

**TOWN OF FREDERICK, COLORADO
ORDINANCE NO. 1123**

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO,
REVISING CHAPTER 6, OF THE FREDERICK MUNICIPAL CODE,
WITH THE ADDITION OF A NEW ARTICLE ENTITLED "MARIJUANA
– PERSONAL USE."**

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF
THE TOWN OF FREDERICK, AS FOLLOWS:**

WHEREAS, on November 6, 2012, the voters of the State of Colorado passed Amendment 64, which amended Article XVIII of the Colorado Constitution by the addition of a new Section 16 regarding the personal use and regulation of marijuana; and

WHEREAS, Amendment 64 allows the possession, use, display, purchase or transportation of marijuana accessories or one ounce or less of marijuana; and

WHEREAS, Amendment 64 allows possessing, growing, processing or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of 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 openly or publicly, and is not made available for sale; and

WHEREAS, Amendment 64 allows local governments 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 Frederick Board of Trustees has previously passed legislation prohibiting medical marijuana dispensaries and medical marijuana cultivation operations within the Town of Frederick; and

WHEREAS, the Frederick Board of Trustees desires to also prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores in the Town.

Section 1: Chapter 6 of the Frederick Municipal Code is hereby amended with the addition of Article VI, to read as follows:

ARTICLE VI MARIJUANA – PERSONAL USE.

Sec. 6-106. Intent, Authority

It is the intent of this Article to prohibit certain land uses related to marijuana for personal use in the Town, and in furtherance of its intent, the Board of Trustees makes the following findings:

(a) Article XVIII, §16 of the Colorado Constitution specifically authorizes a municipality “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”;

(b) Based on careful consideration of Article XVIII, §16 of the Colorado Constitution, and the potential secondary effects of the cultivation and dispensing of marijuana for personal use, and the retail sale, distribution, and manufacturing of marijuana for personal use, such land uses have an adverse effect on the health, safety and welfare of the Town of Frederick and its inhabitants.

(c) The Town’s authority to adopt this Article is found in Article XVIII, §16 of the Colorado Constitution, C.R.S. §31-23-101 (municipal zoning powers); C.R.S. §31-15-103, §31-15-401 (municipal police powers); C.R.S. §31-15-501 (municipal authority to regulate businesses).

Sec. 6-107. Uses prohibited.

(a) It is unlawful for any person to operate, cause to be operated or permit to be operated a marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility, or retail marijuana store within the Town.

(b)(1) It is unlawful to grow marijuana for personal use anywhere in the Town other than in an enclosed, locked space which is not open or public. “Enclosed” shall mean having a roof and all sides closed to the weather with walls, windows or doors.

(2) No person other than the person growing for his or her personal use shall have access to the locked space where the marijuana is grown.

(3) Any person growing marijuana for personal use shall comply with all land use regulations of the Town, the 2006 International Building Code, or any subsequent building code adopted by and enforced by the Town, and all applicable provisions of the Frederick Municipal Code.

(c) It is unlawful for any person who grows marijuana for his or her own personal use, to make such marijuana available for sale in any manner.

(d) It is unlawful for any person who lawfully grows marijuana for his or her own consumption to provide any such marijuana to any person under the age of 21 years.

(e) Nothing in this Section or Code shall permit the consumption of marijuana that is conducted openly and publicly or in a manner that endangers others.

(f) This section is designated a non-criminal violation. Penalties set forth at Section 1-72(a) may be imposed by the municipal court upon conviction.

Section 2: Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town Board hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 3: Repealer. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

8 INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED THIS
8 day of January, 2013.

TOWN OF FREDERICK

By: 
Tony Carey, Mayor

ATTEST:

By 
Meghan C. Martinez, Town Clerk

