

**TOWN OF PALISADE  
ORDINANCE NO. 2013- \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN OF PALISADE, COLORADO, AMENDING SECTION  
3.13 OF THE PALISADE LAND DEVELOPMENT CODE CONCERNING THE  
CULTIVATION OF MARIJUANA IN RESIDENTIAL AND NON-RESIDENTIAL ZONE  
DISTRICTS FOR PERSONAL USE**

WHEREAS, in November, 2012 Colorado voters approved a constitutional amendment known as Amendment No. 64, codified as Article XVIII, Section 16 of the Colorado Constitution, and makes the personal use, possession and limited home growing of marijuana for adults twenty-one (21) years of age or older legal under Colorado law; and

WHEREAS, under Article XVIII, Section 16 (3)(a) of the Colorado Constitution, any person who is twenty-one (21) years of age or older may possess, grow, process or transport no more than six (6) marijuana plants, with three (3) or fewer being mature, provided that the growing takes place in an enclosed, locked space, is not conducted publicly or openly, and is not made available for sale; and

WHEREAS, the Board of Trustees of the Town of Palisade has carefully considered the provisions of Article XVIII, Section 16 of the Colorado Constitution, and the impact of marijuana cultivation for personal use in residential structures on the health, safety and welfare of the Town and the inhabitants thereof, and has determined that it is necessary and appropriate as an exercise of its local land use authority, to regulate such marijuana cultivation in residential and non-residential zone districts in accordance with the Town's Land Development Code.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALISADE, COLORADO:

Section 1. That the Principle Use Table contained in subsection 2.5.1 of Section 2.5 of the Town of Palisade Land Development Code shall be amended to include as a use "Cultivation of Marijuana for Personal Use" as a "P" (permitted use) in the Agricultural Residential (AR), Agricultural and Forestry Transitional (AFT), Estate Residential (ER), Low Density Residential (LDR), Medium Density Residential (MDR), High Density Residential (HDR), and the Mixed Use (MU) Zone Districts. The Principle Use Table shall further be amended to include the following reference under the heading "Specific Use Standards" for the above referenced use: "3.3.13".

Section 2. That Section 3.3 of the Town of Palisade Land Development Code, concerning supplemental residential use standards, is hereby amended to include the following additional subsection:

**3.3.13 . Growing Of Marijuana In Residential Structures For Personal Use.**

A. Purpose. This subsection is intended to apply to the growing of marijuana in

residential structures for personal use to the extent authorized by Article XVIII, Section 16 (3)(b) of the Colorado Constitution.

- B. Any person, for purposes of this subsection and consistent with Article XVIII, Section 16 (3)(b) of the Colorado Constitution, who is twenty-one (21) years of age or older that is cultivating marijuana plants for his or her own use, may possess, grow, process or transport no more than six (6) marijuana plants with three (3) or fewer being mature, flowering plants, subject to the following requirements:
1. Such processing, growing, possessing, or transporting of marijuana plants for personal use must be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution.
  2. Such marijuana plants are possessed, grown, or processed within the primary residence of the person possessing, growing or processing the marijuana plants for personal use, as defined by subsection (8) below. No more than six (6) marijuana plants may be cultivated in a primary residence. If persons living in a primary residence desire to cultivate more than six (6) marijuana plants, such persons may cultivate no more than six (6) marijuana plants per person for personal use as a use by right within the Town Center (TC), Commercial Business (CB) and the Light Industrial (LI) Zone Districts only.
  3. The possession, growing and processing of such marijuana plants must not be observable from the exterior of the primary residence, including, but not limited to:
    - a. Common visual observation, including any form of signage;
    - b. Unusual odors, smells, fragrances, or other olfactory stimulus;
    - c. Light pollution, glare, or brightness that disturbs others.
  4. Marijuana plants shall not be grown or processed in the common areas of a planned community or of a multi-family or attached residential development.
  5. Such cultivation, production, growing and processing of marijuana plants shall be limited to the following space limitations within a primary residence:

- a. Within a single family dwelling (Group R-3 as defined by the International Building Code): a secured, defined, contiguous area not exceeding one hundred fifty (150) square feet within the primary residence of the person possessing, growing or processing the marijuana plants for personal use.
  - b. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code): a secure, defined, contiguous area not exceeding one hundred (100) square feet within the primary residence of the person possessing, growing, or processing the marijuana plants for personal use.
  - c. Such possession, growing and processing of marijuana plants shall not occur in any accessory structure.
6. Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, including requirements concerning electrical systems and ventilation systems, as the same may be amended from time to time. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to periodic building and safety code inspections thereafter.
7. Pursuant to Section 9-7-113, C.R.S., the use of a compressed flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.
8. The possession, growing and processing of marijuana plants shall meet the requirements of all adopted water and wastewater regulations promulgated by the Town.
9. Cultivation of marijuana in a residential unit that is not a primary residence is not permitted.
10. For the purposes of this subsection “primary residence” means the place that a person, by custom and practice, makes his or her principle domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence, and the use of the residential

address for domestic purposes, such as, but not limited to, sleep, preparation of meals, regular mail delivery, vehicle and voter registration, or credit and utility billings. A person shall have only one (1) primary residence. A primary residence shall not include accessory buildings.

11. For purposes of this subsection, a “secure area” means an area within the primary residence accessible only to the person possessing, growing or processing the marijuana plants for personal use. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not authorized to possess marijuana.

Section 3. That Section 3.5 of the Town of Palisade Land Development Code, concerning supplementary use standards is hereby amended to include the following additional subsection:

**3.5.13. Cultivation of Marijuana for Personal Use in Non-Residential Zone Districts.**

The cultivation, production, or possession of marijuana plants for personal use by a person twenty-one (21) years of age or older, as permitted by Section 16 of Article XVIII of the Colorado Constitution, shall be allowed in non-residential units or structures in the Town Center (TC), Commercial Business (CB), and the Light Industrial (LI) Zone Districts as a permitted use subject to the following conditions:

- A. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution.
- B. No more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants per person may be cultivated.
- C. Marijuana plants shall not be grown in the common area of any commercial or industrial building.
- D. The cultivation of marijuana plants in any building or unit within the Town Center (TC), Commercial Business (CB), and the Light Industrial (LI) Zone Districts shall meet the requirements of all adopted Town building and safety codes. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to an periodic building and safety code inspection thereafter.
- E. The cultivation of marijuana plants shall not be permitted on exterior portions of a lot. The cultivation, production or possession of marijuana plants within a

building or unit must not be perceptible from the exterior of the building or unit.

F. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from grow lamps that disturbs adjacent property shall be prohibited; and excessive noise from ventilation fans shall be prohibited.

G. Pursuant to Section 9-7-113, C.R.S., the use of a compressed flammable gas as a solvent in the extrication of THC or other cannabinoids is prohibited.

Section 4. The Board of Trustees finds, determines and declares that this Ordinance is promulgated under the Town’s general police powers, that is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health, safety, and for the protection of the public welfare. The Board of Trustees further determines that this Ordinance bears a rational relation to the proper legislative objective sought to be attained.

Section 5. If any part, section, subsection, clause, phrase or other portion of this ordinance is invalidated for any reason, by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Trustees specifically finds and declares that it would have passed this Ordinance, and each part thereof, regardless of the fact that one or more parts could be declared invalid.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED** at a regular meeting of the Board of Trustees of the Town of Palisade, Colorado, held on \_\_\_\_\_, 2013.

Dated August \_\_\_\_\_, 2013

**BOARD OF TRUSTEES OF THE TOWN OF  
PALISADE, COLORADO**

By: \_\_\_\_\_  
Roger Granat, Mayor

**ATTEST:**

\_\_\_\_\_  
Lindsey Chitwood, Town Clerk

Publication Date:

\_\_\_\_\_

Trustee \_\_\_\_\_ introduced, read and moved the adoption of the ordinance titled,

**AN ORDINANCE OF THE TOWN OF PALISADE, COLORADO, AMENDING SECTION 3.13 OF THE PALISADE LAND DEVELOPMENT CODE CONCERNING THE CULTIVATION OF MARIJUANA IN RESIDENTIAL AND NON-RESIDENTIAL ZONE DISTRICTS FOR PERSONAL USE**

and upon adoption that it be published pursuant to law and recorded in the Book of Ordinances.

Trustee \_\_\_\_\_ seconded the motion. On roll call, the following

Trustees voted "Aye":

\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_.

Trustees voted "Nay":

\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_.

**PUBLIC NOTICE**

Public notice is hereby given that an Ordinance entitled:

**AN ORDINANCE OF THE TOWN OF PALISADE, COLORADO, AMENDING SECTION \_\_\_\_\_ OF THE PALISADE LAND DEVELOPMENT CODE CONCERNING THE CULTIVATION OF MARIJUANA IN RESIDENTIAL AND NON-RESIDENTIAL ZONE DISTRICTS FOR PERSONAL USE**

was introduced before the Board of Trustees on August \_\_\_\_\_, 2013; that a copy of said Ordinance was posted continuously at Town Hall from that date until second reading; and that the Ordinance was approved at a regular meeting of the Board of Trustees held on September \_\_\_\_\_, 2013, and approved by the Mayor on September \_\_\_\_\_, 2013.

Copies of the adopted ordinance are available for inspection at the Town Hall, Palisade, Colorado and available on the internet at <http://www.Palisadecolorado.com>.

Dated this \_\_\_\_\_ day of September, 2013.

**TOWN OF PALISADE**

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Denise Chiaretta, Town Clerk