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Debra A Green
Park County Clerk

PARK COUNTY, COLORADO

Ordinance No. 12-02

AN ORDINANCE OF PARK COUNTY, COLORADO, REGULATING THE GROWING OF MEDICAL MARIJUANA IN RESIDENTIAL STRUCTURES.

WHEREAS, Park County, Colorado possesses the authority pursuant to C.R.S. § 30-11-101(2) to “adopt and enforce ordinances and resolutions regarding health, safety and welfare issues;” and

WHEREAS, the Colorado Medical Marijuana Code, C.R.S. §§12-43.3-101 *et seq.*, recognizes that local governments such as Park County retain authority to regulate the cultivation of medical marijuana; and

WHEREAS, the Board of County Commissioners of the County of Park has determined that the adoption of regulations governing medical marijuana cultivation is necessary and desirable for the health, safety and welfare of the citizens of Park County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PARK COUNTY, THAT:

Section 1. Purpose. This Ordinance is intended to apply to the growing of medical marijuana in all residential structures in any zone district whether such growing is done by patients for their own use, or by primary caregivers.

Section 2. Growing of Medical Marijuana in Residential Structures. A primary caregiver for purposes of this Ordinance and consistent with Article XVIII, Section 14(1)(f) of the Colorado Constitution is defined as a natural person, other than the patient and the patient’s physician, who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition. In addition to other activities conducted on behalf of the patient, a primary caregiver, a patient or a group of patients cultivating marijuana plants for their own use may cultivate, possess, produce, use or transport marijuana or paraphernalia to administer marijuana for medicinal purposes, subject to the following.

(a) Such cultivation, production, or possession of marijuana plants must be in full compliance with all applicable provisions of Article XVIII, section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, C.R.S. §§12-43.3-101 *et seq.*, and the Medical Marijuana Program, C.R.S. §25-1.5-106.

(b) Such marijuana plants are cultivated, produced, or possessed only within a licensed patient’s or registered caregiver’s primary residence, as defined by subsection (i) below, or in an accessory structure located on the same lot as such primary residence.



(c) The cultivation, production, or possession of such marijuana plants must not be perceptible from the exterior of the primary residence, including but not limited to:

- (1) common visual observation, including any form of signage;
- (2) unusual odors, smells, fragrances, or other olfactory stimulus;
- (3) fugitive light, glare, or brightness that unreasonably disturbs the repose of another; and
- (4) undue vehicular or foot traffic, including excess parking within the residential zone.

(d) Such marijuana plants shall not be grown or processed in the common areas of a multi-family or attached residential development.

(e) Such cultivation, production, or possession of marijuana plants shall be limited to the following space limitations within a primary residence or accessory structure:

(1) Within a single-family dwelling unit (Group R-3 as defined by the International Building Code): A secure, defined, contiguous 150 square foot area within the primary residence or accessory structure of the licensed patient or registered caregiver.

(2) Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code): A secure, defined, contiguous 100 square foot area within the primary residence or accessory structure of the patient or registered caregiver.

(f) Such cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted Park County building regulations, and other applicable regulations of the State of Colorado, the County of Park, and any fire protection district having jurisdiction, as the same may be amended from time to time.

(g) Such cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted water and sewer regulations promulgated by the County or any special district having jurisdiction.

(h) Such cultivation, production, or possession of marijuana plants shall be considered a "minor home occupation" pursuant to Section 4-200 of the Park County Land Use Regulations, or any successor or amended regulation, as the same may be applicable to such use, except that in the case of a conflict between this Ordinance and the Land Use Regulations, the provisions of this Ordinance shall control.

(i) For purposes of this ordinance, "primary residence" means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber,



preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one primary residence. A primary residence shall not include accessory buildings.

(j) For purposes of this ordinance, "a secure" area means an area within the primary residence or accessory structure accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals, or anyone not licensed and authorized to possess medical marijuana.

(k) The cultivation, production, or possession of marijuana plants by a primary caregiver in a residential structure pursuant to this Ordinance is and shall be deemed consent by the primary caregiver upon reasonable notice for the County and/or any fire protection district having jurisdiction to inspect the premises at reasonable times to assure compliance with the provisions of this Ordinance.

Section 3. Registration of Primary Caregivers.

(a) Any primary caregiver cultivating marijuana in a residential structure shall provide to the Park County Development Services Coordinator or his/her designee a copy of such primary caregiver's registration with the state medical marijuana licensing authority required by C.R.S. § 25-1.5-106.

(b) Upon receipt of such state registration, the Development Services Department shall issue a Park County Primary Caregiver Permit to such primary caregiver. Primary Caregiver Permits shall be for a term of one calendar year, shall be renewable upon compliance with all the provisions of this Ordinance and shall require an annual permitting fee of twenty-five dollars (\$25.00).

(c) Consistent with C.R.S. § 25-1.5-106(7)(b), two or more primary caregivers shall not join together for the purpose of cultivating medical marijuana.

Section 4. Penalties. Pursuant to C.R.S. § 30-15-402, any person who violates any of the provisions of this Ordinance commits a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00). Each day such violation continues shall be deemed a separate offense.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of County Commissioners hereby declares that it would have passed this ordinance, and each section, clause or phrase hereof, irrespective of the fact that any one or more of the sections, sentences, clauses and phrases be declared unconstitutional.

Section 6. Effective date. Pursuant to C.R.S. § 30-15-405, this ordinance shall be published in full following its initial introduction and reading and published by title only following final adoption by the Board of County Commissioners and shall be effective thirty (30) days following such publication by title only.

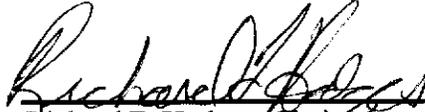


SIGNED this 19 day of April, 2011.



ATTEST

**PARK COUNTY BOARD OF
COUNTY COMMISSIONERS**


Richard F. Hodges, Chairman


County Clerk

I certify that this ordinance was introduced and read at the April 19, 2012 public hearing of the Board of County Commissioners and published in *The Flume* on April 26, 2012.


County Clerk

