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El Paso County, CO  
  
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RESOLUTION NO. 17 - 119

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO COUNTY, STATE OF COLORADO

**RESOLUTION AMENDING THE EL PASO COUNTY MEDICAL MARIJUANA POLICY**

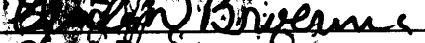
WHEREAS, pursuant to the authority granted in C.R.S. 12-43.3-103, the Board of County Commissioners ("Board") has adopted the El Paso County Medical Marijuana Policy ("Policy") for the licensing of medical marijuana facilities in unincorporated El Paso County; and

WHEREAS, the Board desires to amend the Policy to maintain consistency with state law and in furtherance of the public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of El Paso County, Colorado that the El Paso County Medical Marijuana Policy is hereby amended as set forth in Exhibit A attached hereto.


DONE THIS 13th day of April, 2017 at Colorado Springs, Colorado.

ATTEST

By:   
Chuck Broerman  
County Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By:   
Darryl Glenn, President

## EL PASO COUNTY MEDICAL MARIJUANA POLICY

### **Section 1: Purpose**

The purpose of this Policy is to protect the public health, safety and welfare by regulating the operation of medical marijuana facilities and the conduct of persons owning and operating such facilities, by mitigating the negative impacts that such facilities may have on the communities in which they operate, and by establishing a local licensing framework that effectively and fairly enforces the regulations and standards for medical marijuana facilities.

### **Section 2: Authority**

This Policy is adopted pursuant to, inter alia, C.R.S. 12-43.3-101, *et seq.*, 29-20-101, *et seq.*, 30-11-401 *et seq.*, and 30-28-101, *et seq.*

### **Section 3: Definitions**

- 3.1 Unless otherwise defined by this Policy, all terms used herein shall have the same meaning as set forth in the Colorado Medical Marijuana Code.
- 3.2 “Adjacent” means sharing all or a portion of a lot line or parcel or tract boundary line.
- 3.3 “Alcohol Beverage” shall have the same meaning as set forth in §12-47-103(2), C.R.S.
- 3.4 “Board” means the Board of County Commissioners of El Paso County, Colorado.
- 3.5 “Colorado Medical Marijuana Code” means C.R.S. 12-43.3-101, *et seq.* and any regulations promulgated thereunder.
- 3.6 “County Clerk” means the El Paso County Clerk and Recorder.
- 3.7 “Planning and Community Development” means the El Paso County Planning and Community Development Department.
- 3.8 “Land Development Code” means the El Paso County Land Development Code.
- 3.9 “Medical Marijuana Facility” means a medical marijuana center, a medical marijuana-infused products manufacturer, or an optional premises cultivation operation, as those terms are defined in §12-43.3-104, C.R.S.
- 3.10 “Religious Institution” shall have the same meaning as set forth in the Land Development Code.
- 3.11 “Sheriff’s Office” means the El Paso County Sheriff’s Office.

#### **Section 4: General Provisions**

- 4.1 The provisions of this Policy shall apply throughout the unincorporated area of El Paso County.
- 4.2 Local licenses shall be valid for a period of one (1) year.
- 4.3 The Board shall be the local licensing authority with respect to all applications and actions.
- 4.4 The El Paso County Attorney shall advise the Board on legal matters related to the Colorado Medical Marijuana Code and this Policy. The County Attorney shall designate one or more Assistant County Attorneys to act as legal advisor to the Sheriff's Office and the County Clerk on legal matters related to the Colorado Medical Marijuana Code and this Policy and as prosecutor in suspension and revocation matters on behalf of the Sheriff's Office.
- 4.5 The Board shall, from time to time, set application and licensing fees by resolution and approve all application and licensing forms that are not provided by the Colorado Department of Revenue.
- 4.6 If any application is denied by the Board or is withdrawn by the applicant prior to approval, all license fees, but no application fees, shall be refunded.
- 4.7 It is unlawful to operate a medical marijuana facility within the unincorporated area of El Paso County without a valid local license issued in accordance with this Policy and a valid state license issued by the Colorado Department of Revenue.
- 4.8 All new licenses, license renewals, changes of location, transfers of ownership, and modifications of premises approved pursuant to this Policy shall be expressly conditioned upon the same being approved by the Colorado Department of Revenue. Denial of the application by the Colorado Department of Revenue shall be grounds for revocation of the local license or approval.
- 4.9 With respect to all application types, the County Clerk shall not be responsible for investigating the background of any individual, the financial information, assets and history of any individual or business entity, the corporate and ownership structure of any business entity, or any financial agreement required to be provided pursuant to the Colorado Medical Marijuana Code.
- 4.10 No license shall be issued to an optional premises cultivation operation that is connected with a medical marijuana center or medical marijuana-infused products manufacturer located outside El Paso County. No license shall be issued to a medical marijuana center or medical marijuana-infused products manufacturer that is connected with an optional premises cultivation operation located outside El Paso County.
- 4.11 El Paso County shall not issue local licenses for medical marijuana testing facilities or medical marijuana transporters.

## **Section 5: New License Applications**

- 5.1 An applicant seeking a new license for a medical marijuana facility shall file a complete application, including all required forms and fees, with the County Clerk.
- 5.2 Upon a determination that a completed application, including all required forms and fees, for a new license has been received, the County Clerk shall submit copies of the application to the following agencies for the following purposes. Upon completion, these agencies shall submit their written findings and conclusions to the County Clerk.
- 5.2.1 The Sheriff's Office shall conduct background investigations of the applicant and all related persons for whom background investigations are authorized and site inspections of the proposed licensed premises.
- 5.2.2 Planning and Community Development shall establish compliance with applicable Land Development Code regulations and shall determine the distance from the proposed medical marijuana facility to the locations listed in Section 5.3.2.
- 5.3 Upon receipt of the information provided by the Sheriff's Office and Planning and Community Development, the County Clerk shall schedule the license application for a hearing before the Board. Notwithstanding the foregoing, an application for a new license that does not meet the following requirements shall not be scheduled for hearing, no further action shall be taken on the application, and all license fees, but no application fees, shall be refunded.
- 5.3.1 The proposed premises shall not be at a location that is the same as or within one thousand (1000) feet of a location for which, within the two years immediately preceding the date of the application, the Board has denied an application for the same type of license due to the nature of the use or other concern related to the location.
- 5.3.2 The proposed premises shall not be on the same lot, parcel or tract as, shall not be adjacent to, and shall not be within one thousand (1000) feet of the following:
- a lot, parcel or tract where a residential use exists or is a principal allowed use under the Land Development Code
  - a school
  - the principal campus of a college, university or seminary
  - a public park
  - a religious institution
  - a state-licensed drug or alcohol treatment facility
  - a state-licensed childcare facility or home

Distances shall be computed by direct measurement from the nearest property line of the land use set forth above to the nearest portion of the building in which medical marijuana is to be sold, using a route of direct pedestrian access.

Any medical marijuana facility that complied with and received temporary land use approval pursuant to Resolutions No. 09-469 and 10-230 and subsequently received state and local licenses may continue to operate despite noncompliance with this section. Such facility, however, may not submit a transfer of ownership application.

- 5.3.3 The applicant must or will be entitled to possession of the proposed premises under a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises.
- 5.4 At the hearing on a new license application, and prior to making its decision to approve or deny the application, the Board may consider the factors set forth in §§ 12-43.3-303(2) and 12-43.3-310(7), C.R.S., as well as compliance with the provisions of the Colorado Medical Marijuana Code and this Policy.
- 5.5 The Board may deny the application for a new license for good cause, subject to judicial review.
- 5.6 No license approved by the Board shall be issued until the Sheriff's Office inspects the licensed premises to determine compliance with §12-43.3-303(4) and this Policy.
- 5.7 If the application for a new license is denied by the Board or withdrawn by the applicant, all license fees, but no application fees, shall be refunded.

#### **Section 6: Public Notice**

- 6.1 Public notice shall be required for all new and change of location applications. Notwithstanding the foregoing, any applicant for a change of location to premises located on the same lot or parcel as the existing licensed premises shall not be required to provide public notice.
- 6.2 The applicant shall mail a notice to all property owners adjacent to and within one-half mile of the subject property, to be measured without regard for governmental or quasi-governmental jurisdictional boundaries. The public notice shall be sent via regular U.S. Mail, First Class Postage prepaid and addressed to property owners at the addresses contained in the records of the El Paso County Assessor's Office. Certificates of Mailing shall be purchased from the post office to provide proof of mailing.
- 6.3 The public notice shall contain the following information: applicant's name, trade name, proposed license type, address of proposed premises, and hearing date.

- 6.4 Public notice shall be mailed at least two (2) weeks prior to any public hearing on the application.
- 6.5 No later than one (1) week prior to the scheduled hearing before the Board, the applicant shall submit or cause to be submitted to the County Clerk a notarized affidavit, signed and sworn to by the individual who completed the mailing, a list of the property owners and their addresses to whom public notice was sent, and the Certificates of Mailing purchased from the post office.

### **Section 7: License Renewals**

- 7.1 Upon receipt by the County Clerk of a completed license renewal application and all required fees, the County Clerk shall refer a copy of the application to the Sheriff's Office. The Sheriff's Office shall inspect the licensed premises to determine compliance with this Policy and the Colorado Medical Marijuana Code and shall submit written findings to the County Clerk within thirty (30) days.
- 7.2 Upon a determination by the County Clerk that the application does not require scheduling for a hearing as set forth in Section 7.3, the application shall be deemed approved and the President or President Pro Tempore of the Board shall have the authority to sign any documentation necessary for such approval.
- 7.3 License renewal applications shall be scheduled for a hearing before the Board if one of the following circumstances exists.
  - 7.3.1 A complaint has been filed against the licensee with the County Clerk or the Sheriff's Office during the current license period, and the County Attorney's Office has determined that sufficient evidence exists to support the complaint.
  - 7.3.2 One or more violations of the Colorado Medical Marijuana Code, this Policy, or any other conditions placed upon the license have occurred during the current license period.
  - 7.3.3 There are allegations against the licensee that, if true, would constitute good cause for denial, and the County Attorney's Office has determined that sufficient evidence exists to support the allegations.
  - 7.3.4 The license renewal application has been filed less than forty-five (45) days prior to the expiration date of the license.
- 7.4 License renewal applications received after the expiration date of the license shall be subject to a late renewal fee as set by the Board.
- 7.5 The Board may refuse to renew any license for good cause, or if the licensed premises have been inactive for at least one year without good cause, subject to judicial review.

7.6 Any license not renewed shall be surrendered to the Sheriff's Office, who shall then provide it to the County Clerk.

### **Section 8: Change of Location**

- 8.1 An applicant seeking to change the location of an existing license shall file a complete application, including all required forms and fees, with the County Clerk.
- 8.2 Upon a determination that a completed application, including all required forms and fees, for a change of location has been received, the County Clerk shall submit a copy of the application to Planning and Community Development for the purposes set forth in Section 5.2.2. Upon completion, Planning and Community Development shall submit its written findings and conclusions to the County Clerk.
- 8.3 Upon receipt of the information provided by Planning and Community Development, the County Clerk shall schedule the change of location application for a hearing before the Board. Notwithstanding the foregoing, an application for a change of location that does not meet the requirements of Section 5.3 shall not be scheduled for hearing, no further action shall be taken on the application, and all license fees, but not the application fees, shall be refunded.
- 8.4 The applicant shall comply with Section 6 if applicable.
- 8.5 In making its decision whether to grant or deny the change of location application, the Board shall consider the provisions of the Colorado Medical Marijuana Code, this Policy, and all reasonable restrictions that are or may be placed upon the new location by the Board.
- 8.6 No approval of an application for change of location shall become effective until the Sheriff's Office inspects the licensed premises to determine compliance with §12-43.3-303(4) and this Policy.

### **Section 9: Transfer of Ownership**

- 9.1 An applicant seeking to transfer ownership of an existing license or any interest therein shall file a complete application, including all required forms and fees, with the County Clerk.
- 9.2 Upon a determination that a completed application, including all required forms and fees, for a transfer of ownership has been received, the County Clerk shall forward a copy of the application to the Sheriff's Office for the purpose of conducting background investigations of the applicant and all related persons for whom background investigations are authorized. Upon completion, the Sheriff's Office shall submit its written findings and conclusions to the County Clerk.
- 9.3 Upon receipt of the information provided by the Sheriff's Office, the County Clerk shall schedule the transfer of ownership application for a hearing before the Board.

9.4 In making its decision whether to grant or deny the transfer of ownership application, the Board shall consider only the requirements of the Colorado Medical Marijuana Code and this Policy.

### **Section 10: Modification of Premises**

- 10.1 An applicant seeking to modify licensed premises shall file a complete application, including all required forms and fees, with the County Clerk.
- 10.2 Upon a determination that a completed application, including all required forms and fees, for a modification of premises has been received, the County Clerk shall, if the footprint of the licensed premises is proposed to be changed, forward a copy of the application to Planning and Community Development for the purposes set forth in Section 5.2.2. Upon completion, Planning and Community Development shall submit its written findings and conclusions to the County Clerk.
- 10.3 Upon receipt of the information provided by Planning and Community Development, or if no such review is required, the County Clerk shall schedule the application for a hearing before the Board. Notwithstanding the foregoing, an application for modification of premises that does not meet the requirements of Section 5.3 shall not be scheduled for a hearing and no further action shall be taken on the application.
- 10.4 In making its decision whether to grant or deny the modification of premises application, the Board shall consider only the requirements of the Colorado Medical Marijuana Code and this Policy.

### **Section 11: Hearings**

- 11.1 Public notice of all hearings scheduled before the Board shall be published by the County Clerk and posted by the applicant in accordance with §12-43.3-302(1), C.R.S. Applicants shall provide to the County Clerk an affidavit of posting on a form supplied by the County Clerk.
- 11.2 The decision of the Board shall be based solely on competent evidence presented at the public hearing, and a proper weighing thereof. Rules of evidence shall not be strictly applied unless otherwise determined by the Board, in its discretion.
- 11.3 Hearings shall be conducted according to the procedures set forth in the Board's Legislative and Parliamentary Rules and Procedures, adopted by resolution.
- 11.4 The following documents, as applicable to the particular hearing, shall be deemed admitted as exhibits in the Board's record of proceedings unless the Board determines otherwise after an objection.
- agenda item summary
  - state application



- evidence of possession of premises
- depictions of premises submitted pursuant to §12-43.3-301(4), C.R.S.
- affidavit of public notice
- list of property owners and their addresses to whom public notice was sent
- Certificates of Mailing from post office for public notice
- results of background investigation
- affidavit of posting
- certified published legal notice of hearing
- copy of letter of findings

11.5 If the Board considers the criminal history record of an applicant or related person in determining the qualification of said applicant to hold a license, the Board must also consider any information provided by the applicant or related person regarding such criminal history record as set forth in §12-43.3-307(2)(a), C.R.S.

### **Section 12: Standards of Operation**

- 12.1 There shall be no possession or consumption of any alcohol beverage on any licensed premises.
- 12.2 No one under the age of 18 shall be allowed on any licensed premises unless such person is a medical marijuana patient and is accompanied by his or her primary caregiver, or unless such person is under the age of 10 and is accompanied by his or her parent or guardian who is a patient or primary caregiver.
- 12.3 A licensee or an owner or manager of a licensed premises shall report all known criminal activity occurring within the licensed premises or on the lot or parcel on which the licensed premises sits to the Sheriff's Office.
- 12.4 Medical marijuana facilities shall not store or display medical marijuana and medical marijuana-infused products in such a manner that it is visible from outside the licensed premises.
- 12.5 Licensed premises shall be constructed, altered, maintained and operated in compliance with the Pikes Peak Regional Building Code and applicable fire codes. If the licensed premises is not located within an established fire protection district, then it must be equipped with a fire alarm system that is monitored by a third party and that meets the applicable National Fire Protection Association standards for fire alarms.
- 12.6 Optional premises cultivation operations shall install and maintain active carbon filtration systems such that the odor of marijuana is not detectable at the exterior of the licensed premises or on the same or an adjacent lot, parcel, or tract.
- 12.7 Medical marijuana facilities shall keep in force and effect at all times workmen's compensation insurance as required by statute, general liability insurance with minimum

limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

12.8 The following security measures are required for all medical marijuana centers.

12.8.1 All medical marijuana center inventory and cash shall be stored in a safe or vault affixed to the building structure during non-business hours.

12.8.2 Monitored panic alarm systems shall be installed and maintained in good working order.

12.9 The following signage standards shall apply to all medical marijuana facilities.

12.9.1 Exterior signage must comply with Chapter 6 of the Land Development Code, but cannot use “marijuana,” “cannabis” or other words, parts of words, phrases or symbols commonly understood to refer to marijuana unless immediately preceded by the word “medical.” A cross symbol, similar to the universally recognized symbol for a facility offering first aid, may not be used in on- or off-premise signs.

12.9.2 There shall be posted in a conspicuous location within the licensed premises a sign or signs containing the following warnings. The warnings shall be legible and printed in all capital letters of at least one-half inch in height.

12.9.2.1 USE, POSSESSION, CULTIVATION OR DISTRIBUTION OF MARIJUANA IS A VIOLATION OF FEDERAL LAW.

12.9.3 There shall be posted in a conspicuous location within the licensed premises a legible sign containing the name and contact information of the owner(s) and manager(s) of the medical marijuana facility.

12.10 No medical marijuana center shall use the term “pharmacy,” “pharmacist,” “pharmaceutical,” “Rx,” or any term of similar import or modified spelling thereof in the name of the medical marijuana center or in the display of any sign, advertisement, or other device.

### **Section 13: Suspension and Revocation**

13.1 No license suspension or revocation proceeding shall be scheduled for a hearing before the Board unless the El Paso County Attorney’s Office has determined that probable cause exists to believe that a violation of the Colorado Medical Marijuana Code, this Policy, or the terms and conditions of the license has occurred.

13.2 Any recommended stipulations or agreements between the licensee and the Sheriff’s Office shall be presented to the Board at the hearing by the Assistant County Attorney designated as prosecutor. Such stipulations shall require the licensee to admit to the alleged violation

and may include an agreement to or cap on the suspension period or fine in lieu of suspension. The Board in its discretion may:

- Accept such stipulation or agreement and dispense with the hearing
- Allow limited testimony and evidence and, based thereon, accepts such stipulation or agreement without a full hearing, or
- Reject the stipulation and require a full hearing

13.3 The hearing shall be conducted according to the procedures set forth in the Board's Legislative and Parliamentary Rules and Procedures, adopted annually by resolution, except that no parties other than the Sheriff's Office, represented by the Assistant County Attorney, and the licensee and his or her representative shall be allowed to present evidence or testify before the Board. The order of proceeding shall be the Sheriff's Office, followed by the licensee, followed by rebuttal and closing statements by the Sheriff's Office, followed by rebuttal and concluding statements by the licensee.

13.4 All documents referenced or submitted as evidence at the hearing shall be automatically admitted and received as exhibits unless the Board determines otherwise after an objection.

13.5 The decision of the Board shall be based solely on competent evidence presented at the public hearing, and a proper weighing thereof. Rules of evidence shall not be strictly applied unless otherwise determined by the Board, in its discretion.

13.6 In determining an appropriate sanction, the Board shall consider all mitigating and aggravating factors. Any sale of medical marijuana to a person under the age of eighteen shall be grounds for revocation of a license.

13.7 Requests to pay a fine in lieu of serving a suspension period shall be heard by the Board at a separate hearing scheduled before the suspension period is set to begin, unless the request is made in such a manner as to allow completion of the relevant investigation before the initial suspension hearing.

13.8 Every medical marijuana facility whose license has been suspended shall post notice of the suspension as required by the rules promulgated by the Colorado Medical Marijuana Enforcement Division.

#### **Section 14: Severability**

Should any portion of this Policy be determined to be unenforceable or invalid, such holding shall not affect the validity of the remaining portions of this Policy.