

RESOLUTION NO. P&D 18- 025

THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO

A RESOLUTION APPROVING TEXT AMENDMENT NO. 2018-002 AMENDING
THE PUEBLO COUNTY CODE, TITLE 17, LAND USE, DIVISION I. ZONING, BY
AMENDING CHAPTER 17.120 SUPPLEMENTARY REGULATIONS

WHEREAS, the Board of County Commissioners is authorized, after public notice and a public hearing, to adopt and amend regulations governing the zoning of land within the unincorporated area of Pueblo County, Colorado; and

WHEREAS, Text Amendment No. 2018-002 proposes to amend the Pueblo County Code in Title 17 Land Use, Division I. Zoning as follows (*italics to be added; strikethrough to be deleted*):

17.120.190 Marijuana Establishments

F. Performance Standards

4. Fencing. All outdoor cultivations shall be properly fenced *for security with a minimum seven (7) foot chain link fence (6 foot of chain link material with 1 foot security arm with barb wire or razor wire) or equivalent type of fencing for security excluding field fence, wood fence.* (Res. P&D 16-067, app. 12-7-2016)

17.120.200 Medical Marijuana Center and Retail Marijuana Store

~~E. Location.~~

~~1) No Medical Marijuana Center or Retail Marijuana Store shall be located within 1,000 feet from any other existing Medical Marijuana Center or Retail Marijuana Store, whether such business is located within or outside of the County, except when (for clustering purposes):~~

~~a. there are no residences or non-marijuana businesses within 2,500 feet of the proposed Medical Marijuana Center or Retail Marijuana Store as measured from the nearest wall of the residences or non-marijuana businesses to the nearest portion of the wall of the proposed Medical Marijuana Center or proposed Retail Marijuana Store.~~

OR

~~b. where non-marijuana businesses have not operated within the last five (5) years within 2,500 feet of the proposed Medical Marijuana Center or Retail Marijuana Store as measured from the nearest portion of the wall of the non-marijuana business to the nearest portion of the wall of the proposed Medical Marijuana Center or Retail Marijuana Store and the properties within 1,000 feet~~

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~~have the same land owner as the proposed Medical Marijuana Center or Retail Marijuana Store and the properties are contiguous.~~

~~2) If there are existing residences and businesses within 2,500 feet of the proposed Medical Marijuana Center or Retail Marijuana Store, all residences and business may approve to waive out of the 1,000-foot distance buffer zone with a unanimous approval.~~

3) **8.** An existing Licensed Medical Marijuana Center or Retail Marijuana Store is allowed to construct an addition onto the existing building and/or move into an adjoining suite pursuant to this Section or Chapter 5.12 of the Pueblo County Code. (Res. P&D 16-067, app. 12-7-2016)

~~F. The requirements of Section 17.120.200 E. shall not apply to a premise that has been previously approved pursuant to a Zoning Compliance Review Marijuana application for a Medical Marijuana Center or Retail Marijuana Store. In such cases where a premise has an approved Zoning Compliance Review Marijuana application and is Licensed under Chapter 5.12 of the Pueblo County Code, the requirements of Section 17.120.200 E shall not apply, subject to the Medical Marijuana Center or Retail Marijuana Store at the premise having been continuously Licensed under Chapter 5.12 or a new application for a Medical Marijuana Center or Retail Marijuana Store is submitted to the local licensing authority within thirty (30) days of revocation, surrender or change of location of the existing license. (Res. P&D 15-014, app. 4-13-2015)~~

WHEREAS, a public meeting was held by the Pueblo County Planning Commission on March 21, 2018, at the conclusion of which the Planning Commission voted unanimously to recommend approval of Text Amendment No. 2018-002 to the Board of County Commissioners with the following change to 17.120.190 Marijuana Establishments F. Performance Standards F. Fencing: Replace "seven (7) foot chain link fence (6 foot of fabric chain link material with 1 foot security arm with barb wire or razor wire)" with "six (6) foot fence without security arm"; and

WHEREAS, a public hearing, preceded by proper public notice, was opened by the Board of County Commissioners at its April 11, 2018 public hearing, continued to May 9, 2018, continued to May 16, 2018, continued to July 9, 2018, and then continued to July 23, 2018 and, at said hearings, all those present who desired to be heard were heard and their testimony recorded; and

WHEREAS, the Board has reviewed and taken administrative notice of the recommendation of the Planning Commission and also the testimony, application, evidence, and documents submitted at the public hearings, and the contents of the Planning Director's file.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pueblo County, Colorado, that Text Amendment No. 2018-002 is hereby approved as written and proposed by staff amending the Pueblo County Code, Title 17, Land Use, Division I. Zoning as attached and incorporated herein by this reference labeled EXHIBIT "A".

RESOLUTION NO. P&D 18-025 (CONT.)

BE IT FURTHER RESOLVED, the approval of Text Amendment No. 2018-002 clarifies that no Retail Marijuana Store licenses shall be moved to the Pueblo West Metropolitan District area (zip code 81007) and shall subsequently be memorialized in Chapter 5.12 Marijuana Licensing in the Pueblo County Code, Title 5 Business Licenses.

BE IT EVEN FURTHER RESOLVED, Text Amendment No. 2018-002 is effective on this date of adoption with the fencing compliance effective January 1, 2019.

PASSED AND ADOPTED this 23RD day of JULY 2018, in Pueblo County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO:**

By: Terry A. Hart
Terry A. Hart, Chairman

ATTEST:

By: Gilbert Ortiz
Gilbert Ortiz, County Clerk

EXHIBIT “A”

TEXT AMENDMENT NO. 2018-002

Pueblo County Code - Title 17 - Chapter 17.120 SUPPLEMENTARY REGULATIONS

17.120.190 Marijuana Establishments

- A. Prior to the operation of any Marijuana Establishment, a license must be obtained from the State of Colorado and from Pueblo County and a Zoning Compliance Review must be obtained from the Pueblo County Planning and Development Department. For purposes of this Section, an approved Zoning Compliance Review Marijuana shall expire six (6) months from the date of approval unless an application for Licensure under Chapter 5.12 of the Pueblo County Code has been submitted.
- B. Uses established pursuant to this Section shall at all times be in complete compliance with the terms and conditions of its Marijuana Establishment license for licenses issued by the State of Colorado and the Local Licensing Authority.
- C. No Marijuana Establishment shall be allowed as a Home Occupation use.
- D. Distances are measured from the nearest wall of the Licensed Premise to the nearest portion of the wall of the premise of the prohibited use using a direct line, except as noted in Section 17.120.200 C., Section 17.120.210 C., Section 17.120.220 C., and Section 17.120.230 C.
- E. No Marijuana Establishment shall be located in:
 - 1. a building containing residential units,
 - 2. a movable or mobile structure. (Res. P&D 13-35, app. 10-21-2013) (Res. P&D 15-014, app. 4-13-2015)
- F. Performance Standards
 - 5. Odor. Marijuana Establishments in the B-4 Zone District shall have odor mitigation. The building (term includes buildings, greenhouses, and hoop houses) shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernable by a reasonable person. The ventilation system must be inspected and approved by the Pueblo Regional Building Department. The carbon filters are required to be replaced regularly for the best effectiveness to mitigate odor.
 - 6. Noise. Outside generators used for any kind of power supply shall be fully enclosed and have appropriate baffles, mufflers, and or other noise reduction systems to mitigate noise pollution.
 - 7. Lighting. To prevent excessive lighting and to prevent glare on the public roadway, on other public ways and onto adjoining

property, and to reduce atmospheric light pollution, Greenhouses & Buildings shall have internal shielding (such as blackout curtains) to prevent glare and light trespass from the Greenhouse & Building Walls and Roof. At the time of zoning authorization for a building permit, proof of Wall & Roof shielding as shown on the building plans submitted to Pueblo Regional Building Department shall be submitted to the Department of Planning and Development.

8. Fencing. All outdoor cultivations shall be properly fenced for security with a minimum seven (7) foot chain link fence (6 foot of chain link material with 1 foot security arm with barb wire or razor wire) or equivalent type of fencing for security excluding field fence, wood fence. (Res. P&D 16-067, app. 12-7-2016)

17.120.200 Medical Marijuana Center and Retail Marijuana Store

- A. Permitted Zone District. Medical Marijuana Center and Retail Marijuana Store are only permitted in the B-4, Community Business Zone District as a use-by-right if the Center or Store is located 250 feet or greater from any existing residence/mobile home; in the B-4, Community Business Zone District as a use-by-review if the Center or Store is located within 250 feet from any existing residence/mobile home; the B-1, Neighborhood Business Zone District as a use-by-review; R-5, Multiple-Residential and Office Zone District as use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.
- B. Definition of Medical Marijuana Center and Retail Marijuana Store as defined in Section 17.04.040 Definitions.
- C. Location. No Medical Marijuana Center or Retail Marijuana Store shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school or public library as measured from property line of the school or public library to the wall of the Medical Marijuana Center or Retail Marijuana Store. (Res. P&D 17-038, app. 7-12-2017)
- D. Location. No Medical Marijuana Center or Retail Marijuana Store shall be located within 250 feet of the following:
 1. Any existing church or religious institution in any district except the B-4 district,
 2. Any existing licensed childcare facility,
 3. Any existing alcohol or drug rehabilitation facility,
 4. Any existing group home for the developmentally disabled, or
 5. Any existing halfway house or correctional facility.

--Existing means existing and in operation at the time of the licensing of the Marijuana use.

 6. For any Medical Marijuana Center or any Retail Marijuana Store located within 250 feet of any existing residence/mobile home, the Center or Store shall be a use-by-review in the B-4 Zone District therefore required to apply for a Special Use Permit with

the Department of Planning and Development to be heard the Pueblo County Planning Commission.

7. For any Medical Marijuana Center or any Retail Marijuana Store located 250 feet or greater from any existing residence/mobile home, the Center or Store shall be a use-by-right in the B-4 Zone District.
8. An existing Licensed Medical Marijuana Center or Retail Marijuana Store is allowed to construct an addition onto the existing building and/or move into an adjoining suite pursuant to this Section or Chapter 5.12 of the Pueblo County Code. (Res. P&D 16-067, app. 12-7-2016)

17.120.210 Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer

- A. Permitted Zone District. Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer are only permitted in the B-4, Community Business Zone District as a use-by-right; in the A-1/A-2, Agricultural Zone Districts within the premise of an existing Medical Marijuana Optional Premise Cultivation Operation or Retail Marijuana Cultivation Facility as a use-by-right with the MIP Manufacturer to be for the onsite Cultivation only and no Open Blast Butane Extraction method allowed as a use-by-right; in the I-1/I-2, Industrial Zone Districts as a use-by-right; I-3, Heavy Industrial Zone District as a use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title. (Res. P&D 17-008, app. 2-8-2017)
- B. Definition of Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer as defined in Section 17.04.040 Definitions.
- C. Location. No Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school or public library as measured from property line of the school or public library to the wall of the Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer. (Res. P&D 17-038, app. 7-12-2017)
- D. Location. No Medical Marijuana-Infused Products Manufacturer and Retail Marijuana-Infused Products Manufacturer shall be located within 250 feet of the following:
 1. Any existing licensed childcare facility,
 2. Any existing alcohol or drug rehabilitation facility,
 3. Any existing group home for the developmentally disabled, or
 4. Any existing halfway house or correctional facility.

--Existing means existing and in operation at the time of the licensing of the Marijuana use. (Res. P&D 13-35, app. 10-21-2013) (Res. P&D 15-014, app. 4-13-2015)

17.120.220 Medical Marijuana Contiguous Optional Premise Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility

Medical Marijuana Contiguous Optional Premise Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility shall only be allowed as a contiguous location of the licensed premises of the person's corresponding Medical Marijuana Center, Retail Marijuana Store or the person's Medical Marijuana-Infused Products Manufacturer or Retail Marijuana-Infused Products Manufacturer.

- A. Permitted Zone District. Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility are only permitted in the B-4, Community Business Zone District as a use-by-right; in the B-1, Neighborhood Business Zone District as a use-by-review; in the I-1/I-2, Industrial Zone Districts as a use-by-right; in the I-3, Heavy Industrial Zone District as a use-by-review; R-5, Multiple-Residential and Office Zone District as a use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.
- B. Definition of Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility as defined in Section 17.04.040 Definitions.
- C. Location. No Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school or public library as measured from property line of the school or public library to the wall or fence if an outdoor cultivation of the Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility. (Res. P&D 17-038, app. 7-12-2017)
- D. Location. No Medical Marijuana Contiguous Optional Premises Cultivation Operation and Retail Marijuana Contiguous Cultivation Facility shall be located within 250 feet of the following:
 - 1. Any existing residence/mobile home in the following zone districts: A-3, A-4, R-A, R-1, R-2, R-3, R-4, R-7, R-8, and PUD where the principal use is residential,
 - 2. Any existing licensed childcare facility,
 - 3. Any existing alcohol or drug rehabilitation facility,
 - 4. Any existing group home for the developmentally disabled,
 - 5. Any existing halfway house or correctional facility.

--Existing means existing and in operation at the time of the licensing of the Marijuana use.

- E. The requirements of this subsection 17.120.220 shall not be applied to a premise where any person was previously issued a license pursuant to this article or Section 5.12 of the Pueblo County Code. (Res. P&D 13-35, app. 10-21-2013) (Res. P&D 15-014, app. 4-13-2015)

17.120.230 Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation and Retail Marijuana Non-Contiguous Cultivation Facility

- A. Permitted Zone District. Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation and Retail Marijuana Non-Contiguous Cultivation Facility are only permitted in the A-1/A-2, Agricultural Zone Districts as a use-by-right; in the I-1/I-2, Industrial Zone Districts as a use-by-right; in the I-3, Heavy Industrial Zone District, as a use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.
- B. Definition of Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation and Retail Marijuana Non-Contiguous Cultivation Facility as defined in Section 17.04.040 Definitions.
- C. Location. No Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation or Retail Marijuana Non-Contiguous Cultivation Facility shall be located within 1,000 feet of the any existing public or private elementary, middle, junior high or high school or public library as measured from property line of the school or public library to the wall or fence if an outdoor cultivation of the Medical Marijuana Non-Contiguous Optional Premises Cultivation Operation or Retail Marijuana Non-Contiguous Cultivation Facility. (Res. P&D 17-038, app. 7-12-2017)
- D. Location. No medical marijuana non-contiguous optional premises cultivation operation and retail marijuana non-contiguous cultivation facility shall be located within 250 feet of the following:
 - 1. Any existing residence/mobile home in the following zone districts: A-3, A-4, R-A, R-1, R-2, R-3, R-4, R-7, R-8, and PUD where the principal use is residential,
 - 2. Any existing licensed childcare facility,
 - 3. Any existing alcohol or drug rehabilitation facility,
 - 4. Any existing group home for the developmentally disabled,
 - 5. Any existing halfway house or correctional facility.

--Existing means existing and in operation at the time of licensing of the Marijuana use.

- E. The requirements of this subsection 17.120.230 shall not be applied to a premise where any person was previously issued a license pursuant to this article or Section 5.12 of the Pueblo County Code. (Res. P&D 13-35, app. 10-21-2013) (Res. P&D 15-014, app. 4-13-2015)

17.120.240 Medical Marijuana Testing Facility and Retail Marijuana Testing Facility

- A. Permitted Zone District. Medical Marijuana Testing Facility and Retail Marijuana Testing Facility are only permitted in the O-1, Neighborhood Office District as a use-by-review; I-1/I-2 Industrial Zone Districts as a use-by-right; I-3, Heavy Industrial Zone District as a use-by-review; B-4 Community Business Zone District as a use-by-right; and in the Planned

Unit Development (PUD) Zone District subject to the definitions set forth in this Title.

- B. Definitions of medical marijuana testing facility and retail marijuana testing facility as defined in Section 17.04.040, Definitions. (Res. P&D 13-35, app. 10-21-2013) (Res. P&D 17-033, app. 6-14-2017)

17.120.245 Medical Marijuana Transporter and Retail Marijuana Transporter

- A. Permitted Zone District. Medical Marijuana Transporters and Retail Marijuana Transporters are only permitted in the B-4, Community Business Zone District as a use-by-right; in the I-1/I-2, Industrial Zone Districts as a use-by-right; I-3, Heavy Industrial Zone District as a use-by-review; and in the Planned Unit Development (PUD) Zone District subject to the definitions set forth in this Title.
- B. Definition of Medical Marijuana Transporter and Retail Marijuana Transporter as defined in Section 17.04.040 Definitions.
- C. Location. No Medical Marijuana Transporter and Retail Marijuana Transporter shall be located within 1,000 feet of any existing public or private elementary, middle, junior high or high school or public library as measured from property line of the school or public library to the wall of the Medical Marijuana Transporter and Retail Marijuana Transporter. (Res. P&D 17-038, app. 7-12-2017)
- D. Location. No Medical Marijuana Transporter and Retail Marijuana Transporter shall be located within 250 feet of the following:
 - 1. Any existing licensed childcare facility,
 - 2. Any existing alcohol or drug rehabilitation facility,
 - 3. Any existing group home for the developmentally disabled, or
 - 4. Any existing halfway house or correctional facility.--Existing means existing and in operation at the time of the licensing of the Marijuana use. (Res. P&D 17-032, app. 6-14-2017)

17.120.250 Prohibited Uses

Except as are expressly permitted under the terms of this Title 17, Medical Marijuana Centers, Medical Marijuana-Infused Products Manufacturer, Medical Marijuana Optional Premises Cultivation Operations, Retail Marijuana Stores, Retail Marijuana Cultivation Facilities, Retail Marijuana-Infused Products Manufacturers, Retail Marijuana Testing Facilities, and Storage Warehouses, as well as any other activity involved in the cultivation, testing and distribution or sale of marijuana or marijuana infused products, are expressly prohibited as land uses in Pueblo County. (Res. P&D 13-35, app. 10-21-2013)