

**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 MARIJUANA STORES**

**Ordinance No. 24
Series of 2016**

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 August 16, 2016 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 hearing on September 13, 2016, the Town Council approved this Ordinance on first reading and continued and set a public hearing and second reading for this Ordinance for September 27, 2016, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado. At the continued public hearing and second reading on September 27, 2016, the Town Council continued the public hearing and second reading to October 11, 2016. Additionally, at the continued public hearing and second reading on October 11, 2016, the Town Council continued the public hearing and second reading to October 18, 2016.

4. At a continued public hearing and second reading on October 18, 2016, 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.

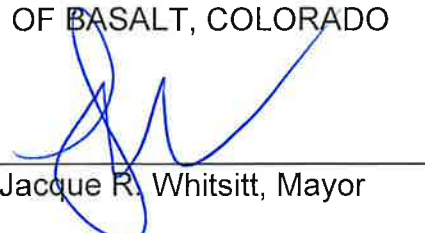
3. This Ordinance shall be effective 14 days after final publication of the Ordinance in accordance with the Town Home Rule Charter.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON September 27, 2016 by a vote of 4 to 0 on September 13, 2016. The second reading and public hearing was continued through October 18, 2016.

READ ON SECOND READING AND ADOPTED, by a vote of 5 to 1, on October 18, 2016.

TOWN OF BASALT, COLORADO

By:


Jacquie R. Whitsitt, Mayor

ATTEST:


Pamela K. Schilling, Town Clerk



First Publication: Thursday, September 22, 2016
Final Publication: Thursday, October 27, 2016
Effective Date: Thursday, November 10, 2016

EXHIBIT A

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

Schedule of Uses in C-1 and C-3

Sec. 16-22.	<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 (may include a medical marijuana center or marijuana store if it satisfies the definitions included in the Code and the special review approval)	X	S
	<u>Medical Marijuana Center Premises</u>	<u>X</u>	<u>S6</u>
	<u>Retail marijuana store</u>	<u>X</u>	<u>P6</u>

Add note 6 below to the notes under the table.

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6. See Requirements in Section 16-190 and Article V, Chapter 6

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

NOTES:

1. 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(e)(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
<u>Retail marijuana store</u>	<u>Community vitality use; see Subsection 16-29(c); See Note 4.</u>
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	
<u>Medical Marijuana Center Premises</u>	<u>See Subsection 16-29(c); See Note 4.</u>
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

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.
4. Subject to compliance with the requirements set forth in Section 16-190 and the licensing requirements in Article V, Chapter 6.

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 and retail marijuana stores. The premises for a medical marijuana center or the premises for a retail marijuana store permitted under State Law 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 C-2, C-3 and Industrial

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

a. The maximum signage 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 premises.

e. A medical marijuana dispensing facility cannot be colocated with 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 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.

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.