

ORDINANCE NO. 15

SERIES 2009

AN ORDINANCE AMENDING THE "C" COMMERCIAL DISTRICT REQUIREMENTS TO ALLOW MEDICAL MARIJUANA DISPENSARIES AS CONDITIONAL USES AND TO ADOPT REGULATIONS FOR THE PERMITTING OF MEDICAL MARIJUANA DISPENSARIES IN SUCH DISTRICT

WHEREAS, the Town of Crested Butte, Colorado ("Town") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, under federal and State law, the possession and sale of marijuana are prohibited, and for this reason, the Town has never specifically addressed medical marijuana sales;

WHEREAS, on November 7, 2000, the voters of the State of Colorado approved Amendment 20, which added Section 14 of Article 18 to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20;

WHEREAS, the intent of Amendment 20 is to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, use and distribute medical marijuana without fear of criminal prosecution under Colorado (as opposed to federal) law;

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

WHEREAS, if not closely monitored and regulated, the presence of marijuana, even for the purposes legally permitted by Amendment 20, may cause an increase in illegal activities within the Town affecting the health, safety, order, comfort, convenience and general welfare of the residents of the Town, as well as the health, safety and welfare of the primary caregivers and their patients;

WHEREAS, if medical marijuana dispensaries operating pursuant Amendment 20 were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana dispensaries might be established in areas that would

conflict with the Town's zoning requirements, be inconsistent with surrounding uses, or otherwise be detrimental to the health, safety and welfare of the people and visitors of Crested Butte;

WHEREAS, under this ordinance the Town Council is merely acknowledging the use of marijuana as authorized under State law, and is in no way endorsing or taking a position on the legality and medical use of marijuana;

WHEREAS, under this ordinance the Town Council is not allowing persons to: (1) engage in conduct that endangers others or causes a public nuisance; (2) obtain, process, use, transport and distribute marijuana for any purpose other than for use as medical marijuana as authorized and limited by Amendment 20, and the implementing State statutes and administrative regulations; (3) grow or cultivate medical marijuana; (4) obtain, possess, cultivate, grow, use, transport and distribute marijuana that is otherwise illegal under applicable law; or (5) engage in any activity related to obtaining, possessing, cultivating, growing, using, transporting and distributing marijuana that is otherwise not permitted under applicable law;

WHEREAS, under Chapter 16 of the Crested Butte Municipal Code, the Town Council has adopted a comprehensive zoning scheme;

WHEREAS, Chapter 16 does not expressly permit the location of medical marijuana dispensaries in any zone district;

WHEREAS, the intent of the "C" Commercial District (the "**C District**") is to allow, in pertinent part, the use of real property for limited commercial purposes;

WHEREAS, the Town Staff has found and determined that allowing medical marijuana dispensaries as conditional uses in the C District supports the intentions of the district;

WHEREAS, the Town Council has found and determined that medical marijuana dispensaries, provided regulated properly, can serve an invaluable service to persons in the community that are suffering from serious medical conditions; and, therefore, should be allowed as a conditional use on certain properties in Crested Butte;

WHEREAS, the Town Council has found and determined that allowing such medical marijuana dispensary uses in the C District supports the intentions of the district and would allow medical marijuana dispensary uses on the most appropriate properties in Crested Butte;

WHEREAS, the Town Council has found and determined that in order to protect and enhance the public health, safety and welfare of the people and visitors of Crested Butte, reasonable regulations concerning, among other things, the need for medical marijuana dispensaries, the location of such facilities, the licensing of medical marijuana

dispensaries and the use and operational requirements for such dispensaries must be adopted;

WHEREAS, the Town Council has found and determined that medical marijuana dispensary application and inspection fees should be charged to the operators of such medical marijuana dispensaries because the licensing of such dispensaries and the enforcement of the requirements contained in this ordinance will require the use of additional Town Staff and law enforcement resources;

WHEREAS, the Town Council has found and determined that medical marijuana dispensaries' sales of medical marijuana and medical marijuana paraphernalia should be subject to Town sales tax; and

WHEREAS, Town Council has determined that the amendments and revisions to the Code prescribed herein should be adopted for the reasons set forth above and for the purpose of protecting the public health, safety and welfare of the residents and visitors of Crested Butte.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Amending Section 16-1-20. Section 16-1-20 is hereby amended by adding the following new defined term:

“Medical marijuana dispensary or dispensary, for purposes of this Chapter 16, means the use of any property, structure, unit, facility or location where one or more primary caregivers distributes, delivers, transmits, gives, dispenses or otherwise provides medical marijuana in any manner to patients in accordance with the Constitution and other laws and regulations of the State of Colorado. A medical marijuana dispensary may not be used as a physician's office to examine or consult with patients. A medical marijuana dispensary does not include a patient or primary caregiver that provides medical marijuana to only one patient. For purposes hereof, the term medical marijuana shall have the meaning ascribed to such term in Section 4-2-30.”

Section 2. Amending Section 4-2-30. Section 4-2-30 is hereby amended by adding the following new defined terms:

“Medical marijuana, for purposes of this Chapter 4, means marijuana or cannabis approved under State law to treat persons suffering from debilitating medical conditions as defined in the Constitution and other laws and regulations of the State (e.g., cancer, glaucoma, human immunodeficiency virus, chronic or debilitating diseases such as seizures, severe pain, severe nausea, persistent muscle spasms, and epilepsy). Such term shall not fall within the definition of “medical supplies” as defined in this Section.

Medical marijuana paraphernalia or paraphernalia, for purposes of this Chapter 4, means devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana including, but not limited to, rolling papers and related tools, water pipes and vaporizers. Such term shall not fall within the definition of "medical supplies" as defined in this Section, and shall not be deemed to be therapeutic devices, but shall rather be deemed to be personal property."

Section 3. Amending Section 16-5-530. Section 16-5-530 is hereby amended by adding the following new subsection (16) at the end of the Section which shall read as follows:

"(16) Medical marijuana dispensaries."

Section 4. Amending Section 4-2-60. Section 4-2-60 is hereby amended by adding the following new subsections (16) and (17) at the end of the Section which shall read as follows:

"(16) Sale of Medical marijuana.

(17) Sale of Medical marijuana paraphernalia or paraphernalia."

Section 5. Adding a New Section 16-8-80.5. A new Section 16-8-80.5 is hereby added to the Code which shall read as follows:

"Section 16-8-85. Criteria for board decision relative to medical marijuana dispensaries.

No conditional use for a medical marijuana dispensary shall be given unless the following criteria are first met:

(1) No medical marijuana dispensary shall be allowed except in accordance with the following location requirements:

a. No medical marijuana dispensary shall be located within 500 feet of any licensed child-care facility at the time of establishment of the dispensary.

b. No medical marijuana dispensary shall be located within 500 feet of any educational institution or school, either public or private, at the time of establishment of the dispensary.

c. No medical marijuana dispensary shall be located within 175 feet of any public park or playground at the time of establishment of the dispensary.

d. No medical marijuana dispensary shall be located adjacent, as defined in Section 6-5-30, to a residential dwelling at the time of the establishment of the dispensary.

e. No medical marijuana dispensary shall be located in a movable or mobile structure.

f. No medical marijuana dispensary may be located in a residential unit of any kind.

g. Medical marijuana dispensaries may not serve as home occupations as defined in Section 16-1-20.

h. Medical marijuana dispensaries must have unique physical addresses.

i. Medical marijuana dispensaries must be accessible from public rights of way.

(2) Before granting a conditional use for a medical marijuana dispensary, the applicant therefor shall first have obtained a medical marijuana dispensary permit from the Town as described in Article 5 of Chapter 6 of this Code.

(3) In addition to the conditional use criteria set forth in this Article 8, the Board shall consider whether the issuance of a conditional use permit for a medical marijuana dispensary would result in or cause an undue concentration of medical marijuana dispensaries within the Town.

(4) A conditional use permit for a medical marijuana dispensary may not be issued for premises used in conjunction with a conditional use for a restaurant or other use that serves and/or prepares foodstuffs whether in conjunction with medical marijuana or not.

(5) No more than five (5) medical marijuana dispensaries shall be allowed conditional uses at any given time.

(6) Section 6-5-160 shall have been complied with prior to the issuance of the conditional use permit for a medical marijuana dispensary.

(7) The conditional use permit for a medical marijuana dispensary shall at all times be conditioned upon the continued existence of the permit for a medical marijuana dispensary as described in Article 5 of Chapter 6 of this Code. Where such medical marijuana dispensary permit expires or is otherwise terminated or revoked, the corresponding conditional use permit shall similarly expire or otherwise be terminated or revoked without further action of the Town. Such condition, and the requirements and conditions contained in Section 6-5-430 shall be included in the conditional use permit."

Section 6. Amending Section 16-8-100. Section 16-8-100 is hereby amended by making the existing language under the same titled subsection "(a)", and

adding a new subsection "(b)" at the conclusion of subsection (a) which shall read as follows:

"(b) Notwithstanding subsection (a) hereinabove, a conditional use for a medical marijuana dispensary shall automatically terminate upon the expiration, termination or revocation of a permit for a medical marijuana dispensary issued pursuant to Article 5 of Chapter 6 of this Code."

Section 7. Amending Chapter 6 to Add a New Article 5. Chapter 6 is hereby amended by adding the following new Article 5 thereto which shall read as follows:

"ARTICLE 5

Medical Marijuana Dispensaries Licenses

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Section 6-5-10. Purpose.

Recognizing that there is a potential conflict between federal and State law with respect to the operation of medical marijuana dispensaries, the following are the purposes of this Article.

(a) Impose specific requirements and limitations for those individuals registering with the State as a "patient" or "primary caregiver" as those terms are defined in Amendment 20, and the statutes and administrative regulations implementing Amendment 20.

(b) Require that a medical marijuana dispensary (as defined in this Article) be operated in a safe manner that does not endanger the public welfare.

(c) Mitigate potential negative impacts that a medical marijuana dispensary might cause on surrounding properties and persons.

(d) Regulate the conduct of persons owning, operating and using a medical marijuana dispensary in order to protect the public health, safety and welfare.

(e) Establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the location and operation of medical marijuana dispensaries.

Section 6-5-20. Authority.

The Town hereby finds, determines, and declares that it has the power to adopt this Article pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S. (concerning municipal police powers); (v) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses); and (vi) the authority granted to home rule municipalities by Article XX of the Colorado Constitution.

Section 6-5-30. Definitions.

(a) For purposes of this Article the following definitions shall apply:

Adjacent or adjoining means, for purposes of this Section only, adjacent to or contiguous with the proposed location of a medical marijuana dispensary. Adjacency shall not be deemed to exist where a platted or dedicated public street or alley exists between the proposed medical marijuana dispensary and another property. Adjacency shall also not be deemed to exist where the medical marijuana dispensary shares a common ceiling or floor with another premises and where the medical marijuana dispensary and the other property are not otherwise adjacent within the meaning of this definition.

Alcoholic beverage shall have the meaning ascribed to such term in Section 10-7-10 of this Code.

Amendment 20 means that certain voter-initiated amendment to the Colorado Constitution adopted November 7, 2000. Amendment 20 added Section 14 of Article 18 to the Colorado Constitution.

Applicant means any person who has submitted an application for a permit pursuant to this Article. An applicant must be twenty one (21) years of age or older. If an applicant is an entity, the term applicant as applied in this Article shall include all those persons that are the members, managers, officers and directors of such entity.

Application means an application for a permit submitted pursuant to this Article.

Board means the Board of Zoning and Architectural Review.

Building official means the Town Building Official as defined and referred to elsewhere in this Code.

Cultivation means the process by which a person promotes the germination and growth of a seed to a marijuana plant.

Good Cause, for the purpose of refusing or denying a permit under this Article, means: (i) the permittee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article; (ii) the permittee has failed to comply with any special terms or conditions that were placed on its permit at the time the permit was issued, or that were placed on its permit in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or (iii) the permittee's medical marijuana dispensary has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana dispensary is located. Evidence to support such a finding can include, without limitation: (i) a continuing pattern of disorderly conduct as defined in Section 10-5-10 of this Code; (ii) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana dispensary, or in the immediate area surrounding the medical marijuana dispensary; or (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana dispensary.

Medical marijuana means marijuana or cannabis approved under State law to treat persons suffering from debilitating medical conditions as defined in the Constitution and other laws and regulations of the State (e.g., cancer, glaucoma, human immunodeficiency virus, chronic or debilitating diseases such as seizures, severe pain, severe nausea, persistent muscle spasms, and epilepsy).

Medical marijuana dispensary or dispensary means the use of any property, structure, unit, facility or location where one or more primary caregivers distributes, delivers, transmits, gives, dispenses or otherwise provides medical marijuana in any manner to patients at all times in accordance with the Constitution and other laws and regulations of the State. A medical marijuana dispensary may not be used as a physician's office to examine or consult with patients. A medical marijuana dispensary does not include a patient or primary caregiver that provides medical marijuana to only one patient. A medical marijuana dispensary may not cook or otherwise prepare foodstuffs of any kind on the premises of the dispensary. Pre-packed foodstuffs that contain medical marijuana shall be permitted to be sold on the premises however and such foodstuffs shall fall within the definition of medical marijuana for purposes hereof.

Medical marijuana paraphernalia or paraphernalia, means devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana including, but not limited to, rolling papers and related tools, water pipes and vaporizers.

Patient has the meaning provided in Amendment 20, Section 14 of Article 18 to the Colorado Constitution.

Permit means a permit to operate a medical marijuana dispensary issued by the Town pursuant to this Article.

Permittee means the applicant to whom a permit has been issued pursuant to this Article.

Person shall have the meaning provided in Section 1-2-10 of this Code.

Primary caregiver has the meaning provided in Amendment 20, Section 14 of Article 18 to the Colorado Constitution.

(b) In addition to the definitions provided in the foregoing subsection (a) of this Section, the other defined terms in Amendment 20, Section 14 of Article 18 to the Colorado Constitution, are hereby incorporated into this Article by this reference.

Section 6-5-40. Permit Required.

No person shall operate a medical marijuana dispensary within the Town without a valid medical marijuana dispensary permit issued in accordance with this Article.

Section 6-5-50. Requirements of Application for Permit; Ongoing Requirements.

(a) A person seeking to obtain a permit pursuant to this Article shall file an application with the Town Manager in the office of the Town Clerk. The form of the application shall be provided by the Town Manager, as approved by the Town Attorney, and shall be on file in the office of the Town Clerk.

(b) No application forms may be provided to an applicant by the Town Clerk until February 1, 2010.

(c) Applications may not be submitted to the Town Clerk until February 1, 2010. Notwithstanding the foregoing, all applications and associated submittals required under this Section shall be submitted to the Town Clerk on or before March 1, 2010. Any application submitted after March 1, 2010 shall not be accepted by the Town Clerk and shall be returned to the applicant along with the application fee as described in Section 6-5-60.

(d) An application for a permit under this Article shall contain, at a minimum, an executed application form which shall include the following information therein or appended thereto, as applicable:

- (1) The application fee as described in Section 6-5-60;
- (2) The applicant's personal information and social security number, and where the applicant is not a natural born person, information regarding the entity and its members, managers, officers and directors;
- (3) The street address of the proposed medical marijuana dispensary;

(4) If the applicant is not the owner of the proposed location of the medical marijuana dispensary, a notarized statement from the owner of such property authorizing the submission of the application pursuant to this Article 5;

(5) A copy of any deed and/or lease reflecting the ownership and right to possess the property that is the subject of the medical marijuana dispensary;

(6) A statement of the applicant's personal, financial and business backgrounds;

(7) A completed set of the applicant's fingerprints as taken by the Marshal's Department;

(8) A sworn statement to be acknowledged by the applicant's signature that the owner of the premises, applicant and the employees of the medical marijuana dispensary may be subject to prosecution under State, federal and local controlled substance laws;

(9) A sworn statement to be acknowledged by the applicant's signature that the owner of the premises, applicant and employees of the medical marijuana dispensary acknowledge that the Town accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana dispensary;

(10) An acknowledgement and consent that the Town will conduct a background investigation as specified in this Article;

(11) Evidence of a State of Colorado sales tax license;

(12) If the medical marijuana dispensary will be providing foodstuffs as allowed by this Article and the other requirements of this Code with medical marijuana therein, evidence of a foodstuffs establishment license issued by the State of Colorado, if required by the State;

(13) A diagram of the premises and all entry ways and exits thereto;

(14) Tax payment history of applicant; (xv) those items required in the application form; and

(15) Any additional information that the Town Manager reasonably determines to be necessary in connection with the investigation and review of the application.

(e) Medical marijuana dispensaries shall submit the following at the time of submittal of the application for approval by the Town Manager:

(1) A comprehensive business plan for the medical marijuana dispensary which shall contain, without limitation: (i) a security plan that reflects the dispensary's compliance Section 6-5-340; (ii) hours of operation; (iii) number of employees; (iv) a description of all products to be sold; and (v) supporting acknowledgements, appropriate plans for implementation and supporting documents that ensure that the dispensary will operate in a manner consistent with State law and this Article 5, Chapter 6, including, without limitation, Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the Colorado Department of Public Health and Environment (CDPHE) located at 5CCR 1006-2, and Sections 6-5-240 through 6-5-370 of this Article, all as amended from time to time .

(2) A complete lighting plan that is in compliance with the applicable requirements contained in this Code.

(3) A complete signage plan that is in compliance with the applicable requirements contained in this Code.

(4) A plan for the disposal of unwanted medical marijuana, related by-products and paraphernalia as contemplated in Section 6-5-350.

(5) Any additional supporting documentation that Town Manager reasonably determines to be necessary in evaluating the Application.

(f) Following receipt of a permit for a medical marijuana dispensary from the Town as described in Section 6-5-150 and a conditional use from the Board, the permittee shall apply for and obtain a Town sales tax license and a Town business license before commencing operations.

(g) The permittee shall at all times maintain an active, up to date and valid, State of Colorado sales tax license, foodstuffs establishment license (if required by the State), Town sales tax license and Town business license.

(h) The permittee shall at all times keep and maintain the application and all associated submittals and supporting documentation up to date and current during the permit term and any renewal.

(i) A permit issued pursuant to this Article does not eliminate the need for the permittee to obtain other required Town permits related to the operation of the approved medical marijuana dispensary, including, without limitation any additional required conditional use permits (i.e., in addition to the conditional use for a medical marijuana dispensary), development approvals and building permits required by this Code.

Section 6-5-60. Application Fee.

An applicant shall pay the Town a non-refundable application fee when the application is filed and then annually thereafter as part of any renewal as an inspection fee. The purpose of the fee is to cover the administrative costs of processing the application and to defray the costs and expenses incurred by the Town in regulating the medical marijuana dispensary and enforcing the requirements of this Article 5. For applications filed in 2010, the application fee shall be \$1,000.00. Once the application fee has been paid it shall be deemed nonrefundable and liquidated. Thereafter, the amount of the application fee shall be increased or decreased by the Town Council as part of its annual budget process.

Section 6-5-70. Determination of Completeness of Application; Lottery; Review by Town Manager.

(a) Following March 1, 2010, but on or before March 5, 2010, the Town Manager shall commence the review of all of the applications submitted to the Town to determine if such applications are complete. The Town Manager's review of such applications for completeness shall be in the order of receipt of such applications by the Town Clerk. The Town Manager shall review each submitted application on or before March 25, 2010. A determination of completeness by the Town Manager shall require that the requirements of Section 6-5-50 be met. In the event that an application is determined by the Town Manager to be incomplete, the incomplete application shall be returned to the applicant with a notice of explanation given to the applicant by March 25, 2010 stating what items in the application are incomplete. Thereafter, no further action shall be taken by the Town Manager on such incomplete application until the applicant completes such incomplete items and resubmits the application with such incomplete items therein completed pursuant to the Town Manager's notice of explanation of incompleteness. All resubmissions shall be delivered to the Town Clerk and shall not require the payment of any additional application fees. Each subsequent review of the application shall be conducted by the Town Manager within twenty (20) days of resubmission to the Town Clerk, each resubmission being deemed to be a receipt of the application by the Town Clerk. Such resubmissions shall be reviewed by the Town Manager in the order of receipt by the Town Clerk. All resubmissions shall be delivered to the Town Clerk on or before April 10, 2010, otherwise such applications shall be deemed incomplete with no further notice to applicant shall be given and no further action shall be taken by the Town Manager with respect to such resubmitted applications. Any application that is determined by the Town Manager to be incomplete two (2) times shall be deemed conclusively incomplete by the Town Manager and returned to the applicant with a notice of explanation as to the incomplete items therein and no further action shall be taken by the Town Manager with respect to such application. A determination of incompleteness by the Town Manager shall not be subject to appeal. Upon determination by the Town Manager that an application is complete, the Town Manager shall deliver to the applicant a written notice of determination of completeness. Such notice of determination of completeness shall be delivered by the Town Manager by April 30, 2010. Where the Town Manager fails to provide a written notice of explanation of incomplete application items or a notice of determination of completeness to an applicant by March 25, 2010 or April 30, 2010, respectively, the subject application shall be deemed to be complete; except where the Town Manager otherwise finds an application or resubmission incomplete and so notifies applicant on or before April 30, 2010. All notices sent by the Town Manager under this Section shall be given by mailing a copy to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon deposit in the U.S. Mail. Any resubmission of an application submitted after April 10, 2010 shall be deemed to be incomplete and no further action shall be taken on such application by the Town Manager. If deemed incomplete the application fee shall not be refunded and shall be deemed liquidated.

(b) On May 1, 2010 the Town Manager shall compile all applications that have been found to be complete or have been deemed to be complete and shall certify the same to the Town Clerk within five (5) days. Thereafter, the Town Clerk shall

conduct a lottery for the right of the applicants with applications found or deemed to be complete by the Town Manager to continue to the application review phase as outlined in this Article. Said lottery shall be conducted by the Town Clerk within fifteen (15) days of receipt of the complete or deemed to be complete applications from the Town Manager. At the lottery, the Town Clerk shall select no more than five (5) applications for continued review. Prior to said lottery, the date, time and place of the lottery will be published in the legal publications section of the official newspaper of the Town for at least one (1) week prior to said lottery. Once an application is chosen, such application shall then be certified to the Town Manager for review in accordance with this Article. In the event that an application is not selected in the lottery, no further action shall be taken by the Town Manager on such application. If an application is not selected by the Town Clerk in the lottery the application fee shall not be refunded to the applicant and shall be deemed liquidated.

(c) Upon receipt of the applications chosen at the lottery described in subsection (b) hereinabove, the Town Manager shall transmit copies of the application to: (i) the Marshal's Department; (ii) the Building and Zoning Director; (iii) the Director of Planning; and (iv) any other person or agency that the Town Manager determines should properly investigate and comment on the application.

(d) Upon receipt of an application, the Marshal's Department shall obtain and review a criminal background records search on the applicant from the Colorado Bureau of Investigation.

(e) Within twenty (20) days of receipt of the application from the Town Manager those Town departments described in subsection (c) of this Section shall provide the Town Manager with comments concerning the application.

Section 6-5-80. Standards for Issuance of Permit.

The Town Manager shall issue a permit under this Article only when, following a consideration of the application and from such other information as may otherwise be submitted or otherwise obtained, the Town Manager determines that:

(a) The application does not contain any material falsehood or misrepresentation.

(b) The application complies with all of the requirements of this Article.

(c) The applicant has good moral character. In making this determination or when considering a criminal conviction, the Town Manger shall be governed by the provisions of Section 24-5-101, C.R.S. The Town Manager shall confer with the Town Attorney respecting such determination. If the Town Manager takes into consideration information concerning the applicant's criminal history record, the Town Manager shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of

rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and consideration of the application for a permit. Notwithstanding the foregoing, no permit shall be given to an applicant for a medical marijuana dispensary whose criminal history reflects a prior conviction for a felony offense. In the case where an applicant is a business entity, the applicant shall provide the name(s) of all natural persons owning an interest in the entity, and no permit shall be issued if any such person has a criminal history that reflects a prior conviction for a felony offense.

(d) The proposed location of the medical marijuana dispensary is allowed as a conditional use, assuming granted by the Board as set forth in Section 16-5-530.

Section 6-5-90. Denial of Issuance of Permit.

The Town Manager shall deny an application for a permit under this Article if the Town Manager determines that (i) information contained in the application, or supplemental information requested from the applicant, is false in any material respect; or (ii) the application fails to meet any of the standards or requirements set forth in Section 6-5-80. If an application is denied the application fee shall not be refunded and shall be deemed liquidated.

Section 6-5-100. Authority to Impose Conditions on Permit.

The Town Manager shall have the authority to impose any and all such reasonable terms and conditions on a permit as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Article and applicable law.

Section 6-5-110. Decision by Town Manager.

(a) The Town Manager shall approve, deny or conditionally approve an application within thirty (30) days of the Town Manager's receipt of the same from the Town Clerk following the lottery described in Section 6-5-70 unless, by written notice to the applicant, the decision period is extended for an additional thirty (30) days if necessary for the Town Manager to complete his/her substantive review of the application.

(b) If an application is denied, the Town Manger shall clearly set forth in writing the grounds for denial.

(c) In the event an application is conditionally approved, the Town Manager shall clearly set forth in writing the conditions of approval.

Section 6-5-120. Notice of Decision.

The Town Manager shall notify the applicant of the decision on the application by mailing a copy of the Town Manager's decision to the applicant by regular mail, postage prepaid, at the address shown in the application within the thirty (30) day period described in Section 6-5-110. Notice is deemed to have been properly given upon mailing. Such notice of decision shall be subject to the Board's issuance of a conditional use, if at all, as provided in Section 6-5-140.

Section 6-5-130. Appeal of Denial or Conditional Approval of Permit; Appeal to Town Council.

(a) An applicant has the right to appeal the Town Manager's denial or conditional approval of an application to the Town Council.

(b) An applicant's appeal of the Town Manager's denial or conditional approval of an application shall be filed with the Town Clerk within ten (10) days after the date of mailing of the Town Manager's decision on the application.

(c) At the Town Council's next regularly scheduled meeting the Town Council shall set a date for public hearing of the appeal. The applicant shall be provided with not less than ten (10) days' prior written notice of the appeal hearing to be held by the Town Council.

(d) The burden of proof in an appeal filed under this Section shall be on the applicant.

(e) At the appeal hearing the Town Council shall consider the application and render a decision based upon the requirements and considerations of this Article. If the Town Council finds by a preponderance of the evidence that the decision of the Town Manager was correct, the Town Council shall uphold the decision of the Town Manger. If the Town Council finds by a preponderance of the evidence that the decision of the Town Manager was incorrect, the Town Manager's decision shall be set aside and the permit issued (if it was previously denied) or the conditions of approval stricken or modified, as applicable.

(f) Any decision made by the Town Council pursuant to this section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure (C.R.C.P.). The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the denial or conditional approval of the application.

(g) If there is any conflict between the provisions and requirements of this Section and the provisions and requirements of Article 1 of this Chapter, the provisions and requirements of this Section shall in all cases control.

Section 6-5-140. Permit Conditional upon Granting of Conditional Use by Board.

Notwithstanding anything contained in this Article, the issuance of the permit shall be conditioned upon the Board granting a conditional use permit for the medical marijuana dispensary. Should the Board not grant a conditional use permit for the medical marijuana dispensary, the permit shall be void ab initio. Should a permit expire or be terminated, the conditional use for the medical marijuana dispensary shall similarly expire or be terminated. If the conditional use permit is denied by the Board,

the application fee for the permit shall not be returned to the permittee but shall instead be deemed liquidated.

Section 6-5-150. Contents of Permit.

A permit shall contain, without limitation, the following information: (i) the name of the permittee; (ii) the effective date of the permit which shall coincide with the date of the conditional use permit issued by the Board; (iii) the address at which the permittee is authorized to operate the medical marijuana dispensary; (iv) any conditions of approval imposed upon the permit by the Town Manager pursuant to Section 6-5-100; (v) the incorporation of the requirements and conditions of this Article; (vi) reference to the contents of Section 6-5-430; (vii) the date of the expiration of the permit; and (viii) an acknowledgement of the conditions and requirements contained in this Article, including, without limitation, Sections 6-5-390 through 6-5-420. A permit must be signed by both the applicant and the Town Manager to be valid. The permit shall incorporate the application once approved or approved with conditions, inclusive of, without limitation, all the application submittals, acknowledgements, requirements and otherwise.

Section 6-5-160. Inspection of the Premises.

Prior to the issuance of a conditional use permit, the premises at which the medical marijuana dispensary will be operated shall be inspected by the Building Official to determine compliance with the Town's building and technical codes. No conditional use permit shall be issued if the premises at which the medical marijuana dispensary will be operated do not or will not comply with the Town's building and technical codes. Throughout the term of the permit the Building Official may inspect the premises at which the medical marijuana dispensary is operated to determine continuing compliance with the Town's building and technical codes. Access to such premises may be obtained by the Building Official in accordance with the applicable provisions of this Code.

Section 6-5-170. Permit License in Gross; Permit Not Transferrable.

The permit shall be deemed to be a license in gross. A permit is non-transferable and non-assignable. Any attempt to transfer or assign a permit shall void the permit and the associated conditional use permit, ab initio.

Section 6-5-180. Notice of Issuance of Permit.

Immediately upon the issuance of a permit, the Town Manager shall send a communication copy of the permit along with the completed application to the (i) Marshal's Department, (ii) Building and Zoning Director, (iii) Town Clerk, (iii) Director of Planning, (iv) Finance Director, and (v) any other person as determined by the Town Manager as being reasonably appropriate to receive a copy of the Permit. A

communication copy of the same shall also be delivered to the Town Council however the Town Council may not act on such communication.

Section 6-5-190. Review by Building and Zoning Director.

Following the issuance of the permit by the Town Manager, the Town Manager shall certify the final application and the permit to the Building and Zoning Director. The Director shall review the application and the permit and determine if the same are in general conformance with this Article and Section 16-8-80.5. Following such determination, the Director shall refer the application, along with any other conditional use application requirements required by Article 8 or this Chapter 16 completed by the applicant, to the Board for its review and approval pursuant to Article 8 of this Chapter 16, including, without limitation, Section 16-8-80.5, within ninety (90) days of receipt from the Town Manager of the issued permit, or such other later date as required under this Code. As part of the Director's referral of the Application, the Director shall provide a staff report which shall include, without limitation, feedback and recommendations as to the feasibility of the medical marijuana dispensary and any potential issues that the Director determines are important or relevant to the medical marijuana dispensary at issue and its approval or disapproval as a conditional use. The Application shall be placed on the Board's agenda for its review in accordance with Articles 8 and 22 of Chapter 16.

Section 6-5-200. Duration of Permit; Renewal.

(a) Each permit issued pursuant to this Article shall be valid for one (1) year from the date of issuance, and may be renewed only as permitted in this Article. All renewals of a permit shall be for no more than one (1) year.

(b) Subject to the Town Council's prior extension of this Article as contemplated in Section 6-5-340, an application for the renewal of an existing permit shall be made to the Town Manager not more than sixty (60) days and no less than thirty (30) days prior to the date of expiration of said permit. No application for renewal shall be accepted by the Town Manager prior to or after such date.

(c) The provisions of Sections 6-5-50(g), (h), (i); 6-5-60; 6-5-70(c), (d), (e); 6-5-80 through 6-5-180, shall apply to the processing of an application to renew a permit. The timely filing of a renewal application shall extend the current permit until a final decision is made on the renewal application, including any appeal of the Town Manager's decision to the Town Council.

(d) At the time of the filing of an application for the renewal of an existing permit the applicant shall pay the application fee set forth in Section 6-5-60.

(e) The Town Manager may refuse to renew a permit for, without limitation, good cause or failure to comply with this Article or other applicable regulations, including, but not limited to, Amendment 20; Section 18-18-406.3, C.R.S.; and the

administrative regulations issued by the Colorado Department of Public Health and Environment (CDPHE) located at 5CCR 1006-2, all as amended from time to time.

Section 6-5-210. Duties of Permittee.

It is the duty and obligation of each permittee to:

(a) comply with all of the terms and conditions of the permit, and any special conditions on the permit imposed by the Town Manager pursuant to Section 6-5-100;

(b) comply with all of the requirements of this Article;

(c) comply with all other applicable provisions of this Code, Town ordinances and other Town requirements;

(d) comply with all State laws and administrative regulations pertaining to the medical use of marijuana, including, but not limited to, Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the CDPHE located at 5CCR 1006-2, all as amended from time to time;

(e) comply with all applicable federal laws, rules and regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20; and

(f) if the Town Manager has a reasonable suspicion that the permittee is or has violated the terms and conditions of the permit, allow inspection of its records, building or structure and operation by the Town Manager for the purpose of determining the permittee's compliance with the terms and conditions of the permit. However, nothing in this section shall abrogate or affect (i) any applicable confidentiality provision of State or federal law, or (ii) any applicable statutory or constitutional prohibition against unreasonable searches and seizure of property. In the event of any conflict between this Section and any applicable State or federal law, the applicable provision of State or federal law shall in all cases prevail and control.

Section 6-5-220. Posting of Permit.

A permit shall be continuously posted in a conspicuous location at the medical marijuana dispensary.

Section 6-5-230. Suspension or Revocation of Permit.

(a) A permit issued pursuant to this Article may be suspended or revoked by the Town Manager for any of the following reasons:

(1) fraud, misrepresentation, or a false statement of material fact contained in the permit application;

(2) a violation of any Town, State or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20;

(3) a violation of any of the terms and conditions of the permit, including any special conditions of approval imposed upon the permit by the Town Manager pursuant to Section 6-5-100;

(4) a violation of any of the provisions of this Article;

(5) operations have ceased at the medical marijuana dispensary for more than ninety (90) days, including during a change of ownership of the dispensary; or

(6) operations or ownership of the medical marijuana dispensary has been transferred without the new owner obtaining a permit pursuant to this Article.

(b) In connection with the suspension of a permit, the Town Manager may impose reasonable conditions.

(c) In deciding whether a permit should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the Town Manager shall consider (i) the nature and seriousness of the violation, (ii) corrective action, if any, taken by the permittee, (iii) prior violation(s), if any, by the permittee, (iv) the likelihood of recurrence, (v) all circumstances surrounding the violation, (vi) whether the violation was willful, and (vii) previous sanctions, if any, imposed against the permittee.

(d) If the Town Manager suspends a permit the permittee may appeal the suspension or revocation to the Town Council in accordance with Section 6-5-130. The burden of proof in such an appeal is on the permittee. If the Town Council finds by a preponderance of the evidence that the Town Manager acted correctly in suspending or revoking the permit, the Town Council shall uphold the Town Manager's order of suspension or revocation. If the Town Council finds by a preponderance of evidence that the Town Manager acted improperly in suspending or revoking the permit, the appeal shall be sustained and the Town Manager's order of suspension or revocation shall be set aside. Any decision made by the Town Council pursuant to this section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4), C.R.C.P. The applicant's failure to timely appeal the decision is a waiver the applicant's right to contest the denial or conditional approval of the application.

(e) No fee previously paid by a permittee in connection with the application and any renewal of the permit shall be refunded if such permit is suspended or revoked.

Section 6-5-240. Limitation on Sale, Distribution and Possession of Medical Marijuana.

(a) No medical marijuana may be sold, given away or transferred at a medical marijuana dispensary, except to patients by primary care-givers. Primary caregivers may sell, give away, distribute, transfer and possess medical marijuana and then only at medical marijuana dispensaries and then only to patients, except that a patient may obtain medical marijuana from a primary caregiver only at a dispensary and a patient may possess medical marijuana for his/her own medicinal needs; *provided that* in all cases, such activities of both the primary caregiver and the patient shall at all times be in strict compliance with State laws and administrative regulations pertaining to the medical use of marijuana, including, but not limited to, Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the CDPHE located at 5CCR 1006-2, all as amended from time to time. Failure to comply with this requirement shall be a violation of this Article.

(b) A permittee may not dispense more than two (2) ounces of an ingestible form of medical marijuana per patient at any given time.

(c) Only patients and caregivers may access a medical marijuana dispensary.

Section 6-5-250. Limitation on Sale of Paraphernalia.

Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana including, but not limited to, rolling papers and related tools, water pipes and vaporizers may lawfully be sold at a medical marijuana dispensary; provided that such items may only be sold or provided to patients or primary caregivers and as are reasonably necessary for the consumption of medical marijuana (as opposed to the consumption of marijuana inconsistent with State laws and administrative regulations pertaining to the medical use of marijuana, including, but not limited to, Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the CDPHE located at 5CCR 1006-2, all as amended from time to time).

Section 6-5-260. Restrictions on Sale of Foodstuffs.

Medical marijuana dispensaries may not be co-located with food cooking and preparation facilities preparing, producing or assembling food whether for medical or non-medical purposes. A medical marijuana dispensary may not sell non-medical food products which are similar to the medical marijuana food products being sold in the medical marijuana dispensary such as but not limited to medical marijuana brownies or lolly-pops. This does not include medicine products such as tinctures. Alcohol may not be sold at the medical marijuana dispensary.

Section 6-5-270. Hours of Operation.

Medical marijuana dispensaries may be open for the sale of medical marijuana during the hours of 9:00 a.m. to 7:00 p.m. only, seven days per week.

Section 6-5-280. Signage.

All signage for a medical marijuana dispensary shall comply with the requirements of Article 18 of Chapter 16 of this Code. In addition, no signage shall use the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical," nor shall such signage display a graphic/image of any portion of a marijuana plant.

Section 6-5-290. Required Warnings to Be Posted.

There shall be posted in a conspicuous location in each medical marijuana dispensary a legible sign containing warnings that: (i) the diversion of marijuana for non-medical purposes is a violation of State law; (ii) the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under State law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana; (iii) loitering in or around the medical marijuana dispensary is prohibited by State law; and (iv) possession and distribution of marijuana is a violation of federal law.

Section 6-5-300. On-Site Consumption of Medical Marijuana.

The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary is prohibited.

Section 6-5-310. On-Site Consumption of Alcohol.

The sale, ingestion or consumption of an alcoholic beverage within a medical marijuana dispensary is prohibited.

Section 6-5-320. Restrictions on Cultivation, Growing and Processing; Storage.

(a) The growing, cultivation and processing of marijuana of any kind on or within the premises of a medical marijuana dispensary is strictly prohibited.

(b) All medical marijuana dispensing activities shall be conducted indoors.

(c) All medical marijuana product storage shall be indoors. All medical marijuana and paraphernalia shall be in a sealed/locked cabinet and out of plain sight

view from within the medical marijuana dispensary except when being accessed for distribution.

(d) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the medical marijuana dispensary must be provided at all times. In the event that any odors, debris, items, dust, fluids or other substances shall exit the medical marijuana dispensary, the owner or the subject premises and the permittee shall be jointly and severally responsible for such conditions and shall be responsible for full clean up and or correction of this condition immediately. The dispensary shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner.

Section 6-5-330. Display of Medical Marijuana; Deliveries.

(a) No medical marijuana shall be displayed so as to be visible through glass, windows or doors by a person of normal visual acuity standing at the outside perimeter of the medical marijuana dispensary. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk or right of way.

(b) All deliveries of medical marijuana and products, accessories and associated paraphernalia to medical marijuana dispensaries shall be conducted discreetly and out of plain sight of all other persons not associated with the medical marijuana dispensary.

Section 6-5-340. Security Requirements.

(a) The permittee shall provide adequate security on the premises of a medical marijuana dispensary including, but not limited to, the following:

(1) Security surveillance camera installed to monitor all entrances along with the interior and exterior of the premises to discourage and to facilitate the reporting of criminal acts and nuisance activities occurring at the premises. Security video shall be preserved for at least seventy two (72) hours by the permittee.

(2) Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition.

(3) A locking safe permanently affixed to the premises that is suitable for storage of all of saleable inventory of medical marijuana if marijuana is to be stored overnight on the premises.

(4) Exterior lighting that illuminates the exterior walls of the business and is compliant with the Town's lighting requirements, including, without limitation, Article 17 of Chapter 16 this Code.

(5) All medical marijuana dispensaries shall maintain dead-bolt locks.

(6) No person under the age of eighteen (18) shall be allowed in any portion of a medical marijuana dispensary.

(b) All security systems and measures shall be inspected and approved by the Marshal's Department.

(c) All currency in excess of \$1,000.00 shall be stored within a separate safe (no marijuana in the safe), securely fastened to a wall or floor, as approved by the Building Official.

Section 6-5-350. Disposal.

The disposal of, without limitation, unwanted medical marijuana, by-products and paraphernalia shall be done in accordance with procedures approved in advance by the Marshal's Department.

Section 6-5-360. Sales Tax.

Each permittee shall collect and remit Town sales tax on all medical marijuana, products, accessories, associated paraphernalia and other tangible personal property sold by the permittee at the medical marijuana dispensary.

Section 6-5-370. Recordkeeping; Ledger Required.

(a) Each permittee shall maintain an accurate and complete record of all medical marijuana, products, accessories, associated paraphernalia and other tangible personal property sold or dispensed at the medical marijuana dispensary.

(b) The permittee's records described in subsection (a) of this Section shall be available for inspection by the Marshal's Department pursuant to Rule 41, C.R.C.P. or Rule 241 of the Colorado Municipal Court Rules of Procedure.

(c) Nothing in this Section shall abrogate or affect (i) any applicable confidentiality provision of State or federal law, or (ii) any applicable statutory or constitutional prohibition against unreasonable searches and seizure of property. In the event of any conflict between this Section and any applicable State or federal law, the applicable provision of State or federal law shall control.

(d) A permittee shall keep a ledger which shall record the following information, and which shall be made available to the Town upon request:

- (1) the quantity of medical marijuana dispensed in each transaction;
- (2) the date and time the medical marijuana was sold or dispensed;

- (3) the type and source of medical marijuana dispensed;
- (4) the total amount paid by the patient for the transaction for all goods, products and services provided or sold at the medical marijuana dispensary;
- (5) each patient's medical marijuana identification card number, and any other identifying information permitted by law; and
- (6) confirmation that the permittee confirmed the identity of the patient receiving the medical marijuana with a valid photo identification.

Section 6-5-380. Violation and Penalty; Remedies Cumulative.

Any person who violates any of the provisions of this Article shall be subject to the violation and penalty provisions set forth in Article 4 of Chapter 1 of this Code. All remedies contemplated in this Section shall be deemed cumulative and concurrent.

Section 6-5-390. No Waiver of Governmental Immunity.

In adopting this Article, the Town Council is relying on, and does not waive or intend to waive by any provision of this Article, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S., as from time to time amended, or any other limitation, right, immunity or protection otherwise available to the Town, its officers or its employees, at law and/or in equity.

Section 6-5-400. No Town Liability.

By accepting a permit issued pursuant to this Article a permittee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of dispensary owners, operators, employees, clients or customers for a violation of State or federal laws, rules or regulations. The Town Manager shall require a permittee to execute a written instrument acknowledging the provisions of this Section.

Section 6-5-410. Indemnification of Town.

By accepting a permit issued pursuant to this Article, a permittee, jointly and severally if more than one, agrees to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana

dispensary that is the subject of the permit. The permittee further agrees to investigate, handle, respond to and to provide defense for and defend against, any such liability, claims or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Town Manager may require a permittee to execute a written instrument acknowledging the provisions of this Section.

Section 6-5-420. Other Laws Remain Applicable.

The provisions of this Article do not, and are not intended to, protect permittees, operators, employees, customers, property owners and clients of a permitted medical marijuana dispensary from prosecution pursuant to any laws that may prohibit the growing, cultivation, sale, use, distribution or possession of controlled substances. In addition, as of the date of the adoption of this Article the growing, cultivation, sale, possession, distribution and use of marijuana remain violations of federal and State law (except for conduct covered by Amendment 20), and this Article affords no protection against prosecution under such federal and State laws. Permittees, operators, employees, customers, property owners and clients of the permitted medical marijuana dispensary assume any and all risk and any and all liability arising or resulting from the operation of the dispensary under any State or federal law. Further, to the greatest extent permitted by law, any actions taken under the provisions of this Article by any public officer or officers, elected or appointed officials, employees, attorneys and agents of the Town shall not become a personal liability of such person or of the Town.

Section 6-5-430. Effective Date; Sunset.

(a) The provisions of this Ordinance shall become effective on January 1, 2010. Following the conclusion of one (1) year from said effective date, unless the provisions of this Article are otherwise extended, inclusive of any amendments, this Ordinance shall be of no further force and effect.

(b) Notwithstanding the preceding subsection (a), the terms and requirements of this Ordinance shall remain in full force and effect as respects compliance and enforcement requirements and the payment of Town sales taxes, in conjunction with any permitted medical marijuana dispensary until the last permitted dispensary's permit has expired or otherwise been terminated or revoked with no appeals pending.

(c) In the event that the Town Council fails to extend to this Ordinance, inclusive of any amendments, by December 31, 2010, no renewal applications of any existing permits shall be accepted and no renewals of exiting permits shall be permitted.

(d) The grant of any conditional use for a medical marijuana dispensary shall be conditioned upon the requirement that such conditional use shall terminate automatically should the Town Council not extend the provisions this Article as described in subsection (a) of this Section."

Section 8. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 9. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision thereof that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 16th DAY OF NOVEMBER, 2009.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 21st DAY OF DECEMBER, 2009.

TOWN OF CRESTED BUTTE, COLORADO

By: *Leah B. Williams*
Leah B. Williams, Mayor

ATTEST:

Eileen Hughes
Eileen Hughes, Town Clerk