

TOWN OF BASALT, COLORADO
ORDINANCE NO. 09
Series of 2014

**AN ORDINANCE AMENDING TITLE 10, GENERAL OFFENSES, OF THE
BASALT TOWN CODE FOR THE REGULATION OF DRUG
PARAPHERNALIA WITHIN THE TOWN OF BASALT**

WHEREAS, the Town of Basalt, in the Counties of Eagle and Pitkin and the State of Colorado (hereinafter the "Town"); is a home rule municipal corporation duly organized and existing under laws of the State of Colorado and the Town Charter (hereinafter the "Charter"); and

WHEREAS, the members of the Town Council of the Town (hereinafter the "Council") have been duly elected and qualified;

WHEREAS, The Town, acting by and through the Council, has the power to amend the Municipal Code of the Town of Basalt ("hereinafter the "Code") pursuant to the Charter and Section 1-58 of the Code, and all such amendments shall become a part of the Code; and

WHEREAS the Council finds that regulation of possession of drug paraphernalia within the Town is of public concern and efficient police regulation of possession of drug paraphernalia within the Town would preserve the general welfare of the citizens and guests of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF
THE TOWN OF BASALT, COLORADO, THAT;**

Section 1. Title 28, Chapter 10, Article II: Possession of Drug Paraphernalia, Basalt Town Code, is hereby repealed and re-established as follows:

10-28: Possession of Drug Paraphernalia

(A) DRUG PARAPHERNALIA DETERMINATION, CONSIDERATIONS: In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) The proximity of the object to controlled substances.
- (3) The existence of any residue or controlled substances on the object.
- (4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know that it will be

delivered to persons who such person knows or reasonably should know could use the object to facilitate a violation of this Section.

(5) Instructions, oral or written, provided with the object concerning its use.

(6) Descriptive materials accompanying the object that explain or depict its use.

(7) National or local advertising concerning its use.

(8) The manner in which the object is displayed for sale.

(9) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products.

(10) The existence and scope of legal uses for the object in the community.

(11) Expert testimony concerning its use.

(B) UNLAWFUL ACTS: It shall be unlawful for any person under the age of twenty-one (21) years to possess any drug paraphernalia if such person knows or reasonably should have known that the drug paraphernalia could be used in a manner which would violate the laws of this State or of this Town.

(C) PENALTY: Any person who fails to comply with any provision of this Section shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine as specified in Chapter 1, Article IV of this Code.

Section 2. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases is declared invalid.

Section 3. The amendment of any provision of the Town Code as provided in this ordinance shall not affect any rights which have accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of this provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

Section 4. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

Section 5. The Council hereby finds, determines and declares that this ordinance is necessary and proper for the health, safety and welfare of the Town and the inhabitants thereof.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this ____ day of _____, 2014; and a public hearing for second reading of this Ordinance is set for the ____ day of _____, 2014 at __:00 p.m. in the Council Chambers of the Basalt Municipal Building, Basalt, Colorado.

Jacque Whitsitt, Mayor

ATTEST:

Pamela Schilling, Town Clerk

INTRODUCED, READ, ADOPTED AND ENACTED ON SECOND READING AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2014.

Jacque Whitsitt, Mayor

ATTEST:

Pamela Schilling, Town Clerk