Schedule of Uses
Commercial Districts

<i>Use</i>	<i>C-1 Neighborhood</i>	<i>C-3 Community</i>
Retail business/ commercial uses	P	P
Wholesale business commercial	X	S
Personal services	P	P
Automobile sales and services	X	S
Gas stations	X	S
Parking lots	S	P
Fast-food and drive-in restaurant	X	S
Restaurants	X	P
Commercial recreation facilities, including pool halls, bowling alleys, clubs, theaters, skating rinks	X	S
Professional and business offices	S	P
Hotels and motels	X	P
Temporary multi-family or lodge	X	S
Dental or medical clinics	X	P
Churches	X	S
School	X	S
Private education or instructional facility	X	P
Transportation facilities, terminals	X	P
Campgrounds	X	S
Public and governmental facilities	S	S
Single-family residential units or apartments in conjunction with a business	S	P
Community centers	X	S
Banking, savings and loan with drive-up window	X	S
Multi-family dwellings	X	S
Mobile home parks	X	S
Mobile home sales	X	S
Extraction, processing and transportation of natural resource materials	X	S
Park and recreation areas	P	P
Child care and day nurseries	S	P
Lumberyards	X	P
Small day care	S	X
Large day care	S	S
Small total care	X	X

Large total care	S	S
Bed & breakfast establishment	X	X
Small animal veterinary clinic	X	P
Adult entertainment establishments	X	X
Medical center <u>(may include a medical marijuana center or retail marijuana store if it satisfies the definitions included in the Code and the special review approval)</u>	X	S

P = Permitted use S = Permitted by special review
X = Prohibited

NOTES:

- For C-2, see Section 16-29, C-2 Downtown Business District.

Table 1
Schedule of Uses in the C-2 Zone District

Use	Use-Specific Standards
Permitted uses	
Retail business	Community vitality use; see Subsection 16-29(c)
Restaurant	Community vitality use; see Subsection 16-29(c)
Hotel and motel	Community vitality use; see Subsection 16-29(c)
Personal services	Community vitality use; see Subsection 16-29(c)
Movie and other theaters, pool hall and game room	Community vitality use; see Subsection 16-29(c)
Professional offices	
Business offices	See Note 2, below, for real estate offices
Banking and mortgage lending	
Offices for public and nonprofit uses	See Paragraph 16-28(3)
Parking garage	See Subparagraph 16-29(c)(4)d.2.
One or two apartments in conjunction with a business	Permitted only on the upper floor(s) of the building; limited to no more than 1,400 sq. ft. per unit ³ . Apartments shall not be separated in ownership from the business use and may be used to satisfy community housing requirements for the business use with appropriate deed restrictions.
Single-family residential units	Permitted only where the residential unit fronts along Homestead Drive; limited to no more than 2,500 total sq. ft. per unit ³
Small day care or small total care	
Parks and recreation areas	
Temporary outdoor uses and vendors	See Sections 6-14 and 16-181
Uses permitted by special review	
Bed and breakfast establishment	Community vitality use; see Subsection 16-29(c)
Bowling alley and skating rink	
Clubs	
Gas station with or without food market	
Banking with drive-up window	
Dental or medical clinic	
Temporary multi-family or lodge	
Multi-family dwellings	Permitted only on the upper floors of the building; limited to no more than 1,400 sq. ft. per unit ³
Mobile home park	
Church	

School, public or private	
Public and nonprofit facilities, other than those typically occurring within an office building	See Paragraph 16-28(3)
Community center	
Large day care or large total care	
Transportation facilities, terminals	
Prohibited uses	
Wholesale business	
Automobile sales and services	
Campground	
Mobile home sales	
Extraction, processing and transportation of natural resource materials	
Lumberyard	
Small animal veterinary clinic	
Adult entertainment establishment	
Drive-in restaurant	
Medical center	
Medical marijuana facilities and Retail Marijuana Stores	

NOTES:

1. See Subsection 16-29(b) which states that any use that is not specifically listed as permitted by right or special review shall be deemed to be a prohibited use.
2. A real estate office that exclusively markets a single real estate development is prohibited to be located in the vitality zone.
3. Total square feet is defined in Section 16-4. For the purposes herein, total square feet also includes any common storage space that is assigned to an individual unit but excludes any parking space that is assigned to the unit.

Schedule of Uses
Industrial Zone District

<i>Use</i>	<i>IN</i>
Facilities for research, testing, fabrication, processing, manufacture, repair, cleaning and/or assembly of:	
- sporting goods	P
- electronic components	P
- computers	P
- steel (no manufacturing)	P
- textiles	P
- food processing	P
- cosmetics	P
- musical instruments, toys, novelties	P
- artwork, pottery	P
- ceramics, glass, metal and plastic products	P
- natural or cultured stone products	S
- furniture	P
- paper products	P
- other products and materials similar to and compatible with the above products and materials as determined by the Town	P

Planner	
- other products and materials similar to and compatible with the above products and materials for which the Town Planner determines that Special Review Approval is necessary	S
Bottling plants	P
Office for conduct of a business or profession	P
Automobile, mobile home or recreational vehicle sales, and sales of parts and accessories	P
Automotive leasing	P
Industrial equipment sales and leasing and the sale of parts and accessories	P
Automobile, mobile home or recreational vehicle general service, repair, painting body work and storage	P
Gasoline stations and/or automobile washing facilities, with retail sales of automotive accessories only	P
Gasoline stations with accessory sales of convenience items not to exceed 2,000 sq. ft. of floor area	S
Restaurants not including drive-through establishments	P
Restaurants including drive-through establishments	S
Lumberyards, including sale of building and construction materials	P
Nursery stock production and sales, and greenhouse	P
General storage and warehouses for goods	P
Mini storage warehouse	P
Contractors supply yards	P
Shop for:	
- blacksmith	P
- cabinetworks and furniture	P
- glazing	P
- machining	P
- printing and publishing	P
- plumbing	P
- electrician	P
- sheet metal	P
- handiercraft products	P
- upholstery	P
- general repair	P
- welding	P
- shops for uses and products similar to and compatible with the above uses and products as determined by the Town Planner	P
- shops for uses and products similar to and compatible with the above products and materials for which the Town Planner determines that Special Review Approval is necessary	S
Retail sales of products directly related to the primary use on the property within the IN Zone District for which the gross floor area related to on-site retail sales is 20% or less of the gross floor area of the use	P
Retail sales of furniture, household appliances and electrical equipment	P
Vocational or trade school	S
Bulk dry cleaning and commercial laundries	P
Motor or railroad freight depot	S
Cold storage lockers	P
Storage, repair, manufacture, rental and/or sales with contract installation for durable goods (by way of example, kitchen appliances, saunas, jacuzzis, sheet metal products, sheet rock, office equipment, solar energy equipment, etc.)	P
School	S
Private educational or instructional facilities	S
Health club not more than 12,000 sq. ft. of total floor area	P

Health club more than 12,000 sq. ft. of total floor area	S
Public and governmental building	S
Major utility facilities, including transmission lines and substations	S
Small day care	S
Large day care	S
Wholesale sales operation	P
Outdoor storage	S
Recycling facility	S
Parking lot	S
Drive-through bank, automatic teller machine/mini bank	S
Studio for motion picture or video production	P
Accessory dwelling units (accessory to a primary use). Generally, children will be prohibited in accessory dwelling units in the IN zone, but children may be allowed in certain circumstances through the special review process where there is a finding that the principal use of the property and the uses in the immediate neighborhood do not pose significant threats to the health or safety of children and that there are appropriate play area in or near the vicinity of the property	S
Catalog sales outfit	P
Any of the above uses, with the exception of lumberyards and mini storage warehouses, which exceed 35,000 sq. ft. of building and/or covered storage areas on a single lot	S
Salvage yard, junkyard	X
Adult entertainment establishments	S ¹
Construction waste compaction facility	P
Minor utility facilities ²	P
Minor utility lines	P
Major utility lines	S
Medical office	P
Medical clinic	S
Medical Marijuana Center Premises <u>and retail marijuana store</u>	P

P = Permitted use S = Permitted by special review
X = Prohibited

NOTES:C-3

1. For the purpose of an application for special review approval of an adult entertainment establishment in the IN zone district, the Planning and Zoning Commission and the Town Council shall, when approving or denying the special review request for approvals, rely upon all special review criteria set forth in Section 16-44 through 16-47 but for Sections 16-44(e)(1)(c) through (f).
2. Structures owned or operated by a utility solely for office purposes, shall be reviewed as office uses not as a utility facility.

Sec. 16-190. Medical marijuana facilities and Retail Marijuana Establishments.

A medical marijuana facility or retail marijuana establishment is prohibited unless specifically permitted by this section and by the zoning district regulations applicable to the subject property.

The premises for a medical marijuana center operating under the provisions of Colorado Constitution Article XVIII § 14, Section 18-18-406.3, C.R.S., Section 25-1.5-106, C.R.S., the Colorado Medical Marijuana Code and 1 CCR 212-1 (Permanent Rules Related to the Colorado Medical Marijuana Code, Marijuana Enforcement Division, Colorado Department of Revenue) is permitted in the Town subject to the requirements included in this Code, including but not limited to Chapter 6 and this Chapter. In addition a premise for a retail marijuana store operating under the provisions of Colorado Constitution Article XVIII § 16, C.R.S. 12-43.4-101 et seq., and 1 CCR 212-2, each as amended, is likewise permitted in the Town subject to the requirements included in this Code including but not limited to Chapter 6 and this Chapter.

(1) Location limits for medical marijuana centers ~~premises and retail marijuana stores~~. The premises for a medical marijuana center or the premises for a retail marijuana store permitted under State Law Colorado Constitution Article XVIII § 14, Section 18-18, 406.3, C.R.S., Section 25-1.5-106, C.R.S., Colorado Medical Marijuana Code and 1 CCR 212-1 may be approved provided they satisfy the licensing requirements outlined in Chapter 6 and are located within areas zoned for that use as outlined in subsections (a) and (b) below and the schedule of use requirements outlined in Section 16-22.

(a) Located within areas zoned C-3 and P, and within the following premises:

- a. A medical center;
- b. A hospital building; or
- c. A hospice facility.

(b) Located in areas zoned Industrial

(3) Additional limitations. Medical marijuana facilities and retail marijuana stores shall be subject to these additional requirements and restrictions:

a. The maximum signage ~~permitted for medical marijuana facilities~~ shall be limited to the more restrictive of the otherwise applicable sign regulations for that property or the following: 1) only one (1) sign is permitted per premises, inclusive of any signage located in a window or on the exterior doors, roof and walls of the facility; and 2) no sign shall be larger than six (6) square feet. No temporary signage is permitted, including but not limited to sandwich boards, signs in or on windows and signs on cars parked in the Town limits. No off-premises signage is permitted.

b. All medical marijuana dispensing and retail products sales shall be conducted indoors within the approved premises.

c. All product storage shall be maintained indoors within the approved premises. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk or way.

d. A medical marijuana dispensing facility or retail marijuana store may not include areas for testing or using the product within the facility, ~~or medical center, or store~~ and such testing or use is prohibited within such ~~facility-premises~~.

e. A medical marijuana dispensing facility cannot be colocated with ~~the~~ a medical marijuana cultivation or infused products manufacturing facility.

f. The authorized growing of marijuana plants by a caregiver or patient and the conversion of them into medical marijuana must take place in an approved greenhouse or other structure that is enclosed on all sides, including the roof, regardless of location.

g. A medical marijuana center or retail marijuana store shall ~~may~~ be required to meet any special venting, waste, and byproduct disposal requirements as determined to be reasonably necessary by the Town Building Official.

h. A medical marijuana center or retail marijuana store may not be colocated with food preparation facilities producing or assembling food ~~for nonmedical purposes~~.

i. A medical marijuana center may not sell nonmedical food products which are similar to the medical marijuana food products being sold in the center, including but not limited to brownies or lollypops. This prohibition does not include medicinal products such as tinctures.

j. A medical marijuana facility or retail marijuana store shall satisfy all licensing and permitting requirements of the State of Colorado and the Town prior to operation.

k. The Town may impose additional requirements through its land use review process as deemed necessary in order to protect the health, safety and residents of the Town and surrounding area. (Ord. 12 §3, 2009)

Secs. 16-191—16-200. Reserved.

ARTICLE X

Accessory Buildings and Uses

Sec. 16-202. Home occupations.

A home occupation shall be allowed as a permitted accessory use, provided that the following conditions are met:

...

(11) Under no circumstances shall the following be considered a home occupation: any retail marijuana establishment, a medical marijuana center, optional premises for medical marijuana center or premises for infused products manufacturer or any caregiver producing medical marijuana for a price in excess of the direct cost of growing and producing the end product. A person growing marijuana for his or her personal consumption within the limitations established by Colorado Constitution Article XVIII § 16 where no marijuana is sold to another party for money, goods or services or a patient or primary caregiver growing medical marijuana and converting the plant into medical marijuana for only one (1) patient where there is no exchange of payment over and above the direct cost is not considered a home occupation but is permitted, provided that:

a. The person, patient or primary caregiver lives within the single-family lot or the dwelling unit where the marijuana is grown and produced;

b. The total floor area used for growing and production does not exceed fifty (50) total square feet of a single-family lot, including any lot with an accessory dwelling unit;

c. The total floor area used for growing and production does not exceed forty (40) square feet for any dwelling unit within a duplex, multi-family building, apartment building or mixed-use building, and the activity must be located within the dwelling unit; and

d. The other requirements for that use and activity are adhered to in accordance with the Colorado Constitution Article XVIII § 14 and § 16, ~~Section C.R.S. 18-18-406.3, C.R.S., Section 25-1.5-106, C.R.S. 12-43.4-101 et seq.,~~ 1 CCR 212-2, and this Code, including but not limited to the licensing requirements under Chapter 6 of this Code and the additional limitations in Section 16-190 of this Chapter.