

# **ORDINANCE NO. 1143**

## **AN ORDINANCE DESIGNATING A LOCAL LICENSING AUTHORITY FOR MARIJUANA ESTABLISHMENTS**

**WHEREAS**, on November 7, 2012, the voters of the State of Colorado approved Section 16 of Article XVIII of the Colorado Constitution, which authorized the personal use and possession of recreational marijuana for adults; and,

**WHEREAS**, on May 28, 2013, the governor signed House Bill 13 -1317 into law enacting Title 12, Article 43.4 of the Colorado Revised Statutes (the "Colorado Retail Marijuana Code"), which regulates the cultivation, manufacture, distribution, and sale of retail marijuana; and,

**WHEREAS**, the Colorado Retail Marijuana Code states that on or after October 1, 2013, businesses engaged in the cultivation, manufacture, or sale of marijuana or in the processing of marijuana-infused products shall apply for a license subject to its terms and conditions and any rules promulgated pursuant thereto; and

**WHEREAS**, the Colorado Retail Marijuana Code states that on or before October 1, 2013, each locality shall enact an ordinance or regulation specifying the entity within the locality that is responsible for processing applications submitted for a license to operate a marijuana establishment; and,

**WHEREAS**, the Colorado Constitution also authorizes counties and municipalities in Colorado to prohibit or regulate retail marijuana businesses and to adopt regulations consistent with the intent of the state law; and,

**WHEREAS**, the Fort Morgan City Council finds and determines that this Ordinance is necessary for the preservation of the public peace, safety, and welfare.

**THEREFORE, BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN,**

### **Section 1: Retail Marijuana Licensing Authority.**

(1) The Fort Morgan City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

- (a) C.R.S. § 12- 43.4 -101, et seq., (known as the Retail Marijuana Code);
- (b) C.R.S. § 31 -15 -103, C.R.S. (concerning municipal police powers);
- (c) C.R.S. § 31 -15 -401, C.R.S. (concerning municipal police powers);
- (d) C.R.S. § 31 -15 -501, C.R.S. (concerning municipal authority to regulate businesses).

(2) The City Clerk shall be the local licensing authority of the City for the licensing of commercial marijuana centers, pursuant to this Article, unless the City Council designates other persons to serve as the local licensing authority by ordinance.

(3) The local licensing authority shall possess all powers given to local licensing authorities by the provisions of the Colorado Retail Marijuana Code and rules and regulations promulgated thereunder. Any decision made by the local licensing authority shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(4) The local licensing authority shall be designated to send and receive correspondence to and from the State Licensing Authority and Marijuana Enforcement Division on behalf of the City.

**Section 2. Validity.** If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part or parts be declared invalid.

**Section 3. Repeal.** All or parts of Ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 4. Interpretation.** This Ordinance shall be so interpreted and construed as to effectuate its general purpose. Article and section headings of the Ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any Article or Section thereof.

**Section 5. Certification.** The City Clerk shall certify to the passage of this Ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

**Section 6. Severability.** In the event any part of this Ordinance is found to be unenforceable by a Court of competent jurisdiction, it shall not affect the enforceability of the other portions of the Ordinance.

**Section 7. Effective date.** The City Council hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety. This designation of authority shall be effective five (5) days after final publication of this ordinance.

**INTRODUCED, READ, ADOPTED ON FIRST READING AND ORDERED  
PUBLISHED** on the 6th day of August, 2013.

THE CITY COUNCIL OF THE CITY OF FORT  
MORGAN, COLORADO

[SEAL]

/s/ Terry L. McAlister

By: Terry McAlister  
Mayor

Attest:

/s/ John J. Brennan

John Brennan  
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED  
PUBLISHED this 20th day of August, 2013.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

[SEAL]

/s/ Terry L. McAlister

By: Terry McAlister  
Mayor

Attest:

/s/ John J. Brennan

John Brennan  
City Clerk

STATE OF COLORADO                    )  
COUNTY OF MORGAN                ) ss.       **CERTIFICATE**  
CITY OF FORT MORGAN                )

I, John Brennan, the duly appointed, qualified Clerk of the City of Fort Morgan, Colorado, do hereby certify that the foregoing **Ordinance No. 1143** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 6th day of August, 2013. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 9th day of August, 2013, published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed ordinance was again taken up and read a second time, duly and legally, passed, approved and adopted at a regular meeting of the City Council held on the 20th day of August, 2013. Within five (5) days after its final passage, said **Ordinance No. 1143** was published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ John J. Brennan  
John Brennan  
City Clerk