

**Town of Basalt, Colorado
Ordinance No. 28
Series of 2013**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, EXTENDING ITS MORATORIUM ON MARIJUANA
ESTABLISHMENTS WITHIN THE TOWN OF BASALT**

WHEREAS, the Town of Basalt (the "Town") is a legally and regularly created, established, organized and existing municipal corporation under the provisions of Article XX of the Constitution of the State of Colorado and the home rule charter of the Town (the "Charter"); and

WHEREAS, during the 2010 Legislative Session, Senate Bill 10-109 and House Bill 10-1284 were passed regulating medical marijuana establishments and doctors recommending medical marijuana to their patients.

WHEREAS, Amendment 64 to the Colorado Constitution regarding the use and regulation of marijuana was adopted by the electorate in Colorado on November 6, 2012 and is codified in Section 16 of Article XVIII of the Colorado Constitution.

WHEREAS, in 2013 the Colorado General Assembly enacted the Colorado Retail Marijuana Code, codified in Article 43.4 of Title 12 C.R.S., to further license and regulate retail marijuana establishments; and has also enacted and amended from time to time the Colorado Medical Marijuana Code, codified in Article 43.3 of Title 12, C.R.S.

WHEREAS, Amendment 64 allows localities to prohibit or permit retail marijuana establishments in their jurisdiction through the enactment of an ordinance or through an initiated or referred measure.

WHEREAS, on December 27, 2012, the Town of Basalt adopted Ordinance No. 23, Series of 2012 imposing a one-year moratorium on the acceptance, processing, and review of applications for approval of marijuana facilities.

WHEREAS, as of the date of this moratorium, the cultivation, sale, possession, distribution, and use of marijuana remains a violation of federal law, and the Town Council desires clients to know that any Town regulation affords no protection from criminal prosecution under such law. Any future licensees and their owners, operators, employees, customers, and clients assume any and all risk and liability arising or resulting from the operation of any licensed premises under federal law.

WHEREAS, the Town Council would like more time in which to monitor and review how marijuana establishments are regulated in the State of Colorado.

WHEREAS the Town Council has determined that it is necessary to continue the moratorium on marijuana establishments for the preservation of public peace, health, and safety pending the a determination of what changes to the Basalt Municipal Code are appropriate.

WHEREAS, Ordinance No. 17, Series of 2012, dated October 26, 2012, imposing a two-year moratorium on the acceptance, processing, and review of applications for approval of medical marijuana facilities is unaffected by this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO:

Section 1. Extension of Moratorium. The Town Council hereby extends the moratorium contained in Ordinance No. 23, Series of 2012, addressing marijuana establishments for six months from the effective date of this ordinance.

Section 2. Staff and Attorney to Investigate and Prepare Language. During the time of the moratorium, Town Staff, working with the Town Attorney, shall carefully monitor State and other local government actions which regulate marijuana establishments and review the legal authority of the Town to regulate the growth, production, distribution, testing and sale of marijuana pursuant to Article 18, Section 14 of the Colorado Constitution and the regulations adopted by the Colorado Department of Revenue pursuant to the Marijuana Code. The Town Staff, working with the Town Attorney, shall also prepare amendments for the Council's consideration, to refine the current regulations incorporated into the Town Code that address the time, place and manner in which marijuana establishments are to be permitted within the Town limits.

Section 3. Police Power Finding. The Town Council hereby finds, determines, and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Basalt and the inhabitants thereof.

Section 4. Authority. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); iii Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401C.R.S. (concerning municipal police powers); (v) Section 31-15-501 (concerning municipal power to regulate businesses); (vi) the authority granted to

home rule municipalities by Article XX of the Colorado Constitution; (vii) the powers granted by the Basalt Town Charter; and (viii) C.R.S. 12-43.3-202(b), and Article XVIII, Section 16 (5) (f) of the Colorado Constitution.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portions thereof.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON December 10, 2013 by a vote of 7 to 0 on November 19, 2013.

READ ON SECOND READING AND ADOPTED by a vote of 6 to 0 on December 10, 2013.

This Ordinance shall be effective 14 days after final publication.




TOWN OF BASALT, COLORADO

By: _____

Jacque R. Whitsitt, Mayor

ATTEST:


Pam Schilling, Town Clerk

First Publication: Thursday, November 21, 2013
Final Publication: Thursday, December 12, 2013
Effective date: Thursday, December 26, 2013