

**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 MARIJUANA**

**Ordinance No. 30
Series of 2013**

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 December 3, 2013 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 December 10, 2013, the Town Council approved this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for January 14, 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 January 14, 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 § 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. 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.

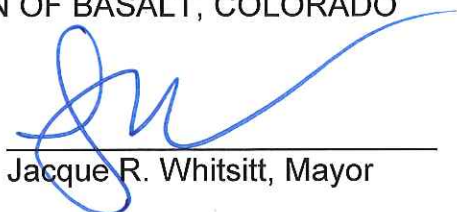
READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON January 14, 2014 by a vote of 6 to 0 on December 10, 2013.

READ ON SECOND READING AND ADOPTED, by a vote of 6 to 0, on January 14, 2013.



TOWN OF BASALT, COLORADO

By:



Jacques R. Whitsitt, Mayor

ATTEST:



Pamela K. Schilling, Town Clerk

First Publication: Thursday, December 19, 2013
Final Publication: Thursday January 23, 2014
Effective Date: Thursday, February 6, 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 means a person licensed pursuant to C.R.S. 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 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.

Medical marijuana infused products manufacturer means a person licensed pursuant licensed pursuant to C.R.S. Title 12 Article 43.3 to manufacture medical marijuana infused products.

~~*Medical marijuana dispensing facility* means a facility where one (1) or more primary caregivers 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, Section 18-18-406.3, C.R.S., and Section 25-1.5-106, C.R.S., including dispensaries and cooperatives. A *medical marijuana dispensing facility* does not include a patient or a primary caregiver who provides medical marijuana to only one (1) patient.~~

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. ~~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 (1) person with a valid registry identification card~~ is not considered a medical marijuana facility.

~~*Medical marijuana farm* means a facility where one (1) or more primary caregivers grow medical marijuana for more than one (1) patient 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.~~

~~*Medical marijuana production facility* means a facility where one (1) or more primary caregivers convert medical marijuana plants into medical marijuana for more than one (1) patient operating 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.~~

Optional premises 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.

Optional premises cultivation operation 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.

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 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 means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

Primary caregiver, when used within definitions and provisions regulating the use of marijuana, 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.

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

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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	X	S

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

NOTES:

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

**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 Planner	P
- 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
- handicraft 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	P
Medical marijuana farms Optional Premises for a medical marijuana center	X
Medical marijuana production facilities Premises for Infused products manufacturing	X

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

NOTES:

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. 16-23. 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 ~~facilities~~ dispensaries are prohibited in Developing Resource Districts. (Prior code 70-10; Ord. 20 §5, 1996; Ord. 12 §4, 2009)

...

Sec. 16-190. Medical marijuana facilities.

The premises for a Mmedical marijuana center dispensing facilities, medical marijuana farms and medical marijuana production facilities operating 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., 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) are 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 center premises dispensing facilities. The premises for a A medical marijuana dispensing facility center permitted under Colorado Constitution Article XVIII § 14, Section 18-18, 406.3, C.R.S., and Section 25-1.5-106,C.R.S., Colorado Medical Marijuana Code and 1 CCR 212-1 may be permitted approved provided it satisfies the licensing requirements outlined in Chapter 6 and provided it is 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 In 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

~~(2) 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.~~

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

a. ~~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, from interior common areas or from other public areas. 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 production facilities shall be conducted business 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 may not include areas for testing or using the product within the facility or medical center, and such testing or use is prohibited within such facility.

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

f. The authorized Ggrowing 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 production facility may be required to have meet special venting, and waste, and byproduct disposal requirements as determined to be reasonably necessary by the Town Building Official.

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

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

j. A medical marijuana facility shall satisfy all have licensings and permittings as required requirements of the State of Colorado by and the Town prior to operation.

k. The Town may add other 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: a medical marijuana center dispensing facility, optional premises for medical marijuana center or premises for

infused products manufacturer farm or production facility or any caregiver producing medical marijuana for a price in excess of ~~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 (1) patient where there is no exchange of payment over and above the direct cost is not considered a home occupation but ~~and~~ is permitted, provided that:

a. The 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 ~~shall~~ 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 ~~shall~~ 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 ~~under~~ the Colorado Constitution Article XVIII § 14, Section 18-18-406.3, C.R.S., Section 25-1.5-106, C.R.S., 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. (Prior code 70-86; Ord. 14 §1, 1992; Ord. 12 §7, 2009)