

ORDINANCE 2011-09

AN ORDINANCE OF THE CITY OF FRUITA, COLORADO REPEALING AND REENACTING CHAPTER 5.15 OF THE FRUITA MUNICIPAL CODE CONCERNING THE LICENSING AND REGULATION OF MEDICAL MARIJUANA BUSINESSES; AND AMENDING THE FRUITA LAND USE CODE, CONTAINED IN TITLE 17 OF THE FRUITA MUNICIPAL CODE, CONCERNING THE CITY'S ZONING REGULATIONS GOVERNING MEDICAL MARIJUANA BUSINESSES.

WHEREAS, the voters of Colorado approved Amendment 20 at the 2000 general election, which was subsequently codified as Section 14 of Article XVIII of the Colorado Constitution ("Medical Marijuana Amendment"), and which authorizes the medical use of marijuana by persons in Colorado suffering from debilitating medical conditions; and

WHEREAS, as a result of recent modifications to federal law enforcement policy concerning the prosecution of federal marijuana violations in states which have legalized the use of marijuana for medical purposes, medical marijuana centers have increased within the State of Colorado, as well as other states that have adopted constitutional or statutory provisions authorizing the medical use of marijuana; and

WHEREAS, despite the adoption of Amendment 20, marijuana is still a controlled substance under Colorado and federal law. As a result, making it legal for a person to obtain, possess, cultivate, grow, use and distribute marijuana, even for the medical uses contemplated by Amendment 20, has the potential for abuse that should be closely monitored and regulated by local authorities to the extent possible; and

WHEREAS, if not closely monitored and regulated, the presence of marijuana, even for the purposes legally permitted by Amendment 20, can cause an increase in illegal activities within the City of Fruita affecting the health, safety, order, comfort, convenience and general welfare of the residents of the City; and

WHEREAS, if medical marijuana facilities operating pursuant to Amendment 20 were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana facilities might be established in areas that would be inconsistent with surrounding land uses, or otherwise be detrimental to the public health, safety and welfare; and

WHEREAS, on May 11, 2010, the Colorado General Assembly passed H.B. 10-1284, which was signed into law by the Governor on June 7, 2010, and now in part is codified as the Colorado Medical Marijuana Code, Sections 12-43.3-101, *et. seq.*, C.R.S.; and

WHEREAS, the Colorado Medical Marijuana Code establishes a dual licensing framework for medical marijuana businesses, introduces new terminology with respect to such businesses, significantly restricts the type of licenses that may be issued within the State of Colorado, and provides for subsequent rule making authority by the Colorado Department of Revenue to implement the legislation.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:

Section 1. That Chapter 5.15 of the Fruita Municipal Code, concerning medical marijuana, is hereby repealed and reenacted to read as follows:

Chapter 5.15

LICENSING AND REGULATION OF MEDICAL MARIJUANA BUSINESSES

Sections:

- 5.15.010** Legislative Intent and Purposes.
- 5.15.020** Definitions.
- 5.15.030** License Required.
- 5.15.040** Local Licensing Authority.
- 5.15.050** General Licensing Procedure and Regulations.
- 5.15.060** Application and License Fee.
- 5.15.070** License Applications.
- 5.15.080** Procedures for Approval or Denial of License Application.
- 5.15.090** Conditions on License.
- 5.15.100** Personal Requirements for the Licensee, Principals, Business Manager, Persons Holding a Financial Interest and Employees.
- 5.15.110** Special Restrictions and Requirements.
- 5.15.120** Specific Requirements for a Medical Marijuana Center.
- 5.15.130** Specific Requirements for Optional Premises Cultivation Operation License.
- 5.15.140** Reserved.
- 5.15.150** Renewal of Medical Marijuana Business License.

- 5.15.160 Major Changes to Medical Marijuana Business License or Licensed Premises Requiring Approval of the Local Licensing Authority.
- 5.15.170 Reports of Minor Changes.
- 5.15.180 Books and Records.
- 5.15.190 Inspection of Books and Records; Audits.
- 5.15.200 Inspection of Licensed Premises and Adjacent Grounds.
- 5.15.210 Suspension and Revocation of License.

5.15.010 LEGISLATIVE INTENT AND PURPOSE.

- A. Legislative Intent: The City Council of the City of Fruita intends to regulate the use, acquisition, cultivation, production, and distribution of Medical Marijuana in a manner consistent with Article XVIII, Section 14 of the Colorado Constitution (the “Medical Marijuana Amendment”).
1. The Medical Marijuana Amendment to the Colorado Constitution does not provide a legal manner for Patients to obtain Medical Marijuana unless the Patient grows the marijuana or the marijuana is grown by the Patient’s Primary Caregiver.
 2. House Bill 10-1284, signed by the Governor on June 7, 2010, enacts Article 43.3 of Title 12, Colorado Revised Statutes (the “Colorado Medical Marijuana Code”) which imposes statewide regulations pertaining to the use, acquisition, cultivation, production, sale and distribution of Medical Marijuana and Medical Marijuana-Infused Products within the State of Colorado.
 3. Nothing within this Chapter is intended to promote or condone the production, cultivation, use, sale or distribution of Medical Marijuana other than in compliance with applicable State law.
- B. Purpose: The purpose of this Chapter is to implement the Medical Marijuana Amendment in a manner consistent with Article 43.3 of Title 12, Colorado Revised Statutes, to protect the public health, safety and welfare of the residents and Patients of the City by prescribing the manner in which Medical Marijuana Businesses can be conducted within the City. Further, the purpose of this Chapter is to:
1. Provide for the safe sale and distribution of Medical Marijuana to Patients who qualify to obtain, possess and use marijuana for medical purposes under the Medical Marijuana Amendment.

2. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and neighborhood and Patient safety, security for businesses and their personnel, and other health and safety concerns.
3. Limit the number of Medical Marijuana Businesses that can be established within the City of Fruita based on the City's population, the needs of the community and the desires of the inhabitants.
4. Impose fees to cover the costs incurred by the City for licensing and regulating Medical Marijuana Businesses.
5. Adopt a mechanism for monitoring compliance with the provisions of this Chapter 5.15 of the Fruita Municipal Code.
6. Create regulations that address the particular needs of the Patients and residents of the City and coordinate with laws enacted by the State of Colorado that pertain to such matters.
7. Facilitate the implementation of the Medical Marijuana Amendment without exceeding the authority granted to the City by such Amendment.

5.15.020 DEFINITIONS:

The following words and phrases used in this Chapter 5.15 shall have the following meanings unless the context clearly indicates otherwise:

“Adjacent Grounds” means all areas that the Licensee has a right to possess by virtue of his/her ownership or lease, which are outside the enclosed Licensed Premises, but adjacent and contiguous to the Licensed Premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots, and similar areas and all fixed and portable things in such areas, including but not limited lights, signs and security devices.

“Business Manager” means the individual designated by the owner of a Medical Marijuana Business and registered with the City as the person responsible for all operations of the business during the owner's absence from the business premises.

“Character and Record” includes all aspects of a person's character and record, including but not limited to, moral character; criminal record including Serious Traffic

Offenses; record of previous sanctions against liquor licenses, gambling licenses, or Medical Marijuana licenses, which the person owns, in whole or in part, in which the person serves as a Principal, manager, or employee; education, training, experience; civil judgments entered against the person; truthfulness and honesty; and financial responsibility. The conviction of any person for an offense, shall not, in itself, be grounds for a finding of a bad character and record if such person demonstrates that he/she has been rehabilitated in accordance with Section 24-5-101, C.R.S. In the event the Local Licensing Authority considers information concerning the criminal history of a person, the Local Licensing Authority shall also consider any information provided by an applicant regarding such criminal history records, including but not limited to, evidence of rehabilitation, character references and educational achievements especially those items pertaining to the period of time between the last criminal conviction and the time of consideration of a license application.

“Good Cause” shall have the same meaning as set forth in Section 12-43.3-104(1), C.R.S.

“Laws of the State of Colorado” shall mean and include Section 14 of Article XVIII of the Colorado Constitution; the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.; other Colorado statutes, including but not necessarily limited to Section 18-18-406(3), C.R.S. and Section 25-1.5-106, C.R.S.; applicable regulations promulgated by the Colorado Department of Public Health and Environment and the State Licensing Authority; and all applicable final decisions of Colorado’s appellate courts.

“Licensed Premises” means the premises specified in an application for a license under this Chapter 5.15 which are owned or in possession of the Licensee, and within which the Licensee is authorized to cultivate, manufacture, distribute or sell Medical Marijuana in accordance with the provisions of this Chapter 5.15 and the Laws of the State of Colorado.

“Licensee” means a person licensed pursuant to this Chapter 5.15 and pursuant to the Colorado Medical Marijuana Code, Sections 12-43.3-101 *et. seq.*, C.R.S.

“Local Licensing Authority” shall mean the City Council of the City of Fruita.

“Medical Marijuana” means marijuana that is grown and sold pursuant to the provisions of this Chapter 5.15 and the Colorado Medical Marijuana Code for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

“Medical Marijuana Business” shall mean a person holding a Medical Marijuana Center license, as defined in Section 12-43.3-402, C.R.S.; a Medical Marijuana-Infused

Products Manufacturer license, as defined in Section 12-43.3-404, C.R.S.; and/or an Optional Premises Cultivation Operation license, as defined in Section 12-43.3-403, C.R.S. For the purposes of this Chapter 5.15, a Patient that cultivates, produces, possesses or transports Medical Marijuana or a Primary Caregiver that cultivates, produces, sells, distributes, possesses, transports, or makes available marijuana in any form to one or more Patients shall not be deemed a “Medical Marijuana Business”.

“Medical Marijuana Center” means a person licensed pursuant to this Chapter 5.15 and the Colorado Medical Marijuana Code to operate a business as described in Section 12-43.3-402, C.R.S., as contained in the Colorado Medical Marijuana Code, and 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.

“Medical Marijuana-Infused Products Manufacturer” means a person licensed pursuant to this Chapter 5.15 and the Colorado Medical Marijuana Code to prepare products infused with medical marijuana that is intended for use or consumption other than by smoking or inhaling vapors, including but not limited to, edible products, ointments, and tinctures. These products, when manufactured or sold by a licensed Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer, shall not be considered a food or drug for the purposes of the Colorado Food and Drug Act, Part 4 of Article 5 of Title 25, C.R.S.

“Medical Use” shall have the same meaning as is set forth in Article XVIII, Section 14(1)(b) of the Colorado Constitution, or as may be fully defined in any applicable State law or regulation.

“Optional Premises Cultivation Operation” means a person licensed pursuant to this Chapter 5.15 and the Colorado Medical Marijuana Code to grow and cultivate Medical Marijuana at a Licensed Premises contiguous or not contiguous with the Licensed Premises of the person’s Medical Marijuana Center license or the person’s Medical Marijuana-Infused Products Manufacturing license. An Optional Premises Cultivation license may be issued only to a person licensed to operate a Medical Marijuana Center or licensed to operate as a Medical Marijuana-Infused Products Manufacturer.

“Patient” shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable State law or regulation.

“Person” means a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

“Premises” means a distinct definite location which may include a building, a part of a building, a room, or any other definite contiguous area.

“Primary Caregiver” shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable State law or regulation.

“Principal” means:

1. In the case of any business entity, including any general or limited partnership, corporation, limited liability company or other entity, any person who has any interest in the ownership of the entity and any person who has the day to day authority to or actually does manage the entity’s financial affairs.
2. In the case of a corporation, the persons described for any entity described in subsection (1) above and the president, vice president, secretary, chief executive officer, chief financial officer, and any person who holds any of the capital stock of the corporation.
3. In the case of a limited liability company, the persons described for any such entity in subsection (1) above and any member of the limited liability company.
4. In the case of a sole proprietorship, the individual owner.

“Serious Traffic Offense” means any driving offense carrying eight (8) points or greater under Section 42-2-127, C.R.S. or the substantial equivalent of such events in any other state.

“State Licensing Authority” means the authority created by Section 12-43.3-201, C.R.S. for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of Medical Marijuana in this State.

Unless defined in this Chapter or the context clearly indicates otherwise, any word or term used in this Chapter that is defined in Article XVIII, Section 14(1)(f) of the Colorado Constitution or in the Colorado Medical Marijuana Code shall have the same meaning that is ascribed to such word or term in the Colorado Constitution or in the Colorado Medical Marijuana Code.

5.15.030 LICENSE REQUIRED.

- A. It shall be unlawful for any person to operate a Medical Marijuana Business without first having obtained a license to operate pursuant to the provisions of this Chapter, having paid the fees therefor, as well as having obtained a license to operate from the State Licensing Authority. The licensing requirements apply to any Medical Marijuana Businesses that exist on the effective date of this Chapter and any Medical Marijuana Businesses established after such effective date.
- B. Any person violating this Section commits a Class A municipal offense. A person committing a violation shall be guilty of a separate offense for each day or part thereof during which the offense is committed or continued to be permitted by such person and shall be punished accordingly.
- C. Pursuant to the provisions of Article 43.3 of Title 12, C.R.S., Medical Marijuana Businesses shall be licensed by the City in one or more of the following categories:
 - 1. Medical Marijuana Center, as defined in Section 5.15.020 of the Fruita Municipal Code and Section 12-43.3-104(8), C.R.S. Such Center shall meet all criteria and requirements of Section 12-43.3-402, C.R.S. as well as all other regulatory requirements applicable to Medical Marijuana Centers set forth within this Chapter, and within the laws of the State of Colorado.
 - 2. Optional Premises Cultivation Operations license, as defined in Section 5.15.020 of the Fruita Municipal Code and Section 12-43.3-403, C.R.S. Such cultivation operation shall meet all criteria and requirements of Section 12-43.3-404, C.R.S., as well as all other regulatory requirements applicable to Optional Premises Cultivation Operations set forth in this Chapter and within the Laws of the State of Colorado. An Optional Premises Cultivation Operation may be located contiguous to the Licensed Premises of a Medical Marijuana Center or at a separate satellite location.
 - 3. No Medical Marijuana-Infused Products Manufacturers shall be licensed.
- D. The licensing requirements set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any federal law, the laws of the State of Colorado, or local laws, including, but not by way of limitation, a business license, retail sales tax license, retail food establishment license, or any applicable zoning permits or building permits.

- E. No license for a Medical Marijuana Business shall actually be issued by the City until a license for such use, at the location designated in the application, has been issued by the State Licensing Authority.
- F. The issuance of a license pursuant to this Chapter does not create a defense, exception or provide immunity to any person in regard to any potential federal criminal liability the person may have for the production, distribution or possession of marijuana.
- G. Every license issued under this Chapter confers only a limited and conditional privilege subject to the requirements, conditions, and limitations of this Chapter and State law. The license does not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited, or completely extinguished at the discretion of the City Council or the electors of the City, without any compensation to a Licensee. Every license approved or issued under this Chapter 5.15 shall be subject to the future exercise of the reserved rights of referendum and initiative, exercise of the local option described in Section 12-43.3-106, C.R.S., and any other future ordinances adopted by the electors of the City or the City Council. Nothing contained in this Chapter grants to any Licensee any vested right to continue operating under the provisions of this Chapter as they existed at the time the license was approved or issued and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.
- H. A separate license shall be required for each location from which a Medical Marijuana Business is operated.
- I. All Medical Marijuana Business licenses issued by the City shall be valid for a period of one (1) year from the date such license is issued. Renewal applications shall be filed at least forty-five (45) days prior to the expiration date of the existing license.
- J. Licensees shall report each transfer or change of ownership interest, change in Business Manager, or change in Principals or change in employees on forms provided by the City Clerk. An application or a change shall be submitted to the City Clerk at least thirty (30) days prior to any such change to provide necessary time for the background check and processing of the application pursuant to Section 5.15.160.

5.15.040 LOCAL LICENSING AUTHORITY.

- A. For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of Medical Marijuana within the City, there is hereby created the Medical Marijuana Local Licensing Authority of the City of Fruita. The City Council of the City shall serve as the Local Licensing Authority.
- B. The Local Licensing Authority shall have such powers and duties as are provided for in this Chapter and the Colorado Medical Marijuana Code.
- C. The Local Licensing Authority shall be assisted by the City Attorney, the City Manager and such other personnel as may be designated by the City Manager in the performance of the powers and duties of the Local Licensing Authority.

5.15.050 GENERAL LICENSING PROCEDURE AND REGULATIONS.

The City Clerk shall have authority to promulgate and employ reasonable regulations associated with the making and processing of applications for Medical Marijuana Business licenses. The City Clerk also may promulgate regulations concerning the processes and procedures associated with the issuance, renewal, denial, suspension and/or revocation of such licenses that supplement and are not inconsistent with the provisions of this Chapter. Such regulations shall be written and shall become effective when copies of the same have been provided to the City Council and made available to the public, or upon a later effective date set forth in the regulations.

5.15.060 APPLICATION AND LICENSE FEES.

- A. Application and license fees for Medical Marijuana Businesses shall be as established in an annual fees and charges resolution adopted by the City Council.
- B. The primary purpose of the fees established by the City Council is to defray the costs of the particular municipal services provided and not to defray the costs of general services provided by the City or to raise general revenues. The fees provided in this Section are reasonably related and proportional to the costs of the services provided and do not generate additional net revenue.
- C. If any license or application is denied, approved but not issued, lapsed, abandoned, or withdrawn, only the license fee shall be refunded to the applicant.

5.15.070 LICENSE APPLICATIONS.

- A. Application for a Medical Marijuana Business license shall be made to the City Clerk upon forms provided by the City Clerk for that purpose. A complete application must contain all information that is required by the Laws of the State of Colorado with respect to any license that may be issued pursuant to the Colorado Medical Marijuana Code and such additional information as may be requested by the City Clerk in writing. At a minimum, the application shall require the following information:
1. The name, address, date of birth, and social security number of the following:
 - a. The owner or owners of the proposed Medical Marijuana Business in whose name the license is proposed to be issued. If the owner is a corporation, partnership, limited liability company or similar business entity, the application shall include the name and address of all Principals. If the owner is not a natural person, the organization documents for all business entities identified in the application and the contact information for the person that is authorized to represent the entity shall be provided.
 - b. The Business Manager of the Medical Marijuana Business, if the manager is proposed to be someone other than the owner, or if the owner is an entity other than a natural person.
 - c. All persons holding any financial interest in the Medical Marijuana Business, other than commercial lenders regulated by the federal government or the State of Colorado.
 - d. All employees or prospective employees of the Medical Marijuana Business.
 2. A statement of whether or not any of the named owners, Principals, managers, parties with a financial interest, employees or other persons named on the application have been:
 - a. Denied an application for a Medical Marijuana Business license by any other jurisdiction, including the State of Colorado, or has had such license suspended or revoked.

- b. Denied an application for a liquor license pursuant to Article 46 or 47, Title 12, C.R.S., or has had any such license suspended or revoked.
 - c. Convicted, entered a plea of no contest, or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any charge related to the possession, use, or possession with intent to distribute narcotics, drugs or other controlled substances.
 - d. Convicted, entered a plea of no contest or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any felony, misdemeanor, petty offense, municipal offense and Serious Traffic Offense.
3. Proof of ownership or legal possession of the proposed Licensed Premises for the term of the proposed license shall be presented to the City Clerk before any Medical Marijuana Business license permitted by this Chapter may be issued. If the Licensed Premises will be leased rather than owned by the applicant, a written consent by the owner of the property to licensing of the premises as a Medical Marijuana Business must be submitted by the applicant to the City Clerk as part of a complete application. A fully executed lease may satisfy this requirement if it clearly indicates that the owner knows the leased premises will be used as a licensed Medical Marijuana Business. If the building in which the Licensed Premises will be located is regulated by a declaration of covenants, an affidavit signed by an officer of the owners association shall be submitted by the applicant stating that a Medical Marijuana Business is not prohibited by such declaration, covenants or restrictions.
4. A conditional use permit issued by the Community Development Department for the location of the proposed Licensed Premises as required by subsection (X) of Section 17.07.070 of the Fruita Municipal Code. In the event the conditional use permit is subject to an appeal, no further action shall be taken upon the license application until such appeal is finally adjudicated.
5. An operating plan for the proposed Medical Marijuana Business including the following information:
- a. A description of the products and services to be provided by the Medical Marijuana Business, including an indication of whether or

not the facility proposes to engage in the retail sale of Medical Marijuana-Infused Products for human consumption.

- b. A floor plan showing all interior dimensions of the Licensed Premises and the layout of the Medical Marijuana Business. Such floor plan shall also show the principal uses of the floor area depicted therein, including a depiction of where any services other than the dispensing of Medical Marijuana are proposed to occur on the Licensed Premises. If the building or proposed Licensed Premises is not yet in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of any building to be constructed.
 - c. A security plan containing all information required by the State Licensing Authority's regulations and this Chapter.
 - d. A lighting plan, including security lighting, for the Licensed Premises and Adjacent Grounds.
 - e. Any information and/or documentation not included in the foregoing subsections that is or will be required in an application to be filed with the State Licensing Authority for the State license that may be issued in accordance with the provisions of the Colorado Medical Marijuana Code.
 - f. Any additional document(s) or information reasonably requested by the City.
- B. Any application for a Medical Marijuana Business license shall be accompanied by the application fee, criminal background check fee, and an annual fee as required by Section 5.15.060 or in any resolution adopted pursuant thereto. No application shall be deemed complete or be processed in the absence of the payment of such fees.
- C. Upon receipt of an application for a Medical Marijuana Business license, the City shall determine whether the proposed facility is or will be in full compliance with any and all applicable laws, rules and regulations.
- D. Unless an application is under concurrent review by the State Licensing Authority and the Local Licensing Authority, the Police Department shall perform a criminal background investigation for the proposed Licensee, Business Manager, if any, the Principals of the entity, if applicable, persons holding a

financial interest in the proposed business, prospective employees and any other persons subject to a criminal background check under the provisions of the Colorado Medical Marijuana Code in connection with any license application permitted thereunder. The applicant shall pay the fee established by resolution of the City Council adopted pursuant to Section 5.15.060 for the required background checks. The Police Chief or his designee shall provide the City Council with a written report concerning the Character and Record of the proposed Licensee, the Business Manager if any, the Principals of any business entity that would constitute the Licensee, persons holding a financial interest in the proposed business, and prospective employees.

- E. The City shall perform a physical inspection of the proposed Licensed Premises to determine compliance with any applicable requirement of this Chapter.
- F. The City Clerk shall not proceed to process any application for a license that is not complete or otherwise in full compliance with this Chapter, any other applicable City ordinance or regulation, or any applicable Laws of the State of Colorado. The City Clerk also shall refuse to further process any application that contains any false or incomplete information, but shall allow an applicant reasonable opportunity to correct deficiencies in applications that fail to include complete information before denying such application.

5.15.080 PROCEDURES FOR APPROVAL OR DENIAL OF LICENSE

APPLICATION. Within thirty (30) days following the date the City Clerk certifies that a license application is complete, the Local Licensing Authority shall either approve the license application, deny the license application, or approve the license application with conditions. No public hearing shall be required. However, the Local Licensing Authority shall notify the applicant of the date and time the application will be considered. The applicant shall appear at such meeting and the applicant shall be permitted to address the Local Licensing Authority in support of the application. No application for a license authorized under this Chapter shall be approved unless:

- A. All applicable requirements of this Chapter 5.15 have been satisfied;
- B. All applicable requirements of the Colorado Medical Marijuana Code have been satisfied;
- C. All required Licensee fees and associated costs have been paid by the applicant;

- D. Applicant has received a conditional use permit to operate the proposed Medical Marijuana Business in accordance with the City's Land Use Code, Title 17 of the Fruita Municipal Code;
- E. All other applicable requirements of the Fruita Municipal Code have been met;
- F. The applicant has obtained a State sales tax license, City sales tax license, if required, and has obtained a business license pursuant to Chapter 5.04 of the Fruita Municipal Code;
- G. The applicant is not in arrears in regard to any administrative fines, court fines, assessments, sales tax reporting and/or payment obligations, medical marijuana excise tax reporting and/or payment obligation pursuant to Chapter 3.19 of the Fruita Municipal Code or fees owed to the City of Fruita; and
- H. No fraudulent, misrepresented or false statement of material or relevant fact is contained within the application or was made to the Local Licensing Authority.

The City Clerk's office will issue a report of preliminary findings with respect to the requirements for issuance of a Medical Marijuana Business license and shall notify the applicant and the Local Licensing Authority, in writing, of its preliminary findings.

The Local Licensing Authority shall issue its decision within thirty (30) days following the meeting at which the application was considered. The Local Licensing Authority shall notify the applicant in writing of its decision, which shall state the reasons for the decision, by certified U.S. mail addressed to the applicant at the address shown on the application. No license shall actually be issued by the Local Licensing Authority until the applicant has obtained the requisite license from the State Licensing Authority.

5.15.090 CONDITIONS ON LICENSES. At the time that a new license is first approved, or when an existing license is renewed, or at any time that a sanction other than revocation is imposed, or at any time the Local Licensing Authority approves a major change to a license, the Local Licensing Authority may impose on the license any conditions related to the license, Licensed Premises, or Adjacent Grounds, that are reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:

- A. Additional security requirements;
- B. Additional record keeping requirements;

- C. Requirements for walls, doors, windows, locks and fences on the Licensed Premises and Adjacent Grounds;
- D. Limits on the number of Patients who may patronize the establishment at one time;
- E. Limits on Medical Marijuana-Infused Products that may be sold;
- F. Requirements and limits on ventilation and lighting;
- G. Limits on the products other than Medical Marijuana and Medical Marijuana-Infused Products that can be sold on the Licensed Premises;
- H. Limits on hours of operation that are more restrictive than prescribed by Section 5.15.110(E);
- I. A requirement that the Licensee temporarily close the Licensed Premises to the public until certain changes, inspections or approvals are made; and
- J. Any other conditions reasonably necessary to protect the public health, safety and welfare and fulfill the intent and purposes of this Chapter.

5.15.100 PERSONAL REQUIREMENTS FOR THE LICENSEE, PRINCIPALS, BUSINESS MANAGER, PERSONS HOLDING A FINANCIAL INTEREST AND EMPLOYEES.

- A. The Licensee, Principals, Business Manager, persons holding a financial interest in the business, and employees shall meet all requirements for the issuance of a license by the State Licensing Authority.
- B. The Licensee, Principals, Business Manager and employees shall all be over the age of twenty-one (21) years.
- C. The Licensee, Principals, Business Manager, persons holding a financial interest in the business, and employees have not been determined by any other Medical Marijuana licensing authority, any other licensing board within the State, or the State Licensing Authority to not be persons of good Character and Record within the preceding five (5) years.

- D. The Licensee, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business and employees are presently persons of good Character and Record.
- E. The Licensee, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the filing of a license application.
- F. The Licensee, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business and employees have never been convicted of a felony or received a deferred judgment and sentence pursuant to State or federal law regarding the possession, distribution, or use of a controlled substance, except that the Local Licensing Authority may grant a license if the Licensee, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business or employees have a state felony conviction based on possession or use of a controlled substance that would not be a felony if such person were convicted of the offense on the date the license is applied for.
- G. The Licensee, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business have not held an interest in any liquor license, Medical Marijuana license or other license issued by any municipality, county, or the State of Colorado that has been revoked, suspended, or fined within the preceding five (5) years.
- H. The Licensee, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business, and employees have not had their authority, if any, to act as a Primary Caregiver revoked by the State of Colorado within the preceding five (5) years.
- I. The Licensee and Principals are not in default on any municipal, county, State, or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the City of Fruita.
- J. The applicant and Principals are not in default on any student loan.
- K. The applicant and Principals do not have any orders or judgments against them for child support in default or in arrears.
- L. The applicant and Principals are not peace officers or prosecuting attorneys.

- M. The applicant and Principals are not licensed physicians who recommend Medical Marijuana to Patients.

5.15.110 SPECIAL RESTRICTIONS AND REQUIREMENTS.

- A. Limitation On The Number Of Licenses That May Be Issued Within The City. If the City of Fruita's population is less than twenty thousand (20,000) persons, only one Medical Marijuana Center license and one (1) Optional Premises Cultivation Operation license related to a Medical Marijuana Center license shall be issued. If the City's population is between twenty thousand (20,000) persons and thirty thousand (30,000) persons, the Local Licensing Authority may issue two (2) Medical Marijuana Center licenses and two (2) Optional Premises Cultivation Operation licenses related to Medical Marijuana Center licenses. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demography Office. In the event more than one (1) license application for a Medical Marijuana Business of the same classification are submitted to the Local Licensing Authority within a period of thirty (30) days, the applications comply with all of the requirements of this Chapter and the Colorado Medical Marijuana Code, but the Local Licensing Authority is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Local Licensing Authority shall approve the application that the Local Licensing Authority finds and determines will best promote the intent and purposes of this Chapter 5.15 and the Colorado Medical Marijuana Code. An application for renewal of an existing Medical Marijuana Business license shall receive a preference over an application for a new Medical Marijuana Business license if the existing business has substantially met all of the requirements of this Chapter 5.15 and the Colorado Medical Marijuana Code during the previous license term and is in good standing.
- B. Permitted Locations. All Medical Marijuana Business licenses shall be issued for a specific location which shall be designated as the Licensed Premises. Except as permitted by law, all sales, deliveries and other transfers of Medical Marijuana products by a Licensee shall be made at the Licensed Premises. Medical Marijuana Businesses are not permitted in any residential zone district. Medical Marijuana Businesses shall only be located in the Tourist Commercial (TC), General Commercial (GC), and the Limited Industrial Research and Development (LIRD) zones pursuant to a conditional use permit issued in accordance with the requirements contained in the City's Land Use Code.
- C. No Mobile Facilities. No Medical Marijuana Business shall be located in a movable or mobile vehicle or structure and no Medical Marijuana products shall

be delivered in the City unless such delivery is by a Medical Marijuana Center licensed by the City and such delivery is specifically permitted by the Colorado Medical Marijuana Code.

- D. No Beer or Alcohol on Premises. No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and the Colorado Liquor Code, respectively, shall be kept, served or consumed on the Premises of a Medical Marijuana Business, except for marijuana tinctures.
- E. Hours of Operation. Medical Marijuana Businesses shall limit their hours of operation to between 8:00 a.m. and 6:00 p.m.
- F. Storage of Products. All products and accessories shall be stored completely indoors and on-site out of public view.
- G. Restrictions on Location of Transactions. All transactions involving Medical Marijuana shall occur indoors and out of view of the public.
- H. Consumption of Marijuana Prohibited. No consumption of any Medical Marijuana product shall be allowed or permitted on the Licensed Premises or Adjacent Grounds.
- I. Underage Persons Prohibited. No person under the age of eighteen (18) years shall be permitted in the Licensed Premises unless accompanied by a parent or legal guardian.
- J. Gun Sales and Pawn Shop Activities Prohibited. No gun sales or pawn shop activities shall be permitted on the Licensed Premises.
- K. Storage of Currency. All currency over \$1,000.00 shall be stored within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Police Department.
- L. Prevention of Emissions. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the Licensed Premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the Licensed Premises, the landowner and Licensee shall be jointly and severally responsible for the full cleanup immediately. The Medical Marijuana Business shall properly dispose of all materials and other substances in a safe and sanitary manner.

- M. Compliance with City Codes. The Licensed Premises and Adjacent Grounds of a Medical Marijuana Business shall comply with all zoning, health, building, electrical, mechanical, fire, and other codes and ordinances of the City as shown by completed inspections and approvals by the Community Development Department, Building Department, Lower Valley Fire Department, and the Mesa County Health Department, if applicable.

5.15.120 SPECIFIC REQUIREMENTS FOR A MEDICAL MARIJUANA CENTER.

- A. The Licensee shall also obtain an Optional Premises Cultivation Operation license, for a location which may or may not be contiguous to the Licensed Premises of the Medical Marijuana Center.
- B. The Licensee shall cultivate at least seventy percent (70%) of the marijuana sold or exchanged on the Licensed Premises.
- C. Small samples of Medical Marijuana products offered for sale may be displayed on shelves, counters and display cases in areas restricted to Patients and Primary Caregivers. All bulk marijuana products shall be locked within a separate vault or safe (no other items in this safe), securely fastened to a wall or floor, as approved by the Police Department.
- D. A Medical Marijuana Center may sell “drug paraphernalia” as that term is defined in Section 9.08.060 of the Fruita Municipal Code to Patients only and shall be exempt from the prohibitions contained in said Section. Provided, however, a Medical Marijuana Center shall not display “drug paraphernalia” for sale on the Licensed Premises and such “drug paraphernalia” shall only be shown to Patients in an area restricted to access by Patients upon request.
- E. A Medical Marijuana Center shall not sell merchandise other than Medical Marijuana, Medical Marijuana-Infused Products and items directly related to the consumption of Medical Marijuana.

5.15.130 SPECIFIC REQUIREMENTS FOR OPTIONAL PREMISES CULTIVATION OPERATION LICENSE.

- A. The applicant shall also hold a Medical Marijuana Center license or a Medical Marijuana-Infused Products Manufacturer’s license.

- B. The area of the proposed Licensed Premises utilized for cultivation 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 reasonable persons. The ventilation system must be inspected and approved by the City.
- C. The area of the proposed Licensed Premises utilized for cultivation shall be sufficiently separated from the area of the premises open to the public, to Patients, and Primary Caregivers, or a negative air pressure system shall be installed, to prevent pesticides, fertilizers, and other chemicals, artificial and natural, from moving into the ambient air in the area open to the public, Patients, and Primary Caregivers or any adjacent building, and such separation or negative air pressure system shall be approved by the City.
- D. If carbon dioxide will be used in the cultivation area in the proposed Licensed Premises, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air in any area open to the public or to Patients or in any adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease, and shall be inspected and approved by the City.
- E. Walls, barriers, locks, signage and other means shall be employed to prevent the public or Patients and Primary Caregivers from entering the area of the Licensed Premises utilized for cultivation of marijuana.
- F. Disposal of unwanted marijuana by-products shall be done in accordance with procedures approved by the Police Department.

5.15.140 (Reserved)

5.15.150 RENEWAL OF MEDICAL MARIJUANA BUSINESS LICENSE.

- A. A Licensee may renew his or her Medical Marijuana Business license by submitting an application to the City Clerk at least forty-five (45) days before and not more than ninety (90) days before the expiration of the license. If a Licensee fails to file an application for renewal of its license at least forty-five (45) days before expiration of the license, the license shall expire.
- B. A Licensee may renew a license that has expired if:

1. The license has expired for less than ninety (90) days; and
 2. The Licensee pays the regular renewal fee and an additional five hundred dollars (\$500.00) late renewal fee.
- C. In the event an application for renewal has been filed at least forty-five (45) days before the expiration of the previous license, but the Local Licensing Authority does not rule on the application for renewal before the expiration of the previous license, the previous license shall be deemed extended until the Local Licensing Authority issues a decision on the application for renewal, but in no event may the license be extended for more than ninety (90) days.
- D. The Local Licensing Authority may renew a license without a public hearing. However, if the Local Licensing Authority believes there may be Good Cause to deny the application for renewal, the Local Licensing Authority shall hold a public hearing on the application. The Licensee shall have an opportunity to be heard at the hearing and shall be given at least fifteen (15) days written notice of the date and time of the public hearing on the application for renewal.

5.15.160 MAJOR CHANGES TO MEDICAL MARIJUANA BUSINESS LICENSE OR LICENSED PREMISES REQUIRING APPROVAL OF THE LOCAL LICENSING AUTHORITY.

- A. A Licensee shall notify the State Licensing Authority and Local Licensing Authority in writing of the name, address and date of birth of any proposed new owners, Principal, Business Manager, person holding a financial interest in the business or employee at least thirty (30) days before the new owner, Principal, Business Manager, or employee becomes associated with the business. The new owner, Principal, Business Manager or employee shall pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification prior to being associated with, managing, owning or working at the Medical Marijuana Business.
- B. A Licensee shall not make any of the following changes without first obtaining written approval of the Local Licensing Authority:
1. Any transfer of the license or any ownership interest in the Licensee's business entity or license;
 2. Any change in the location of the Licensed Premises;

3. Any change in the Licensee's Principals or employees;
 4. The hiring, substitution, resignation, replacement or termination of the Business Manager;
 5. Any change in the ownership of any of the stock of Licensee's corporation;
 6. Any change in the structure, ventilation system, plumbing system, electrical supply system, floor plan, safe or vault, locks, surveillance system, or security system at the License Premises;
 7. Any material change to the Adjacent Grounds, including but not limited to, lighting, parking, or fences; and
 8. Any material change in the operation from the operational plan submitted at the time the license was approved.
- C. The Local Licensing Authority may summarily approve any of the above changes or hold a public hearing on the same, in the Local Licensing Authority's discretion. In the event the Local Licensing Authority elects to hold a public hearing, the Local Licensing Authority shall post notice of the hearing in the manner described in Section 12-43.3-302(2), C.R.S. on the Licensed Premises for a period of at least ten (10) days. Notice of the hearing shall also be provided to the applicant at least ten (10) days prior to the public hearing.
- D. The transfer of a license to a new owner does not constitute a new license. The transferring of a license or ownership interest in a license takes the transfer of such license or interest subject to the conditions, history, record, and sanctions imposed on that license under the previous ownership of the license.

5.15.170 REPORTS OF MINOR CHANGES. Every Licensee shall report the following to the Local Licensing Authority in the writing within ten (10) days of such event:

- A. Any change in a person's financial interest in the Licensed Premises, or Adjacent Grounds;
- B. Any charges filed against or any conviction of any Principal, Business Manager, or employees for any felony, misdemeanor, or Serious Traffic Offense including but not limited to any deferred judgment and sentence ordered or supervised by a court of law; and

- C. Any change to any permanent sign on the exterior of the Licensed Premises or Adjacent Grounds.

5.15.180 BOOKS AND RECORDS.

- A. Every Licensee shall maintain on the Licensed Premises at any time that any person is present on the Licensed Premises accurate and up to date books and records of the business operations of the Licensee or an authentic copy of the same, including but not limited to the following:
1. All books and records required to be maintained by the Colorado Medical Marijuana Code and the regulations promulgated thereunder;
 2. Lists, manifests, orders, invoices, and receipts for all marijuana, marijuana plants, and Medical Marijuana-Infused Products cultivated, harvested, processed, delivered, purchased, stored, sold, and exchanged during the preceding two (2) years by each transaction or event, including the date, source, strain, type, quantity, weight, and purchaser;
 3. An inventory of all marijuana and Medical Marijuana-Infused Products presently on the Licensed Premises;
 4. Sales taxes collected and paid;
 5. Medical Marijuana excise taxes collected and paid to the City;
 6. The name, address, and a copy of each purchaser's Medical Marijuana registry card, for every Patient who has registered the Medical Marijuana Center as his or her primary center or who has purchased Medical Marijuana, marijuana plants or Medical Marijuana-Infused Products at the Licensed Premises;
 7. The written recommendation of any physician who has recommended that a Patient registered with the Medical Marijuana Center needs more than two (2) ounces of Medical Marijuana and six (6) marijuana plants to address the Patient's debilitating medical condition;
 8. The name, address and a copy of the Medical Marijuana license of any other Medical Marijuana facility Licensee with whom the Licensee has transacted any business, including but not limited, to any purchase, sale,

or exchange of marijuana plants, harvested marijuana or Medical Marijuana-Infused Products; and

9. Copies of the Medical Marijuana registry card of a homebound Patient and the waiver from the State of Colorado authorizing a Primary Caregiver to purchase Medical Marijuana for the homebound Medical Marijuana Patient and transport the same to the homebound Patient.
- B. The Licensee shall separate or redact any information showing a Patient's debilitating medical condition from the above records.

5.15.190 INSPECTION OF BOOKS AND RECORDS; AUDITS.

- A. Any law enforcement officer, the City Manager, or his designee, may, without a warrant and without reasonable suspicion, inspect the books and records described in Section 5.15.180 at any time that anyone is present inside the Licensed Premises, but shall not inspect confidential Patient medical information describing a Patient's debilitating medical condition, unless a warrant specifically authorizing inspection of such records is issued or there are legal grounds that would excuse the requirement of a warrant.
- B. Upon five (5) days written notice, a Licensee shall provide the books and records of the Licensee for inspection or auditing by the City, but shall not be required to provide any confidential Patient medical information. In the event confidential Patient medical information is interspersed with other records or are contained on the same sheet of paper or electronic record, the Licensee shall copy the record and redact the confidential Patient medical information and provide a redacted copy to the City or law enforcement officers.

5.15.200 INSPECTION OF LICENSED PREMISES AND ADJACENT GROUNDS.

- A. Every Licensed Premises and Adjacent Grounds shall be open to inspection by police officers, building officials, fire department officials, zoning officials, and health department officials at any time that anyone is present in the Licensed Premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation or criminal offense has occurred.
- B. The Licensee, Principals, Business Manager, and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, furniture,

safes, lockers, or containers on the Licensed Premises and Adjacent Grounds, except as provided in this Section.

- C. Licensees, Principals, Business Managers, employees, Patients, Primary Caregivers, and other persons on the Licensed Premises and Adjacent Grounds shall retain a reasonable expectation of privacy as to their medical condition, their persons, the personal effects in their immediate possession, and their motor vehicles on the Licensed Premises and Adjacent Grounds, to the extent provided by law.

5.15.210 SUSPENSION AND REVOCATION OF LICENSE.

- A. In accordance with Section 12-43.3-601, C.R.S., as contained in the Colorado Medical Marijuana Code, and the rules and regulations promulgated thereunder, the Local Licensing Authority shall have the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the Licensee shall be afforded an opportunity to be heard, to suspend or revoke a Medical Marijuana Business license issued by the Local Licensing Authority. The Local Licensing Authority shall have the power to administer oaths, and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of the hearing. Subpoenas shall be enforced by the Fruita Municipal Court. The procedure for imposing such disciplinary actions shall be in accordance with Section 12-43.3-601, C.R.S.
- B. The Local Licensing Authority may suspend or revoke a Medical Marijuana Business license for a violation by the Licensee or by any of the agents or employees of the Licensee of the following:
 - 1. Any of the provisions of the Colorado Medical Marijuana Code or the rules and regulations promulgated thereunder;
 - 2. Good Cause as defined in subsection (1) of Section 12-43.3-104, C.R.S., as contained in the Colorado Medical Marijuana Code;
 - 3. Violation of any of the provisions set forth in Sections 5.15.100, 5.15.110, 5.15.120, 5.15.130, 5.15.140 and 5.15.160 of this Chapter 5.15;
 - 4. The Licensee has failed to pay and remit the annual Medical Marijuana license and application fees, annual business license fee, medical marijuana excise taxes or sales taxes due and owing;

5. The Licensee has made any false statement in the application for a license or renewal thereof as to any of the facts required to be stated in such application;
 6. The Licensee has failed either to file the required reports or to furnish such information, and records as required by this Chapter 5.15;
 7. Violation of any condition imposed by the Local Licensing Authority on the issuance of the license or any condition imposed pursuant to approval of a conditional use permit;
 8. Any facts or condition exist which, if it had existed or had been known to exist, at the time of the application for such license or renewal thereof, would have warranted the Local Licensing Authority in refusing originally to issue such license or renewal thereof;
 9. The Licensee has failed to maintain the Licensed Premises in compliance with the requirements of the Fruita Land Use Code or any building, electrical or mechanical code provision applicable to the Licensed Premises; or
 10. The Licensee, or any of the agents or employees of the Licensee, have violated any ordinance of the City or any State law on the Licensed Premises or have permitted such a violation on the Licensed Premises by any other person.
- C. Except in the case of an emergency suspension, a suspension of a license shall not be for a period longer than six (6) months.
- D. Any final decision of the Local Licensing Authority suspending or revoking a Medical Marijuana Business license, following a hearing as permitted in this Section, may be appealed to the Mesa County District Court within thirty (30) days following the date of such decision pursuant to the provisions of Rule 106(a)(4), Colorado Rules of Civil Procedure.

Section 2. That the Land Use/Zoning Table contained in subsection (F) of Section 17.07.060 of the Fruita Land Use Code, contained in Title 17 of the Fruita Municipal Code, shall be amended to include as a use under "Retail Sales and Service", "Medical Marijuana Centers" and "Medical Marijuana Optional Premises Cultivation Operations" as a "C" (conditional use) in the Tourist Commercial (TC), General Commercial (GC), and the Limited Industrial Research & Development (LIRD) zones.

Section 3. That subsection (X) of Section 17.07.070 of the City of Fruita Land Use Code, contained in Title 17 of the Fruita Municipal Code, concerning supplemental zoning regulations and standards, is hereby amended to include the following subsection:

“3. Medical Marijuana Businesses. The cultivation, production or possession of marijuana plants by a medical marijuana center and a medical marijuana optional premises cultivation operation may be allowed as a conditional use in non-residential buildings in the Tourist Commercial (TC), General Commercial (GC), and the Limited Industrial Research and Development (LIRD) zones only subject to the requirements contained in Chapter 5.15 of the Fruita Municipal Code and the following provisions;

- a. If the City of Fruita’s population is less than 20,000 persons, only one (1) medical marijuana center and one (1) optional premises cultivation operation related to a medical marijuana center shall be approved as a conditional use. If the City’s population is between 20,000 persons and 30,000 persons, the City of Fruita may grant two (2) conditional use permits for medical marijuana centers and two (2) conditional use permits for optional premises cultivation operations related to medical marijuana centers. Populations shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demography office. In the event more than one (1) application for a conditional use permit for a medical marijuana business of the same classification are submitted to the City within a period of thirty (30) days, the applications comply with all the requirements of the Fruita Land Use Code, Chapter 5.15 of the Fruita Municipal Code and the Colorado Medical Marijuana Code, but the City is not permitted to approve all of the applications because of the limitations set forth in this subsection, the City shall approve the application that the City Council finds and determines will best promote the intent and purposes of the Fruita Land Use Code, Chapter 5.15 of the Fruita Municipal Code and the Colorado Medical Marijuana Code.
- b. The City shall not receive or act upon an application for a conditional use permit if the building in which the medical marijuana business is to be located is within one thousand feet (1,000’) of the following:
 - i. A State licensed public or primary preschool or a State licensed public or private elementary school, middle, junior high or high school;
 - ii. A State licensed residential child care facility;

- iii. An alcohol or drug treatment facility; or
- iv. A principal campus of a college, university, or seminary.

The distance shall be computed by direct measurement from the nearest property line of the land used for the above uses to the nearest portion of the building in which the medical marijuana business is to be located.

- c. The City shall not receive or act upon an application for the issuance of a conditional use permit if the building in which the medical marijuana business is to be located is within five hundred feet (500') of the following:
 - i. Any residential land use;
 - ii. Any public park or other publicly owned or maintained building open for use by the general public; or
 - iii. Any religious institution or place of worship.

The distance shall be computed by direct measurement from the nearest property line of the land used for the above uses to the nearest portion of the building in which the medical marijuana business is to be located.

- d. The City shall not receive or act upon an application for the issuance of a conditional use permit if the application concerns a particular location that is the same as or within one thousand feet (1,000') of a location for which, within the two (2) years immediately preceding the date of the application, the City denied an application for a special use permit for a medical marijuana business due the nature of the use or other concerns related to the specific location.
- e. Marijuana plants, products, accessories, and associated paraphernalia contained in a medical marijuana business shall not be visible to members of the public from a public sidewalk, public street or right-of-way, any other public place, or any portions of the building in which the medical marijuana business is located not restricted to access by patients and employees only. f. All signage related to a medical marijuana Business shall meet the standards established in the Fruita Land Use Code. In addition, signs shall be restricted to a total of sixteen square feet, including all temporary signs. No signs associated with a medical marijuana business shall use the words "marijuana", "cannabis", or other any word

or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word “medical” or the message of such sign includes the words “for medical use” or “for medicinal purposes” in letters that are no smaller than the largest letter on the sign. No depiction of marijuana plants or leaves shall appear on any exterior sign of a medical marijuana business.

- g. Parking requirements for a medical marijuana center shall be based on parking requirements for high volume retail sales.
- h. The medical marijuana business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.
- i. Any conditional use permit granted for a medical marijuana business confers only a limited and conditional privilege subject to the requirements, conditions and limitations of Chapter 5.15 of the Fruita Municipal Code and State law. Any license granted for a medical marijuana business pursuant to Chapter 5.15 may be further regulated, limited or completely extinguished at the discretion of the City Council or the electors of the City, without any compensation to the licensee.
- j. A conditional use permit for a medical marijuana business may be subject to conditions that are reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:
 - i. Limits and requirements on parking and traffic flows;
 - ii. Limits on noise inside the medical marijuana business or on adjacent grounds;
 - iii. Prohibitions on certain conduct in the medical marijuana business;
 - iv. A limitation on the square footage that can be utilized by the medical marijuana business; and
 - v. Any other conditions reasonably necessary to protect the public health, safety and welfare and fulfill the intent and purposes of the Fruita Land Use Code and Chapter 5.15 of the Fruita Municipal Code.”

Section 4. Any provisions of the Fruita Municipal Code in conflict herewith are hereby repealed.

Section 5. This Ordinance is necessary to protect the public health, safety and welfare of the residents of the City of Fruita and covers matters of local concern or matters of mixed State and local concern as provided by Section 12-43.3-101, C.R.S.

Section 6. If any provision of this Ordinance is found to be unconstitutional, invalid or unlawful by a court of competent jurisdiction, such finding shall only invalidate that part or portion found to violate the law. All other provisions shall be deemed severable and shall continue in full force and effect.

AMENDED AS SET OUT HEREIN, PASSED AND ADOPTED at a regular meeting of the City Council of the City of Fruita, Colorado held on _____, 2011.

CITY OF FRUITA, COLORADO

By: _____
H. Kenneth Henry, Mayor

ATTEST:

Margaret Steelman, City Clerk