

## Chapter 5

### ESTABLISHMENT, OPERATION, AND LICENSING OF MARIJUANA FACILITIES

#### SECTIONS:

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#### **4-5-1: Purpose**

The purpose of this ordinance is to promote the general public welfare and safety throughout the Town of Westcliffe, Colorado by prohibiting the establishment, operation, and licensing of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores. (Ord. 1-2013, eff. 8/1/2013)

#### **4-5-2 Definitions**

Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution. These definitions include, but are not limited to the following: (Ord. 1-2013, eff. 8/1/2013)

*“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.

*“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.

- “Marijuana Cultivation Facility”* means an entity licensed 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.
- “Marijuana Establishment”* means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.
- “Marijuana Product Manufacturing Facility”* means an entity licensed 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.
- “Marijuana Products”* means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use and consumption, such as, but not limited to, edible products, ointments, and tinctures.
- “Marijuana Testing Facility”* means an entity licensed to analyze and certify the safety and potency of marijuana.
- “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.
- “Retail Marijuana Store”* means an entity licensed 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.

**4-5-3 Violation<sup>1</sup>**

The operation, ownership, establishment or conduct of marijuana cultivation facilities, marijuana establishments, marijuana product manufacturing facilities, marijuana products facilities, marijuana testing facilities, retail marijuana stores and interpersonal tender, sale, barter or other transfer of marijuana with or without remuneration on Town property is unlawful and prohibited within the Town of Westcliffe. Each violation of this ordinance shall constitute a separate violation. (Ord. 1-2013, eff. 8/1/2013, Ord. 9-2016, eff. 5/17/2016)

**4-5-4 Penalty <sup>2</sup>**

Any person, corporation, company, partnership, business association or organization violating the provisions of this ordinance shall be subject to a fine not exceeding \$ 300.00. Each day of continued violation shall be considered a separate offense. (Ord. 1-2013, eff. 8/1/2013, Ord. 3-2015, eff. 6-13-2015)

**4-5-5 Safety Clause**

The Board of Trustees hereby finds, determines, and declares that the ordinance adding Chapter 5 to Title 4 of the Municipal Code is promulgated under the general police power of the Town of Westcliffe, that it is promulgated for the health, safety, and welfare of the public and is necessary to the immediate preservation of the public peace, health, and safety, due to the secondary effects of retail marijuana stores and cultivation facilities and lack of adequate local resources to monitor and police such establishments. (Ord. 1-2013, eff. 8/1/2013)

**4-5-6 Severability**

If any part or parts of this ordinance are for any reason held to be invalid, such provision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts hereof, irrespective of the fact that any one part or parts be declared invalid. (Ord. 1-2013, eff. 8/1/2013)

**4-5-7 Effective Date**

This ordinance shall become effective thirty (30) days after publication by title following final passage by the Board of Trustees. (Ord. 1-2013, eff. 8/1/2013)

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<sup>1</sup> Title 4, Chapter 5, Section 3 is amending by repealing and replacing it in its entirety. (Ord. 9-2016, eff. 5/15/2016)

<sup>2</sup> Title 4, Chapter 5, Section 4 is repealed and reenacted. (Ord. 3-2015, eff. 6-13-2015)