

**ORDINANCE #18  
MARIJUANA ESTABLISHMENTS PROHIBITED**

**AN ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES AND RETAIL MARIJUANA STORES WITHIN THE UNINCORPORATED BOUNDARIES OF TELLER COUNTY, STATE OF COLORADO**

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

**WHEREAS,** the Board of County Commissioners ("Board") has the authority to exercise all County powers for the unincorporated areas of Teller County pursuant to C.R.S. 30-11-103; and

**WHEREAS,** at the general election held on November 6, 2012, the voters of the State of Colorado approved the adoption of Amendment 64: *Personal use and regulation of marijuana*; and

**WHEREAS,** pursuant to Article V, Section 1(4) of the Colorado Constitution, said Amendment 64 became effective on the tenth day of December 2012 upon official declaration of the vote by proclamation of the Governor of the State of Colorado; and

**WHEREAS,** Amendment 64 adds a new Section 16. *Personal use and regulation of marijuana* to Article XVIII 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 defines a "Locality" in Section 2(e) to include a county; and

**WHEREAS,** paragraph 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 of County Commissioners of Teller County, Colorado ("Board") finds that the licensing and operation of marijuana establishments provided for in Amendment 64, by making marijuana more readily available in the community and facilitating the recreational use of marijuana, presents a threat to the health and education of Teller County's children, to the safety of the workplace and the traveling public and to the public health, safety and welfare as a whole; and

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

**WHEREAS**, the Teller County Sheriff's Office is the appropriate agency to enforce violations involving the operation of recreational marijuana establishments, including marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores imposed by this ordinance; and

**WHEREAS**, the licensing and operation of medical marijuana centers, medical marijuana infused products manufacturing operations, and medical marijuana optional premises cultivation operations pursuant to the Colorado Medical Marijuana Code and Teller County Resolution No. 06-28-2012 (31), as well as Resolution No. 06-28-2012 (32) Adopting the Teller County Medical Marijuana Licensing Regulations, Appointing the Local Licensing Authority, and Authorizing Actions by the Local Licensing Authority, shall be unaffected by this Ordinance; and

**WHEREAS**, the Board of County Commissioners 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 Teller County, Colorado.

**NOW, THEREFORE, the following is adopted:**

**Section 1: Purpose.** The purpose of this ordinance is to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores through the enactment of an ordinance as provided for in Amendment 64, paragraph 5(f), in part because Amendment 64 conflicts with federal law. Specifically, absent federal legislation or Executive direction to the contrary where federal law and state law conflict, federal law prevails.

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

**Section 3: Applicability.** This ordinance shall apply throughout the unincorporated area of the County of Teller, State of Colorado. This ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.

**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 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, 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 LICENSED 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, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.
- (5) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED 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 LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.
- (8) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.
- (9) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED 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: Marijuana Establishments Prohibited.** The licensing and operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores is hereby prohibited.

**Section 6: Enforcement.** This Teller County Sheriff and the Sheriff's officers, deputies, designees and agents are authorized by the Teller County Board of County Commissioners to enforce the provisions of this Ordinance.

**Section 7: Violations.**

- 7.1 Violations of this Ordinance shall constitute a Class 2 petty offense and may be prosecuted in accordance with C.R.S. 30-15-402 and 30-15-410, and upon conviction or confession of guilt thereof shall be punished by a fine of One Thousand and 00/100 Dollars (\$1,000.00) for each violation of this ordinance.
- 7.2 The Teller County Sheriff shall have the authority to take a violator or violators into custody for violations of this Ordinance. Criminal prosecution may be brought against a violator in accordance with Sections 30-15-402 C.R.S. and 30-15-410 C.R.S.
- 7.3 Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state, or local law, rule, order or regulations, and each day during which violation of this Ordinance continues shall be deemed a separate offense.

**Section 8 Effective Date.** Pursuant to C.R.S. 30-15-405, this Ordinance shall be effective thirty (30) days after its second publication.

**Section 9: Conflicts.** Where any provision of this Ordinance conflicts with any other provision of this Ordinance, or any other law or ordinance, the more stringent requirement, regulation, restriction or limitation shall apply

**Section 10: Severability.** Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this

Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**CERTIFICATION: THE FOREGOING ORDINANCE WAS INTRODUCED AND READ ON MARCH 14, 2013 BY THE BOARD OF COUNTY COMMISSIONERS OF TELLER COUNTY, COLORADO, AND APPROVED FOR PUBLICATION.**

**DATE OF PUBLICATION: MARCH 27, 2013**

Public Comment regarding Ordinance #18 is being accepted through April 25, 2013. You may send your comments either by email to [fabianoc@co.teller.co.us](mailto:fabianoc@co.teller.co.us) or mail to Deputy County Administrator, PO Box 959, Cripple Creek, CO 80813.