

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF EAGLE, COLORADO

ORDINANCE NO. 13-001

AN ORDINANCE TEMPORARILY PROHIBITING THE OPERATION OF RETAIL MARIJUANA CULTIVATION FACILITIES, RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES, RETAIL MARIJUANA TESTING FACILITIES OR RETAIL MARIJUANA STORES WITHIN THE UNINCORPORATED BOUNDARIES OF EAGLE COUNTY, STATE OF COLORADO

WHEREAS, the Board of County Commissioners (“Board”) has the authority to exercise all County powers for the Unincorporated Areas of Eagle County pursuant to Section 30-11-103, C.R.S.; and

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

WHEREAS, Amendment 64 added a new Section 16 to Article XVIII of the Colo. Constitution; and

WHEREAS, part 5(f) of Section 16 provides that a local jurisdiction 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; and

WHEREAS, the Board is currently considering the appropriate zoning and licensing regulations applicable to retail marijuana businesses if the same are to be allowed to operate in Eagle County; and

WHEREAS, the Board desires to have until the end of calendar year 2013 to complete the public hearings necessary for its consideration; and

WHEREAS, consistent with the authority granted to the Board in Amendment 64, the Board desires to adopt this temporary ordinance prohibiting the operation of retail marijuana cultivation facilities, retail marijuana product manufacturing facilities, retail marijuana testing facilities or retail marijuana stores within the unincorporated areas of Eagle County until the end of calendar year 2013 in order to complete the public hearings necessary for its consideration; now therefore,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF EAGLE as follows:

Temporary Prohibition. Until January 1, 2014, all retail marijuana cultivation facilities,

retail marijuana product manufacturer facilities, retail marijuana testing facilities, and retail marijuana stores shall be prohibited from operating in the unincorporated areas of Eagle County. Eagle County will not accept or act upon any license application for the same during this time. Such uses are not currently authorized in any zone districts in unincorporated Eagle County.

Purpose. This ordinance is necessary to protect the general public health, welfare and safety throughout Eagle County, Colorado by prohibiting the haphazard development and operation of retail marijuana cultivation facilities, retail marijuana product manufacturing facilities, retail marijuana testing facilities or retail marijuana stores in unincorporated Eagle County and to provide the Board with the necessary time beyond the October 1, 2013 deadline for accepting applications as set forth in Article XVIII, Section 16 of the Colorado Constitution to conduct hearings and determine whether to allow such facilities and stores and to potentially develop reasonable zoning regulations concerning the same.

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 and the Colorado Retail Marijuana Code, article 43.4 of Title 12, Colorado Revised Statutes.

Enforcement. This ordinance may be enforced by any law enforcement officer, Code Enforcement Officer, or other person or positions designated by resolution of the Board as enforcement officers under this Ordinance.

Violation. It shall be unlawful for any person to violate any provision of this ordinance.

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 Eagle County. The fine for a first offense and for any subsequent offense shall be one thousand dollars (\$1,000.00) 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 of ten dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund. This surcharge shall be paid to the clerk of the court by each person convicted of violating this ordinance. The clerk shall transmit the moneys to the proper fund in accordance with C.R.S. § 30-15-402(2).

Scope. This ordinance shall apply within the unincorporated territory of Eagle County and to all other areas designated herein. This ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto. This ordinance shall not apply to any existing or proposed medical marijuana establishment or business.

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 Board hereby declares 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.

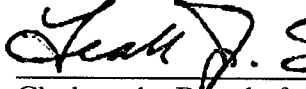
Repeal. All ordinances and/or resolutions or parts or ordinances and/or resolutions inconsistent with provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

Effective Date. In order to preserve the immediate health and safety of Eagle County and its residents, this ordinance shall take effect immediately after adoption as provided in § 30-15-405, C.R.S.

INTRODUCED ON FIRST READING on September 17, 2013, and ordered published in the Eagle Valley Enterprise on September 19, 2013.

ADOPTED ON SECOND AND FINAL READING ON October 1, 2013, and ordered published by reference to title only in the Eagle Valley Enterprise on October 3, 2013.

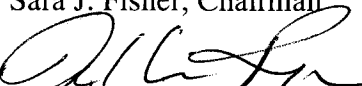
ATTEST:



Clerk to the Board of
County Commissioner



COUNTY OF EAGLE, STATE OF
COLORADO, By and Through Its
BOARD OF COUNTY COMMISSIONERS


Sara J. Fisher, Chairman


Jillian H. Ryan, Commissioner


Kathy Chandler-Henry, Commissioner

124:  1 DUPT