

**Town of Basalt, Colorado
Ordinance No. 04
Series of 2019**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, GRANTING SPECIAL REVIEW APPROVAL FOR A MEDICAL
MARIJUANA CENTER AT 175 MIDLAND AVENUE, UNIT 10, BASALT,
COLORADO (175 MIDLAND UNIT 10 LLC APPLICATION)**

RECITALS

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to grant Special Review approvals. 175 Midland Unit 10 LLC, ("Applicant") applied to the Town for approval of Special Review for a Medical Marijuana Center at 175 Midland Avenue, Unit 10, Basalt, Colorado, as more specifically described in **Exhibit A** attached hereto.

B. The Planning and Zoning Commission considered the application at a public hearing held on December 18, 2018. Throughout the meeting, evidence and testimony was offered by the Applicant, Staff and members of the public. The Planning and Zoning Commission recommended that Town Council approve the proposed application with conditions.

C. At a public hearing held on January 22, 2019, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicant, and members of the public. At the public hearing held on January 22, 2019, the Town Council considered this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for February 12, 2019, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

D. At a public hearing and second reading on February 12, 2019, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicant, and members of the public and the Town Council approved of this ordinance.

E. The Town Council finds and determines it is in the best interests of the Town to approve this Ordinance. The Town Council finds and determines this Ordinance is reasonable and consistent with the Town Code. Further, the Town Council finds and determines this Ordinance is reasonably necessary to promote the legitimate public purposes of the public health, safety and welfare.

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

A. FINDINGS. The Town Council hereby incorporates by reference and conclusively makes the findings provided herein.

1. Based on the evidence, testimony, exhibits, and comments from the public, Applicants and Town Staff, the Town Council finds and determines that in accordance with Sections 16-44(e) and 16-190, of the Town Code, that the Applicant's request is consistent with the applicable provisions of the Town Code, provided applicant adheres to the conditions identified in this Ordinance.

B. CONDITIONS.

Special Review to permit a Medical Marijuana Center at 175 Midland Avenue, Unit 10 is hereby approved, subject to the following conditions:

Representations:

1. The Applicant shall comply with all representations set forth in the Application.
2. The Applicant shall comply with all material representations made in hearings before the Planning and Zoning Commission and Town Council.

Visibility of Marijuana and Accessories:

3. Marijuana and accessories shall not be visible from adjacent public sidewalks. The Applicant shall provide a window display plan for approval by the TRC prior to installing the wall in the window facing Midland Avenue and before commencing operations.

Signage:

4. The Applicant shall submit and receive approval of a sign permit prior to installing any signage. Signage shall be limited as follows:
 - a. Only one (1) sign is permitted per premises, inclusive of any signage located in a window or on the exterior doors, roof and walls of the facility; and
 - b. No sign shall be larger than six (6) square feet. No temporary signage is permitted, including but not limited to sandwich boards,

signs in or on windows and signs on cars parked in the Town limits. No off-premises signage is permitted.

Compliance with Town Code Section 16-190:

5. The Applicant shall comply with the requirements of Town Code Section 16-190, *Medical marijuana facilities and retail marijuana establishments*.

License Requirements:

6. This action only grants the land use approvals for the medical marijuana center. The Applicant must obtain necessary state and local licenses prior to commencing operations. There is a separate process for licensing through the Town that includes various other restrictions which must be satisfied by the Applicant.

Fire District Requirements:

7. The Applicant shall install a mounted fire extinguisher satisfying the Basalt and Rural Fire Protection District's requirements prior to commencing operations. The Applicant shall also work with the Fire District and the Town Building Official to ensure that the address of the property is appropriately marked.

Sanitation District Requirements:

8. The Applicant shall pay all required tap fees for the additional .7 sewer EQRs that would result from the Applicant's floor plan improvements. The Applicant shall not discharge chemicals or agricultural wastes or products into the sanitary sewer pursuant to the Basalt Sanitation District's requirements.

Approval Documents:

9. The special review site plan shall be recorded at the Eagle County Clerk and Recorder's Office after review and approval by the Town Planner and Town Attorney prior to commencing operations and within 180 days of this approval. If the necessary approval documents are not executed and recorded within 180 days of the final approval, the Special Review approval shall be null and void. The Town Planner may extend the recording deadline.

Vested Rights:

10. Vested property rights shall be granted as approved herein for a period of three (3) years from the effective date of the ordinance approving these land use requests. The Applicant may request an extension of vested rights pursuant to the process for extending vested rights as established in the Town Code. If the medical marijuana center does not commence operations in this location within the three (3) year vested rights period or as it may be extended, the approvals granted for this Special Review shall expire. Additionally, if the medical marijuana center commences operations and then ceases to operate for a period of nine (9) months or more, a new Special Review approval would be necessary to reopen a medical marijuana center on the property.

Insubstantial Amendments:

11. The Town Planner may review and approve minor amendments to this approval to effectuate the intent of the final development approvals. The Applicant shall have the ability to appeal a Town Planner's decision on a minor amendment to the Town Council pursuant to the appeals process established in Town Code Section 16-11, *Procedures for Code Interpretations and Appeals*.

C. MISCELLANEOUS.

1. The approvals and conditions contained herein shall be binding on and inure to the benefit of the heirs, successors and assigns of the Applicant and the owner of the Property.

2. The Applicant shall reimburse the Town for any and all fees, including consulting costs, incurred in the review of the Application.

3. This Ordinance, after fully executed, shall be recorded in the office of the Clerk and Recorder of Eagle County.

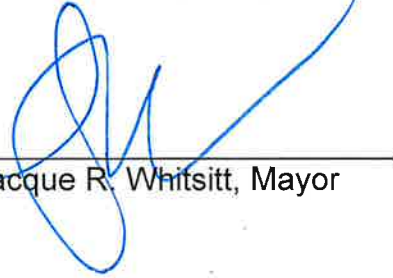
4. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section,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

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON February 12, 2019 by a vote of 4 to 0 on January 22, 2019 with one abstention.

READ ON SECOND READING AND ADOPTED, by a vote of 5 to 0 on February 12, 2019 with two abstentions.

TOWN OF BASALT, COLORADO

By:



Jacque R. Whitsitt, Mayor

ATTEST:



Pamela K. Schilling, Town Clerk

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First Publication: Thursday, January 31, 2019
Final Publication: Thursday, February 21, 2019
Effective Date: Thursday, March 7, 2019

Exhibit A

Legal Description

Lot 10, Frying Pan Inn Condominiums as shown on the Second Amended Map of Building #2 of the Frying Pan Inn Condominiums recorded at Reception No. 200814835 in the Eagle County Clerk and Recorder's Office.