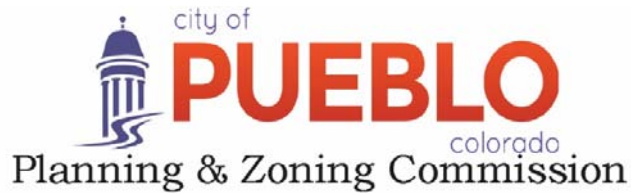


Brandice Eslinger  
Chair

Brian Lucas  
Vice Chair

Bob Schilling  
City Council Representative



Mike Castellucci

Jean Latka

Yvonne Lujan-Slak

David Webb

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## TEXT AMENDMENT TA-16-01

**TO:** City of Pueblo Planning and Zoning Commission

**FROM:** Kelly Grisham, Senior Planner

**THROUGH:** Steven Meier, Director of Planning and Community Development

**DATE:** September 14, 2016

**SUBJECT:** An Ordinance amending 17-4-51 of Chapter 4, 17-10-07 of Chapter 10, and 17-15-1, 17-15-2, 17-15-3, 17-15-5, 17-15-6, 17-15-8 AND 17-15-9 of Chapter 15 of Title XVII of the Pueblo Municipal Code relating to medical and retail marijuana cultivation and product manufacturing facilities and providing penalties for violation thereof

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### **Background:**

The current medical marijuana Zoning Ordinance was adopted in 2010 which created the zone districts where medical marijuana was allowed and provided performance standards for the use. The current zoning for medical marijuana only permitted cultivation facilities if they were contiguous to a medical marijuana center or infused product manufacturing facility due to the requirement of the state that no public notice could be required for medical marijuana cultivation facilities. Since that time, City Council has created the provisions for a Conditional Use Permit. A Conditional Use Permit allows the use in certain zone districts, only upon demonstrated compliance with the specific conditions contained in Section 17-4-51 of the Pueblo Municipal Code (PMC). The conditions created for medical marijuana cultivation and product manufacturing facilities mirror the current, and updated changes, for the retail marijuana facilities, which was adopted in 2014. Specifically, the changes made to the marijuana ordinances are noted and described below:

1. Medical marijuana infused product manufacturing facilities are allowed in the B-P, I-1, I-2 and I-3 Zone Districts as a Conditional Use Permit (rather than only allowed as a Limited Use Permit in the I-3).
2. Medical marijuana optional cultivation facilities are now allowed in the B-P, I-1, I-2 and I-3 Zone Districts as a Conditional Use Permit (rather than only permitted when contiguous to a center or product manufacturing facility).
3. Conditions of approval are created in Section 17-4-51 of the PMC for the medical marijuana optional premises cultivation use and for the medical marijuana infused product manufacturing use.
4. Updated have been made to the conditions of approval for the retail marijuana cultivation, product manufacturing and testing facilities for clarification purposes.
5. The section in the sign code which prohibits the use of signs which are commonly understood to as referring to marijuana is being updated to include the prohibition of signs which are commonly understood to as referring to medical marijuana. Also, this section

- provides an allowance for green cross signs or “64” signs, up to 10 square feet each per licensed location.
6. Section 3 brings the code up to date with the changes made to the requirements for medical marijuana optional premises cultivation and product manufacturing facilities
  7. A subsection has been added which provides the process for issuance of a Conditional Use Permit and for the process of transferring a Conditional Use Permit.

**Attachments:**

- A. Draft Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING 17-4-51 OF CHAPTER 4, 17-10-07 OF CHAPTER 10, AND 17-15-1, 17-15-2, 17-15-3, 17-15-5, 17-15-6, 17-15-8 AND 17-15-9 OF CHAPTER 15 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO MEDICAL AND RETAIL MARIJUANA CULTIVATION AND PRODUCT MANUFACTURING FACILITIES AND PROVIDING PENALTIES FOR VIOLATION THEREOF

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 17-4-51, Chapter 4, Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the amendment of section 17-4-51, to read as follows:

Sec. 17-4-51. Permitted use of land and buildings.

(b) Permitted Uses Table Legend

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f. Conditional Use Permits (C):

A use may be permitted as a conditional use if certain minimum conditions contained in the applicable ordinances have been satisfied as determined by the Administrative Official. The Administrative Official shall have 30 days to complete the review of an application after it has been determined to be complete, except that the Administrative Official shall have 90 days to complete the review of an application for all marijuana facilities after it has been determined to be complete. If the Administrative Official, after reviewing the application, determines one or more of the conditions required for the permit cannot be satisfied, the Applicant may seek approval of a Special Use Permit for the proposed use in accordance with Section 17-5-33 of the Pueblo Municipal Code.

All Conditional Use Permits shall expire one (1) year after issuance. Application and applicable fee for renewal of the Conditional Use Permit must be received 30 days prior to the expiration date of the Permit. Annual review of the Conditional Use Permit shall be required to verify compliance with all requirements of the Permit. Failure to comply with all requirements of the Permit, as well as any zoning violations, may be grounds for denial of the

annual review and may result in revocation of the Conditional Use Permit. The Administrative Official shall have the authority to extend or eliminate the one (1) year expiration for uses that are minor in nature, as determined by the Administrative Official.

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(c) Permitted Uses Table :

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(d) Conditional Uses. In addition to the other requirements, the following conditions shall apply to each of the uses in districts where they are indicated with a "C" in the Land Use Table. The conditions are listed below.

• • •

**(24.1) Medical Marijuana Optional Premises Cultivation**

- a. The facility shall not be located within 1,000 feet of a legally operational school, as determined by direct measurement from the property line of the facility to the closest property line of the school. Establishing a school within the required buffer after the Conditional Use Permit is issued shall not be grounds to suspend, revoke or decline to renew the Permit for such facility provided the Permit and license for the facility remains lawfully in effect. The Zoning Board of Appeals shall not have the authority to grant a variance from the 1,000 school buffer.**
- b. The facility shall demonstrate compliance with all ordinances, including but not limited to drainage and detention, parking, landscaping, sewer, and public improvements.**
- c. All grow operations shall be conducted in an enclosed building or greenhouse.**
- d. Outdoor grow operations shall be prohibited.**
- e. Grow operations shall not be located in any structure containing a residential use.**
- f. Notwithstanding anything to the contrary, all facilities shall provide, at a minimum, the following improvements:**
  - 1) Install landscaping according to Section 17-4-7 of this Title, regardless of the applicability stated in Section 17-4-7(b)(2).**
  - 2) Comply with Section 17-4-46 (e)(7) and (f) of the Large Scale Development Standards. The Administrative Official has the authority to require alternative requirements for architecture, in cases where the requirements of Section 17-4-46 (e)(7) and (f) are not appropriate for a particular building or structure.**
  - 3) Provide parking according to Section 17-4-43(b), Section 17-4-44, Section 17-4-45. All required parking spaces shall be permanent**

in character and provided with a permanent driveway to a public way. The driveway and parking spaces shall be paved with asphalt, concrete, Portland cement concrete or pavers.

- 4) Provide public improvements to bring the site and adjacent rights-of-way into compliance with applicable City standards, including but not limited to repairing or replacing broken sidewalks, curbs and gutters, and providing an ADA driveway “walk-around.”
- 5) Provide a maintenance plan for improvements required to be installed as part of the Conditional Use Permit.
- 6) The Administrative Official shall have the authority to modify, or substitute additional requirements for, any of the requirements listed above when the changes to the existing building will have a negative impact on the health, safety and welfare of the surrounding neighborhood.
- 7) The Administrative Official has the authority to reduce the requirements listed above for facilities which only lease a portion of an existing structure.

- g. Each licensed location is permitted one (1) “green cross” sign, up to 10 square feet.
- h. Existing windows may be screened from the interior of the building, but shall not be removed or covered from the exterior.

(24.2) Medical marijuana product manufacturing facility

- a. The facility shall not be located within 1,000 feet of a legally operational school, as determined by direct measurement from the property line of the facility to the closest property line of the school. Establishing a school within the required buffer after the Conditional Use Permit is issued shall not be grounds to suspend, revoke or decline to renew the Permit for such facility provided the Permit and license for the facility remains lawfully in effect. The Zoning Board of Appeals shall not have the authority to grant a variance from the 1,000 school buffer.
- b. The facility shall demonstrate compliance with all ordinances, including but not limited to drainage and detention, parking, landscaping, sewer, and public improvements.
- c. All medical marijuana products shall be prepared in a building or facility that is used exclusively for the manufacture and preparation of marijuana products.



- d. All medical marijuana products shall be prepared using equipment that is used exclusively for the manufacture and production of marijuana infused products.**
- e. Notwithstanding anything to the contrary, all facilities shall provide, at a minimum, the following improvements:**
- 1) Install landscaping according to Section 17-4-7 of this Title, regardless of the applicability stated in Section 17-4-7(b)(2).**
  - 2) Comply with Section 17-4-46 (e)(7) and (f) of the Large Scale Development Standards. The Administrative Official has the authority to require alternative requirements for architecture, in cases where the requirements of Section 17-4-46 (e)(7) and (f) are not appropriate for a particular building or structure.**
  - 3) Provide parking according to Section 17-4-43(b), Section 17-4-44, Section 17-4-45. All required parking spaces shall be permanent in character and provided with a permanent driveway to a public way. The driveway and parking spaces shall be paved with asphalt, concrete, Portland cement concrete or pavers.**
  - 4) Provide public improvements to bring the site and adjacent rights-of-way into compliance with applicable City standards, including but not limited to repairing or replacing broken sidewalks, curbs and gutters, and providing an ADA driveway “walk-around.”**
  - 5) Provide a maintenance plan for improvements required to be installed as part of the Conditional Use Permit.**
  - 6) The Administrative Official shall have the authority to modify, or substitute additional requirements for, any of the requirements listed above when the changes to the existing building will have a negative impact on the health, safety and welfare of the surrounding neighborhood.**
  - 7) The Administrative Official has the authority to reduce the requirements listed above for research facilities which only lease a portion of an existing structure.**
- f. Each licensed location is permitted one (1) “green cross” sign, up to 10 square feet.**
- g. Existing windows may be screened from the interior of the building, but shall not be removed or covered from the exterior.**

• • •

(41) Retail marijuana cultivation facility

- a. The facility shall not be located within 1,000 feet of a legally operational school, as determined by direct measurement from the property line of the facility to the closest property line of the school. Establishing a school within the required buffer after the Conditional Use Permit is issued shall not be grounds to suspend, revoke or decline to renew the Permit for such facility provided the Permit and license for the facility remains lawfully in effect. **The Zoning Board of Appeals shall not have the authority to grant a variance from the 1,000 school buffer.**
- b. [The facility shall demonstrate compliance with all applicable building and related codes, including but not limited to the health, building, electrical, plumbing, mechanical, sign, fire, and other codes, statutes, and ordinances.] **The facility shall demonstrate compliance with all ordinances, including but not limited to drainage and detention, parking, landscaping, sewer, and public improvements.**
- c. All grow operations shall be conducted in an enclosed building or greenhouse.
- d. Outdoor grow operations shall be prohibited.
- e. Grow operations shall not be located in any structure containing a residential use.
- f. [Regardless of the zone district where the facility is located, properties with an existing structure, or those properties that will not otherwise be required to comply with full commercial requirements, shall provide, at a minimum, the following improvements] **Notwithstanding anything to the contrary, all facilities shall provide, at a minimum, the following improvements:**
  - 1) Install landscaping according to Section 17-4-7 of this, **regardless of the applicability stated in Section 17-4-7(b)(2).**
  - 2) Comply with Section 17-4-46 (e)(7) and (f) of the Large Scale Development Standards. The Administrative Official has the authority to require alternative requirements for architecture, in cases where the requirements of Section 17-4-46 (e)(7) and (f) are not appropriate for a particular building or structure.

- 3) [Provide parking according to Article IV, Off Street Parking Requirements of this Title.] **Provide parking according to Section 17-4-43(b), Section 17-4-44, Section 17-4-45. All required parking spaces shall be permanent in character and provided with a permanent driveway to a public way. The driveway and parking spaces shall be paved with asphalt, concrete, Portland cement concrete or pavers.**
  - 4) Provide public improvements to bring the site and adjacent rights-of-way into compliance with applicable City standards, including but not limited to repairing or replacing broken sidewalks, curbs and gutters, and providing an ADA driveway “walk-around.”
  - 5) Provide a maintenance plan for improvements required to be installed as part of the Conditional Use Permit.
  - 6) The Administrative Official shall have the authority to modify, or substitute additional requirements for, any of the requirements listed above when the changes to the existing building will have a negative impact on the health, safety and welfare of the surrounding neighborhood.
  - 7) The Administrative Official has the authority to reduce the requirements listed above for research facilities which only lease a portion of an existing structure.
  - 8) [It shall be prohibited and unlawful to have signage using the word “marijuana,” “cannabis,” any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, any image of a cannabis leaf, or any depiction of any paraphernalia or other image commonly understood as referring to marijuana.] **Each licensed location is permitted one (1) “64” sign, up to 10 square feet.**
- g. Existing windows may be screened from the interior of the building, but shall not be removed or covered from the exterior.

(42) Retail marijuana product manufacturing facility

- a. The facility shall not be located within 1,000 feet of a legally operational school, as determined by direct measurement from the property line of the facility to the closest property line of the school. Establishing a school within the required buffer after the Conditional Use Permit is issued shall not be grounds to suspend, revoke or decline to renew the Permit for such facility provided the Permit and license for the facility remains lawfully in effect. **The**

**Zoning Board of Appeals shall not have the authority to grant a variance from the 1,000 school buffer.**

- b. **[The facility shall demonstrate compliance with all applicable building and related codes, including but not limited to the health, building, electrical, plumbing, mechanical, sign, fire, and other codes, statutes, and ordinances.] The facility shall demonstrate compliance with all ordinances, including but not limited to drainage and detention, parking, landscaping, sewer, and public improvements.**
- c. All retail marijuana products shall be prepared in a building or facility that is used exclusively for the manufacture and preparation of marijuana products.
- d. All retail marijuana products shall be prepared using equipment that is used exclusively for the manufacture and production of marijuana infused products.
- e. **[Regardless of the zone district where the facility is located, properties with an existing structure, or those properties that will not otherwise be required to comply with full commercial requirements, shall provide, at a minimum, the following improvements] Notwithstanding anything to the contrary, all facilities shall provide, at a minimum, the following improvements:**
- 1) Install landscaping according to Section 17-4-7 of this, **regardless of the applicability stated in Section 17-4-7(b)(2).**
  - 2) Comply with Section 17-4-46 (e)(7) and (f) of the Large Scale Development Standards. The Administrative Official has the authority to require alternative requirements for architecture, in cases where the requirements of Section 17-4-46 (e)(7) and (f) are not appropriate for a particular building or structure.
  - 3) **[Provide parking according to Article IV, Off Street Parking Requirements of this Title.] Provide parking according to Section 17-4-43(b), Section 17-4-44, Section 17-4-45. All required parking spaces shall be permanent in character and provided with a permanent driveway to a public way. The driveway and parking spaces shall be paved with asphalt, concrete, Portland cement concrete or pavers.**
  - 4) Provide public improvements to bring the site and adjacent rights-of-way into compliance with applicable City standards, including but not limited to repairing or replacing broken sidewalks, curbs and gutters, and providing an ADA driveway “walk-around.”

- 5) Provide a maintenance plan for improvements required to be installed as part of the Conditional Use Permit.
  - 6) The Administrative Official shall have the authority to modify, or substitute additional requirements for, any of the requirements listed above when the changes to the existing building will have a negative impact on the health, safety and welfare of the surrounding neighborhood.
  - 7) The Administrative Official has the authority to reduce the requirements listed above for research facilities which only lease a portion of an existing structure.
  - 8) [It shall be prohibited and unlawful to have signage using the word “marijuana,” “cannabis,” any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, any image of a cannabis leaf, or any depiction of any paraphernalia or other image commonly understood as referring to marijuana.] **Each licensed location is permitted one (1) “64” sign, up to 10 square feet.**
- f. Existing windows may be screened from the interior of the building, but shall not be removed or covered from the exterior.

(43) Retail marijuana testing facility

- a. The facility shall not be located within 1,000 feet of a legally operational school, as determined by direct measurement from the property line of the facility to the closest property line of the school. Establishing a school within the required buffer after the Conditional Use Permit is issued shall not be grounds to suspend, revoke or decline to renew the Permit for such facility provided the Permit and license for the facility remains lawfully in effect. **The Zoning Board of Appeals shall not have the authority to grant a variance from the 1,000 school buffer.**
- b. [The facility shall demonstrate compliance with all applicable building and related codes, including but not limited to the health, building, electrical, plumbing, mechanical, sign, fire, and other codes, statutes, and ordinances.] **The facility shall demonstrate compliance with all ordinances, including but not limited to drainage and detention, parking, landscaping, sewer, and public improvements.**
- c. [Regardless of the zone district where the facility is located, properties with an existing structure, or those properties that will not otherwise be required to comply with full commercial requirements, shall provide, at a minimum,

the following improvements] **Notwithstanding anything to the contrary, all facilities shall provide, at a minimum, the following improvements:**

- 1) Install landscaping according to Section 17-4-7 of this, **regardless of the applicability stated in Section 17-4-7(b)(2).**
  - 2) Comply with Section 17-4-46 (e)(7) and (f) of the Large Scale Development Standards. The Administrative Official has the authority to require alternative requirements for architecture, in cases where the requirements of Section 17-4-46 (e)(7) and (f) are not appropriate for a particular building or structure.
  - 3) [Provide parking according to Article IV, Off Street Parking Requirements of this Title.] **Provide parking according to Section 17-4-43(b), Section 17-4-44, Section 17-4-45. All required parking spaces shall be permanent in character and provided with a permanent driveway to a public way. The driveway and parking spaces shall be paved with asphalt, concrete, Portland cement concrete or pavers.**
  - 4) Provide public improvements to bring the site and adjacent rights-of-way into compliance with applicable City standards, including but not limited to repairing or replacing broken sidewalks, curbs and gutters, and providing an ADA driveway “walk-around.”
  - 5) Provide a maintenance plan for improvements required to be installed as part of the Conditional Use Permit.
  - 6) The Administrative Official shall have the authority to modify, or substitute additional requirements for, any of the requirements listed above when the changes to the existing building will have a negative impact on the health, safety and welfare of the surrounding neighborhood.
  - 7) The Administrative Official has the authority to reduce the requirements listed above for research facilities which only lease a portion of an existing structure.
- d. [It shall be prohibited and unlawful to have signage using the word “marijuana,” “cannabis,” any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, any image of a cannabis leaf, or any depiction of any paraphernalia or other image commonly understood as referring to marijuana.] **Each licensed location is permitted one (1) “64” sign, up to 10 square feet.**

- e. Existing windows may be screened from the interior of the building, but shall not be removed or covered from the exterior.

**SECTION 2.**

Section 17-10-07 of Chapter 10 of Title XVII of the Pueblo Municipal Code is hereby modified to read as follows:

**Sec. 17-10-07. Prohibited Signs.**

. . .

- (13) Signs which use the word **“medical marijuana,”** “marijuana,” “cannabis,” any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, any image of a cannabis leaf, **“64”, green cross** or any depiction of any paraphernalia or other image commonly understood as referring to marijuana **or medical marijuana, except that one (1) “64” or one (1) green cross per licensed location, up to 10 square feet each, is permitted.**], except where otherwise permitted the complete phrase “medical marijuana” may be used, so long as both words are the same size, style and font.]

**SECTION 3.**

Section 17-15-1, Chapter 15, Title XVII of the Pueblo Municipal Code, as amended, is hereby amended and modified as follows:

**Sec. 17-15-1. Purpose and Scope.**

- (a) The City Council hereby makes the following findings of fact:

. . .

- (8) The City of Pueblo has determined that, between April 30, 2008 and May 31, 2010, the incidence of thefts, burglaries and robberies in nonresidential zone districts, along Interstate 25 and highway 50A within the City limits has been at least two (2) times greater than the same offenses over the same period in nonresidential zone districts within the City. Buffering medical marijuana **[facilities] Centers** from these corridors is necessary to protect the health, safety and welfare of the residents of the City of Pueblo and the customers, employees, managers and owners of the medical marijuana facilities.

. . .

- (b) Definitions.

As used in this Chapter, the following words shall have the following meanings, unless the context clearly requires otherwise:

• • •

(5) Marijuana home cultivation means the use of a residential property, in which a person resides as their primary residence, for the cultivation and growing of medical and/or retail marijuana for that person's personal use only. The use of a Marijuana Home Cultivation shall require compliance with Section [17-15-8 and/or ]17-15-20 of this Title.

• • •

(7) *Medical marijuana center* means the use of any property or structure to distribute, transmit, give, dispense or otherwise provide marijuana in any manner to patients or primary caregivers in accordance with Amendment 20 and the implementing state statutes and administrative regulations. [The medical marijuana center may include an optional cultivation premises as an accessory use by right.]

(8) *Medical marijuana optional cultivation premises* means the use of any property or structure for the cultivation and growing of medical marijuana. [All medical marijuana optional cultivation premises shall be contiguous to the associated medical marijuana center or infused product manufacturing facility. Discontiguous optional cultivation premises are prohibited uses.]

(9) *Medical marijuana infused product manufacturing* means a manufacturing or processing facility in which a product is 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. [The medical marijuana infused product manufacturing use may include an optional cultivation premises as an accessory use by right.]

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#### SECTION 4.

Section 17-15-2, Chapter 15, Title XVII of the Pueblo Municipal Code, as amended, is hereby amended and modified as follows:

Sec. 17-15-2. - Purpose.

Recognizing that there is a potential conflict between federal and state law with respect to the operation of [medical marijuana centers, medical marijuana cultivation



centers and medical marijuana infused products manufacturing centers,] **medical and retail marijuana facilities**, it is the purpose of this Chapter to:

- (1) Impose specific requirements and limitations for those individuals registering with the State of Colorado as a "patient" or "primary caregiver" as those terms are defined in Amendment 20 and the statutes and administrative regulations implementing Amendment 20.
- (2) Require that a [medical] marijuana facility be operated in a safe manner that does not endanger the public welfare.
- (3) Mitigate potential negative impacts that [medical] marijuana-related businesses might cause on surrounding properties and persons.
- (4) Regulate the conduct of persons owning, operating and using [medical] marijuana facilities in order to protect the public health, safety and welfare.
- (5) Establish a nondiscriminatory mechanism by which the City can control, through appropriate regulation, the location and operation of [medical] marijuana-related uses within the City.

#### SECTION 5.

Section 17-15-3, Chapter 15, Title XVII of the Pueblo Municipal Code, as amended, is hereby amended and modified as follows:

Sec. 17-15-3. - Applicability.

- (a) All medical marijuana facilities shall be subject to the requirements and the requirements of Chapter 10 of Title XI, regardless if the use is permitted by right or by review.
- (b) All medical marijuana **centers** [facilities] shall comply with the performance standards contained in Sections **17-15-6, and** 17-15-7.], 17-15-8 and 17-15-9, specific to the type of facility.]
- (c) **All retail marijuana facilities shall be subject to the requirements and the requirements of Chapter 11 of Title XI.** [Medical marijuana centers and infused product manufacturing shall only be considered principal uses. All medical marijuana optional cultivation premises shall be considered an accessory use by right to the medical marijuana center or infused product manufacturing. ]
- (d) Each [medical] marijuana facility shall require separate permit and approval.

**(e) Medical marijuana centers, with optional cultivation premises, issued prior to the effective date of this ordinance, shall be considered legal non-conforming uses of structures and premises in combination, and shall comply with Section 17-3-5 of this Title.**

**SECTION 6.**

Section 17-15-5, Chapter 15, Title XVII of the Pueblo Municipal Code, as amended, is hereby amended and modified as follows:

Sec. 17-15-5. – Review and approval procedures.

**The review and approval requirements set forth in this Section are in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law.**

**(a) Medical marijuana center review and approval procedures. All medical marijuana centers must comply with the review and approval procedures in Subsections (1) through (10) below.**

**[(a)](1) Prior to submitting for a limited use permit, the applicant shall be required to submit a request for a medical marijuana location determination. The application shall be submitted, with the nonrefundable application fee and shall contain the required information, as determined by the Administrative Official, on forms provided by the City. [The application shall be submitted with the nonrefundable application fee and contain the following information:**

- (1) The applicant's name, address and telephone number and, if the applicant is other than a natural person, identification of the type of entity and state of incorporation or formation, and the name and address of the Colorado registered agent;
- (2) The street address and unit number, if applicable, of the proposed medical marijuana facility and a complete description of the site, including parking, traffic circulation, refuse and landscaping, drawn to scale for which the permit is being obtained;
- (3) If the applicant is not the owner of the proposed location of the medical marijuana facility, a statement duly acknowledged by the owner of such property authorizing the submission of the application;
- (4) Any additional information deemed necessary by the administrative official to investigate or review the application. ]

[(b)](2) Within 90 days of receiving a complete application or resubmittal for a medical marijuana location determination, the Administrative Official shall conduct his or her initial investigation and review the application for compliance with Section 17-15-6 of this Title. Each application shall be made for a specific location and each new location request shall require a new application and fee. The Administrative Official shall either:

[(1)]a. State that the application shows a prima facie case for approval of a limited permit and issue a certificate of medical marijuana location determination; or

[(2)]b. State that the application does not show a prima facie case for approval of a limited use permit, summarily deny the application, stating the deficiencies, and indicate that the applicant has a right to appeal the determination of the administrative official or resubmit a revised application.

[(c)](3) Upon issuance of a medical marijuana location determination certificate for a medical marijuana facility, the applicant, within 180 days, may then submit an application for a limited use permit. **The application shall be submitted, with the nonrefundable application fee and shall contain the required information, as determined by the Administrative Official, on forms provided by the City.** [The application shall be submitted with the nonrefundable application fee and contain the following information:

- (1) The applicant's name, address and telephone number and, if the applicant is other than a natural person, identification of the type of entity and state of incorporation or formation, and the name and address of the Colorado registered agent;
- (2) The street address and unit number, if applicable, of the proposed medical marijuana facility and a complete description of the site, including parking, traffic circulation, refuse and landscaping, drawn to scale, for which the permit is being obtained;
- (3) If the applicant is not the owner of the proposed location of the medical marijuana facility, a statement duly acknowledged by the owner of such property authorizing the submission of the application;
- (4) A statement to be signed by the applicant that the City accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana facility;
- (5) A statement to be signed by the applicant acknowledging the applicant and employees may still be subject to prosecution under state or federal laws;

- (6) Name and address of the medical marijuana facility manager, if the manager is proposed to be someone other than the applicant;
- (7) Hours of operation;
- (8) A comprehensive description on how the facility will be organized and used;
- (9) A copy of the certificate of the medical marijuana location determination, dated no earlier than 180 days prior to application submittal; and
- (10) Any additional information deemed necessary by the administrative official to investigate or review the application. ]

**[(d)](4)** Applications for medical marijuana facilities are valid for up to 180 days from the date of a complete application submittal or a resubmittal. If the Board has not approved or denied the application within 180 days, then the application shall be deemed to be denied, unless a 30 day extension is granted by the Administrative Official for good cause.

**[(e)](5)** Once the application is accepted and set for hearing, the Zoning Board of Appeals, in accordance with Section 17-5-32, shall approve new and major revisions to the limited use permit for all medical marijuana centers and medical marijuana infused product manufacturing operations. Prior to the issuance of a limited use permit, the applicant must demonstrate compliance with the requirements of this Chapter. Failure to comply with the requirements of this Chapter shall preclude issuance of a limited use permit.

**[(f)](6)** In granting a limited use permit, the Zoning Board of Appeals may impose reasonable conditions to the extent they conclude such conditions are necessary to minimize any adverse aesthetic, noise, health and safety impacts on adjoining and neighboring properties;

**[(g)](7)** In addition to the findings required by Section 17-5-33**(5)**, for consideration of a limited use permit, the Zoning Board of Appeals shall make written findings certifying compliance with the following factors in determining whether to approve the limited use permit:

**[(1)]a.** Ability of existing medical marijuana **centers** [facilities] to meet the needs of the registered patients in the City of Pueblo;

**[(2)]b.** All land use types within 500 feet of the medical marijuana **center** [facility] that may be incompatible with the medical marijuana facility;

[(3)]**c.** No other medical marijuana **centers are** [facility is] legally operating or has been granted approval to operate within 1,000 feet of the proposed medical marijuana facility;

[(4)]**d.** Ability of the medical marijuana **center** [facility] to comply with the applicable performance standards contained in Sections **17-15-6, and** 17-15-7 [, 17-15-8 and 17-15-9];

[(5)]**e.** Ability of the medical marijuana **center** [facility] to provide reasonable accommodations, off-street parking and loading zones; and

[(6)]**f.** Ability of the medical marijuana **center** [facility] to provide reasonable landscaping improvements, with specific reference to buffers, setbacks, parking lot screening and islands.

[(h)] A medical marijuana optional cultivation premises shall be permitted as an accessory use by right only after approval of the associated medical marijuana center or medical marijuana infused product manufacturing operation and only upon compliance with the requirements of this Chapter.]

[(i)]**(8)** Minor revisions **to the Limited Use Permit**, as defined by Section 17-15-~~4~~**1**, shall be approved by the Administrative Official. Denial by the Administrative Official may be appealed to the Zoning Board of Appeals in accordance with Section 17-5-35.

[(j)] **(9) Major modifications of the Limited Use Permit shall require review and approval of the Zoning Board of Appeals.**

**[(10) Each limited use permit for a marijuana use shall expire one (1) year after issuance.** An application for the renewal of an existing [local license] **limited use permit** shall be made to the Planning and Community Development Department not less than 45 days prior to the date of expiration. Renewal of the limited use permit requires an inspection for compliance with the initial approval. Annual inspections may be necessary and will be done in the order of receipt. Failure to comply with all requirements of Chapter 15 of this Title and the initial [approval] **permit** shall preclude **renewal of a limited use permit** [issuance of a medical marijuana facility zoning approval].

**(b) Conditional use permit. Marijuana uses that are permitted upon issuance of a conditional use permit, according to Section 17-4-51, must apply for a conditional use permit, pay the nonrefundable application fee, and provide the information required by the Administrative Official, on forms provided by the**

City, prior to operation of the use. All marijuana conditional use permits shall expire one (1) year after issuance. An application for the renewal of an existing permit shall be made to the Planning and Community Development Department not less than 45 days prior to the date of expiration. Renewal of the conditional use permit requires an inspection for compliance with the initial approval. Failure to comply with all requirements of Section 17-4-51, Chapter 15 of this Title and the initial permit shall preclude renewal of the conditional use permit.

(c) Permit transfer. The transfer of a permit shall comply with the following requirements prior to operation of the new use:

(1) A permit transfer shall only be allowed for the same class of license:

a. Medical Marijuana Center License shall not be transferrable;

b. For the purpose of this Section, medical marijuana optional premises cultivation facility and retail marijuana cultivation facility shall be considered the same class of license;

c. For the purpose of this Section, medical marijuana infused products manufacturing and retail marijuana products manufacturer shall be considered the same class of license;

(2) The application for a transfer shall be submitted, with the nonrefundable application fee and shall provide the required information, as determined by the Administrative Official, on forms provided by the City.

(3) Transfer from a limited use permit to a conditional use permit of the same class must comply with Section 17-4-51 and the required conditions in Section 17-4-51(e).

(4) Transfer from a conditional use permit to another conditional use permit of the same class must comply with Section 17-4-51 and the required conditions in Section 17-4-51(e).

(5) Transfer from a conditional use permit to a limited use permit of the same class shall not be permitted. A new application according to Section 17-15-5(a) shall be required.

[(k) The permit requirements set forth in this Section are in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law.

(l) During the period preceding March 1, 2012, all applications, approvals, reviews, location determinations, limited use permits and modifications or changes of Planned Unit Developments concerning any site, zone, location or use involving medical

marijuana shall be suspended and no further action to process, review or evaluate the same shall be taken on the same until March 1, 2012, or thereafter. No approval or limited use permit shall be granted before May 1, 2012. Nothing contained in this Subsection shall be construed as infringing on any of the constitutional rights granted under Article XVIII § Colorado Constitution. ]

. . .

SECTION 7.

Section 17-15-6, Chapter 15, Title XVII of the Pueblo Municipal Code, as amended, is hereby amended and modified as follows:

Sec. 17-15-6. – Locations.

(a) No medical marijuana **center** [facility] shall be located:

. . .

(b) The separation distances described in Subsection (a) above shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the nearest point of the property line of the proposed medical marijuana **center** [facility].

(c) The suitability of a location for a medical marijuana **center** [facility] shall be determined at the time of the issuance of a certificate of medical marijuana location determination for such facility. The separation distances described in Subsection (a) above shall be based upon the other location being legally operational, under construction when the proposed use has been disclosed or a business license issued for the location. The fact that changes in the neighborhood occur after the application that might render the site unsuitable for a medical marijuana facility under this Chapter shall not be grounds to suspend, revoke or refuse to renew the permit for such facility so long as the permit and license for the facility remains in effect.

(d) Each medical marijuana **center** [facility] shall be operated from a permanent location. No medical marijuana **center** [facility] shall be permitted to operate from a moveable, mobile or temporary location.

(e) In the event these location restrictions do not appear reasonable when applied to a specific location, the applicant may apply to the Zoning Board of Appeals for a variance, but the variance may not reduce the separation distance requirements by more than ten percent (10%).

## SECTION 8.

Sections 17-15-8, Chapter 15, Title XVII of the Pueblo Municipal Code, as amended, is hereby deleted in its entirety:

Sec. 17-15-8. – **Reserved** [Medical marijuana optional cultivation premises performance standards.

All medical marijuana optional cultivation premises shall comply with the following performance standards:

- (1) The optional cultivation premises shall be contiguous to the associated medical marijuana center or medical marijuana infused product manufacturing facility.
- (2) The facility or structure used for the cultivation shall comply with all applicable building codes, including but not limited to the health, building, electrical, plumbing, mechanical, sign, fire, and other codes, statutes, and ordinances.
- (3) All grow operations shall be conducted in a fully enclosed non-residential building. Outdoor grow operations are prohibited.
- (4) Optional cultivation premises shall not be located in a structure that contains a residential use. ]

## SECTION 9.

Sections 17-15-9, Chapter 15, Title XVII of the Pueblo Municipal Code, as amended, is hereby deleted in its entirety:

Sec. 17-15-9. - **Reserved** [Medical marijuana infused product manufacturing performance standards.

All medical marijuana infused product manufacturing uses shall comply with the following performance standards:

- (1) The facility shall demonstrate compliance with all applicable building codes, including but not limited to the health, building, electrical, plumbing, mechanical, sign, fire and other codes, statutes, ordinances and codes.
- (2) All medical marijuana infused products shall be prepared in a building or facility that is used exclusively for the manufacture and preparation of medical marijuana infused products.



- (3) All medical marijuana infused products shall be prepared using equipment that is used exclusively for the manufacture and production of medical marijuana infused products. ]

SECTION 10.

This Ordinance, and the amendments made herein to Title XVII of the Pueblo Municipal Code shall be subject to administration and enforcement in accordance with Chapters 5 and 7 of Title XVII, Pueblo Municipal Code, as amended. Any person who violates any provision of this Ordinance or the amendments made herein to Title XVII of the Pueblo Municipal Code shall be guilty of a municipal offense and subject to punishment and all other remedies as provided in Chapter 7 of Title XVII of the Pueblo Municipal Code, as amended.

SECTION 11.

This Ordinance shall become effective immediately after final passage and approval.

INTRODUCED: \_\_\_\_\_

BY: \_\_\_\_\_  
COUNCIL PERSON

APPROVED: \_\_\_\_\_  
PRESIDENT OF THE CITY COUNCIL

ATTESTED BY: \_\_\_\_\_  
CITY CLERK

PASSED AND APPROVED: \_\_\_\_\_