

**ORDINANCE NO. 04-2019**

**AN ORDINANCE ADOPTING REGULATIONS FOR MARIJUANA CULTIVATION, TESTING AND PRODUCT MANUFACTURERS**

**WHEREAS**, the Town previously adopted ordinances to allow and license retail marijuana cultivation facilities, retail marijuana products manufacturers, retail marijuana testing facilities, optional premises cultivation facilities for medical marijuana and medical marijuana-infused products manufacturers; and

**WHEREAS**, the cultivation, testing, production and processing of marijuana and marijuana products can affect the health, safety, and welfare of the occupants of the residents of the Town; and

**WHEREAS**, in addition to other potentially serious problems, the unregulated cultivation, testing, production and processing of marijuana and marijuana products has the potential to result in a fire emanating from the structure within which the marijuana or marijuana products are cultivated, produced and processed, and such a fire would affect the health, safety, and welfare of the occupants of the structure within which the marijuana or marijuana products are cultivated, produced and processed, persons occupying nearby structures and all residents of the Town; and

**WHEREAS**, neither Sections 14 or 16 of Article XVIII of the Colorado Constitution nor any other applicable law exempts persons who cultivate, test, produce and process marijuana and marijuana products from local regulation; and

**WHEREAS**, the Board of Trustees believes this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the Town and its inhabitants; and

**WHEREAS**, it is the purpose of this ordinance to require that persons cultivating, testing, producing and processing marijuana within the Town to do so in a safe manner that does not endanger the public health, safety, and welfare, or create a public nuisance; and

**WHEREAS**, the Board of Trustees finds, determines, and declares that it has the power to adopt this ordinance pursuant to Article XVIII, § 14 and § 16 of to the Colorado Constitution; the Colorado Medical Marijuana Code, C.R.S. §12-43.3-101, et seq.; the Colorado Retail Marijuana Code, C.R.S. §12-43.4-101, et seq.; the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, et seq.; C.R.S. § 31-23-101, et seq. (municipal zoning powers); C.R.S. § 31-15-103 (municipal police powers); C.R.S. § 31-15-401 (concerning municipal police powers, including, but not limited to, the power to declare what is a nuisance and to abate the same); and C.R.S. § 31-15-601 (municipal authority to adopt building and fire regulations).

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SEDGWICK, COLORADO:**

**Section 1.** The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the Board of Trustees.

**Section 2.** The Board of Trustees hereby adopts the following regulations regarding marijuana cultivation, testing and products manufacturing:

**MARIJUANA CULTIVATION, TESTING AND PRODUCTS MANUFACTURING  
REGULATIONS**

- Section 1. Definitions**
- Section 2. Applicability**
- Section 3. Compliance with Other Applicable Laws**
- Section 4. Business Conducted Within Building**
- Section 5. Use of Pesticides**
- Section 6. Ventilation Required**
- Section 7. Organization of Cultivation Facilities and Product Manufacturers**
- Section 8. Labeling and Packaging Requirements**
- Section 9. Use of Flammable Materials**
- Section 10. Use of Carbon Dioxide (CO<sub>2</sub>) Systems**
- Section 11. Product Extraction Processes**
- Section 12. Exiting and Security**
- Section 13. Fire Extinguishers**
- Section 14. Interior Finishes**
- Section 15. Electrical**
- Section 16. Application of Fire Code; Site Inspection.**
- Section 17. Cost of Inspections and Reports**
- Section 18. Violations**

**Section 1. Definitions.**

*Colorado Medical and Retail Marijuana Codes* mean Articles 11 and 12 of Title 44 of the Colorado Revised Statutes, as amended from time to time.

*Cultivation* or *cultivate* shall mean: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption or prior to incorporation into a marijuana-infused product.

*Cultivation facilities* shall mean optional premises cultivation facilities and retail marijuana cultivation facilities as defined in the Colorado Medical and Retail Marijuana Codes.

*IFC* shall mean the International Fire Code.

*NFPA* shall mean the National Fire Protection Association.

*Products manufacturers* shall mean medical marijuana-infused products manufacturers and retail marijuana products manufacturers as defined in the Colorado Medical and Retail Marijuana Codes.

*Testing facilities* shall mean medical marijuana testing facilities and retail marijuana testing facilities as defined in the Colorado Medical and Retail Marijuana Codes.

Other words and terms used in this Ordinance that are defined in the Colorado Medical and Retail Marijuana Codes or applicable regulations shall have the meaning that is ascribed to them in such statutes and regulations.

**Section 2. Applicability.** This Ordinance shall apply to all marijuana cultivation facilities, products manufacturers and testing facilities operating within the Town.

**Section 3. Compliance with Other Applicable Laws.** In addition to the regulations set forth in this Ordinance, marijuana cultivation facilities, products manufacturers and testing facilities shall be responsible for complying with any and all ordinances, laws and regulations adopted by the Town and the State governing the cultivation, production, possession, or distribution of medical and retail marijuana and marijuana products, including but not limited to the requirement to obtain local and state licenses.

**Section 4. Business Conducted Within Building.** Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the licensed premises of the restricted area of a marijuana cultivation facility, products manufacturer and testing facility and shall not be visible from the exterior of the business.

**Section 5. Use of Pesticides.** No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a cultivation facility. Cultivation facilities shall comply with all applicable law regarding use of pesticides

**Section 6. Ventilation Required.** Marijuana cultivation facilities, products manufacturers and testing facilities shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the facility or at any adjoining use or property.

**Section 7. Organization of Cultivation Facilities and Product Manufacturers.** All cultivation facilities and product manufacturers shall be organized in orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle and the next aisle or the aisle and a wall, and clear

access to all exits, unless a state certified fire protection engineer or other qualified inspector approved by the Town determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and inventory and to exits.

**Section 8. Labeling and Packaging Requirements.** All marijuana products sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that is in compliance with all applicable requirements of the State of Colorado and any other applicable law. The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

**Section 9. Use of Flammable Materials.** No marijuana cultivation facility, products manufacturer or testing facility may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors, to process or test marijuana unless the process used and the premises are verified as safe and in compliance with all applicable laws and regulations codes by a state certified fire protection engineer or other qualified inspector approved by the Town. The cost of the report described in this section shall be paid for by the marijuana cultivation facility, products manufacturer or testing facility

**Section 10. Use of carbon dioxide (CO<sub>2</sub>) systems.** If a cultivation facility uses a CO<sub>2</sub> system then the following requirements shall be met:

(a) Equipment (meters or gauges) shall be provided to monitor CO<sub>2</sub> levels in each grow area/room and CO<sub>2</sub> storage locations.

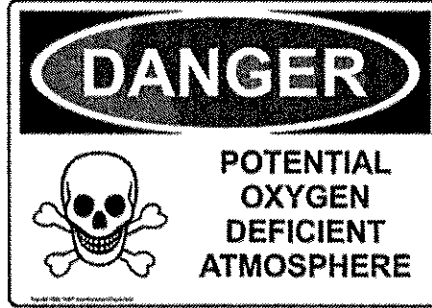
(b) Meters shall be calibrated and inter-connected to gas supply solenoids located at the storage container to limit CO<sub>2</sub> levels to a maximum of 5000 ppm.

(c) All systems must have valves that positively close in the event of a loss of electrical power to the building or in event of alarm activation. Manual reset shall be installed to reset the system.

(d) All sensors, alarms and storage containers must be inspected and tested annually or as prescribed by the manufacturer. A written record of all required inspection and testing shall be maintained on the premises for a period of three years. Testing of emergency devices or systems required by this policy shall be conducted by persons trained and qualified in these systems.

(e) Gases shall be distributed within the facility by means of any approved piping system. These pipes must be labeled with name of gases and direction of flow. All shut offs must be marked as such.

(f) Signage shall be provided on the entrance door of each grow room/area and all storage rooms utilizing CO<sub>2</sub> stating:



(g) NFPA 704 Simple Asphyxiate placards shall also be provided at the exterior main entrance and at room where CO<sub>2</sub> is used.

(h) The use of flammable gas/liquids in the extraction of THC or in the MIP facility requires the installation of a NFPA 704 placarding specific to the highest hazard gas being used as a solvent; posted on the main entrance and entrance to extraction room.

**Section 11. Product Extraction Processes.** The following requirements apply where marijuana plants are processed into refined or concentrated products, utilizing compressed, flammable gases:

(a) Equipment used in the processing of plant material using butane or other flammable gasses or hazardous materials must be submitted to a state certified fire protection engineer or other qualified inspector approved by the Town for review and approval of the process prior to use of the equipment. This includes changes of existing processes or new equipment.

(b) A production facility, in its entirety, must be reviewed and approved by a state certified fire protection engineer or other qualified inspector approved by the Town. A letter or documentation of approval must be submitted to the Town and a copy must be maintained on the premises at all times. The cost of such review and inspection shall be paid for by the marijuana cultivation facility, products manufacturer or testing facility.

(c) All equipment used in the extraction of THC must be UL listed or must be reviewed and approved by a state certified fire protection engineer or other qualified inspector approved by the Town.

(d) The final process of cooking or heating off any remaining flammable gasses or hazardous materials must be completed within a UL listed chemical hood that has been installed and approved by a state certified fire protection engineer or other qualified inspector approved by the Town or inside a

closed oven that is vented to the exterior of the building.

(e) Any other process used to remove the final amounts of flammable gasses and or hazardous material must be approved by a state certified fire protection engineer or other qualified inspector approved by the Town prior to its use.

(f) Storage of butane or other flammable gasses shall be in accordance with the 2012 International Fire Code (IFC).

(g) A flammable gas detector specific to the gas being used as the solvent shall be in used during the extraction process and anytime there is gas in the facility.

(h) Extraction equipment shall be used strictly in accordance with the manufacturer's instructions.

(i) Operational checklists (including pre and post-production) shall be posted and readily visible near extraction equipment. Mandated pre-operation leak checking with an associated log that must be made available to inspectors upon request.

(j) Other extraction processes using hazardous materials shall be submitted for review and approval by a state certified fire protection engineer other qualified inspector approved by the Town.

**Section 12. Exiting and Security.** Marijuana cultivation facilities, products manufacturers and testing facilities shall comply with the following exiting and security standards:

(a) Required minimum exit access shall be provided and in accordance with the 2012 IFC.

(b) Enhanced building security measures shall not impede egress for the facilities' occupants or firefighters in the event of an emergency.

(c) Fire Department Key Access (Knox Box) shall be provided near the main entrance to the facility.

(d) Locking hardware on doors (interior or exterior) shall be in accordance with the 2012 International Building Code (IBC).

**Section 13. Fire Extinguishers.**

(a) Portable fire extinguishers shall be provided within the facility in accordance with the 2012 IFC.

(b) Travel distance to extinguishers shall not exceed seventy-five (75) feet of travel.

(c) Minimum extinguisher size permitted is 2A10BC. (IFC 906 & 906.1)

**Section 14. Interior Finishes.** Rooms shall not be covered, draped or otherwise have installed, any material not rated for flame spread and smoke development based on occupancy. The use of any plastic or fabric must meet the requirements of NFPA 701, and documentation of certification must be submitted to Fire Department and a copy must be maintained on the premises at all times.

**Section 15. Electrical.**

(a) All marijuana cultivation facilities, products manufacturers and testing facilities shall obtain all required electrical permits and inspections from the State Electrical Board. Copies of required permits shall be submitted to the Town and shall be maintained on the premises.

(b) Extension cords, power strips, or multi-outlet assemblies etc. are prohibited from being used as permanent wiring.

**Section 16. Application of Fire Code; Site Inspection.** The 2012 IFC shall apply to all marijuana cultivation facilities, products manufacturers and testing facilities. Upon licensing with Town and State of Colorado and prior to opening for business, a general fire inspection shall be completed by a state certified fire protection engineer or other qualified inspector approved by the Town to determine compliance with the 2012 IFC and this Ordinance.

**Section 17. Cost of Inspections and Reports.** The cost of any inspections and reports required by this Ordinance shall be at the sole expense of the marijuana cultivation facility, products manufacturer and testing facility

**Section 18. Violations.**

(a) Any person who violates any provision of this Ordinance shall be punished by a fine in an amount established by resolution of the Board of Trustees.

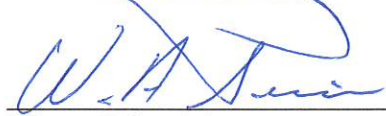
(b) Violation of this Ordinance shall also serve as grounds for suspension or revocation of the license of a marijuana cultivation facility, products manufacturer and testing facility. Suspension or revocation hearings shall conducted be in accordance applicable statutes and Town ordinances.

**Section 3.** 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 one part or parts be declared unconstitutional or invalid.

**Section 4.** The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

**INTRODUCED, READ, VOTED ON, ADOPTED AND APPROVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SEDGWICK, SEDGWICK COUNTY, COLORADO ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, AND IS HEREBY ORDERED PUBLISHED BY "TITLE ONLY" IN COMPLIANCE WITH ORDINANCE #01-2006, AND SHALL BECOME EFFECTIVE THIRTY (30) DAYS FOLLOWING THE PUBLICATION OF SUCH.**

TOWN OF SEDGWICK, COLORADO

  
\_\_\_\_\_  
Wayne Price, Mayor

ATTEST:

  
\_\_\_\_\_  
Heather Moore, Town Clerk

