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Debra A Green  
Park County Clerk

Ordinance No. 18-01

**AN ORDINANCE OF PARK COUNTY, COLORADO, REGULATING THE GROWING OF MARIJUANA.**

WHEREAS, Park County, Colorado possesses the authority pursuant to C.R.S. § 30-11-101(2) to “adopt and enforce ordinances and resolutions regarding health, safety and welfare issues;” and

WHEREAS, the Local Governmental Land Use Enabling Act of 1974 empowers Colorado counties to regulate the use of land based on the impact thereof on the community or surrounding area; and

WHEREAS, the Colorado Marijuana Code, C.R.S. §§12-43.3-101 *et seq.*, and the Colorado Retail Marijuana Code, C.R.S. § 12-43.4 -101 *et seq.* recognize that local governments such as Park County retain authority to regulate the cultivation of medical marijuana; and

WHEREAS, the Board of County Commissioners of the County of Park has determined that the adoption of regulations governing medical marijuana cultivation is necessary and desirable for the health, safety and welfare of the citizens of Park County.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PARK COUNTY, THAT:**

**Section 1. Purpose.** This Ordinance is intended to apply to the growing of marijuana in any zone district whether such growing is done by patients for their own use, or by primary caregivers.

**Section 2. Growing of Marijuana.**

(a) A primary caregiver for purposes of this Ordinance and consistent with Article XVIII, Section 14(1)(f) of the Colorado Constitution is defined as a natural person, other than the patient and the patient’s physician, who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition and who meets all of the requirements of C.R.S. § 25-1.5-106 for primary caregiver status. In addition to other activities conducted on behalf of the patient, a primary caregiver, a patient or a group of patients cultivating marijuana plants for their own use may cultivate, possess, produce, use or transport marijuana or paraphernalia to administer marijuana for medicinal purposes, subject to the following.

(b) The cultivation, production, or possession of marijuana plants must be in full compliance with all applicable provisions of Article XVIII, sections 14 and 16 of the Colorado Constitution, the Colorado Medical Marijuana Code, C.R.S. §12-43.3-101 *et seq.*, the

Medical Marijuana Program, C.R.S. §25-1.5-106; the Colorado Retail Marijuana Code, C.R.S. §12-43.4-101 et seq.; C.R.S. § 18-18-406; all applicable rules and regulations promulgated by the Colorado Department of Public Health and the Colorado Department of Revenue; and all other applicable state and local laws and regulations.

(c) The cultivation, production, or possession of marijuana plants must not be perceptible from the exterior of the structure in which such cultivation occurs, including but not limited to:

- (1) common visual observation, including any form of signage;
- (2) unusual odors, smells, fragrances, or other olfactory stimulus;
- (3) fugitive light, glare, or brightness that unreasonably disturbs the repose of another; and
- (4) undue vehicular or foot traffic, including excess parking within the residential zone.

(d) Marijuana plants shall not be grown or processed in the common areas of a multi-family or attached residential development.

(e) Not more than the maximum number of marijuana plants allowed by state law may be grown, cultivated, or processed in any structure, building, greenhouse or enclosure, and marijuana shall not be grown, cultivated or processed in more than one structure, building, greenhouse or enclosure on any single tract, parcel, lot, or any property held in common ownership.

(f) Cultivation, production, or possession of marijuana plants shall be limited to the following space limitations:

- (1) For all structures, buildings, greenhouses, or enclosures of any kind in any zone district, temporary or permanent, other than multi-family dwelling units: A secure, defined, contiguous 150 square foot area.
- (2) Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code): A secure, defined, contiguous 100 square foot area within the primary residence of the patient or registered caregiver.

(g) Cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted Park County building regulations, and other applicable regulations of the State of Colorado, the County of Park, and any fire protection district having jurisdiction, as the same may be amended from time to time.

(h) Cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted water and sewer regulations promulgated by the County or any special district having jurisdiction.

(i) Such cultivation, production, or possession of marijuana plants conducted in a residential zone district shall be considered a "minor home occupation" pursuant to Section 4-200 of the Park County Land Use Regulations, or any successor or amended regulation, as the same may be applicable to such use, except that in the case of a conflict between this Ordinance and the Land Use Regulations, the provisions of this Ordinance shall control.

(j) No outdoor cultivation of marijuana shall be allowed in any zone district in Park County.

(k) For purposes of this ordinance, "a secure" area means an area within the primary residence or accessory structure accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals, or anyone not licensed and authorized to possess medical marijuana.

(l) The cultivation, production, or possession of marijuana plants by a primary caregiver is and shall be deemed consent by the primary caregiver upon reasonable notice for the County and/or any fire protection district having jurisdiction to inspect the premises at reasonable times to assure compliance with the provisions of this Ordinance.

(m) Commercial sale of marijuana grown, cultivated or processed pursuant to this Ordinance is prohibited.

**Section 3. Registration of Primary Caregivers.**

(a) Any primary caregiver cultivating marijuana in Park County shall provide to the Park County Director of Development Services or his/her designee a copy of such primary caregiver's registration with the state medical marijuana licensing authority required by C.R.S. § 25-1.5-106.

(b) Upon receipt of such state registration, the Development Services Department shall issue a Park County Primary Caregiver Permit to such primary caregiver. Primary Caregiver Permits shall be for a term of one calendar year, shall be renewable upon compliance with all the provisions of this Ordinance and shall require an initial permitting fee of two hundred fifty dollars (\$250.00) and a renewal fee of one hundred fifty dollars (\$150.00).

(c) Consistent with C.R.S. § 25-1.5-106(7)(b), two or more primary caregivers shall not join together for the purpose of cultivating medical marijuana.

(d) If the primary caregiver is not the owner of the property at which the medical marijuana is to be cultivated, the primary caregiver shall, as condition of registration, present a notarized statement from the owner of such property authorizing the use of the property for a marijuana cultivation.

**Section 4. Penalties.** Pursuant to C.R.S. § 30-15-402, any person who violates any of the provisions of this Ordinance commits a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00). Each day such

violation continues shall be deemed a separate offense.

**Section 5. Civil Enforcement.** In addition to the penalties prescribed in Section 4 hereof, the provisions of this Ordinance may be enforced through civil proceedings pursuant to C.R.S. 30-28-124(2).

**Section 6. Severability.** If any section, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of County Commissioners hereby declares that it would have passed this ordinance, and each section, clause or phrase hereof, irrespective of the fact that any one or more of the sections, sentences, clauses and phrases be declared unconstitutional.

**Section 7. Effective date.** Pursuant to C.R.S. § 30-15-405, this ordinance shall be published in full following its initial introduction and reading and published by title only following final adoption by the Board of County Commissioners and shall be effective thirty (30) days following such publication by title only.

**Section 7. Repealer.** Park County Ordinance No. 15-02 is hereby repealed.

SIGNED this 11<sup>th</sup> day of January, 2018.



**PARK COUNTY BOARD OF  
COUNTY COMMISSIONERS**

Mike Brazell, Chairman

  
County Clerk

I certify that this ordinance was introduced and read at the \_\_\_\_\_, 20\_\_\_\_, public hearing of the Board of County Commissioners and published in *The Flume* on \_\_\_\_\_,

20\_\_\_\_.  
  
County Clerk