

Ordinance # 2023 - 3

**PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES,
MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING
FACILITIES, AND RETAIL MARIJUANA STORES**

WHEREAS, Colorado voters approved the adoption of Amendment 64 at the general election held on November 6, 2012, thereby adding Article XVIII, Section 16. Personal use and regulation of marijuana to Article XVIII of the Colorado Constitution; and

WHEREAS, Amendment 64 provides for the state licensing and regulation of recreational marijuana establishment, including marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores; and

WHEREAS, Amendment 64 failed in Prowers County on a vote of 2,826 against and 1,953 for the Amendment; and

WHEREAS, paragraph S(f) of Amendment 64 allows a locality, defined to include a county, to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores through the enactment of an ordinance; and

WHEREAS, a majority of voters in unincorporated Prowers County voted against Amendment 64; and

WHEREAS, Amendment 64 conflicts with federal law, as the possession, cultivation, sale and use of marijuana remains illegal under federal criminal statutes; and

WHEREAS, the Board of County Commissioners of Prowers County (the "Board") finds that the licensing and operation of marijuana establishments provided for in Amendment 64, by making marijuana more readily available in the community and facilitating the recreational use of marijuana, presents a threat to the health and education of Prowers County's children, to the safety of the workplace and the traveling public and to the public health, safety and welfare as a whole; and

WHEREAS, the licensing and operation of medical marijuana centers, medical marijuana infused products manufacturing, and optional premises cultivation operations pursuant to the Colorado Medical Marijuana Code shall be unaffected by this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Prowers County, Colorado:

Section 1: Purpose.

The purpose of this Ordinance is to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores through the enactment of an ordinance as contemplated in Amendment 64, paragraph S(f) by finding that Amendment 64 conflicts with federal law. Specifically, pending federal legislation or Executive direction to the contrary notwithstanding, this Board bases its findings on Article 6, Clause 2 of the United States Constitution and the legal principle that where federal law and state law conflict, federal law prevails, as articulated by the U.S. Supreme Court in *Gonzales v. Raich*.

Section 2: Authority.

This Ordinance is authorized pursuant to, inter alia, Article XVIII, Section 16, paragraph S(f) of the Colorado Constitution.

Section 3: Applicability.

This Ordinance shall apply throughout the unincorporated area of Prowers County.

Section 4: Definitions.

Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution.

Section 5: Marijuana Establishments Prohibited.

The licensing and operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores is hereby prohibited.

Section 6: Severability Clause.

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.


Section 7: Publication

The foregoing text is the authentic text of Ordinance No. 2023- 3. The first reading of said Ordinance took place on June 13, 2023 at a regular meeting of the Board of County Commissioners. It was published in full in the Lamar Ledger on 6-29-23. The second reading of this Ordinance took place on 7-11-23 at a regular meeting of the Board of County Commissioners and was adopted on such date.

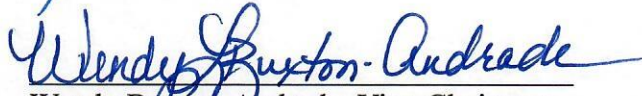
Section 8: Effective Date and Safety Clause

The Board hereby finds, determines and declares that this Ordinance is necessary for the health, welfare and safety of the citizens of Prowers County, Colorado and, as an “emergency ordinance” shall take effect immediately upon the date of Adoption and shall remain in effect until such time as this Ordinance is amended by the Board, or enforcement is temporarily suspended by the Board, Sheriff or the Sheriff’s designee.

ADOPTED this 11th day of July, 2023, by the Board of County Commissioners of Prowers County, Colorado.



Ron Cook, Chairman



Wendy Buxton-Andrade, Vice-Chairman



Thomas Grasmick, Commissioner

ATTEST:



Jana Coen, County Clerk

