

## **ORDINANCE NO. 308**

AN ORDINANCE OF THE TOWN OF IGNACIO, COLORADO AMENDING CHAPTER NINE OF THE TOWN CODE BY THE ADDITION OF A NEW SECTION 9-9 TO CHAPTER 9, CONCERNING THE BAN AND PROHIBITION OF THE ACCEPTANCE OF APPLICATIONS OR FOR THE ISSUANCE OF LICENSES FOR THE ESTABLISHMENT OR OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES AND RETAIL MARIJUANA STORES AND TO BAN AND PROHIBIT ALL SUCH USES AND ANY RELATED USES IN THE TOWN OF IGNACIO TO BE EFFECTIVE IMMEDIATELY.

WHEREAS, on November 7, 2012, the voters of the State of Colorado approved Section 16 of Article XVIII of the Colorado Constitution, which authorized the personal use and possession of recreational marijuana for adults; and

WHEREAS, on May 28, 2013, the governor signed House Bill 13 -1317 into law enacting Title 12, Article 43.4 of the Colorado Revised Statutes (the "Colorado Retail Marijuana Code"), which regulates the cultivation, manufacture, distribution, and sale of retail marijuana; and

WHEREAS, the Colorado Retail Marijuana Code states that on or after October 1, 2013, businesses engaged in the cultivation, manufacture, or sale of marijuana or in the processing of marijuana - infused products shall apply for a license subject to its terms and conditions and any rules promulgated pursuant thereto; and

WHEREAS, the Colorado Constitution also authorizes counties and municipalities in Colorado to ban, prohibit and otherwise regulate retail marijuana businesses and to adopt regulations consistent with the intent of the state law; and

WHEREAS, in order to comply with Section 16 of Article XVIII of the Colorado Constitution and Retail Marijuana Code and the new state licensing scheme, the BOARD OF TRUSTEES of the TOWN OF IGNACIO has determined that it desires to make conforming changes to CHAPTER 9 of the Town Code; and

WHEREAS, the Board has made specific findings that this Ordinance is necessary to the immediate preservation of public health and safety and is therefore to be made effective immediately;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF IGNACIO AS FOLLOWS:

1. The IGNACIO Town Code is amended by the by the addition of a new Section 9-9 to CHAPTER 9, to read as follows:

SECTION 9-9. MARIJUANA ESTABLISHMENTS PROHIBITED AND BANNED

9-9-1 Findings and Legislative Intent.

The Board of Trustees makes the following legislative findings:

1. The Board finds that Article XVIII, Section 16 of the Colorado Constitution specifically authorizes a governing body of a municipality to enact an Ordinance to prohibit the licensing of or operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores and related uses in its municipality.
2. The Board finds that after considering the provisions of Article XVIII, Section 16 of the Colorado Constitution and Colorado Retail Marijuana Code and regulations thereunder, the potential impacts associated with the operation of marijuana establishments and land uses associated with those uses will have an immediate adverse effect on the health, safety and welfare of the Town and its inhabitants.
3. The Board of Trustees hereby finds, determines and declares that it has the power to adopt this Article pursuant to:
  - (a) Article XVIII, Section 16 of the Colorado Constitution.
  - (b) Section 12- 43.4 -101, et seq., C.R.S. (known as the Retail Marijuana Code);
  - (c) Section 31 -15 -103, C.R.S. (concerning municipal police powers);
  - (d) Section 31 -15 -401, C.R.S. (concerning municipal police powers);
  - (e) Section 31 -15 -501, C.R.S. (concerning municipal authority to regulate businesses).
4. Board therefore finds as a matter of its land use and zoning authority and as authorized by Article XVIII, Section 16 of the Colorado Constitution, that no suitable location exists within the Town for the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores.

5. The Board finds that the nature of the product to be sold, produced or manufactured could cause immediate and irreparable impact to the Town, and its inhabitants as well as to properties bordering the proposed uses, and for those reasons, this Ordinance is necessary to the immediate preservation of the public health and safety of the Town and its inhabitants.

#### 9-9-2 Definitions

For the purposes of this Chapter, the following terms and any other terms not specifically defined herein shall have the meanings and definitions set forth in Article XVIII, Section 16 of the Colorado Constitution and in the Colorado Retail Marijuana Code: *Marijuana, Marijuana Accessories, Marijuana Cultivation Facility, Marijuana Establishment, Marijuana Product Manufacturing Facility, Marijuana Products, Marijuana Testing Facility, Retail Marijuana Store, and Person.*

#### 9-9-3 Licenses and operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores prohibited.

It shall be unlawful for any person to operate, cause to be operated or permit to be operated any marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within the Town or within any area hereafter annexed into the Town or to lease or otherwise make any use of any land within the Town for any such purpose or in support of any such purpose or to make any use of land to operate a business or commercial operation of any kind related to or that supports the use or sale of marijuana accessories or marijuana in any form. No application for any licenses or permit for such uses shall be accepted by the Town and no license or other permit of any kind shall be issued for any such use or land use within the Town.

#### 9-9-4 Effective date.

Pursuant to the findings of the Board regarding the need for this Ordinance for the immediate preservation of the public health and safety, the provisions of this Ordinance shall be effective immediately upon its adoption.

#### 9-9-5 Safety Clause.

The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the

health, safety and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that this Ordinance bears a rational relation to the proper legislative object sought to be attained.

9-9-6 Severability.

If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

APPROVED AND ORDERED PUBLISHED ON THIS 24th DAY OF September, 2013.

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Stella Cox, Mayor

ATTEST:

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Georgann Valdez, Town Clerk