

STATE OF COLORADO)
) ss.
COUNTY OF KIT CARSON)

At a regular meeting of the Board of County Commissioners for Kit Carson County, Colorado, held at the Kit Carson County Courthouse, 251 16th Street, Burlington, CO 80807 on Wednesday the 10th day of April, 2013, there were present:

- Dave HornungChairman
- Dave Gwyn.....Commissioner
- Gary Koop.....Commissioner
- Patty Witzel.....County Clerk
- Paula Weeks.....Administrator

when the following proceedings, among others, were had and done, to-wit:

AN ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES OR RETAIL MARIJUANA STORES, WITHIN UNINCORPORATED KIT CARSON COUNTY, STATE OF COLORADO.

WHEREAS, the Kit Carson County Commissioners, hereinafter referred to as the "County", by and through its Board of County Commissioners, hereinafter referred to as the "Board", has the authority, pursuant to C.R.S. 30-11-101 (2), to adopt and enforce ordinances regarding health, safety and welfare issues as otherwise prescribed by law; and

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, *Personal Use and Regulation of Marijuana*; and

WHEREAS, said Amendment 64 became effective on December 10, 2012 upon the proclamation of the Governor, pursuant to Section 1(4) of Article V, of the Colorado Constitution; and

WHEREAS, Amendment 64 has added a new section 16 to Article XVIII of the Colorado Constitution; and

WHEREAS, Amendment 64 defines a "locality" in part in section 2(e) of Section 16 to include a county; and

WHEREAS, part 5(f) of Section 16 provides the following:

(f) A locality may enact ordinances or regulations, not in conflict with this section or with regulations or legislation enacted pursuant to this section, governing the time, place, manner and number of marijuana establishment operations; establishing procedures for the issuance, suspension, and revocation of a license issued by the locality in accordance with paragraph (h) or (i), such procedures to be subject to all requirements of Article 4 of Title 24 of the Colorado Administrative Procedure Act or any successor provision; establishing a schedule of annual operating, licensing, and application fees for marijuana establishments, provided, the application fee shall only be due if an application is submitted to a locality in accordance with paragraph (i) and a licensing fee shall only be due if a license is issued by a locality in accordance with paragraph (h) or (i); and establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such locality. A locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure; provided, any initiated or referred measure to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores must appear on a general election ballot during an even numbered year, and;

WHEREAS, at the November 6, 2012 election approximately Sixty-two Percent (62%) of County voters rejected the proposed adoption of Amendment 64; and

WHEREAS, consistent with the authority granted to the Board of County Commissioners in Amendment 64 and the will of Kit Carson County voters, the Board of County Commissioners desires to adopt this ORDINANCE prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores.

NOW, THEREFORE BE IT ORDAINED BY THE KIT CARSON COUNTY BOARD OF COMMISSIONERS as follows:

THAT, the purpose of this ORDINANCE is to promote the general public welfare and safety throughout Kit Carson County, Colorado by prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores.

Definitions. Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colo. Constitution. These definitions include, but are not limited to the following:

- (1) "MARIJUANA" OR "MARIHUANA" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every

compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" or "marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

- (2) "MARIJUANA ACCESSORIES" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.
- (3) "MARIJUANA CULTIVATION FACILITY" means an entity of any kind which is used, intended to be used, or designed to be used 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.
- (4) "MARIJUANA ESTABLISHMENT" means a marijuana cultivation facility, marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store. This shall also include retail sales from residences.
- (5) "MARIJUANA PRODUCT MANUFACTURING FACILITY" means an entity of any kind which is used, intended to be used, or designed to be used 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.
- (6) "MARIJUANA PRODUCTS" means 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.
- (7) "MARIJUANA TESTING FACILITY" means an entity of any kind which is used, intended to be used, or designed to be used to analyze and certify the safety and potency of marijuana.
- (8) "MEDICAL MARIJUANA CENTER" means an entity licensed by a state agency to sell marijuana and marijuana products pursuant to Section 14 of this Article and the Colorado Medical Marijuana Code.

- (9) "**RETAIL MARIJUANA STORE**" means an entity of any kind which is used, intended to be used, or designed to be used 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.

Section 1. APPLICABILITY:

- 1.1 This Ordinance shall apply throughout unincorporated Kit Carson County, Colorado, including but not limited to public, county and state lands.
- 1.2 If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases are declared unconstitutional or invalid.

Section 2. UNLAWFUL ACTS:

Elements of Offenses. Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance:

- (a) Maintaining an entity of any kind which is used, intended to be used, or designed to be used 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.
- (b) Maintaining an entity of any kind which is used, intended to be used, or designed to be used 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.
- (c) Maintaining an entity of any kind which is used intended to be used, or designed to be used to analyze and certify the safety and potency of marijuana.
- (d) Maintaining an entity of any kind which is used, intended to be used, or designed to be used 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.

Enforcement. This ORDINANCE shall be enforced by the KIT CARSON COUNTY Sheriff's Office.

Violation. Pursuant to C.R.S. 30-15-402, any person who violates this ORDINANCE commits a class 2 petty offense. It shall be unlawful for any person to violate any provision of this ORDINANCE. All violations of this ORDINANCE shall be brought before the Kit Carson County Court.

Disposition of Fines and Forfeitures. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this ORDINANCE shall be paid into the treasury of the County of Kit Carson. The fine for a first offense and for any subsequent offense shall not exceed one thousand dollars (\$1000.00) per violation and each day shall be deemed a separate violation.

Surcharges. In addition to the fines and penalties prescribed in this ORDINANCE, any person convicted of a violation of this ORDINANCE shall be subject to the statutory surcharges as may be adopted and imposed by the Kit Carson County Court, including but not limited to the statutory surcharges of ten dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund, and (\$15.00) for the Colorado Traumatic Brain Injury Trust Fund.. These surcharges shall be paid to the Kit Carson County Court Clerk by each person convicted of violating this ORDINANCE.

Injunctive Relief. The County may seek an injunction or other equitable relief in court to stop any violation of this Ordinance of any acts outlined in section 2 above and may recover costs of any such action.

Severability. If any part or parts of this ORDINANCE are for any reason held to be invalid, such provision shall not affect the validity of the remaining portions of this ORDINANCE. The Kit Carson County Board of Commissioners hereby declare that it would have passed this ORDINANCE and each part or parts hereof, irrespective of the fact that any one part or parts be declared invalid.

Immediate Effect Upon Adoption. This ORDINANCE is necessary to the immediate preservation of the public health or safety. In accordance with the requirements of C.R.S. 30-15-406, C.R.S., this ORDINANCE has been previously introduced and read at a preceding regular meeting of the Board of County Commissioners on the 20th day of March, 2013, and has been published in full in one newspaper of general circulation in Kit Carson County, Colorado, at least ten days before its adoption. This ORDINANCE is effective immediately upon adoption.

DONE AND ADOPTED THIS 10th day of April, 2013, at Burlington, Colorado.

Motion made by Gary Koop, seconded by Dave Gwyn, Motion carried by unanimous vote of Dave Hosnung.

Board of County Commissioners

By: Dave Hornung
Dave Hornung, Chairman

By: Dave Gwyn
Dave Gwyn, Commissioner

By: Gary Koop
Gary Koop, Commissioner

ATTEST:

Patty Witzel
Patty Witzel, Deputy County Clerk



STATE OF COLORADO)
) ss.
COUNTY OF KIT CARSON)

I, Patty Witzel, Deputy County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid, do hereby certify that the annexed and foregoing ORDINANCE is truly copied from the Records of the Proceedings of the Board of County Commissioners of said Kit Carson County, now in my office. I hereby certify that this ORDINANCE has been previously introduced and read at a preceding regular meeting of the Board of County Commissioners on the 20th day of March, 2013, and has been published in full in one newspaper of general circulation in Kit Carson County, Colorado, at least ten days before its adoption.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the County at Burlington, this 10th day of April, 2013.

Patty Witzel
Patty Witzel, Deputy County Clerk

