

**DOLORES COUNTY ORDINANCE NO. 2013-01**

**AN ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES OR RETAIL MARIJUANA STORES WITHIN THE UNINCORPORATED BOUNDARIES OF DOLORES COUNTY, STATE OF COLORADO**

**WHEREAS**, pursuant to C.R.S. § 30-15-401, the Board of County Commissioners of Dolores County, Colorado (hereinafter the “Board”), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the present and future residents of Dolores County; and

**WHEREAS**, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, Personal Use and Regulation of Marijuana, codified as C.R.S. Const. Art. 18, § 16; and

**WHEREAS**, pursuant to C.R.S. Const. Art. 18, § 16(5)(f), a locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure; provided, any initiated or referred measure to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores must appear on a general election ballot during an even numbered year; and

**WHEREAS**, C.R.S. Const. Art. 18, § 16(2)(e) defines a “locality” to include a county; and

**WHEREAS**, as a result of the November 6, 2012 election, approximately 55% of the votes cast on this ballot issue were cast against the adoption of Amendment 64 in Dolores County; and

**WHEREAS**, pursuant to the authority granted to the County by C.R.S. Const. Art. 18, § 16 and consistent with the will of Dolores County voters, the Board desires to adopt this ordinance prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores within the unincorporated areas of Dolores County, Colorado.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Dolores County as follows:

**Purpose.** The purpose of this Ordinance is to promote the general public welfare and safety throughout Dolores County, Colorado by prohibiting the operation of marijuana

cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores.

**Definitions.** Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in C.R.S. Const. Art. 18, § 16. These definitions include, but are not limited to the following:

- (1) "MARIJUANA" OR "MARIHUANA" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" or "marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.
- (2) "MARIJUANA ACCESSORIES" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.
- (3) "MARIJUANA CULTIVATION FACILITY" means an entity of any kind which is used, intended to be used, or designed to be used to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.
- (4) "MARIJUANA ESTABLISHMENT" means a marijuana cultivation facility, marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.
- (5) "MARIJUANA PRODUCT MANUFACTURING FACILITY" means an entity of any kind which is used, intended to be used, or designed to be used to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.
- (6) "MARIJUANA PRODUCTS" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

- (7) "MARIJUANA TESTING FACILITY" means an entity of any kind which is used, intended to be used, or designed to be used to analyze and certify the safety and potency of marijuana.
- (8) "MEDICAL MARIJUANA CENTER" means an entity licensed by a state agency to sell marijuana and marijuana products pursuant to Section 14 of this Article and the Colorado Medical Marijuana Code.
- (9) "RETAIL MARIJUANA STORE" means an entity of any kind which is used, intended to be used, or designed to be used to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

Section 1.    **APPLICABILITY:**

- 1.1 This Ordinance shall apply throughout the unincorporated area of Dolores County, including but not limited to public and state lands.
- 1.2 If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases are declared unconstitutional or invalid.

Section 2.    **UNLAWFUL ACTS:**

- 2.1 Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance:
- (a) Maintaining an entity of any kind which is used, intended to be used, or designed to be used to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.
- (b) Maintaining an entity of any kind which is used, intended to be used, or designed to be used to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.
- (c) Maintaining an entity of any kind which is used intended to be used, or designed to be used to analyze and certify the safety and potency of marijuana.

- (d) Maintaining an entity of any kind which is used, intended to be used, or designed to be used to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

Section 3.     **ENFORCEMENT:**

- 3.1     This Ordinance shall be enforced by the Dolores County Sheriff.
- 3.2     The Board hereby designates the Dolores County Attorney, or his/her designee, as the County's legal representative in the enforcement of the provisions of this Ordinance in a court of applicable jurisdiction. In the event the Dolores County Attorney or his/her designee cannot represent Dolores County or the Board deems it otherwise appropriate, the Board may appoint the District Attorney of the 22nd Judicial District to perform such legal enforcement duties in lieu of the County Attorney.
- 3.3     **Scope.** This Ordinance shall apply within the unincorporated territory of Dolores County and to all other areas designated herein. This Ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.
- 3.4     **Penalties.** The County may seek such criminal or civil penalties as are provided by Colorado law and provided for herein.

Section 4.     **CIVIL REMEDIES AND ENFORCEMENT POWERS:**

- 4.1     The County shall have the following remedies and enforcement powers for violations of any acts outlined in section 2 above.
- 4.2     **Injunctive Relief.** The County may seek an injunction or other equitable relief in court to stop any violation of this Ordinance of any acts outlined in section 2 above and may recover costs of any such action.
- 4.3     **Surcharges. C.R.S. § 30-15-408.** The fine for a first offense and for any subsequent offense shall be not more than one thousand dollars (\$1,000.00) per violation and each day shall be deemed a separate violation. In addition to the fines and penalties prescribed in this Ordinance, any person convicted of a violation of this Ordinance shall be subject to the statutory surcharges of ten dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund, and (\$15.00) for the Colorado Traumatic Brain Injury Trust Fund. These surcharges shall be paid to the clerk of the court by each person convicted of



violating this Ordinance. The clerk shall transmit the moneys to the respective funds in accordance with C.R.S. § 30-15-402(2).

Section 5. **CRIMINAL PROSECUTION:**

- 5.1 If so directed by the Sheriff of Dolores County, a **criminal** prosecution may be brought against any person who violates any provision of this Ordinance in accordance with C.R.S. §§ 30-15-402 and 410.
- 5.2 Violation of the provisions of this Ordinance shall be punishable by a fine of not more than one thousand (\$1,000.00) for each violation. In addition to this penalty, persons convicted of a violation of this Ordinance are subject, pursuant to C.R.S. § 30-15-402, C.R.S., to a surcharge of \$10.00, to be paid to the Clerk of the Court for credit to the Victims and Witnesses Assistance and Law Enforcement Fund established in the judicial district.

Section 6. **ADDITIONAL REMEDIES:**

The remedies provided in this Ordinance shall be cumulative and in addition to any other remedies which may be available to the County and its Board. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in lieu of, the legal remedies herein granted.

Section 7. **SAFETY CLAUSE:**

The Board hereby finds, determines and declares that this Ordinance is necessary for the health, safety and welfare of the citizens of Dolores County, Colorado.

Section 8. **DISPOSITION OF FINES AND FORFEITURES:**

All fines and forfeitures for the violation of this Ordinance shall be paid to the Treasurer of Dolores County within thirty (30) days of receipt and shall be deposited into the General Fund of Dolores County.

Section 9. **PUBLICATION AND EFFECTIVE DATE:**

The foregoing text is the authentic text of Dolores County Ordinance No. 2013-01. The first reading of said Ordinance took place on Aug. 19, 2013 at a regular Board of County Commissioners Meeting. It was published in full in the *Dove Creek Press* on Aug. 22, 2013. The Ordinance was adopted on second reading at a regular Board of County Commissioners Meeting on Sept. 3, 2013 and shall take effect October 5, 2013 @ 11:59 P.M.

ADOPTED this 3<sup>rd</sup> day of September, 2013.

BOARD OF COUNTY COMMISSIONERS OF  
DOLORES COUNTY, COLORADO

ATTEST:

Margret Daves  
Margret Daves  
Deputy Clerk to the BOCC

[SEAL]



By: [Signature]  
Douglas R. Stowe, Chair

[Signature]  
Ernest R. Williams, Commissioner

[Signature]  
Julie R. Kibel, Commissioner