

**ORDINANCE NO. 3.301, Series of 2012**

**TITLE: A BILL FOR AN ORDINANCE TO AMEND TITLE 13 OF THE PARKER MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW CHAPTER 13.15 CONCERNING THE PROHIBITION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES AND RETAIL MARIJUANA STORES IN THE TOWN OF PARKER**

WHEREAS, Colorado voters approved an amendment to the State Constitution, Article XVIII, Section 16, which allows in part for the retail sale and cultivation of marijuana in the State of Colorado;

WHEREAS, Article XVIII, Section 16, of the Colorado Constitution authorizes local governments, such as the Town of Parker, to "prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores through the enactment of an ordinance;" and

WHEREAS, the Town Council has carefully considered the provisions of Article XVIII, Section 16, of the Colorado Constitution, and the impact of operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores' licenses on the health, safety and welfare of the Town and the inhabitants thereof, and has determined, as an exercise of its local land use authority, that such marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores shall not be located within the corporate limits of the Town.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

**Section 1.** The Parker Municipal Code is amended by the addition thereto of a new Chapter 13.15, entitled "Medical Facilities and Stores," to read as follows:

**CHAPTER 13.15**

**Medical Facilities and Stores**

**13.15.010 Findings and legislative intent.**

The Town Council makes the following legislative findings:

(1) The Town Council finds and determines that Article XVIII, Section 16, of the Colorado Constitution specifically authorizes in part that the governing body of a municipality may enact an ordinance to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores.

(2) The Town Council finds and determines after careful consideration of the provisions of Article XVIII, Section 16, of the Colorado Constitution, and after evaluating, *inter alia*, the potential secondary impacts associated with the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores, that such land uses have an adverse effect on the health, safety and welfare of the Town and the inhabitants thereof.

(3) The Town Council therefore finds and determines that as a matter of the Town's local land use and zoning authority as a home rule municipality pursuant to the provisions of Article XX, Section 6 of the Colorado Constitution, and consistent with the authorization provided by the Article XVIII, Section 16, of the Colorado Constitution, that no suitable location exists within the corporate limits of the Town of Parker for the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores' licenses.

#### **13.15.020 Authority.**

The Town Council hereby finds, determines and declares that it has the power and authority to adopt this Article pursuant to:

- (1) Article XVIII, Section 16, of the Colorado Constitution;
- (2) The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
- (3) The powers contained in the Town of Parker Home Rule Charter.
- (4) The Local Government Land Use Control Enabling Act, article 20 of title 29, C.R.S.;
- (5) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (6) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (7) Section 31-15-401, C.R.S. (concerning municipal police powers);
- (8) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses).

#### **13.15.030 Definitions.**

For purposes of this Chapter, the following terms shall have the following meanings:

*Marijuana* 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 marijuana concentrate. “*Marijuana*” 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 or 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.

*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.

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

**13.15.040 Marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores' licenses prohibited.**

It is unlawful for any person to operate, cause to be operated, or permit to be operated, any marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores within the Town, and all such uses are hereby prohibited in any location within the Town, or within any area hereinafter annexed to the Town.

**13.15.050 Penalty.**

A violation of the provisions of this Chapter shall be punishable as follows:

(1) By a fine of not more than nine hundred ninety-nine dollars (\$999.00), or imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment;

(2) Each and every day a violation of the provisions of this Chapter is committed, exists or continues shall be deemed a separate offense;

(3) The Town is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate, or remove the violation; and

(4) Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity.

**13.15.060 Effective date.**

The ordinance codified in this Chapter shall take effect upon the effective date of Article XVIII, Section 16, of the Colorado Constitution.

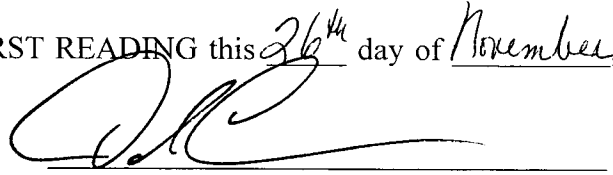
**Section 2. Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the publication of an agenda that contains the title to this Ordinance in a newspaper of local circulation prior to first and second reading of this Ordinance creates a financial burden on the Town and that the title to this Ordinance was posted in two public places two days before the Town Council meeting as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

**Section 3. 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

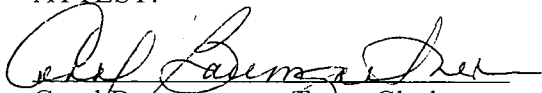
court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

**Section 4.** This Ordinance shall become effective ten (10) days after final publication.

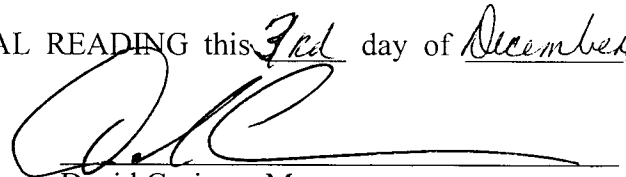
INTRODUCED AND PASSED ON FIRST READING this 26<sup>th</sup> day of November, 2012.

  
David Casiano, Mayor

ATTEST:

  
Carol Baumgartner, Town Clerk

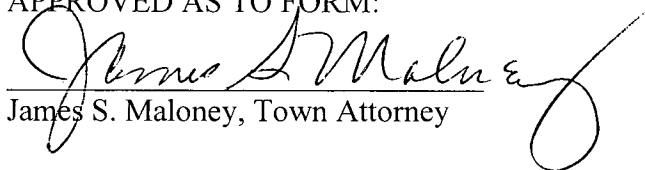
ADOPTED ON SECOND AND FINAL READING this 7<sup>th</sup> day of December, 2012.

  
David Casiano, Mayor

ATTEST:

  
Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

  
James S. Maloney, Town Attorney