

**ORDINANCE
BOARD OF TRUSTEES
TOWN OF NORWOOD, COLORADO
ORDINANCE 1210, SERIES 2014**

AN ORDINANCE OF THE BOARD OF TRUSTEES FOR THE TOWN OF NORWOOD, COLORADO AMENDING THE NORWOOD LAND USE CODE (1) BY THE ADDITION OF A NEW CHAPTER 7 CONCERNING THE RESIDENTIAL USE, GROWING, CULTIVATING AND PROCESSING OF MARIJUANA; (2) AT SECTION 2.02 "DEFINITIONS; AND (3) AT SECTION 3.05 "SCHEDULE OF USE REGULATIONS".

WHEREAS, on November 7, 2000 the voters of the State of Colorado adopted Amendment 20 to the Colorado Constitution which added section 14 to Article XVIII ("Article XVIII, § 14") and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for the use and possession of Medical Marijuana for persons with debilitating medical conditions; and

WHEREAS, in June of 2010 the Colorado State Governor signed into law House Bill 10-1284, which added C.R.S. § 12-43.3-101 et seq. as the Colorado Medical Marijuana Code (hereinafter the "Medical Marijuana Code"), and amended C.R.S. § 25-1.5-106 (the "Medical Marijuana Program"); and

WHEREAS, on November 6, 2012, the voters of the State of Colorado approved Amendment 64 to the Colorado Constitution, which added section 16 to Article XVIII ("Article XVIII, § 16"). Section 16(3)(b) of Article XVIII, § 16 provides that it is not unlawful under Colorado law for a person twenty one (21) years of age or older to possess, grow, process, or transport not more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants, and to possess the marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space, is not conducted open or publicly, and is not made available for sale; and

WHEREAS, the growing and processing of marijuana plants in a residential setting can affect the health, safety, and welfare of both the occupants of the residential structure within which the marijuana is grown or processed, and other persons, and the Norwood Town Code does not currently address such matters; and

WHEREAS, unregulated residential growing or processing of marijuana may result in noncompliance with the town's building and other technical codes, has the potential to result in serious problems including without limitation causing a fire to ignite, burn and emanate from the residential structure within which the marijuana is grown or processed, and to cause other public nuisances, all that would affect the health, safety, and welfare of both the occupants of the residential structure within which the marijuana is grown or processed, and other persons; and

WHEREAS, nothing in Article XVIII, § 14, Article XVIII, § 16, the Medical Marijuana Code, or the Medical Marijuana Program, or any other applicable law,

immunizes persons who grow or process marijuana in a residential setting from local regulation; and

WHEREAS, Section 305(3) of the Medical Marijuana Code specifically provides that "[n]othing in this article shall preempt or otherwise impair the power of a local government to enact ordinances or resolutions concerning matters authorized to local governments"; and

WHEREAS, pursuant to C.R.S. § 9-7-113, "[a] local government may ban the use of a compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids in a residential setting"; and

WHEREAS, on November 17, 2014 the Town of Norwood Planning Commission held a public hearing and following testimony and making its findings of compliance with the Norwood Major Streets and Future Land Use Plan recommended the Town of Norwood Board of Trustees adopt an ordinance amending the land use code as described in Norwood Planning and Zoning Resolution No.1117, Series of 2014; and

WHEREAS, the Town of Norwood Board of Trustees has carefully considered the effects of growing Medical Marijuana in a residential setting on the health, safety and welfare of the Town of Norwood and its inhabitants, and has carefully considered public comments regarding the same at a public hearing the regular meeting of the Board of Trustees held December 10, 2014; and

WHEREAS, the Board of Trustees finds that the regulation of the growing of marijuana in a residential setting is a matter of local concern, that the health, safety, welfare, order, comfort and convenience of the Town of Norwood and its inhabitants would be enhanced and promoted by the adoption of this ordinance, and that this ordinance would reduce the number of public nuisances that exist within the Town; and

WHEREAS, the majority of the members of the Board of Trustees have voted to approve this ordinance;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town of Norwood, Colorado Board of Trustees, as follows:

Section 1: Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Norwood Board of Trustees.

Section 2: Title 7 of the Town Code of Norwood, Colorado ("LUC") is hereby amended and supplemented with the addition thereto of a new Chapter 7, as set forth on Exhibit A attached hereto and incorporated herein by this reference.

Section 3: Amendment to Section 2.02, Chapter 2, Title 7. Section 2.02, "Definitions" is hereby amended as set forth in Exhibit B attached hereto and incorporated herein by this reference.

Section 4: Amendment to Section 3.05, Chapter 3, Title 7. Section 3.05, "Use Regulations", Chapter 3 of Title 7 of the LUC is hereby amended as set forth in Exhibit B attached hereto and incorporated herein by this reference.

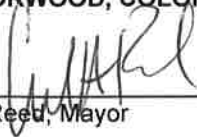
Section 5: Authority. The Board of Trustees hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq.*, including without limitation section 305(3); (ii) Article XVIII, § 16 of the Colorado Constitution; (iii) the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, *et seq.*; (iv) C.R.S. § 31-23-101, *et seq.* (concerning municipal zoning powers); (v) C.R.S. § 31-15-103 and § 31-15-401 (concerning municipal police powers, including without limitation, the power to declare what is a nuisance and to abate the same); (vi) C.R.S. § 31-16-101 *et seq.* (concerning municipal powers to provide for penalties for violation of ordinances); (vii) the authority granted to statutory municipalities by C.R.S. § 31-4-101 *et seq.* and; (viii) the powers contained by the Town of Norwood, and that this ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6: Severability. If any part or parts of this ordinance are for any reason held to be invalid, such invalidity 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 thereof, irrespective of the fact that any one part or parts de declared invalid.

Section 6: Applicability and Effective Date. This ordinance shall apply to all Persons, Residential Settings and Structures and other Real Property within the Town of Norwood and within any area annexed to the Town of Norwood after the effective date of this ordinance. The effective date of this ordinance and the new Chapter 7.00 of the Norwood Town Code as set forth herein shall be _____ at 11:59 p.m.

TOWN OF NORWOOD, COLORADO

By:


Chad Reed, Mayor

ATTEST:


Gretchen Wells, Town Clerk