

**Town of Basalt Colorado  
Ordinance No. 17  
Series of 2009**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, REVISING THE MUNICIPAL CODE OF THE TOWN OF BASALT, CHAPTER 10, GENERAL OFFENCES, SECTION 10-27 "UNLAWFUL POSSESSION OF MARIJUANA" AND SECTION 10-28 "UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA," TO ACCOMMODATE LAWFUL USE AND POSSESSION OF MEDICAL MARIJUANA AND REVISING THE SCHEDULE OF FINES, PENALTIES, AND ADMINISTRATIVE FEES FOR THE POLICE DEPARTMENT**

**WHEREAS**, The Town of Basalt is a duly incorporated home rule municipality and is authorized to enact and enforce ordinance to protect the health, welfare and safety of its citizens; and

**WHEREAS** The Town of Basalt hereby finds, determines, and declares that the enacting of ordinances to control the possession and use of marijuana in this town is necessary for the immediate and future preservation of the public peace, health, and safety;

**WHEREAS**, Chapter 10, Article II, Section 27 of the Basalt Municipal Code ("the Code"), specifically prohibits the unlawful possession of marijuana; and Chapter 10, Article II, Section 28 of the Code specifically prohibits possession of marijuana paraphernalia;

**WHEREAS**, the Code, including Chapter 10, Article II, does not currently address the use and possession of medical marijuana or equipment related thereto; and

**WHEREAS**, Section 14 of Article XVIII of the state constitution as amended sets forth the lawful limits on the medical use of marijuana and creates limited exceptions to the criminal laws of this state for patients, primary care givers, and physicians concerning the medical use of marijuana by a patient to alleviate an appropriately diagnosed debilitating medical condition, and whereas the Town is desirous of enforcing such regulations and imposing penalties for violations thereof.

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

**Revisions to Town Code.**

Section 10-27 of the Basalt Municipal Code, is hereby repealed in its entirety and the following Section 10-27 is enacted in its place to read as follows:

**Sec. 10-27. Unlawful use and possession of marijuana and related offenses.**

(a) For the purpose of this Section and for Section 10-28 of this Code, key terms are defined as follows:

(1) *Marihuana or marijuana* means all parts of the plant *cannabis sativa* L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as *marihuana* in this Subsection.

(2) *Lawful amount of medical marijuana* means no more than two (2) ounces of a useable form of marijuana; or fewer than six marijuana plants, with no more than three being mature, flowering plants that are producing a useable form of marijuana.

(b) Except as provided in Subsection (c) herein any person who possesses up to one ounce of marijuana commits a violation of this Code and, on conviction thereof, and shall be punished in accordance with Sections 1-82 and 1-83 of this code.

(c) The provisions of this section shall not apply to persons to whom or for whose use marijuana has been authorized after a diagnosis of the patient's debilitating medical condition by a physician or physicians as provided by Colorado law or persons that are patients or primary care-givers as those terms are defined in section 14 of article IX of the State Constitution and are listed on a valid registry identification card issued by the Colorado Department of Health, under the specific limits of Colorado law and such persons possess no more than a lawful amount of marijuana.

However, nothing herein shall allow any person to engage in the medical use of marijuana in plain view of, or in a place open to, the general public. Use of medical marijuana in a place open to the general public or in plain view thereof shall constitute unlawful possession of marijuana.

Section 10-28 of the Basalt Municipal Code, is hereby amended to add subsection (e) as follows:

**Sec. 10-28. Possession of Drug paraphernalia**

**The provisions of this section (d) are amended to read as follows:**

(d) Except for those persons identified in (e) below a person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of this code.

**(e) is added as follows:**

(e) The provisions of this section shall not apply to persons to whom or for whose use marijuana has been authorized after a diagnosis of the patient's debilitating medical condition by a physician or physicians as provided by Colorado law and to persons that are named as patients or primary care-givers as those terms are defined in Section 14 of Article IX of the State Constitution and who are listed on a valid registry identification card issued by the Colorado Department of Health, under the specific limits of Colorado law and such persons possess no more than a lawful amount of marijuana.

**Revisions to the Schedule of Fines, Penalties and Administrative Fees for the Police Department.**

In accordance with Section 2-381, the Schedule of Fines, Penalties and Administrative Fees for the Police Department is amended by deleting the fine and penalty reference for Section 10-27 Unlawful possession of marihuana as the fine and penalty is addressed elsewhere in the revised code language.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON November 10, 2009, by a vote of 7 to 0 on October 27, 2009.

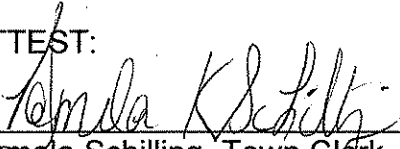
READ AND ADOPTED, by a vote of 6 to 0 on November 10, 2009.



TOWN OF BASALT, COLORADO

By: Leroy Duroux  
Leroy Duroux, Mayor

ATTEST:

  
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Pamela Schilling, Town Clerk

Ord. 17-Criminal Regulations for Medical Marijuana

First Publication on: Thursday, November 5, 2009  
Second Publication on: Thursday, November 19, 2009  
Effective on: Thursday, December 3, 2009