

**TOWN OF PARACHUTE
ORDINANCE NO. 2013-657**

AN ORDINANCE OF THE TOWN OF PARACHUTE, COLORADO, AMENDING SECTION 15.03.195 OF THE TOWN'S LAND USE REGULATIONS CONCERNING THE CULTIVATION OF MARIJUANA IN RESIDENTIAL STRUCTURES 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 Parachute 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 structures in accordance with the Town's Land Use Regulations.

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

Section 1. That the Schedule of Uses Table contained in Section 15.03.215 of the Parachute Municipal Code shall be amended to include as a use "cultivation of marijuana for personal use" as a "P" (Permitted Use) in the Rural Agricultural (RA), Low Density Residential (LDR), Medium Density Residential (MDR), and the High Density Residential (HDR) Zone Districts.

Section 2. That the Schedule of Uses Table contained in Section 15.03.215 of the Parachute Municipal Code shall be amended to include as a use "Cultivation of Marijuana for Personal Use" as an "S" (Special Review Use) in the Old Town Center (OTC), Neighborhood Commercial (NC), Highway Tourist (HT), Service Commercial (SC), and the Limited Industrial (LI) Zone Districts.

Section 3. Section 15.03.195 of the Parachute Municipal Code, concerning other zoning provisions, is hereby amended to include the following additional subsections:

15.03.195 Other Zoning Provisions.

J. Growing Of Marijuana In Residential Structures For Personal Use.

1. 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.
2. 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:
 - a. 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.
 - b. Except as provided herein, 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 (h) below. No more than a total of twelve (12) marijuana plants may be cultivated in a primary residence. If persons living in a primary residence desire to cultivate more than a total of twelve (12) marijuana plants, each person may cultivate no more than six (6) marijuana plants for personal use as a Special Review Use within the Old Town Center (OTC), Neighborhood Commercial (NC), Highway Tourist (HT), Service Commercial (SC), and Light Industrial (LI) Zone Districts.
 - c. 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:
 - i. Common visual observation, including any form of signage;
 - ii. Unusual odors, smells, fragrances, or other olfactory stimulus;

- iii. Light pollution, glare, or brightness that disturbs others.
- d. 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.
- e. Such cultivation, production, growing and processing of marijuana plants shall be limited to the following space limitations within a primary residence:
 - i. 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.
 - ii. 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.
 - iii. Such possession, growing and processing of marijuana plants shall not occur in any accessory structure.
- f. Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, and applicable fire 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, and fire prevention inspection conducted by the Grand Valley Fire Protection District, and shall comply with any conditions of such inspections, and shall submit to periodic building, safety and fire code inspections thereafter.
- g. 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.
- h. The possession, growing and processing of marijuana plants shall

meet the requirements of all adopted water and wastewater regulations promulgated by the Town.

- i. Cultivation of marijuana in a residential unit that is not a primary residence is not permitted.
- j. 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.
- k. 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.

K. Growing 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 Old Town Center (OTC), Neighborhood Commercial (NC), Highway Tourist (HT), Service Commercial (SC), and the Limited Industrial (LI) Zone Districts as a use by special review subject to the following conditions:

1. 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.
2. No more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants per person may be cultivated.
3. Marijuana plants shall not be grown in the common area of any commercial or industrial building.

4. The cultivation of marijuana plants in any building or unit within the Old Town Center (OTC), Neighborhood Commercial (NC), Highway Tourist (HT), Service Commercial (SC), and the Limited Industrial (LI) Zone Districts shall meet the requirements of all adopted Town building and safety codes and applicable fire codes. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town, and a fire prevention inspection conducted by the Grand Valley Fire Protection District, and shall comply with any conditions of said inspections, and shall submit to periodic building, safety and fire code inspections thereafter.
5. The cultivation of marijuana plants shall not be permitted on the exterior portions of a lot. The cultivation, production or possession of marijuana plants within a building or a unit must not be perceptible from the exterior of the building or unit.
6. 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.
7. 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 clause, sentence, paragraph, 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 effect application to other persons and circumstances.

THE FOREGOING ORDINANCE WAS INTRODUCED at a regular meeting of the Board of Trustees of the Town of Parachute, Colorado, a home rule municipality, on _____, 2013, and amended as set out herein. Copies were made available in written form for the members of the Board of Trustees' review and the matter was held and considered for second reading at a meeting of the Board of Trustees held on _____, 2013, and approved by the Mayor on _____, 2013. This Ordinance was ordered published by title only as provided by the Home Rule Charter. Copies of this proposed Ordinance were posted at Town Hall from the day after introduction before the Board of Trustees until the Ordinance became effective.

Dated _____, 2013

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

By: _____
Judith Beasley, Mayor

ATTEST:

Denise Chiaretta, Town Clerk

PUBLIC NOTICE

Public notice is hereby given that an Ordinance entitled:

AN ORDINANCE OF THE TOWN OF PARACHUTE, COLORADO, AMENDING SECTION 15.03.195 OF THE TOWN'S LAND USE REGULATIONS CONCERNING THE CULTIVATION OF MARIJUANA IN RESIDENTIAL STRUCTURES FOR PERSONAL USE

was introduced before the Board of Trustees on _____, 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 _____, 2013, and approved by the Mayor on _____, 2013.

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

Dated this _____ day of _____ 2013.

TOWN OF PARACHUTE

Denise Chiaretta, Town Clerk