

CHAPTER 11 Retail Marijuana

Article I General

Sec. 11-11-101. Findings and purpose.

City Council finds that the cultivation, manufacture, distribution, testing, possession, sale and use of retail marijuana may be harmful to public health, safety and welfare if not carefully regulated. This Chapter is designed to protect public health, safety and welfare from the potential adverse effects of retail marijuana, while permitting retail marijuana to be cultivated, manufactured, distributed, tested, possessed, sold and used in accordance with law. City Council further finds and declares that the subject matter of this Chapter is a matter of local and municipal interest.

Sec. 11-11-102. Incorporation of general licensing provisions.

The provisions of Chapter 1, Title IX, Pueblo Municipal Code, shall apply to this Chapter except where they may be inconsistent with the provisions of this Chapter.

Sec. 11-11-103. Definitions.

The following definitions shall apply throughout this Chapter:

- (1) The definitions contained in Article XVIII, Section 16, Colorado Constitution and Section 44-10-103, C.R.S., shall apply to this Chapter except where this Chapter provides a different definition or the context of this Chapter makes it clear that the statutory or constitutional definition does not apply.
- (2) *Adjacent grounds* means all areas that the licensee has a right to possess by virtue of his or her ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers and security devices.
- (3) *Approve a license* means to find that the requirements for a license have been met, but does not give the applicant the right to operate a retail marijuana facility until the license is issued.
- (4) *Authority* means the Pueblo Retail Marijuana Licensing Authority.
- (5) *Character and record* includes all aspects of a person's character and record, including but not limited to moral character, criminal record, serious traffic offenses, record of previous sanctions against liquor licenses, medical marijuana licenses, retail marijuana licenses or other licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager or employee; education, training, experience, civil judgments, truthfulness, honesty and financial responsibility. The conviction of any person for any offense shall not, in itself, be grounds for a finding of bad character and record if such person demonstrates that he or she has been rehabilitated, but rehabilitation shall not be considered if a provision in this Chapter declares that the offense is a per se disqualification.
- (6) *Complaint* means a document filed with the Authority by the City, any of its Departments or the Authority itself, seeking sanctions against a retail marijuana license.

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- (7) *Contiguous* means located within the same building as the retail marijuana establishment, located in a separate building on the same parcel of land as the retail marijuana establishment, or located in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the retail marijuana establishment is located.
- (8) *Employee* means the licensee's or proposed licensee's employees.
- (9) *Financier* means any person lending, paying or providing funds, directly or indirectly, to pay any part of the costs of: operating the retail marijuana facility, including but not limited to the costs of rent, mortgage payments, utilities, debt payments, supplies, product, equipment, advertising, vehicles, salary and wages.
- (10) *Harm or harmful to public health, safety or welfare* means any matter that adversely affects the health, safety or welfare of any person or group of persons within the City of Pueblo or any adjacent community, including but not limited to matters related to crime, lighting, security, traffic, graffiti, loitering, litter, parking and noise. A showing of actual harm shall not be required and a showing of potential or threatened harm shall be sufficient. Any violation of any criminal statute or ordinance is per se substantially harmful to public health, safety and welfare, without any showing of actual or threatened harm. The mere possession, advertising, sale, cultivation, manufacturing, testing, processing, smoking or ingestion of retail marijuana and retail marijuana products, when performed lawfully, shall not in itself be considered harmful to public health, safety and welfare.
- (11) *In public* means any area that the public may generally enter, including any business open to the public. The term includes the licensed premises and the adjacent grounds. The term includes persons in motor vehicles located in a public place.
- (12) *Issue a license* means to finalize the license after a previous approval of the license, and may or may not occur after approval of the license, depending on any completions, inspections, approvals or conditions that the Authority may require to be satisfied before issuance. Issuance gives the licensee the right to operate a retail marijuana establishment, provided that the licensee also obtains a State license.
- (13) *Licensee* means the person or entity holding a retail marijuana license under this Chapter.
- (14) *Licensed premises* means the area inside a building in which the cultivation, manufacture, testing, processing, possession, weighing, display, packaging, sale and exchange of retail marijuana or marijuana products is licensed under this Chapter.
- (15) *Marijuana or retail marijuana*, except where the context clearly indicates otherwise, means growing marijuana plants, harvested marijuana in any condition and retail marijuana products of all kinds.
- (15.5) *Retail marijuana district* shall mean the geographic area in which retail marijuana stores may be located. There shall be two (2) retail marijuana districts. The North Retail Marijuana District shall be that area of the City located north of the Arkansas River. The South Retail Marijuana District shall be that area of the City located south of the Arkansas River.
- (16) *Retail marijuana establishment* means a retail marijuana cultivation facility, a retail marijuana products manufacturer, a retail marijuana testing facility, or a retail marijuana store.
- (17) *Retail marijuana license* means any of the licenses described in Section 11-11-302 of this Chapter.
- (18) *Operate or operation* means the matters described in Section 11-11-307(a)(3) and (a)(4) of this Chapter.
- (19) *Permit* when used as a verb means to:
- a. Participate in or contribute to an act, conduct or omission;

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- b. Consent to or condone an act, conduct or omission;
 - c. Know or have reason to know that an act, conduct or omission is or may be occurring, or probably will occur unless steps are taken to prevent the same, and failing to take reasonable steps to halt, thwart or prevent the same; or
 - d. Ignore, avoid knowledge or notice of, or turn a blind eye to an act, conduct or omission that may be occurring.
- (20) *Person* means any natural person or any entity.
- (21) *Principal* means a controlling beneficial owner pursuant to C.R.S. § 44-10-103, including, but not limited to, a natural person, business entity, publicly traded corporation, or qualified private fund that acting alone or in concert owns or acquires beneficial ownership of ten percent (10%) or more of an ownership interest in the licensed business, is an affiliate that controls the business, including any manager, or that is in a position to control the business and is not a licensed Retail Marijuana Business Operator.
- (22) *Publicly traded corporation* means any person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another Country that authorizes the sale of marijuana and that meets the definition and qualifications of a publicly traded corporation as promulgated by the State of Colorado.
- (23) *Serious traffic offense* means any driving offense carrying eight (8) points or more under Section 42-2-127, C.R.S., or the substantial equivalent of such offense in any other State.

Sec. 11-11-104. Time.

The word "days" as used in this Chapter means calendar days.

Sec. 11-11-105. Certain confidential matters not public records.

- (a) The following materials contained in the files and records of the Authority and the City shall be confidential and shall not be public records:
 - (1) The records described in Section 11-11-319 of this Chapter;
 - (2) The results of the inspection of books, records and audits conducted under Section 11-11-320 of this Chapter;
 - (3) The results of inspections conducted under Section 11-11-321 of this Chapter;
 - (4) Responses to requests for information made under Section 11-11-322 of this Chapter.
- (b) The confidentiality of the matters described in subsection (a) of this Section shall not prevent any City or State employee from accessing and reviewing such records if necessary or desirable as part of their assigned duties.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-106. No private duties, cause of action or remedies.

Nothing contained in this Chapter shall be construed as creating, directly or indirectly, any duty between private persons, a private cause of action or any private legal remedy.

Sec. 11-11-107. Construction and severability.

Any court of competent jurisdiction construing or applying this Chapter shall seek a saving construction and application that makes the provisions of this Chapter constitutional and legal. In the event that any court of competent jurisdiction determines that any provision in this Chapter violates any constitutional, statutory or other right, despite the court's saving construction and application, the Court shall strike the unlawful provision only and sever the same from the remainder of this Chapter, which shall remain valid and effective.

Article II Retail Marijuana Licensing Authority

Sec. 11-11-201. Licensing authority.

The Mayor, subject to Council confirmation, shall appoint a Board to serve as the Retail Marijuana Licensing Authority.

Sec. 11-11-202. Members of Board.

- (a) The Board appointed by City Council to serve as the authority shall consist of five (5) members, who shall be residents of the City. Five (5) members shall be initially appointed for staggered terms expiring on the first day of July as follows: one (1) member for a one-year term, one (1) member for a two-year term, one (1) member for a three-year term, and two (2) members for four-year terms. Thereafter, each member shall be appointed for a term of four (4) years. At the Board's first regular meeting and on the anniversary of the first meeting and each year thereafter, the Board shall appoint one (1) of its members to act as Chair of the Board. The Mayor, subject to Council confirmation, shall make an appointment for any unexpired term in the event a vacancy arises.
- (b) Any member of the Board may be removed by the Mayor for nonattendance to duty or for cause. Any member who fails to attend three (3) consecutive meetings of the Board shall be removed from the Board, unless the Mayor excuses any such absences.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9296 §17, 6-11-18)

Sec. 11-11-203. Powers of Authority.

- (a) The Authority shall have the following powers:
 - (1) To issue or deny retail marijuana licenses and renewals of the same within the City.
 - (2) To impose sanctions on any license issued by the Authority on its own motion or on complaint by the City for any violation by the licensee after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard.
 - (3) To issue approvals and disapprovals as provided in this Chapter.
 - (4) To conduct hearings, grant or deny motions, make findings and orders, administer oaths, and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which it is authorized to conduct.
 - (5) To control the mode, manner and order of all proceedings and hearings.
 - (6) To adopt rules, procedures and policies for its own proceedings.
 - (7) To adopt rules and policies for filing applications and requests.

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- (8) To adopt application forms and submission requirements, including a requirement that applications, complaints and other documents be filed in a digital format approved by the Authority and to refuse applications, complaints and other documents not filed in the approved digital format.
 - (9) To perform any act that the Authority is authorized to perform under this Chapter.
 - (10) To perform any other act that may be implied or necessary to carry out any act that the Authority is authorized to perform under this Chapter.
 - (11) To grant exceptions to the licensing requirements set forth in Section 11-10-308 provided that the licensee and licensed premises fully comply with all state laws, rules and regulations and after considering whether granting the exception(s) will have a negative impact on the health, safety and welfare of the surrounding neighborhood or public in general.
 - (12) To promulgate such rules and regulations deemed necessary to properly administer and enforce this Chapter, and to exercise all other powers and duties as are set forth in this Chapter, as well as those set forth in the Colorado Marijuana Code and Subsection 5(f) of Section 16 of Article XVIII of the Colorado Constitution. The Authority shall provide all proposed rules and subsequent changes thereto, to City Council for approval by Resolution.
- (b) In the event that any person, in the immediate presence of the Authority or within its sight or hearing, while the Authority is in session during a hearing, commits a direct contempt of the Authority by speech, gesture or conduct which disobeys a lawful order of the Authority, shows gross disrespect to the Authority tending to bring the Authority into public ridicule, or substantially interferes with the Authority's proceedings, the Authority may hold such person in contempt. Contemptuous conduct by any principal, registered manager or employee shall be imputed to the licensee.
- (c) The Authority may impose the following sanctions for contempt:
- (1) Removal of the person committing the contempt from the proceedings, the hearing room and its environs;
 - (2) Public censure, which shall be made a matter of the licensee's record and may be used as an aggravating factor in determining any fine, suspension or revocation;
 - (3) A prohibition against the individual or licensee introducing into the record testimony, documents, exhibits or other evidence;
 - (4) An order striking, disregarding and refusing to consider pleadings, applications, documents, objections, testimony, exhibits or other evidence or arguments already introduced by such person;
 - (5) A fine, enforced by suspension of the license until the fine is paid;
 - (6) Default of any motion, complaint or other action then pending against the licensee; or
 - (7) Denial of any application by the licensee then pending before the Authority.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 8916 §2, 9-14-15; Ord. No. 9085 §2, 12-27-16; Ord. No. 9483 §20, 6-10-19; Ord. No. 9652 §25, 1-27-20)

Sec. 11-11-204. Quorum and majority vote.

A majority of the Board shall constitute a quorum for the conduct of its business. All decisions of the Board shall be by majority vote of the Board members present at a meeting where a quorum has been established.

Sec. 11-11-205. Appeal of Authority decisions.

Actions taken by the Authority are subject to review by the courts pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Review must be applied for within twenty-eight (28) days after the date of decision. Any person applying to the Court for review shall be required to pay the cost of preparing a transcript of proceedings before the Authority whenever such a transcript is necessary for purposes of the appeal.

Article III Licenses

Sec. 11-11-301. Licenses and permit required.

- (a) No person shall operate a retail marijuana establishment unless he or she has first obtained the following and maintains the same in full force and effect:
 - (1) A conditional use permit, issued by the Director of Planning and Community Development, for the location of the proposed licensed premises;
 - (2) The necessary City sales and use tax license and excise tax license;
 - (3) The necessary State sales and use tax license and excise tax license;
 - (4) Ownership of, or a lease in effect on, the proposed licensed premises;
 - (5) A City license to operate any other business that will be conducted on the licensed premises; and
 - (6) A State license to operate a retail marijuana establishment.
- (b) No person may apply for a license to operate a retail marijuana establishment until he or she has first met the requirements stated in Subsection (a) above.
- (c) The City of Pueblo shall not be required to cultivate or care for any marijuana or marijuana products belonging to or seized from any licensee. The City of Pueblo is not authorized to sell marijuana, retail or otherwise. Any marijuana seized by the City for whatever reason shall be disposed of in accordance with law.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §3, 12-27-16; Ord. No. 9652 §26, 1-27-20)

Sec. 11-11-302. Retail marijuana licenses.

- (a) The Authority may issue the following licenses for retail marijuana establishments, granting the privileges described in Title 44, Article 10, C.R.S., subject to the requirements, conditions, qualifications, and limitations set forth in this Chapter:
 - (1) Retail marijuana cultivation facility;
 - (2) Retail marijuana products manufacturer;
 - (3) Retail marijuana testing facility; and
 - (4) Retail marijuana store facility.
- (b) No more than four (4) retail marijuana store facility licenses shall be issued for each retail marijuana district.
- (c) The holder of a license for a retail marijuana testing facility may not hold or have an interest in any other class of retail or medical marijuana license.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §4, 12-27-16; Ord. No. 9483 §21, 6-10-19; Ord. No. 9652 §27, 1-27-20)

Sec. 11-11-303. Nature of license.

- (a) Every license issued under this Chapter confers only a limited and conditional privilege subject to the requirements, conditions, limitations and qualifications of this Chapter and State law. The license does not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited or completely extinguished at the discretion of City Council or the electorate of the City, as provided in this Chapter, without any compensation to the licensee.
- (b) Every license approved or issued under this Chapter shall be subject to the future exercise of the reserved rights of referendum and initiative, exercise of the options described in Section 16(5)(f) of Article XVIII of the Colorado Constitution and Section 44-10-104, C.R.S., and any other future ordinances adopted by a vote of the people of the City of Pueblo or City Council. Nothing contained in this Chapter grants to any licensee any vested right to continue operating under the provisions of this Chapter as they existed at the time the license was approved or issued, and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.
- (c) In the event that the people of the City of Pueblo, by a majority of the registered electors of the City, at a regular or special election, or a majority of City Council, vote to prohibit by ordinance the licensing and operation of retail marijuana establishments within the City of Pueblo, pursuant to Section 16(5)(f) of Article XVIII of the Colorado Constitution and Section 44-10-104, C.R.S., then every license issued or approved under this Chapter, which is prohibited under such ordinance, shall be deemed void and the operation of any retail marijuana establishment prohibited under the ordinance shall become illegal on the effective day of the ordinance.
- (d) Every license is separate and distinct and is tied to a specific location with specific conditions. The license cannot be assigned, delegated, sold, inherited or otherwise transferred between persons or transferred to a different location, except as provided in this Chapter. No licensee shall exercise the privileges of any other license or delegate the privileges of its own license.
- (e) The licenses issued under this Chapter consist of a limited and conditional privilege to operate a retail marijuana establishment, provided that the licensee also obtains a State license. The license certificate issued by the Clerk of the Authority is merely evidence that a license was issued and is not the license itself. Assignment or conveyance of the license certificate alone does not transfer any right to the license.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9483 §22, 6-10-19; Ord. No. 9652 §28, 1-27-20)

Sec. 11-11-304. Fees.

- (a) Applicants shall pay the following fees to the City of Pueblo in addition to any fees payable to the State:
 - (1) Application packet for new license: Twenty-five dollars (\$25.00).
 - (2) Application for new license for retail marijuana establishments:
 - (A) Licenses converted from medical marijuana businesses: Two hundred fifty dollars (\$250.00) (to be received from the State of Colorado before the application is deemed complete).
 - (B) Licenses not converted from medical marijuana businesses: Two thousand five hundred dollars (\$2,500.00) (to be received from the State of Colorado before the application is deemed complete).
 - (3) No other application fees may will be charged, except pursuant to subsections 5(h) and 5(i) of Section 16 of Article XVIII of the Colorado Constitution.

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- (b) Operating fees and all other fees necessary for the administration, regulation, implementation, and enforcement of this Chapter are as follows and are to be paid to the City of Pueblo, in addition to any fees payable to the State:
- (1) Operating fees are to be paid upon issuance of the initial license by the Authority, and yearly thereafter upon renewal:
 - (A) Retail marijuana cultivation facility: Fifteen thousand dollars (\$15,000.00).
With a plant count between one (1) and three thousand six hundred (3,600): Six thousand five hundred dollars (\$6,500.00).
With a plant count between three thousand six hundred one (3,601) and ten thousand two hundred (10,200): Ten thousand dollars (\$10,000.00).
With a plant count of or over ten thousand two hundred one (10,201): Fifteen thousand dollars (\$15,000.00).
 - (B) Retail marijuana product manufacturing facility: Fifteen thousand dollars (\$15,000.00) for the first year; and ten thousand dollars (\$10,000.00) each subsequent year thereafter.
 - (C) Retail marijuana testing facility: Five thousand dollars (\$5,000.00).
 - (D) Retail marijuana store: Fifteen thousand dollars (\$15,000.00).
 - (2) Additional administrative operating fees:
 - (A) Transfer of location: One thousand five hundred dollars (\$1,500.00).
 - (B) Change of principals or ownership: One thousand five hundred dollars (\$1,500.00).
 - (C) Change in operational plan: Three hundred dollars (\$300.00).
 - (D) Registration of manager: One hundred dollars (\$100.00).
 - (E) Modification of premises: One thousand dollars (\$1,000.00).
 - (F) Report of minor change: One hundred dollars (\$100.00).
 - (G) Late renewal fee: Five thousand dollars (\$5,000.00).
 - (H) License extension fee: One hundred fifty dollars (\$150.00) for each thirty-day day period or portion thereof.
 - (I) Early issuance of a license: Five thousand dollars (\$5,000.00).
 - (3) Permit fees:
 - (A) Application or renewal of a centralized distribution permit for a retail marijuana cultivation: five hundred dollars (\$500.00).
- (c) City Council may approve increases or decreases in the foregoing fees by Resolution.
- (d) In addition to the foregoing fees, applicants and licensees shall pay the reasonable fees of any governmental agency conducting any investigation, inspection, other licensing, registration, fingerprinting, approval or permitting required under the Pueblo Municipal Code, State law or State regulations.
- (e) The primary purpose of the fees provided in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of the general services of municipal government or to raise general revenues. The fees provided in this Section shall be reasonably related and proportional to the costs of the services provided and shall not generate additional City revenue.

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- (f) If any license or application is denied, approved but not issued, lapsed, abandoned, withdrawn, surrendered, suspended, fined, revoked or otherwise sanctioned, no part of the fees paid therefor shall be refunded to the applicant or licensee.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §5, 12-27-16; Ord. No. 9483 §23, 6-10-19; Ord. No. 9652 §29, 1-27-20)

Sec. 11-11-305. Term of license.

Every license shall be valid for one (1) year from the date it is issued unless the license is earlier suspended or revoked. Despite anything contained in this Article, a licensee has no vested right to renew a license, and no property right to renew a license.

Sec. 11-11-306. Relationship to Colorado Marijuana Code and coordination with State Marijuana Licensing Authority and State requirements.

- (a) Except as otherwise specifically provided herein, this Chapter incorporates the requirements and procedures set forth in the Colorado Marijuana Code. In the event of any conflict between the provisions of this Chapter and the provisions of the Colorado Marijuana Code or any other applicable state or local law, the more restrictive provision shall control.
- (b) The Authority shall inform the State Marijuana Licensing Authority of its investigations, inspections and all decisions approving new licenses, issuing new licenses, imposing conditions on licenses, renewing licenses, approving major changes in licenses, information regarding minor changes, and sanctions imposed on licenses.
- (c) To the extent that such coordination is reasonably feasible and efficient, the Authority shall coordinate its investigations and actions with the State Department of Revenue, but the Authority reserves the right to act independently and to reach its own findings of fact, conclusions of law and administrative actions regarding approvals, issuance, denials, conditions, renewals, major changes, sanctions of licenses and any other matter related to licenses, without regard to the findings of fact, conclusions of law and administrative actions that the State may reach regarding the same licenses based on the same incident or conduct.
- (d) The approval or issuance of a license under this Chapter shall not constitute a representation by the Authority that the licensee is qualified for or will receive a State retail marijuana license.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9483 §24, 6-10-19; Ord. No. 9652 §30, 1-27-20)

Sec. 11-11-307. Application for retail marijuana license.

- (a) An applicant for a retail marijuana license shall submit to the Authority an application with the following information:
- (1) Information required on the application forms prescribed by the State of Colorado;
 - (2) Information required on the application forms prescribed by the Authority, which may require any information, document or photograph relevant to any requirement for a license under State law or this Chapter, or relevant to any condition that may be imposed on the license; and
 - (3) An operational plan showing how the business, licensed premises and adjacent grounds will be operated, including but not limited to:
 - a. How and where marijuana or marijuana products will be cultivated, manufactured, tested, advertised, processed, stored, packaged, exhibited, purchased, exchanged and sold;

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- b. How the business, licensed premises and adjacent grounds will comply with each requirement contained in State law and City ordinances, especially this Chapter;
 - c. How the operation will reduce or mitigate adverse effects on the area in which it is situated, including but not limited to any adverse effects related to crime, traffic, parking, noise and lighting;
 - d. Hours of operation;
 - e. Number of employees;
 - f. Parking for employees and customers on the adjacent grounds;
 - g. Traffic flow into and out of the adjacent grounds;
 - h. Record keeping as required under State law and this Chapter; and
 - i. Procedures for identifying purchasers when making sales.
- (4) A security plan that addresses:
- a. Methods to prevent and protect employees and others from robberies and assaults on the licensed premises and adjacent grounds;
 - b. Methods to prevent burglaries on the licensed premises and adjacent grounds when the premises are closed;
 - c. Exterior lighting of the building and adjacent grounds;
 - d. Windows from the licensed premises providing a view from inside the licensed premises to the adjacent grounds;
 - e. Locks, burglar alarms and a safe or vault as required in this Chapter; and
 - f. A limited access area barrier, limited access area and employee badges for entering the limited access area as required under State law and this Chapter.
- (5) A business plan that demonstrates or provides:
- a. The ability of the applicant to successfully operate in a highly regulated industry;
 - b. Clear estimates for revenues and operating costs; and
 - c. Documentation to verify the applicant has the financial resources to pay all start-up and operational costs for at least the first year of business.
- (b) The entire application shall be verified under oath by each principal in the applicant's business. The registered manager and employees shall verify under oath the portions of the application that pertain to each of them.
- (c) The applicant shall submit to the Authority the original application and eight (8) copies of the application. The Authority shall provide copies to the Police Department, the City's Department of Planning and Community Development and the City's Law Department.
- (d) An applicant shall not submit its application, and the Authority shall not accept the same, until all application fees have been received from the State and the application is complete with all required information and necessary documents attached, in clear and legible form, assembled in good order, and with all required copies. The applicant shall certify that the application is complete, and the Authority or the Authority's Clerk shall review the application to determine that it appears to be complete before accepting the same.
- (e) The determination by the Authority or its Clerk that the application appears to be complete shall not constitute any representation or determination that the application meets the requirements of this Chapter

for approval or issuance of a license. Notwithstanding any determination that the application appears to be complete, the Authority may note concerns or deficiencies in the application and its contents in the Authority's determination and findings after conducting its administrative review of the application as provided in Section 11-11-311 of this Chapter.

- (f) After an application is accepted as complete, it may only be amended or supplemented as set forth below:
- (1) Retail marijuana store applications may only be amended or supplemented in writing during the application period. No amendments or supplements will be accepted after the application period closes.
 - (2) All other types of retail marijuana licenses may be amended or supplemented in writing before the application is set for hearing.
 - (3) All amendments and supplements must be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment or supplement that pertain to each of them. The applicant shall submit to the Authority the original of each amendment or supplement and eight (8) copies. The Authority shall provide copies to the Police Department, the City's Department of Planning and Community Development, and the City's Law Department.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §7, 12-27-16; Ord. No. 9483 §25, 6-10-19)

Sec. 11-11-308. Requirements to obtain and retain a retail marijuana license.

In order to obtain and retain a license, the applicant shall demonstrate by a preponderance of the evidence to the Authority that the following requirements are satisfied:

- (1) General Requirements.
 - a. The applicant has obtained a conditional use permit, issued by the Director of Planning and Community Development, for the location of the proposed licensed premises;
 - b. The applicant has applied for, and will be issued the necessary City sales and use tax license and excise tax license upon receipt of any retail marijuana license;
 - c. The applicant has obtained the necessary State sales and use tax license and excise tax license;
 - d. The applicant has obtained a City license for any other business activity that will be conducted on the licensed premises;
 - e. The applicant has submitted an application for a license that the Clerk to the Authority has determined is complete; and
 - f. The applicant has paid all fees required under this Chapter.
- (2) Personal Requirements for the Licensee, Principals, Registered Manager and Employees.
 - a. The applicant, principals, registered manager and employees meet all requirements for issuance of a State license.
 - b. The applicant, principals, registered manager and employees are all over the age of twenty-one (21).
 - c. The applicant, principals, registered manager and employees have not been determined by any marijuana licensing authority, any other licensing board within the State, or the Colorado Department of Revenue to not be persons of good character and record within the preceding three (3) years.

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- d. The applicant, principals, registered manager and employees have not discharged a sentence for a conviction of a felony in the five (5) years immediately preceding the application, nor are they currently subject to a deferred judgment or sentence for a felony.
 - e. The applicant, the applicant's financiers, principals, registered manager, and employees are persons of good character and record. When making any determination as to good character and record, the Authority may consider whether an applicant, principal, registered manager or employee has rehabilitated himself after committing a crime or other act or omission tending to indicate that such person is not a person of good character. Notwithstanding any other burden for proof stated in this Chapter, the burden of proof to show that a person has been rehabilitated shall be beyond a reasonable doubt and shall be placed on the individual whose character is at issue. When evaluating claims of rehabilitation, the Authority shall consider the following factors:
 - 1. The facts of the specific crime or other act tending to show a bad character and record;
 - 2. Whether the specific crime or other act tending to show bad character and record involved controlled substances, dishonesty, fraud, bad faith, moral turpitude or violence;
 - 3. Whether the specific crime or other act tending to show bad character and record involved a felony, misdemeanor, municipal offense, a civil wrong or other wrongful conduct;
 - 4. Whether the specific crime or act caused injury or harm to other persons or entities and the extent of such harm or injury;
 - 5. The length of time that has expired since the act or omission was committed;
 - 6. Whether the person has led a law abiding life and has demonstrated good character since the act or omission was committed;
 - 7. Whether the person has committed other acts tending to indicate bad character since the act or omission was committed;
 - 8. Restitution, damages and compensation that the person has paid to persons victimized by the act or omission;
 - 9. Fines, jail sentences, probation, community service and other penalties paid or served since the act was committed; and
 - 10. Any other factor tending to show that the person has or has not rehabilitated his or her character and conduct.
 - f. The applicant, principals, financiers and registered manager have not held an interest in any liquor license, medical marijuana license, retail marijuana license or other license issued by any city, county or state that has been revoked, suspended, or fined within the preceding two (2) years.
 - g. The applicant, principals, financiers, employees and registered manager have not had their authority, if any, to act as a medical marijuana primary caregiver revoked by the State within the preceding two (2) years.
 - h. The applicant, principals, financiers and registered manager are not in default on any city, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City.
 - i. The applicant, principals and registered manager are not in default on any student loan.
 - j. The applicant, principals, registered manager and employees are trained or experienced in, and able to comply with, the requirements of this Chapter and state law pertaining to retail marijuana

establishments. In determining whether such persons have shown sufficient training or experience, the Authority shall consider, among other things, the following factors:

1. The role that the individual will play in operating the establishment;
 2. Previous experience operating retail marijuana establishments;
 3. Completion of state or industry-approved courses on how to comply with Colorado laws and regulations regarding retail marijuana establishments; and
 4. The individual's understanding of State law and City ordinances regulating retail marijuana as shown under questioning by the Authority at the hearing.
- k. The applicant, principals, registered manager and employees all hold valid occupational licenses and registrations for retail marijuana issued by the State of Colorado.
- l. The applicant, principals and registered manager do not have any orders or judgments against them for child support in default or arrears.
- m. The applicant, principals and registered manager are not peace officers or prosecuting attorneys.
- n. All licensees or principals that already hold one (1) retail marijuana license in the City of Pueblo, may apply and be approved for another retail marijuana license of the same class, except that licensees or principals may only hold one (1) retail marijuana store license. The Authority shall not issue a second license to a licensee or principal unless it determines that issuance of the second license will not significantly restrain competition among licensees of that class.
- (3) Location and other licensing of premises.
- a. The proposed licensed premises and adjacent grounds meet all requirements for issuance of a State license.
 - b. The proposed licensed premises are located in a fixed, nonportable building.
 - c. The premises are not licensed or operated as an establishment for the sale or service of alcohol beverages as defined in Section 44-3-103, C.R.S., or as a non-cigarette tobacco product retailer, a massage parlor, a dance hall or an amusement establishment as defined in Title IX, Pueblo Municipal Code.
 - d. The premises are not licensed or operated as a retail food establishment or wholesale food registrant.
 - e. Retail and medical marijuana licenses may be co-located on a licensed premises under a common owner, but only in accordance with state law.
- (4) Control, security and code compliance of premises.
- a. The applicant has sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises.
 - b. The proposed licensed premises have a suitable limited access area where the cultivation, manufacturing, testing, display, storage, processing, weighing, handling and packaging of retail marijuana and marijuana products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter or some other substantial barrier designed to keep the public from entering the area.
 - c. The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the Police Department, showing at least the following security measures:

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1. All doors, windows and other points of entry have secure and functioning locks;
 2. A locking safe or enclosed metallic storage vault located inside the proposed licensed premises in which any harvested retail marijuana and retail marijuana products will be secured when the licensed premises are not open to the public;
 3. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee's side and cannot be opened from the other side;
 4. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the licensed premises; and
 5. Windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that persons entering and leaving the licensed premises, entering and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.
- d. The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by completed inspections and approvals from the City's Department of Planning and Community Development, Regional Building Department, Pueblo Fire Department and Pueblo City-County Health Department.
 - e. There is sufficient parking available on the adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time.
 - f. The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause harm to public health, safety and welfare.
 - g. The area of the proposed licensed premises is equipped with a ventilation and filtration system that is sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by a reasonable person at the property line. For facilities which are located on the same property as another use, the ventilation and filtration system must be sufficient to eliminate marijuana odors discernible by a reasonable person at the exterior of the building. The ventilation system must be inspected and approved by the Pueblo Regional Building Department.
- (5) Requirements specific to a retail marijuana cultivation facility license.
- a. The area of the proposed licensed premises utilized for cultivation is equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by a reasonable person. The ventilation system must be inspected and approved by the Pueblo Regional Building Department.
 - b. Walls, barriers, locks, signs and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation.
 - c. No portion of the building in which the proposed licensed premises are located is utilized as a residence.
 - d. A retail marijuana cultivation facility may obtain a centralized distribution permit, authorizing temporary storage on the licensed premises of retail marijuana concentrate and products received from a retail marijuana business for the sole purpose of transfer to the permit holder's commonly owned retail marijuana stores, by providing a copy of the State application to the

Authority, along with documents showing any changes to be made to the premises, operational plan, or security plan.

(6) Requirements specific to a retail marijuana store license.

- a. The local licensing authority shall review the application of each applicant that satisfies the minimum requirements set forth in Sections 11-11-307 and 11-11-308, Pueblo Municipal Code, and award points according to the Retail Marijuana Rules and Regulations. The following is a non-exhaustive list of categories or criteria that may be considered for the award of points to an applicant:
 1. Successful experience in operating a licensed marijuana establishment;
 2. Pueblo County residency;
 3. Criminal background and history of applicant, principals, owners, operators, managers, and employees;
 4. Employment of local residents;
 5. Air filtration or scrubbing system to minimize odors and public nuisance complaints;
 6. Security plan;
 7. Operating plan;
 8. Business plan; and
 9. Assets, operating capital, and overall financial capability.
- b. The Authority may issue a retail marijuana store license to the applicant in each district who earns the highest point total pursuant to subparagraph (a) of this Section. The Authority may deny a retail marijuana store license to any applicant that does not earn the minimum point total set forth in the Retail Marijuana Rules and Regulations promulgated by the Authority pursuant to this Chapter. If two (2) or more applicants applying for licensure in the same district receive the same total score, and, pursuant to this Chapter, the Authority cannot issue a license to each of those applicants, the Authority shall randomly select the applicant that will be awarded a retail marijuana store license.
- c. Before the Authority issues a local license to an applicant for a retail marijuana store, the applicant shall procure and file with the City evidence of good and sufficient bond in the amount of twenty thousand dollars (\$20,000.00) with a corporate surety duly licensed to do business with the State of Colorado, approved as to form by the City Attorney, to guarantee that the applicant shall pay all City sales, use, and any other taxes as provided by law. A corporate surety shall not be required to make payments to the City claiming under such bond until a final determination to pay taxes due to the City has been made by the Director of Finance or a court of competent jurisdiction. All bonds required pursuant to this subsection shall be renewed before the bondholder's license is renewed. The renewal may be accomplished by continuing the certificate issued by the surety.

(7) Requirements for premises that are not completed.

- a. If the proposed licensed premises have not been completed, inspected and approved as required in this Chapter at the time of the hearing for a new license or a hearing on transfer of an existing license to a new location, the applicant shall submit to the Authority:
 1. A recorded deed in the name of the licensee showing ownership of the proposed licensed premises or a lease showing a right to occupy the proposed licensed premises; and

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2. Plans, specifications, drawings and other documents showing that the proposed licensed premises and adjacent grounds will comply with the requirements of this Chapter when completed and inspected.
- b. The Authority may approve the license before the proposed licensed premises are completed, inspected and approved, but shall not issue the license until the licensed premises have been completed and all inspections and approvals required under this Chapter have been obtained and submitted to the Authority.
 - c. In the event that the license is approved, but the premises are not completed, inspected and approved as required in this Chapter within one hundred twenty (120) days of license approval, the approval shall lapse and the license shall not be issued. The applicant may submit a written request for additional time to complete the premises at least thirty (30) days prior to the expiration of the one hundred twenty (120) days. Any such written request must state the reasons for the request and the additional time necessary to complete the premises. The Authority may approve the request if it determines there was good cause for the delay, the applicant can reasonably complete the premises within the additional time requested, and the additional time will not defeat the competitive application process.
- (8) Requirements of this Section also apply to licensees; continuing duty.
- a. The requirements of this Section imposed on the applicant shall also apply to the licensee. The requirements of this Section imposed on the proposed licensed premises, adjacent grounds or location shall also apply to the actual licensed premises, actual adjacent grounds and actual locations, respectively.
 - b. The licensee and its principals, registered manager and employees have a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect.

Sec. 11-11-309. Good cause for denial of new license, denial of renewal or sanctions.

The Authority may deny a new application, deny renewal of a license, or impose sanctions on a retail marijuana license previously approved or issued if the Authority finds, by a preponderance of the evidence at a hearing, or upon the admission or stipulation of the applicant or licensee, that any of the following have occurred:

- (1) The licensee, principals, registered manager, employees, the licensed premises or the adjacent grounds do not meet or no longer meet one (1) or more of the requirements of Section 11-11-301 or Section 11-11-308 of this Chapter, any other provision of Pueblo Municipal Code, State law or State regulations;
- (2) The licensee has failed to obtain any State license, certification, registration or approval, or meet any other requirement imposed by State law or regulations;
- (3) The licensee, principals, registered manager or employees have committed or attempted to commit any violation of any City ordinance, City regulation, State statute or State regulation or have permitted others to violate the same on the licensed premises or adjacent grounds or on other licensed premises or adjacent grounds;
- (4) The licensed premises have been operated in a way that substantially deviates from the operational plan approved by the Authority;
- (5) The licensed premises or adjacent grounds will have, or have had a harmful or damaging impact on the public health, safety, or the general welfare of the City or the neighborhood where the retail marijuana establishment is located;

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- (6) A check, credit card, debit card or other payment for any tax, fee, fine, fine in lieu or other sum due to the City from the licensee has been stopped or rejected for insufficient funds, closed account or similar reasons;
 - (7) Any tax, fee, fine, fine in lieu of suspension or other sum due to the City from the licensee is unpaid and more than thirty (30) days in default; or
 - (8) The licensed premises have not been operated for more than one (1) year.
 - (9) The licensee, principals, registered manager or employees have made any false statement in the license or renewal application as to any of the facts required to be stated in such application;
 - (10) The licensee has failed to file any reports or furnish any information as required by the provisions of this Code relating to the operation of a retail marijuana establishment, including any municipal tax returns;
 - (11) The licensee has refused to allow an inspection of the licensed premises as authorized by this Article and Colorado Statute;
 - (12) The licensee has failed to appear upon a municipal court summons for a violation of the Pueblo Municipal Code; or
 - (13) The licensee has failed to comply with the Retail Marijuana Rules and Regulations promulgated by the Authority pursuant to this Chapter.

Sec. 11-11-310. Review of application for new license, determination and findings.

- (a) Within ninety (90) days following the date that the Clerk to the Authority or the Authority itself accepts an application for a new retail marijuana license as complete, the Authority shall review the application administratively and issue its determination and findings. The Authority's administrative determination and findings shall:
 - (1) State that the application appears to show a prima facie case for approval of a license, state any concerns that the Authority may have, and direct the applicant to set a hearing under Section 11-11-311; or
 - (2) State that the application does not appear to show a prima facie case for approval of a license, state the deficiencies, and indicate that the applicant has a right to set the matter for a hearing under Section 11-11-311.
- (b) The Authority shall notify the applicant in writing of its administrative determination and findings by first-class U.S. mail addressed to the applicant at the address shown on the application.
- (c) If the administrative determination provided in this Section states that the application appears to show a prima facie case for approval of a license, the applicant shall, within twenty (20) days of the date the Authority mailed its administrative determination and findings to the applicant, pursue one (1) of the following options, and failure to do so shall constitute a withdrawal of the application:
 - (1) Set the application for a hearing under Section 11-11-311 as provided in Section 11-11-501 of this Chapter; or
 - (2) Request from the Authority in writing a continuance of the setting of the hearing under Section 11-11-311 for no more than sixty (60) days from the date the Authority mailed its administrative determination and findings to the applicant, in order to satisfy any concerns stated in the administrative determination and findings, if any. Failure of the applicant to set the application for a hearing within sixty (60) days [of] the date the Authority mailed its administrative determination and

findings to the applicant, in the manner provided in Section 11-11-501 of this Chapter, shall constitute a withdrawal of the application.

- (d) If the administrative determination provided in this Section states that the application does not appear to show a prima facie case for approval of a license, the applicant shall, within twenty (20) days of date the Authority mailed its administrative determination and findings to the applicant, pursue one (1) of the following options, and failure to do so shall constitute a withdrawal of the application:
 - (1) Set the application for a hearing under Section 11-11-311 as provided in Section 11-11-501 of this Chapter; or
 - (2) Request from the Authority in writing a continuance of the setting of the hearing under Section 11-11-311 for no more than one hundred twenty (120) days from the date the Authority mailed its administrative determination and findings to the applicant, in order to satisfy the deficiencies stated in the administrative determination and findings. Failure of the applicant to set the application for a hearing within one hundred twenty (120) days from the date the Authority mailed its administrative determination and findings to the applicant, in the manner provided in Section 11-1-501 of this Chapter, shall constitute a withdrawal of the application.
- (e) Withdrawal of an application under this Section shall not constitute a denial of the application under Section 11-11-308 and shall not prevent the applicant from re-submitting its application upon payment of a new application fee.
- (f) The determination and findings made on the Authority's administrative review of the application under this Section shall not be binding on the Authority or any person who has standing at a hearing under Section 11-11-311 of this Chapter, and any matter that the administrative determination and findings state has been met, has not been met, or which the determination and findings do not address, may be addressed in full at the hearing.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-311. Hearing on application for new license or the denial of a new retail marijuana license.

- (a) Before approving or issuing any retail marijuana license, and upon request of any applicant whose application has been denied administratively for failure to show a prima facie case for approval of a license, the Authority shall hold a hearing at which it shall hear evidence relevant to:
 - (1) Whether the applicant has met the requirements necessary to obtain a retail marijuana license in Sections 11-11-301 and 11-11-308 of this Chapter;
 - (2) Whether there is good cause for denial of the license as defined in Section 11-11-309 of this Chapter; and
 - (3) Whether conditions should be imposed on the license as provided in Section 11-11-312 of this Chapter.
- (b) The issues at the hearing shall be limited to the foregoing and shall not include whether persons favor or approve of retail marijuana or favor or oppose retail marijuana licenses in general.
- (c) If the Authority finds at the hearing that the applicant has shown by a preponderance of the evidence that it has met the requirements necessary for issuance of a retail marijuana license and that there is no good cause to deny the license, the Authority shall approve the license or approve the license with conditions as provided in Section 11-11-312 of this Chapter. If the licensed premises and adjacent grounds have been completed, inspected and approved as provided in this Chapter, the Authority shall issue the license forthwith. If not, the Authority shall withhold issuance of the license until the applicant demonstrates that

the licensed premises have been completed in substantial compliance with the plans, specifications and drawings previously submitted and approved, and the licensed premises have been inspected and approved as provided in this Chapter. In the event that the licensed premises are not completed, inspected and approved within one hundred twenty (120) days of the approval, the approval shall lapse and the license shall not be issued.

- (d) If the Authority finds at the hearing that the applicant has not shown by a preponderance of the evidence that it has met the requirements for issuance of a retail marijuana license or has failed to show by a preponderance of the evidence that there is no good cause to deny the license, the Authority shall deny the license. Failure to properly bring the matter before the Authority or to take part in the hearing shall prohibit the applicant from seeking any other remedy from the City. If the Authority denies a license pursuant to this subsection, the applicant may appeal the decision pursuant to the Retail Marijuana Rules and Regulations.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §10, 12-27-16)

Sec. 11-11-312. Conditions on licenses.

- (a) At the time that a new license is first approved, when an existing license is renewed, at any time that a sanction other than revocation is imposed, or at any time that the Authority approves a major change to a license, licensed premises or adjacent grounds, the Authority may impose on the license, after a hearing, any condition related to the license, licensed premises or adjacent grounds, that is reasonably necessary to protect public health, safety, or welfare, including but not limited to the following:
- (1) Additional security requirements, including but not limited to security guards, steel doors, steel window coverings and surveillance cameras;
 - (2) Additional record keeping requirements;
 - (3) Limits and requirements on parking and traffic flow;
 - (4) Requirements for walls, doors, windows, locks and fences on the licensed premises and adjacent premises;
 - (5) Requirements and limits on ventilation and lighting;
 - (6) Limits or requirements on areas on the licensed premises that are closed, locked or not open to public view;
 - (7) Limits on noise inside the licensed premises or on the adjacent grounds;
 - (8) Prohibitions on certain conduct on the premises;
 - (9) Sanitary requirements;
 - (10) Limits on hours of operation;
 - (11) Requirements for screening new and existing employees;
 - (12) A requirement that the licensee temporarily close the licensed premises until certain changes, inspections or approvals are made; and
 - (13) A limit on the square footage of the licensed premises.
- (b) The Authority may impose the foregoing conditions in lieu of or in addition to any sanctions that it may impose, except where the sanction is revocation.
- (c) Any condition imposed on a license shall be placed on the face of the license certificate.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-313. License certificate; posting of license certificate and notices on licensed premises.

- (a) After the Authority issues a license, the Clerk of the Authority shall issue to the licensee a certificate evidencing issuance of the license. The license certificate shall state the date issued, the term of the license, the name of the licensee, the address of the premises, conditions on the license and the following:

THIS LICENSE CONFERS ONLY A LIMITED AND CONDITIONAL PRIVILEGE SUBJECT TO THE REQUIREMENTS, CONDITIONS, LIMITATIONS AND QUALIFICATIONS OF THE PUEBLO MUNICIPAL CODE, AS AMENDED, AND STATE LAW. THIS LICENSE DOES NOT CONFER A PROPERTY RIGHT OF ANY KIND. THE LICENSE AND THE PRIVILEGE CREATED BY THE LICENSE MAY BE FURTHER REGULATED, LIMITED OR COMPLETELY EXTINGUISHED BY THE CITY WITHOUT ANY COMPENSATION TO THE LICENSEE. THIS LICENSE IS SUBJECT TO THE FUTURE EXERCISE OF THE OPTIONS DESCRIBED IN SECTION 16(5)(f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION AND SECTION 44-10-104, C.R.S., AND OTHER FUTURE ORDINANCES PASSED BY THE PEOPLE OF THE CITY OF PUEBLO OR CITY COUNCIL. THE HOLDER OF THIS LICENSE SHALL BE SUBJECT TO ANY ORDINANCE OR PROHIBITION PASSED AFTER THE LICENSE WAS APPROVED OR ISSUED. IN THE EVENT THAT THE PEOPLE OF THE CITY OF PUEBLO, BY A MAJORITY VOTE OF THE REGISTERED ELECTORS OF THE CITY, AT A REGULAR OR SPECIAL ELECTION, OR A MAJORITY OF CITY COUNCIL, VOTE TO PROHIBIT BY ORDINANCE THIS TYPE OF LICENSE AND THE OPERATION OF THIS TYPE OF RETAIL MARIJUANA ESTABLISHMENT WITHIN THE CITY OF PUEBLO, PURSUANT TO SECTION 16(5)(f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION AND SECTION 44-10-104, C.R.S., THEN THIS LICENSE SHALL BE VOID AND THE OPERATION OF THIS RETAIL MARIJUANA ESTABLISHMENT SHALL BE ILLEGAL ON THE EFFECTIVE DAY OF SUCH ORDINANCE.

- (b) The licensee shall post the following on the licensed premises in a prominent place where persons can easily view and read while standing in a location accessible to the public:

- (1) The license certificate issued by the State, along with any conditions on the same.
- (2) The license certificate issued by the Authority, along with any conditions on the same.
- (3) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS RETAIL MARIJUANA LICENSED PREMISES IS MANAGED BY: (STATE NAME, ADDRESS AND PHONE NUMBER FOR REGISTERED MANAGER). THE PRINCIPALS IN THIS BUSINESS ARE AS FOLLOWS: (NAMES)

- (4) A notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

IF YOU HAVE CONCERNS ABOUT THE WAY THIS RETAIL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE PUEBLO POLICE DEPARTMENT AT: 553-2538.

- (c) The licensee shall post the following on the licensed premises in a prominent place near other notices to employees, where the licensee, principals, registered manager and employees can easily view the same: a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

NOTICE TO LICENSEE, PRINCIPALS, REGISTERED MANAGER AND EMPLOYEES:

THESE PREMISES, THE ADJACENT GROUNDS AND EVERY ROOM, AREA, LOCKER, SAFE AND CONTAINER ON THE LICENSED PREMISES AND ADJACENT GROUNDS EXCEPT YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE, ARE SUBJECT TO INSPECTION BY CITY EMPLOYEES AND POLICE OFFICERS AT ANY TIME THAT ANY PERSON IS PRESENT ON THE LICENSED PREMISES, WITHOUT A WARRANT, AND WITHOUT REASONABLE SUSPICION TO BELIEVE THAT ANY OFFENSE HAS OCCURRED. YOU

HAVE NO REASONABLE EXPECTATION OF PRIVACY ON THESE PREMISES AND THE ADJACENT GROUNDS EXCEPT IN YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION AND YOUR PRIVATE VEHICLE.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9483 §27, 6-10-19; Ord. No. 9652 §32, 1-27-20)

Sec. 11-11-314. Registered manager.

Every licensee shall designate at least one (1) registered manager and delegate to the registered manager authority over the day to day operations of the licensee and the responsibility to ensure that the licensed premises and adjacent premises are operated in compliance with this Chapter.

Sec. 11-11-315. Major changes to license, licensed premises or adjacent grounds requiring approval of the Authority.

- (a) No licensee shall make any of the following changes without first obtaining the prior written approval of the Authority and demonstrating compliance with the pertinent requirements, if any:
 - (1) Any transfer of the license or ownership involving a principal shall comply with the following requirements:
 - a. For a retail marijuana store license, any transfer of ownership shall be prohibited for one (1) year after the date the license is issued by the Authority. However, during that time, a transfer of ownership may be permitted by the Authority if the licensee can demonstrate that a transfer of ownership is made necessary by death or disability of the licensee or other substantial hardship.
 - b. A retail marijuana store licensee may request to transfer ownership after the expiration of one (1) year. The request may be approved if the Authority finds that the new licensee satisfies the requirements of this Chapter, including Sections 11-11-301 and 11-11-308; all occupational taxes, sales and excise taxes, any fines, penalties, and interest assessed against or imposed upon such license or licensee is paid in full or served in full; the new licensee can comply with the limitation on the number of retail marijuana store licenses set forth in Subsection 11-11-308(2)(o); the new licensee has complied, and can continue to comply with the Retail Marijuana Rules and Regulations promulgated by the Authority pursuant to this Chapter; and the State has approved the transfer pursuant to requirements of the Colorado Marijuana Code.
 - c. All other licensees may request a transfer of ownership at any time. The request may be approved if the Authority finds that the new licensee satisfies the requirements of this Chapter, including Sections 11-11-301 and 11-11-308; all occupational taxes, sales and excise taxes, any fines, penalties, and interest assessed against or imposed upon such license or licensee is paid in full or served in full; the new licensee has complied, and can continue to comply with the Retail Marijuana Rules and Regulations promulgated by the Authority pursuant to this Chapter; and the State has approved the transfer pursuant to requirements of the Colorado Marijuana Code.
 - d. For all retail marijuana licenses, a transfer of the license must be approved by the Authority after a hearing.
 - e. A person that becomes a principal of a publicly traded corporation that is a retail marijuana business or that becomes a beneficial owner, through direct or indirect ownership of a controlling beneficial owner, of ten percent (10%) or more of a retail marijuana business that is a publicly traded corporation in accordance with Section 11-11-316(7), will not be required to obtain prior approval from the Authority.

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- (2) Any change in location of the licensed premises must comply with the following requirements:
- a. For a retail marijuana store license, any transfer of location shall be prohibited for one (1) year after the date the license is issued by the Authority. However, during that time, a transfer of location may be permitted by the Authority if the licensee can demonstrate that a transfer of location is made necessary by death or disability of the licensee or other substantial hardship.
 - b. A retail marijuana store licensee may request to transfer location after the expiration of one (1) year. The request may be approved if the Authority finds that the licensee has obtained a conditional use permit for the new location; all occupational taxes, sales and excise taxes, any fines, penalties, and interest assessed against or imposed upon such license or licensee in relation to the licensed premises is paid in full or served in full; the new location will not violate the limitation on the number of retail marijuana store licenses set forth in Subsection 11-11-308(2)(o); the new location complies with all other provisions of this Chapter; the licensee has complied, and can continue to comply with all of the Retail Marijuana Rules and Regulations promulgated by the Authority pursuant to this Chapter; and the State has approved the transfer pursuant to requirements of the Colorado Marijuana Code.
 - c. All other licensees may request a transfer of location at any time. The request may be approved if the Authority finds that the licensee has obtained a conditional use permit for the new location and the new location complies with all requirements of this Chapter; all occupational taxes, sales and excise taxes, any fines, penalties, and interest assessed against or imposed upon such license or licensee in relation to the licensed premises is paid in full or served in full; the new location complies with the Retail Marijuana Rules and Regulations promulgated by the Authority pursuant to this Chapter; and the State has approved the transfer pursuant to requirements of the Colorado Marijuana Code.
- (3) Any change in the licensee's principals or financiers;
- (4) The hiring, substitution, or replacement of the registered manager;
- (5) Any change in the structure, walls, doors, windows, ventilation, plumbing, electrical supply, floor plan, footprint, elevation, operation, patios, decks, safe or vault, locks, security plan, surveillance system, doors, window coverings or security system at the licensed premises;
- (6) Any material change to the adjacent grounds, including but not limited to lighting, parking, traffic flow, surfaces, landscaping, fences, speakers or sound; and
- (7) Any material change in or deviation from the operational plan, security plan, or business plan submitted at the time that the license was approved.
- (b) The Authority shall require a public hearing before approving any change of location.
- (c) The Authority may summarily approve all other proposed major changes or hold a public hearing on the same, in the Authority's discretion, depending on how substantial the change appears to be and whether the proposed change is likely to cause any harm to public health, safety or welfare.
- (d) At any hearing regarding any of the foregoing changes, the Authority shall determine whether the proposed change would probably cause substantial harm to public health, safety or welfare or result in a violation of any law or regulation. If the Authority finds that the change will probably not cause substantial harm to public health, safety or welfare or result in a violation of any law or regulation, it shall approve the change. If the Authority finds that the proposed change would, more probably than not, harm public health, safety or welfare or result in a violation of any law or regulation, the Authority may either disapprove the proposed change or impose conditions on the license.
- (e) No application for transfer of ownership, transfer of location or other major change may be applied for or acted upon while any complaint for sanctions is pending with the Authority or the State.

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- (f) The transfer of a license to a new owner does not constitute a new license. The transferee of a license or ownership interest in a license takes transfer of such license or interest subject to the conditions, waivers, history, record and sanctions imposed on that license under the previous ownership of the license. The fact that the license is held by new persons or entities shall not preclude the Authority from considering the history, record and past sanctions imposed on the license under previous ownership when the Authority considers sanctions for violations committed under new ownership of the license.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §11, 12-27-16; Ord. No. 9483 §29, 6-10-19; Ord. No. 9652 §33, 1-27-20)

Sec. 11-11-316. Reports of minor changes.

Every licensee shall report the following to the Authority, in writing within ten (10) days of such event:

- (1) Any change in the licensee's trade name, trademark, logo or service mark used at the licensed premises, adjacent grounds, or on any product cultivated or manufactured at the licensed premises;
- (2) Any change in the labeling or packaging of products cultivated or manufactured at the licensed premises;
- (3) Any new loans or debts that the licensee or its principals may incur that are related to the licensed premises, adjacent grounds or any ownership interest in the licensee, in a single or cumulative amount greater than ten thousand dollars (\$10,000.00);
- (4) Any charges filed against or any conviction of any principal, registered manager or employee for any felony, misdemeanor or serious traffic offense, including but not limited to any deferred judgment or entry into any diversion program ordered or supervised by a court of law, where the event must be reported even if the principal, registered manager or employee will be dismissed;
- (5) Any change to any sign on the licensed premises or adjacent grounds; and
- (6) The hiring of any employee, or the dismissal, termination or resignation of any employee or registered manager.
- (7) A person that becomes a principal of a publicly traded corporation that is a retail marijuana business or that becomes a beneficial owner, through direct or indirect ownership of a controlling beneficial owner, of ten percent (10%) or more of a retail marijuana business that is a publicly traded corporation must disclose said change to the Authority within ten (10) days of the State licensing authority providing a Finding of Suitability, or exemption from such finding, for said person pursuant to C.R.S. § 44-10-312(4). Such a notification shall not require a hearing.

Sec. 11-11-317. Renewal of license.

- (a) A licensee may renew its license by submitting an application at least thirty (30) days before and no more than ninety (90) days before the expiration of the license. If a licensee fails to file an application for renewal of his or her license at least thirty (30) days before expiration of the license, the license shall expire.
- (b) A licensee may renew a license that has expired if:
 - (1) The license has expired less than ninety (90) days; and
 - (2) The licensee pays the annual operating renewal fee and an additional five thousand dollars (\$5,000.00) late fee.
- (c) In the event that an application for renewal has been filed at least thirty (30) days before the expiration of the previous license, but the Authority does not rule on the application for renewal before the expiration of the previous license, the previous license shall be deemed extended until the Authority rules on the

application for renewal, but in no event may the license be extended more than ninety (90) days under this subsection. The licensee shall pay a license extension fee for any such extension after the first thirty (30) days.

- (d) The Authority may hold a hearing on any application for renewal. The Authority may summarily grant an application for renewal without a hearing if it appears from the application and other information that the licensee is:
 - (1) In compliance with this Chapter;
 - (2) There have not been any significant changes in the licensee, the principals, the licensed premises, the adjacent grounds or the registered manager previously approved; and
 - (3) There is no reason to believe that there are any grounds for sanctions or denial of the license.
- (e) The Authority shall set a public hearing on the application for renewal if it finds that there is probable cause to believe that the licensee:
 - (1) Is not in compliance with this Chapter or has committed violations of this Chapter; or
 - (2) Committed acts that are grounds for sanctions as provided in this Chapter; or
 - (3) Failed to report any major changes or minor changes.
- (f) The fact that the Authority has granted a renewal of a license shall not constitute a waiver of any previous violations and shall not stop or bar the City from seeking sanctions for, or the Authority from imposing sanctions for, any violation that occurred during any license period before the renewal.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §13, 12-27-16; Ord. No. 9652 §35, 1-27-20)

Sec. 11-11-318. Trade names, trademarks, logos, labels, packaging and advertising.

- (a) With regards to a licensee's building façade, signs, and other outdoor advertising, a licensee may use a logo, trademark, trade name, sign or advertising using the word "marijuana" or "cannabis," but not any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, or any depiction of any paraphernalia or other image commonly understood as referring to marijuana. A licensee may use images of a cannabis leaf, which shall be considered a commercial message, not art, and which must comply with Chapter 10 of Title XVII of the Pueblo Municipal Code. This prohibition shall not apply to any advertisement contained within a newspaper, magazine or other periodical of general circulation within the City or on the internet, which may include coupons, or that is purely incidental to sponsorship of a charitable event by a retail marijuana establishment. Such signage and advertising must not be misleading, false, infringe upon any state or federal trademark, nor be designed to appeal to minors.
- (b) Nothing contained in this Section shall be construed as creating a prior restraint on speech or press. The Authority shall not require an applicant or licensee to obtain any approval or license from the Authority before using any logo, trademark, trade name, sign or advertising. Nothing contained in this subsection shall prevent the City from taking civil, administrative or criminal action against any person or license after any logo, trademark, trade name, sign or advertising has been used. An applicant or licensee may request the Authority make an administrative determination as to whether a logo, trademark, trade name, sign, or advertising would be prohibited under this Section, but the Authority shall not be required to make such a determination.
- (c) Any court of competent jurisdiction construing or applying this Section shall seek a saving construction and application that makes the Section constitutional. In the event that any court of competent jurisdiction determines that any provision in this Section violates any right that any person may have to free speech or press, despite the court's saving construction and application, the court shall strike this Section only and

sever the same from the remainder of this Chapter, which shall remain valid and effective without this Section.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9239 §45, 2-26-18; Ord. No. 9483 §31, 6-10-19; Ord. No. 9572 §2, 10-15-19; Ord. No. 9652 §36, 1-27-20)

Sec. 11-11-319. Books and records.

Every licensee shall maintain on the licensed premises, at any time that any person is present on the licensed premises, accurate and up to date books and records of the business operations of the licensee, or an authentic copy of the same, including but not limited to the following:

- (1) Lists, manifests, orders, invoices and receipts for all marijuana, marijuana plants and marijuana products cultivated, harvested, manufactured, tested, processed, produced, delivered, purchased, stored, sold and exchanged during the preceding two (2) years, by each transaction or event, including the date and time of each transaction, source, strain, type, quantity, weight and purchaser and whether each transaction involved harvested marijuana, live plants, marijuana products or seeds;
- (2) An inventory of all marijuana and marijuana products presently on the licensed premises;
- (3) Sales and use taxes and excise taxes collected and paid; and
- (4) The name, address and a copy of the retail marijuana license of any retail marijuana licensee with whom the licensee has transacted any business, including but not limited to any purchase, sale, or exchange of marijuana plants, harvested marijuana or marijuana products.

Sec. 11-11-320. Inspection of books and records; audits.

- (a) Any law enforcement officer may, without a warrant and without reasonable suspicion, inspect the books and records described in Section 11-11-319 of this Chapter, at any time that anyone is present inside the licensed premises.
- (b) Upon five (5) days written notice, the licensee shall provide the books and records of the licensee for inspection and auditing by the City.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-321. Inspection of licensed premises and adjacent grounds.

- (a) Every licensed premises and adjacent grounds shall be open to inspection by police officers, building officials, firefighters, zoning officials, code enforcement officials, sales, use and excise tax officials, and health department officials at any time that anyone is present in the licensed premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation or criminal offense has occurred. Such right of inspection shall continue until all marijuana is removed from the licensed premises and adjacent grounds and all marijuana related business has terminated and final inspections are made in accordance with Subsection (d) below.
- (b) The licensee, principals, registered managers and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, vehicles, furniture, safes, lockers or containers on the licensed premises and adjacent grounds, except as provided in this Section.
- (c) Licensees, principals, registered managers and employees on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy with regard to their persons, the personal effects in their immediate possession, and their own motor vehicles on the licensed premises and adjacent grounds, to the

extent provided by other legal authority, but shall have no reasonable expectation of privacy as to other areas, vehicles, safes, lockers, containers or objects on the licensed premises or adjacent grounds.

- (d) Within seven (7) days of the revocation, surrender, or other termination of a retail marijuana license, during which time licensee shall maintain possession of the premises, the licensees, principals, registered managers and employees shall make the licensed premises and adjacent grounds open to inspection by police officers, building officials, firefighters, zoning officials, code enforcement officials, sales, use and excise tax officials, and health department officials. Said final inspection shall reveal that marijuana is no longer present on the licensed premises or adjacent grounds and that all marijuana related business has terminated. A failed final inspection shall be met with criminal penalties.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §14, 12-27-16; Ord. No. 9483 §32, 6-10-19)

Sec. 11-11-322. Requests for information.

- (a) The Authority and any City employee enforcing any City ordinance, State law or regulation may submit a written request for information relevant to such enforcement to the licensee by first class mail, at the address of the licensed premises.
- (b) The licensee shall provide complete written answers to such questions, signed by the registered manager, within twenty (20) days of the date that the request was mailed or hand delivered to the licensee or registered manager.
- (c) The licensee, principals, registered manager and employees shall have no expectation of privacy in any information or document pertaining to the operation of the licensed business, licensed premises and adjacent grounds as to the State or City, but the City shall not release the information and records as public records.
- (d) The licensee may not refuse to answer a question submitted to it on the grounds that:
- (1) The answer may incriminate its principals, financiers, registered manager or employees;
 - (2) The answer might place his or her license in jeopardy; or
 - (3) The question is not relevant.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9085 §15, 12-27-16)

Sec. 11-11-323. Early issuance of a license.

- (a) A retail marijuana establishment may apply for early issuance of a license under this provision. Following the Authority's approval of an application under Section 11-11-307 for a retail marijuana store, or a finding that an application shows a prima facie case for approval under Section 11-11-310, an applicant may request license issuance prior to completing the required minimum improvements per Section 17-4-51(e). Such a request must be made within one hundred twenty (120) days from the date of application approval for retail marijuana stores or prima facie approval for all other classes of retail marijuana licenses, or within any extended period granted by the Marijuana Authority.
- (b) Before issuing any retail marijuana license, the Authority shall hold a hearing at which the applicant has the burden to prove it complies with all pertinent rules and regulations. In addition to other portions of the municipal code and associated rules and regulations, it is required that:
- (1) The application is complete, and the requirements of Sections 11-11-301 and 11-11-308 are met, except that Section 11-11-308(7)(b) shall not apply, and all required and requested supplemental documentation is submitted.

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- (2) The applicant has met the requirements necessary to obtain a retail marijuana license in the Rule 800 Series.
 - (3) The applicant has provided documentation for compliance with the Rule 800 Series, depending on the type of license, and the documents have been approved by the necessary agencies (inspection forms).
 - (4) The area where the proposed activity will take place on the licensed premises is the same as shown on the application documents and construction plans for the associated license.
 - (5) No outstanding violations of city regulations or licensing requirements exist on the property where the proposed establishment is located.
 - (6) The city's portion of the application fee has been received from the state, and the applicant has paid the operating fee and any applicable additional fees.
 - (7) For a retail marijuana store, the applicant must provide proof of a surety bond in the amount of twenty thousand dollars (\$20,000.00) for sales and use taxes due.
 - (8) The applicant, the applicant's financiers, principals, registered manager, and employees are persons of good character and record.
 - (9) The applicant, principals, registered manager and employees are trained or experienced in, and able to comply with, the requirements of city and state law pertaining to retail marijuana establishments.
 - (10) There is no good cause for denial of the license.
 - (11) Any conditions or requirements imposed by the State of Colorado are completed.
 - (12) The premises has parking adequate to comply with state and federal requirements, specifically handicap parking compliant with ADA regulations.
 - (13) The premises is completed and complies with all health, building, plumbing, mechanical, fire and other codes, statutes and ordinances, as shown by plan approvals and completed inspections from the City's Department of Transportation, City's Department of Public Works, City's Department of Wastewater, Regional Building Department, Pueblo Fire Department, and Pueblo City-County Health Department.
 - (14) The applicant provide a maintenance plan for improvements required to be installed as part of the Conditional Use Permit.
 - (15) For new building construction, the location provides drainage, detention, and water quality in compliance with Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo, June 9, 1997 (City Stormwater Criteria) as amended. For new building construction, the location provides erosion and sediment control in compliance with City Stormwater Criteria and Colorado Department of Public Health and Environment requirements. All such work must be completed and inspected prior to license issuance.
 - (16) For existing buildings, the completed plan approvals for the location provide drainage, detention, and water quality in compliance with City Stormwater Criteria as amended. For existing buildings, the completed plan approvals for the location provide erosion and sediment control in compliance with City Stormwater Criteria and Colorado Department of Public Health and Environment requirements. The applicant must still comply with City Stormwater Criteria and the temporary requirements thereof whenever making alterations to the premises.
 - (17) Plan approvals are complete for all minimum improvements required by Subsection 17-4-51(e), including, but not limited to, the required facade treatments, landscaping, stormwater concerns, extraneous parking, public improvements, extraneous lighting, and signs.
- (c) The issues at the hearing shall be limited to the foregoing and any other pertinent legal requirements, but shall not include whether persons favor or approve of retail marijuana, or favor or oppose retail marijuana

licenses in general. The Authority may deny a petition for early issuance if the applicant fails to demonstrate compliance with any rule.

- (d) The Authority may deny an application if there is any indication that the applicant will not meet the imposed conditions. The Authority may impose on the license any condition related to the license, licensed premises or adjacent grounds that is reasonably necessary to protect public health, safety, or welfare, but must condition the license upon:
- (1) Full completion and inspection of all items required under Subsection 17-4-51(e), including:
 - a. Installation of landscaping according to Section 17-4-7 of Title XVII, PMC, regardless of the applicability stated in Subsection 17-4-7(b)(2).
 - b. Compliance with architectural requirements according to the zone district. Industrial zoned properties shall comply with Section 17-4-49. All other zoned properties shall comply with Sections 17-4-46, 17-4-47 or 17-4-48 based on the building size. The Administrative Official has the authority to require alternative requirements for architecture, in cases where the zoning requirements are not appropriate for a particular building or structure.
 - c. Providing parking according to Subsection 17-4-43(b), Subsection 17-4-44, or Section 17-4-45, PMC. 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.
 - d. Providing 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."
 - e. Providing existing buildings drainage, detention, and water quality in compliance with City Stormwater Criteria as amended. This includes, providing existing buildings erosion and sediment control in compliance with City Stormwater Criteria and Colorado Department of Public Health and Environment requirements.
 - (2) The licensee sending to the Authority timely notice of completions and inspections as they are finished.
- (e) The conditional use permit associated with a granted license must also impose at least the same conditions as those governing the license. The Authority in its sole discretion may impose any timeline by which the conditions must be met, but in no case shall it impose any period longer than one (1) year. If the Authority does not impose a time period, the new licensee shall complete all conditions in the three hundred thirty (330) days following license issuance. The licensee shall then conduct any remaining required inspections within the thirty (30) days following that period, prior to the yearly renewal. All conditions, approvals, and inspections must be completed prior to the renewal date. The licensee must provide written notice to the Authority as each condition is met. The Authority shall not give any extension past the renewal date.
- (f) The licensee must comply with all license conditions. Compliance with the licensing conditions shall be considered at the renewal hearing, or earlier as determined by the Authority. At that time, the licensee must prove full compliance with the imposed conditions. The Authority may impose any sanction for delays in completing the conditions, or for any failure of the licensee.
- (g) Licensee's failure to meet any condition shall show licensee's inability to operate in a highly-regulated industry. If the licensee has not met all conditions by the time of the annual renewal, the Authority shall revoke the license. In accordance with Subsection 11-11-406(d), a licensee whose license is revoked shall: (i) close the licensed premises and dispose of all retail marijuana on the licensed premises, and (ii) not be eligible to apply for a new retail marijuana license of any type for a period of two (2) years from the date of revocation. The Authority in its discretion may find the revocation indicative of poor character and record.

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- (h) In addition to the posting requirements of Section 11-11-313, the licensee shall post with the license the imposed conditions in a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height for the first year of an early issued license.
 - (i) The early issuance process for a retail marijuana establishment creates added strain on the city by truncating timelines and requiring substantial additional work from employees. In order to defray the costs of early issuance, an additional nonrefundable administrative fee of five thousand dollars (\$5,000.00) shall be required when the applicant applies. The fee is reasonably related and proportional to the costs of the services provided and shall not generate additional revenue for the City.
 - (j) All issues not covered by this provision, including requirements for hearings and notice, shall be governed by other sections of this Code and the Retail Marijuana Rules and Regulations. Licensee shall bear sole liability for and indemnify City against any damage or claim of damage, caused by or alleged to be caused by licensee's early license issuance or failure to comply with any regulation.

(Ord. No. 9133 §1, 6-12-17; Ord. No. 9482 §3, 6-10-19)

Article IV Disciplinary Actions Against Licenses

Sec. 11-11-401. General.

- (a) Administrative actions to impose sanctions against a licensee may be initiated only by complaint filed by the City or by the Authority on its own motion.
- (b) The Authority shall review the complaint administratively and determine whether the complaint and any documents or exhibits submitted therewith show probable cause to believe that grounds for sanctions exist. If the Authority finds that the complaint along with any documents or exhibits submitted therewith do not show probable cause to believe that a violation of this Chapter, State law or State regulations has occurred, the Authority shall dismiss the complaint without prejudice to refile the complaint with additional information showing probable cause. If the Authority finds that the complaint along with the documents or exhibits submitted therewith show probable cause to believe that a violation of this Chapter, State law or State regulations has occurred, the Authority shall issue an order to show cause to the licensee requiring the licensee to appear before the Authority on a specific date and at a specific time to answer the complaint.
- (c) Sanctions may be imposed in a hearing for sanctions, renewal, denial or for approval of major changes, but the City or Authority shall place the licensee on notice that sanctions may be sought and the grounds for the same by filing a complaint and obtaining an order to show cause from the Authority.
- (d) The Authority may impose sanctions against a licensee based on any of the grounds stated in Section 11-11-309 of this Chapter.
- (e) In the event that a license expires while proceedings for sanctions are pending, the license may be temporarily extended until the Authority's final decision. The licensee shall pay a license extension fee for each thirty (30) day period or portion thereof that the license is temporarily extended. If the fee is not paid, the license shall expire. After the Authority renders its final decision, and said decision does not revoke or suspend the license, the licensee shall submit an application for renewal within fifteen (15) days of the Authority's final decision.
- (f) A licensee shall have no right to surrender its license while an investigation, complaint or proceeding for sanctions is pending, but the Authority may permit the same if the City consents to the surrender.
- (g) No complaint or action for the sanctions provided in this Chapter shall be instituted or based upon any conduct or omission by a licensee, principal, registered manager or employee that occurred more than three

(3) years before the complaint for sanctions was filed, but such conduct or omissions may be admitted in evidence if relevant to other violations that have occurred within the three-year limitation period.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-402. Sanctions.

- (a) The Authority may impose any one (1) or more of the following sanctions against a license, in whatever combination the Authority finds appropriate:
 - (1) Additional conditions as described in Section 11-11-312;
 - (2) A fine in a reasonable amount to be determined by the Authority;
 - (3) Suspension for up to one hundred eighty (180) days;
 - (4) Fine in lieu of suspension;
 - (5) The reasonable costs of investigating, prosecuting, and hearing the violation, including the direct and indirect costs of the City Attorney, police officers, witnesses, subpoenas, Clerk to the Authority, hearing officer and other City employees utilized in any proceedings for sanctions; and
 - (6) Revocation.
- (b) The Authority may suspend any sanction or portion of a sanction on any reasonable condition that the Authority deems appropriate in its discretion.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9652 §37, 1-27-20)

Sec. 11-11-403. Factors to consider in determining sanctions.

- (a) In determining the appropriate sanction and whether any sanction or portion of a sanction should be suspended, the Authority shall consider the following factors:
 - (1) The severity of the violation;
 - (2) Whether the violation was committed deliberately, willfully, intentionally, knowingly, recklessly, wantonly, negligently or accidentally;
 - (3) Whether the licensee profited or gained some competitive advantage from the violation or attempted to do so;
 - (4) Potential and actual harm to persons or businesses and the reputation of the retail marijuana industry;
 - (5) Harm to public health, safety and welfare;
 - (6) Warnings given to the licensee, principals, registered manager or employees by the Authority or any State or City employee before the violation occurred;
 - (7) The deterrent effect of the sanction on the licensee and other licensees;
 - (8) Whether the violation was committed or permitted by a principal, registered manager or employee;
 - (9) Previous violations by the licensee, principals, registered manager or employees of the same or different nature and at the same or different licensed premises, including contempt;
 - (10) Previous sanctions imposed on the licensee, including sanctions for contempt;
 - (11) Steps taken by the licensee before the violation occurred to prevent the violation from occurring;

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- (12) Whether the violation occurred on the licensee's licensed premises or its adjacent grounds, or the licensed premises or adjacent grounds of another licensee;
 - (13) Any plans that the licensee may present showing how it intends to remedy the problem and prevent the same and similar violations in the future; and
 - (14) Any other aggravating or mitigating factors, except those that the Authority may not consider.
- (b) In determining the appropriate sanction, the Authority shall not consider the following factors:
- (1) Gender, race, ethnicity, ancestry, religion or sexual orientation;
 - (2) The licensee's business income at the licensed premises;
 - (3) The probable effect of the sanction on the licensee's finances;
 - (4) Any criminal sanction imposed on any person as a result of the same or related conduct;
 - (5) Any administrative penalty imposed by the State as a result of the same or related conduct;
 - (6) Any civil judgment imposed as a result of the same or related conduct;
- (c) The administrative sanctions provided in this Section are intended to be in addition to any administrative, civil or criminal penalty, or judgment imposed by any court or licensing authority.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-404. Summary suspension.

- (a) The Authority may summarily suspend any license without notice or hearing if the Authority finds, administratively, that there is probable cause to believe that:
- (1) The licensee or its principals, registered manager or employees have committed a willful or deliberate violation of this Chapter; and
 - (2) The continued operation of the retail marijuana license poses an immediate and substantial threat to public health, safety and welfare, such that waiting the time required to hold a regular disciplinary hearing would probably result in substantial harm to public health, safety and welfare.
- (b) If the Authority imposes a summary suspension administratively, it shall notify the licensee in writing as soon as is practical that it has been summarily suspended, that it must close its licensed premises, and the date, time and place of the three-day hearing to follow.
- (c) The Authority shall hold a hearing within three (3) business days, at which the licensee may be present, to determine whether the summary suspension should continue pending a full hearing on the alleged violation.
- (d) The Authority shall set a full hearing on the sanctions to be imposed for the violation that led to summary suspension to be held within fifteen (15) days from the date the licensee was first informed of the summary suspension and required to close the licensed premises, unless the Authority finds at the three-day hearing or upon the City's motion that there no longer is probable cause to believe that a violation occurred.
- (e) The licensee may waive the fifteen (15) day hearing requirement and request a later hearing, but such waiver shall operate as consent to continue the summary suspension until the later date.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-405. Imputing knowledge and violations to the licensee.

- (a) Any fact that a licensee's principal, registered manager or employee knows or once had knowledge of, or in the exercise of reasonable diligence should know, or should have once known, shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.
- (b) Any fact that occurs in the licensed premises or adjacent grounds that a reasonable person observing the area should be aware of shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.
- (c) Any violation of law committed by a licensee's principal, registered manager or employee, or which any of the same permit on the licensed premises or adjacent grounds, shall be imputed to the licensee for purposes of determining whether a violation occurred and imposing sanctions.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9483 §33, 6-10-19)

Sec. 11-11-406. Effect of sanctions.

- (a) New conditions. A licensee who has a new condition imposed on the license as a sanction shall bring the licensed premises into compliance with the new condition within such period as the Authority may specify in its order, or within thirty (30) days if the Authority does not specify a period of time. Failure to do so may be grounds for further sanctions.
- (b) Fine, fine in lieu of suspension and costs. A licensee who has a fine, a fine in lieu of suspension or costs imposed on the license shall:
 - (1) Pay the fine and costs imposed within the time specified in the Authority's order, or within thirty (30) days if the Authority does not specify a period of time. In the event that the fine is not paid within the time specified in the Authority's order, the Authority may impose alternative or additional sanctions for failure to pay the fine or costs in a timely manner.
 - (2) Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height for a period of ten (10) continuous days which shall be specified in the Authority's order, stating:

THE RETAIL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN FINED AND ADJUDGED COSTS BY THE PUEBLO RETAIL MARIJUANA LICENSING AUTHORITY IN THE AMOUNT OF \$ _____ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE PUEBLO MUNICIPAL CODE RELATING TO RETAIL MARIJUANA: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

- (c) Suspension of license. A licensee whose license has been suspended shall:
 - (1) Close the licensed premises to all persons except the registered manager and employees during the term of the suspension.
 - (2) Post signs at least thirty-six (36) inches by thirty-six (36) inches on every entrance to the licensed premises with letters at least one (1) inch in height during the period that the suspension is imposed, stating:

THE RETAIL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN SUSPENDED BY ORDER OF THE PUEBLO RETAIL MARIJUANA LICENSING AUTHORITY FOR ____ DAYS FROM _____ THROUGH _____ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE PUEBLO MUNICIPAL CODE RELATING TO RETAIL MARIJUANA: (STATE NATURE OF VIOLATION AND SECTION VIOLATED)

- (d) Revocation of license. A licensee whose license is revoked shall:

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- (1) Close the licensed premises and dispose of all retail marijuana on the licensed premises through legal means within such time and by such means as the Authority may order.
 - (2) Not be eligible to apply for a new license for a period of two (2) years.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9483 §34, 6-10-19)

Article V License Hearings

Sec. 11-11-501. Notice of hearings; setting of hearings.

- (a) Notice for hearings on applications for new licenses, denial of a new license, renewals of licenses and approval of major changes shall be given to the public in the manner prescribed by State law by posting the proposed premises and publishing a notice in a newspaper of general circulation at least fifteen (15) days before the hearing, stating the name of the applicant, the address of the proposed licensed premises and the type of license applied for.
- (b) All notices shall state the date, time and place of the hearing, the name of the applicant or licensee, the address of the proposed or licensed premises, the date, time and place of the hearing, and the issue before the Authority.
- (c) The applicant shall have the responsibility to set the matter with the Clerk of the Authority for a hearing, publish notices, provide a publisher's affidavit of publication, post the premises with notice as required by this Chapter and state law and provide an affidavit of posting.
- (d) Failure of an applicant to properly publish notice of the hearing, post the premises with notice of the hearing as provided in this Chapter and provide proper affidavits of the same shall deprive the Authority of jurisdiction to hold a hearing on the application.
- (e) Applicants for a new license seeking a hearing under Section 11-11-311 of this Chapter shall have the sole responsibility to:
 - (1) Conduct the setting of the hearing with the Clerk of the Authority within the time limits prescribed in Section 11-11-311;
 - (2) Select a date for the hearing that is not less than thirty (30) and no more than ninety (90) days from the day of the setting; and
 - (3) Publish and post the proposed premises with notice as required in this Chapter.
- (f) Failure of an applicant to successfully bring an application for a new license or any major change to a hearing in compliance with every requirement of this Section shall constitute withdrawal of the application. Withdrawal of an application under this Section shall not constitute a denial of the application under Section 11-11-308 and shall not prevent the applicant from resubmitting its application upon payment of a new application fee.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-502. Hearing procedures.

- (a) Hearings shall be conducted in accordance with the procedures outlined in this Chapter. Where this Chapter does not address a procedural issue, the procedures in Chapter 7, Title I, Pueblo Municipal Code, Article 10, Title 44, C.R.S., and any procedural rules enacted pursuant to that article shall apply unless the same are clearly inconsistent with the provisions of this Chapter.

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- (b) Failure of an applicant or licensee to appear at any scheduled hearing of which the applicant or licensee has received notice or has himself or herself set, and for which notice was posted and published in compliance with this Chapter, without a showing of good cause verified by the applicant's affidavit filed with the Authority within ten (10) days of the scheduled hearing, shall constitute a default and a withdrawal of the application or motion, and a default of any complaint, Order to Show Cause, motion or other matter pending against the licensee. Any such application or motion withdrawn by the applicant or licensee may not be re-filed for one (1) year.
 - (c) After an application has been filed, a hearing on the application has been set and notice has been published and posted in compliance with this Chapter, any withdrawal of the application by the applicant shall constitute a denial of the license under Section 11-11-308, unless the City stipulates that the withdrawal shall not constitute such a denial.
 - (d) The Authority may hear and decide motions.
 - (e) The Authority may adjourn and continue any hearing, at the request of the applicant and with the consent of the City, to give the applicant an opportunity to fulfill any requirement that has not been met or to make changes to its application or operational plan.
 - (f) The Authority may join various matters pending concerning the same license in a single hearing.
 - (g) Every decision of the Authority shall be in writing, stating the reasons therefor, and shall be made within thirty (30) days after the date of the conclusion of the public hearing. A copy of such decision shall be sent by certified mail to the applicant licensee at the address shown in the application or license.

(Ord. No. 8750 §1, 6-23-14; Ord. No. 9483 §35, 6-10-19; Ord. No. 9652 §38, 1-27-20)

Sec. 11-11-503. Discovery and subpoenas.

- (a) Any complaint or motion for sanctions shall contain a summary of the legal and factual grounds for the same.
- (b) Every party who has standing to be heard at a hearing shall provide a list of witnesses and exhibits to every other party who has standing, along with copies of the exhibits, at least ten (10) days before the hearing.
- (c) Each party shall provide the other parties who have standing with copies of any statements or reports relevant to the matter.
- (d) Each party shall provide to other parties who have standing copies of all documents filed with the Authority.
- (e) No party shall be entitled to any additional discovery and the Authority shall not order any further discovery.
- (f) Subpoenas for the attendance of witnesses with or without documents and other tangible things shall be issued as provided in Chapter 7, Title I, Pueblo Municipal Code.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-504. Burden of proof.

- (a) In any proceeding under this Chapter to obtain approval or issuance of a license, renewal of a license, concerning denial of a new license, or to obtain approval for any new principal, registered manager or any major change, the applicant or licensee shall have the burden to prove by a preponderance of the evidence: (1) his or her right to such license; and (2) that there is no good cause for denial of the license or approval.
- (b) In any proceeding under this Chapter in which any person seeks to impose a condition on a license, the person seeking to impose the condition shall have the burden to prove by a preponderance of the evidence that the condition is necessary to protect public health, safety or welfare. Notwithstanding the foregoing, the

Authority may, on its own motion, in any hearing for a new license, transfer of a license to a new location, or transfer of a license to a new licensee, impose a condition on a license where it finds by a preponderance of the evidence that such condition is necessary to protect public health, safety or welfare.

- (c) In any proceeding under this Chapter to impose any sanction against a license, the City shall have the burden to prove every allegation necessary to impose a sanction by a preponderance of the evidence.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-505. Evidence.

- (a) The Colorado Rules of Evidence and the common law rules of evidence shall not apply to hearings under this Chapter. The Authority may accept into evidence any testimony or exhibit and give such evidence the weight that the Authority believes it deserves.
- (b) The Authority may accept hearsay and multiple-hearsay testimony and may base its decision solely on such hearsay if such hearsay is reasonably reliable and trustworthy and has probative value accepted by reasonable and prudent persons in the conduct of their affairs. The Authority shall not be required to make a finding that the hearsay meets this standard. If the Authority admits the hearsay, it shall be conclusively presumed that the hearsay met this standard unless the Authority makes findings to the contrary.
- (c) The Authority shall have the authority to exclude testimony and other evidence as irrelevant, cumulative or on the ground that the witness or exhibit was not disclosed ten (10) days prior to the hearing.
- (d) The Authority may take administrative notice of any matter contained in its file.
- (e) The Board may delegate to the chair or another member of the Board the authority to make procedural and evidentiary rulings at any hearing, but every member of the Board present shall vote on the findings and conclusions at the conclusion of the hearing.

(Ord. No. 8750 §1, 6-23-14)

Sec. 11-11-506. Standing.

- (a) At any hearing for issuance of a new license, for denial of a new license, for renewal or for any major change in the license, only the following parties shall have standing to be heard:
 - (1) The applicant or licensee;
 - (2) Any person who resides within a one-half (½) mile radius of the adjacent grounds of the proposed or licensed premises;
 - (3) Any person who owns any real property within a one-half (½) mile radius of the adjacent grounds of the proposed or licensed premises;
 - (4) Any person who owns any business within a one-half (½) mile radius of the adjacent grounds of the proposed or licensed premises; and
 - (5) The City of Pueblo.
- (b) At all other hearings, only the applicant or licensee and the City of Pueblo shall have standing.

(Ord. No. 8750 §1, 6-23-14)

Article VI Violations and Penalties

Sec. 11-11-601. Unlawful acts - any person.

It shall be unlawful and a Class 1 municipal offense for any person to:

- (1) Make any false statement, written or verbal, to the Authority or to any City employee, in any investigation, inquiry, hearing, testimony, application, report or document related in any way to retail marijuana or the licensing thereof;
- (2) Smoke or consume any marijuana, marijuana plant or marijuana product on a licensed premises or the adjacent grounds;
- (3) Cultivate, possess, sell, transfer, give away, or dispose of marijuana unless so licensed or in the course of their municipal duties, or otherwise permitted to do so by law. An individual may be held criminally liable for violations of Chapter 11 of Title XI of the Pueblo Municipal Code even if not properly licensed hereunder. The lack of a license is not an affirmative defense.

Sec. 11-11-602. Unlawful acts - licensees, principals, registered managers and employees.

It shall be unlawful and a Class 1 municipal offense for any licensee, principal, registered manager or employee of a licensee to commit any of the following acts:

- (1) To violate, fail, neglect or refuse to comply with any requirement of: the Retail Marijuana Rules and Regulations promulgated by the Authority pursuant to this Chapter; Chapter 11, Title XI of the Pueblo Municipal Code; Chapter 1, Title IX of the Pueblo Municipal Code; Article 10, Title 44, C.R.S.; or of any State regulation pertaining to retail marijuana.
- (2) To permit any violation of this Chapter or any law or regulation on the licensed premises or the adjacent grounds.
- (3) To operate a retail marijuana establishment at any time that any of the requirements or conditions contained in Sections 11-11-301 and 11-11-308 of this Chapter are not satisfied.
- (4) To fail, neglect or refuse to collect sales taxes on any transaction or to promptly pay any sales and use tax, excise tax, fee or charge required under this Chapter or under the Pueblo Municipal Code.
- (5) To fail, neglect or refuse to promptly provide any books, records, reports, information, documents or answers to requests for information required under this Chapter.
- (6) To refuse to provide signed answers to requests for information, except as provided in this Chapter, or to refuse to answer any request for information on any grounds prohibited under this Chapter.
- (7) To violate any ordinance, statute or regulation on the licensed premises or on the adjacent grounds.
- (8) To violate any condition or to permit the violation of any condition placed on a license issued under this Chapter or by the State.
- (9) To permit anyone under the age of twenty-one (21) to be present on the licensed premises.
- (10) To permit anyone who is not an employee to enter the limited access area.
- (11) To permit any employee to enter the limited access area without a visible employee badge.
- (12) To conduct any cultivation, manufacturing, testing, processing, packaging, display, sale or exchange of marijuana plants, harvested marijuana or marijuana products outside the licensed premises.
- (13) To transport any quantity of marijuana or marijuana products without carrying with the marijuana or marijuana products, a written manifest showing the following information, or to refuse to provide to any law enforcement officer upon demand a written manifest showing the following information:

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- a. The weight and volume of marijuana or marijuana products carried;
 - b. A description of the make, model and VIN number of the vehicle carrying the marijuana or marijuana products;
 - c. The name and address of the driver of the vehicle;
 - d. The name and address of the licensed retail marijuana establishment from which the retail marijuana originated;
 - e. The name and address of the licensed marijuana establishment to which the marijuana or marijuana products is being delivered;
 - f. The date and time that the marijuana or marijuana products departed the licensed marijuana establishment where the marijuana originated.
- (14) To allow anyone who does not possess a current and valid owner and occupational license to transport retail marijuana or retail marijuana product between licensed premises.
- (15) To transfer, distribute, sell, give away, or dispose of any marijuana or any marijuana product by any other means than a face-to-face transaction within the licensed premises. Transfer, distribution, sale, gift, or disposing of marijuana via the internet or any on-line service is prohibited and unlawful.
- (16) To display, transfer, distribute, serve, sell, give away, or dispose of any marijuana or marijuana product in any public place other than the licensed premises.
- (17) For any licensee or any manager, employee, or agent of such licensee to fail to immediately report to the Pueblo Police Department any disturbance, unlawful or disorderly conduct, or criminal activity occurring at the location, on the premises, or within the licensed premises set forth on the license. A licensee, manager, employee, or agent will be criminally liable for any failure to report in a timely manner.
- (18) To abandon a licensed premises or otherwise cease operation without notifying the local licensing authority at least ten (10) days in advance, without accounting for and forfeiting to the state licensing authority for destruction all marijuana or products containing marijuana, and without paying all due sales and use taxes, excise taxes, fees or charges required by the Pueblo Municipal Code.

Sec. 11-11-603. Penalties.

It shall be a Class 1 municipal offense for any person to violate any provision of this Chapter or fail, neglect or refuse to perform any act required under this Chapter.