



**TOWN OF SILT
ORDINANCE NO. 12
SERIES OF 2020**

AN ORDINANCE OF THE TOWN OF SILT, COLORADO (“TOWN”) AMENDING AND RESTATING VARIOUS SECTIONS OF CHAPTERS 17.13 and 17.73 OF THE SILT MUNICIPAL CODE (“CODE”) RELATED TO THE LAND USE REGULATION OF MARIJUANA WITHIN THE TOWN OF SILT, GARFIELD COUNTY, STATE OF COLORADO

WHEREAS, pursuant to C.R.S. Section 31-15-103 and Section 1 of the Town’s Home Rule Charter, the Board of Trustees (“Board”) of the Town has the authority to make and publish ordinances necessary and proper to provide for the safety, preserve the health, promote the prosperity, improve the morals, order comfort and convenience of such municipality and the inhabitants thereof; and

WHEREAS, pursuant to the Colorado Constitution Art. XVIII, Section 16, (5)(f): “A locality may enact ordinances or regulations, not in conflict with this section or with regulations or legislation enacted pursuant to this section, governing the time, place, manner and number of marijuana business operations;” and

WHEREAS, the Board wishes to make amendments to various sections of Chapters 17.13 and 17.73 of the Silt Municipal Code related to the land use regulation of marijuana within the Town of Silt; and

WHEREAS, pursuant to Section 17.88.010 of the Silt Municipal Code, amendments to Title 17 of the Municipal Code must be submitted to the Planning and Zoning Commission for review and recommendations; and

WHEREAS, the Town gave proper and timely published and/or posted notice of the dates and times of the public hearings at which the Planning and Zoning Commission and the Board considered this ordinance; and

WHEREAS, on or about October 6, 2020, the Planning and Zoning Commission considered and recommended approval of this Ordinance 12, Series of 2020; and

WHEREAS, on or about October 12, 2020, the Board approved Ordinance 12, Series of 2020 upon first reading; and

WHEREAS, on or about October 26, 2020, the Board approved Ordinance 12, Series of 2020, upon second reading, after determining that the adoption of this ordinance is necessary and proper to provide for the safety, health, prosperity and order of the Town.

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO, ORDAINS AS FOLLOWS:

Section 1

Section 17.13.020 Appendix A is hereby amended as follows:

X = Permitted Use; SU = Special Use; PR = Prohibited Use

	AG	R-1	R-2	R-3	B-Ind	B-1	B-2	B-3	PU	DMD
Industrial Hemp Cultivation (Minor - Residential)	X	X	X	X	X	PR	PR	X	PR	SU
Industrial Hemp Cultivation (Major - Commercial)	SU	PR	PR	PR	SU	PR	PR	SU	PR	PR
Marijuana cultivation facility	SU	PR	PR	PR	SU	SU	SU	SU	PR	PR
Marijuana products manufacturing facility	SU	PR	PR	PR	SU	PR	PR	SU	PR	PR
Marijuana testing facility	X	PR	PR	PR	X	SU	SU	X	PR	PR
Marijuana clubs, bars, or other facilities that include or consist of the consumption of marijuana in a public setting	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR
<u>Medical marijuana store or R</u> retail marijuana store	PR	PR	PR	PR	SU	SU	SU	SU	PR	PR

Section 2

The following sections of Chapter 17.73 are hereby amended as follows:

17.73.010 Purpose

The purpose and object of this chapter is to establish reasonable and uniform regulations to allow for the sale of medical and retail marijuana, the cultivation of medical and retail marijuana, the manufacturing of marijuana products, and the testing of marijuana within certain zone districts and within certain parameters pursuant to this chapter and this code. Voters approved Amendment 20 to the Colorado Constitution on November 7, 2000, as well as Amendment 64 to the Colorado Constitution on November 6, 2012, both further codified at Article XVIII, sections 14 and 16 of the Colorado Constitution, and hereinafter known as Amendment 20 and Amendment 64, respectively. It is the desire of the town to prevent an undue concentration of medical and retail marijuana stores, marijuana cultivation facilities, marijuana products manufacturing facilities and marijuana testing facilities, as defined herein,

and to attempt to mitigate the consequential secondary effects created by the concentration of such establishments businesses within the Town of Silt, and to promote the health, safety, and general welfare of the citizens of the town. Lastly, the purpose of this chapter is to prohibit marijuana clubs, bars or other facilities that include or consist of the consumption of marijuana in a public setting within the town limits and prohibit the delivery of marijuana anywhere within the town limits.

17.73.020 Definitions.

"Amendment 20" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Amendment 64" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Caregiver" means a natural person, other than the patient or the patient's physician, who is 18 years of age or older and has significant responsibility for managing the well-being of a medical marijuana patient who has a debilitating medical condition. A caregiver may have one or more of the following relationships:

- a. A parent of a child as described in section 14 of Article XVIII of the Colorado Constitution;
- b. An advising caregiver who advises a medical marijuana patient on which medical marijuana products to use and how to dose them and does not possess, provide, cultivate or transport marijuana on behalf of the patient;
- c. A transporting caregiver who purchases and transports marijuana to a patient who is homebound; or
- d. A cultivating caregiver who grows marijuana within an enclosed locked space, as defined by this code, for a patient who has a medical marijuana card issued by a licensed physician.

"Colorado Marijuana Code" means Article 10 of Title 44 of the C.R.S., inclusive of all rules and regulations promulgated thereunder, and as the same may be amended from time to time.

"Industrial hemp" means a plant of the genus cannabis and any such part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, that is cultivated and processed exclusively for the purpose of producing the fiber from mature stalks of the plant, oil or cake made from the seeds of the plant, and any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin and flowering tops extracted therefrom), fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination. Such industrial hemp may be used to produce paper, textiles, food, oils, automotive parts, and personal care products.

"Marijuana club" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Marijuana cultivation facility" shall have the same meaning as set forth in Section 5.32.030 of the code. Primary caregivers providing medical marijuana to medical marijuana patients per this code and individuals providing marijuana for their own personal use, if within state law and this code, are not deemed marijuana cultivation facilities.

"Marijuana product manufacturing facility" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Marijuana testing facility" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Medical marijuana business" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Medical marijuana patient" means a person who has been diagnosed with a debilitating medical condition by a physician or physicians as provided in Amendment 20, the Colorado Marijuana Code and this section.

"Medical marijuana store" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Medical use" as used in this Chapter means the acquisition, possession, production, use or transportation of marijuana or paraphernalia by an individual of no less than 18 years of age related to the administration of such marijuana to address the symptoms or effects of a medical marijuana patient's debilitating medical condition, which may be authorized only after a diagnosis of the debilitating medical condition by a physician or physicians, as provided in Amendment 20, the Colorado Marijuana Code and this section.

"Personal use" as used in this Chapter means the cultivation of marijuana by an individual who is 21 years or older in an enclosed locked space for the individual's own use. Notwithstanding any other provision of law, personal use of marijuana in the following circumstances is not unlawful and shall not be an offense under Colorado law or the code, or be a basis for seizure or forfeiture of assets under Colorado law for person 21 years of age or older:

- a. Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;
- b. 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 allowed number of plants on the premises where the plants were grown, provided that the growing takes place in an enclosed locked space as defined in this code, is not conducted openly or publicly on the property, and is not made available for sale;
- c. Transfer of one ounce or less of marijuana, without remuneration, to a person who is 21 years of age or older;
- d. Consumption of marijuana provided that nothing in this section shall permit consumption that is conducted openly and publicly or in a manner that endangers or affects others; and

- e. Assisting another person who is 21 years of age or older in any of the acts described in paragraphs (a) through (d) of this subsection.

"Retail marijuana" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Retail marijuana business" shall have the same meaning as set forth in Section 5.32.030 of the code.

"Retail marijuana store" shall have the same meaning as set forth in Section 5.32.030 of the code.

"State licensing authority" shall have the same meaning as set forth in Section 5.32.030 of the code.

17.73.026 Industrial Hemp

A property owner may grow industrial hemp on a residential property within the Town of Silt, in accordance with this code (limit of two plants per residential lot), for his/her personal use without a special use permit. A property owner desiring to grow industrial hemp on an agricultural/rural property or a commercial property shall submit to the town a special use permit application and a business license/home occupation license application in accordance with this code. As a condition of special use permit and business license issuance, industrial hemp cultivators on agricultural/rural or commercial properties shall annually submit to the Town results from scientific testing for such industrial hemp that indicates that the hemp has less than three-tenths of one percent of delta-9 tetrahydrocannabinol. Failure to submit such results annually may result in revocation of the special use permit and/or the business license.

17.73.030 Concentration, setbacks, and prohibitions.

- A. No medical or retail marijuana business shall be located:
 - 1. Within 500 feet of another medical or retail marijuana business, with the exception of marijuana testing facilities. A medical marijuana business may be located on the same licensed premises as a retail marijuana business of the same class and ownership as long as the licensed premises meets the distance requirement from other medical and retail marijuana businesses.
 - 2. In any residential zone district, downtown mixed-use overlay district, planned unit development district, or any other zone district not specifically allowed by the code.
 - 3. Within 500 feet of a private or public school including but not limited to daycares and preschools not located within a commercial or business zone district.
 - 4. Within 500 feet of a place of worship or religious assembly; any public park, playground, or recreation facility; or a drug treatment facility.



- B. No more than one medical or retail marijuana store may be located within the Downtown area (defined as that area between 1st Street and 16th Street, and between Front Street and Home Avenue).
- C. No medical and/or retail marijuana store may be located within the same building or on the same lot as a marijuana testing facility or a marijuana cultivation facility.
- D. A medical marijuana or retail marijuana store shall not exceed 2,000 square feet in gross floor area.
- E. The number of marijuana stores permitted in the town shall be limited as set forth in section 5.32.060 of the code.
- F. The odor of marijuana must not be perceptible to a person with a normal sense of smell at the exterior of the building of a licensed medical or retail marijuana business. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical or retail marijuana business must be provided at all times.
- G. All signage and advertising for a marijuana business shall comply with all applicable provisions of this code and state law.
- H. All activities of medical and retail marijuana businesses, including, without limitation, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted out of public view. No marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

17.73.040 Additional permit application submittal items and public notification requirements for medical marijuana businesses and/or retail marijuana businesses that require a special use permit and/or commercial site plan approval.

An applicant for a medical marijuana and/or retail marijuana business shall submit to the town, in addition to other requirements contained in the code, a special use permit application and/or a commercial site plan application in a form acceptable to the town, and at a minimum shall include the following:

- A. Statement detailing the proposal;
- B. Statement detailing conformance with title 5 and title 17 of this code;
- C. Vicinity map at a scale no less than 1" = 200", indicating the subject property and all schools, medical and retail marijuana businesses, public buildings, parks, playgrounds, recreation facilities, places of worship and religious assembly, drug or treatment facilities, and residential zones within one-fourth mile;



- D. Site plan at a scale no less than 1" = 200' indicating the location of proposed medical marijuana and/or retail marijuana business, and all other items as required for commercial businesses as delineated in chapters 17.42 and 17.49;

- E. Complete list of all property owners and licensed businesses within 500 feet, hereinafter referred to "affected property owners"; applicant shall adhere to public notification requirements in chapter 16.16 of this code, with the following exceptions:
 - 1. Instead of notifying property owners within 200 feet, applicant shall notify property owners and businesses that have a valid business license within 500 feet of the subject property, in the manner prescribed in chapter 16.16 of this code; and
 - 2. Town may not send notices per section 16.16.010(E).

- F. A sign plan for the subject property, indicating all proposed signs that may be viewed from any public right-of-way adjacent to the subject property; applicant shall adhere to all sign code requirements of this code.

- G. An odor management plan detailing what methods will be used to prevent the emission of any odor of marijuana from the licensed premises.

- H. Payment of Fees and Costs. The applicant for a medical marijuana and/or retail marijuana business special use permit shall pay a nonrefundable application fee upon filing the application, such fee to be set by the board annually or as often as necessary, by resolution. Additionally:
 - 1. The applicant for a medical marijuana and/or retail marijuana business special use permit shall reimburse the town for any and all costs, staff fees and consultant fees incurred by the town during and after a review process associated with the application;
 - 2. Administrative costs include, but are not limited to: publication costs, recording fees, staff review fees and any other actual out-of-pocket costs incurred by the town with regard to the review of the application;
 - 3. Consultant fees may include, but are not limited to, all actual out-of-pocket costs incurred by the town regarding review of the application by legal, planning, engineering, and other professional advice;
 - 4. Additionally, to partially defray administrative handling and review costs incurred by the town with regard to review of the application, the applicant for a medical marijuana and/or retail marijuana business shall pay an administrative fee in an amount equal to 15 percent of all consultant fees resulting from the review and processing of all applications required by chapter 17.73; and
 - 5. Finally, any applicant for a medical marijuana and/or retail marijuana business special use permit shall pay to the town any outstanding invoices for review of such application as a condition of and prior to the town's approval of such special use permit.

17.73.050 Approvals necessary for operation of a medical marijuana and/or retail marijuana business.

A. No medical marijuana and/or retail marijuana business may operate without the planning and zoning commission's approval of a commercial site plan, if applicable, the board's approval of a special use permit, if applicable, as well as the local licensing authority and the state's approval of all required marijuana licenses.

B. No medical marijuana and/or retail marijuana business may operate without having fully satisfied all conditions of each of the approvals required by chapters 5.32, 17.42, 17.49, and 17.73.

17.73.070 Additional requirements for the cultivation of medical and/or retail marijuana.

A. The purpose of this section is to provide specific requirements for the cultivation of medical and/or retail marijuana, in order to make possible the review by the town staff, the commission, the board, and the public. The intent is to identify the potential major problems and the overall infrastructure feasibility of the request. Detailed engineering plans may be required.

B. Application Requirements: An applicant for a medical and/or retail marijuana cultivation facility shall submit a site plan and application with the following information:

1. An estimate of the proposed electrical requirements, and a plan to build and/or modify the existing facilities to accommodate the medical and/or retail marijuana facility;
2. An estimate of the proposed potable and/or non-potable water requirements, and a plan to build and/or modify the existing facilities to accommodate the medical and/or retail marijuana facility, as well as an analysis of water rights dedication and tap fee payments, if necessary, in conformance with chapters 13.02, 13.04, and 16.18;
3. An estimate of the number of proposed plants, and a plan to mitigate mold, fungi, and pests;
4. A description of the waste, chemical and bioproduct storage and disposal measures required to operate the facility;
5. An overview of the type of security system, with a specific estimate regarding the numbers of cameras and other monitoring equipment;
6. A floor plan indicating cultivation areas, drying areas, and other processing areas, and including restroom facilities, kitchen facilities, and the like;
7. In addition to the preceding requirements, an applicant for the medical and/or retail cultivation of marijuana shall also submit to the town for its review and approval, a special use permit application, if required due to zoning, and/or a commercial site plan application;
8. The applicant's statement that no marijuana plants may be perceptible from the exterior of the building.



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17.73.080 Additional requirements for the manufacture of medical and/or retail marijuana products.

A. The purpose of this section is to provide specific requirements for the manufacture of medical and/or retail marijuana products, in order to make possible the review by the town staff, the commission, the board, and the public. The intent is to identify the potential major problems and the overall infrastructure feasibility of the request. Detailed engineering plans may be required.

B. Application Requirements. An applicant for the commercial manufacture of marijuana products shall submit to the town the following information and/or certifications with the application:

1. State/county certification for the handling of food and food products, as well as certification that commercial kitchen has been inspected and approved per health department regulations;
2. Types of marijuana products proposed;
3. Methods of preparation or cooking of marijuana products, including a list of any flammable or caustic chemicals that may be used in the preparation or cooking of marijuana;
4. Type(s) of storage of marijuana and other edible ingredients and preservatives;
5. An estimate of the proposed electrical requirements, and a plan to build and /or modify the existing facilities to accommodate the medical and/or retail marijuana products manufacture facility;
6. An estimate of the proposed potable and non-potable water requirements and a plan to build and/or modify the existing facilities to accommodate the medical and/or retail marijuana facility, as well as an analysis of water rights dedication and tap fee payments, if necessary, in conformance with chapters 13.02, 13.04, and 16.18.
7. A statement by applicant that no marijuana plants may be perceptible from the exterior of the building;
8. In addition to the preceding requirements, an applicant for the manufacture of medical and/or retail marijuana products shall also submit to the town for its review and approval, a special use permit application, if required due to zoning, and/or a commercial site plan application.

17.73.100 Marijuana clubs strictly prohibited.

Marijuana clubs are strictly prohibited within the town limits.



17.73.110 Marijuana delivery strictly prohibited.

Except as otherwise provided in this code, the delivery of retail marijuana to a retail marijuana consumer within the town is prohibited, regardless of whether the marijuana is being delivered from another location in town or from outside town limits. This prohibition applies regardless of whether the person delivering marijuana has a license from another jurisdiction to deliver marijuana.

Section 3

All ordinances heretofore passed and adopted by the Board of Trustees of the Town of Silt, Colorado are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 4

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

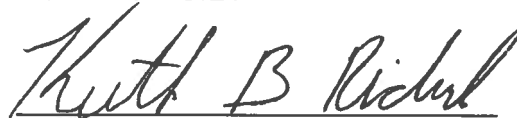
Section 5

This ordinance becomes effective thirty (30) days past the publication of this ordinance, once approved.

INTRODUCED, READ AND APPROVED ON FIRST READING, a public hearing, this 13th day of October, 2020, at 7:00 p.m. in the Municipal Building of the Town of Silt Colorado.

PASSED, APPROVED ON SECOND READING, following a continued public hearing, ADOPTED AND ORDERED PUBLISHED, this 26th day of October, 2020.

TOWN OF SILT



Mayor Keith B. Richel

ATTEST:



Town Clerk Sheila M. McIntyre, CMC

