

**Town of Blue River
Ordinance 15-01**

AN ORDINANCE OF THE TOWN OF BLUE RIVER, COLORADO AMENDING THE TOWN'S LAND USE REGULATIONS CONCERNING THE CULTIVATION OF MARIJUANA IN RESIDENTIAL STRUCTURES FOR PERSONAL USE.

WHEREAS, in November, 2012 Colorado voters approved a constitutional amendment known as Amendment No. 64, codified as Article XVIII, Section 16 of the Colorado Constitution and makes the personal use, possession and limited home growing of marijuana for adults twenty-one (21) years of age or old legal under Colorado law; and

WHEREAS, under Article XVIII, Section 16 (3) (a) of the Colorado Constitution, any person who is twenty-one (21) years of age or older may possess, grow, process or transport no more than six (6) marijuana plants, with three (3) or fewer being mature, provided that the growing takes place in an enclosed, locked space, is not conducted publicly or openly, and is not made available for sale; and

WHEREAS, the Board of Trustees of the Town of Blue River has carefully considered the provisions of Article XVIII, Section 16 of the Colorado Constitution, and the impact of marijuana cultivation for personal use in residential structures on the health, safety and welfare of the Town and the inhabitants thereof, and has determined that it is necessary and appropriate as an exercise of its local land use authority, to regulate such marijuana cultivation in residential structures as part of the Town's Land Use Regulations.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BLUE RIVER, COLORADO:

Section 1. Chapter 16 of the Blue River Municipal Code is amended by the addition of an Article XIII providing as follows:

ARTICLE XIII Growing of Marijuana in Residential Structures For Personal Use.

Section 16-13-10. Purpose. This subsection is intended to apply to the growing of marijuana in residential structures for personal use to the extent authorized by Article XVIII, Section 16 (3)(b) of the Colorado Constitution.

Section 16-13-20. Permitted Use of Marijuana-Requirements for Use. Any person, for purposes of this subsection and consistent with Article XVIII, Section 16 (3)(b) of the Colorado Constitution, who is twenty-one (21) years of age or older who is cultivating marijuana plants for his or her own use may possess, grow, process or transport no more than six (6) marijuana plants with three (3) or fewer being mature, flowering plants, subject to the following requirements:

- (1) Such processing, growing, possessing, or transporting of marijuana plants for personal use must be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution.

(2) Except as provided herein, such marijuana plants are possessed, grown, or processed within the primary residence of the person possessing, growing or processing the marijuana plants for personal use, as defined by subsection (h) below. No more than a total of twelve (12) marijuana plants may be cultivated in a primary residence. If persons living in a primary residence desire to cultivate more than a total of twelve (12) marijuana plants, each person may cultivate no more than six (6) marijuana plants for personal use.

(3) The possession, growing and processing of such marijuana plants must not be observable from the exterior of the primary residence, including but not limited to:

- a. Common visual observation, including any form of signage;
- b. Unusual odors, smells, fragrances, or other olfactory stimulus;
- c. Light pollution, glare, or brightness that disturbs others.

(4) Marijuana plants shall not be grown or processed in the common areas of a planned community or of a multi-family or attached residential development.

(5) Such cultivation, production, growing and processing of marijuana plants shall be limited to the following space limitations within a primary residence:

- a. Within a single family dwelling (Group R-3 as defined by the International Building Code): a secured, defined contiguous area not exceeding one hundred fifty (150) square feet within the primary residence of the person possessing, growing or processing the marijuana plants for personal use.
- b. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code): a secured, defined, contiguous area not exceeding one hundred (100) square feet within the primary residence of the person possessing, growing, or processing the marijuana plants for personal use.
- c. Such possession, growing and processing of marijuana plants shall not occur in any accessory structure.

(6) Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, and applicable fire codes, including requirements concerning electrical systems and ventilation systems, as the same may be amended from time to time. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town and shall comply with any conditions of such inspections, and shall submit to periodic building, safety and fire code inspections thereafter.

(7) Pursuant to Section 9-7-113, C.R.S., the use of a compressed flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.

(8) The possession, growing and processing of marijuana plants shall meet the requirements of all adopted water and wastewater regulations promulgated by the Town.

(9) Cultivation of marijuana in a residential unit that is not a primary residence is not permitted.

(10) For the purposes of this subsection “primary residence” means the place that a person, by custom and practice, makes his or her principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, sleep, preparation of meals, regular mail delivery, vehicle and voter registration, or credit and utility billings. A person shall have only one (1) primary residence. A primary residence shall not include accessory buildings.

(11) For the purposes of this subsection, a “secure area” means an area within the primary residence accessible only to the person possessing, growing or processing marijuana plants for personal use. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not authorized to possess marijuana.

Section 3. The Board of Trustees finds, determines and declares that this Ordinance is promulgated under the Town’s general police powers that is promulgated for the health, safety, and welfare of the public. The Board of Trustees further determines that this Ordinance bears a rational relation to the proper legislative objective sought to be attained.

Section 4. If any clause, sentence, paragraph, 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 effect application to other persons and circumstances.

INTRODUCED the 20th day of January, 2015.

Mayor

ATTEST:

Town Clerk

ADOPTED AND ORDERED PUBLISHED the 17th day of February, 2015.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

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