

**PALMER LAKE, COLORADO
ORDINANCE NO. 15 OF 2017**

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE (A) REPEALING ALL PRIOR ORDINANCES AND PALMER LAKE MUNICIPAL CODE PROVISIONS RELATED TO THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, RETAIL MARIJUANA STORES, AND MARIJUANA CLUBS WITHIN THE TOWN, TO INCLUDE REPEAL OF CHAPTERS 5.30 AND 5.40 OF THE PALMER LAKE MUNICIPAL CODE, (B) READOPTING A NEW CHAPTER 5.30 REGULATING SUCH MARIJUANA RELATED USES WITHIN THE TOWN, (C) AMENDING CHAPTERS 17.37, GOVERNING THE C2 GENERAL BUSINESS AND COMMERCIAL ZONE, AND CHAPTER 17.40, GOVERNING THE M1 GENERAL INDUSTRIAL ZONE, TO PROVIDE THAT MARIJUANA LAND USES WITHIN SUCH ZONE DISTRICTS SHALL BE CONDITIONAL USES AND SUBJECT TO CERTAIN LOCATION RESTRICTIONS AS SET FORTH IN CHAPTER 5.30, AND (D) ADDING A NEW CHAPTER 17.82 PROHIBITING MARIJUANA CLUBS AND GOVERNING THE PERSONAL USE CULTIVATION OF MARIJUANA WITHIN THE TOWN

WHEREAS, THE TOWN OF PALMER LAKE IS A COLORADO MUNICIPAL CORPORATION AUTHORIZED BY STATE LAW, INCLUDING, BUT NOT LIMITED TO, SECTIONS 31-15-401 AND 31-23-301 OF THE COLORADO REVISED STATUTES, TO EXERCISE ITS POLICE POWERS TO PROMOTE AND PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE COMMUNITY AND ITS CITIZENS; AND

WHEREAS, PURSUANT TO SECTION 31-23-301 OF THE COLORADO REVISED STATUTES, SUCH POLICE POWERS INCLUDE THE POWER TO REGULATE THE LOCATION AND USE OF LAND WITHIN THE COMMUNITY FOR TRADE, INDUSTRY, OR OTHER PURPOSES; AND

WHEREAS, PLANNING, LAND USE, AND GENERAL BUSINESS REGULATION ARE WELL-ESTABLISHED AS PURELY MATTERS OF LOCAL CONCERN; AND

WHEREAS, IN NOVEMBER 2000 COLORADO VOTERS APPROVED AMENDMENT 20, CODIFIED AS SECTION 14 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION, WHICH CONCERNS MEDICAL MARIJUANA; AND

WHEREAS, IN NOVEMBER 2012 COLORADO VOTERS APPROVED AMENDMENT 64, *PERSONAL USE AND REGULATION OF MARIJUANA*, WHICH ADDED A NEW SECTION 16 TO ARTICLE XVIII OF THE COLORADO CONSTITUTION (HEREINAFTER "RECREATIONAL MARIJUANA"); AND

WHEREAS, THE BOARD OF TRUSTEES FINDS THAT IT IS IN THE INTEREST OF HEALTH, SAFETY, AND WELFARE OF THE INHABITANTS OF THE TOWN OF PALMER LAKE, AND A PROPER EXERCISE OF THE POLICE POWER, TO REQUIRE THE LICENSING OF PERSONS AND BUSINESSES PROVIDING MARIJUANA RELATED SERVICES AND TO REGULATE THE USE OF LAND WITHIN THE TOWN FOR MARIJUANA RELATED USES; AND

WHEREAS, THE PROVISIONS OF THIS ORDINANCE ARE TO BE CONSISTENT WITH AND APPLIED IN ACCORDANCE WITH THE COLORADO MEDICAL MARIJUANA CODE, S§ 12-43.3-101 *ET SEQ.*, C.R.S. AND WITH THE COLORADO RETAIL MARIJUANA CODE, §§12-43.4-101 *ET SEQ.*, C.R.S.; AND

WHEREAS, NOTHING IN THIS ORDINANCE IS MEANT TO INHIBIT ANY INDIVIDUAL'S RIGHT TO PERSONAL USE OF MARIJUANA PURSUANT TO ARTICLE XVIII, SECTION 16(3) OF THE COLORADO CONSTITUTION, SUBJECT TO THE RESTRICTIONS ON PERSONAL GROWING OF MARIJUANA AND MARIJUANA CLUBS AS SET FORTH IN CHAPTER 17.82 ADOPTED HEREBY; AND

WHEREAS, THE TOWN'S AUTHORITY TO ADOPT THIS ORDINANCE IS FOUND IN THE COLORADO MEDICAL MARIJUANA CODE, SECTION 12-43.3-101, C.R.S.; ARTICLE XVIII, § 16 OF THE COLORADO CONSTITUTION, THE LOCAL GOVERNMENT LAND USE CONTROL ENABLING ACT, SECTION 29-20-101, C.R.S.; SECTION 31-23-101, C.R.S. (MUNICIPAL ZONING POWERS); SECTIONS 31-15-103 AND 31-15-401, C.R.S. (MUNICIPAL POLICE POWERS) AND SECTION 31-15-501, C.R.S. (MUNICIPAL AUTHORITY TO REGULATE BUSINESSES); AND

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO:

Section 1. Chapter 5.30 entitled "Medical Marijuana" and Chapter 5.40, entitled "Marijuana" of the Town of Palmer Lake Municipal Code, are hereby repealed and replaced with a new Chapter 5.30 entitled "Marijuana (Medical and Retail)" within Title 5 of the Town of Palmer Lake Municipal Code governing business regulations. Such newly adopted Chapter 5.30 shall read as follows in its entirety:

CHAPTER 5.30 MARIJUANA (MEDICAL AND RETAIL)

5.30.010 Definitions.

Amendment 20 means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2000, codified as Section 14 of Article 18 to the Colorado Constitution.

Amendment 64 means a voter-initiated amendment to the Colorado Constitution adopted November 6, 2012, codified as Section 16 of Article 18 to the Colorado Constitution.

Applicant means a corporation, partnership, limited liability company, or natural person or person(s) over eighteen (18) years of age which or who has submitted an Application for a License pursuant to this Chapter.

Application means an Application for a License or renewal of a License submitted pursuant to this Chapter.

Application Fee shall be an amount paid to the Town for the processing of a License or renewal of a License issued under this Chapter, the amount of which shall be set by the Town Board of Trustees by resolution and amended from time to time and which shall be set to recoup the Town costs of processing Applications for Licenses under this Chapter.

Annual License Fee shall be an amount paid to the Town for the privilege of holding a License issued under this Chapter, the amount of which shall be set by the Town Board of Trustees by resolution and amended from time to time, and which shall be set to recoup the Town costs of administration and enforcement under this Chapter.

Day means a calendar day, unless otherwise noted.

Good Cause for the purpose of denying a License or renewal under this Chapter means: (1) the Licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Chapter and any rule and regulation promulgated pursuant to this Chapter or under applicable state law; (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 Licensed Establishment has been operated in a manner that adversely affects the public health, welfare or safety of the Town. Evidence to support such a finding can include, but is not limited to: (i) a continuing pattern of offenses against the public peace, as defined in Title 9 of Chapter 48 of the Palmer Lake Municipal Code; (ii) a continuing pattern of drug-related criminal conduct within the premises of the Licensed Establishment; (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the Licensed Establishment; (iv) a felony associated with the owner or manager of the Licensed Establishment, one or more of its owner(s) or manager; (v) failure to provide correct information for each person required in Section 5.30.030 (a); (vi) failure to pay sales taxes in full by the deadlines specified by Town code.

License means a License to operate a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturer, a Medical Marijuana Center, an Optional Premises Medical Marijuana Cultivation Operation, and/or a Medical Marijuana-Infused Products Manufacturer issued by the Town pursuant to this Chapter.

Licensed Establishment shall mean the location at which the Licensee is authorized to operate the business issued a License pursuant to this Chapter.

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

Licensing Authority or Authority means the Town Board of Trustees or a board appointed by the Town Board of Trustees.

Marijuana has the meaning set forth in Section 16(2)(f) of Article XVIII of the Colorado Constitution.

Medical Marijuana has the meaning set forth in C.R.S. Section 12-43.3-104(7).

Medical Marijuana Center has the meaning set forth in C.R.S. Section 12-43.3-104(8).

Medical Marijuana Facility means Medical Marijuana Center, Optional Premises Cultivation Operation, or Medical Marijuana-Infused Product Manufacturing location.

Operational shall mean open for active business, engaged in the collection of sales tax, holding regular hours of operation and available to provide products and services to patients and/or primary caregivers.

Optional premises cultivation operation shall have the meaning as set forth in C.R.S. Section 12-43.3-104(11).

Paraphernalia shall mean 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 has the meaning as set forth in C.R.S. Section 12-43.3-103(15).

Retail Marijuana Cultivation Facility has the meaning as set forth in C.R.S. Section 12-43.3-103(16).

Retail Marijuana Establishment means a Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer or a Retail Marijuana Testing Facility.

Retail Marijuana Products Manufacturer has the meaning as set forth in C.R.S. Section 12-43.3-103(19).

Retail Marijuana Store has the meaning set forth in C.R.S. Section 12-43.3-103(20).

Retail Marijuana Testing Facility has the meaning set forth in C.R.S. Section 12-43.3-103(21).

5.30.020 Uses Prohibited or Restricted To Operate By License Only.

- A. It is unlawful for any person to operate any Retail Marijuana Establishment, except for a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturer, subject to subsection (2) hereof within the Town of Palmer Lake.
- B. Subject to Subsection (4) hereof, it is unlawful for any person to use or permit the use of any property within the Town related to Retail Marijuana or Medical Marijuana except for the operation of a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturer, a Medical Marijuana Center, an Optional Premises Medical Marijuana Cultivation Operation, and a Medical Marijuana-Infused Products Manufacturer if and as a valid Town issued License and all state required Licenses have been issued and maintained at all times while any person is engaged in any such use(s).
- C. It is unlawful to make Marijuana grown for use available for sale in any manner other than through a Licensed Medical Marijuana Center in the Town or by wholesale to other licensed establishments.
- D. It is unlawful to grow Marijuana for personal or caregiver use anywhere in the Town of Palmer Lake other than as allowed by and in compliance with either or both this Chapter and Chapter 17.82 of this Code. Nothing in this Chapter shall be construed to prohibit private or non-commercial assembly for the purpose of consuming Marijuana or Marijuana products subject to the prohibition on Marijuana Clubs set forth in Chapter 17.82.

5.30.030. Application and Process for Issuance of License.

- A. A person seeking to obtain a License pursuant to this Chapter shall file an Application with the Town Clerk in a form as shall be provided by the Town Clerk.
- B. In addition to the License required pursuant to this Chapter, all Applicants for Licenses under this Chapter must also obtain all other Town required approvals, Licenses and permits related to the operation of the business Licensed under this Chapter to include without limitation and if applicable, any required land use approvals, state sales tax License, Town business License, and any and all required building permits.
- C. All Applications for a License under this Chapter shall contain the following information:
 - (1) The Applicant's name, address, telephone number and social security number;
 - (2) Names and addresses of all officers, directors and managers, as appropriate;

- (3) 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 Applicant or the names of each natural person who owns five percent (5%) or more of the ownership interest in the entity seeking the License;
 - (4) The street address and unit number, if applicable, of the proposed Licensed Establishment and a complete description of the floor plans drawn to scale and specifications for the interior of the premises of the Licensed Establishment that were submitted to the Colorado Department of Revenue;
 - (5) If the Applicant is not the owner of the proposed location of the proposed Licensed Establishment, a notarized statement from the owner of such property authorizing the submission of the Application;
 - (6) A complete set of fingerprints from those individuals required by the Colorado Medical Marijuana Code and Colorado Retail Marijuana Code to undergo a background investigation. The Town shall have the authority to investigate the background of the Applicant and all fingerprinted individuals.
 - (7) Any additional information that the Licensing Authority or Town Administrator or Town Clerk reasonably determines to be necessary in connection with the investigation and review of the Application.
 - (8) Any License Application hereunder shall be accompanied by the Application Fee which shall be set by the Town Board of Trustees by resolution. Incomplete Applications, including failure to submit required fees, shall not be processed and shall be returned to the Applicant.
 - (9) Applications must be amended when there is a change to corporate structure, registered manager, and change of operation plan or modification of Licensed premises by submitting an amendment on a form approved by the Town Clerk. Such change shall be subject to payment of any fee set by the Town Board of Trustees by resolution and compliance with all other terms of this Chapter.
 - (10) An Operations Plan as required by Section 5.30.200.
- D. 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 refer copies of the Application, redacting any unnecessary sensitive personally identifying or financial information, to:
- (1) The Police Department which shall obtain and review a criminal background history on all persons required to be fingerprinted and report to the Licensing Authority on the results of such investigation; and

- (2) The Planning Commission which shall review the Application for zoning compliance, land use regulations and limitations on location as set forth in Subsection 3(g) above and report to the Licensing Authority on the results of such investigation; and
- (3) Any other person or agency which the Town determines should properly investigate and comment upon the Application.

5.30.040 Requirements for Hearings and Appeals from Licensing Authority Determinations Following Hearing Under This Chapter.

A. Notice Requirements.

- (1) Notice of all hearings for new Licenses under this Chapter shall be scheduled between the Clerk and the Applicant based on the Licensing Authority meeting schedule and no additional written notice is required.
- (2) Notice of hearings to show Good Cause why the Town should not renew a License, or for revocations or suspensions shall be given by mailing a copy of the notice of the time, date place and subject of the relevant hearing to the Applicant or Licensee by regular mail and by certified mail, postage prepaid, at the address shown in the Application or on the License. Notice is deemed to have been properly given upon mailing. Notice shall be placed in the mail in accordance with this Section delivered at least ten days before any such hearing.

B. Decisions of the Licensing Authority shall be quasi-judicial and final and subject to appeal to and review by the District Court pursuant to C.R.C.P. Rule 106(a)(4).

5.30.050. Prohibited Locations; Permanent Location Required.

A. Prior to the issuance of a License under this Chapter, the Licensing Authority shall determine whether the proposed location of the Licensed Establishment complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a License.

B. Location Restrictions.

- (1) Consistent with the other requirements of this Section, a Licensed Establishment may locate as a conditional use within the following zone districts within the Town: (C-2) Commercial Two Zone and (M-1) General Industrial Zone.
- (2) There shall only be two (2) Licensed Establishment locations permitted within the Town, provided, however that at each such location, there may be conducted uses requiring one or more of the Licenses issued under this Chapter. A location shall be a single addressed structure. A Location that occupies more than one suite or entrance door at the same street number and name shall be considered a single addressed structure.

- (3) Measured in same manner as liquor licensed establishments are measured from schools under state law, no Licensed Establishment shall be located:
 - a. Within 500 feet of a Licensed child care facility.
 - b. Within 1000 feet of a dedicated Town park.
 - c. Within 1000 feet of any permanent structure of a religious institution, educational institution or school (not to include home based religious meetings or schools), college or university, either public or private.
 - d. Within 1000 feet of any halfway house or correctional facility.
 - e. Within 500 feet of any other Licensed Establishment.
 - f. Within 1000 feet of any existing residential zone district boundary.
 - g. Upon any Town-owned property.
- C. Each Licensed Establishment shall be operated from the permanent location as shown on the License. No Licensed Establishment shall be permitted to operate from a moveable, mobile or transitory location.
- D. The suitability of a location for a Licensed Establishment shall be determined at the time of the issuance of the first License for such Licensed Establishment location. The fact that changes in the neighborhood occur after the issuance of the License render the site unsuitable for location of a Licensed Establishment under this Section shall not be grounds to suspend, revoke or refuse to renew the License as long as the License for the Licensed Establishment remains valid and in effect.

5.30.060. 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 Licensing Authority determines, by a preponderance of the evidence, that:

- (1) The Application is complete and signed by the Applicant.
- (2) The Applicant has paid the Application Fee and any other fees required.
- (3) The Application does not contain a material falsehood or misrepresentation.
- (4) The Application complies with all of the requirements of this Chapter.
- (5) The Applicant is not prohibited by Section 12-43.3-307 or Section 12-43.4-306, C.R.S., as applicable, to be a Licensee. The Applicant and any other individuals listed on the Application may present written

documentation with the Application regarding his/her criminal history, including but not limited to evidence of mitigating factors, 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.

- (6) The Applicant has not otherwise failed to comply with the provisions of this Chapter, the Colorado Medical Marijuana Code, Colorado Retail Marijuana Code or any implementing statutes and administrative regulations, as amended from time to time.
- (7) The zoning requirements and location restrictions set forth in this Chapter are satisfied.
- (8) That the issuance of a License, for the square footage requested, is justified to meet the needs of the community.

5.30.070. Denial of License.

A. The Licensing Authority shall deny an Application for a License or renewal of a License under this Chapter, if the Licensing Authority determines that:

- (1) Information contained in the Application or supplemental information requested from the Applicant is found to be false in any material respect; or
- (2) Good Cause exists; or
- (3) The Application or the Applicant fails to meet any of the standards set forth in this Chapter or in state law.

B. If an Application is denied, the Application Fee shall not be refunded.

5.30.080. 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 applicable law.

5.30.090. Decision by Licensing Authority.

A. The Licensing Authority shall consider an Application at a public hearing held as soon as possible at a regular meeting of the Licensing Authority after receipt by the Town Clerk of the completed Application and receipt of comments from all agencies or departments to which the Application is referred.

B. The Licensing Authority may approve, deny, or approve with conditions the Application. If an Application is denied, the Licensing Authority shall set forth in writing the grounds for denial.

- C. Notice of and appeal from the Licensing Authority decision shall be as set forth in Section 5.30.040.

5.30.100. Contents of License.

- A. Licenses shall contain the following information:
 - (1) The name of the Licensee;
 - (2) The type of operation Licensed;
 - (3) The date of the issuance and of expiration of the License;
 - (4) The address of the Licensed Establishment; and
 - (5) Any special conditions of approval imposed upon the License.
- B. A License must be signed by the Town Clerk or his/her designee to be valid.

5.30.110. Duration and Renewal of License

- A. A License shall be valid for a period of one year and must be renewed on forms provided by the Town Clerk.
- 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. No Application for renewal shall be accepted by the Town Clerk after the date of expiration.
- 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 in an amount fixed by resolution by the Town Board of Trustees.
- E. The Licensing Authority may refuse to renew a License for Good Cause. For purposes of this Section, the burden shall be upon the Town to show at a hearing by a preponderance of the evidence that Good Cause exists to deny the renewal Application. The Licensee shall be notified of the hearing in accordance with Section 5.30.040 to include the grounds upon which the Town believes Good Cause may exist to not renew the License.

5.30.120. Transferability of License.

A License is transferable and assignable only in conformity with this Chapter and applicable state law, to include the criteria of Section 5.30.060 (1) through (6) and including any requirement that the Town be notified of and approve in advance any transfer, to include transfer of capital stock or change of corporate or LLC structure in any Licensee and the Town may charge a fee for a transfer of ownership or change of corporate or LLC structure application in an amount set by the Board of Trustees by resolution.

5.30.130 Change of Location.

An application for change of location shall follow the same procedures as an application for a new License, and the Town may charge a fee for a change of location application in an amount set by the Board of Trustees by resolution.

5.30.140. Posting Required.

The License of a Medical Marijuana Center must be posted continuously in a conspicuous public location at the Licensed Establishment. All other Licenses issued hereunder must be posted conspicuously in the Licensed Establishment.

5.30.150. Duties of Licensee.

It is a violation of this Code for any Licensee to fail to:

- (1) Comply with all the terms and conditions of the License, and any special conditions on the License; and/or
- (2) Inform the Town Clerk in writing of any change to Licensee's mailing address within 30 days of the change; and/or
- (3) Comply with all of the requirements of this Chapter; and/or
- (4) Comply with all other applicable Town ordinances; and/or
- (5) Comply with all state laws and administrative regulations pertaining to the sale and use of Marijuana, including, but not limited to, the Colorado Medical Marijuana Code, S§ 12-43.3-101 *et seq.*, C.R.S., the Colorado Retail Marijuana Code, §§12-43.4-101 *et seq.*, Section 18-18-406.3, C.R.S., and all applicable administrative regulations issued by the Colorado Department of Revenue and the Colorado Department of Public Health and Environment as amended from time to time; and/or
- (6) 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 conflicts with Amendment 20 or Amendment 64 as adopted by the voters of Colorado; and/or
- (7) Take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance such as, without limitation, traffic, noise and odor, in parking areas, sidewalks, alleys and areas surrounding the premises, and adjacent and nearby properties; and/or
- (8) Permit inspection of its records and operation, except for information required to be private pursuant to Amendment 20, by the Town Clerk or designee for the purpose of determining the Licensee's compliance with the terms and conditions of the License.

5.30.160. Suspension or Revocation of License.

- (A) A License may be suspended or revoked 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) Violation of any of the provisions of this Chapter or of Town, state or federal law or regulation, other than federal law or regulation concerning the production, transportation, possession, sale or distribution of Marijuana that conflicts with Amendment 20 or Amendment 64, as applicable to the type of License held.
 - (3) Violation of any of the terms and conditions of the License, including any special conditions of approval imposed upon the License.
 - (4) Cessations of operations at a Licensed Medical Marijuana Center for more than thirty (30) days once operations commence.
- (B) A hearing to show cause why a License should not be suspended or revoked shall be scheduled before the Licensing Authority. The Town Clerk shall notify the Licensee of the issuance of any such show cause hearing in accordance with the requirements of Section 5.30.040. Such hearing may be continued for good cause.
- (C) The burden of proof at the hearing shall be on the Town. If the Licensing Authority finds by a preponderance of the evidence that the allegations which gave rise to the show because hearing sustained, the Licensing Authority shall have the power to revoke, suspend and/or place additional reasonable conditions on the License. The Licensing Authority shall issue such order in writing to the Licensee within 10 days of the date of decision.

5.30.170. Hours of Operation.

Unless more restricted by state law, a Licensed Establishment may open to the public no earlier than 9:00 a.m. and shall close no later than 9:00 p.m. the same day. A Medical Marijuana Center may be open seven (7) days a week.

5.30.180. Signage.

All signage for a Licensed Establishment shall comply with the requirements of the Palmer Lake Municipal Code. In addition, no Licensee shall display a sign that contains the word "Marijuana," "cannabis," or any other word or phrase commonly understood to refer to Marijuana or a graphic/image of any portion of a Marijuana plant, or Paraphernalia associated with medicinal Marijuana use.

5.30.190. Security and Lighting Requirements.

A Licensee shall provide adequate security on the premises of a Licensed Establishment including, but not limited to, the following:

- (1) Surveillance. Security video surveillance cameras capable of recording installed and operational as required by state law.
- (2) Inventory. All saleable inventory of Marijuana must be kept and stored in a secured, locked manner.
- (3) Safe. A locking safe or secure vault permanently affixed or built into the premises to store any currency on site.
- (4) Lighting. Exterior lighting that illuminates the exterior entrances, to include windows, of the business and otherwise complies with the Lighting Plan submitted as part of the Operating Plan.
- (5) 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.
- (6) Emergency Contact. A Licensee shall provide the Chief of Police with the name, phone number, and mobile number of an on-site community relations staff person to whom the Town may provide notice of any operating problems associated with the Licensed Establishment.

5.30.200. Operating Plans.

In connection with the License Application, the Applicant shall provide a detailed operations plan and, upon issuance of a License, shall operate the Licensed Establishment at all times in accordance with the Operating Plan. Such Operating Plan shall include:

- (1) Floor Plan. A plan showing the layout of the Licensed Establishment and the principle uses of the floor area depicted. A Medical Marijuana Center shall have a lobby waiting area at the entrance to the dispensary to receive clients, and a separate and secure designated area for dispensing Medical Marijuana to qualified patients or designated primary caregivers. The primary entrance of any stand-alone facility shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.
- (2) Storage. A Medical Marijuana Center shall provide a storage plan which demonstrates compliance with 5.30.260(b).
- (3) Security Plans. A Licensed Establishment shall provide a security plan which demonstrates compliance with Section 5.30.240.
- (4) Lighting Plan. A Licensed Establishment shall provide a lighting plan in accordance with this code. Such plan shall also include any illumination visible from outside the Licensed Establishment any mitigation controls to lessen adverse impacts to the surrounding properties.
- (5) Odor Controls. A Licensed Establishment shall provide a plan for the mitigation and control of odors and other environmental impacts which

may emanate from the Licensed Establishment. Such plan shall describe the ventilation system for the premises. The Licensed Establishment shall at all times operate in conformance with the Odor Control Plan such that odor shall not be detectable from adjacent or nearby premises.

- (6) A Medical Marijuana Center must provide a description of the products and services to be provided by the Medical Marijuana Center.

5.30.210. Taxes.

- A. For all Licensed Establishments required to collect a sales or an excise tax under Town ordinances or state law, a valid sales tax License or other Licenses as may be required under local or state law must be kept current.
- B. All Medical Marijuana Center Licensees shall collect and remit sales tax on all Medical Marijuana, Paraphernalia and other tangible personal property sold by the Licensee.
- C. All Licensees required to remit state and local excise tax on the first sale or transfer of Retail Marijuana shall timely remit such taxes in full.

5.30.220. Enforcement and Penalties.

- A. In the interest of public safety, officers of the police department may make Application to the Town's municipal court for a warrant to enforce the provisions of this Chapter. Such Application and any warrant issued pursuant thereto shall comply with the provisions in Rule 241 of the Colorado Municipal Court Rules of Procedure.
- B. In addition to administrative penalties to include revocation or suspension of a License issued hereunder, any persons or entity convicted of a violation of any provision of this Chapter shall be punished by a fine and/or imprisonment not to exceed the amounts set forth in Section 1.16.010 of this Code for each offense committed.
- C. Nothing herein shall limit the remedies available to the Town at law or in equity to enforce the provisions of this Chapter.

Section 2. Section 17.37.020 entitled "Conditional Permitted Uses" of Chapter 17.37 of the Town of Palmer Lake Municipal Code governing the C2 General Business and Commercial Zone, is retitled and amended to add "Licensed Establishments as such term is defined in Chapter 5.30 as and if otherwise allowed and regulated by Chapter 5.30" such that the Section reads as follows in its entirety:

17.37.020 Conditional Uses (C2).

- A. Wholesale Businesses
- B. Drive-in Commercial Uses

- C. Bowling Alleys.
- D. Educational Institutions.
- E. Religious Institutions
- F. Public and Semi-Public Uses (per definition in Section 17.08).
- G. Nursing Homes, Hospitals
- H. Ambulance Services
- I. Single-Family and Multi-Family Uses (R-1 through R-4 subject to all regulations of that particular zone).
- J. Mini-Warehouses and Storage Rental Spaces.
- K. Mixed-Residential Dwelling and Commercial Uses Occurring in the same Building
- L. Light Manufacturing.
- M. Kennel, provided that a Minimum Area of Five Acres is Available.
- N. Vehicle Repair and Service.
- O. Hotels and Motels.
- P. Parking Garages.
- Q. Licensed Establishments as such term is defined in Chapter 5.30 as and if otherwise allowed and regulated by Chapter 5.30.
- R. Other such uses as listed and permitted which are not more detrimental, as determined by the Planning Commission and Town Board of Trustees.

Section 3. Section 17.40.020 entitled “Conditional Uses (M-1)” of Chapter 17.40 of the Town of Palmer Lake Municipal Code governing the M1 General Industrial Zone, is amended to add “Optional Premises Cultivation Operations as such term is defined in Chapter 5.30 as and if otherwise allowed and regulated by Chapter 5.30” such that the Section reads as follows in its entirety:

17.40.020 Conditional Uses (M1).

- A. Research and testing facilities.
- B. Breweries and distilleries.
- C. Canneries.
- D. Freight yards.
- E. Metal fabrication.
- F. Kennels, provided that a minimum of five acres is available for said kennel.
- G. Laboratories.
- H. Optional Premises Cultivation Operations as such term is defined in Chapter 5.30 as and if otherwise allowed and regulated by Chapter 5.30.
- I. Other such uses as listed and permitted which are not more detrimental, as determined by the Planning Commission and Town Board of Trustees.

Section 4. Title 17 of the Town of Palmer Lake Municipal Code is amended by the adoption of a new Chapter 17.82 to read as follows in its entirety:

CHAPTER 17.82

RESIDENTIAL MARIJUANA CULTIVATION AND MARIJUANA CLUBS

17.82.010 Definitions.

The following words, terms and phrases, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise:

Enclosed shall mean having a roof and all sides closed to the weather with walls, windows or doors.

Flowering shall mean the reproductive state of the cannabis plant in which there are physical signs of flower budding out of the nodes in the stem

Licensed establishment shall have the meaning assigned in Section 5.30.010 of this Code.

Marijuana for the purposes of this Section, shall have the definition set forth in Section 5.30.010 and shall include both Medical Marijuana and Retail Marijuana.

Marijuana club shall mean a commercial establishment at which the consumption or introduction of Marijuana into the human body, by any means whatsoever, is permitted. An establishment shall be considered to be commercial for purposes of this definition if it accepts compensation in exchange for goods, services, membership privileges or admission.

Plant shall mean any cannabis plant in a cultivating medium which is more than four inches wide or four inches high or a flowering cannabis plant, regardless of the plant's size.

Primary Residence shall mean the addressed inhabitable residential property structure that a person, by custom and practice, makes his or her principle domicile and to which the person intends to return, following any temporary absence, such as vacation. Such residence is evidenced by actual daily physical presence, use, and occupancy of the structure and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail deliver, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one Primary Residence.

Residential property shall mean a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Residential property also includes the real property surrounding a structure, owned in common with the structure, that includes one or more single units providing complete independent living facilities.

17.82.020 Intent, Authority and Applicability.

- A. **Intent.** It is the intent of this Section to prohibit certain land uses related to Marijuana, and in furtherance of its intent, the Town Board makes the following findings.
- (1) Article XVIII, §§ 14 and 16 of the Colorado Constitution, the Colorado Medical Marijuana Code, Section 12-43.3-101, *et seq.* C.R.S., and the Colorado Retail Marijuana Code, 12-43.4-101, *et seq.*, C.R.S., authorize municipalities to regulate the cultivation, distribution, manufacturing, consumption, and dispensing of Marijuana.
 - (2) In the Front Range, the cultivation, distribution and manufacturing of Marijuana or Marijuana-infused products for personal consumption or illegal sale has caused dangerous conditions including fires and explosions.
 - (3) As found by the Colorado General Assembly in enacting House Bill 17-1220, (f) large-scale cultivation sites in residential properties create a public safety issue and are a public nuisance. A site in a residential property can overburden the home's electrical system, resulting in excessive power use and creating a fire hazard that puts first responders at risk. A site can also cause water damage and mold in the residential property. A site in a residential property can produce a noxious smell that limits the ability of others who live in the area to enjoy the quiet of their homes. Often the site is a rental home, and the renters cause significant damage to the home by retrofitting the home to be used as a large-scale cultivation site. When residential property is used for a large-scale cultivation site, it often lowers the value of the property and thus the property value of the rest of the neighborhood. Finally, a site in a residential property can serve as a target for criminal activity, creating an untenable public safety hazard.
 - (4) As found by the Colorado General Assembly in enacting House Bill 17-1220, large-scale, multi-national crime organizations have exploited Colorado laws, rented multiple residential properties for large-scale cultivation sites, and caused an influx of human trafficking and large amounts of weapons as well as the potential for violent crimes in residential neighborhoods.
 - (5) Large-scale cultivation sites in residential properties have been used to divert marijuana out of state and to children. Based on the potential secondary effects from the cultivation, distribution, manufacturing, dispensing and public consumption of Marijuana or Marijuana-infused products, leaving such land uses unregulated could have an adverse effect on the health, safety and welfare of the Town and its inhabitants.
- B. **Applicability.** This Section shall apply to all property within the Town. To the extent that the Town is required to allow the cultivation of Marijuana for personal

or medicinal use under state law, the rules set forth herein shall apply. Nothing in this Section shall be interpreted to permit Retail Marijuana Stores or Medical Marijuana establishments of any kind otherwise prohibited by this or any other Chapter. If the Colorado Medical Marijuana Code, Article XVIII, § 14 of the Colorado Constitution, or Article XVIII, § 16 of the Colorado Constitution are declared unlawful in violation of federal law, nothing in this Code shall be deemed to permit the cultivation, possession or use of Marijuana for medicinal use or any other purpose. Nothing in this Section shall be deemed to provide a defense to the prosecution of offenses under the Federal Controlled Substances Act occurring in the Town.

17.82.030 Prohibitions Regarding Marijuana.

- A. It is unlawful for any person to operate a marijuana club within the Town.
- B. Other than a licensed establishment duly licensed to do so, it is unlawful for a person to knowingly cultivate marijuana for personal or medicinal use or consumption anywhere in the Town other than in an enclosed, locked space within a residential property under the ownership of the person cultivating the marijuana or with the written permission of the property owner, and only so long as the person cultivating marijuana also maintains his or her primary residence on such property.
- C. It is unlawful for a person to cultivate or process marijuana in the common living areas of any structure on a residential property. It is unlawful to use a kitchen, bathroom or primary bedrooms for the indoor cultivation of marijuana.
- D. It is unlawful for a person to possess at or cultivate, grow or produce more than six (6) marijuana plants in or on a residential property for every adult over the age of twenty-one (21) who resides on such property as or her primary residence.
- E. Regardless of the number of adults over the age of twenty-one who reside on any residential property, effective as of January 1, 2018, it shall be unlawful to possess at or cultivate, grow or produce in total more than twelve (12) marijuana plants in or on a residential property or to knowingly allow more than twelve (12) marijuana plants to be cultivated, grown or produced on or in a residential property.
- F. It is unlawful for a person to cultivate marijuana inside a residential dwelling in an area exceeding thirty-two (32) square feet or exceeding a height of ten (10) feet. The cultivation area shall be a single, locked area and shall not be accessible to anyone under the age of twenty-one (21).
- G. It is unlawful for any person to cultivate marijuana in a detached accessory structure or attached or detached garage unless such structure or garage is on property of the person's primary residence. Any garage or accessory structure used for the cultivation of marijuana, including all walls, doors and the roof, shall be constructed with a firewall assembly of Type X drywall meeting the minimum

building code requirements for residential structures. The cultivation area shall be a single locked area and not accessible to anyone under the age of twenty-one (21). It is unlawful to cultivate marijuana both inside a residential dwelling and in a detached accessory structure or attached or detached garage – only one location being permitted per residential property. Other provisions of this Chapter notwithstanding, a permit is required for an accessory structure used for cultivating marijuana.

- H. It is unlawful to cultivate marijuana in an accessory structure in an area that exceeds fifty (50) square feet or more than ten (10) feet in height.
- I. It is unlawful to cultivate marijuana in an attached or detached garage in an area that is greater than thirty-two (32) square feet or more than ten (10) feet in height.
- J. It is unlawful to use any lighting for the indoor cultivation of marijuana other than light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or fluorescent lighting. All high-intensity discharge (HID) lighting, including but not limited to mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, are prohibited.
- K. It is unlawful to use gas products (e.g., CO₂, butane) for indoor marijuana cultivation or processing.
- L. It is unlawful to cultivate marijuana in any structure without complying with applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including but not limited to lot coverage, setback and height requirements.
- M. Any indoor marijuana cultivation area shall include a ventilation and filtration system designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence. This shall include, at a minimum, a system meeting the requirements of the current edition of the Pikes Peak Regional Building Code as adopted by the Town.
- N. It is unlawful to store chemicals used for marijuana cultivation inside of the habitable areas of the residence or within public view from neighboring properties and public rights-of-way.
- O. It is unlawful to cultivate marijuana within public view from neighboring properties and public rights-of-way.
- P. It is unlawful for any marijuana cultivation activity to adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor detectable from adjacent or nearby premises, smoke, traffic, vibration or other

impacts; or be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.

17.82.040 Penalty; Nuisance declared.

- A. It is unlawful for any person to violate any of the provisions of this Section. Any such violation is hereby designated a criminal offense, and any person found guilty of violating any of the provisions of this Section shall, upon conviction thereof, be punished by a fine or imprisonment or both pursuant to Section 1.16.010 of this Code. Each day that a violation of any of the provisions of this Section continues to exist shall be deemed a separate and distinct violation.
- B. The conduct of any activity or business in violation of this Section is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the abatement of nuisance provided for in Chapter 8.04 of this Code.

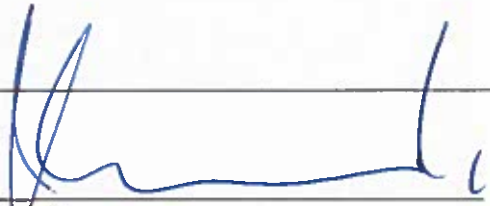
17.82.050 Authorization for Application for Search Warrant.

In the interest of public safety, officers of the police department may make Application to the Town's municipal court for a warrant to enforce the provisions of this Section. Such Application and any warrant issued pursuant thereto shall comply with the provisions in Rule 241 of the Colorado Municipal Court Rules of Procedure.

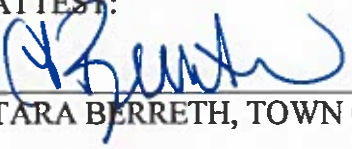
Section 5. Severability. It is hereby declared to be the intention of the Board of Trustees of the Town of Palmer Lake, Colorado that the sentences, clauses and phrases of this ordinance are severable, and if any sentence, clause or phrase of this ordinance be declared unconstitutional or invalid by the valid judgment or decree of Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sentences, clauses or phrases of this ordinance since the same would have been enacted by the Board of Trustees without the incorporation of any unconstitutional or invalid sentence, clause or phrase.

Section 6. Publication and Effective Date. The Town Clerk shall certify to the passage of this ordinance and cause notice of its contents and passage to be published by title only and posted in full on the Town official web site. This ordinance shall become effective thirty (30) days after the date of publication.

PASSED AND ADOPTED THIS ___ DAY OF _____, 2017 BY A VOTE OF 4 FOR AND 1 AGAINST.



JOHN CRESSMAN, MAYOR

ATTEST:


TARA BERRETH, TOWN CLERK



I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Palmer Lake at its meeting of Sept 2017, and ordered published by title only by Gazette newspaper on Sept 9, 2017 and published in full on the Town's official web site.



Tara Berreth, Town Clerk

Ad ID: 6188

Cost: \$87.80

Start: 09/07/17

Stop: 09/07/17

Class: 910, Legal Notices

**PALMER LAKE, COLORADO
ORDINANCE NO. 15 OF 2017**

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE (A) REPEALING ALL PRIOR ORDINANCES AND PALMER LAKE MUNICIPAL CODE PROVISIONS RELATED TO THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, RETAIL MARIJUANA STORES, AND MARIJUANA CLUBS WITHIN THE TOWN, TO INCLUDE REPEAL OF CHAPTERS 5.30 AND 5.40 OF THE PALMER LAKE MUNICIPAL CODE, (B) READOPTING A NEW CHAPTER 5.30 REGULATING SUCH MARIJUANA RELATED USES WITHIN THE TOWN, (C) AMENDING CHAPTERS 17.37, GOVERNING THE C2 GENERAL BUSINESS AND COMMERCIAL ZONE, AND CHAPTER 17.40, GOVERNING THE M1 GENERAL INDUSTRIAL ZONE, TO PROVIDE THAT MARIJUANA LAND USES WITHIN SUCH ZONE DISTRICTS SHALL BE CONDITIONAL USES AND SUBJECT TO CERTAIN LOCATION RESTRICTIONS AS SET FORTH IN CHAPTER 5.30, AND (D) ADDING A NEW CHAPTER 17.82 PROHIBITING MARIJUANA CLUBS AND GOVERNING THE PERSONAL USE CULTIVATION OF MARIJUANA WITHIN THE TOWN

**PALMER LAKE, COLORADO
ORDINANCE NO. 16 OF 2017**

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE AMENDING CHAPTER 10.04 OF THE PALMER LAKE MUNICIPAL CODE CONCERNING AN AMENDMENT TO THE 2009 EDITION OF THE MODEL TRAFFIC CODE PREVIOUSLY ADOPTED BY THE TOWN BY THE ADDITION OF A NEW SECTION 239 TO THE MODEL TRAFFIC CODE GOVERNING USE OF WIRELESS TELEPHONES AND SETTING PENALTIES FOR VIOLATIONS THEREOF

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