



SPECIAL ELECTION INFORMATION

The Town of Buena Vista has set a Special Election for Tuesday, November 3, 2020, which asks eligible Town electors to vote on two issues: 1) a Sales Tax on Retail Marijuana and 2) whether to Allow Retail Marijuana Stores within town limits. These questions will appear on the ballot mailed to you by the Chaffee County Clerk and Recorder; this ballot will also include National, State, and County candidate and ballot questions.

The Sales Tax on Retail Marijuana measure would set the initial tax rate at 5%, and it would go into effect on January 1, 2021. The tax rate could be changed anytime thereafter by the Buena Vista Board of Trustees as long as the proposed rate did not exceed 15%. The full revenues generated by such a tax would be used to fund parks, open space and recreation, infrastructure improvements, economic development initiatives, land acquisition, affordable housing initiatives, community support grants, and other similar projects.

The measure to Allow Retail Marijuana Stores within town limits would do exactly that. The number and possible locations of such stores would be limited by Town Ordinance. Please see the following pages for the full text of the proposed Ordinance, as well as the precise language of the two ballot measures.

It should be noted that it is not necessary to vote 'yes' on both measures or 'no' on both. If the Tax measure were to succeed while the measure to Allow Retail Marijuana Stores were to fail, the tax language would remain on the books and would go into effect if and when future retail marijuana sales were approved. Conversely, if the measure to Allow Retail Marijuana Stores were to pass and the Tax measure were to fail, retail marijuana could be sold in town and it would be taxed at the current Buena Vista tax rate for other types of sales (2.5%).

On Election Day, November 3, 2020, the Buena Vista Community Center (715 East Main St) will be open from 7:00am through 7:00pm as a vote center. You can register to vote, receive a ballot, and vote there in person on Election Day if you wish. You may also drop off your ballot at the Community Center that day. At any time prior to Election Day, you may drop off your ballot at Buena Vista Town Hall (210 East Main St), in the ballot drop-box at the Chaffee County Annex building at 112 Linderman Ave, Buena Vista, CO, or in the ballot drop-box at the County's Administrative Offices at 104 Crestone Ave, Salida, CO.

Please be sure your voter registration is updated to reflect your current address. Voters with a Colorado Driver's License or ID card can register or update their information at www.GoVoteColorado.com at any time up to and including the day of the election. Please contact Chaffee County directly regarding their current registration procedures, as their offices remain closed to the public due to the pandemic. You should also contact Chaffee County if you do not receive your ballot or need a replacement ballot. You can contact the Chaffee County Clerk's office at 719-539-4004 or by emailing Lori Mitchell at lmitchell@chaffeecounty.org.

Additional Election information is available on the Town website (www.buenavistaco.gov).

If you have questions or need additional information, please contact Paula Barnett, Town Clerk at 719-395-8643 ext. 1017 or by email: bvclerk@buenavistaco.gov.

Sales Tax on Retail Marijuana

SHALL THE TOWN OF BUENA VISTA TAXES BE INCREASED BY \$125,000.00 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED IN SUCH FIRST FISCAL YEAR AND ANNUALLY THEREAFTER BY THE IMPOSITION OF AN ADDITIONAL SALES TAX OF 5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE RATE OF SUCH TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE TAX DOES NOT EXCEED 15% COMMENCING ON JANUARY 1, 2021, AND SHALL ALL REVENUES DERIVED FROM SUCH TAX BE COLLECTED, RETAINED AND EXPENDED EXCLUSIVELY FOR COMMUNITY SUPPORT SERVICES, CAPITAL IMPROVEMENTS, AND FACILITIES, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO EXPENDITURES FOR PARKS, OPEN SPACE AND RECREATION, INFRASTRUCTURE IMPROVEMENTS, ECONOMIC DEVELOPMENT INITIATIVES, LAND ACQUISITION, AFFORDABLE HOUSING INITIATIVES, AND COMMUNITY SUPPORT GRANTS, AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY RESTRICTIONS UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES _____ NO _____

Allow Retail Marijuana Stores

Should the Board of Trustees of the Town of Buena Vista permit the use of property in the town for retail marijuana stores as those establishments are defined in the Colorado Marijuana Code, C.R.S. § 44-10-101, *et seq.*, and should the regulations be as set forth in the draft ordinance entitled “An Ordinance Repealing and Reenacting Article IV of Chapter 6 of the Buena Vista Municipal Code Concerning Medical and Retail Marijuana Businesses and Amending the Town’s Zoning Regulations to Include Medical and Retail Marijuana as Permitted Uses in Certain Zone Districts” approved, but not formally adopted by the Board of Trustees on August 25, 2020?

YES _____ NO _____

TOWN OF BUENA VISTA, COLORADO
ORDINANCE NO. _____
(SERIES OF 2020)

AN ORDINANCE REPEALING AND REENACTING ARTICLE IV OF CHAPTER 6 OF THE BUENA VISTA MUNICIPAL CODE CONCERNING MEDICAL AND RETAIL MARIJUANA BUSINESSES AND AMENDING THE TOWN'S ZONING REGULATIONS TO INCLUDE MEDICAL AND RETAIL MARIJUANA AS PERMITTED USES IN CERTAIN ZONE DISTRICTS

WHEREAS, the Town of Buena Vista currently permits medical marijuana centers, optional premises cultivation, and marijuana-infused products manufacturers in the Town;

WHEREAS, the Board of Trustees desires to continue to permit medical marijuana centers (now referred to as medical marijuana stores) in the Town and to allow retail marijuana stores, but no longer permit infused-product manufacturing or optional premises cultivation;

WHEREAS, the Board of Trustees therefore desires to combine the Town's current medical marijuana regulations with new retail marijuana regulations to regulate these businesses and to provide consistency with respect to the location, application, security, signage, and procedural requirements for such businesses;

WHEREAS, the Board of Trustees further desires to update the regulations to address amendments to the state's laws concerning such businesses, including without limitation, residency requirements for owners;

WHEREAS, such consistency is particularly important because the Board of Trustees desires to allow dual medical and retail marijuana operations;

WHEREAS, although the Board of Trustees desires to provide access to medical marijuana and medical marijuana infused products to patients, the Board of Trustees desires to limit the proliferation of marijuana businesses in the Town; and

WHEREAS, therefore, the Board of Trustees is limiting marijuana businesses to a total of two locations in the Town and permitting each location to service as either a medical marijuana store, a retail marijuana store, or a dual operation.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO, THAT:

Section 1. Article IV of Chapter 6 of the Buena Vista Municipal Code is hereby repealed and reenacted to provide as follows:

ARTICLE IV - MEDICAL AND RETAIL MARIJUANA BUSINESSES

Sec. 6-121. - Purpose.

The purpose of this Article is to implement the provisions of the Colorado Marijuana Code, C.R.S. § 44-10-101, *et seq.*, which authorizes the licensing and regulation of medical and retail marijuana businesses and affords local government the option to determine whether to allow medical and retail marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law.

Sec. 6-122.- Incorporation of state law.

The provisions of the Colorado Marijuana Code and any rules and regulations promulgated thereunder as the same may be amended from time to time, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this Article. In addition to the regulations set forth in this Article, the Town may enforce any provision of the Colorado Marijuana Code and any rules and regulations promulgated thereunder applicable to licensees.

Sec. 6-123. - Authority.

The Board of Trustees hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

1. Article XVIII, Section 14 of the Colorado Constitution;
2. The Colorado Marijuana Code, C.R.S. § 44-10-101, *et seq.*;
3. Article XVIII, Section 16 of the Colorado Constitution;
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. C.R.S. § 31-15-103 (concerning the making of municipal ordinances);
7. C.R.S. § 31-15-401 (concerning municipal police powers); and
8. C.R.S. § 31-15-501 (concerning municipal authority to regulate businesses).

Sec. 6-124. - Definitions.

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

"Applicant" means a person twenty-one years of age or older who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, partners, officers or directors of such entity.

"Colorado Marijuana Code" means Article 10 of Title 44, Colorado Revised Statutes.

"Consumer" means a person twenty-one years of age or older who purchases retail marijuana or retail marijuana products for personal use by a person twenty-one years of age or older, but not for resale to others.

"Cultivation" or "cultivate" means the process by which a person grows a marijuana plant.

"Dual operation" means a person that operates a licensed medical marijuana store and a licensed retail marijuana store at the same location in accordance with Section 6-126 of this Code.

"Good cause" means:

1. The licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Article or the Colorado Marijuana Code and any rule and regulation promulgated pursuant to this Article or the Colorado Marijuana Code;
2. The licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued, or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or
3. The licensee's medical or retail marijuana store has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical or retail marijuana store is located. Evidence to support such a finding can include:
 - a. A continuing pattern of offenses as defined in Chapters 7 or 8 of the Buena Vista Municipal Code;
 - b. A continuing pattern of drug-related criminal conduct within the premises or in the immediate area surrounding the premises arising out of the operation of the store; or
 - c. A continuing pattern of criminal conduct directly related to or arising from the operation of the medical or retail marijuana store.

"Industrial hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, with a Delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

"License" means a document issued by the Town officially authorizing an applicant to operate a medical or retail marijuana store pursuant to this Article.

"Licensee" means the person to whom a license has been issued pursuant to this Article.

"Licensed premises" means the premises specified in an application for a license under this Article, which is owned or in possession of the licensee and within which the licensee is authorized to distribute or sell medical or retail marijuana or medical or retail marijuana products in accordance with state and local law.

"Local licensing authority" means the Board of Trustees of Town of Buena Vista.

"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.

"Medical marijuana" means marijuana that is grown and sold pursuant to the provisions of the Colorado Marijuana Code and for a purpose authorized by section 14 of article XVIII of the state constitution. If the context requires, medical marijuana includes medical marijuana concentrate and medical marijuana products.

"Medical marijuana store" means a person licensed pursuant to the Colorado Marijuana Code to operate a business as described in C.R.S. § 44-10-501 that sells medical marijuana to registered patients or primary caregivers as defined in section 14 of article XVIII of the state constitution, but is not a primary caregiver.

"Patient" has the meaning set forth in Article XVIII, § 14(1)(c) of the Colorado Constitution.

"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.

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

"Primary caregiver" has the meaning set forth in Article XVIII, § 14 (1)(f) of the Colorado Constitution.

"Retail marijuana" means "marijuana" or "marihuana", as defined in section 16(2)(f) of article XVIII of the state constitution, that is cultivated, manufactured, distributed, or sold by a

licensed retail marijuana business. If the context requires, retail marijuana includes retail marijuana concentrate and retail marijuana products.

"Retail marijuana business" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, a marijuana hospitality business, a retail marijuana hospitality and sales business, a retail marijuana testing facility, a retail marijuana business operator, or a retail marijuana transporter.

"Retail marijuana products" means "marijuana products" as defined in section 16(2)(k) of article XVIII of the state constitution that are produced at a retail marijuana products manufacturer, such as, but not limited to, edible products, ointments and tinctures.

"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.

"School" means a public or private preschool or a public or private elementary, middle, junior high or high school or institution of higher education.

"State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of regulated marijuana in this state pursuant to C.R.S. § 44-10-201.

In addition to the definitions provided herein, other terms used in this Article shall have the meaning ascribed to them in Article XVIII, § 16 of the Colorado Constitution, or the Colorado Marijuana Code, and such definitions are hereby incorporated into this Article by reference.

Sec. 6-125. - License required for operation of medical marijuana stores and retail marijuana stores.

The Town hereby authorizes the operation of medical and retail marijuana stores in the Town as set forth in this Article. It shall be unlawful for any person to establish or operate a medical or retail marijuana store in the Town without first having obtained a license for such business from the local licensing authority. Such license shall always be kept current, and the failure to maintain a current license shall constitute a violation of this Section.

Sec. 6-126. - Dual operations.

(a) Medical and retail marijuana stores may be operated as dual operations. A person may operate a licensed medical marijuana store and a retail marijuana store at the same location; provided that except as set forth in Subsection (b) of this Section, at such location a dual medical marijuana store and retail marijuana store shall maintain separate licensed premises, including entrances and exits, inventory, point of sale operations, and record keeping.

(b) A dual medical marijuana store and retail marijuana store that only sells medical marijuana to persons twenty-one years of age or older and that posts signage clearly stating that

persons under the age of twenty-one years may not enter, may share the same entrances and exits to the shared premises and medical and retail marijuana may be separately displayed on the same floor.

(c) Recordkeeping for the dual operation must allow the Town to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.

Sec. 6-127. – Prohibitions.

All marijuana businesses other than medical marijuana stores and retail marijuana stores are prohibited.

Sec. 6-128. – Operational restrictions.

(a) Quantity Restrictions.

1. Retail Marijuana Stores. A licensed retail marijuana store may sell up to one ounce of retail marijuana or its equivalent in retail marijuana products during a single sales transaction. A single transaction for purposes of this limit includes multiple transfers to the same consumer during the same business day where the retail marijuana store employee knows or reasonably should know that such transfer would result in that consumer purchasing more than one ounce of marijuana during the same business day.
2. Medical Marijuana Stores. A licensed medical marijuana store may sell up to two ounces of medical marijuana flower, 40 grams of medical marijuana concentrate or medical marijuana products containing a combined total of up to 20,000 mg during a single sales transaction, unless the patient has designated the medical marijuana store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than two ounces of medical marijuana, in which case the patient may be provided with up to his or her extended ounce count. A single transaction for purposes of this limit includes multiple transfers to the same consumer during the same business day where the retail marijuana store employee knows or reasonably should know that such transfer would result in that patient purchasing more than his or her allowable amount of medical marijuana during the same business day.

(b) Identification.

1. Retail Marijuana Stores. Prior to any sale of retail marijuana, the age of the consumer must be verified by one of the following forms of identification:
 - a. An operator's, chauffeur's or similar type driver's license, including a temporary license, issued by any state within the United States, District of Columbia, or any U.S. territory;

- b. An identification card, including a temporary identification card, issued by any state within the United States, District of Columbia, or any U.S. territory, for the purpose of proof of age using requirements similar to those in C.R.S §§ 42-2-302 and 42-2- 303.;
 - c. A United States military identification card or any other identification card issued by the United States government including but not limited to a permanent resident card, alien registration card, or consular card;
 - d. A passport or passport identification card; or
 - e. Enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates proof of age requirements similar to C.R.S §§ 42-2-302 and 42-2- 303.
2. Medical Marijuana Stores. Prior to any sale of medical marijuana, the patient or caregiver must provide adequate, currently valid proof of identification as permitted for retail consumers by Subsection (b)(1) above and either a valid patient registry card or a copy of a current and complete new application for the Medical Marijuana registry that is documented by a certified mail return receipt as having been submitted to the Colorado Department of Public Health and Environment within the preceding thirty-five days.

(c) Packaging. Consumer packaging exiting a medical or retail marijuana store shall be devoid of any markings. The Town may require licensees to provide a flyer outlining the Town's marijuana consumption laws to each customer upon completion of any retail marijuana sale as prepared by the Town. Licensees shall be responsible for the cost of reproducing such fliers for public distribution.

(d) Prohibited sales. Medical retail marijuana store licensees are prohibited from dispensing marijuana to a person that is, or appears to be, under the influence of alcohol or under the influence of any controlled substance, including marijuana, except that medical marijuana stores may dispense marijuana to patients under the influence of marijuana for medical purposes.

Sec. 6-129. New license applications – Phase 1.

(a) A person seeking a new license issued pursuant to this Article shall submit a Phase 1 application to the Town on forms provided by the Town. The purpose of the Phase 1 application is to determine whether an applicant can be entered into the random selection process in Subsection (d) below. At the time of the Phase 1 application, each applicant shall pay a nonrefundable Phase 1 application fee to the Town in an amount to be determined by the Town by separate resolution to defray the costs incurred by the Town for reviewing the Phase 1 application.

(b) In the Phase 1 application, the applicant shall include the following:

- 1. For the applicant, one (1) of the following forms of identification:

- a. a valid driver's license;
 - b. an identification card, issued by any state for purpose of proving age using requirements similar to those in C.R.S. §§ 42-2-302 and 42-2-303;
 - c. a United States military identification card;
 - d. a valid passport;
 - e. a valid alien registration card; or
 - f. an enrollment card issued by the government authority of a federally recognized tribe.
2. For the applicant and all persons having a financial interest in the medical or retail marijuana store that is the subject of the application or, if the applicant is an entity, having financial interest in the applying entity, the following information shall be supplied:
- a. name, address, date of birth;
 - b. an acknowledgment and consent that the Town will conduct a background investigation, including a criminal history check which shall include CCIC and NCIC;
 - c. bank statements and tax records, from the three years prior to the submission of the application, and any other information required by the Town; and
 - d. explanation of funding sources used to finance the applicant's medical or retail marijuana store.
3. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, operating or shareholder agreements, partnership agreements.

(c) Review of Phase 1 Applications.

1. The Town Clerk shall review a Phase 1 application for completeness and the results of the criminal background check. The Town Clerk shall reject a Phase 1 application if any of the information required as part of the application was not submitted and/or if any of the persons subject to the

criminal background check have discharged a sentence for a felony conviction in the previous ten (10) years. After review of a Phase 1 application, the Town Clerk shall notify the applicant in writing of the results of the review.

2. If an application is complete, the Town Clerk shall notify the applicant that they will be entered into the random selection process in Subsection (d) below.
3. If an application is rejected, the applicant may appeal the Town Clerk's decision to the Town Administrator by filing an appeal with the Town within ten (10) days of the notification of the rejection by the Town Clerk. The notice of appeal shall specify the grounds for the appeal and the relief sought by the appellant. Upon receipt of an appeal, the Town Administrator shall hold a hearing on the appeal within ten (10) days of the receipt of the appeal. The Town shall provide at least five (5) days' notice to the appellant of the hearing. The Town Administrator shall make a determination of the appeal within five (5) days of the hearing and shall notify the appellant of the decision in writing.

(d) Within thirty (30) days of the effective date of the Ordinance adopting this Article, the Town shall post notice on its website indicating that Phase 1 applications for medical and retail marijuana store licenses shall be accepted for a sixty (60) day period. At the end of the sixty (60) day period, the Town shall review the Phase 1 applications. Once the sixty (60) day period has ended, the Town Clerk has reviewed all Phase 1 applications, the appeal deadline in Subsection (c) above has expired, and all appeals, if any, have been decided, the Town may conduct the random selection of applicants for Phase 2 applications.

(e) Once the maximum number of medical and retail marijuana store licenses has been issued, the Town shall not accept any further applications for such use until an existing license is either revoked or expires. When the number of licensed medical and retail marijuana stores is less than this limit provided for in this Article for any reason, including the cessation of operation of a medical and retail marijuana store either by license revocation or expiration, notice shall be posted on the Town's website as provided for in Subsection (d) above, and the Town shall process applications as provided for herein in the two phase process.

Sec. 6-130. New applications – Phase 2.

(a) If the applicant is randomly selected, the applicant shall provide the following information for a Phase 2 application on a form provided by the Town within one hundred and twenty (120) days from the date of notification of the applicant's selection:

1. For the applicant, all employees, including the proposed manager of the medical or retail marijuana store, and all persons having a financial interest in the medical or retail marijuana store that is the subject of the application

or, if the applicant is an entity, having financial interest in the applying entity:

- a. fingerprints for a FBI criminal background check; and
 - b. suitable evidence of proof of lawful presence and good moral character and reputation that the Town may request.
2. the name and complete address of the proposed store;
 3. a copy of any deed, lease, contract or other document reflecting the right of the applicant to possess the proposed licensed premises along with the conditions of occupancy of the premises, and if by leasehold or similar means, the lease shall specifically recognize and authorize the applicant's use of the premises for the licensed purposes; provided that if the lease does not specifically authorize the use of the premises for the licensed purposes, the applicant shall provide a notarized statement from the owner of such property authorizing the use of the property for the licensed purposes;
 4. proof of general liability and property insurance of sufficient amount, as determined by the Town, to adequately cover any damage or destruction to the facility and the personal property;
 5. updated bank statements and tax records from the time of the Phase 1 application and any other information required by the Town;
 6. a "to scale" diagram of the premises, showing, without limitation, a site plan, floor layout and all areas in which marijuana will be displayed, stored and sold, including egress and ingress within the facility, all entry ways and exits to the facility, and, if applicable, loading zones;
 7. any additional information that the Local Licensing Authority reasonably determines to be necessary in connection with the investigation and review of the application;
 8. a comprehensive business operation plan for the medical or retail marijuana store which shall contain, without limitation, the following:
 - a. a security plan meeting the requirements of Section 6-140 of this Article;
 - b. a signage plan that is in compliance with all applicable requirements of Section 6-139 of this Article.
 - d. a lighting and electrical plan prepared by a licensed electrical engineer, showing the electrical layout, fans, pumps, duct size of air

intake and exhaust, location of intakes and termination of exhausts, any other electrical loads including conductors, subpanels, and all existing and proposed exterior and interior lighting levels including those used for all clones and immature marijuana plants.

- e. a plan for removing odor emissions in compliance with Section 6-143 of this Article.
- f. a plan for the disposal of marijuana and related byproducts in compliance with the requirements of Section 6-143 of this Article.

(b) With the Phase 2 application, the applicant shall pay a Phase 2 nonrefundable application fee, in an amount to be determined by the Town by separate resolution, to defer the costs of reviewing the Phase 2 application, and other costs, including but not limited to, inspection, administration, and enforcement of the medical or retail marijuana store regulations. In addition, the applicant shall also pay the applicable licensing fee in an amount to be determined by the Town by separate resolution that may be refunded to the applicant if the Phase 2 application is denied.

(c) The applicant may request in writing an extension of the deadline to submit a Phase 2 application from the Town Administrator. The request shall be received at least fifteen (15) days prior to the deadline. The Town Administrator may grant one extension under this Subsection if the applicant demonstrates an inability to file a Phase 2 application due to circumstances beyond the applicant's control and that the applicant has attempted to substantially comply with the application requirements.

(d) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical or retail marijuana store, including, without limitation, any development approvals or building permits required by this Code.

(e) Upon receipt of a Phase 2 application, the Town Clerk shall review the application for completeness and conformity with the requirements of this Article. If the application is incomplete, the Town Clerk shall notify the applicant in writing of the application's deficiencies within fifteen (15) days of receipt of the application. The applicant shall have sixty (60) days from the date of notification of any deficiencies by the Town Clerk to remedy the deficiencies.

(f) If the applicant fails to remedy the deficiencies within the period provided for in Subsection (e) above, the Town Clerk shall deny the application and notify the applicant of the denial.

(g) Determination that the application is incomplete or denial of an application, because it is incomplete are appealable to the Town Administrator pursuant to Section 6-129(d).

(h) Once the appeal period has run or the appeal has been determined by the Town Administrator, the Town may randomly select another applicant to submit a Phase 2 application.

(i) Upon the determination of a complete Phase 2 application, the Local Licensing Authority shall schedule a public hearing on the application, which shall include both the Phase 1 and 2 applications submitted by the applicant, to be held not less than thirty (30) days after the determination of completeness. The Local Licensing Authority shall cause a notice of such hearing to be posted in a conspicuous place upon the proposed licensed premises and published in a newspaper of general circulation within the Town not less than ten (10) days prior to the hearing. Such posted notice given by posting shall include a sign of suitable material in dimensions and with lettering as required by the Town Clerk. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application.

(j) Not less than five (5) days prior to the date of the public hearing for a new license, the Town Clerk shall cause the preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The Local Licensing Authority shall deny any application that does not meet the requirements of this Article. The Local Licensing Authority shall also deny any application that contains any false, misleading or incomplete information. The Local Licensing Authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction. At any time prior to commencement of the public hearing, licensee may withdraw its application, and the public hearing shall be cancelled.

(k) Before entering a decision approving or denying the application for a license, the Local Licensing Authority may consider, except where this Article specifically provides otherwise, the facts and evidence gathered as a result of its investigation, as well as any other facts pertinent to the application and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. The Local Licensing Authority shall issue its decision within ninety (90) days of the receipt of the complete license application. Such decision shall be by resolution and shall state the reasons for the decision. The resolution shall be sent via certified mail to the applicant at the address shown in the application.

(l) The Town shall, prior to issuance of the license, perform an inspection of the proposed licensed premises, to determine compliance with any applicable requirements of this Article or other applicable requirements of the Buena Vista Municipal Code.

Sec. 6-131. - Location criteria.

Prior to the issuance of a license for a medical or retail marijuana store, the local licensing authority shall determine whether the proposed location of the medical or retail marijuana store complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a license.

(a) Zone district limitation. Medical and retail marijuana stores shall be allowed uses as set forth in the Table of Allowed Uses in Section 3.4.1 of Article 16.03 of Chapter 16 (the Unified Development Code) of the Code.

(b) Numeric Limit. No more than two locations may be licensed for medical marijuana stores, retail marijuana stores, or dual operations within the Town at any given time.

(c) Location restrictions. No medical or retail marijuana store shall be located at the following locations:

1. Within one thousand feet of a school;
2. Within five hundred feet of any alcohol or drug treatment facility
3. Within one thousand feet of the principal campus of a college, university, or seminary;
4. Within one thousand feet of an existing medical or retail marijuana store as measured from nearest property boundaries regardless of whether such existing establishment is located within or outside of the Town; or
5. Upon any Town of Buena Vista owned property.

(d) Although there is no minimum distance standard from the following locations, when reviewing an application, the proximity and compatibility with the following uses shall be considered:

1. The exterior boundary of any residential zone district; and
2. Any public community center, park, designated recreation trail, or recreation center, or any publicly owned or maintained building open for use to the general public.

(e) The distances described in this Section shall be computed by direct measurement, as a crow flies, from the nearest property line of the land used for the above purposes to the nearest property line of the property upon which the retail marijuana store is located.

(f) Each medical or retail marijuana store shall be operated from a permanent location. No medical or retail marijuana store shall be permitted to operate from a moveable, mobile or transitory location.

(g) The location restrictions set forth in Sections 6-132(c) and (d) shall not apply to the location of the existing medical marijuana store at the address of 204 E Main St, Buena Vista, CO 81211 for a period of six (6) months after the effective date of the Ordinance adopting this Article IV, which six (6) month period shall expire on _____, 2021.

Sec. 6-132. - Persons prohibited as licensees.

A medical or retail marijuana store license shall not be issued to or held by any person prohibited as a licensee under C.R.S. § 44-10-307, as amended. No person shall hold an ownership

or financial interest in a medical or retail marijuana store except as permitted by C.R.S. § 44-10-308, as amended.

Sec. 6-133. - Issuance of license; duration; renewal.

(a) Upon issuance of a license, the Town shall provide the licensee with one original of such license for each medical or retail marijuana store to be operated by the licensee in the Town. Each such copy shall show the name and address of the licensee, and the address of the facility at which it is to be displayed. Each license issued pursuant to this Article shall be valid for one year from the date of issuance and may be renewed only as provided in this Article.

(b) A licensee shall apply for the renewal of an existing license to the local licensing authority not less than forty-five days prior to the date of expiration for the license. The local licensing authority, in its discretion, subject to the requirements of this Section, and based upon reasonable grounds, may waive the forty-five day filing deadline upon payment of a non-refundable late application fee as set by the Board of Trustees. The local licensing authority may hold a hearing on the application for renewal only if the licensee has had complaints filed against it, has a history of violations, or there are allegations against the licensee that would constitute good cause. The local licensing authority shall not hold a renewal hearing provided for by this Subsection (b) until it has posted a notice of hearing on the licensed premises for a period of ten days and, provided notice to the applicant at least ten days prior to the hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

(c) A license shall expire if the licensee does not have the licensed medical or retail marijuana store is open for regular business within one hundred eighty (180) days after license issuance. A licensee may request one extension of this deadline, which shall be reviewed by the Town Administrator and may be granted upon a showing that the business has not opened due to circumstances beyond the applicant's control and that the applicant has exercised due diligence in attempting to open the business.

Sec. 6-134. - Authority to impose conditions on license.

The local licensing authority shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Article and applicable law.

Sec. 6-135. - Annual operations fee.

Upon issuance of a license or any renewal of a license, the licensee shall pay to the Town a fee in an amount determined by the Town, by separate resolution, to be sufficient to cover the annual cost of regulating medical or retail marijuana stores, including, without limitation, inspections, administration, and enforcement conducted pursuant to this Article by the Buena Vista Police Department, and such other departments of the Town as may be designated by the local

licensing authority, for the purpose of determining compliance with the provisions of this Article and any other applicable state or local laws or regulations.

Sec. 6-136. - Display of license.

(a) Each license shall be limited to use at the premises specified in the application for such license.

(b) Each license shall be continuously posted in a conspicuous location at the establishment.

Sec. 6-137. - Transfer of ownership; change of location.

(a) **Transfer of Ownership.** For a transfer of ownership, a license holder shall apply to the local licensing authority on forms provided by the state licensing authority. In considering whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of this Article, the Colorado Marijuana Code, and the regulations promulgated in conformance therewith. The local licensing authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the premises of the licensed establishment for a period of at least ten days prior to such hearing, and the applicant has been provided at least ten days prior notice of such hearing.

(b) **Change of Location.** Licensees from other jurisdictions may not transfer their licenses to the Town of Buena Vista. Licensees with a permanent medical or retail marijuana store in the Town may transfer their license to another location within the Town so long as the applicant and the new location conform to the requirements of this Article.

Sec. 6-138.- Hours of operation.

Marijuana sales to the public are prohibited before eight a.m. and after nine p.m. each day. A medical or retail marijuana store may be open seven days a week.

Sec. 6-139. - Signage and advertising.

All signage and advertising for a medical or retail marijuana store shall comply with all applicable state laws, as well as, the provisions of this Article and other applicable provisions of this Code. Advertisements, signs, displays or other promotional material depicting retail marijuana uses or symbols shall not be shown or exhibited off the premises; or in any manner which is visible to the public from roadways, pedestrian sidewalks or walkways, or from other public areas. No signage associated with a medical or retail marijuana store shall use the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana, unless such word or phrase is immediately preceded by the word "medical" or "retail", as applicable; provided that no signage shall contain words such as "reefer," "ganja," "weed" or other similar slang references to marijuana or cannabis. The exterior colors of medical and retail marijuana stores shall be neutral earth tones (such as greys, browns, and greens) in matte finishes that are generally

compatible with the surrounding buildings. Approval of the Planning Director is required prior to applying exterior finishing to a licensed premises.

Sec. 6-140. - Security requirements.

(a) Security measures at medical and retail marijuana stores comply with the Colorado Marijuana Code and the regulations promulgated in conformance therewith, and shall include at a minimum the following:

1. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
2. Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;
3. A locking safe permanently affixed to the premises that is suitable for storage of all marijuana and cash stored overnight on the licensed premises;
4. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Article and other applicable provisions of this Code; and
5. Deadbolt locks on all exterior doors.

(b) All security recordings shall be preserved for at least forty days by the licensee and shall be in a format that can be easily accessed for viewing by Town of Buena Vista Police Department upon request for inspection.

Sec. 6-141. - Required notices.

(a) There shall be posted in a conspicuous location inside each medical or retail marijuana store, at least one legible sign containing the following warnings:

1. That on-site consumption of marijuana is illegal;
2. That the open and public consumption of marijuana in the Town of Buena Vista is illegal, and that individuals consuming marijuana within the Town in parks, on sidewalks and streets, or at other public locations will risk criminal prosecution;
3. That the use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;
4. That possession and distribution of marijuana is a violation of federal law; and

5. That no one under the age of twenty-one years is permitted on the premises unless allowed by law for a medical marijuana store.

(b) There shall be, posted in a conspicuous location at the exterior of each retail marijuana store near the entrance, one legible sign warning that the facility is monitored by video cameras.

Sec. 6-142. - On-site consumption of marijuana.

The use, consumption, ingestion or inhalation of marijuana or marijuana products on or within the premises of a medical or retail marijuana store is prohibited.

Sec. 6-143. - Visibility of activities; paraphernalia; control of emissions.

- (a) All activities of medical or retail marijuana stores shall be conducted indoors.

(b) Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a medical or retail marijuana store. No marijuana or paraphernalia shall be displayed or kept in a retail marijuana store in a manner that is visible from outside the licensed premises.

(c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical or retail marijuana store must be provided at all times. If that any odors, debris, dust, fluids or other substances exit a retail marijuana store or marijuana testing facility, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Sec. 6-144. - Business license required.

At all times while a medical or retail marijuana store license is in effect the licensee shall possess a valid business license as required by this Code.

Sec. 6-145. - Sales tax.

Each licensee shall collect and remit all applicable Town sales taxes on all medical and retail marijuana, medical and retail marijuana products, paraphernalia and other tangible personal property sold by the licensee.

Sec. 6-146. - Inspection of licensed premises.

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the local licensing authority, the Buena Vista Police Department, by

law enforcement officers, or such other departments or individuals duly authorized by the Town for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request. Acceptance of a license constitutes consent to such inspections, which may not be withdrawn during the period of a license.

Sec. 6-147. - Nonrenewal, suspension or revocation of license.

(a) The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's license. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.

(b) The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least three months.

Sec. 6-148. - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including, but not limited to, any licensee, manager or employee of a medical or retail marijuana store, or any customer of such establishment, who violates any of the provisions of this Article, shall be subject to the following penalties:

(a) Any person convicted of having violated any provision of this Article shall be punished as set forth in Section 1-72 of the Buena Vista Municipal Code.

(b) The operation of a medical or retail marijuana store without a valid license issued pursuant to this Article may be enjoined by the Town in an action brought in a court of competent jurisdiction, including the Buena Vista Municipal Court.

(c) The operation of a medical or retail marijuana store without a valid license issued pursuant to this Article is also deemed to be a nuisance pursuant to Article I, Chapter 7 of the Buena Vista Municipal Code.

Sec. 6-149. - No Town liability; indemnification.

(a) By accepting a license issued pursuant to this Article, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical or retail marijuana storeowners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical or retail marijuana store that is the subject of the license.

Sec. 6-150. - No waiver of governmental immunity.

In adopting this Article, the Town council is relying on, and does not waive or intend to waive, by any provision of this Article, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers or its employees.

Sec. 6-151. - Other laws remain applicable.

(a) To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale, distribution or testing of medical or retail marijuana or medical or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any medical or retail marijuana store in the Town. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any licensee may be required to demonstrate, upon demand by the local licensing authority, the Buena Vista Police Department, by law enforcement officers, or such other departments or individuals duly authorized by the Town, that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

(c) If the state prohibits the sale or other distribution of marijuana through medical marijuana or retail marijuana stores, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(d) The issuance of any license pursuant to this Article shall not be deemed to create an exception, defense or immunity to any person regarding any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

Section 2. Table 3.1.4 of Article 16.03 of Chapter 16 of the Town of Buena Vista Municipal Code is hereby amended as follows:

Retail and medical marijuana stores and dual operations shall be uses permitted by right, subject to the licensing requirements listed in Article IV, Chapter 6, in the following zone districts: Mixed Use – Main Street (MU-MS), Highway Commercial (HC), and Light Industrial (I-1).

Section 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality 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 part or parts be declared unconstitutional or invalid.

Section 4. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this _____ day of _____, 2020.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY (30) DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: _____
Duff Lacy, Mayor

ATTEST:

Paula Barnett, Town Clerk

(SEAL)