

TOWN OR RICO ORDINANCE NO. 2011-2

AN ORDINANCE OF THE TOWN OF RICO, COLORADO PROHIBITING ALL COMMERCIAL MEDICAL MARIJUANA OPERATIONS, INCLUDING MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS AND MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURING

WHEREAS, the Colorado Legislature has adopted, and the Governor has signed into law, the Colorado Medical Marijuana Code, Article 43.3, Title 12 of the Colorado Revised Statutes; and

WHEREAS, C.R.S. Section 12-43.3-106 of the Colorado Medical Marijuana Code (hereinafter CMMC) specifically authorizes the governing body of a municipality to vote to prohibit the operation of medical marijuana businesses, including medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers; and

WHEREAS, C.R.S. Section 12-43.3-310 of the CMMC further authorizes a municipality to prohibit the operation of medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers based upon local government zoning in order to protect the health, safety and welfare of its citizenry; and

WHEREAS, the Board of Trustees of the Town of Rico has determined that it is in the best interest of the Town and its citizens to prohibit the operation of medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers in the Town pursuant to its authority under the CMMC; and

WHEREAS, the Board recognizes that despite its prohibition of medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers within the Town of Rico, medical marijuana patients within the Town shall retain reasonable access to medical marijuana through primary caregivers who are not affected by the prohibition on commercial medical marijuana operations that are imposed by this Ordinance; and

WHEREAS, in addition to the powers granted to the Town by the CMMC as set forth herein, the Town is a home rule municipality and is empowered to adopt such ordinances as are necessary and convenient to protect the health, safety and welfare of the community.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO AS FOLLOWS:

SECTION I. DEFINITIONS.

***Marijuana* shall have the same meaning as set forth in Article XVIII, Section 14(1)(i), of the Colorado Constitution, or as may be more fully defined in any applicable State law or regulation.**

***Medical Marijuana* shall mean marijuana that is grown and sold for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.**

Medical Marijuana Center means a person authorized to be licensed to operate a business as described in C.R.S. Section 12-43.3-402 of the CMMC who sells medical marijuana to registered patients or primary caregivers as defined in Colorado Constitution, Article XVIII, Section 14, but not a primary caregiver.

Medical Marijuana-infused Products Manufacturer means a person licensed pursuant to the CMMC to operate a business as described in C.R.S. Section 12-43.3-404.

Optional Premises Cultivation Operation means a person licensed pursuant to the CMMC to operate a business as described in C.R.S. Section 12-43.3-403.

Patient shall have the same meaning as set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable State law or regulation.

Primary Caregiver shall have the same meaning as set forth in Article XVIII, Section 14(1)(f) of the Colorado Constitution and subject to any statutory requirements or conditions, or as addressed in any applicable Colorado Department of Revenue Regulations.

Any terms set forth herein which are also defined under the Colorado Medical Marijuana Code or in any applicable State law or regulations shall have the meaning and effect ascribed to them under and in the context of the CMMC, or pursuant to these laws and regulations.

SECTION II. PROHIBITION ON MEDICAL MARIJUANA BUSINESSES, INCLUDING MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS AND MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURERS

Medical marijuana businesses, including medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers are prohibited within the Town of Rico. It is unlawful for any person to operate a medical marijuana business, including a medical marijuana center, an optional premises cultivation operation or a medical marijuana-infused products manufacturer within the municipal limits of the Town of Rico.

SECTION III. PATIENTS AND PRIMARY CAREGIVERS

Nothing in this Ordinance shall be construed to prohibit, regulate, or otherwise impair the use of medical marijuana by patients as defined by the Colorado Constitution, or the provisions of medical marijuana by a primary caregiver to a patient in accordance with the Colorado Constitution, and applicable statutes and regulations, including the Colorado Medical Marijuana Code.

SECTION IV. VIOLATION/PENALTY

In addition to any other penalties that may exist under State, Federal and local laws, any person charged with a violation of this Chapter, upon conviction thereof, shall be punished by a fine of not more than one-thousand dollars (\$1000) or by imprisonment not to exceed one (1) year, or by both

such fine and penalty. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continues or is permitted by any such person.

SECTION V. SEVERABILITY

If any clause, sentence, paragraph or 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 as invalid, such judgment shall not affect the remaining provisions of this Ordinance.


SECTION VI. SAFETY CLAUSE

The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and that this Ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 16 day of March 2011 by a majority vote of the Board of Trustees of the Town of Rico.

PASSED, APPROVED AND ADOPTED ON SECOND READING this 20 day of April 2011 by the Board of Trustees of the Town of Rico by majority vote.

TOWN OF RICO:


Mayor

ATTEST:


Town Clerk