

**ORDINANCE NO.2013-01
OF THE
BOARD OF COUNTY COMMISSIONERS
OF CONEJOS COUNTY, COLORADO**

**AN ORDINANCE PROHIBITING RECREATIONAL MARIJUANA
ESTABLISHMENTS, INCLUDING MARIJUANA CULTIVATION
FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES,
MARIJUANA TESTING FACILITIES OR RETAIL MARIJUANA STORES
WITHIN THE UNINCORPORATED BOUNDARIES OF CONEJOS
COUNTY, COLORADO**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
CONEJOS COUNTY, COLORADO:**

WHEREAS, pursuant to section 30-15-401, C.R.S., the Board of County Commissioners of Conejos County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety, and welfare of the present and future residents of Conejos County; and,

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64 to the Colorado Constitution entitled: *Personal use and regulation of marijuana*; and,

WHEREAS, Amendment 64 became effective upon official declaration of the vote thereon by proclamation of the Governor, pursuant to Section 1(4) of Article V, of the Colorado Constitution; and,

WHEREAS, Amendment 64 provides for state and local licensing and regulation of recreational marijuana establishments, including marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores; and,

WHEREAS, Amendment 64, in section 2(e) of Section 16, defines a "locality" 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.

(Emphasis added); and;

WHEREAS, Amendment 64 conflicts with federal law, as the possession, cultivation, sale, and use of marijuana remains illegal under applicable federal criminal statutes; and,

WHEREAS, the Board finds that the publication and notice of this ordinance was or will be performed in accordance with sections 30-15-405 and -406, C.R.S.; and,

WHEREAS, the Board hereby finds, determines, and declares that adoption of this ordinance is necessary for the preservation and protection of the public health, safety, and welfare of the inhabitants of Conejos County, Colorado; and,

WHEREAS, pursuant to the authority granted to Conejos County in Amendment 64 the Board desires to adopt this ordinance prohibiting the operation of recreational marijuana establishments, including marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores within the unincorporated areas of Conejos County, Colorado.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Conejos County as follows:

Section 1: Purpose. The purpose of this ordinance is to prohibit the operation of recreational marijuana establishments, including operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores.

Section 2: Authority. This ordinance is authorized pursuant to Article XVIII, Section 16, paragraph 5(f), of the Colorado Constitution.

Section 3: Applicability. This ordinance shall apply throughout the unincorporated area of Conejos County, Colorado.

Section 4: 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 Colorado 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 marihuana 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 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.
- (3) "**Marijuana Establishment**" means a marijuana cultivation facility, marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store. **Additionally**, a marijuana establishment means any building, structure, or facility within which a private social club meets and allows the personal use of marijuana by its members or guests.
- (4) "**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.
- (5) "**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.

- (6) "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.
- (7) "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.
- (8) "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 5: Recreational Marijuana Establishments Prohibited. The licensing and operation of recreational marijuana establishments, including operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores is hereby prohibited.

Section 6: Enforcement. Pursuant to section 30-15-402.5(2), C.R.S., peace officers, whether or not certified under part 3 of Article 31 of Title 24, C.R.S., are hereby designated to enforce this ordinance. Pursuant to section 30-15-402(1), C.R.S., any peace officer may give the person arrested for violating this ordinance a penalty assessment notice pursuant to section 16-2-201, C.R.S. This ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but, rather, shall be in addition thereto.

Section 7: Violations. It shall be unlawful for any person to violate any provision of this ordinance. Pursuant to section 30-15-402(1), C.R.S., any person who violates this ordinance commits a class 2 petty offense. The County may seek an injunction or other equitable relief in court to stop or prevent any violation of this Ordinance and may recover costs of any such action.

Section 8: Disposition of Fines and Forfeitures. The fine for a violation of this ordinance shall be not more than one thousand dollars (\$1,000.00) for the first day of violation, and not more than one thousand dollars (\$1,000.00) per day for each day thereafter that the violation continues, and each such day shall be deemed a separate violation. In addition to the fines and penalties prescribed in this ordinance, any person convicted of a violation of this ordinance shall be subject to all applicable surcharges pursuant to section 30-15-402, C.R.S. These surcharges 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 respective funds in accordance with C.R.S. § 30-15-402(2).

Section 9: Additional Remedies. The remedies provided in this ordinance shall be cumulative and in addition to any other remedies which may be available to the County and its Board. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in lieu of, the legal remedies herein granted.

Section 10: Safety Clause. The Board hereby finds, determines and declares that this ordinance is necessary for the health, safety and welfare of the citizens of Conejos County, Colorado. 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 11: Personal Use of Marijuana. Nothing in this ordinance is intended to, nor shall be construed, to prohibit the personal use of marijuana as authorized by Section 3 of Amendment 64 except as expressly stated herein.

Section 12: Publication and Effective Date. The foregoing text is the authentic text of Conejos County Ordinance No. 2013-01.

The first reading of this ordinance took place on October 15, 2013, at a regular Board of County Commissioners Meeting.

The initial publication of this ordinance was in full in the Valley Courier on October 17, 2013.

This ordinance was adopted on second reading at a Special Board of County Commissioners Meeting on October 29, 2013.

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

ADOPTED this 29th day of October, 2013, at Conejos, Colorado.

**BOARD OF COUNTY COMMISSIONERS
OF CONEJOS COUNTY, COLORADO**

By: 

Steven McCarroll, Chair

John Sandoval

John Sandoval, Commissioner

Mitchell Jarvies

Mitchell Jarvies, Commissioner

Lawrence D. Gallegos Recp. No: 13001624
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Recorded: 11/1/2013 12:11 PM Rec Fee: \$0.00
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ATTEST:

Lawrence D Gallegos

Lawrence Gallegos
Conejos County Clerk and Recorder

