

**TOWN OF SEDGWICK  
ORDINANCE NO. 10-2019**

**AN ORDINANCE CANCELLING THE SPECIAL ELECTION CALLED FOR NOVEMBER 5, 2019 AND RESCHEDULING AND CALLING A SPECIAL ELECTION TO BE HELD NOVEMBER 26, 2019 AS A MAIL BALLOT ELECTION FOR THE PURPOSE OF SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF SEDGWICK THE QUESTION OF WHETHER ADDITIONAL RETAIL MARIJUANA STORES SHOULD BE ALLOWED WITHIN THE TOWN AND AMENDING ORDINANCE NO. 02-2016 CONCERNING RETAIL MARIJUANA STORES**

**WHEREAS**, the Board of Trustees adopted Ordinance No. 05-2019, which called a special election to be held on November 5, 2019 for the purpose of submitting to the registered electors of the Town of Sedgwick the question of whether additional retail marijuana stores should be allowed in the Town and which amended Ordinance No. 02-2016 concerning retail marijuana stores; and

**WHEREAS**, the Board of Trustees intended that the November 5, 2019 special election would be a coordinated election with Sedgwick County; and

**WHEREAS**, in order to participate in the coordinated election with the County, the ballot content was due to the County by September 6, 2019; and

**WHEREAS**, the County did not receive the ballot content from the Town by such date, and as a result, the County has informed the Town that its question concerning retail marijuana stores will not appear on the November 5, 2019 coordinated election ballot; and

**WHEREAS**, the Board of Trustees desires to cancel the special election scheduled for November 5, 2019 and reschedule the special election to a later date; and

**WHEREAS**, the Board of Trustees previously adopted Ordinance #02-2016 to allow and license certain retail marijuana establishments and to regulate the time, place, manner and number of retail marijuana establishments as authorized by Amendment 64 and the Colorado Retail Marijuana Code; and

**WHEREAS**, Ordinance #02-2016 provides that only one retail marijuana store shall be allowed in the Town; and

**WHEREAS**, the Board of Trustees is of the opinion that it should refer to the voters at a special election to be held on November 26, 2019 the question of whether additional retail marijuana stores should be allowed within the Town, subject to the regulations set forth herein; and

**WHEREAS**, the Board of Trustees finds that the regulations set forth in this Ordinance are necessary for public health, safety and welfare; and

**WHEREAS**, if a majority of the Town’s registered electors vote at the November 26, 2019 special election in favor of the question referred herein, this Ordinance will take effect on January 1, 2020; and

**WHEREAS**, the Board of Trustees hereby finds, determines, and declares that it has the power to adopt this Ordinance pursuant to: (1) the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S; (2) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (3) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (4) C.R.S. § 31-15-103 (concerning municipal enforcement powers); (5) C.R.S. § 31-15-401 (concerning municipal enforcement powers); and (6) C.R.S. § 31-15-501 (concerning municipal enforcement powers to regulate businesses).

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SEDGWICK, COLORADO:**

**Section 1.** Ordinance #05-2019 is hereby repealed in its entirety. The special election called for November 5, 2019 is hereby cancelled.

**Section 2.** The Board of Trustees hereby calls a special election to be held on Tuesday, November 26, 2019 (the “Election”). Pursuant to C.R.S. § 31-10-908, the special election shall be conducted as a mail ballot election. The Town Clerk is hereby directed to take all such steps as are necessary to conduct the special election as a mail ballot election pursuant to the Municipal Election Code of 1965.

**Section 3.** Pursuant to applicable provisions of the laws of the State of Colorado, the Board of Trustees hereby submits to the registered electors of the Town at the Election the ballot question specified in Section 4 of this Ordinance.

**Section 4.** The following ballot question, certified in substantially the form set forth below, is hereby referred to the registered electors of the Town and shall appear on the ballot of the Election:

BALLOT QUESTION NO. \_\_\_\_\_

SHALL THE TOWN OF SEDGWICK ALLOW UP TO THREE (3) LICENSED RETAIL MARIJUANA STORES TO OPERATE WITHIN THE TOWN, AND SHALL ORDINANCE NO. 10-2019, WHICH IMPOSES CERTAIN REQUIREMENTS AND REGULATIONS FOR SUCH STORES, BE APPROVED?

YES \_\_\_\_\_  
NO \_\_\_\_\_

**Section 5.** If a majority of the registered voters voting at the Election vote “yes” in response to the ballot question specified in Section 4 of this ordinance, the question shall be deemed to have passed and this Ordinance shall be effective January 1, 2020.

**Section 6.** Section 3 of Ordinance #02-2016 is hereby amended by repealing and reenacting subsection E and adopting a new subsection F to read as follows:

3. Types and numbers of licenses.

E. Cap on numbers of licenses issued. There shall be no more than three (3) licensed retail marijuana stores operating within the Town.

F. Issuance of additional licenses.

1. Within fifteen (15) days of the effective date of this Ordinance, the Town Clerk shall publish a notice that the Town is accepting applications for retail marijuana store licenses. Such notice shall include a deadline for the Town’s acceptance of such applications and shall require that applications be submitted in person at Town Hall Monday through Thursday from 8 a.m. to 3 p.m. (holidays excepted).

2. The Town Clerk shall initially review such applications for completeness. In the event the Town Clerk finds that an application is incomplete, the Town Clerk shall notify the applicant in writing of the application deficiencies and allow the applicant to correct such deficiencies within fifteen (15) days from the date of receiving such notice.

3. The Town Clerk shall then forward the applications to the Local Licensing Authority for further processing and review at a public meeting. During such public meeting, the Local Licensing Authority shall then finally determine the sufficiency of the license applications and whether the applicant is eligible to hold a retail marijuana store license pursuant to the Town’s ordinances and State laws and regulations.

4. If after reviewing the license applications for eligibility, the Local Licensing Authority determines it has received more eligible retail marijuana store applications than licenses available pursuant to Section 3.E, the Local Licensing Authority shall establish a date and time for selecting by lot the priority by which applications shall be acted on.

**Section 7.** Section 6.B of Ordinance #02-2016 is hereby amended by repealing and reenacting subsection 3 and adopting a new subsection 14 to read as follows:

6. Application for license.

B. The applicant shall also provide the following information to the Town; to the extent that any of the following information has been included with the applicant's State license application and forwarded to the Town by the State Licensing Authority, the Local Licensing Authority may rely upon the information forwarded from the State without requiring resubmittal of the same materials for the local license application:

[Subsections 1-2 to remain the same]

3. Proof of ownership or legal possession, such as a deed or lease, of the proposed location of the retail marijuana establishment for the term of the proposed license. If the premises will be leased rather than owned by the applicant, the written consent of the owner of the property to the licensing of the premises as a retail marijuana establishment must be submitted to the Town Clerk as part of a complete application. A fully-executed lease may satisfy this requirement if it clearly indicates that the owner knows the leased premises will be used as a retail marijuana establishment. The Town will not accept a letter of intent, real estate contract or lease contingent upon successful licensing or any similar contingent agreement to satisfy the requirement of this section. In addition, if the premises will be leased rather than owned by the applicant, the lease must have a term of at least five (5) years.

[Subsections 4-13 to remain the same]

14. A parking plan approved by the Town that demonstrates that well maintained, clearly marked and adequate parking for customers will be provided.

**Section 8.** Section 6 of Ordinance #02-2016 is hereby amended by repealing and reenacting subsections F and G to read as follows:

6. Application for license.

F. The Town Clerk or his/her designee shall perform an inspection of the proposed premises to ensure compliance with any applicable requirements of this Ordinance. The Town Clerk or his/her designee shall also investigate whether the applicant (or any of its partners, members, managers, officers, stockholders or directors) have ever been denied a marijuana license, had a marijuana license suspended or revoked, or have ever held an interest in another entity that had a marijuana license suspended or revoked. Such investigation may include contacting the Marijuana Enforcement Division or any municipality in which such businesses operated.

G. Except as provided in Section 3.F, applications submitted pursuant to this Section 5 shall be processed in the order in which they are received. The Town Clerk shall refuse any application that is not complete.

**Section 9.** Section 7 of Ordinance #02-2016 is hereby amended by the addition of a new subsection G to read as follows:

7. Persons Prohibited as Licensees and Managers.

G. No retail marijuana store license shall be issued to any person or business that has been licensed to operate another retail marijuana store in the Town pursuant to this Ordinance. For purposes of this subsection G, business shall include any business that has common ownership with an existing retail marijuana store, regardless of percentage of ownership. In addition, any person who has a financial interest in an existing retail marijuana store in the Town shall not be eligible to apply for a retail marijuana store license either individually or as part of a business entity until at least six months has lapsed since the person divested himself or herself of such financial interest. Further, no retail marijuana store license shall be issued to an applicant who is financed, in whole or in part, by any person or entity who has a financial interest in an existing retail marijuana store in the Town.

H. No retail marijuana store license shall be issued to an applicant unless the applicant has at least three (3) years experience operating a licensed marijuana business in Colorado.

**Section 10.** Section 10 of Ordinance #02-2016 is hereby amended by the addition of a new subsection J to read as follows:

10. Licensing procedures.

J. Deadline to open retail marijuana store. After receiving State and local retail marijuana store licenses, the licensee shall have the retail marijuana store operational and open to the public within two (2) months. Upon written request, the Licensing Authority may, for good cause, as determined solely within the Licensing Authority's discretion, grant a licensee one extension not to exceed ninety (90) days.

**Section 11.** If any portion of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

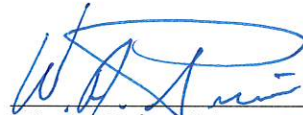
**Section 12.** The repeal or modification of any provision of the Town of Sedgwick ordinances by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and 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 the 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 13.** All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED AND ADOPTED AND ORDERED PUBLISHED BY  
TITLE ONLY this 11<sup>th</sup> day of September, 2019.



TOWN OF SEDGWICK, COLORADO

  
\_\_\_\_\_  
Wayne Price, Mayor

ATTEST:

  
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Heather Moore, Town Clerk