

CHAPTER 10 Medical Marijuana

Article I General

Sec. 11-10-101. Findings and purpose.

City Council finds that the cultivation, manufacture, distribution, testing, possession, sale and use of medical 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 medical marijuana, while permitting medical 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. 11-10-102. 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. 11-10-103. Definitions.

The following definitions shall apply throughout this Chapter:

- (1) The definitions contained in Article XVIII, Section 14, Colorado Constitution and Section 44-10-103, C.R.S., shall apply to this Chapter except where the ordinance 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 medical marijuana facility until the license is issued.
- (4) *Authority*: means the Pueblo Medical Marijuana Licensing Authority, which may be either an individual hearing officer or a Board.
- (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, education, training, experience, civil judgments, truthfulness, honesty, financial responsibility, and records of previous sanctions against liquor licenses, gambling licenses or marijuana licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager or employee. 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 medical marijuana license.

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- (7) *Contiguous*: means located within the same building as the medical marijuana facility, located in a separate building on the same parcel of land as the medical marijuana facility, 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 medical marijuana facility is located.
 - (8) *Creditor*: means any person lending, paying or providing funds, directly or indirectly, to pay any part of the costs of: operating the medical marijuana facility, including but not limited to the costs of rent, mortgage payments, utilities, debt payments, supplies, product, equipment, advertising, vehicles, salary and wages.
 - (9) *Employee*: means the licensee's or proposed licensee's employees.
 - (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, processing, smoking or ingestion of medical marijuana and medical 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 medical marijuana facility, provided that the licensee also obtains a State license.
 - (13) *Licensee*: means the person or entity holding a medical marijuana license under this Chapter.
 - (14) *Licensed premises*: means the area inside a building in which the cultivation, manufacture, processing, possession, weighing, display, packaging, sale and exchange of medical marijuana or marijuana products is licensed under this Chapter.
 - (15) *Marijuana or medical marijuana*: except where the context clearly indicates otherwise, means growing marijuana plants, harvested marijuana in any state and medical marijuana products of all kinds.
 - (16) *Medical marijuana facility*: means a medical marijuana store, medical marijuana cultivation facility, medical marijuana testing facility, or a medical marijuana products manufacturer.
 - (17) *Medical marijuana license*: means any of the licenses described in Section 11-10-302, Pueblo Municipal Code.
 - (18) *Medical marijuana card*: means any medical marijuana registration card issued to any patient or primary caregiver by the State of Colorado.
 - (19) *Operate or operation*: means the matters described in Section 11-10-307(a)(3) and (a)(4), Pueblo Municipal Code.
 - (20) *Patient*: means a person with a debilitating medical condition who has received a recommendation from a licensed physician to use medical marijuana and who has received a medical marijuana card from the State.
 - (21) *Permit*: when used as a verb means to:

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- a. Participate in or contribute to an act, conduct or omission;
 - 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.
- (22) *Person*: means any natural person and any entity.
- (23) *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 Medical Marijuana Business Operator.
- (24) *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 Colombia 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.
- (25) *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. 11-10-104. Time.

In calculating any period of time prescribed or allowed under this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, even if it is a Saturday, Sunday or legal holiday, unless the prescribed time period is ten (10) days or less.

Sec. 11-10-105. Certain confidential matters not public records.

- (a) The following matters 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 11-10-319, Pueblo Municipal Code;
 - (2) The results of the inspection of books, records and audits conducted under Section 11-10-320, Pueblo Municipal Code;
 - (3) The results of inspections conducted under Section 11-10-321, Pueblo Municipal Code;
 - (4) Responses to requests for information made under Section 11-10-322, Pueblo Municipal Code;
 - (5) The names of patients and primary caregivers and any record of the products they order or purchase from licensees.
- (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. 8244 §1, 7-26-10; Ord. No. 8369 §1, 7-11-11)

Sec. 11-10-106. 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. 11-10-107. 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. In the event that any court of competent jurisdiction determines that any provision in this Chapter violates any constitutional right, despite the court's saving construction and application, the Court shall strike the offending provision only and sever the same from the remainder of this Chapter, which shall remain valid and effective.

Article II Medical Marijuana Licensing Authority

Sec. 11-10-201. Licensing authority.

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

Sec. 11-10-202. Members of Board.

- (a) The members of the Board of the Medical Marijuana Authority shall be the members of the Board of the Retail Marijuana Authority selected pursuant to Section 11-11-202 of this Title. 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 Chairman 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. 8244 §1, 7-26-10; Ord. No. 8782 §2, 10-14-14; Ord. No. 9296 §16, 6-11-18)

Sec. 11-10-203. Powers of Authority.

- (a) The Authority shall have the following powers:
 - (1) To issue or deny medical 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.

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- (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.
 - (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.
- (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. 8244 §1, 7-26-10; Ord. No. 8916 §1, 9-14-15; Ord. No. 9483 §3, 6-10-19)

Sec. 11-10-204. Quorum and majority vote.

If a Board has been appointed to act as the Authority, 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 entire Board.

Sec. 11-10-205. 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 thirty (30) 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 demanded by the person taking the appeal or when such a transcript is furnished by the Authority pursuant to the Court order.

Article III Licenses

Sec. 11-10-301. Licenses and permit required.

- (a) No person shall operate a medical marijuana facility unless he or she has first obtained the following and maintains the same in full force and effect:
 - (1) A conditional use permit from the City for the location of the proposed licensed premises;
 - (2) A City sales and use tax license;
 - (3) A State sales and use tax license;
 - (4) A City license for any other business that will be conducted on the licensed premises;
 - (5) Ownership of, or a lease in effect on, the proposed licensed premises; and
 - (6) A State license to operate a medical marijuana facility.
- (b) No person may apply for a license to operate a medical marijuana facility until he or she has first met the requirements stated in Subsection (a) above.
- (c) A medical marijuana facility opened prior to June 1, 2019 shall not be required to replace an existing limited use permit with a new conditional use permit, except that any change or amendment to an existing limited use permit shall terminate said permit and require the issuance of a new conditional use permit.
- (d) 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, medical or otherwise. Any marijuana seized by the City for whatever reason shall be disposed of in accordance with law.

(Ord. No. 8244 §1, 7-26-10; Ord. No. 9482 §1, 6-10-19; Ord. No. 9652 §3, 1-27-20)

Sec. 11-10-302. Classes of medical marijuana licenses.

The Authority may issue the following licenses for medical marijuana facilities, 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) Medical marijuana store license;
- (2) Medical marijuana cultivation facility license;
- (3) Medical marijuana products manufacturer license; and
- (4) Medical marijuana testing facility.

Sec. 11-10-303. 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 Local Option described in Section 44-11-104, 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 any type of medical marijuana facility within the City of Pueblo pursuant to 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 medical marijuana facility 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 medical marijuana facility, 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. 8244 §1, 7-26-10; Ord. No. 9483 §5, 6-10-19; Ord. No. 9652 §5, 1-27-20)

Sec. 11-10-304. License and other fees.

- (a) Applicants and licensees 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 (which shall be credited against the application fee if a complete application is submitted): twenty-five dollars (\$25.00).
 - (2) Application for new license:
 - a. Medical marijuana store: six thousand five hundred dollars (\$6,500.00).
 - b. Medical marijuana products manufacturer: six thousand five hundred dollars (\$6,500.00).
 - c. Medical marijuana cultivation facility: six thousand five hundred dollars (\$6,500.00).
 - d. Medical marijuana testing facility: four thousand five hundred dollars (\$4,500.00).
 - (3) Application for renewal of license: four thousand five hundred dollars (\$4,500.00).
 - (4) Application for transfer of location: one thousand seven hundred fifty dollars (\$1,750.00).
 - (5) Application for change of principals or ownership: three hundred dollars (\$300.00).
 - (6) Application for change in operational plan: three hundred dollars (\$300.00).
 - (7) Registration of manager: one hundred dollars (\$100.00).
 - (8) Application for modification of premises: four hundred dollars (\$400.00).

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- (9) Report of minor change: one hundred dollars (\$100.00).
 - (10) Late renewal fee: five hundred dollars (\$500.00).
 - (11) License extension fee: one hundred fifty dollars (\$150.00) for each thirty (30) day period or portion thereof.
 - (12) Application or renewal for a centralized distribution permit for a medical marijuana cultivation facility: three hundred dollars (\$300.00).
- (b) City Council may approve increases or decreases in the foregoing fees by resolution.
 - (c) 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.
 - (d) 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 are reasonably related and proportional to the costs of the services provided and do not generate additional City revenue.
 - (e) 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. 8244 §1, 7-26-10; Ord. No. 9483 §6, 6-10-19; Ord. No. 9652 §6, 1-27-20)

Editor's Note: Pursuant to Subsection 11-10-304(b), fees have been increased by Resolution No. 11964, passed on August 23, 2010.

Sec. 11-10-305. Term of license.

Every license shall be valid for one (1) year from the date it is issued unless the license is earlier revoked.

Sec. 11-10-306. Coordination with State Marijuana Licensing Authority and State requirements.

- (a) 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.
- (b) 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, findings of law and conclusions 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, findings of law and conclusions that the State may reach regarding the same licenses based on the same incident or conduct.
- (c) 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 medical marijuana license. 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.

(Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §2, 9-27-10; Ord. No. 9652 §7, 1-27-20)

Sec. 11-10-307. Application for medical marijuana license.

- (a) An applicant for a medical 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.
 - (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, advertised, processed, stored, packaged, exhibited, purchased, exchanged and sold;
 - 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 patients when making sales.
 - (4) A security plan that addresses:
 - a. Methods to prevent and protect employees, patients, primary caregivers 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.
- (b) The entire application shall be verified under oath by each principal in the applicant 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 five (5) copies of the application. The Authority shall provide copies to the Police Department, the Land Use Department and the Law Department.

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- (d) An applicant shall not submit its application, and the Authority shall not accept the same, until 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 ex parte review of the application as provided in Section 11-10-310.
 - (f) After an application is accepted as complete, it may be amended or supplemented in writing before the application is set for hearing, but each amendment shall be verified under oath by each principal, and the registered manager and employees shall verify under oath the portions of any amendment that pertain to each of them. The applicant shall submit to the Authority the original of each amendment and five (5) copies of each amendment. The Authority shall provide copies to the Police Department, the Land Use Department and the Law Department.
 - (g) After the application is set for hearing, the application shall not be amended and the Authority shall rule on the application as it exists at the time the hearing is set.

(Ord. No. 8244 §1, 7-26-10; Ord. No. 9652 §8, 1-27-20)

Sec. 11-10-308. Requirements to obtain and retain a medical 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 from the City for the location of the proposed licensed premises;
 - b. The applicant has obtained a City sales and use tax license;
 - c. The applicant has obtained a State sales and use 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.

- d. The applicant, principals, registered manager and employees have not discharged a sentence for any 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 creditors, 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 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 and registered manager have not held an interest in any liquor license, medical 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, registered agent, creditors and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.
- h. The applicant, principals, creditors and 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 and principals are not in default on any student loan.
- j. The applicant, principals and employees are trained or experienced in, and able to comply with, the requirements of this Chapter and state law pertaining to medical marijuana facilities. In

determining whether an applicant, principal or employee has 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 facility;
 2. Previous experience operating medical marijuana facilities;
 3. Completion of state or industry-approved courses on how to comply with Colorado laws and regulations regarding medical marijuana facilities; and
 4. The individual's understanding of state law and City ordinances regulating medical 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 medical marijuana issued by the State of Colorado.
 - l. The applicant and principals do not have any orders or judgments against them for child support in default or arrears.
 - m. The applicant and principals are not peace officers or prosecuting attorneys.
 - n. The applicant and principals are not licensed physicians who recommend medical marijuana.
 - o. If the licensee or principals already hold one (1) or more medical marijuana license in the City of Pueblo, and the application is for another medical marijuana license of the same class, 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 massage parlor, a dance hall or an amusement establishment as defined in Chapter 2, Title IX, Pueblo Municipal Code.
 - d. The premises are not licensed or operated as a retail food establishment or wholesale food registrant.
 - e. No medical marijuana license of the same class has been denied at the location of the proposed licensed premises or at another location within one thousand (1,000) feet of the proposed licensed premises, as measured from any wall of the two (2) proposed licensed premises, within the preceding two (2) years due to the nature of the use or other concern related to the location.
 - f. 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, display, storage, processing, weighing, handling and packaging of medical marijuana and marijuana infused 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.

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- 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:
 - 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 medical marijuana and medical 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 customers 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 Pueblo Zoning Department, Regional Building Department, Pueblo Fire Department and Regional 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.
- (5) Requirements specific to a medical 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. The proposed licensed premises are located in a separate building that does not share any doors, windows, air passages, vents, ducts or any heating, ventilation, air conditioning or air handling equipment or structures with any other building or premises, except for a medical marijuana store or medical marijuana products manufacturer.
 - c. 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.
 - d. No portion of the building in which the proposed licensed premises are located is utilized as a residence.
 - e. A medical marijuana cultivation facility may obtain a centralized distribution permit, authorizing temporary storage on the licensed premises of medical marijuana concentrate and products received from a medical marijuana products manufacturer for the sole purpose of transfer to the permit holder's commonly owned medical 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.

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- (6) Requirements specific to a medical marijuana product manufacturer's license:
- a. The area of the proposed licensed premises utilized for manufacturing 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.
- (7) Requirements specific to a medical marijuana testing facility license.
- a. No other type of medical marijuana facility or retail marijuana establishment may be located on the same premises as a medical marijuana testing facility, except that a retail marijuana testing facility may be co-located therewith.
 - b. A person who has an interest in a medical marijuana testing facility license shall not have any interest in a medical marijuana store, medical marijuana cultivation facility, medical marijuana products manufacturer, retail marijuana store, retail marijuana cultivation, or a retail marijuana products manufacturer.
- (8) 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
 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 approval, the approval shall lapse and the license shall not be issued.
- (9) 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 licensed premises, 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. 11-10-309. 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 medical 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:

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- (1) The licensee, principals, manager, employees, the licensed premises or the adjacent grounds do not meet or no longer meet one (1) or more of the requirements of Sections 11-10-301 or 11-10-308 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, manager or employees have committed or attempted to commit any violation of any City ordinance, 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 have been operated in a way that substantially harms the public health, safety or welfare;
 - (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.

Sec. 11-10-310. Review of application for new license, determination and findings.

- (a) Within thirty (30) days of the date that the Clerk to the Authority or the Authority itself accepts an application for a new medical marijuana license as complete, the Authority shall review the application ex parte and issue its determination and findings. The Authority's ex parte 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 11-10-311; 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 11-10-311.
- (b) The Authority shall notify the applicant in writing of its ex parte determination and findings by first-class U.S. mail addressed to the applicant at the address shown on the application.
- (c) If the ex parte 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 ex parte determination and findings to the applicant, pursue one 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 11-10-311 as provided in Section 11-10-501(f) of this Chapter; or
 - (2) Request from the Authority in writing a continuance of the setting of the hearing under Section 11-10-311 for no more than sixty (60) days from the date the Authority mailed its ex parte determination and findings to the applicant, in order to satisfy any concerns stated in the ex parte determination and findings, if any. Failure of the applicant to set the application for a hearing within sixty (60) days the date the Authority mailed its ex parte determination and findings to the applicant, in the manner provided in Section 11-10-501(f) of this Chapter, shall constitute a withdrawal of the application.

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- (d) If the ex parte 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 ex parte determination and findings to the applicant, pursue one 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 11-10-311 as provided in Subsection 11-10-501(e) of this Chapter; or
 - (2) Request from the Authority in writing a continuance of the setting of the hearing under Section 11-10-311 for no more than one hundred twenty (120) days from the date the Authority mailed its ex parte determination and findings to the applicant, in order to satisfy the deficiencies stated in the ex parte 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 ex parte determination and findings to the applicant, in the manner provided in Subsection 11-1-501(e) 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 Paragraph 11-10-309 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 ex parte 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 11-10-311 of this Chapter, and any matter that the ex parte 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. 8244 §1, 7-26-10; Ord. No. 9483 §8, 6-10-19)

Sec. 11-10-311. Hearing on application for new license or the denial of a new medical marijuana license.

- (a) Before approving or issuing any medical marijuana license, and upon request of any applicant whose application has been summarily denied ex parte 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 medical marijuana license in Sections 11-10-301 and 11-10-308, Pueblo Municipal Code;
 - (2) Whether there is good cause for denial of the license as defined in Section 11-10-309, Pueblo Municipal Code; and
 - (3) Whether conditions should be imposed on the license as provided in Section 11-10-312, Pueblo Municipal Code.
- (b) The issues at the hearing shall be limited to the foregoing and shall not include whether persons favor or approve of medical marijuana or favor or oppose medical 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 medical 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 11-10-312, Pueblo Municipal Code. 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 medical 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.

(Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-312. 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) Limits on the number of registered medical marijuana patients who may patronize the establishment;
 - (6) Limits on the quantity of marijuana that may be sold to a medical marijuana product manufacturer;
 - (7) Limits on medical marijuana products;
 - (8) Requirements and limits on ventilation and lighting;
 - (9) Limits or requirements on areas on the licensed premises that are closed, locked or not open to public view;
 - (10) Limits on the products other than medical marijuana and marijuana products that can be sold on the premises;
 - (11) Limits on noise inside the licensed premises or on the adjacent grounds;
 - (12) Prohibitions on certain conduct on the premises;
 - (13) Sanitary requirements;
 - (14) Limits on hours of operation;
 - (15) Requirements for screening new and existing employees;
 - (16) Requirements for identifying medical marijuana patients and primary caregivers;
 - (17) A requirement that the licensee temporarily close the licensed premises to the public until certain changes, inspections or approvals are made; and
 - (18) 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. 8244 §1, 7-26-10; Ord. No. 9652 §10, 1-27-20)

Sec. 11-10-313. 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 LOCAL OPTION DESCRIBED IN C.R.S. §44-10-104, 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 MEDICAL MARIJUANA FACILITY WITHIN THE CITY OF PUEBLO, PURSUANT TO C.R.S. §44-10-104, THEN THIS LICENSE SHALL BE VOID AND THE OPERATION OF THIS MEDICAL MARIJUANA FACILITY 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 the public, patients, and primary caregivers 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 MEDICAL 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 MEDICAL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE PUEBLO POLICE DEPARTMENT AT: 553-2538.

- (5) If the Licensee has received any sanction from the Authority during the preceding five (5) years, a notice at least twenty-four (24) inches by twenty-four (24) inches in letters at least one (1) inch in height, stating:

THIS MEDICAL MARIJUANA LICENSE HAS BEEN SANCTIONED BY THE PUEBLO MEDICAL MARIJUANA LICENSING AUTHORITY DURING THE PRECEDING FIVE (5) YEARS FOR THE FOLLOWING MISCONDUCT: (STATE DATE, VIOLATION AND SANCTION RECEIVED, LISTING ALL VIOLATIONS AND SANCTIONS IMPOSED IN THE PRECEDING FIVE (5) YEARS).

- (6) A notice at least thirty (30) inches by thirty (30) inches in letters at least one (1) inch in height, stating:

THE MEDICAL MARIJUANA, MARIJUANA PLANTS AND MEDICAL MARIJUANA PRODUCTS SOLD ON THESE PREMISES ARE CULTIVATED, MANUFACTURED AND PROCESSED WITHOUT ANY GOVERNMENTAL OVERSIGHT AS TO HEALTH, SAFETY OR EFFICACY.

THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA PRODUCTS.

(7) A notice at least thirty (30) inches by thirty (30) inches in letters at least one (1) inch in height, stating:
THE DIVERSION OF MEDICAL MARIJUANA FOR NON-MEDICAL PURPOSES IS A VIOLATION OF STATE LAW.

THE USE OF MEDICAL MARIJUANA MAY IMPAIR A PERSON'S ABILITY TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY. IT IS ILLEGAL UNDER STATE LAW TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY MARIJUANA.

POSSESSION AND DISTRIBUTION OF MEDICAL MARIJUANA IS A VIOLATION OF FEDERAL LAW.

SMOKING OR CONSUMING MEDICAL MARIJUANA WITHIN THESE PREMISES, WITHIN FIFTEEN (15) FEET OF THESE PREMISES OR ANYWHERE IN PUBLIC IS UNLAWFUL.

(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.

Sec. 11-10-314. 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. 11-10-315. 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 written approval of the Authority:
- (1) Any transfer of the license or ownership involving a principal. A person that becomes a principal of a publicly traded corporation that is a medical 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 medical marijuana business that is a publicly traded corporation in accordance with Section 11-10-316(7), will not be required to obtain prior approval from the Authority;
 - (2) Any change in location of the licensed premises;
 - (3) Any change in the licensee's principals or creditors;

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- (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, operational plan, 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 sounds; and
 - (7) Any material change in or deviation from the operational 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 substantial 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 probably 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.
 - (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. 8244 §1, 7-26-10; Ord. No. 9652 §12, 1-27-20)

Sec. 11-10-316. 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, on any product sold or exchanged at the licensed premises, on any advertising or sign, or in any correspondence or document;
- (2) Any change in the labeling or packaging of products sold 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;
- (5) Any change to any sign on the licensed premises or adjacent grounds; and

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- (6) The hiring, dismissal or resignation of any employee or the dismissal or resignation of a registered manager.
 - (7) A person that becomes a principal of a publicly traded corporation that is a medical 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 medical 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. 11-10-317. 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 regular renewal fee and an additional five hundred dollars (\$500.00) late renewal 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. 8244 §1, 7-26-10; Ord. No. 9652 §14, 1-27-20)

Sec. 11-10-318. 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 medical 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 Section 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. 8244 §1, 7-26-10; Ord. No. 8369 §4, 7-11-11; Ord. No. 9239 §41, 2-26-18; Ord. No. 9483 §11, 6-10-19; Ord. No. 9572 §1, 10-15-19; Ord. No. 9652 §15, 1-27-20)

Sec. 11-10-319. Books and records.

- (a) 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, 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 collected and paid;
 - (4) The name, address and a copy of the patient's medical marijuana card for every patient who has registered the medical marijuana store as his or her primary store or who has purchased medical marijuana, marijuana plants or medical marijuana products at the licensed premises;

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- (5) The written recommendation of any physician who has recommended that a patient registered with the medical marijuana store needs more than two (2) ounces of medical marijuana and six (6) marijuana plants to address the patient's debilitating medical condition;
 - (6) The name, address and a copy of the medical marijuana license of any other medical marijuana facility 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 medical marijuana products; and
 - (7) Copies of the medical marijuana card of a homebound patient and the waiver from the State of Colorado authorizing the primary caregiver to purchase medical marijuana for the homebound medical marijuana patient and transport the same to the homebound medical marijuana patient presented by a primary caregiver who purchases marijuana or marijuana products on behalf of a homebound patient.
- (b) The licensee shall separate any record showing the patient's debilitating medical condition from all other records, maintain such records separately from all other records, and mark the cover to such records: "Confidential Patient Medical Information."

(Ord. No. 8244 §1, 7-26-10; Ord. No. 8265 §4, 9-27-10; Ord. No. 9652 §16, 1-27-20)

Sec. 11-10-320. 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 11-10-319(a), Pueblo Municipal Code, at any time that anyone is present inside the licensed premises, but shall not inspect the records described in Section 11-10-319(b), Pueblo Municipal Code, unless a warrant specifically authorizing inspection of such records is issued or there are legal grounds that would excuse the requirement of a warrant.
- (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, but shall not be required to provide the records described in Section 11-10-319(b), Pueblo Municipal Code.
- (c) In the event that the information described in Section 11-10-319(b), Pueblo Municipal Code, is interspersed in the same record or contained on the same sheet of paper or electronic record, the licensee shall copy the records, redact the information described in Section 11-10-319(b) and provide a redacted copy to the City or law enforcement officers.

(Ord. No. 8244 §1, 7-26-10)

Sec. 11-10-321. 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 (f) 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.

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- (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) Patients, primary caregivers and other persons on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy as to their medical condition, their persons, the personal effects in their immediate possession, and their 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, containers or objects on the licensed premises and adjacent grounds.
 - (e) Police officers and other officials shall not inspect records described in Section 11-10-319(b), Pueblo Municipal Code, or any person, place or area in which a person retains a reasonable expectation of privacy, unless a search warrant is obtained for the same or there are legal grounds that would excuse the requirement of a warrant.
 - (f) Within seven (7) days of the revocation, surrender, or other termination of a medical 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. 8244 §1, 7-26-10; Ord. No. 9483 §12, 6-10-19)

Sec. 11-10-322. 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 certified mail, return receipt requested, 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, but shall not be required to disclose the information described in Section 11-10-319(b), Pueblo Municipal Code.
- (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) In the event that the licensee refuses to provide answers on the grounds that the answer may tend to incriminate him or her for some criminal offense, or on advice of legal counsel, the City and Authority may properly draw the inference and conclusion that the answer to the question would have been adverse to the licensee's position regarding the investigation or other matter then pending, and may institute a complaint and proceedings for sanctions based on such conclusion.
- (e) The licensee may not refuse to answer a question submitted to it on the grounds that:
 - (1) The answer may incriminate its principals, creditors, registered manager or employees;
 - (2) The answer might place his or her license in jeopardy; or

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- (3) The question is not relevant.
- (f) If the licensee is a natural person, the licensee may seek an injunction against the request for information on the ground that the information is highly personal, does not involve the finances or operation of the licensed premises, self incrimination, or is protected by the licensee's own constitutional right to privacy, but shall also be required to satisfy all requirements under Colorado law for issuance of a temporary restraining order, preliminary injunction or permanent injunction. Failure of the licensee to seek an injunction against the request for information within twenty (20) days from the date the request for information is mailed to the licensee shall constitute a waiver of any right of privacy regarding the requested information.
- (Ord. No. 8244 §1, 7-26-10; Ord. No. 9483 §13, 6-10-19)

Article IV Disciplinary Actions Against Licenses

Sec. 11-10-401. 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 ex parte 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 11-10-309, Pueblo Municipal Code.
- (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, 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 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. 8244 §1, 7-26-10; Ord. No. 8265 §5, 9-27-10)

Sec. 11-10-402. 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 11-10-312, Pueblo Municipal Code;
 - (2) A fine in an 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 sanction on any reasonable condition that the Authority deems appropriate in its discretion.

(Ord. No. 8244 §1, 7-26-10; Ord. No. 9483 §14, 6-10-19; Ord. No. 9652 §17, 1-27-20)

Sec. 11-10-403. 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 patients, primary caregivers, residents, businesses and the reputation of the medical 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 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;
 - (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;

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- (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, except as provided in Section 44-10-901, C.R.S., for fines in lieu of suspension;
 - (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. 8244 §1, 7-26-10; Ord. No. 9483 §15, 6-10-19; Ord. No. 9652 §18, 1-27-20)

Sec. 11-10-404. Summary suspension.

- (a) The Authority may summarily suspend any license without notice or hearing if the Authority finds, ex parte, 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 medical 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 ex parte, 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. 8244 §1, 7-26-10)

Sec. 11-10-405. 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 finding 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 would 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. 8244 §1, 7-26-10)

Sec. 11-10-406. Effect of sanctions.

- (a) New conditions. A licensee who has new conditions 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. Failure to do 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. In the event that the fine is not paid within the time specified in the Authority's order, the Authority may impose any suspended license suspension or 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 MEDICAL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN FINED AND ADJUDGED COSTS BY THE PUEBLO MEDICAL MARIJUANA LICENSING AUTHORITY IN THE AMOUNT OF \$ _____ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE PUEBLO MUNICIPAL CODE RELATING TO MEDICAL 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 MEDICAL MARIJUANA LICENSE FOR THESE PREMISES HAS BEEN SUSPENDED BY ORDER OF THE PUEBLO MEDICAL MARIJUANA LICENSING AUTHORITY FOR DAYS FROM _____ THROUGH _____ FOR VIOLATING THE FOLLOWING PROVISIONS OF THE PUEBLO MUNICIPAL CODE RELATING TO MEDICAL 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 medical 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. 8244 §1, 7-26-10)

Article V License Hearings

Sec. 11-10-501. 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 11-10-311 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 Subsection 11-10-310(c);
 - (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 11-10-309 and shall not prevent the applicant from resubmitting its application upon payment of a new application fee.

(Ord. No. 8244 §1, 7-26-10; Ord. No. 8369 §5, 7-11-11; Ord. No. 9483 §16, 6-10-19)

Sec. 11-10-502. 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 11-10-309 and Section 44-10-311, C.R.S., 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, multiple licenses at the same licensed premises, or any substantially related matters 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 the complete application is submitted or within thirty (30) days of the public hearing if a public hearing is required or held. A copy of such decision shall be sent by certified mail to the applicant at the address shown in the application.

(Ord. No. 8244 §1, 7-26-10; Ord. No. 9483 §17, 6-10-19; Ord. No. 9652 §19, 1-27-20)

Sec. 11-10-503. 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) Any party may provide copies to another party by filing a copy in the Authority's file, which any party may access and copy upon reasonable notice and upon payment of reasonable copying charges.
- (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. 8244 §1, 7-26-10)

Sec. 11-10-504. 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, manager, employee 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.

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- (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. 8244 §1, 7-26-10)

Sec. 11-10-505. Evidence.

- (a) The Colorado Rules of Evidence and the common law rules of evidence shall not apply. 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 does not have standing and was not called as a witness by a party who does have standing.
- (d) The Authority may take administrative notice of any matter contained in its file.
- (e) If a Board has been appointed to act as the authority, 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 close of the hearing.

(Ord. No. 8244 §1, 7-26-10; Ord. No. 9296 §16, 6-11-18)

Sec. 11-10-506. 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 premises, 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 licensed premises;
 - (4) Any person who owns or is employed by any business within a one-half (½) mile radius of the adjacent grounds of the proposed 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.

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Article VII Violations and Penalties

Sec. 11-10-701. Unlawful acts - any person.

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

- (1) Forge, duplicate or alter any medical marijuana card;
- (2) Possess, exhibit or use any medical marijuana card issued to another person, except that a primary caregiver who has received a waiver from the State authorizing him or her to purchase and transport medical marijuana to a homebound patient may possess and use the medical marijuana card of the homebound patient while purchasing and transporting medical marijuana to the homebound patient;
- (3) 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 medical marijuana or the licensing thereof;
- (4) Unseal on any licensed premises any marijuana product;
- (5) Purchase, sell, exchange or deliver any medical marijuana, marijuana plant or marijuana product in public, except in a licensed premises; or
- (6) 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 10 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. 11-10-702. Unlawful acts - patients and primary caregivers.

It shall be unlawful and a Class 1 municipal offense for any patient or primary caregiver to:

- (1) Give, lend or sell a medical marijuana card or identification to any other person, except that a homebound patient who has received a waiver from the State permitting his or her primary caregiver to transport medical marijuana to him or her may lend his or her medical marijuana card and identification to his or her primary caregiver for the purpose of purchasing and transporting medical marijuana to the homebound patient;
- (2) Fail to have in his or her possession a medical marijuana card at any time the patient or primary caregiver is purchasing, exchanging, receiving, transporting or in possession of any medical marijuana, marijuana plants or marijuana product;
- (3) Purchase and transport marijuana from a medical marijuana facility to a homebound patient without having in his or her possession the primary caregiver's own medical marijuana card, the medical marijuana card of the homebound patient, and a copy of the State waiver permitting the primary caregiver to purchase medical marijuana from a medical marijuana store and transport the medical marijuana to the homebound patient; or
- (4) Smoke, eat, drink or otherwise use or consume any medical marijuana or marijuana products on any licensed premises or anywhere in public.

Sec. 11-10-703. 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 or to fail, neglect or refuse to comply with any requirement of this Chapter, Chapter 1, Title IX Pueblo Municipal Code, Article 10, Title 44, C.R.S., or any State regulation pertaining to medical 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 medical marijuana store at any time that any of the requirements or conditions contained in Sections 11-10-301 and 11-10-308, Pueblo Municipal Code, are not satisfied.
- (4) To sell, dispense or give away any medical marijuana, marijuana plants or medical marijuana product to any person except:
 - a. Another medical marijuana licensee, to the extent and in the manner permitted by law;
 - b. A medical marijuana patient who presents at the time and place of each sale or gift his or her own valid medical marijuana card along with his or her own government-issued photographic identification which matches the name shown on the medical marijuana card; or
 - c. A primary caregiver purchasing or receiving medical marijuana or medical marijuana products on behalf of a homebound patient who presents at the time and place of each sale or gift: (a) his or her own medical marijuana card, along with his or her own government-issued photographic identification which matches the name shown on the medical marijuana card; (b) the waiver from the State of Colorado authorizing the primary caregiver to purchase medical marijuana for the homebound medical marijuana patient and transport the same to the homebound patient; and (c) the homebound patient's medical marijuana card along with the homebound patient's government-issued photographic identification, which matches the name shown on the medical marijuana card.
- (5) To fail, neglect or refuse to collect sales taxes on any transaction or to promptly pay any tax, fee or charge required under this Chapter.
- (6) To fail, neglect or refuse to promptly provide any books, records, reports, information, documents or answers to requests for information required under this Chapter.
- (7) 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 ground prohibited under this Chapter.
- (8) To violate any ordinance, statute or regulation on the licensed premises or on the adjacent grounds.
- (9) To violate any condition or to permit the violation of any condition placed on a license issued under this Chapter.
- (10) To permit anyone under the age of twenty-one (21) to be present on the licensed premises, except a patient under the age of twenty-one (21) who has a valid medical marijuana card.
- (11) To permit anyone who is not an employee to enter the limited access area.
- (12) To permit any employee to enter the limited access area without a visible employee badge.
- (13) To conduct any cultivation, processing, packaging, display, sale or exchange of marijuana plants, harvested medical marijuana or medical marijuana products outside the licensed premises.

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- (14) To possess on the licensed premises of a medical marijuana store more than six (6) medical marijuana plants or more than two (2) ounces of harvested medical marijuana for each patient who has registered the medical marijuana store as his or her primary store, except that the medical marijuana store may exceed these limits if a patient who has registered the medical marijuana store as his or her primary store has received a written recommendation from a physician licensed to practice in Colorado stating that the patient needs more medical marijuana to address his or her debilitating condition than these limits allow and the medical marijuana store has a copy of such physician statement in its books and records on the licensed premises.
- (15) Violation of patient confidentiality.
- a. It shall be unlawful to intentionally, knowingly, recklessly or negligently disclose any of the following information, in any form, concerning any medical marijuana patient, or to conduct any discussion, assessment or evaluation of the patient or the patient's records where any person may overhear or observe any of the following information:
1. The fact that the patient possesses, cultivates or uses medical marijuana or medical marijuana products or utilizes the services of a medical marijuana store;
 2. The patient's diagnosis, prognosis or other information concerning the patient's physical, emotional or psychological condition;
 3. The fact that the patient has a medical marijuana recommendation or the contents of the medical marijuana recommendation;
 4. The form, type, quantity and frequency in which the patient purchases and uses medical marijuana or medical marijuana products; and
 5. The efficacy of the medical marijuana or medical marijuana products in treating the patient's condition.
- b. It shall not be a violation of this Section to disclose such information to:
1. Employees of the medical marijuana store with whom the patient has registered as a patient;
 2. The physician who wrote the medical marijuana recommendation;
 3. A law enforcement officer conducting an investigation concerning the violation of any law;
 4. An employee of the State Department of Revenue, Medical Marijuana Enforcement Division or an employee of the City conducting an investigation;
 5. Any person to whom the patient has signed a release directing the release of the information; or
 6. A court or an attorney conducting a deposition when compelled to testify or produce documents pursuant to a subpoena or other court order.
- (16) To sell, give away or provide to any patient, or to any primary caregiver obtaining harvested medical marijuana or medical marijuana products on behalf of a homebound patient, more than the following quantities of harvested medical marijuana or medical marijuana products, or any combination thereof, within any twenty-four (24) hour period:
- a. Two (2) ounces of medical marijuana or forty (40) grams of medical marijuana concentrate; or
 - b. The quantity of harvested medical marijuana, marijuana contained within a marijuana product or any combination thereof, in excess of the amount specifically recommended by a physician

licensed to practice medicine in Colorado, when the person providing the same views and retains a copy of the physician recommendation for marijuana.

- (17) To sell, give away or provide to any patient or to any primary caregiver obtaining medical marijuana on behalf of a homebound patient, more than the following quantities of live medical marijuana plants within any thirty-day period:
- a. Six (6) plants; or
 - b. The quantity of live marijuana plants in excess of six (6) plants specifically recommended by a physician licensed to practice medicine in Colorado when the person providing the same views and retains a copy of the physician recommendation for marijuana.
- (18) To transport any quantity of medical marijuana without carrying with the medical marijuana 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:
- a. The weight and volume of marijuana carried;
 - b. A description of the make, model and VIN number of the vehicle carrying the medical marijuana;
 - c. The name and address of the driver of the vehicle;
 - d. The name and address of the licensed medical marijuana facility from which the medical marijuana originated;
 - e. The name and address of the licensed medical marijuana facility to which the medical marijuana is being delivered;
 - f. The date and time that the marijuana departed the licensed medical marijuana facility where the marijuana originated; and
 - g. The intended route from source to the destination.

Sec. 11-10-704. 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.