

**ORDINANCE NO. 2014-06**

**AN ORDINANCE OF THE  
BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO  
AMENDING ORDINANCE NO. 2013-01, AND ORDINANCE NO. 2014-02, PROVIDING FOR  
LICENSING AND PERMITTING OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA  
PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES AND  
RETAIL MARIJUANA STORES**

**WHEREAS**, the Board of Trustees for the Town of Rico has previously adopted Ordinances 2010-05 and 2011-02, which Ordinances prohibited the operation of all commercial medical marijuana facilities in the Town of Rico; and

**WHEREAS**, the Board of Trustees submitted a ballot initiative to the voters as to whether retail marijuana facilities and establishments should be permitted in the Town of Rico, to which the voters responded by voting on November 4, 2014 to permit retail marijuana facilities in the Town or Rico; and

**WHEREAS**, the ballot initiative provided that the Board of Trustees would adopt such regulations as it deemed appropriate to provide for permitting or licensing of retail marijuana facilities and establishments; and

**WHEREAS**, the Board of Trustees desires to adopt this ordinance to provide for permitting and licensing of retail marijuana facilities and establishments, consistent with the Constitution of Colorado, and Colorado statutes and regulations;

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO as follows:**

**Section 1. Authority.**

This Ordinance is authorized pursuant to, inter alia, Article XVIII, Section 16, of the Colorado Constitution, the Colorado Retail Marijuana Code, C.R.S. 12-43.4-101, *et seq.* which authorizes the licensing and regulation of retail marijuana business and affords local government the option to determine whether or not to allow retail marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law, Article 11 of Title 30, C.R.S. (county powers and functions), Article 15 of Title 30 (County police powers), and Article 28 of Title 30 (county planning and building regulations)..

**Section 2. Colorado Retail Marijuana Code, Colorado Medical Marijuana Code, Compliance.**

The definitions contained in the Colorado Retail Marijuana Code, C.R.S. 12-43.4-101, *et seq.* are incorporated herein by reference as though fully set forth. Further, all operation of marijuana cultivation, testing, retail and production in the Town of Rico shall be in compliance with the Colorado Retail Marijuana Code, and the Colorado Medical Marijuana Code, C.R.S. 12-43.3-101, *et seq.*, as applicable. No marijuana facility shall be operated in the Town of Rico except as permitted and licensed by the State of Colorado, pursuant to state law, and in full compliance with terms and conditions imposed by the State of Colorado. Any marijuana facility that is in non-compliance with any provision of a state permit or license, law or regulations, shall be deemed in violation with this Ordinance.

**Section 3. License Required for Operation of Marijuana Facilities.**

The Board of Trustees hereby authorizes the operation of marijuana cultivation facilities, marijuana testing facilities, marijuana retail facilities and marijuana production facilities as set forth in this Ordinance. It shall be unlawful for any person to establish or operate a marijuana facility in the Town of Rico without having first obtained a license for such facility from the local licensing authority. Such

license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Ordinance.

#### **Section 4. Licensing Authority.**

The Board of Trustees shall act as the licensing authority for review and approval of all licenses for marijuana facilities. The Town Manager and Town Planner ("Staff") shall act as support staff to the Licensing Authority and shall accept and process all applications for marijuana facilities, and shall collect fees, draft and maintain such applications, forms, and administrative materials as may be required for operation of this Ordinance.

#### **Section 5. Requirements of Applications.**

A person seeking a license or renewal of a license issued pursuant to this Ordinance shall submit an application to the local licensing authority on forms provided by the Staff. At the time of application, each applicant shall pay a non-refundable operating fee to the Town in an amount to be determined by the Town by separate Resolution to defray the costs incurred by the Town including, but not limited to, processing the license, administration, inspection and enforcement of marijuana facilities.

A copy of the application and all supporting documentation provided to the State of Colorado for licensing under state law and regulations shall be provided with the application to the County. Prior to approval by the licensing authority, the applicant shall provide a copy of the license or other approval from the State of Colorado to operate in the State of Colorado.

#### **Section 6. Cultivation Facilities.**

(A) Licensed retail marijuana cultivation facilities may propagate, cultivate, harvest, prepare, cure, package and label retail marijuana, whether in concentrated form or otherwise, and sell retail marijuana that they have cultivated to a person licensed by the State of Colorado to operate a retail marijuana store, production facility, testing facility, or other cultivation facility. Licensed retail marijuana cultivation facilities are prohibited from selling retail marijuana to any consumer.

(B) Retail marijuana cultivation facilities may be located anywhere in the Town of Rico where agriculture, including greenhouses, may be conducted, either by right or by a special use permit. All cultivation activities shall occur within an enclosed space, and shall be subject to all security requirements imposed by this Ordinance and by state law and regulations.

(C) Retail marijuana cultivation facilities shall be subject to all provisions of the Town of Rico Land Use Code applicable to agricultural uses and facilities.

(D) Operators of retail marijuana cultivation facilities shall use best practices to conserve energy and water in cultivation operations, and shall avoid the use of treated water from a domestic water provider for irrigation purposes.

(E) Internal lighting used during night-time hours (from sunset to sunrise) shall not be visible to adjacent properties. Exterior lighting shall be consistent with the Town of Rico Land Use Code.

#### **Section 7. Retail Store Facilities.**

(A) Retail marijuana stores and facilities may be located within the Town of Rico in any location where retail or commercial operations are permitted under the Town of Rico Land Use Code or pursuant to an approved special use permit. All applicable provisions of the Land Use Code shall apply, including requirements for a special use permit for retail or commercial uses in pertinent zoning districts.

(B) No retail marijuana store or facility shall be located within 1,000 feet of any school or

church.

(C) Signage and advertising shall be permitted as provided in the Land Use Code and pursuant to state law and regulations, but in the event of a conflict between state law and the Land Use Code, the more stringent requirement shall apply.

(D) In any retail marijuana store in which edibles are sold to consumers, a sign shall be prominently and conspicuously displayed to inform consumers that the edible products have not been inspected by a local public health agency.

(E) There shall be posted in a conspicuous location in each retail marijuana store a legible sign with the following warning:

"The use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle or operate machinery, it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of, or impaired by, marijuana.

"Possession and distribution of marijuana is a violation of federal law.

"No one under the age of twenty-one (21) years is permitted on the premises."

#### **Section 8. Retail Marijuana Production Facilities.**

(A) Retail marijuana production facilities, including production of edibles, may be located within the Town of Rico at any location where food production or manufacturing is permitted by the Town of Rico Land Use Code as a use by right, or pursuant to an approved special use permit.

(B) Licensed retail marijuana products manufacturers may manufacture, prepare, package and label retail marijuana products, whether in concentrated form or that are comprised of marijuana and other ingredients intended for use or consumption. Licensed retail marijuana products manufacturers may sell retail marijuana products of its own manufacture to persons holding a retail marijuana store license from the State of Colorado, or to other licensed retail marijuana products manufacturers. Licensed retail marijuana products manufacturers are prohibited from selling retail marijuana or retail marijuana products to any consumer.

(C) Licensed retail marijuana products manufacturers are prohibited from manufacturing, preparing, packaging or labeling marijuana products in a location that is operated as a retail food establishment or as a wholesale food facility.

(D) All packaging shall include a notice that the contents have not been inspected by the county public health agency.

#### **Section 9. Retail Marijuana Testing Facilities.**

(A) Retail marijuana testing facilities may be located within the Town of Rico at any location where agricultural, commercial or industrial uses are permitted by the Town of Rico Land Use Code as a use by right, or pursuant to an approved special use permit.

(B) Licensed retail marijuana testing facilities may accept samples of retail marijuana or retail marijuana products from retail marijuana establishments for testing and research purposes only. Licensed retail marijuana testing facilities are permitted to develop retail marijuana products; however they may not engage in the manufacturing of retail marijuana. Licensed retail marijuana testing facility licensees are further prohibited from selling, distributing or transferring retail marijuana or retail marijuana products.

(C) A person who has a financial interest in a retail marijuana testing facility is prohibited from

holding a financial interest in a medical marijuana business licensed pursuant to the Colorado Medical Marijuana Code, or a financial interest in any other retail marijuana establishment.

**Section 10. Dual Licenses.**

Any person who has been licensed by the State of Colorado for multiple licenses to engage in multiple operations or for multiple facilities may apply for such dual operations in the Town of Rico County to the extent that such operations are otherwise permitted by this Ordinance and the Land Use Code.

**Section 11. Continuing Compliance Documentation.**

Any person licensed for any retail marijuana facility in the Town of Rico shall demonstrate continued compliance with all state licenses, laws and regulations. Licensees shall provide the Town of Rico with copies of all documents updating information, agents, employees, operations, violations, enforcement actions, or other administrative matters sent to or received from the State of Colorado licensing and enforcement agencies.

**Section 12. Issuance of license, Duration, Renewal.**

(A) Upon issuance of a license, the Town shall provide the licensee with one (1) original of such license for each establishment or facility to be operated by the licensee in the Town. This original license shall be displayed in a location visible to the public or to enforcement officials. The license shall include the name and address of the licensee, the type of facility permitted, and the address of the facility at which it is to be displayed.

(B) Each license issue pursuant to this Ordinance shall be valid for one (1) year from the date of issuance, and may be renewed only as provided by this Ordinance. A renewal application shall be filed not less than sixty (60) days prior to expiration and not more than ninety (90) days from expiration. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal. An untimely application may be accepted upon the payment of a late application fee of \$500 to expedite processing, and such application shall serve to extend the license until a decision is made on the renewal.

(C) Notwithstanding any state law to the contrary, a licensee whose license expires and for which an application for renewal has not been received prior to the expiration date, shall be deemed to have forfeited its license under this Ordinance. The Town shall not accept a renewal application after the expiration of the license. A licensee whose license expires shall not cultivate, harvest, process, manufacture, produce, or sell retail marijuana or retail marijuana products until a new license has been obtained.

(D) At the sole discretion of the licensing authority, a renewal license may be issued for a period in excess of one (1) year, depending upon the compliance history of the licensee, and such other factors as the licensing authority in its sole discretion may determine are relevant.

**Section 13. Authority to Impose Conditions on License, or to Deny License.**

The local licensing authority shall have the authority to impose such reasonable terms and conditions on a license, or to deny a license or renewal of a license, as may be necessary to protect the public health, safety and welfare of the people of the Town of Rico, and to obtain compliance with the requirements of this Ordinance and applicable law.

**Section 14. Annual Operations Fee.**

Upon issuance of a license or a renewal of a license, the licensee shall pay to the Town a fee in an amount to be determined by the Board of Trustees by separate Resolution to be sufficient to cover the annual costs of inspections and for the purpose of determining compliance with the provisions of this Ordinance and any other applicable state or local laws or regulations.

### **Section 15. Signage and Advertising**

All signage and advertising for a retail marijuana facility shall be in compliance with state laws and regulations, as well as the Town of Rico County Land Use Code, and any applicable special use permit.

### **Section 16. Security.**

All security measures shall be in compliance with state law and regulations, and shall include security surveillance cameras, robbery and burglary alarms, a locking safe affixed to the premises, exterior lighting, and deadbolt locks on all exterior doors. Law enforcement officials may inspect the premises at any time to ensure appropriate security measures are in use, and to ensure compliance with state laws and regulations.

### **Section 17. Visibility of Activities, Odor and Control of Emissions.**

(A) All activities of retail marijuana facilities, including without limitation, cultivation, growing, processing, displaying, selling, storage and packaging, shall be conducted indoors. For purposes of this Ordinance, greenhouse cultivation shall be deemed to occur indoors.

(B) No devices, contrivances, instruments, and paraphernalia for inhaling or otherwise consuming marijuana shall be displayed or kept in a manner so as to be visible from outside the licensed premises.

(C) No licensee shall operate in a manner that causes a nuisance. A licensee shall take appropriate measures and use best efforts to prevent smoke, odors, debris, fluids, and other substances from exiting a retail marijuana facility, and shall be responsible for immediate and full clean-up and correction of any condition creating a nuisance. A licensee shall properly dispose of all materials, items, and other substances in a safe, sanitary and secure manner in accordance with applicable laws and regulations,

### **Section 18. Sales and Business Licenses Required.**

At all times while a license is in effect, the licensee shall possess all required state and local sales tax and/or business licenses

### **Section 19. Sales and Property Taxes.**

Each licensee shall collect and remit all applicable sales taxes, and shall remit applicable real and personal property taxes.

### **Section 20. Book and Records,**

All books and records required to be maintained by the State of Colorado shall also be subject to inspection by the Town during regular business hours.

### **Section 21. Nonrenewal, Suspension or Revocation of License.**

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's state license, or violation of this Ordinance. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.

### **Section 22. Violations and Penalties.**

In addition to the possible denial, revocation or nonrenewal of a license under the provisions of this

Ordinance, any person, including, but not limited to, any licensee, manager or employee of a retail marijuana facility or any customer of such business, who violates any provision of this Ordinance shall be subject to the following penalties:

(A) It shall be a petty offense for any person to violate any provision of this Ordinance. Any person convicted of having violated any provision of this Ordinance may be punished as prescribed by state law.

(B) The operation of a retail marijuana facility or establishment without a valid license issued pursuant to this Ordinance may be enjoined by the Town in an action brought in a court of competent jurisdiction, and may be otherwise prosecuted under state or federal law.

(C) The operation of a retail marijuana facility or establishment without a valid license issued pursuant to this Ordinance shall be specifically deemed to be a public nuisance.

### **Section 23. No Town of Rico Liability; Indemnification,**

By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Town of Rico, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages, or liabilities of any kind that result from the arrest or prosecution of retail marijuana facility or establishment owners, operators, employees, clients, or customers for a violation of state or federal laws, rules or regulations. All licensees, jointly and severally in the case of more than one, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorney and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitations, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other kind whatsoever arising out of or in any manner connected with the operation of the retail marijuana facility or establishment that is the subject of the license.

### **Section 24. No Waiver of Governmental Immunity.**

In adopting this Ordinance, the Board of Trustees is relying on, and does not waive or intend to waive, by any provision of this Ordinance, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et seq.*, as amended from time to time, or any other limitations right, immunity, or protection otherwise available to the Town, its officers or its employees.

### **Section 25. Other Laws Remain Applicable.**

To the extent the State of Colorado has adopted or adopts in the future any additional or more stringent law or regulations governing the sale or distribution of retail marijuana products, the additional or more stringent law or regulations shall control the establishment or operation of any such facility or establishment in the Town of Rico. Compliance with any applicable state law of regulations shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

In the event that the State of Colorado prohibits the sale or other cultivation, production or distribution of marijuana, any license issued hereunder shall be deemed immediately revoked by operation of law, with no grounds for hearing, appeal or other redress on behalf of the licensee.

The issuance of any license pursuant to this Ordinance shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, production, distribution, or use of marijuana.

To the extent that any other court of competent jurisdiction or agency of the United States acts to enforce federal laws and regulations or otherwise determines that the issuance of a license, possession, distribution, cultivation, production, sale, distribution or use of marijuana in the State of Colorado is an illegal activity subject to enforcement, the Board of Trustees reserves the right to

immediately repeal or amend this Ordinance, and/or to revoke or suspend as a matter of law any and all licenses issued pursuant to this Ordinance.

**Section 26. Effective Date.**

Pursuant to C.R.S.31-16-106 and Section 3.5 of the Charter of the Town of Rico , this Ordinance shall be published in full following its initial introduction and reading and published by title only following final adoption by the Board of Trustees, with a statement indicating the effective date of the Ordinance, and that the full text of the Ordinance is available at the office of the Town Clerk.

**Section 27. Interpretation.**

This Ordinance shall be so interpreted and construed as to effectuate its general purpose. Section headings of the Ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.



**INTRODUCED AND FIRST READING** on November 24, 2014 and first reading continued until December 16, 2014 and on such date ordered published in the \_\_\_\_\_ . Published on \_\_\_\_\_ .

**Board of Trustees, Town of Rico, Colorado**

  
\_\_\_\_\_  
Gregg Anderson, Mayor

**ADOPTED ON SECOND AND FINAL READING** on December 16, 2014.

**Board of Trustees, Town of Rico, Colorado**

  
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Gregg Anderson, Mayor  
  
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Linda Yellowman, Town Clerk