

PETITION
For Placement on the General Election Ballot
November 6, 2018
Palmer Lake, Colorado

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE IN EL PASO COUNTY AND THE TOWN OF PALMER LAKE.

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.

Summary:

To Be Proposed by Clerk (Summary Proposed by Petitioners: Shall the Town of Palmer Lake Municipal Code be amended as to permit for the regulation and licensing of retail marijuana, subject to the regulations, conditions, and limitations set forth in the initiative petition?)

Full Text of Measure:

Be it enacted by the Town of Palmer Lake:

**THE TOWN OF PALMER LAKE RETAIL MARIJUANA SALES LEGALIZATION INITIATIVE,
REPLACING AND RESTATING OF TITLE 5 CHAPTER 40 OF THE TOWN CODE ENTITLED
RETAIL MARIJUANA ESTABLISHING REGULATIONS AND PROCEDURES FOR RETAIL
MARIJUANA STORES AND CULTIVATION FACILITIES**

Shall the Town of Palmer Lake regulate commercial marijuana by permitting the establishment of retail marijuana stores by existing marijuana business Licensees in good standing in the Town of Palmer Lake as of March 1, 2018 by enacting an ordinance amending the Palmer Lake Town Code, subject to the requirements of the Colorado Retail Marijuana Code and regulations to be adopted by the Council of Palmer Lake?

**Ordinance Concerning the Regulation of
Marijuana Establishments in the Town of Palmer Lake**

WHEREAS, in November 2012, Colorado voters approved Amendment 64 to the Colorado Constitution ("Amendment 64"), codified as section 16 of Article XVIII of the Colorado Constitution, concerning the personal use and regulation of marijuana; and

WHEREAS, Amendment 64 generally allows persons twenty-one years of age or older to consume or possess limited amounts of marijuana and provides for the licensing of marijuana cultivation facilities, product

Name & addresses of persons who represent the proponents thereof in all matters affecting the petition and to who all notices or information concerning the petition shall be mailed.

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manufacturing facilities, testing facilities and retail stores; and

WHEREAS, Amendment 64 further provides that local governments may adopt their own regulations governing certain aspects of marijuana-related businesses; and

WHEREAS, the Town of Palmer Lake would benefit from the presence of two Retail Marijuana Stores, so that adults can safely purchase retail marijuana and the Town can generate additional tax revenue.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OR THE REGISTERED ELECTORS OF THE TOWN OF PALMER LAKE, COLORADO, THAT:

Section 1: Title 5, Chapter 40 of the Palmer Lake Municipal Code is hereby repealed and restated as follows:

5.40.010. Definitions.

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

Amendment 64 means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2012, codified as section 16 of Article XVIII to the Colorado Constitution.

Applicant means a corporation, person or person(s) over twenty-one (21) years of age who has submitted an application for a License pursuant to this Chapter.

Application means an application for License submitted pursuant to this Chapter.

Day means a calendar day, unless otherwise noted.

Good Cause for the purpose of denying an application for a License or License renewal under this Chapter means: (1) the Licensee has violated, does not meet, or has failed to comply with this Chapter and any rule and regulation promulgated pursuant to this Chapter; (2) Licensee has violated, does not meet, or has failed to comply with the Retail Marijuana Code; (3) the Licensee has failed to comply with any special terms or conditions that were placed on its License whether at the time the License was issued or in the context of potential or actual disciplinary proceedings; or (4) the Licensee's Retail Marijuana Establishment has been operated in a manner that adversely affects the public health, welfare or safety of the Town. Evidence to support a finding of Good Cause under section 4 of this Paragraph can include: (i) a continuing pattern of offenses against the public peace, as defined in Title 9 of Chapter 48 of the Town of Palmer Lake Municipal Code; (ii) a continuing pattern of drug-related criminal conduct within the premises of the Retail Marijuana Establishment; (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the Retail Marijuana Establishment; (iv) a felony conviction associated with the Licensee, one or more of its owner(s) or manager; (v) failure to provide correct information for each person required in section 5.40.040(a);

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(vi) failure to pay sales taxes in full by the deadlines specified by Town of Palmer Lake Municipal Code.

License means a License to operate a Retail Marijuana Establishment issued by the Town pursuant to this Chapter.

Licensee means the person to whom a License has been issued pursuant to this Chapter.

Licensing Authority or Authority means the Town Council or a person or entity appointed by the Town Council.

Operational means open for active business, engaged in the collection of sales tax, holding regular hours of operation and available to provide products and services to persons over the age of 21.

Paraphernalia means 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.

Retail Marijuana Code means sections 12-43.4.4-101 to -1101, C.R.S., and implementing regulations promulgated thereto, both as may be amended from time to time.

Retail Marijuana Cultivation Facility means an entity Licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers and shall include any entity Licensed as a retail marijuana cultivation or Wholesale Retail Recreational Marijuana Operation under Ordinance 6 of 2014.

Retail Marijuana Establishment means a Retail Marijuana Store or Retail Marijuana Cultivation Facility

Retail Marijuana Store means an entity Licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

State Licensing Authority means the Executive Director of the Colorado Department of Revenue, Marijuana Enforcement Division.

Town means the Town of Palmer Lake, Colorado

(b) In addition to the definitions provided in subsection (a) of this section, the other defined terms in the Retail Marijuana Code and rules promulgated pursuant to the Retail Marijuana Code, which are found in Rule R 103, 1 CCR 212-2, are incorporated into this Chapter by reference.

5.40.020. License required.

No person shall operate a Retail Marijuana Establishment within the Town without both a valid License issued in accordance with this Chapter and a valid License issued by the State Licensing Authority.

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5.40.030. Application for License.

- (a) A person seeking to obtain a License pursuant to this Chapter shall file an application with the Town Clerk. The Town Clerk shall begin accepting Licenses no later than February 1, 2019.
- (b) The Town Clerk shall not receive and accept applications for a Retail Marijuana Store License unless the Applicant was operating a state and local Marijuana Establishment License in good standing as of March 1, 2018.
- (c) The form of the application shall be provided by the Town Clerk. In the case where there is more than one Applicant or the Applicant is a business entity, the Applicant shall provide the name(s) of each natural person who owns five percent (5%) or more of the ownership interest in the entity.
- (d) A License pursuant to this Chapter does not eliminate the need for the Licensee to obtain other required Town license and permits related to the operation of a Retail Marijuana Establishment including, without limitation:
 - (1) Any required land use approval, if applicable.
 - (2) A state sales tax license.
 - (3) All applicable permits required by the Town.
 - (4) A Town Business license.
- (e) An Application for a License under this Chapter shall contain the following information:
 - (1) The Applicant's name, address, telephone number and social security number;
 - (2) The street address, and unit number, if applicable, of the proposed Retail Marijuana Establishment, and a complete description of the site drawn to scale for which the License is being obtained;
 - (3) If the Applicant is not the owner of the proposed location of the Retail Marijuana Establishment, a notarized statement from the owner of such property authorizing the submission of the application;
 - (4) A copy of the Applicant's state Retail Marijuana Establishment business application;
 - (5) A statement to be initialed by the Applicant that the Town accepts no legal liability in connection with the approval and subsequent operation of the Retail Marijuana Establishment;
 - (6) An acknowledgment that the State Licensing Authority will conduct a background investigation

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as specified in the Retail Marijuana Code; and

- (7) Name and address of any manager of the Retail Marijuana Establishment, if the manager is proposed to be someone other than the Applicant.
 - (8) Any additional information that the Authority reasonably determines to be necessary in connection with the investigation and review of the application.
- (f) Applications shall be processed by the Town in order of receipt. Priority shall be given to any business that already operates a Marijuana Establishment in town, provided the Applicant applies for a License pursuant to this Chapter within 90 days of its effective date.
 - (g) Applications shall only be accepted where the approval of the application would not be in conflict with section 5.41.160 of this Chapter.
 - (h) Any application for a Retail Marijuana Establishment shall be accompanied by the application and License fee outlined in 5.40.270. If no resolution is passed setting the fee, the fee shall be \$250 per License.
 - (i) Applications may be amended to change corporate structure, registered manager, change of operation plan, location or modification of premises by submitting an amendment on a form approved by the Town Clerk. Such change would be subject to payment of any fee set by Council, if any, and compliance with other terms of this Chapter and Title 5, Chapter 40 of the Palmer Lake Municipal Code.

5.40.040. Investigation of application.

- (a) The burden of application completion shall be incumbent upon the Applicant. Upon receipt of a properly completed application, together with all information required in connection therewith, and the payment of the application fee, the Town Clerk shall transmit copies of the application to:
 - (1) The Police Department;
 - (2) The Planning Commission; and
 - (3) Any other person or agency which the Licensing Authority determines should properly investigate and comment upon the application.
- (b) Upon the receipt of a completed application, the Police Department shall obtain and review a criminal background.
- (c) Upon receipt of a completed application, those Town departments and other referral agencies described in subsection (a) of this section shall provide the Licensing Authority with comments concerning the application.

5.40.050. Standards for issuance of License. The Licensing Authority shall issue a License under this Chapter when, from a consideration of the application and from such other information as may otherwise be obtained, the Authority determines that:

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- (a) The application is complete and signed by the Applicant.
- (b) The Applicant has paid the application fee and any other fees required.
- (c) The application does not contain a material falsehood or misrepresentation.
- (d) The application complies with all of the requirements of this Chapter.
- (e) The Applicant, any person with an ownership interest of five percent (5%) or greater or any manager have not previously been convicted of a felony violation.
- (f) The proposed location of the Retail Marijuana Establishment is permitted.

5.40.060. Denial of License.

- (a) The Licensing Authority shall deny an application for a License under this Chapter, if the Authority determines that the Applicant has failed to meet its burden, and therefore:
 - (1) Information contained in the application or supplemental information requested from the Applicant is found to be false in any material respect; or
 - (2) The application fails to meet any of the standards set forth in this Chapter, including a finding of Good Cause.
- (b) The Licensing Authority shall not cause there to be more than two (2) Retail Marijuana Store Licenses in the Town of Palmer Lake. The Licensing Authority shall issue a minimum of two (2) Retail Marijuana Store Licenses.
- (c) If an application is denied, the application fee shall not be refunded.

5.40.070. Authority to impose conditions on License. The 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 Chapter and the Retail Marijuana Code.

5.40.080. Decision by Licensing Authority.

- (a) The Licensing Authority shall approve, deny or table an application during the next regular convening of the Licensing Authority no later than thirty (30) days after receipt by the Town Clerk of the completed application, unless the Town or Applicant is granted an extension by the Authority.
- (b) If an application is denied, the Licensing Authority shall set forth in writing the grounds for denial.

5.40.090. Contents of License.

- (a) A License shall contain the following information:

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- (1) The name of the Licensee;
- (2) The date of the issuance of the License;
- (3) The address at which the Licensee is authorized to operate the Retail Marijuana Establishment;
- (4) Any special conditions of approval imposed upon the License; and
- (5) The date of the expiration of the License.
- (6) The type of License.

5.40.100. License transferable. A License is transferable and the corporate structure of a License can be modified, provided the Licensee first obtains approval by the Licensing Authority and the new owners or Licensee meets all the requirements of this Chapter and the Retail Marijuana Code.

5.40.110. Notice of issuance of License. Upon the issuance of a License, the Town Clerk shall send a copy of the License to the Town Council and any department designated by the Town Council.

5.40.120. Duration of License: Renewal.

- (a) Unless revoked, suspended, or otherwise lawfully altered by the Authority, each License issued pursuant to this Chapter shall be valid for one (1) year from the date of issuance, and may be renewed as provided in this Title 5, Chapter 40 of the Palmer Lake Municipal Code.
- (b) An application for the renewal of an existing License shall be made to the Town Clerk not less than thirty (30) days prior to the date of expiration. The Town Clerk may administratively continue an expired License upon a showing of Good Cause. However, no application for renewal shall be accepted by the Town Clerk ninety (90) days after the date of expiration. The Town Clerk may administratively continue a License upon a showing of Good Cause; all such applications shall be treated as applications for new Licenses.
- (c) The Applicant shall, at the time of an application to renew a License, not be delinquent on any applicable Town fees or taxes.
- (d) At the time of the filing of an application for the renewal of an existing License the Applicant shall pay an annual License fee as set forth in Section 5.40.270.
- (e) The Licensing Authority may refuse to renew a License for Good Cause pursuant to section 5.40.010 of this Chapter. For purposes of this section the burden shall be upon the Town by a preponderance of the evidence to show good cause exists to deny the renewal application

5.40.130. Duties of Licensee. It is the duty and obligation of each Licensee to do the following:

- (a) Comply with all the terms and conditions of the License, and any special conditions on the License; and
- (b) Comply with all of the requirements of this Chapter and the Retail Marijuana Code; and

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- (c) Comply with all other applicable Town ordinances; and
- (d) Comply with all applicable federal laws, rules or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana that directly conflicts with the Retail Marijuana Code; and
- (e) Take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours, if related to the patrons of the dispensary; and
- (f) Permit inspection of its records and operation by the Town Clerk or designee for the purpose of determining the Licensee's compliance with the terms and conditions of the License, this Chapter and the Retail Marijuana Code; and

5.40.140. Posting of License. A License shall be posted continuously in a conspicuous public location at the Retail Marijuana Establishment.

5.40.150. Fine, suspension or revocation of License.

- (a) A License issued pursuant to this Chapter may be fined, suspended, revoked, otherwise disciplined, or not renewed by the Licensing Authority for any of the following reasons:
 - (1) Fraud, misrepresentation, or a false statement of material fact contained in the License application;
 - (2) A violation of any town or state law or regulation;
 - (3) A violation of any of the terms and conditions of the License, including any special conditions of approval imposed upon the License;
 - (4) A violation of any of the provisions of this Chapter;
 - (5) Cessations of operations at the Retail Marijuana Establishment for more than one (1) year.
 - (6) For any reason set forth in Title 5, Chapter 40 of the Town of Palmer Lake Municipal Code.
- (b) The Town Clerk shall notify the Licensee of the issuance of a show cause order to fine, suspend or revoke the License. Notice shall be given by mailing a copy of the order to the Licensee by certified mail, postage prepaid, at the address shown in the License or if different, the address of record provided to the Town Clerk by the Licensee. Notice is deemed to have been properly given upon mailing.
- (c) A hearing shall then be scheduled before the Licensing Authority within forty-five (45) days of the notice of the show cause order. Such hearing may be continued for good cause.
 - (1) The burden of proof at the hearing shall be on the Town.

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- (2) If the Authority finds by a preponderance of the evidence that the allegations in the show cause order are sustained, the Authority shall issue such order in writing to the Town and Licensee within ten (10) days.
- (3) Upon a finding sustaining the show cause, the Authority shall have the power to fine, revoke, suspend and/or place additional reasonable conditions on the License.
- (4) Nothing herein shall prohibit the Authority from stipulating to the admittance of any allegation in an order to show cause and the corresponding enforcement action.

5.40.160. Prohibited locations; permanent location required. Prior to the issuance of a License for a Retail Marijuana Establishment, the licensing authority shall determine whether the proposed location of the Retail 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 Retail Marijuana Establishment shall be located at the following locations:
 - (1) Within 500 feet of a licensed child care facility;
 - (2) Within 1,000 feet of licensed school or, college or university, either public or private;
 - (3) Within 1,000 feet of any halfway house or correctional facility;
 - (4) Within any building or structure that contains a residential unit;
 - (5) Upon any Town of Palmer Lake owned property.
- (b) Each Retail Marijuana Establishment location shall be operated from the permanent location. No Retail Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory location.
- (c) The suitability of a location for a Retail Marijuana Establishment location shall be determined at the time of the issuance of the first License for such Retail Marijuana Establishment. The fact that changes in the neighborhood occur after the issuance of the first License might render the site unsuitable under this section shall not be grounds to fine, suspend, revoke or refuse to renew the License.
- (d) A Retail Marijuana Establishment in common ownership with a Medical Marijuana Business of the same License type may be licensed in the same location and may share the same licensed premises to the extent allowed by the Retail Marijuana Code.

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- (e) All distances under this section 5.40.160 shall be computed by direct measurement from the primary entrance of the structure used for the purposes set forth in subsections 5.40.160(a)(1) to 5.40.160(6) to the primary entrance of the building in which the Retail Marijuana Establishment is located, using a route of direct pedestrian access.
- (f) The requirements in subsection 5.40.160(a) shall not apply to any location where the Town previously issued a medical marijuana facility license or wholesale retail recreational marijuana operation license under Chapter 30 of Title 5 of the Palmer Lake Municipal Code.

5.40.170. Paraphernalia. Paraphernalia as defined in section 5.40.010 of the Town of Palmer Lake Municipal Code may lawfully be produced and sold at a Retail Marijuana Establishment or such other business that is limited to those over the age of twenty-one (21).

5.40.180. Age restrictions. No person under the age of twenty-one (21) shall be allowed in any portion of a Retail Marijuana Establishment. The entrance to a dispensary shall be clearly and legibly posted with notice indicating that persons under the age of twenty-one (21) are precluded from entering the premises.

5.40.190. Hours of operation. A Retail Marijuana Store may open no earlier than 9:00 a.m. and shall close no later than 9:00 p.m. the same day. A Retail Marijuana Store may be open seven (7) days a week

5.40.200. Signage. All signage for a Retail Marijuana Establishment shall comply with the requirements of the Palmer Lake Municipal Code.

5.40.210. Books required. A Licensee shall keep all books and records as required by the Retail Marijuana Code.

5.40.220. On-site consumption. The consumption, inhalation or other use of marijuana on or within the premises of a Retail Marijuana Establishment is prohibited.

5.40.230. Security requirements. A Licensee shall provide adequate security on the premises of a Retail Marijuana Establishment or cultivation facility including, but not limited to, the following:

- (a) **Surveillance.** Security surveillance cameras installed to monitor each entrance to the medical marijuana facility along with the interior and exterior of the premises to discourage and to facilitate the reporting and investigation of criminal acts and nuisance activities occurring at the premises. Security video shall be preserved for at least seventy-two (72) hours by the Licensee, and be made available to law enforcement officers upon demand.
- (b) **Inventory.** All saleable inventory of marijuana must be kept and stored in a secured, locked manner.
- (c) **Safe.** A locking safe or secure vault permanently affixed or built into the premises to store any currency on site.
- (d) **Lighting.** Exterior lighting that illuminates the exterior walls of the business.
- (e) **Alarm System.** Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the dispensary at all times.

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(f) Emergency Contact.

5.40.240. Operating plans. In connection with the License application, the Applicant shall provide a detailed operations plan. Such plan shall include such items as necessary to show compliance with this Chapter, including a diagram of the premise which shall identify the storage and lighting, a security plan, and an odor mitigation plan.

5.40.250. No waiver of governmental immunity. In adopting this Chapter, the Town Council is relying on and does not waive or intend to waive any provision of this Chapter, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, sections 24-10-101 to -120, C.R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers or its employees.

5.40.260. No Town liability. By accepting a License issued pursuant to this Chapter, a Licensee releases the Town, 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 dispensary owners, operators, employees, clients or customers for a violation of town, state or federal laws, rules or regulations. The Town Clerk may require a Licensee to execute a written instrument confirming the provisions of this Chapter.

5.40.270. Fees.

- (a) Each License application for a Retail Marijuana Establishment shall be accompanied by cash or certified funds in the amount as determined by the Licensing Authority via resolution. In no event shall an application fee exceed \$5,000.00.
- (b) The annual License fee for a Retail Marijuana Establishment shall be \$1,000.00.

Section 2. Section 5.30 of the Town of Palmer Lake Municipal Code is amended to remove all references to wholesale retail recreational marijuana operations. To the extent this Section 4 conflicts with Section 5.30 of the Town of Palmer Lake Municipal Code, this Section controls.

Section 3. The Town Council, by majority vote, may implement any reasonable law, ordinance, or regulation necessary to effectuate the intent of this Ordinance.

Section 4. The Town Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 5. All the provisions of Town of Palmer Lake Municipal Code as heretofore adopted that are in conflict with the provisions of this Ordinance are hereby repealed as of the Effective Date.

Section 6. The Town Clerk shall certify to the passage of this ordinance and cause notice of its contents and passage to be published or posted. This ordinance shall be become effective upon adoption.

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