ORDINANCE NO. 692

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, PERMITTING, REGULATING AND LICENSING THE SALE OF RETAIL MARIJUANA WITHIN THE TOWN AND ADOPTING CONFORMING AMENDMENTS TO THE HAYDEN MUNICIPAL CODE

RECITALS

1. Since 2015, the Town of Hayden ("Town"), acting by and through its Town Council ("Council"), has authorized, regulated and licensed the cultivation of marijuana within the Town.

2. Based on its experience with the same, including but not limited to the impacts of such industry on the Town related to law enforcement, safety and security, utilities and other public resources and tax generation, the Council further authorized and licensed, under limited circumstances, marijuana manufacturing and testing facilities within the Town, commencing in 2018.

3. Based on its continuing observations of the evolution of the marijuana-related industry in the state of Colorado, the Council now finds and determines that the retail sale of marijuana could occur safely and harmoniously with other existing land uses within the Town if located, licensed and regulated appropriately, with due respect for the security and security of other commercial uses, the residential sanctity of neighborhoods and the protection of minors.

4. The Council now therefore desires to adopt regulations to permit and license, under certain limited circumstances, the sale of retail marijuana within the Town, all as further set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, THAT:

Section 1. Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council of the Town of Hayden, Colorado.

Section 2. Title 5 of the Hayden Municipal Code ("Code"), concerning Business Taxes, Licenses and Regulations, is hereby amended by the addition of a new Chapter 5.25, to read in its entirety as follows:

Chapter 5.25

RETAIL MARIJUANA STORES

5.25.010 Purpose, Intent and Other Laws

A. The purpose of this Chapter is to authorize, under limited circumstances and in limited locations, the location and operation of retail marijuana stores within the Town of Hayden pursuant to the Colorado Retail Marijuana Code.
B. The intent of this Chapter is to establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the location and operation of retail marijuana stores within the Town. Nothing in this Chapter is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this Article and Chapter shall not provide a defense to criminal prosecution under any applicable law.

C. If the State adopts any stricter regulation governing the sale of marijuana than that set forth in this Chapter, the stricter regulation shall control such activity in the Town. A licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises are in full compliance with applicable state regulation. If the State prohibits the sale of marijuana, any license issued under this Chapter shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress by the licensee. The issuance of any license pursuant to this Chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the possession, sale or distribution of marijuana.

5.25.020. Definitions

A. The words and phrases defined by Section 5.22.020 of this Chapter shall apply to this Chapter.

B. In addition to the definitions contained in Subsection (a) above, other terms used in this Chapter shall have the meaning ascribed to them in Article XVIII, Sections 14 and 16, of the Colorado Constitution or in the Colorado Medical Marijuana Code or in the Colorado Retail Marijuana Code, and such definitions are hereby incorporated into this Chapter by reference.

5.25.030. Licensing Authority; License Required; Application Process.

A Town of Hayden license issued under this Chapter is required to operate a Retail Marijuana Store in Town. The Licensing Authority and application process shall be the same as set forth and established under Chapter 5.22 of this Code, and the requirements of Sections 5.22.040 through 5.22.100 shall apply, except that the application for a retail marijuana store filed pursuant to this Chapter shall be the same as the application required by the State of Colorado for such a license.

5.25.040. Restrictions Related to Retail Marijuana Stores: Location and Operation

A. All applicable rules, requirements and restrictions imposed by the State of Colorado apply to retail marijuana store activities conducted pursuant to a license issued pursuant to this Chapter, as if fully set forth herein. A proven violation of any such rule, requirement or restriction may form the basis of disciplinary action under Section 5.25.050 of this Chapter,
specifically including but not limited to suspension or revocation of a license pursuant to the process set forth in Section 5.22.150 of this Title 5.

B. A retail marijuana store may operate only between the hours of 7am A.M. and 10 P.M. daily.

C. A retail marijuana store may not be located or operated within one thousand (1,000) feet of a day care facility, public or private school, child care center, drug or alcohol treatment or rehabilitation facility or public park, open space, recreational or library facility. This required distance shall be measured as a direct line between the nearest two points of each respective property boundary. This location restriction shall apply when a retail marijuana store is proposed to be licensed at a particular premise and shall not operate to require a previously-approved retail marijuana store to relocate if another use listed within this subsection C. subsequently locates within 1,000 feet of the store.

D. A retail marijuana store may not be located or operated more than 150 feet from a major transportation facility. For purposes of this Subsection E, a “major transportation facility” means a transportation facility funded, at least in part, and regulated by the federal government, including by way of example only, airports and highways. This distance shall be measured as a direct line between the nearest point of the property line upon which the store is located to the nearest point of the property line upon which the transportation facility is located or, in the case of a highway, the nearest point of dedicated and platted right-of-way, regardless of paved roadway, shoulder areas or other constructed improvements.

5.25. 050. Prohibited acts, inspections, disciplinary actions and liability.

The provisions of Sections 5.25.120 through 170 shall apply to all applicants, licensees, licensed premises and activities conducted in relation thereto, under this Chapter.

5.25.060. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Chapter, any person, including but not limited to any licensee, manager, agent or employee of a store who violates any provision of this Chapter shall be guilty of a misdemeanor punishable in accordance with Section 1.08 General Penalty of this Code.

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 Town Council 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. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any
portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 5. The repeal or modification of any provision of the Municipal Code of the Town of Hayden 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. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as 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.

Section 6. This ordinance is deemed necessary for the preservation of the public property, health, welfare, peace and safety.

Section 7. Violations of this ordinance shall be punishable in accordance with the provisions of the Hayden Municipal Code.

Section 8. EFFECTIVE DATE.

This Ordinance, immediately on final passing and adoption, shall be published by the Town Clerk in accordance with Section 3-3h of the Home Rule Charter and recorded in the Town Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Town Clerk. This Ordinance shall be in force and take effect fifteen (15) days after second publication in accordance with Section 3-3h of the Hayden Home Rule Charter.

Section 9. PUBLIC HEARING.

A public hearing on this Ordinance will be held on the 25th day of July 2019, at or about 7:30 p.m. at the Hayden Town Hall, 178 West Jefferson Ave, Hayden, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3-3 (d) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE 11th DAY OF July 2019.

[Signature]
J. Timothy Redmond, Mayor

ATTEST

Sharon Johnson, Town Clerk
FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3-3 (h) OF THE
HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A
MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF
HAYDEN, ON THE 25TH DAY OF July 2019.

J. Timothy Redmond, Mayor

ATTEST

Sharon Johnson, Town Clerk

TOWN OF HAYDEN
SEAL
INCORPORATED
MARCH 13, 1906
COLORADO