

**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, CONCERNING MEDICAL FACILITIES, INCLUDING OFFICES,
CLINICS, CENTERS, AND MEDICAL MARIJUANA FACILITIES**

**Ordinance No. 12
Series of 2009**

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 4, 2009 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 August 11, 2009, the Town Council approved this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for August 25, 2009, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado. Said public hearing was continued to September 8, 2009.

4. At a public hearing and second reading on September 8, 2009, 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 § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106 authorize the medical use of marijuana. Marijuana is considered an illegal drug under Federal Law. The Town is merely acknowledging medical marijuana as authorized under State law and is no way endorsing or taking a position on the use of medical marijuana.

6. The Basalt Town Council finds, determines and concludes that it has a legitimate public purpose in regulating medical marijuana facilities 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. Section 16-4, Definitions in Article 1, Chapter 16 of the Town Code is amended to include definitions for "Medical Marijuana Dispensing Facility", "Medical Marijuana Facility", "Medical Marijuana Farm", "Medical Marijuana production facility", "patient" and "primary care-giver" as shown in **Exhibit A**.

2. Section 16-4, Definitions in Article 1, Chapter 16 of the Town Code is amended as shown in **Exhibit B**.

3. Section 16-190, Medical Marijuana Facilities, in Article IX, Chapter 16 of the Town Code is added as shown in **Exhibit C**.

4. Section 16-23, Developing Resource, In Article II, Chapter 16 of the Code is amended as shown in **Exhibit D**.

5. Section 16-22, schedule of uses and requirements, Article II, Chapter 16 is amended as follows for Commercial Districts;

a. *In the Schedule of Requirements, Commercial Districts, the use "Medical Center" is added and shown as prohibited (X) in areas zoned C-1 and permitted by special review (S) in areas zoned C-3.*

b. *In the Schedule of Requirements for Industrial Zone Districts the use "medical office" is added and shown as a permitted use (P), "medical clinic" is added and shown as permitted by special review (S), and "medical marijuana farms" and "medical marijuana production facilities" are shown as prohibited uses (X).*

6. *Section 16-29, Table 1, Schedule of Uses in the C-2 Zone District is amended in the Use column to add "Medical Center" and "Medical Marijuana Facilities" under the prohibited uses.*

7. Section 16-202, home occupations, in Article X, Chapter 16 is amended to add the following language:

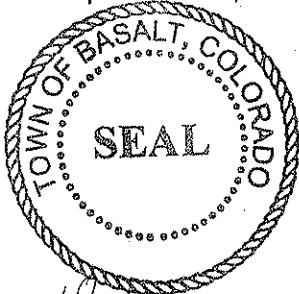
11. Under no circumstances shall the following be considered a home occupation: a medical marijuana dispensing facility, farm or production facility or any caregiver producing medical marijuana for a price over the direct cost of growing and producing the end product. A patient or primary caregiver growing medical marijuana and converting the plant into medical marijuana for only one patient where there is no exchange of payment over and above the direct cost is not considered a home occupation and is permitted provided:
 - a. That the patient or primary care-giver 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 shall not exceed 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 productions shall not exceed 40 total 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 under the Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106 and the Town Code, including but not limited to the licensing requirements under Chapter 6, Business License and Regulations and the additional limitations in Section 16-190 of this Chapter.

8. 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.

9. 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 August 25, 2009 by a vote of 5 to 0, with 1 abstention on June 11, 2009. Said public hearing on August 25, 2009, was continued to September 8, 2009.

READ ON SECOND READING AND ADOPTED, by a vote of 4 to 0, with 2 abstentions on September 8, 2009



TOWN OF BASALT, COLORADO

By: Leroy Dufoux
Leroy Dufoux, Mayor

ATTEST:

Pamela K. Schilling
Pamela K. Schilling, Town Clerk

First Publication: Thursday, August 20, 2009
Final Publication: Thursday, September 17, 2009
Effective Date: Thursday, October 1, 2009

The following language is being added to the Code in Section 16, Definitions:

Exhibit A

Medical marijuana dispensing facility means a facility where one or more primary care-givers sell or distribute medical marijuana to persons with valid registry identification cards issued by the Colorado Department of Public Health and Environment under the provisions of Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106 , including dispensaries and cooperatives. A medical marijuana dispensing facility does not include a patient or a primary care-giver that provides medical marijuana to only one patient.

Medical marijuana facility means a medical marijuana dispensing facility, a medical marijuana farm, and a medical marijuana production facility as those terms are defined herein; or 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 person with a valid registry identification card.

Medical marijuana farm means a facility where one or more primary care-givers grow medical marijuana for more than one patient under the provisions of Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106.

Medical marijuana production facility means a facility where one or more primary care-givers convert medical marijuana plants into medical marijuana for more than one patient operating under the provisions of Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106.

Patient when used within definitions and provisions in this code regulating the use of medical marijuana, a patient is a person with a valid registry identification card 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; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106.

Primary care-giver when used within definitions and provisions regulating the use of marijuana, a primary-care giver means a person, other than the patient and the patient's physician, who is eighteen years of age or older and who has significant responsibility for managing the well being of a patient that has a debilitating medical condition and that 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; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106

Exhibit B

The following definitions listed in A below are deleted and amended and additional definitions are added to the code.

A. The following definition is hereby deleted from the Town Code and replaced with new definitions in B below:

Dental or medical clinic means a professional business providing medical or dental services employing three (3) or more physicians or dentists.

B. The following definitions are added to the Town Code:

Dental clinic means a professional business providing general or special dental services employing three (3) or more dentists.

Dental office means a professional office providing general or special dental services employing fewer than three (3) dentists.

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

Medical clinic means a professional business providing general or special medical, chiropractic, psychological services employing three (3) or more physicians. There are no limitations on the number of physicians and there is no maximum size limitation. Clinics may specialize in one discipline or may include more than one type of medical service.

Medical office means an office providing general or special medical, chiropractic, psychological or similar services where there are fewer than three (3) physicians.

The following provisions are added to the Town Code

Exhibit C

Section 16-190 Medical Marijuana facilities

Medical marijuana dispensing facilities, medical marijuana farms and medical marijuana production facilities operating under the provisions of Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106 are permitted in the Town of Basalt subject to the requirements included in the Town Code, including but not limited to Chapter 6 Business Licenses and this Chapter.

A. Location limits for medical marijuana dispensing facilities

A medical marijuana dispensing facility permitted under Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106 may be permitted in areas zoned C-3 and P in the following:

1. A medical center
2. A hospital building
3. A hospice facility

B. Location limits for medical marijuana farms and production facilities

A medical marijuana farm is only permitted in areas zoned DR through the special review process. A medical marijuana production facility is only permitted as an accessory use to a permitted medical marijuana farm.

C. Additional Limitations

Medical marijuana facilities shall be subject to these additional criteria.

1. Advertisements, signs, displays, or other promotional material depicting medical marijuana uses either by words, symbols, or drawings shall not be shown or exhibited on the building or off the premises where the medical marijuana uses are conducted, in a manner visible to the public from roadways, pedestrian sidewalks or walkways, or from interior common areas, or from other public areas. 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.

2. All medical marijuana dispensing and production facilities shall conduct business indoors.
3. All product storage shall be indoors. Products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or way.
4. A medical marijuana dispensing facility may not include areas for testing or using the product within the facility or medical center.
5. A medical marijuana dispensing facility cannot be colocated with the medical marijuana production facility.
6. Growing marijuana plants and converting it into medical marijuana must take place in a greenhouse or other structure that is enclosed on all sides, including the roof regardless of location.
7. A production facility may be required to have special venting, waste, and bi-product disposal requirements as determined reasonably necessary by the Town Building Official.
8. A medical marijuana dispensing facility may not be co-located with food preparation facilities producing or assembling food for non-medical purposes.
9. A medical marijuana dispensing facility may not sell non-medical food products which are similar to the medical marijuana food products being sold in the dispensing facility, such as but not limited to brownies or lolly-pops. This does not include medicine products such as tinctures.
10. A medical marijuana facility shall have licenses and permits as required by the Town.
11. The Town may add other requirements through its land use review process in order to protect the health, safety, and residents of the Town of Basalt and surrounding area.

Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.

Exhibit D

Sec. 16-23. Developing Resource District.

(a) permitted uses. Uses permitted by right in the Developing Resource District include only those existing uses of the land at the time of annexation, limited to the following:

- (1) Single-family residence.
- (2) Raising of crops, grain except for medical marijuana.
- (3) Ranching.
- (4) Other agricultural uses.

(b) Rezoning required. No uses other than those existing at the time of annexation shall be permitted on property zoned DR Developing Resource unless the property is rezoned to a zoning district that permits the proposed use.

(c) Uses permitted by special review:

- (1) new dwelling units.
- (2) medical marijuana farm
- (3) medical marijuana production facility as an accessory use to a medical marijuana farm

(d) Park dedication requirements and water rights. The properties that are annexed and zoned DR Developing Resource shall not be subject to the requirements for park dedication or cash payment in lieu of dedicating parkland or for water rights fees or requirements, except as to secured uses by right or permitted uses by special review, until the property is rezoned, wherein full satisfaction of such ordinance requirements shall then be due.

(e) Adult entertainment establishments and medical marijuana dispensaries are prohibited in Developing Resource Districts.