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Debra A Green
Park County Clerk

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PARK COUNTY, COLORADO

Ordinance No. 16-03

AN ORDINANCE OF PARK COUNTY, COLORADO, REGULATING THE LICENSING AND OPERATIONS OF MEDICAL MARIJUANA ESTABLISHMENTS.

Section 1. Findings.

The Board of County Commissioners of the County of Park (the "Board") makes the following legislative findings:

(a) The Board finds and determines that in November of 2000, the voters of the State of Colorado approved the medical use of marijuana for persons suffering from debilitating medical conditions, which is codified at Article XVIII, Section 14 of the Colorado Constitution.

(b) The Board finds and determines that in 2010, the Colorado Legislature adopted §12A3.3-101, et seq., C.R.S., known and cited as the Colorado Medical Marijuana Code, which became effective July 1, 2010.

(c) The Board finds and determines that the Colorado Medical Marijuana Code grants licensing authority for medical marijuana businesses to local governments.

(d) The Board finds and determines that the Colorado Medical Marijuana Code now provides a statutory framework for the regulation of medical marijuana establishments.

(e) The Board finds and determines that, by requiring that medical marijuana businesses be operated in a manner that minimizes potential health and safety risks, it mitigates the negative impacts that medical marijuana establishments might have on surrounding properties and persons.

(f) The Board finds and determines that through this Ordinance it intends to establish a nondiscriminatory mechanism by which the County can control, through appropriate regulation, the location and operation of medical marijuana establishments within the County similar to the manner in which liquor licensed establishments are currently regulated at the state and local level.

Section 2. Purpose.

The purpose of this Ordinance is to implement the provisions of the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq.*, which authorizes the licensing and regulation of medical marijuana businesses and affords local government the option to determine whether or not to allow medical marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law.

Section 3. Incorporation of state law.

The provisions of the Colorado Medical Marijuana Code, and any rules and regulations promulgated thereunder, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this Ordinance.

Section 4. Authority.

The Board of County Commissioners hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to:

(a) Article XVIII, Section 16 of the Colorado Constitution;

(b) The Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq.*;

(c) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;

(d) Article 11 of Title 30, C.R.S. (concerning county powers and functions);

(e) Article 15 of Title 30, C.R.S. (concerning county police powers);

(f) Article 28 of Title 30, C.R.S. (concerning county planning and building regulations.

Section 5. Definitions.

(a) For purposes of this Ordinance, the following terms shall have the following meanings:

Applicant means a person twenty-one (21) years of age or older who has submitted an application for a license or renewal of a license issued pursuant to this Ordinance. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers and directors of such entity.

Colorado Medical Marijuana Code means Article 43.3 of Title 12, Colorado Revised Statutes.

Consumer means a person eighteen (18) years of age or older who purchases medical marijuana or medical marijuana products for personal use by a person eighteen (18) years of age or older, but not for resale to others.

County means Park County, Colorado.

Cultivation or *cultivate* means the process by which a person grows a marijuana plant.

Dual operation means a business that operates as both a licensed retail marijuana business and a licensed medical marijuana establishment in accordance with Section 12 of this Ordinance.

Industrial Hemp means the plant of the genus cannabis and any part of such plant, whether growing or not, with a Delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

Good cause (for the purpose of refusing or denying a license renewal under this Ordinance) means: (1) the licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Ordinance, any rule and regulation promulgated pursuant to this Ordinance, or any other applicable County regulation, state statute or state regulation; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued, or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or (3) the

licensee's medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturer, or testing facility has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturer, or testing facility is located. Evidence to support such a finding can include: (i) a continuing pattern of offenses against the public peace; (ii) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturer, or testing facility or in the immediate area surrounding the medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturer, or testing facility; or (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturer, or testing facility.

License means a document issued by the County officially authorizing an applicant to operate a medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturer, or testing facility pursuant to this Ordinance.

Licensee means the person to whom a license has been issued pursuant to this Ordinance.

Licensed premises means the premises specified in an application for a license under this Ordinance, which is owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell medical marijuana or medical marijuana products in accordance with state and local law.

Local licensing authority means the Board of County Commissioners of the County of Park.

Marijuana means all parts of the plant of the genus cannabis 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, including marijuana concentrate. *Marijuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Medical Marijuana means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

Medical marijuana business means a medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturer, or testing facility as defined in the Colorado Medical Marijuana Code.

Medical Marijuana Center means a person that is licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402, C.R.S., and that sells Medical Marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver as defined in the Colorado Medical Marijuana Code.

Medical Marijuana Concentrate means a specific subset of Medical Marijuana that was produced by extracting cannabinoids from Medical Marijuana. Categories of Medical Marijuana Concentrate include Water-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate and Solvent-Based Medical Marijuana Concentrate as defined in the Colorado Medical Marijuana Code.

Medical Marijuana-Infused Product means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the "Colorado Food and Drug Act," part 4 of Article 5 of Title 25, C.R.S.

Medical Marijuana-Infused Products Manufacturer means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

Medical Marijuana Testing Facility means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Medical Marijuana, Medical Marijuana-Infused Products, and Medical Marijuana Concentrate for contaminants and potency as defined in the Colorado Medical Marijuana Code.

Optional Premises Cultivation Operation means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

Person means a natural person, partnership, association, company, corporation, limited liability company or organization.

Retail Code means the Colorado Retail Marijuana Code, found at sections 12-43.4-101 et. seq , C.R.S.

(b) In addition to the definitions provided in Subsection (a) hereof, other terms used in this Ordinance shall have the meaning ascribed to them in Article XVIII, § 16 of the Colorado Constitution, or the Colorado Medical Marijuana Code, and such definitions are hereby incorporated into this Ordinance by reference.

Section 6. License required for Operation of a Medical Marijuana Establishment.

The County hereby authorizes the operation of medical marijuana establishments in the County as set forth in this Ordinance. It shall be unlawful for any person to establish or operate a medical marijuana establishment in the County without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Ordinance.

Section 7. Requirements of application for license; payment of application fee; denial of license.

(a) A person seeking a license or renewal of a license issued pursuant to this Ordinance shall submit an application to the local licensing authority on forms provided by the Planning Department. At the time of application, each applicant shall pay a nonrefundable operating fee to the County in an amount to be determined by the County by separate Resolution to defray the costs incurred by the County for costs including but not limited to inspection, administration, and enforcement of medical marijuana establishments. In addition, the applicant shall present one (1) of the following forms of identification:

(1) an operator's, chauffer's or similar type of driver's license issued by any state within the United States or a U.S. Territory;

(2) an identification card, issued by any state for purpose of proving age using requirements similar to those in C.R.S. §§ 42-2-302 and 42-2-303;

(3) a United States military identification card;

(4) a valid passport; or

(5) an enrollment card issued by the government authority of a federally recognized tribe located in the state of Colorado.

(b) The applicant shall also provide the following information on a form approved by, or acceptable to the County, which information shall be required for the applicant, all employees, including the proposed manager of the medical marijuana establishment, and all persons having a ten percent (10%) or more financial interest in the medical marijuana establishment that is the subject of the application or, if the applicant is an entity, having a ten percent (10%) or more financial interest in the entity:

(1) name, address, date of birth;

(2) a complete set of fingerprints;

(3) suitable evidence of proof of lawful presence, residence, if applicable, and good character and reputation that the County may request;

(4) an acknowledgment and consent that the County will conduct a background investigation, including a criminal history check, and that the County will be entitled to full and complete disclosure of all financial records of the medical marijuana establishment, including records of deposit, withdrawals, balances and loans;

(5) if the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;

(6) the name and complete address of the proposed medical marijuana establishment, including the facilities to be used in furtherance of such business, whether or not such facilities are, or are planned to be, within the territorial limits of the County;

(7) if the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana establishment;

(8) a copy of any deed, lease, contract or other document reflecting the right of the applicant to possess the proposed licensed premises along with the conditions of occupancy of the premises;

(9) evidence of a valid sales tax license for the business if such a license is required by state or local law;

(10) if the medical marijuana establishment will be providing medical marijuana products in edible form, evidence of at a minimum a pending application for any food establishment license or permit that may be required by the State;

(11) a health and sanitation plan demonstrating compliance with the Colorado Permanent Medical Marijuana Rules, 1 CCR 212-2.

(12) a "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the marijuana store and cultivation facility, loading zones and all areas in which medical marijuana will be stored, grown or dispensed;

(13) a comprehensive business operation plan for the medical marijuana establishment which shall contain, without limitation, the following:

a. a security plan meeting the requirements of Section 24 of this Ordinance, which shall include a general description of the security system(s) and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.

b. a description by category of all products to be sold,

c. a signage plan that is in compliance with all applicable requirements of this Ordinance and other applicable provisions of the County's Building Codes and Land Use Regulations, as well as the Colorado Medical Marijuana Code and all rules and regulations promulgated thereunder;

d. a list of Material Safety Data Sheets for all nutrients, pesticides, and other chemicals proposed for use in the facility; and

e. a plan for the disposal of marijuana and related byproducts meeting the requirements of Section 30 of this Ordinance and the Permanent Medical Marijuana Rules, 1 CCR 212-2.

(13) for medical marijuana infused products license applications, a copy of any and all contracts between the applicant and any medical marijuana cultivation operation from which it will be purchasing medical marijuana for use in the production of medical marijuana products; and

(14) any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

(c) The applicant shall verify the truthfulness of the information required by this Section by the applicant's signature on the application.

(d) A license issued pursuant to this Ordinance does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana establishment, including, without limitation, a license from the state licensing authority and any development approvals or building permits required by this Ordinance and any other ordinances, resolutions, laws and regulations of the County.

(e) Within thirty (30) days following acceptance of an application by the local licensing authority, the Director of Development Services, or designee, shall administratively review the application and determine whether the application complies with the application content requirements. A determination that an

application is complete shall not preclude the County from later finding that the application must be supplemented.

(f) Upon receipt of a completed application, the local licensing authority shall circulate the application to all affected departments of the County and, in the County's discretion, other governmental entities having jurisdiction, to determine whether the application is in full compliance with all applicable laws, rules and regulations.

(g) Upon determining that an application for a new license is complete, the local licensing authority shall schedule a public hearing on the application to be held not less than thirty (30) days after the date of the completed application. The local licensing authority shall cause a notice of such hearing to be: (1) published in the official county newspaper or in a newspaper of general circulation within the County not less than fourteen (14) days prior to the hearing; (2) mailed, via United States Mail, or other comparable method of service including hand-delivery, to the owners of adjacent properties not less than fourteen (14) days prior to the hearing; and (3) by posting a sign on the proposed licensed premises in a location that is reasonable determined to be conspicuous and visible to members of the public not less than fourteen (14) days prior to the hearing. Such posted notice shall, at a minimum, include a sign of suitable material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters of not less than one (1) inch in height. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application.

(h) Within thirty (30) days following the determination that an application is complete the local licensing authority shall designate the neighborhood affected by the application. The applicant shall, at its expense, canvass the neighborhood regarding the desires of the adult inhabitants thereof. Such canvass shall be conducted by a firm or firms to be designated and approved by the Board of County Commissioners using petition or canvassing forms prescribed or approved by the County. The canvass results, in written form, shall be submitted to the Board of County Commissioners no later than ten (10) days prior to the public hearing on the application.

(i) Not less than five (5) days prior to the date of the public hearing for a new license, the local licensing authority may cause its preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The local licensing authority shall deny any application that does not meet the requirements of this Ordinance. The local licensing authority shall also deny any application that contains any false, misleading or incomplete information. The local licensing authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction.

(j) Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this Ordinance specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants of the neighborhood under consideration, the number, type and availability of medical marijuana establishments located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. The local licensing authority shall issue its decision within one hundred eighty (180) days of the receipt of the complete license application. Such decision shall be by Resolution, and shall state the reasons for the decision. The Resolution shall be sent via regular mail to the state licensing authority and the applicant at the address shown in the application.

(k) The County shall, prior to issuance of the license, perform an inspection of the proposed licensed premises, to determine compliance with any applicable requirements of this Ordinance or other applicable requirements of the County.

Section 8. Medical Marijuana Centers.

(a) A licensed medical marijuana centers may sell medical marijuana or medical marijuana products to patients eighteen (18) years of age or older in the following quantities:

(1) Up to two (2) ounces of medical marijuana or its equivalent in medical marijuana products during a sales transaction to a patient unless that patient has designated the Medical Marijuana Center as its primary center and supplied it with documentation from the patient's physician that allows the patient more than two ounces of Medical Marijuana or its equivalent in Marijuana-Infused Product. A Medical Marijuana Center is prohibited from selling more than two ounces of Medical Marijuana or its equivalent in Marijuana-Infused Product to any patient who has not registered that Medical Marijuana Center as its primary center.

(b) The following forms of identification may be accepted for purposes of determining Colorado residency: a valid state of Colorado Driver's license; a valid state of Colorado identification card; or any other valid government-issued picture identification that demonstrates that the holder of the identification is a Colorado resident. A Colorado medical marijuana card is also required to purchase products from a Medical Marijuana Center.

(c) The medical marijuana offered for sale and distribution must be packaged and labeled in accordance with state law.

(d) Medical marijuana store licensees are prohibited from selling, soliciting or receiving orders for medical marijuana or medical marijuana products over the internet.

(e) Medical marijuana store licensees are prohibited from selling or giving away any consumable product that is not a medical marijuana product, including but not limited to cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not medical marijuana products.

(f) The number of medical marijuana store licenses active and in effect at any given time shall not exceed eight (8).

Section 9. Medical marijuana products manufacturer facilities.

(a) Licensed medical marijuana products manufacturers may manufacture, prepare, package and label medical marijuana products, whether in concentrated form or that are comprised of marijuana and other ingredients intended for use or consumption. Licensed medical marijuana products manufacturers may sell medical marijuana products of its own manufacture to persons holding a medical marijuana store license or other licensed medical marijuana products manufacturers. Licensed medical marijuana products manufacturers are prohibited from selling medical marijuana or medical marijuana products to any consumer.

(b) Licensed medical marijuana products manufacturers are prohibited from manufacturing, preparing, packaging or labeling medical marijuana products in a location that is operated as a medical food establishment or a wholesale food registrant.

(c) All medical marijuana products shall be sealed and conspicuously labeled in compliance with state law.

Section 10. Optional premises cultivation facilities.

(a) Licensed optional premises cultivation facilities may propagate, cultivate, harvest, prepare, cure, package and label medical marijuana, whether in concentrated form or otherwise. Licensed medical marijuana cultivation facilities are prohibited from selling medical marijuana to any consumer.

(b) All medical marijuana products shall be sealed and conspicuously labeled in compliance with state law.

Section 11. Medical marijuana testing facilities.

(a) Licensed medical marijuana testing facilities may accept samples of medical marijuana or medical marijuana products from medical marijuana establishments for testing and research purposes only. Licensed medical marijuana testing facilities are permitted to develop medical marijuana products; however, medical marijuana testing facilities may not engage in the manufacturing of medical marijuana. Licensed medical marijuana testing facility licensees are further prohibited from selling, distributing or transferring medical marijuana or medical marijuana products.

(b) A person who has an interest in a medical marijuana testing facility is prohibited from holding any interest in a medical marijuana business licensed pursuant to the Colorado Medical Marijuana Code or an interest in any other medical marijuana establishment.

Section 12. Dual operations.

(a) A licensed medical marijuana business may share its existing licensed premises with a medical marijuana establishment as follows:

(1) A medical marijuana optional premises cultivation operation and a medical marijuana cultivation facility may share their licensed premises in order to operate a dual cultivation business operation.

(2) A medical marijuana-infused products manufacturing business licensee may apply to hold a medical marijuana product manufacturing facility license and operate a dual manufacturing business at a shared licensed premises.

(3) A retail marijuana center that does not authorize patients under the age of twenty-one (21) years to be on the premises may hold a medical marijuana store license and operate a dual operation medical business at a shared licensed premises.

(b) Licensees operating dual cultivation operations must maintain either physical or virtual separation of the facilities, marijuana plants and marijuana inventory. Record keeping for the business operations and labeling of products must allow the County to clearly distinguish the inventories and business transactions of medical marijuana from medical marijuana.

(c) Licensees operating dual product manufacturing operations shall maintain either physical or virtual separation of the facilities, product ingredients, product manufacturing and final product inventory. Record keeping for the business operations and labeling of products must allow the County to clearly

distinguish the inventories and business transactions of medical marijuana-infused products from medical marijuana products.

(d) Provided that a medical marijuana center licensee posts signage that clearly conveys that persons under the age of twenty-one (21) years may not enter, such licensee may share the same entrances and exits to the shared premises with the medical marijuana store and medical and medical marijuana may be separately displayed on the same floor. Record keeping for the business operations of both businesses must allow the County to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from medical marijuana and medical marijuana products.

(e) Licensees who operate a medical marijuana business and a medical marijuana establishment dual operation shall maintain separate and distinct inventory tracking processes for medical and medical marijuana inventories. The inventories must be clearly tagged or labeled so that the products can be reconciled to a particular medical or medical business.

Section 13. Location criteria.

Prior to the issuance of a license for a medical marijuana establishment, the local licensing authority shall determine whether the proposed location of the medical marijuana establishment complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a license.

(a) No medical marijuana establishment shall be located at the following locations:

(1) within 500 feet of a licensed child care facility;

(2) within 500 feet of any educational institution or school, college or university, either public or private;

(3) within 500 feet of any public park, public pool, or public or private recreational facility;

(4) within 1000 feet of any other marijuana business (medical and retail marijuana stores only);

(5) within 500 feet of any halfway house or correction facility;

(6) within 1000 feet of any dual operation marijuana business (medical and retail marijuana stores only);

(7) within any building or structure that contains a residential unit; or

(8) upon any County owned property;

(9) within one (1) mile of any municipal boundary at the time of application submittal unless the governing body of such municipality waives, in writing, any objection to the location of the proposed medical marijuana establishment.

(b) The distances described in subsection (a) shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the unit within a building or structure housing the medical marijuana establishment using a route of direct pedestrian access.

(c) Each medical marijuana establishment shall be operated from a permanent location. No medical marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.

(d) The suitability of a location for a medical marijuana establishment shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a medical marijuana establishment under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect.

Section 14. Persons prohibited as licensees and employees.

(a) No license shall be issued to, held by, or renewed by any of the following:

(1) Any person until all applicable fees have been paid;

(2) Any person who is not of good moral character satisfactory to the local licensing authority;

(3) Any corporation, any of whose officers, directors or stockholders are not of good moral character satisfactory to the local licensing authority;

(4) Any partnership, association or company, any of whose officers are not of good moral character satisfactory to the local licensing authority;

(5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the local licensing authority;

(6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees;

(7) Any natural person under twenty-one (21) years of age;

(8) Any person who fails to file any tax return with a taxing agency, stay out of default on a government-issued student loan, pay child support, or remedy outstanding delinquent taxes;

(9) Any person for a licensed location that is also a medical food establishment or wholesale food registrant;

(10) Any person who has not been a resident of Colorado for at least two (2) years prior to the date of the application;

(11) Any person who has discharged a sentence for a felony conviction within the past five (5) years;

(12) Any person who, at any time, has been convicted of a felony for drug possession,

distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license;

(13) Any person whose license for a medical or medical marijuana business in another town, city, county, city and county or state has been revoked;

(14) Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity do not meet the criteria set forth above;

(15) Any person who employs another person at a medical marijuana establishment who has not submitted fingerprints for a criminal record history check or whose criminal record history check reveals the employee is ineligible;

(16) Any person who has made a false, misleading or fraudulent statement on his or her application; or

(17) Any person who has pending Land Use Regulation violations.

(b) No licensee shall employ or contract with any person to perform work functions directly related to the possession, cultivation, dispensing, selling, serving or delivering of marijuana for a licensed medical marijuana establishment, any of the following:

(1) Any person who is not of good moral character satisfactory to the local licensing authority;

(2) Any person who is under twenty-one (21) years of age;

(3) Any person who is not currently a resident of Colorado;

(4) Any person who has discharged a sentence for a felony conviction within the past five (5) years;

(5) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license; or

(6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees.

(c) Jurisdiction.

(1) In investigating the qualifications described herein, the local licensing authority may have access to law enforcement action and criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those

items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(2) As used in Subsection (c)(1) of this Section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or sub-unit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

Section 15. Issuance of license; duration; renewal.

(a) Upon issuance of a license, the County shall provide the licensee with one (1) original of such license for each medical marijuana establishment to be operated by the licensee in the County. Each such copy shall show the name and address of the licensee, the type of facility or establishment for which it is issued, and the address of the facility at which it is to be displayed.

(b) Each license issued pursuant to this Ordinance shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Ordinance. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. Application for renewal shall be made on prescribed forms and shall be accompanied by a non-refundable renewal fee established by Resolution. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a non-refundable late application fee in an amount established by Resolution for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal. No medical marijuana store license shall be renewed where the licensee has not commenced operation of the licensed facility during the initial term of the license.

(c) Notwithstanding state law to the contrary, a licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this Ordinance. The County shall not accept renewal applications after the expiration date of such license.

(d) A licensee whose license expires shall not cultivate, process, manufacture, distribute or sell medical marijuana or medical marijuana products until all necessary new licenses have been obtained.

Section 16. Authority to impose conditions on license.

The local licensing authority shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.

Section 17. Licensing fee.

Upon issuance of a license or any renewal of a license, the licensee shall pay to the County a fee in an amount determined by the County by separate Resolution to be sufficient to cover the cost of processing the application together with the annual cost of inspections conducted pursuant to Section 34 of this Ordinance by the Park County Sheriff's Office, and such other departments of the County as may be designated by the local

licensing authority, for the purpose of determining compliance with the provisions of this Ordinance and any other applicable state or local laws or regulations.

Section 18. Display of license.

(a) Each license shall be limited to use at the premises specified in the application for such license.

(b) Each license shall be continuously posted in a conspicuous location at the medical marijuana establishment.

Section 19. Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person having a criminal history as described in Subsections 14(a)(11) and (12) of this Ordinance.

Section 20. Change in manager; change in financial interest.

(a) Each licensee shall report any change in managers to the local licensing authority within thirty (30) days after the change. Such report shall include all information required for managers under Section 19 of this Ordinance.

(b) Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the medical marijuana establishment that is the subject of the license. Such report must be filed with the local licensing authority within thirty (30) days after any such transfer or change. A report shall be required for any transfer of the capital stock of a public corporation totaling more than ten percent (10%) of the stock in any one (1) year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the medical marijuana establishment that is the subject of a license shall be a person having a criminal history as described in Subsections 14(a)(11) and (12) of this Ordinance.

(c) Whenever any licensee causes a change in its officers, directors or manager, and a license addendum is required to be filed with the State, an application fee in an amount established by Resolution shall be paid to the County at the time of filing the addendum with the County.

Section 21. Transfer of ownership; change of location.

(a) Transfer of ownership. For a transfer of ownership, a license holder shall apply to the state and local licensing authority on forms provided by the state licensing authority. In considering whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of this Ordinance, the Colorado Medical Marijuana Code, and the regulations promulgated in conformance therewith. The local licensing authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the licensed medical marijuana establishment premises for a period of at least ten (10) days prior to such hearing, and the applicant has been provided at least ten (10) days prior notice of such hearing.

(b) Change of location. A licensee may apply for a change of location within Park County. Any such application shall be subject to approval by the Board of County Commissioners following a public hearing at which the Board shall consider the criteria set forth in Section 7(j) above. Any relocation of a medical marijuana establishment from outside Park County to a location within Park County shall be treated as an application for a new license.

Section 22. Hours of operation.

A medical marijuana store may open no earlier than 9:00 a.m. and shall close no later than 7:00 p.m. the same day. A medical marijuana store may be open seven (7) days a week.

Section 23. Signage and advertising.

All signage and advertising for a medical marijuana establishment shall comply with all applicable state laws as well as the provisions of this Ordinance and other applicable provisions of the Park County Land Use Regulations.

Section 24. Security requirements.

(a) Security measures at medical marijuana establishments shall comply with all requirements of the State but shall include at a minimum the following:

(1) security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;

(2) robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;

(3) a locking safe permanently affixed to the premises that is suitable for storage of all marijuana and cash stored overnight on the licensed premises;

(4) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Ordinance and other applicable provisions of the Park Municipal Code; and

(5) deadbolt locks on all exterior doors.

(b) All security recordings shall be preserved for at least seventy-two (72) hours by the licensee and be made available to the Park County Sheriff's Office upon request for inspection.

(c) A lighting plan, including security-related and other lighting shall be submitted and approved before commencement of operation. All lighting shall conform to the Park County Land Use Regulations, and no fugitive light shall be emitted from medical marijuana establishments except as specifically approved through license conditions.

Section 25. Required notices.

There shall be posted in a conspicuous location in each medical marijuana establishment, a legible sign containing the following warnings:

(a) that the use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;

(b) that loitering in or around a medical marijuana establishment is prohibited by law;

(c) that possession and distribution of marijuana is a violation of federal law; and

(d) that no one under the age of twenty one (21) years for dual operation facilities and eighteen (18) years for medical center is permitted on the premises.

Section 26. Cultivation, growing and processing by licensees.

(a) The cultivation, growing, processing, display or storage of marijuana plants by a licensee shall be conducted only at the cultivation facility shown on the licensee's application.

(b) Access to any cultivation facility that is located in the same building as a medical marijuana store or a medical marijuana products manufacturing operation shall be secured so as to render the cultivation facility inaccessible to any unauthorized persons during all hours of operation of the business facility. All such cultivation facilities shall be independently ventilated so as to prevent odors, debris and dust from entering the medical marijuana store.

Section 27. On-site consumption of marijuana.

The use, consumption, ingestion or inhalation of medical marijuana or medical marijuana products on or within the premises of a medical marijuana establishment is prohibited.

Section 28. Prohibited acts.

It shall be unlawful for any licensee to:

(a) employ any person at a medical marijuana establishment who is not at least twenty-one (21) years of age or who has a criminal history as described in Subsections 14 (a)(11) and (12);

(b) purchase or otherwise obtain medical marijuana from any source that is not properly authorized under state and local law to sell or dispense medical marijuana;

(c) dispense medical marijuana in or upon its cultivation facility;

(d) permit the sale or consumption of alcohol beverages on the licensed premises;

(e) post or allow to be posted signs or other advertising materials identifying cultivation facilities as being associated with the use or cultivation of marijuana; or

(f) dispense marijuana to a person that is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana.

Section 29. Visibility of activities; paraphernalia; control of emissions.

(a) All activities of medical marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. For purposes of this section, greenhouse cultivation shall be deemed to occur indoors.

(b) Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a medical marijuana store. No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana establishment so as to be visible from outside the licensed premises.

(c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Section 30. Disposal of marijuana byproducts.

The disposal of marijuana, marijuana products, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

Section 31. Sales and business license required.

At all times while a permit is in effect the licensee shall possess all required state and local sales tax and/or business licenses.

Section 32. Sales, excise and property tax.

Each licensee shall collect and remit all applicable sales tax on all medical marijuana, medical marijuana products, paraphernalia and other tangible personal property sold by the licensee and shall at all times be current on all real and personal property taxes. Excise tax, in an amount prescribed through separate Resolution, shall be promptly paid as described therein.

Section 33. Required books and records.

(a) Every licensee shall maintain an accurate and complete record of all medical marijuana purchased, sold or dispensed by the medical marijuana store in any usable form. Such record shall include the following:

(1) the identity of the seller and purchaser involved in each transaction;

(2) the total quantity of, and amount paid for, the medical marijuana and/or the medical marijuana product(s); and

(3) the date, time and location of each transaction.

(b) All transactions shall be kept in a numerical register in the order in which they occur.

(c) All records required to be kept under this Ordinance must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three (3) years after the date of the transaction. Information inspected by the Park County Sheriff's Office or other County departments pursuant to this Ordinance shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

Section 34. Inspection of licensed premises.

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Park County Sheriff's Office and all other County departments designated by the local licensing authority for the purpose of investigating and determining compliance with the provisions of this Ordinance and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

Section 35. Nonrenewal, suspension or revocation of license.

(a) The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's state license. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.

(b) The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least one year.

Section 36. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Ordinance, any person, including, but not limited to, any licensee, manager or employee of a medical marijuana establishment, or any customer of such business, who violates any of the provisions of this Ordinance, shall be subject to the following penalties:

(a) It shall be a petty offense for any person to violate any provision of this Ordinance. Any person convicted of having violated any provision of this Ordinance shall be punished as prescribed by state law.

(b) The operation of a medical marijuana establishment without a valid license issued pursuant to this Ordinance may be enjoined by the County in an action brought in a court of competent jurisdiction.

(c) The operation of a medical marijuana establishment without a valid license issued pursuant to this Ordinance is also specifically determined to be a public nuisance.

Section 37. No County liability; indemnification.

(a) By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the County, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marijuana establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Ordinance, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the County, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana establishment that is the subject of the license.

Section 38. No waiver of governmental immunity.

In adopting this Ordinance, the Board of County Commissioners is relying on and does not waive or intend to waive by any provision of this Ordinance, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the County, its officers or its employees.

Section 39. Other laws remain applicable.

(a) To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana or medical marijuana products, the additional or stricter regulation shall control the establishment or operation of any medical marijuana establishment in the County. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

(c) If the State prohibits the sale or other distribution of marijuana through medical marijuana stores, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(d) The issuance of any license pursuant to this Ordinance shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

Section 40. Rules and regulations.

The County Administration Officer shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations, and file the same with the County Clerk, as may be necessary for the proper administration of this Ordinance.

Section 41. 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 25th day of August, 2016.

PARK COUNTY BOARD OF COUNTY COMMISSIONERS

Mike Brazell, Chairman

ATTEST:

County Clerk

I certify that this ordinance was introduced and read at the 7-28, 2016, public hearing of the Board of County Commissioners and published in *The Flume* on 8-5, 2016.

County Clerk