

ORDINANCE NO. 32

Series 2018

AN ORDINANCE CHANGING THE REFERENCES IN THE BRECKENRIDGE TOWN CODE WITH RESPECT TO THE COLORADO MEDICAL MARIJUANA CODE AND THE COLORADO RETAIL MARIJUANA CODE

WHEREAS, the Colorado legislature recently adopted and the Governor signed into law HB18-1023, which recodified the Colorado statutes that contain the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code; and

WHEREAS, HB18-1023 became effective October 1, 2018; and

WHEREAS, it is necessary to change the references to the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code contained in the Breckenridge Town Code to reflect the recodification of such statutes brought about by the adoption of HB18-1023.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Section 2-5-1 of the Breckenridge Town Code are amended to read as follows:

2-5-1: FINDINGS:

The Town Council finds and determines as follows:

A. The Town Council is authorized by section 12-47-103(17), Colorado Revised Statutes, to create by ordinance a local licensing authority to handle all liquor licensing matters for the Town.

B. The Town has authorized the issuance of certain local licenses under the Colorado Medical Marijuana Code¹, the Colorado Retail Marijuana Code², and the applicable administrative regulations promulgated with respect to such statutes, all as more fully set forth in title 4, chapter 14 of this Code.

C. The Town Council is authorized by section 44-11-104(5), Colorado Revised Statutes (which is part of the Colorado Medical Marijuana Code), and 44-12-103(10), Colorado Revised Statutes (which is part of the Colorado Retail Marijuana Code) to create by ordinance a local licensing authority to handle all marijuana licensing matters for the Town.

D. The Town Council desires to establish a single local licensing authority to act for the Town in all local licensing matters arising under the Colorado Beer Code³, the Colorado Liquor Code⁴, the Colorado Special Liquor Events Code⁵, the Colorado Medical Marijuana Code⁶, the Colorado Retail Marijuana Code⁷, the applicable administrative regulations promulgated with respect to such statutes, the Town's marijuana licensing ordinance (title 4, chapter 14 of this Code); and other applicable law.

E. Section 9.5 of the Town Charter authorizes the Town Council to create by ordinance permanent boards and commissions for the Town, and sets forth certain requirements which must be met with respect to the creation of a permanent Town board or commission.

F. Section 9.2(a) of the Town Charter provides that neither the Mayor nor any Town employee shall serve on any Town board or commission.

G. The Town of Breckenridge liquor and marijuana licensing authority should be created to replace the Town of Breckenridge liquor licensing authority (established by ordinance 20, series 2003), and given the authority to handle all liquor and marijuana licensing matters for the Town, all as more fully set forth in this chapter.

¹CRS tit. 44, art. 11

²CRS tit. 44, art. 12

³CRS tit. 44, art. 4

⁴CRS tit. 44, art. 3

⁵CRS tit. 44, art. 5

⁶CRS tit. 44, art. 11

⁷CRS tit. 44, art. 12

Section 2. Section 2-5-6 of the Breckenridge Town Code is amended to read as follows:

2-5-6: POWERS, DUTIES AND RESPONSIBILITIES:

The authority shall have all of the powers of a local licensing authority as are set forth in the following laws, all as amended from time to time:

A. The Colorado Beer Code⁸;

B. The Colorado Liquor Code⁹;

C. The Colorado Special Liquor Events Code¹⁰

D. The Town's marijuana licensing ordinance¹¹;

E. The Colorado Medical Marijuana Code¹²;

F. The Colorado Retail Marijuana Code¹³;

G. The administrative regulations promulgated by the Liquor Enforcement Division of the Colorado Department of Revenue under the statutes set forth above;

H. The administrative regulations promulgated by the authority as authorized by section 2-5-10 of this chapter; and

I. Other applicable law.

⁸CRS tit. 44 art.4.

⁹CRS tit. 44, art. 3.

¹⁰CRS tit. 44, art. 5.

¹¹Title 4, chapter 14 of this Code.

¹²CRS tit. 44, art. 11.

¹³CRS tit. 44 art. 12.

Section 3. Section 3-1-3(Q) of the Breckenridge Town Code is amended to read as follows:

Q. Upon the retail sale of medical marijuana and marijuana infused products pursuant to the Colorado medical marijuana code, article 11 of 44, Colorado Revised Statutes.

Section 4. Section 3-1-3(R) of the Breckenridge Town Code is amended to read as follows:

R. Upon the sale of retail marijuana or marijuana products pursuant to the Colorado retail marijuana code, article 12 of 44, Colorado Revised Statutes

Section 5. Section 3-9-1(B) of the Breckenridge Town Code is amended to read as follows:

B. As used in this chapter the following words shall have the following meanings:

COLORADO MEDICAL MARIJUANA CODE: Article 11 of title 44, Colorado Revised Statutes, as amended from time to time.

COLORADO RETAIL MARIJUANA CODE: Article 12 of title 44, Colorado Revised Statutes, as amended from time to time.

DESIGNATED REVENUES: All of the revenues received by the town from the collection of the town's marijuana excise tax imposed by section 3-9-2 of this chapter.

LAWFUL SALE OF MARIJUANA: Includes all sales within the town of: 1) medical marijuana and medical marijuana infused products by persons licensed pursuant to the Colorado medical marijuana code and applicable town ordinances; 2) retail marijuana and retail marijuana products by persons licensed pursuant to the Colorado retail marijuana code and applicable town ordinances; and 3) medical marijuana, medical marijuana infused products, retail marijuana, and retail marijuana products by persons concurrently licensed pursuant to the Colorado medical marijuana code, the Colorado retail marijuana code, and applicable town ordinances.

MEDICAL MARIJUANA: Has the meaning provided in section 44-11-104, Colorado Revised Statutes, which is part of the Colorado medical marijuana code.

MEDICAL MARIJUANA INFUSED PRODUCT: Has the meaning provided in section 44-11-104, Colorado Revised Statutes, which is part of the Colorado medical marijuana code.

RETAIL MARIJUANA: Has the meaning provided in section 44-12-103, Colorado Revised Statutes, which is part of the Colorado retail marijuana code.

RETAIL MARIJUANA PRODUCT: Has the meaning provided in section 44-12-103, Colorado Revised Statutes, which is part of the Colorado retail marijuana code.

Section 6. Section 4-14-2 of the Breckenridge Town Code is amended to read as follows:

4-14-2: FINDINGS:

The town council adopts this chapter based upon the following findings of fact:

A. The Colorado medical marijuana code¹ recognizes the power of a municipality to adopt and enforce its own rules and regulations for the licensing of medical marijuana businesses within its jurisdiction. Specifically, the Colorado medical marijuana code authorizes municipalities to:

1. Prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana infused product manufacturing facilities within the municipality²;
2. Adopt an ordinance containing specific standards for the issuance of local licenses³;
3. Adopt additional local standards for the issuance of licenses, including, but not limited to, distance restrictions between premises for which licenses are issued; reasonable restrictions on the size of an applicant's licensed premises; and any other local requirement necessary to ensure the control of the premises and the ease of enforcement of the terms and conditions of the license⁴;
4. Impose additional requirements necessary for the approval of applications under the Colorado medical marijuana code⁵;
5. Enact ordinances or resolutions concerning matters authorized to local governments⁶;
6. Enact reasonable regulations or other restrictions applicable to licenses based on local government zoning, health, safety and public welfare laws for the distribution of medical marijuana that are more restrictive than the Colorado medical marijuana code⁷;
7. Impose reasonable restrictions upon a local license⁸; and
8. Establish an application fee for a local license⁹.

B. On November 6, 2012, the voters of the state of Colorado approved amendment 64. Amendment 64 added section 16 of article XVIII to the Colorado constitution.

C. Section 16(5)(f) of article XVIII of the Colorado constitution authorizes a municipality to enact an ordinance or regulation, not in conflict with section 16 of article XVIII of the Colorado constitution, governing the time, place, manner, and number of marijuana establishments within the boundaries of the municipality.

D. The Colorado retail marijuana code¹⁰ establishes a new procedure that allows for the dual licensing by the state licensing authority and the local licensing authority of the retail cultivation, manufacture, distribution, and sale of retail marijuana and retail marijuana products.

E. Specifically, the Colorado retail marijuana code authorizes municipalities to:

1. Enact regulations governing the time, place, manner, and number of retail marijuana establishments within the boundaries of the municipality, which may include a local licensing requirement¹¹;
2. Impose a separate local licensing requirement as a part of the municipality's restrictions on time, place, manner, and number of marijuana businesses within the municipality¹²;
3. Enact ordinances or resolutions concerning matters authorized to local governments¹³;
4. Adopt and enforce regulations for retail marijuana establishments that are at least as restrictive as the Colorado retail marijuana code and the state administrative regulations¹⁴; and
5. Adopt and impose operating fees on marijuana establishments located within its jurisdiction in an amount determined by the municipality¹⁵.

F. The presence of medical marijuana businesses and retail marijuana establishments within the town's downtown overlay district may discourage tourism, which is the economic lifeblood of the community. As such, except for the limited time period described in this chapter, medical marijuana businesses and retail marijuana establishments should all be located outside of the downtown overlay district in order to protect, defend, and preserve the economic vitality of the town.

G. The town council finds, determines, and declares that to the extent the requirements of this chapter differ from the requirements of the Colorado medical marijuana code and the Colorado retail marijuana code, the requirements of this chapter are more restrictive than the Colorado medical marijuana code and at least as restrictive as the Colorado retail marijuana code.

H. This chapter is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the town and the inhabitants thereof.

¹CRS 44, art. 11.

²CRS § 44-11-106.

³CRS § 44-11-301(2)(a).

⁴CRS § 44-11-301(2)(b).

⁵CRS § 44-11-301(4).

⁶CRS § 44-11-304(4).

⁷CRS § 44-11-310(1).

⁸CRS § 44-11-310(7).

⁹CRS § 44-11-503(1).

¹⁰CRS title 44, art.

¹¹CRS § 44-12-104(3).

¹²CRS § 44-12-301(2).

¹³CRS § 44-12-303(2).

¹⁴CRS § 44-12-309(1).

¹⁵CRS § 44-12-501(3).

Section 7. Section 4-14-4(A) of the Breckenridge Town Code is amended to read as follows:

A. The Colorado medical marijuana code, article 11 of title 44, Colorado Revised Statutes;

Section 8. Section 4-14-4(C) of the Breckenridge Town Code is amended to read as follows:

C. The Colorado retail marijuana code, article 12 of title 44, Colorado Revised Statutes;

Section 9. The definition of "Colorado Medical Marijuana Code" in Section 4-14-5(B) of the Breckenridge Town Code is amended to read as follows:

COLORADO MEDICAL MARIJUANA CODE: article 11 of title 44, Colorado Revised Statutes, as amended from time to time.

Section 10. The definition of "Colorado Retail Marijuana Code" in Section 4-14-5(B) of the Breckenridge Town Code is amended to read as follows:

COLORADO RETAIL MARIJUANA CODE: article 12 of title 44, Colorado Revised Statutes, as amended from time to time.

Section 11. Section 6-31-2(C) of the Breckenridge Town Code is amended to read as follows:

C. The possession, consumption, or use of marijuana by any person under twenty one (21) years of age shall not constitute a violation of subsection A of this section if such possession, use, or consumption is lawful under article 11 of title 44, Colorado Revised Statutes.

Section 12. Section 9-13-4(A) of the Breckenridge Town Code is amended to read as follows:

A. The Colorado medical marijuana code, article 11 of title 44, Colorado Revised Statutes;

Section 13. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 14. The Town Council hereby finds, determines, and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 15. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 16. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 27th day of November, 2018.


This ordinance was published in full on the Town of Breckenridge website on November 28, November 29, November 30, December 1 and December 2, 2018.

A public hearing on this ordinance was held on December 11, 2018.

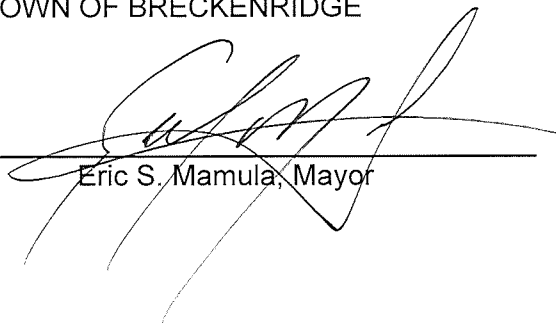
READ, ADOPTED ON SECOND READING, AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 11th day of December, 2018. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

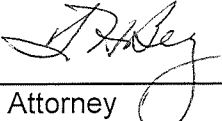


Helen Cospolich, CMC, Town Clerk



Eric S. Mamula, Mayor

APPROVED IN FORM



Town Attorney

12/11/18

Date

This Ordinance was published on the Town of Breckenridge website on December 14, December 15, December 16, December 17 and December 18, 2018. This ordinance shall become effective on January 17, 2019.