

**TOWN OF HOT SULPHUR SPRINGS,
COUNTY OF GRAND, COLORADO**

ORDINANCE NO. 2013-3-2-389

**AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON
THE USE OR CONSUMPTION OF MARIJUANA OR MARIJUANA
PRODUCTS ON COMMERCIAL, INDUSTRIAL OR NON-
RESIDENTIAL ZONED PROPERTY THAT OPERATES AS A PLACE OF
PRIVATE ASSEMBLY FOR THE PURPOSE OF INVITING PERSONS
TO USE OR CONSUME MARIJUANA OR MARIJUANA PRODUCTS ON
SITE; AND DECLARING AN EMERGENCY**

WHEREAS, on November 6, 2012 the voters of the State of Colorado approved Amendment 64 which added Section 16 of Article XVIII to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to Federal law) for the cultivating, manufacturing, testing of marijuana or marijuana products and retail stores selling marijuana or marijuana products, unless prohibited by a local government, and to operate in a system of licensed establishments regulated by State and local governments; and

WHEREAS, Amendment 64 directs the Colorado Department of Revenue to issue regulations for marijuana establishments, meaning marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities and marijuana retail stores, by July 1, 2013; and

WHEREAS, the State of Colorado has formed the Amendment 64 Implementation Task Force and anticipates enacting extensive legislative and regulatory changes in the upcoming months that will clarify and address licensing and land use issues connected to the implementation of Amendment 64; and

WHEREAS, although Amendment 64 permits the personal use of marijuana and marijuana products by persons twenty-one (21) years of age or older, Amendment 64 provides that nothing contained in said amendment shall permit consumption that is “conducted openly and publicly or in a manner that endangers others”, but said terms are not well defined; and

WHEREAS, the Amendment 64 Implementation Task Force has formed a Local Authority and Control Working Group to further clarify these matters; and

WHEREAS, the Colorado Clean Indoor Air Act, Sections 25-14-201 et. seq. C.R.S. prohibits the smoking of tobacco products or medical marijuana within most commercial buildings, but said prohibition does not appear to apply to the recreational use or consumption of marijuana and possible amendments to the Colorado Clean Indoor Air Act will be considered by the Amendment 64 Implementation Task Force; and

WHEREAS, until some of these fundamental interpretations of State law are resolved or clarified, attempts by the Town to regulate where marijuana can be used or consumed is fraught with possible inherent conflicts that could raise doubts as to any regulatory scheme adopted by the Town; and

WHEREAS, despite the adoption of Amendment 64, marijuana is still classified as a controlled substance under federal and state law, and has the potential for abuse that should be closely monitored to the extent possible; and

WHEREAS, the Hot Sulphur Springs Board of Trustees, as an exercise of its local land use authority, finds and determines that use of business, commercial and industrial property within the Town as a business operating as a “marijuana club” for the use and consumption of marijuana and marijuana products should not be permitted unless and until the Amendment 64 Implementation Task Force issues its report and the Colorado General Assembly and Colorado Department of Revenue enact appropriate regulations concerning places where marijuana and marijuana products can be used or consumed; and

WHEREAS, the Hot Sulphur Springs Board of Trustees hereby finds and determines that a moratorium on the use and consumption of marijuana and marijuana products in a business operating as a “marijuana club” on business, commercial and industrial properties within business, commercial and industrial zone districts will allow the Town’s staff and the Board to investigate the Town’s desire and ability to permanently regulate the use and consumption of marijuana and marijuana products in “marijuana clubs”, and to develop and implement any appropriate regulations or to prohibit such businesses; and

WHEREAS, a moratorium to and through December 31, 2013 is a moratorium for a reasonable length of time and no longer than necessary for the Town to properly investigate, develop, and, if appropriate, adopt and implement regulations with respect to commercial properties as a place of private assembly for the purpose of inviting persons to use or consume marijuana on such premises; and

WHEREAS, the Hot Sulphur Springs Board of Trustees finds and determines that this Ordinance and the immediate effectiveness thereof is necessary for the preservation of the public peace or welfare.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS:

Section 1. Declaration of Emergency. The Hot Sulphur Springs Board of Trustees hereby declares that an emergency exists for the reasons stated herein and that a public emergency affecting life, health, property or the public peace exists. This ordinance shall become effective upon adoption.

Section 2. Recitals. The foregoing recitals are incorporated herein as findings and

determinations of the Hot Sulphur Springs Board of Trustees.

Section 3. Definitions. For purposes of this ordinance:

“Marijuana club” shall mean a business operating as a place of private assembly for the purpose of inviting members or non-members to use or consume marijuana or marijuana products on site.

“Marijuana” and “marijuana products” shall have the same meaning as defined in subsection (2) of Section 16 of Article XVIII of the Colorado Constitution.

Section 4. Moratorium. A temporary moratorium is hereby imposed as follows:

Marijuana clubs shall be prohibited on non-residential property within non- residential zones.

Section 5. Direction to Staff. During the period this Ordinance remains in effect, Town staff shall monitor the State’s regulatory efforts and research the applicable legal and land use issues connected to the regulation of businesses operating for the purposes of consumption or use of marijuana or marijuana products on their premises, and propose a regulatory scheme to the Board of Trustees for its review.

Section 6. Repealer. All ordinances, resolutions or parts thereof in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance or resolution or revive any ordinance or resolution.

Section 7. Severability. If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining provisions of this Ordinance will remain valid, it being the intent of the Town that the provisions of this Ordinance are severable.

Section 8. Effective Date. This Ordinance shall become effective upon adoption.

INTRODUCED, READ, ADOPTED, APPROVED AND ORDERED PUBLISHED BY TITLE ONLY BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD ON THE 21st DAY OF March, 2013, BY A VOTE OF 5 IN FAVOR, 0 AGAINST, and 0 ABSTAINING.

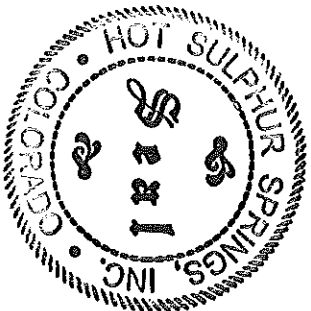
TOWN OF HOT SULPHUR SPRINGS

By: Robert McVay

Robert McVay, Mayor

I hereby certify that the above Ordinance was introduced and adopted by the Town Board of Trustees of the Town of Hot Sulphur Springs, Colorado, at its meeting of March 21st, 2013, and ordered published by title only in the Sky Hi newspaper on April 27th, 2013.

SEAL



ATTEST:

Sandy White

By:

Sandy White, Town Clerk

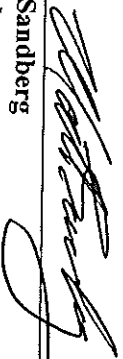
Publication Date: April 27th, 2013

MIDDLE PARK TIMES

I, Matt Sandberg, do solemnly swear that I am the publisher of the Middle Park Times, that the same is a weekly newspaper printed, in whole or in-part, and published in the County of Grand, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and interruptedly in said County of Grand for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement, that said newspaper has been admitted to the United States mail as second-class matter under the provisions of the act of March 3, 1879, or any amendment thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.


That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said daily newspaper for the period of 1 consecutive insertions; and that the first publication of said notice was in the issue of said newspaper dated 4/4/2013 and that the last publication of said notice was dated 4/4/2013 in the issue of said newspaper.

In witness whereof, I have here unto set my hand this day, 07/17/2013.



Matt Sandberg
Publisher

Subscribed and sworn to before me, a notary public in and for the County of Eagle, State of Colorado this day 07/17/2013.



Pamela J. Schultz, Notary Public
My Commission expires: November 1, 2015

NOTICE: IN THE USE OF CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS ON THE ZONE, INDUSTRIAL OR NON-RESIDENTIAL ZONE, PROPERTY THAT OPERATES AS A PLACE OF PUBLIC ASSEMBLY FOR THE PURPOSE OF INVAZION OF MARIJUANA PRODUCTS ON SITE AND DE-CLARING AN EMERGENCY
(90558961)

Published in the Middle Park Times April 4, 2013.



My Commission Expires 11/01/2015