

Due to increasing cases of COVID-19, all public participation in meetings will be virtual. Those members of the public wishing to attend the workshop digitally are asked to please contact the Town Clerk Department at (970) 726 – 8081 ext. 208 or email djardee@wpgov.com for a conference call-in number and passcode.

WINTER PARK TOWN COUNCIL WORKSHOP

Winter Park Town Hall - 50 Vasquez Road
Tuesday, November 17, 2020
3:00 p.m.



WORKSHOP AGENDA

1. Grand County Board of County Commissioners Informal Chat (3:00 p.m. – 3:20 p.m.)
2. Chamber of Commerce Marketing Plan Discussion (3:20 p.m. – 4:00 p.m.)
3. Marijuana Regulations Discussion with Town Attorney Hilary Graham (4:00 p.m. – 5:00 p.m.)
4. Other Items to Discuss (if time)

**TOWN OF WINTER PARK
ORDINANCE NO. ____
SERIES OF 2020**

AN ORDINANCE OF THE TOWN OF WINTER PARK AMENDING CHAPTER 2 OF TITLE 3 TO IMPLEMENT THE NEWLY APPROVED REGULATED MARIJUANA SALES TAX, REPEALING CHAPTER 6 OF TITLE 3 REGARDING MEDICAL MARIJUANA BUSINESSES, REPEALING AND REENACTING CHAPTER 7 OF TITLE 3 REGARDING REGULATED MARIJUANA BUSINESSES, REPEALING AND REENACTING SECTIONS 7-3-19 AND 7-3-21 REGARDING MEDICAL AND RETAIL MARIJUANA ESTABLISHMENTS, AND REPEALING AND REENACTING SECTIONS 7-5B-2(B) AND 7-5D-2(B) OF THE WINTER PARK TOWN CODE TO ALLOW FOR REGULATED MARIJUANA BUSINESSES IN SPECIFIED ZONE DISTRICTS BY SPECIAL USE PERMIT

WHEREAS, the Town Council finds that on November 6, 2012, the voters of the State of Colorado approved Amendment 64. Amendment 64 added § 16 of Chapter 18 to the Colorado Constitution, and legalized the possession, use, display, purchase, transport, transfer, and consumption of marijuana accessories or one ounce or less of marijuana by persons twenty-one (21) years of age or older within the State of Colorado;

WHEREAS, by Ord. No. 441 in 2010 and by Ord. No. 474 in 2013, the Town Council adopted a prohibition against medical and retail marijuana businesses in Town;

WHEREAS, the Town Council wishes to amend the Winter Park Town Code to allow for and regulate a limited number of regulated marijuana businesses in the Town;

WHEREAS, the Town Council finds and determines that, by requiring that regulated marijuana businesses be operated in a manner that minimizes potential health and safety risks, it mitigates the negative impacts that regulated marijuana businesses might have on surrounding properties and persons;

WHEREAS, the Town Council finds and determines that through this Ordinance, it intends to establish a nondiscriminatory mechanism by which the Town can permit and control, through appropriate regulation, the location and operation of a limited number of regulated marijuana businesses within the Town;

WHEREAS, at the regular municipal election held on November 3, 2020, the Town Council submitted, and the voters approved, a ballot issue regarding the imposition of a five percent (5%) tax on the sale of regulated marijuana and regulated marijuana products;

WHEREAS, the Town desires to implement the results of the election.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF WINTER PARK, COLORADO, THAT:

Section 1. Section 3-2-3 of the Winter Park Town Code is hereby amended by the addition of the following new Subsection E:

E. Marijuana Sales Tax: In addition to the taxes set forth in Subsections B and D hereof, there is hereby imposed on all sales of regulated marijuana and regulated marijuana products a tax equal to five percent (5%) of the gross receipts. One-half of the revenues derived from such tax shall be used exclusively to promote mental health efforts in the Town. The other one-half the revenues derived from such tax shall be used for general municipal purposes.

Section 2. Section 3-2-5 of the Winter Park Town Code is hereby amended by the addition of the following new definitions, to be inserted in alphabetical order:

REGULATED MARIJUANA: Medical marijuana and retail marijuana.

REGULATED MARIJUANA PRODUCTS: Medical marijuana products and retail marijuana products, including without limitation marijuana concentrate.

Section 3. Chapter 6 of Title 3 of the Winter Park Town Code is hereby repealed in its entirety.

Section 4. Chapter 7 of Title 3 of the Winter Park Town Code is hereby repealed in its entirety and reenacted to read as follows:

CHAPTER 7 - REGULATED MARIJUANA BUSINESSES

3-7-1: AUTHORITY:

The Town Council hereby finds, determines and declares that it has the power to adopt this Chapter pursuant to: Chapter XVIII, section 16 of the Colorado Constitution; Colorado Revised Statutes section 44-10-104(3); Chapter XX of the Colorado Constitution; the Town of Winter Park Home Rule Charter; and the Local Government Land Use Control Enabling Act, Chapter 20 of title 29, Colorado Revised Statutes.

3-7-2: DEFINITIONS:

For purposes of this Chapter, the following terms shall have the following meanings:

APPLICANT: A person twenty-one (21) years of age or older who has submitted an application for a license or renewal of a license issued pursuant to this Chapter. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

COLORADO MARIJUANA CODE: Chapter 10 of Title 44, Colorado Revised Statutes, as may be amended from time to time.

DUAL OPERATION: A regulated marijuana business that operates as both a licensed medical marijuana center and a licensed retail marijuana store in accordance with this Chapter.

GOOD CAUSE: For the purpose of denying, refusing to renew, suspending or revoking a license, or exercising other discretionary authority granted the local licensing authority, means:

1. The applicant or licensee has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions, or provisions of this Chapter, the Colorado Marijuana Code, its rules, or any applicable state or local law, rule, or regulation;

2. The local licensing authority has determined that the applicant or licensee's character, record, or reputation is not satisfactory after consideration of factors, which include without limitation the following:

a. The applicant or licensee has knowingly submitted false application(s), made willful misrepresentations, or knowingly committed fraudulent acts;

b. The applicant or licensee has a criminal history of crimes of moral turpitude, which may include without limitation murder, burglary, robbery, arson, kidnapping, sexual assault, and illegal drugs or narcotics convictions;

c. The applicant or licensee has had any previous retail or medical marijuana license denied or revoked as a result of violations of law, rule, or regulation, or a finding of bad moral character by any licensing authority;

d. The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes;

e. The applicant or licensee has an established pattern of multiple statutory violations which resulted in the revocation or denial of any other professional license, leading to the finding of bad moral character by any licensing authority; or

f. The licensed premises has been operated in a manner that adversely affects the public health, safety, or welfare. Evidence to support such a finding, may include without limitation a continuing pattern of disorderly conduct or drug related criminal conduct upon or in the immediate vicinity of the premises, continuing pattern of criminal conduct directly

related to or arising from the operation of the regulated marijuana business, or an ongoing nuisance condition emanating from or caused by the regulated marijuana business.

3. The applicant or licensee has failed to comply with any special terms or conditions of a license, including without limitation those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any renewal or suspension proceedings held subsequent to the date of issuance of the license; or

4. The licensed premises has been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the licensed business is located. Evidence to support such a finding can include without limitation a continuing pattern of disorderly conduct or continuing pattern of drug-related criminal conduct within the business.

LICENSE: A document issued by the Town officially authorizing an applicant to operate a regulated marijuana business pursuant to this Chapter.

LICENSEE: The person to whom a license has been issued pursuant to this Chapter.

LICENSED PREMISES: The premises specified in an application for a license under this Chapter, which is owned or in possession of the licensee and within which the license is authorized to distribute, store, transport, or sell regulated marijuana or regulated marijuana products in accordance with state and local law.

MARIJUANA: All parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, but excluding industrial hemp, fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

MARIJUANA CULTIVATION FACILITY: An entity licensed to cultivate, prepare, and package marijuana and sell marijuana to marijuana businesses, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

MARIJUANA HOSPITALITY BUSINESS: A facility licensed to permit the consumption, but not the sale, of medical or retail marijuana, medical or

retail marijuana concentrate, and medical or retail marijuana products pursuant to this Chapter.

MARIJUANA PRODUCT MANUFACTURING FACILITY: An entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to marijuana businesses, but not to consumers.

MARIJUANA PRODUCTS: Products that are comprised of marijuana and other ingredients that are intended for use or consumption, including without limitation edible products, ointments and tinctures.

MARIJUANA TESTING FACILITY: An entity licensed by the State to analyze and certify the safety and potency of marijuana.

MEDICAL MARIJUANA: Marijuana that is grown and sold for a purpose authorized by section 14 of article XVIII of the Colorado Constitution.

MEDICAL MARIJUANA CENTER: A person authorized to be licensed to operate a business as described in the Colorado Marijuana Code that sells medical marijuana to registered patients or primary caregivers as defined in section 14 of article XVIII of the Colorado constitution, but is not a primary caregiver, and which a municipality is authorized to prohibit as a matter of law.

MEDICAL MARIJUANA PRODUCT: A product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

PATIENT: Has the meaning provided in section 14(1)(c) of article XVIII of the Colorado Constitution.

PRIMARY CAREGIVER: Has the meaning provided in section 14(1)(f) of article XVIII of the Colorado Constitution.

REGULATED MARIJUANA: Medical marijuana and retail marijuana.

REGULATED MARIJUANA PRODUCTS: Medical marijuana products and retail marijuana products, including without limitation marijuana concentrate.

RETAIL MARIJUANA: Marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana store.

RETAIL MARIJUANA PRODUCT: A product infused with retail marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

RETAIL MARIJUANA STORE: An entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

STATE LICENSING AUTHORITY: The authority created by the Colorado Department of Revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of regulated marijuana in the State of Colorado pursuant to C.R.S. § 44-10-201.

3-7-3: LICENSE REQUIRED:

A. The Town hereby authorizes the operation of regulated marijuana businesses in the Town as set forth in this Chapter. It is unlawful for any person to operate a regulated marijuana business in the Town without first obtaining a license to operate such business in accordance with the requirements of this Chapter. A separate license is required for each specific business or business entity and for each geographical location. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section.

B. The local licensing authority may issue the following regulated marijuana business licenses:

1. Medical marijuana center;
2. Retail marijuana store;
3. Marijuana hospitality business.

C. Notwithstanding the foregoing, marijuana cultivation facilities, marijuana products manufacturers, and marijuana testing facilities remain illegal in the Town. No marijuana cultivation facility, marijuana products manufacturer, or marijuana testing facility shall be licensed under this Chapter.

D. The dual operation of a medical marijuana business with its retail marijuana equivalent at a single location is permitted so long as both licenses are held by the same owners, all applicable state and local licenses have been issued, such licenses remain valid and active for both operations, and both operations are in compliance with all applicable state and local requirements.

E. The license requirement set forth in this Chapter are in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, rules, or regulations, including

without limitation the Colorado Marijuana Code, its rules, and any applicable local zoning or building code.

3-7-4: LOCAL LICENSING AUTHORITY:

A. The local licensing authority shall have two (2) divisions as follows: the Town Council shall serve as the local licensing authority for all new regulated marijuana business license applications, regulated marijuana business renewal applications, applications for change of manager, applications for transfer of ownership, applications for modification or change of location of existing licenses, and applications for delivery permits; and the Municipal Court shall serve as the local licensing authority for all disciplinary actions including without limitation imposing fines, suspensions and revocations. The Town Council may delegate any of its duties under this Section to the Town Clerk, by ordinance.

B. The local licensing authority shall have the power to promulgate rules and regulations as are reasonable and necessary to implement and administer the requirements of this Chapter.

C. The local licensing authority shall have the authority to deny any application that does not meet the requirements of the Colorado Marijuana Code, its rules, this Chapter, and any other applicable state or local law, rule, or regulation. The local licensing authority shall also have the authority to deny any application that contains any false, misleading, or incomplete information. Denial of an application for a license shall not be subject to administrative review, but only to review by a court of competent jurisdiction.

D. The local licensing authority may, after notice and hearing, suspend, revoke, or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or operating fees previously paid shall be refunded in the event of any suspension or revocation of a license.

E. The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least one year.

F. When making a determination as to character, record, and reputation when determining whether good cause exists for denying, refusing to renew, suspending or revoking a license, or exercising other discretionary authority granted the local licensing authority, the licensing authority shall also consider evidence of rehabilitation. Such evidence may include without limitation evidence of no criminal record information, educational achievements, financial solvency, community standing, lack of additional

arrests or convictions, or the lack of parole or probation violations since the date of last conviction.

G. The local licensing authority shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Chapter and applicable law.

3-7-5: APPLICATION REQUIRED:

A. A person seeking a license or renewal of a license issued pursuant to this Chapter shall submit an application to the local licensing authority on forms provided by the Town Clerk. At the time of application, each applicant shall pay a nonrefundable fee to the Town in an amount to be determined by the Town by separate Resolution to defray the costs incurred by the Town including without limitation for inspection, administration, and enforcement. In addition, the applicant shall present one (1) of the following forms of identification:

1. An operator's, chauffer's or similar type of driver's license issued by any state within the United States or a U.S. Territory;
2. An identification card, issued by any state for purpose of proving age using requirements similar to those in C.R.S. §§ 42-2-302 and 42-2-303;
3. A United States military identification card;
4. A valid passport; or
5. An enrollment card issued by the government authority of a federally recognized tribe located in the State of Colorado.

B. The applicant shall also provide the following information on a form approved by, or acceptable to the Town, which information shall be required for the applicant, including the proposed manager of the regulated marijuana business, and all persons having a ten percent (10%) or more financial interest in the regulated marijuana business that is the subject of the application or, if the applicant is an entity, having a ten percent (10%) or more financial interest in the entity:

1. Name, address, date of birth;
2. A complete set of fingerprints;
3. Suitable evidence of proof of lawful presence, residence, if applicable, and good character and reputation that the Town may request;

4. An acknowledgment and consent that the Town will conduct a background investigation, including a criminal history check, and that the Town will be entitled to full and complete disclosure of all financial records of the regulated marijuana business, including records of deposit, withdrawals, balances and loans;

5. If the applicant is a business entity, information regarding the entity, including without limitation the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;

6. The name and complete address of the proposed regulated marijuana business, including the facilities to be used in furtherance of such business, whether or not such facilities are, or are planned to be, within the territorial limits of the Town;

7. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a regulated marijuana business;

8. A copy of any deed, lease, contract or other document reflecting the right of the applicant to possess the proposed licensed premises along with the conditions of occupancy of the premises;

9. Evidence of a valid sales tax license for the business;

10. If the regulated marijuana business will be providing regulated marijuana products in edible form, evidence of, at a minimum, a pending application for any food establishment license or permit that may be required by the State;

11. A "to scale" diagram of the premises showing without limitation a site plan, building layout, all entry ways and exits to the marijuana store and cultivation facility, loading zones and all areas in which regulated marijuana will be stored, grown or dispensed;

12. A comprehensive business operation plan for the regulated marijuana business which shall contain without limitation the following:

a. A security plan;

b. A description by category of all products to be sold;

c. A signage plan that is in compliance with all applicable requirements of this Chapter and other applicable provisions of the Winter Park Town Code, as well as the Colorado Marijuana Code and all rules and regulations promulgated thereunder; and

d. A plan for the disposal of marijuana.

13. An acknowledgment that applicant will be required at the public hearing to make a showing with affirmative evidence that approval of the application will result in no demonstrable negative impacts on the neighborhood; and

14. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. The applicant shall verify the truthfulness of the information required by this Section by the applicant's signature on the application.

D. Upon receipt of a completed application, the local licensing authority shall circulate the application to all affected departments of the Town to determine whether the application is in full compliance with all applicable laws, rules and regulations.

E. Upon receipt of a completed application for a new license, the local licensing authority shall schedule a public hearing on the application to be held not less than thirty (30) days after the date of receipt of the completed application. The local licensing authority shall cause a notice of such hearing to be posted as follows:

1. In a conspicuous place upon the proposed licensed premises and published in a newspaper of general circulation within the Town not less than ten (10) days prior to the hearing. Such posted notice given by posting shall include a sign of suitable material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters of not less than one (1) inch in height. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application; and

2. The applicant shall pay the actual costs of having the Town Clerk's Office mail a notice via United States mail to landowners within a one-half mile radius of the proposed licensed premises. Such payment shall be made at least fifteen (15) days prior to such hearing to cause the Town Clerk's Office to mail such notice postmarked at least seven (7) days, but no earlier than fourteen (14) days, prior to the date of the public hearing on the application. The Town Clerk's Office shall provide the state licensing authority an affidavit of said mailing.

G. Not less than five (5) days prior to the date of the public hearing for a new license, the local licensing authority shall cause its preliminary findings based on its investigation to be known in writing to the applicant. The local licensing authority shall deny any application that does not meet

the requirements of this Chapter. The local licensing authority shall also deny any application that contains any false, misleading or incomplete information. The local licensing authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction.

H. Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this Chapter specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of regulated marijuana businesses located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. In addition, the local licensing authority shall consider whether approval of the application would result in any of the following demonstrable negative impacts on the surrounding neighborhood:

1. An undue concentration of regulated marijuana businesses that would require the use of additional law enforcement resources;
2. An increase in traffic congestion;
3. A shortage of available parking; or
4. Other demonstrable negative impacts caused by the new regulated marijuana business.

I. A local license shall not be issued until a state license has been granted and the building in which the business is to be conducted has passed all applicable inspections and is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with any applicable provisions of the code or any state law, rule, or regulation.

J. The local licensing authority shall issue its decision within ninety (90) days of the hearing on the complete license application. Such decision shall be by Resolution and shall state the reasons for the decision. The Resolution shall be sent via certified mail to the state licensing authority and the applicant at the address shown in the application.

K. As the Town limits the aggregate number of regulated marijuana business to be licensed in the Town as set forth in Sec. 3-7-12(B) of this Chapter, the local licensing authority may promulgate rules and regulations to implement a system for prioritizing completed applications when one or more license becomes available. Initial applications for a regulated marijuana business will be accepted for a period of thirty (30) days from the effective date of this Ordinance, and assigned random priority for review.

Thereafter, when a license becomes available, the Town Clerk shall publish the availability of the license and, in the case of multiple applications for an available license, assign random priority to each completed application received within thirty (30) days of the date of publication, the length of which the Clerk may extend in their discretion. If no application is received within thirty (30) days of publication or any extension thereof, the first completed application received shall be assigned priority for review. If an application is later deemed incomplete or is denied based upon good cause shown, it shall lose any previous priority assigned and must be resubmitted.

3-7-6: ISSUANCE, DURATION, RENEWAL OF LICENSE:

A. Upon issuance of a license, the Town shall provide the licensee with one (1) original of such license for each regulated marijuana business to be operated by the licensee in the Town. Each such copy shall show the name and address of the licensee, that the license is issued for a regulated marijuana business, and the address of the licensed premises at which it is to be displayed.

B. Each license issued pursuant to this Chapter shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Chapter. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a non-refundable late application fee in an amount determined by the Town by separate resolution for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a final decision is made on the renewal.

C. Notwithstanding state law to the contrary, a licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this Chapter. The Town shall not accept renewal applications after the expiration date of such license.

D. A licensee whose license expires shall not distribute or sell regulated marijuana or regulated marijuana products until all necessary new licenses have been obtained.

E. In the event that there have been no violations of this Chapter or Colorado Marijuana Code during the preceding year, and if there is no other derogatory information regarding the licensee, its partners, officers,

directors, managers, or shareholders, then the Town Clerk may administratively grant the renewal of a regulated marijuana business license, transfer of ownership, change of corporate status, a request for modification of the licensed premises that does not include an expansion of the licensed premises, or manager registration on behalf of the local licensing authority. If, however, the Town Clerk's investigation discloses any proved or alleged violations of the Colorado Marijuana Code or this Chapter or derogatory information as described above, the Clerk shall schedule action on the application before the licensing authority.

3-7-7: PERSONS PROHIBITED AS LICENSEES AND EMPLOYEES:

A. No license shall be issued to, held by, or renewed by any of the following:

1. Any person until all applicable fees have been paid;
2. Any person who is not of good moral character satisfactory to the local licensing authority;
3. Any corporation, any of whose officers, directors or stockholders are not of good moral character satisfactory to the local licensing authority;
4. Any partnership, association or company, any of whose officers are not of good moral character satisfactory to the local licensing authority;
5. Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the local licensing authority;
6. Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees;
7. Any natural person under twenty-one (21) years of age;
8. Any person for a licensed location that is also a retail food establishment or wholesale food registrant;
9. Any person who has not been a resident of Colorado for at least two (2) years prior to the date of the application;
10. Any person who has discharged a sentence for a felony conviction within the past five (5) years;

11. Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license;

12. Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity do not meet the criteria set forth above;

13. Any person who employs another person at a regulated marijuana business who has not submitted fingerprints for a criminal record history check or whose criminal record history check reveals the employee is ineligible;

14. Any person who has made a false, misleading or fraudulent statement on his or her application;

15. Any person who fails to file any tax return with a taxing agency, stay out of default on a government-issued student loan, pay child support, or remedy outstanding delinquent taxes; or

16. Any person whose license for a regulated marijuana business in another Town, Town and county or state has been revoked.

B. In addition to the prohibitions listed in Subsection A above, no medical marijuana business license will be issued to or held by:

1. A licensed physician making patient recommendations.

2. An individual or other person whose authority to be a primary caregiver has been revoked by the state health agency.

C. No licensee shall employ or contract with any person to perform work functions directly related to the possession, cultivation, dispensing, selling, serving or delivering of marijuana for a licensed regulated marijuana business, any of the following:

1. Any person who is not of good moral character satisfactory to the local licensing authority;

2. Any person who is under twenty-one (21) years of age;

3. Any person who is not currently a resident of Colorado;

4. Any person who has discharged a sentence for a felony conviction within the past five (5) years;

5. Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license; or

6. Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees.

D. In investigating the qualifications described herein, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including without limitation evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

3-7-8: ANNUAL OPERATING AND ADMINISTRATIVE FEES:

In addition to application, renewal, late renewal, and an annual operating fee, the Town shall impose administrative fees for services, which include without limitation the transfer of ownership, background investigations, change of business manager, employee application, modification of premises, change of location, application modification, license modification, change of corporate structure, change of financier, zoning verification, duplicate license, temporary permit, change of trade name, with all such fees to be established by resolution of Town Council.

3-7-9: MARIJUANA DELIVERY

A. The Authority may issue to any duly licensed medical marijuana center or retail marijuana store a marijuana delivery permit, subject to obtaining a state delivery permit by the State Licensing Authority, which shall authorize the permit holder to deliver regulated marijuana and regulated marijuana products to private residences only. A marijuana delivery permit is valid for one year and may be renewed annually upon renewal of the retail marijuana store license or medical marijuana center license.

B. Only duly licensed medical marijuana centers or retail marijuana stores with a valid marijuana delivery permit may deliver marijuana and marijuana products to private residences in the Town; provided that such

delivery complies with C.R.S. § 44-10-501(11), C.R.S. § 44-10-601(13), and any applicable rules or regulations of the Colorado Marijuana Code. Delivery outside of the Town is prohibited.

C. Delivery of regulated marijuana or regulated marijuana products from businesses located outside of the Town's jurisdictional boundaries to an address within the Town's jurisdictional boundaries is prohibited, regardless of whether that business holds a delivery permit issued by the state or another local entity.

D. A licensed medical marijuana center with a marijuana delivery permit may deliver medical marijuana and medical marijuana products only to the patient or parent or guardian who placed the order and who:

1. Is a current registrant of the medical marijuana patient registry and is twenty-one years of age or older or the parent or guardian of a patient who is also the patient's primary caregiver;
2. Receives the delivery of medical marijuana or medical marijuana products pursuant to rules adopted by the state; and
3. Possesses an acceptable form of identification.

E. A licensed retail marijuana store with a marijuana delivery permit may deliver retail marijuana and retail marijuana products only to the individual who placed the order and who:

1. Is twenty-one years of age or older;
2. Receives the delivery of marijuana or marijuana products pursuant to rules adopted by the state; and
3. Possesses an acceptable form of identification.

F. Prior to transferring possession of the order to an individual, the person delivering the order shall inspect the individual's identification and verify that the information provided at the time of the order matches the name and age on the individual's identification.

G. The licensed retail marijuana store or licensed medical marijuana center shall charge a one-dollar surcharge on each delivery. The licensee shall remit the surcharges collected on a monthly basis to the Town for local law enforcement costs related to marijuana enforcement. Failure to comply with this subsection may result in nonrenewal of the delivery permit.

H. All sales of marijuana and marijuana products delivered to an address within the Town are subject to the Town's applicable sales tax.

I. A delivery permit issued by the Authority is deemed a revocable privilege of a licensed retail marijuana store or licensed medical marijuana center. A violation related to a delivery permit is grounds for a fine or suspension or revocation of the delivery permit, retail marijuana store license, or medical marijuana center license.

3-7-10: OPERATIONAL RESTRICTIONS OF REGULATED MARIJUANA BUSINESSES:

A. Any storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a regulated marijuana business and shall not be visible from the exterior of the licensed premises.

B. A regulated marijuana business, other than a marijuana hospitality business, shall be closed to the public and no sale or other distribution of marijuana shall occur upon the premises between the hours of 10:00 p.m. through and including 8:00 a.m.

C. A retail marijuana store may sell retail marijuana or retail marijuana products to persons twenty-one (21) years of age or older in the following quantities:

1. Up to one (1) ounce of retail marijuana or its equivalent in retail marijuana products, including marijuana concentrate, except for non-edible, non-psychoactive retail marijuana products, including ointments, lotions, balms, and other non-transdermal topical products during a single sales transaction.

2. Nothing in this Subsection shall be construed so as to allow regulated marijuana businesses from selling, giving away, buying, or receiving complimentary regulated marijuana or regulated marijuana products under any circumstances.

D. A medical marijuana center may only sell up to two (2) ounces of medical marijuana or medical marijuana products within any seven-day period of time to any one registered patient or primary caregiver.

E. Dual operations.

1. If a medical marijuana center that allows medical marijuana patients under the age of twenty-one (21) years to be on the premises is dually located with a retail marijuana store, the medical marijuana store and the retail marijuana store must maintain complete and distinct physical separation of the licensed premises, including without limitation separate sales and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping. For other dual operations, the licensee shall maintain visual and operational separation of the two (2) licensed operations.

2. A medical marijuana center that does not authorize patients under the age of twenty-one (21) years to be on the premises may hold a retail marijuana store license and operate a dual operation retail business at a shared licensed premises with the same entrances and exits to the shared premises and medical and retail marijuana may be separately displayed on the same floor.

3. Licensees of a dual operation shall maintain separate and distinct inventory tracking processes for medical marijuana and retail marijuana inventories. The inventories must be clearly tagged or labeled so that the products can be reconciled to a particular medical or retail business.

F. Marijuana hospitality businesses.

1. A marijuana hospitality business shall be closed to the public and no consumption of marijuana shall occur upon the premises between the hours of 2:00 a.m. through and including 8:00 a.m.

2. Activities on the premises of a marijuana hospitality establishment may include the smoking, vaping, or consumption of marijuana or marijuana products, provided that all other laws, rules and regulations, including without limitation the requirements of the Colorado Clean Indoor Air Act, C.R.S. § 25-14-201, *et seq.*, are met.

3. Licensees of a marijuana hospitality business shall not sell, serve, or permit the sale or service of retail or medical marijuana, marijuana products or alcoholic beverages on the premises;

4. Licensees of a marijuana hospitality business shall not permit, allow, or fail to prevent the consumption of alcoholic beverages on the premises;

5. Licensees of a marijuana hospitality business shall not permit, allow or fail to prevent open or public consumption of marijuana or marijuana products on the premises and shall otherwise ensure that the display and consumption of marijuana is not visible from outside the licensed premises, except that consumption of marijuana or marijuana products upon the licensed premises in an outdoor area shall not be deemed to be visible provided adequate screening exists as approved by the Town;

6. Licensees of a marijuana hospitality business shall not allow the smoking of tobacco or tobacco products in the licensed premises of the establishment or otherwise permit, allow, or fail to prevent indoor smoking or other activities in violation of the Colorado Clean Indoor Air Act, C.R.S. § 25-14-201, *et seq.*, on the premises.

G. The regulated marijuana offered for sale and distribution must be packaged and labeled in accordance with state law.

H. Regulated marijuana businesses are prohibited from selling, soliciting or receiving orders for regulated marijuana or regulated marijuana products over the internet.

I. Regulated marijuana business licensees are prohibited from selling or giving away any consumable product that is not a regulated marijuana product, including without limitation cigarettes or tobacco products, alcohol beverages, and food products or non-alcoholic beverages that are not regulated marijuana products.

J. A regulated marijuana business shall be ventilated to ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the regulated marijuana business or at any adjoining property.

K. No regulated marijuana business may store regulated marijuana or any regulated marijuana product in any off-premises storage facility located within the Town.

L. Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person who has discharged a sentence for a felony conviction within the past five (5) years, or who has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license.

M. There shall be posted in a conspicuous location in each regulated marijuana business a legible sign containing the following warnings:

1. That the use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;

2. That loitering in or around a regulated marijuana business is prohibited by law;

3. That possession and distribution of marijuana is a violation of federal law; and

4. That no one under the age of twenty-one (21) years is permitted on the premises.

N. Security measures at regulated marijuana businesses shall include at a minimum the following:

1. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises. All security recordings shall be preserved for at least forty (40) days by the licensee and be made available to the Winter Park Police Department upon request for inspection;

2. Robbery and burglary alarm systems that are professionally monitored and maintained in good working condition;

3. A locking safe permanently affixed to the premises that is suitable for storage of all marijuana and cash stored overnight on the licensed premises;

4. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Chapter and other applicable provisions of the Winter Park Town Code; and

5. Deadbolt locks on all exterior doors.

3-7-11: SIGNAGE:

A. All signage and advertising for a regulated marijuana business shall comply with all applicable state laws as well as the provisions of this Chapter and other applicable provisions of the Winter Park Town Code.

B. It is unlawful for any person licensed under this Chapter or any other person to advertise any retail marijuana or retail marijuana product anywhere in the Town where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place, including advertising utilizing any of the following media: any billboard; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this Section shall not apply to:

1. Any sign located on the same lot as a regulated marijuana business that exists solely for the purpose of identifying the location of the regulated marijuana business and that otherwise complies with the Town's zoning requirements and any other applicable Town laws and regulations; provided, however, that the maximum sign area for any regulated marijuana

business shall be one-half of the sign area otherwise permitted by Section 6-2-7-7 of the Winter Park Town Code, as amended.

2. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the Town; or

3. Advertising that is purely incidental to sponsorship of a charitable event by a regulated marijuana business.

3-7-12: NUMBER AND LOCATION OF REGULATED MARIJUANA BUSINESSES:

A. Regulated marijuana businesses are allowed only in specified zoning districts and only upon obtaining the land use approvals as are otherwise necessary for such use; and further provided that no regulated marijuana business may be located within:

1. One-quarter (1/4) mile of any other regulated marijuana business; or

2. Upon any Town of Winter Park owned property.

B. The maximum aggregate number of regulated marijuana business within the Town shall not exceed five (5). For purposes of this limitation only, a dual operation shall be considered a single marijuana business. Only one (1) marijuana hospitality license may be in effect at any point in time.

C. The distances set forth in this Section are to be computed by direct measurement from the nearest property line, right-of-way boundary, or portion of the footprint of the land uses set forth herein to the nearest portion of the footprint of the regulated marijuana business.

D. The licensed premises of a regulated marijuana business shall not exceed three thousand (3,000) square feet.

E. Each regulated marijuana business shall be operated from a permanent location. No regulated marijuana business shall be permitted to operate from a moveable, mobile or transitory location.

F. The suitability of a location for a regulated marijuana business shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood occurring after the issuance of the first license might render the site unsuitable for a regulated marijuana business under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect.

3-7-13: INSPECTION OF BOOKS, RECORDS, AND LICENSED PREMISES:

A. Every licensee shall maintain an accurate and complete record of all regulated marijuana purchased, sold or dispensed by the regulated marijuana business in any usable form. Such record shall include the following:

1. The identity of the seller and purchaser involved in each transaction;
2. The total quantity of and amount paid for the regulated marijuana and/or the regulated marijuana product(s); and
3. The date, time and location of each transaction.

B. All transactions shall be kept in a numerical register in the order in which they occur.

C. All records required to be kept under this Chapter must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three (3) years after the date of the transaction. Information inspected by the Winter Park Police Department or other Town departments pursuant to this Chapter shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

D. The licensed premises shall be subject to inspection by the local licensing authority, its duly authorized representatives, and the Winter Park Police Department during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee by the local licensing authority or any other authorized Town personnel, such area shall be made available for inspection without delay.

3-7-14: UNLAWFUL ACTS:

It shall be unlawful for any person or licensee to:

A. Employ any person at a regulated marijuana business who is not at least twenty-one (21) years of age or who has a criminal history as described in Section 3-7-7.

B. Allow marijuana or marijuana products to be consumed upon its licensed premises, unless duly licensed as a marijuana hospitality business permitting on-site consumption.

- C. Sell regulated marijuana or regulated marijuana products to a person under twenty-one (21) years of age or to a person who does not present a government-issued identification at the time of purchase.
- D. Sell medical marijuana or medical marijuana products to non-patients.
- E. Purchase or otherwise obtain regulated marijuana from any source that is not properly authorized under state and local law to sell or dispense regulated marijuana.
- F. Permit the sale or consumption of alcohol beverages on the licensed premises.
- G. Dispense regulated marijuana to a person that is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana.
- H. Refuse to allow inspection of a regulated marijuana business upon request of an authorized Town employee. Any licensee, owner, business manager, operator of a regulated marijuana business, or owner of the property where a regulated marijuana business is located may be charged with violation of this requirement.
- I. Violate any provision of this Chapter or any condition of an approval granted pursuant to this Chapter, or any law, rule, or regulation applicable to the use of regulated marijuana or the operation of a regulated marijuana business, including without limitation any provision, term, condition, or requirement of the Colorado Marijuana Code.
- J. Engage in any form of business or commerce involving the sale, distribution, or consumption of marijuana other than that form of business and commerce that is expressly permitted by Section 16 of Chapter XVIII of the Colorado Constitution, the Colorado Marijuana Code, and this Chapter, which permits only regulated marijuana business.

3-7-15: CHANGE IN MANAGER; CHANGE IN FINANCIAL INTEREST; TRANSFER OF OWNERSHIP; CHANGE IN LOCATION:

- A. Change in Manager. Each licensee shall report any change in managers to the local licensing authority within thirty (30) days after the change. Such report shall include all information required for disclosing managers under this Chapter.
- B. Change in Financial Interest. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the regulated marijuana business that is the subject of the license. Such report must be filed with the local licensing authority

within thirty (30) days after any such transfer or change. A transfer application shall be required for any transfer of the capital stock of a corporation or any other interest totaling more than ten percent (10%) of the stock in any one (1) year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the regulated marijuana business that is the subject of a license shall be a person who has discharged a sentence for a felony conviction within the past five (5) years, or who has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license.

C. Transfer of ownership. For a transfer of ownership, a license holder shall apply to the state and local licensing authority on forms provided by the state and local licensing authority. In considering whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of this Chapter, the Colorado Marijuana Code, and the regulations promulgated in conformance therewith. The local licensing authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the licensed regulated marijuana business premises for a period of at least ten (10) days prior to such hearing, and the applicant has been provided at least ten (10) days prior notice of such hearing.

D. Change of location.

1. A licensee from another jurisdiction that has previously obtained a license from the state and any other local licensing authority as applicable may move his or her permanent location to the Town of Winter Park so long as the applicant and the new location conform to the requirements of this Chapter, and a new local license is obtained.

2. A licensee within the Town that seeks to change its location may move his or her permanent location so long as the new location conforms to the requirements of this Chapter. The local licensing authority shall schedule a public hearing on the application, provided however, the local licensing authority shall only consider the proposed location of the licensed premises pursuant to this Chapter.

3-7-16: REPORTING REQUIRED:

Licensees shall immediately report to the Winter Park Police Department any unlawful act, conduct, or disturbance committed upon the premises. In no case shall the report be provided later than seventy-two (72) hours of the event.

3-7-17: VIOLATIONS AND PENALTIES:

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Chapter, any person, including without limitation any licensee, manager or employee of a regulated marijuana business, or any customer of such business, who violates any of the provisions of this Chapter, shall be subject to the following penalties:

A. Any person convicted of having violated any provision of this Chapter shall be punished as set forth in Section 1-4-1C of this Code.

B. The operation of a regulated marijuana business without a valid license issued pursuant to this Chapter may be enjoined by the Town in an action brought in a court of competent jurisdiction, including the Winter Park Municipal Court.

C. The operation of a regulated marijuana business without a valid license issued pursuant to this Chapter is specifically determined to be a public nuisance.

3-7-18: NO TOWN LIABILITY; INDEMNIFICATION:

A. By accepting a license issued pursuant to this Chapter, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of regulated marijuana business owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this Chapter, all licensees, jointly and severally, if more than one (1), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the regulated marijuana business that is the subject of the license.

Section 5. Section 7-2-3 of the Winter Park Town Code is hereby amended by the addition of the following new definitions, to be inserted in alphabetical order:

REGULATED MARIJUANA BUSINESS: Any business authorized and duly licensed by Chapter 7 of Title 3 of this Code to sell regulated marijuana and regulated marijuana products.

Section 6. Section 7-3-19 of the Winter Park Town Code is hereby repealed and reenacted to read as follows:

7-3-19: MEDICAL MARIJUANA PROHIBITIONS:

A. Authority: The Town Council hereby finds, determines and declares that it has the power to adopt this section pursuant to: article XVIII, section 16 of the Colorado Constitution; Colorado Revised Statutes section 44-11-104(6); article XX of the Colorado Constitution; the Town of Winter Park Home Rule Charter; and the Local Government Land Use Control Enabling Act, article 20 of title 29, Colorado Revised Statutes.

B. Findings: Based on the foregoing authority and after careful consideration and evaluation of the potential secondary impacts associated with the operation of medical marijuana establishments, the Town Council finds and determines that such businesses, other than a limited number of licensed medical marijuana businesses, would have an adverse effect on the health, safety and welfare of the Town and its inhabitants and that no suitable location exists in the Town for the operation of medical marijuana establishments other than the limited number of licensed medical marijuana businesses permitted by Chapter 7 of Title 3 of this Code.

C. Prohibition: It is unlawful for any person to operate, cause to be operated, or permit to be operated any medical marijuana establishment, other than a duly licensed medical marijuana business, in the Town, and all such uses are hereby prohibited in any location in the Town.

D. Penalty: Violations of this Section shall be punished as set forth in subsection 1-4-1C of this Code.

Section 7. Section 7-3-21 of the Winter Park Town Code is hereby repealed and reenacted to read as follows:

7-3-21: RETAIL MARIJUANA ESTABLISHMENTS:

A. Authority: The Town Council hereby finds, determines and declares that it has the power to adopt this section pursuant to: article XVIII, section 16 of the Colorado Constitution; Colorado Revised Statutes section 44-11-104(6); article XX of the Colorado Constitution; the Town of Winter Park Home Rule Charter; and the Local Government Land Use Control Enabling Act, article 20 of title 29, Colorado Revised Statutes.

B. Findings: Based on the foregoing authority and after careful consideration and evaluation of the potential secondary impacts associated with the operation of retail marijuana establishments, the Town Council finds and determines that such businesses, other than a limited number of licensed retail marijuana stores, would have an adverse effect on the health, safety and welfare of the Town and its inhabitants and that no suitable location exists in the Town for the operation of retail marijuana establishments other than the limited number of licensed retail marijuana

stores or marijuana hospitality businesses permitted by Chapter 7 of Title 3 of this Code.

C. Prohibition: It is unlawful for any person to operate, cause to be operated, or permit to be operated any retail marijuana establishment, other than a duly licensed retail marijuana store or marijuana hospitality business, in the Town, and all such uses are hereby prohibited in any location in the Town.

D. Penalty: Violations of this Section shall be punished as set forth in subsection 1-4-1C of this Code.

Section 8. Section 7-5B-2(B) of the Winter Park Town Code is hereby repealed and reenacted to read as follows:

7-5B-2: USES PERMITTED:

* * *

B. Special Use Permit: The following uses are permitted in the D-C district subject to the provisions of this title and upon the issuance of a special use permit:

1. Commercial parking lots or structures;
2. Drive-through business;
3. Gasoline convenience stores;
4. Loading docks;
5. Mall and shopping center;
6. Outdoor storage;
7. Outdoor vendor;
8. Permanent outdoor sales and storage;
9. Public utilities;
10. Street vendor; and
11. Regulated marijuana businesses.

Section 9. Section 7-5D-2(B) of the Winter Park Town Code is hereby repealed and reenacted to read as follows:

7-5D-2: USES PERMITTED:

* * *

B. Special Use Permit: The following uses are permitted in the C-1 district subject to the provisions of this title and upon the issuance of a special use permit:

1. Commercial parking lots or garages;
2. Drive-through business;

3. Gasoline convenience stores;
4. Loading docks;
5. Outdoor storage;
6. Places of commercial recreation or amusement;
7. Public utilities; and
8. Regulated marijuana businesses.

INTRODUCED, APPROVED ON FIRST READING, AND ORDERED PUBLISHED IN FULL this __ day of _____, 2020. A public hearing shall be held at the regular meeting of the Winter Park Town Council on the __ day of _____, 2020 at 5:30 p.m., or as soon thereafter as possible, at the Winter Park Town Hall.

TOWN OF WINTER PARK

Nick Kutrumbos, Mayor

ATTEST:

Danielle Jardee, Town Clerk

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of _____ to _____ on the __ day of _____, 2020.

TOWN OF WINTER PARK

Nick Kutrumbos, Mayor

ATTEST:

Danielle Jardee, Town Clerk

location requirements of marijuana businesses; caps

Fraser – no numeric limit found

Sec. 6-7-40. - Limitations and requirements applicable to retail marijuana establishments.

(a)State requirements. Retail marijuana establishments must at all times comply with the regulations and requirements contained in the RM Code and RM Regulations with regard to applications, licensing and operations of licensed premises. The Local Licensing Authority may revoke any license if the retail marijuana establishment fails to comply with any and all applicable state requirements.

(b)Location. Retail marijuana establishments shall only be located on property within the **Business Zoning District or a planned development district**. Retail marijuana establishments are not permitted within any other zoning district **or within any building that contains a residential dwelling or lodging unit**. Retail marijuana establishments shall not be permitted to operate as "home occupations."

(c)Separation requirements.

(1)No retail marijuana establishment shall be issued a license if, at the time of the initial application for such license, the proposed location is:

- a. **Within one thousand (1,000) feet of any educational institution or school, either public or private;**
- b. **Within two hundred (200) feet of any existing licensed child care facility at the time of initial application.**

(2)**No retail marijuana store shall be issued a license if, at the time of the initial application for such license, the proposed location is within five hundred (500) feet of any existing retail marijuana store or medical marijuana center.**

(3)The distances set forth in this Subsection shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated above, respectively, to the nearest portion of the building in which the retail marijuana establishment is located. The locational criteria contained in this Subsection shall apply to all proposed changes in the location of an existing license.

(d)Co-location. A retail marijuana establishment may be located on the same licensed premises as a medical marijuana business licensed pursuant to Article 5 of this Chapter and operated by the same licensee, subject to compliance with all state requirements and the requirements of this Article and the issuance of a state license allowing for such co-location.

(e)Advertisements. Advertisements, signs, displays or other promotional material depicting marijuana uses or symbols shall not be shown or exhibited off the premises. No signage associated with a retail marijuana establishment shall use the word "marijuana," or any other word or phrase commonly understood to refer to marijuana. No signage may display photographs or other representations of marijuana plants.

(f) Indoor operation. All retail marijuana establishment activities (except transportation) shall be conducted indoors. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk or right-of-way.

(g) Inspection of licensed premises. During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Chief of Police or the Building Official for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state or local law or regulation. Such inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

(h) Additional requirements. Retail marijuana establishments shall be subject to the following additional requirements:

(1) A retail marijuana store may only be open for the sale or distribution of retail marijuana during the hours of 8:00 a.m. to 7:00 p.m. unless the Board of Trustees authorizes extended hours of operation to no later than 12:00 a.m. as a provision of the license. The Town Board may only authorize such extension after making a determination that such hours of operation are appropriate for the neighborhood.

(2) No on-site consumption of marijuana is allowed.

(3) A Town business license and sales tax license are required.

(4) No mobile structure may be used to dispense retail marijuana.

(5) No alcohol sales or consumption shall be permitted on the licensed premises.

(6) A licensee shall not permit persons who do not possess a valid identification or other appropriate proof of age to loiter on or about the licensed premises.

(i) Proper ventilation. All retail marijuana establishments shall be equipped with a proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the retail marijuana establishment or any adjoining business, parcel, or tract of real property. All applicants for a new retail marijuana establishment license shall submit a ventilation and odor mitigation plan with their application, which shall be subject to review and approval by the Local Licensing Authority prior to issuance of a new license. In case of an existing license for which no ventilation and odor mitigation plan has been approved, such a plan shall be submitted with the next renewal application submitted for the licensed premises and shall be subject to review and approval by the Town Manager or his or her designee as part of the renewal application. The Town Clerk may refer such a plan submitted with a renewal application for review by the Board of Trustees, which shall conduct such review, with or without a public hearing, and the decision of the Board shall be final. The lack of an approved ventilation and odor mitigation plan shall be grounds for denial of a new license or renewal of an existing license. Failure to install or maintain the ventilation system required by an approved ventilation and odor mitigation plan shall constitute a violation of this Article and shall be grounds for suspension or revocation of a license.

(Ord. 417 Part 1.1, 2014; Ord. 428 , § 1, 9-2-2015; Ord. 460 Part 1.2, 2019; Ord. 474 Part 1, 2020)

Grand County – no numerical limit found

Retail marijuana store. Retail marijuana stores may operate only in the **Business or Tourist zones** within unincorporated Grand County.

Prohibited within one thousand (1,000) feet of any school, child care establishment, alcohol or drug treatment facility or church, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for the school, child care facility, alcohol or drug treatment facility, or church to the nearest portion of the building in which the marijuana establishment is located.

Breckenridge – no numerical limit found

4-14-21: LOCATION OF LICENSED PREMISES; COLLOCATION:

A. No medical marijuana business or retail marijuana establishment shall be located at a location that does not conform to the requirements of this section.

B. **No medical marijuana business or retail marijuana establishment shall be located within the town except within land use districts 5, 9, 11, 19, 20, or 31. (Ord. 35, Series 2013)**

C. Notwithstanding subsection B of this section any licensed premises that are lawfully located within the downtown overlay district as of the effective date of this chapter may remain in such location until the first to occur of:

1. The licensee loses legal right to possession of the licensed premises for any reason; or
2. February 2, 2015.

Upon the first to occur of subsection C1 or C2 of this section, the licensed premises shall be permanently closed, but may be relocated to a location outside of the downtown overlay district in accordance with section [4-14-19](#) of this chapter. (Ord. 27, Series 2014)

D. In addition to the restriction imposed by subsection B of this section, no medical marijuana business or retail marijuana establishment shall be located:

1. **Within five hundred feet (500') of a licensed childcare facility;**
2. **Within five hundred feet (500') of any educational institution or school, college or university, either public or private;**
3. **Within five hundred feet (500') of any halfway house;**
4. **Adjacent to property being used for a residential use; provided, however, this restriction does not apply to an adjacent mixed use building containing both residential and commercial units; or**
5. **Within any building or structure that contains a residential unit. (Ord. 35, Series 2013)**

E. The distances described in subsection D of this section shall be measured as a straight line from the nearest property line of the existing land use described in subsection D1, D2, or D3 of this section, to the nearest portion of the building for which the license is requested. This subsection E shall not affect a license that was in effect on September 14, 2016, and any such license may be renewed, the ownership of such license may be transferred or changed, and the premises that are the subject of such license may be modified, all as provided in this chapter, notwithstanding the provisions of this section. (Ord. 21, Series 2016)

F. The distance limitations established by subsection D of this section shall control over the distance limitations set forth in any applicable code or applicable administrative regulation.

G. Nothing in this chapter prevents a licensee from physically delivering medical marijuana to a homebound patient when done in compliance with the Colorado medical marijuana code and the applicable administrative regulations.

H. No licensed premises shall be operated as a "home occupation" as described in section [9-1-19-38A](#) of this code.

I. A medical marijuana business may be located at the same location as a retail marijuana establishment subject to the requirements of the applicable code and the applicable administrative regulations. (Ord. 35, Series 2013)

Steamboat

cap of 3 retail and 3 medical licenses. Code, Sec. 12-206(d); 12-506(d)

Sec. 12-201 - Application; fee.

The city shall not accept or act upon an application for a medical marijuana business license if the application concerns a particular location that is the same as or within one thousand (1,000) feet of a location for which, within the two (2) years immediately preceding date of the application, the city or the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location.

Sec. 12-206. - Issuance or denial of license.

(10) In the case of two (2) marijuana businesses applying for a retail marijuana store or medical marijuana center license who have both received land use approval but whose locations are located within one thousand five hundred (1,500) feet of one another, the local licensing authority shall use the factors above ((1) through (9)) to determine the relative merits of the applications and choose the most qualified applicants so as not to violate section 302.H.b. of the community development code.

Permitted zones from Community Development Code:

- i. Be restricted to an enclosed, locked area; and
- ii. Be inspected by the Fire Marshal for fire code compliance, regardless of whether a Building Permit is required.
- g. Odor control techniques shall be utilized for marijuana cultivation. An odor control plan shall be approved as part of the Limited Use Permit or Conditional Use approval.
- h. Medical marijuana primary caregivers shall not operate in a manner that adversely impacts the public health, safety, and welfare of the immediate neighborhood in which the use is located. Adverse impacts shall be minimized in accordance with Section 410.

CDC § 302(H)(7) Marijuana Store

An establishment for the sale or distribution of marijuana or marijuana-infused products to customers, patients, or primary caregivers in accordance with either the Colorado Retail Marijuana Code or the Colorado Medical Marijuana Act and any other statute or state administrative regulations. Marijuana store does not include the sale or distribution of marijuana by a primary caregiver registered with the Department of Public Health pursuant to C.R.S. § 25-1.5-106 and in accordance with Article XVIII, Section 14 of the Colorado Constitution.

Use Standards:

- a. Marijuana stores shall not be located closer than 1,000 feet from an elementary/secondary school, the principal campus of a college/university, a seminary, a public park, or a child care center. Separation shall be measured by the shortest distance between the nearest property line of the school, college/university, seminary, park, or child care center to the nearest point of the building or tenant space in which the marijuana store is located. The establishment of a child care center within 1,000 feet of a lawfully established marijuana store use shall not affect the renewal, reissuance, or amendment of the marijuana store approval. Development applications shall include an area map drawn to scale indicating land uses of other properties within a 1,000-foot radius of the subject property. The map shall depict the proximity of the property to any elementary/secondary schools, principal campuses of a college/university, seminaries, public parks, child care centers, and other marijuana-related land uses.
- b. Marijuana stores shall not be located adjacent to property zoned RE, RN, RO, RR, MH, MF, or G.**
- c. Marijuana stores shall operate from a permanent, fixed location. Operation from a vehicle or other moveable location is prohibited. Deliveries are only permitted to medical marijuana patients whose medical condition precludes their travel to the marijuana store.
- d. Display of signs on the property that are visible from the exterior of the premises and that advertise the presence of marijuana on the premises are prohibited. This restriction shall include, but shall not be limited to, signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant.
- e. Staff shall be present during hours of operation. Vending machines and unsupervised transactions are prohibited.

f. Marijuana stores shall not operate in a manner that adversely impacts the public health, safety, and welfare of the immediate neighborhood in which the use is located. Adverse impacts shall be minimized in accordance with Section 410.

Aspen – no numerical limit found

Sec. 5.16.070. - Authority to issue City license; qualification; referral; appeal.

(j) The Authority shall consider each application and either approve, deny or conditionally approve an application within ninety (90) days of receipt or such additional time as may be reasonably necessary, when, after considering the application, any application forwarded to it by the State and from such other information as may otherwise be obtained or requested by the Authority, the Authority determines that the application complies with all of the requirements of this Article, including the following:

- (1) The application, including any required attachments and submissions, is complete and signed by the applicant;
- (2) The applicant has paid the fees required by this Chapter;
- (3) The application does not contain a material falsehood or misrepresentation;
- (4) The location of the Retail Marijuana Establishment or Medical Marijuana Establishment is proposed to be located on a premises permitted by the applicable zoning and the land use code;
- (5) The location of the Retail Marijuana Establishment or Medical Marijuana Establishment is not within five hundred (500) feet of any school; and
- (6) The applicant meets or otherwise will meet all the requirements of this Chapter, including the requirements of the applicable state laws and regulations incorporated herein.

Under zoning code, medical and retail marijuana facilities qualify as both a “retail use” and a “service use” and are allowed in any zone district where these uses are permitted.

Fee Comparison

| | State | Grand Cty. | Aspen | Breckenridge | Fraser |
|---|---------|------------|--------|----------------------------|--------|
| New MMJ Center Application Fee | \$5000 | \$3000 | -- | -- | -- |
| New MMJ Center License Fee | \$2000 | \$5000 | \$2000 | \$2,812.50- \$10,500.00 | \$5000 |
| New RMJ Store Application Fee | \$5000* | \$3000* | -- | -- | -- |
| New RMJ Store License Fee | \$2000 | \$5000 | \$2000 | \$2062.50 | \$5000 |
| New Hospitality Business License Fee | \$1000 | -- | -- | -- | -- |
| New Hospitality Business Application Fee | \$1000 | -- | -- | -- | -- |
| Renewal MMJ Center Application Fee | \$300 | \$3000 | -- | -- | -- |
| Renewal MMJ Center License Fee | \$1500 | \$5000 | \$1000 | 50% of fee for new license | \$5000 |
| Renewal RMJ Store Application Fee | \$300 | \$3000 | -- | -- | -- |
| Renewal RMJ Store License Fee | \$1500 | \$5000 | \$1000 | 50% of fee for new license | \$5000 |
| Renewal Hospitality Business Application Fee | \$300 | -- | -- | -- | -- |
| Renewal Hospitality Business License Fee | \$750 | -- | -- | -- | -- |
| New Delivery permit (license expires <6 months) | \$2000 | -- | -- | -- | -- |
| New Delivery permit (license expires >6 months) | \$4000 | -- | -- | -- | -- |
| Renewal Delivery permit | \$2000 | -- | -- | -- | -- |
| Change of controlling beneficial owner | \$1600 | \$3500 | \$750 | \$250 | \$500 |
| Change of Trade Name/Corporate structure | \$50 | \$3500 | \$100 | \$100 | \$500 |
| Change of Location | \$500 | \$3500 | \$500 | \$500 | \$700 |
| Modification of Premises | \$100 | \$1000 | \$100 | \$150 | \$700 |
| Late renewal application fee | -- | \$2000 | -- | -- | \$500 |
| Manager Registration | -- | -- | -- | -- | \$500 |

* For retail RMJ stores ONLY, the state remits \$2,500 of this to the local government. Grand County notes in its fee schedule that this stated amount includes the \$2,500 to be paid to the state and remitted to the County, so the check to the County will only be the difference of \$500.

** Steamboat does not publish its forms or fee schedule for marijuana licensing. Forms can be obtained from the clerk, while fees are set by the City Manager (not the City Council by resolution).