

INITIATIVE PETITION

Petition Section ____

WARNING: IT IS AGAINST THE LAW:

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE.

TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.

SUMMARY: The proposed initiative seeks to remove the prohibition of medical and retail marijuana sales in the Town of Wellington.

Full Text of Measure:

Be it enacted by the Town of Wellington:

Ordinance Concerning the Regulation of Retail and Medical Marijuana Stores in the Town of Wellington

WHEREAS, in November 2012, Colorado voters approved Amendment 64 to the Colorado Constitution ("Amendment 64"), codified as Section 16 of Article XVIII of the Colorado Constitution, concerning the personal use and regulation of marijuana; and

WHEREAS, Amendment 64 generally allows persons twenty-one years of age or older to consume or possess limited amounts of marijuana and provides for the licensing of marijuana cultivation facilities, product manufacturing facilities, testing facilities and retail stores; and

WHEREAS, Amendment 64 further provides that local governments may adopt their own regulations governing certain aspects of marijuana-related businesses; and

WHEREAS, the Town of Wellington would benefit from the presence of retail and medical marijuana stores so that adults can safely purchase retail and medical marijuana and the Town can generate additional tax revenue.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO OR THE REGISTERED ELECTORS OF THE TOWN OF WELLINGTON, COLORADO, THAT:

Section 1. Article 13.6 of Chapter 2 of the Wellington Municipal Code is hereby repealed in its entirety.

Section 2. A new Article 14 is hereby added to Chapter 2 of the Wellington Municipal Code and shall read as follows:

Article 14 – RETAIL AND MEDICAL MARIJUANA STORES

Sec. 14-10 Purpose.

- A. The Board of Trustees hereby declares that this Article shall be deemed an exercise of the police powers of the Town for the protection of the economic and social welfare and the health, peace, and morals of the people of the Town.
- B. The Town further declares that it is unlawful to cultivate, manufacture, distribute, or sell Retail Marijuana or Medical Marijuana, except in compliance with the terms, conditions, limitations, and restrictions set forth in this Chapter, Section 16 of Article XVIII of the State Constitution and Article 43.4 of Title 12, C.R.S. (the Colorado Retail Marijuana Code) or Article 43.3 of Title 12, C.R.S. (the Colorado Medical Marijuana Code).

Sec. 14-20 Powers and Duties of the Local Licensing Authority.

- A. The Local Licensing Authority shall grant or refuse local Licenses for the sale of Retail Marijuana or Medical Marijuana as provided by law; suspend, fine, restrict, or revoke such Licenses upon a violation of this Article or a rule promulgated pursuant to this Article; and may impose any penalty authorized by this Article or any rule promulgated pursuant to this Article. The Local Licensing Authority may take action with respect to a License accordance with the procedures established pursuant to this Article.
- B. The Local Licensing Authority shall promulgate such rules and make such special rulings and findings as necessary for the proper regulation and control of the distribution and sale of Retail Marijuana and for the enforcement of this Article.
- C. The Local Licensing Authority hereby adopts the minimum licensing requirements of Article 43.4 of Title 12 C.R.S. to apply to the issuance of a Retail Marijuana Store License.
- D. The Local Licensing Authority hereby adopts the minimum licensing requirements of Article 43.3 of Title 12 C.R.S. to apply to the issuance of a Medical Marijuana Store License.
- E. On and after January 1, 2021, the Local Licensing Authority shall begin processing applications under this Chapter, and shall process the applications in the order they are received. The Local Licensing Authority shall administratively approve any License application under this Chapter so long as the conditions set forth in this Chapter are met and the applicant has paid the operating fee and any other fees required by this Chapter.
- F. Notwithstanding any of the foregoing, if the Local Licensing Authority received any applications submitted to the State Licensing Authority for a Retail or Medical Marijuana store in the Town prior to the effective date of this ordinance, any such applications shall be deemed “received” for purposes of establishing priority under this section, as long as the application either remains active with the State Licensing Authority or is re-submitted in substantially similar form to the State Licensing Authority within 15-days after the effective date of this ordinance.

Sec. 14-30 Definitions.

Any word or term used that is defined in any of the following provisions shall have the same meaning that is ascribed to such word or term as used in the following provisions: Article XVIII, Section 16 (2) of the Colorado Constitution; the Colorado Retail Marijuana Code, C.R.S. §12- 43.4-101, *et seq.*; Article XVIII, Section 14 (l)(f) of the Colorado Constitution; C.R.S. §25-1.5- 101, *et seq.*; or the Colorado Medical Marijuana Code, C.R.S. §12-43.3-101, *et seq.*

Colorado Medical Marijuana Code: Article 43.3 of Title 12 of the Colorado Revised Statutes, as amended, and any regulations promulgated thereto.

Colorado Retail Marijuana Code or CRMC: Article 43.4 of Title 12 of the Colorado Revised Statutes, as amended, and any regulations promulgated thereto.

Direct Measurement: A straight line from the nearest property line of the school or campus to the nearest portion of the building used for marijuana sales.

License: A license or registration granted pursuant to this Article.

Licensed Premises: The premises specified in an application for a License under this Article, which are owned or in possession of the Licensee and within which the Licensee is authorized to distribute, or sell Retail Marijuana in accordance with the provisions of the Colorado Retail Marijuana Code.

Licensee: A person licensed or registered pursuant to the Colorado Retail Marijuana Code and this Article.

Local Licensing Authority: The Board of Trustees of the Town of Wellington.

Local Licensing Official: The Town Clerk or other designee of the Local Licensing Authority.

Location: A particular parcel of land that may be identified by an address or other descriptive means.

Person: A natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Premises: A distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

School: A public or private preschool or a public or private elementary, middle, junior high, or high school, college or principal campus of a college (and including the new Middle / High School at Wellington not open as of the adoption of this ordinance).

State Licensing Authority: The Authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical and Retail Marijuana in this State, pursuant to Articles 43.3 and 43.4 of Title 12 C.R.S.

Sec. 14-40 Applications-Licenses.

- A. Dual Operation. An applicant for a Retail Marijuana Store License under this Article may co-locate a Medical Marijuana Store and a Retail Marijuana Store at the same location as permitted by the Colorado Retail Marijuana Code.
- B. Application Forms. An application for a License shall be filed with the Local Licensing Authority on forms provided by the State and Local Licensing Authority. The application shall contain such information as the State and Local Licensing Authority may require. Each application shall be verified by the oath or affirmation of the persons prescribed by the State and Local Licensing Authority. Upon receipt of notice from the State Licensing Authority of the application for a license under the Colorado Retail Marijuana Code (or the Colorado Medical Marijuana Code), the Local Licensing Authority shall determine whether the applicant qualifies for licensure under this Article. The Local Licensing Authority shall notify the state and the Applicant in writing of its determination as to whether the applicant qualifies for licensure as a Retail or Medical Marijuana Store no later than thirty (30) days from the date the application was originally received by the Local Licensing Authority.
- C. Other Requirements. An applicant shall file, at the time of application for a License, plans and specifications for the interior of the building, and shall also include at the time of application proof of possession of the real property where the building is or will be located.

Sec. 14-50 Denial of Application.

- A. The Local Licensing Authority shall deny a Local License only if the premises on which the applicant

proposes to conduct its business do not meet the requirements of this Article.

- B. If the Local Licensing Authority denies a Local License, the Applicant shall be entitled to a hearing pursuant to this Article. The Local Licensing Authority shall provide written notice of the grounds for denial of the Local License to the applicant.
- C. If an application is denied, the Licensing Authority shall set forth in writing the grounds for denial.

Sec. 14-60 Persons Prohibited as Licensees.

The Local Licensing Authority hereby adopts the provisions and restrictions set forth in the Colorado Retail Marijuana Code.

Sec. 14-70 Restrictions for Applications for Marijuana Store Licenses.

- A. The Local Licensing Authority shall not receive or act upon an application for the issuance of a State or Local License pursuant to this Article:
 - 1. Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises;
 - 2. For a Location in an area where the sale of Retail or Medical Marijuana as contemplated is not permitted under the applicable zoning laws, which restrictions shall be as follows (and the Town's zoning laws shall be amended as follows):

Retail or Medical Marijuana stores shall only be permitted in the C-3 zoning district. In addition, the following setbacks will apply: Retail or Medical Marijuana stores shall not be permitted to be located within two-thousand (2,000) feet of: any parcel containing a school; and Retail or Medical Marijuana stores shall not be permitted to be located within five-hundred (500) feet of: parcels zoned P (Public District) or any parcel containing another Retail or Medical Marijuana store; and Retail or Medical Marijuana stores shall not be permitted to be located within two-hundred (200) feet of: parcels zoned R-1 (Residential District), R-2 (Residential District) or R-4 (Residential District).

- B. In addition to the requirements of C.R.S. §12-43.4-301, the Local Licensing Authority shall consider the evidence and make a specific finding of fact as to whether the building in which Retail or Medical Marijuana is to be sold is located within any distance restrictions established by, or pursuant to, this section.
- C. The distances referred to in this Article are to be computed by direct measurement from the nearest property line of the applicable setback parcel to the nearest portion of the Retail or Medical Marijuana Store.

Sec. 14-80 Transfer of Ownership.

- A. A State or Local License granted under the provisions of this Article shall not be transferable except as provided below, but this Section shall not prevent a change of location as provided in C.R.S. §12-43.4-309.
- B. For a transfer of ownership, a License Holder shall apply to the State and Local Licensing Authorities on forms prepared and furnished by the State Licensing Authority. The Local Licensing Authority must allow any proposed transfer approved by the State Licensing Authority, but may charge a fee not to exceed \$1,000 to process such transfer.

Sec. 14-90 Review and Approval of License.

The Local Licensing Authority adopts the provisions and restrictions set forth in C.R.S. §12- 43.4-

309 and this Article.

Sec. 14-100 Licensing Renewal.

- A. A Licensee shall apply for the renewal of an existing License to the Local Licensing Authority not less than thirty (30) days prior to the date of expiration. A Local Licensing Authority shall not accept an application for renewal of a License after the date of expiration, except as provided in subsection (B) of this Section. The State Licensing Authority may extend the expiration date of the License and accept a late application for renewal of a License provided that the applicant has filed a timely renewal application with the Local Licensing Authority. All renewals filed with the State Licensing Authority and subsequently approved by the State Licensing Authority shall next be processed by the Local Licensing Authority. The Local Licensing Authority, in its discretion, subject to the requirements of this Article and based upon reasonable grounds, may waive the thirty (30) day time requirement set forth in this Article. The Local Licensing Authority may hold a hearing on and/or denial of the application for renewal only if the State Licensing Authority rejects the renewal application.
- B. 1. Notwithstanding the provisions of subsection (A) of this Section, a Licensee whose License had been expired for not more than thirty (30) days may file a late renewal application upon the payment of a nonrefundable late application fee of five hundred dollars (\$500.00) to the Local Licensing Authority. A Licensee who files a late renewal application and pays the requisite fees may continue to operate until both the State and Local Licensing Authorities have taken final action to approve or deny the Licensee's Late Renewal Application.
2. Notwithstanding the amount specified for the Late Application Fee, the State and Local Licensing Authority by rule or as otherwise provided by law may, in its discretion, reduce the amount of the fee.

Sec. 14-110 Fees.

Every Retail and Medical Marijuana Store shall pay an operating fee at the time of its initial application for licensure and a renewal fee at the time of each application for License renewal. This fee is imposed to offset the cost of administering this License. The initial application fee and renewal fee shall be determined by the Board of Trustees and set by Resolution, but in no event shall either fee exceed one thousand five-hundred dollars (\$1,500.00).

Sec. 14-120 Hours of Operation.

A Retail or Medical Marijuana Store may engage in the sale of marijuana or marijuana products between the hours of 8:00 a.m. and 9:00 p.m. daily; provided, however, that the Board of Trustees may at its discretion extend, but not further limit, such hours of operation.

Sec. 14-130 Disciplinary Actions: Suspension-Revocation-Fines.

- A. In addition to any other sanctions prescribed by the State Licensing Authority, the Local Licensing Authority has the power, on its own motion after investigation and opportunity for a public hearing at which the Licensee shall be afforded an opportunity to be heard; to suspend or revoke a License issued by the Local Licensing Authority for a violation specified in subsection (B) below. The Local Licensing Authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of a hearing.
- B. The grounds for the Local Licensing Authority to take disciplinary action are limited to a situation where the Licensed Premises have been consistently operated in a manner that adversely affects, and creates an ongoing emergency regarding, the public health, welfare or the safety of the immediate neighborhood in which the establishment is located. Evidence to support such a finding must at least include: (i) a continuing pattern of convictions for offenses against the public peace, or (ii) a continuing pattern of convictions for criminal conduct under state or local law directly related to or arising from the Licensed Premises.

- C. 1. The Local Licensing Authority may, in its sole discretion, issue a fine in lieu of a suspension. When determining whether to impose a fine in lieu of a suspension, the Local Licensing Authority may make findings that:
- a. The public welfare and morals would not be impaired by permitting the Licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
 - b. The books and records of the Licensee are kept in such a manner that the loss of sales that the Licensee would have suffered had a suspension gone into effect can be determined with reasonable accuracy; and
 - c. The Licensee has not had his or her License suspended or revoked during the 12-months immediately preceding the date of the motion or complaint that resulted in a final decision to suspend the License.
2. The fine accepted shall be: (a) not less than five-hundred dollars (\$500.00) nor more than two thousand five-hundred dollars (\$2,500.00) for license infractions of a minor nature that do not directly impact the public health, safety, or welfare which shall include but are not limited to failure to display badges, unauthorized minor modifications of premises of a minor nature, minor clerical errors in inventory tracking procedures; and (b) not less than one-thousand dollars (\$1,000.00) nor more than ten-thousand dollars (\$10,000.00) for violations that have an immediate impact on the public health, safety, or welfare, including, but not limited to, a violation of C.R.S. §12-43.4-901(4)(e).
3. Payment of a fine shall be in the form of cash or in the form of a certified check or cashier's check made payable to the Local Licensing Authority, whichever is appropriate.
- D. Upon payment of the fine, the Local Licensing Authority shall enter its further order permanently staying the imposition of the suspension. If the fine is paid to a Local Licensing Authority, the governing body of the Authority shall cause the moneys to be paid into the General Fund of the Local Licensing Authority.
- E. If the Local Licensing Authority does not make the findings required in this Section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Local Licensing Authority.

Sec. 14-140 Inspection of Books and Records-Inspection Procedures.

- A. Each Licensee shall keep a complete set of all records necessary to show fully the business transactions of the Licensee, all of which shall be open at all times during business hours for the inspection and examination by the Local Licensing Authority or its duly authorized representatives. The Local Licensing Authority may require any Licensee to furnish such information as it considers necessary for the proper administration of this Article and may require an audit to be made of the books of account and records on such occasions as it may consider necessary.
- B. The Licensed Premises, including any places of storage where Retail or Medical Marijuana is stored, sold or dispensed shall be subject to inspection by the Local Licensing Authorities and their investigators, during all business hours for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the Licensees, access shall be required during business hours. Where any part of the Licensed Premises consists of a locked area, upon demand to the Licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the State or Local Licensing Authority, the Licensee shall open the area for inspection.
- C. Each Licensee shall retain all books and records necessary to show fully the business transactions of the Licensee for a period of the current tax year and the three (3) immediately prior tax years.

AFFIDAVIT OF PETITION CIRCULATOR

I, _____, hereby certify that:

- 1. I have read and understand the laws governing circulations of petitions in Colorado;
- 2. I was eighteen years of age or older at the time this section of the petition was circulated and signed by the listed electors;
- 3. I circulated this section of the petition;
- 4. Each signature thereon was affixed in my presence;
- 5. Each signature thereon is the signature of the person whose name it purports to be;
- 6. To the best of my knowledge and belief, each of the persons signing this petition section was, at the time of signing, a registered elector;

7. I have not paid or will not in the future pay and I believe that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition; and

8. I currently reside at the following address:

Street Address: _____

City, State, Zip Code: _____

County: _____

FURTHER, Affiant sayeth not.

[printed name of circulator]

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2020, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public