



TOWN OF PAONIA
TUESDAY, MARCH 16, 2021
TOWN BOARD WORK SESSION AGENDA
5:00 PM
IN-PERSON AT TOWN HALL
214 GRAND AVENUE

**PLEASE WEAR APPROPRIATE FACE COVERINGS AND PRACTICE 6FT SPATIAL DISTANCING
WHILE INSIDE THE BUILDING.**

Roll Call

Unfinished Business

1. Retail & Medical Marijuana Store Draft Ordinance 2021-TBD

Adjournment

I. RULES OF PROCEDURE

Section 1. Schedule of Meetings. Regular Board of Trustees meetings shall be held on the second and fourth Tuesdays of each month, except on legal holidays, or as re-scheduled or amended and posted on the agenda prior to the scheduled meeting.

Section 2. Officiating Officer. The meetings of the Board of Trustees shall be conducted by the Mayor or, in the Mayor's absence, the Mayor Pro-Tem. The Town Clerk or a designee of the Board shall record the minutes of the meetings.

Section 3. Time of Meetings. Regular meetings of the Board of Trustees shall begin at 6:30 p.m. or as scheduled and posted on the agenda. Board Members shall be called to order by the Mayor. The meetings shall open with the presiding officer leading the Board in the Pledge of Allegiance. The Town Clerk shall then proceed to call the roll, note the absences and announce whether a quorum is present. Regular Meetings are scheduled for three hours, and shall be adjourned at 9:30 p.m., unless a majority of the Board votes in the affirmative to extend the meeting, by a specific amount of time.

Section 4. Schedule of Business. If a quorum is present, the Board of Trustees shall proceed with the business before it, which shall be conducted in the following manner. Note that all provided times are estimated:

- (a) Roll Call - (5 minutes)
- (b) Approval of Agenda - (5 minutes)
- (c) Announcements (5 minutes)
- (d) Recognition of Visitors and Guests (10 minutes)
- (e) Consent Agenda including Approval of Prior Meeting Minutes (10 minutes)
- (f) Mayor's Report (10 minutes)
- (g) Staff Reports: (15 minutes)
 - (1) Town Administrator's Report
 - (2) Public Works Reports
 - (3) Police Report
 - (4) Treasurer Report
- (h) Unfinished Business (45 minutes)
- (i) New Business (45 minutes)
- (j) Disbursements (15 minutes)
- (k) Committee Reports (15 minutes)
- (l) Adjournment

* This schedule of business is subject to change and amendment.

Section 5. Priority and Order of Business. Questions relative to the priority of business and order shall be decided by the Mayor without debate, subject in all cases to an appeal to the Board of Trustees.

Section 6. Conduct of Board Members. Town Board Members shall treat other Board Members and the public in a civil and polite manner and shall comply with the Standards of Conduct for Elected Officials of the Town. Board Members shall address Town Staff and the Mayor by his/her title, other Board Members by the title of Trustee or the appropriate honorific (i.e.: Mr., Mrs. or Ms.), and members of the public by the appropriate honorific. Subject to the Mayor's discretion, Board Members shall be limited to speaking two times when debating an item on the agenda. Making a motion, asking a question or making a suggestion are not counted as speaking in a debate.

Section 7. Presentations to the Board. Items on the agenda presented by individuals, businesses or other organizations shall be given up to 5 minutes to make a presentation. On certain issues, presenters may be given more time, as determined by the Mayor and Town Staff. After the presentation, Trustees shall be given the opportunity to ask questions.

Section 8. Public Comment. After discussion of an agenda item by the Board of Trustees has concluded, the Mayor shall open the floor for comment from members of the public, who shall be allowed the opportunity to comment or ask questions on the agenda item. Each member of the public wishing to address the Town Board shall be recognized by the presiding officer before speaking. Members of the public shall speak from the podium, stating their name, the address of their residence and any group they are representing prior to making comment or asking a question. Comments shall be directed to the Mayor or presiding officer, not to an individual Trustee or Town employee. Comments or questions should be confined to the agenda item or issue(s) under discussion. The speaker should offer factual information and refrain from obscene language and personal attacks.

Section 9. Unacceptable Behavior. Disruptive behavior shall result in expulsion from the meeting.

Section 10. Posting of Rules of Procedure for Paonia Board of Trustees Meetings. These rules of procedure shall be provided in the Town Hall meeting room for each Board of Trustees meeting so that all attendees know how the meeting will be conducted.

II. CONSENT AGENDA

Section 1. Use of Consent Agenda. The Mayor, working with Town Staff, shall place items on the Consent Agenda. By using a Consent Agenda, the Board has consented to the consideration of certain items as a group under one motion. Should a Consent Agenda be used at a meeting, an appropriate amount of discussion time will be allowed to review any item upon request.

Section 2. General Guidelines. Items for consent are those which usually do not require discussion or explanation prior to action by the Board, are non-controversial and/or similar in content, or are those items which have already been discussed or explained and do not require further discussion or explanation. Such agenda items may include ministerial tasks such as, but not limited to, approval of previous meeting minutes, approval of staff reports, addressing routine correspondence, approval of liquor licenses renewals and approval or extension of other Town licenses. Minor changes in the minutes such as non-material Scribner errors may be made without removing the minutes from the Consent Agenda. Should any Trustee feel there is a material error in the minutes, they should request the minutes be removed from the Consent Agenda for Board discussion.

Section 3. Removal of Item from Consent Agenda. One or more items may be removed from the Consent Agenda by a timely request of any Trustee. A request is timely if made prior to the vote on the Consent Agenda. The request does not require a second or a vote by the Board. An item removed from the Consent Agenda will then be discussed and acted on separately either immediately following the consideration of the Consent Agenda or placed later on the agenda, at the discretion of the Board.

III. EXECUTIVE SESSION

Section 1. An executive session may only be called at a regular or special Board meeting where official action may be taken by the Board, not at a work session of the Board. To convene an executive session, the Board shall announce to the public in the open meeting the topic to be discussed in the executive session, including specific citation to the statute authorizing the Board to meet in an executive session and identifying the particular matter to be discussed “in as much detail as possible without compromising the purpose for which the executive session is authorized.” In the event the Board plans to discuss more than one of the authorized topics in the executive session, each should be announced, cited and described. Following the announcement of the intent to convene an executive session, a motion must then be made and seconded. In order to go into executive session, there must be the affirmative vote of two thirds (2/3) of Members of the Board.

Section 2. During executive session, minutes or notes of the deliberations should not be taken. Since meeting minutes are subject to inspection under the Colorado Open Records Act, the keeping of minutes would defeat the private nature of executive session. In addition, the deliberations carried out during executive session should not be discussed outside of that session or with individuals not participating in the session. The contents of an executive session are to remain confidential unless a majority of the Trustees vote to disclose the contents of the executive session.

Section 3. Once the deliberations have taken place in executive session, the Board should reconvene in regular session to take any formal action decided upon during the executive session. If you have questions regarding the wording of the motion or whether any other information should be disclosed on the record, it is essential for you to consult with the Town Attorney on these matters.

IV. SUBJECT TO AMENDMENT

Section 1. Deviations. The Board may deviate from the procedures set forth in this Resolution, if, in its sole discretion, such deviation is necessary under the circumstances.

Section 2. Amendment. The Board may amend these Rules of Procedures Policy from time to time.

AGENDA SUMMARY FORM

	Retail & Medical Marijuana Store Draft Ordinance 2021-TBD
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Summary: A workshop with the Board and Community regarding marijuana store regulations within the Town of Paonia.

Notes:

The limit restriction is noted in the definitions section. The verbiage and location to define within the ordinance will be available Tuesday evening for discussion.

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

Vote:	Trustee Bear	Trustee Budinger	Trustee Johnson
Trustee Knutson	Trustee Meck	Trustee Pattison	Mayor Bachran:



DEVOR & PLUMHOFF, LLC
Attorneys and Counselors at Law

Bo James Nerlin
bo@coloradowestlaw.com

MEMORANDUM

To: Board of Trustees, Town of Paonia
From: Bo James Nerlin, Esq.
Re: Marijuana Workshop
Date: 3/12/2021
CC: Ms. Corinne Ferguson

In the Board Packet, there is a redline of Ordinance No. 2021- TBD, regulating and licensing retail and medicinal marijuana in the Town. This redline draft incorporates the approved changes and suggestions from the version that was provided to the Board at its February 22, 2021 Board Meeting. With the work session set for this item, staff is hoping to receive feedback from the Trustees and the public with respect to the enclosed redline. In addition, to a discussion of the redline as included, we believe it would also be prudent to discuss the following:

- Confirmation regarding the proposed zoning and location requirements;
- Signage;
- Hours of operation;
- Delivery service;
- Application requirements and bonding;
- Transfer and/or sale of licenses;
- Modification of the premises; and
- Code enforcement including license suspension and a civil penalty schedule

Based on the comments and direction provided, staff anticipates providing the Trustees with a revised ordinance for introduction and first reading at a subsequent meeting. At that meeting, there will be the opportunity for the Board to comment and/or amend as needed, and for the public to weigh in.

**TOWN OF PAONIA, COLORADO
ORDINANCE NO. 2021-TBD**

**AN ORDINANCE OF THE TOWN OF PAONIA, COLORADO AMENDING THE
PAONIA MUNICIPAL CODE CHAPTER SIX ARTICLE 4 CONCERNING THE
REGULATION AND LICENSING OF MEDICAL AND RETAIL MARIJUANA STORES
AND REPEALING ARTICLE 3 CONCERNING PROHIBITING MEDICAL
MARIJUANA STORES**

WHEREAS, Section 14 of Article XVIII of the Colorado Constitution, also commonly known as Amendment 20 of 2000, authorizes the medical use of marijuana.

WHEREAS, Section 16 of Article XVIII of the Colorado Constitution, also commonly known as Amendment 64 of 2012, authorizes a system of state licensing for businesses engaging in the cultivation, testing, manufacturing and retail sale of marijuana, collectively referred to as “marijuana stores” by the Constitution.

WHEREAS, Subsection 16(5)(f) of Article XVIII allows localities within their respective jurisdictions: to prohibit state licensing of marijuana establishments; to regulate the time, place and manner in which marijuana stores may operate; and to limit the total number of marijuana stores. The authority of localities to prohibit or regulate marijuana stores within their respective jurisdictions, including the authority to engage in local licensing of marijuana stores, is also reflected in various provisions of the Colorado Retail Code, Article 43.4 of Title 12, C.R.S.; and

WHEREAS, at the Special Election held on November 3, 2020 the voters of Paonia have determined that the Town of Paonia should allow retail and/or medical marijuana stores within the Town, subject to zoning restrictions set forth in the Municipal Code and the licensing and other limitations, restrictions and regulations provided for in this ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, as follows:

Section 1. Chapter 6 of the Paonia Municipal Code is hereby amended to add a new Article 4, to read as follows:

ARTICLE 4

PAONIA RETAIL & MEDICAL MARIJUANA CODE

Sections:

- 6-4-10** **Purpose and legislative intent**
- 6-4-20** **Defined terms**
- 6-4-30** **Effective date; applicability**
- 6-4-40** **Local licensing authority**

6-4-50	Relationship to Colorado Retail Marijuana Code; other laws
6-4-60	Unlawful acts
6-4-70	Classes of licensing authorized
6-4-80	Screening and response to state license applications
6-4-90	Licensing requirements—provisions applicable to all licenses
6-4-100	Location restrictions
6-4-110	Signs and advertising
6-4-120	Denial for good cause
6-4-130	Transfer of ownership
6-4-140	Change of location; modification of premises
6-4-150	Term of licenses; renewals
6-4-160	Suspension or revocation of license
6-4-170	Operating fees
6-4-180	Public nuisance

6-4-10 Purpose and legislative intent. The purpose of this Chapter 6, Article 4 is to exercise the authority of the Town of Paonia to allow state-licensed retail and/or medical marijuana stores to exist in Paonia in accordance with the applicable state laws and regulations as well as the additional local licensing requirements and other restrictions set forth herein. This Chapter is adopted pursuant to the aforesaid constitutional and statutory authority, as well as the Town’s plenary authority as a statutory town to adopt and enforce ordinances under its police power in order to preserve the public health, safety and general welfare and its authority to regulate businesses.

6-4-20 Defined terms.

The definitions set forth in Subsection 16 (2) of Article XVIII of the Colorado Constitution as well as the Colorado Retail Marijuana Code, § 12-43.4-103, C.R.S., as amended, shall apply equally to this Chapter 6. In addition, the following terms shall have the meanings respectively assigned to them:

A. “**Applicant**” is an agent under written authority, who applies on behalf of a domestic entity as defined under C.R.S. § 7-90-102(13) to operate a retail or medical marijuana store, so long as the written authority is signed by all controlling owners with more than twenty-five percent ownership interest in the domestic entity or its sub entities or an individual, if applying prior to forming a domestic entity.

B. "Alcohol or drug treatment facility" means any facility located within a medical office or hospital that has as its primary purpose the counseling of and/or the providing of medical services to patients who suffer from addictions to alcohol or drugs.

C. "Childcare center" means a facility maintained for the care of children under the age of sixteen (16), including, but not limited to, day camps, nursery schools, day care, preschools and playschools. Such facility shall be licensed by the Colorado Department of Human Services.

D. "Colorado Retail Marijuana Code" means Article 43.4 of Title 12 of the Colorado Revised Statutes, as amended, including all Rules promulgated pursuant to the Colorado Retail Marijuana Code as set forth in the Colorado Code of Regulations Department of Revenue Marijuana Enforcement Division 1 CCR 212.2.

E. "Retail marijuana establishment" means a retail marijuana cultivation facility, a retail marijuana products manufacturing facility, or a retail marijuana testing facility.

F. "Retail marijuana store" is an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers, as set forth in Section 16 of XVIII of the Colorado Constitution.

G. "School" means a public or private elementary, middle, junior high, or high school. (Note: "preschools" are included in the Town's definition of "childcare center").

H. "Land Development Regulations (LDR)" means the land development regulations as adopted and updated periodically by the Town of Paonia.

I. "Marijuana License Cap" is the maximum licenses issued by the Town at any one time being no more than one (1) retail marijuana store per commercial block.

J. "Medical Marijuana Store" is a person licensed to operate a business under C.R.S. § 44-10-104, as amended, that 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.

6-4-30 Effective date; applicability.

This Article 4 shall be effective thirty (30) days after final adoption and publication in the newspaper of public record; and shall govern all applications submitted to the state licensing authority for licensing of any retail and medical marijuana store in the Town under the Colorado Retail Marijuana Code on and after that date.

6-4-40 Local licensing authority.

A. The Board of Trustees is hereby designated to act as the local licensing authority for the Town regarding retail and medical marijuana stores. Under any and all circumstances in which state law requires communication to the Town by the state licensing authority or any other state agency in regard to the licensing of retail and medical marijuana stores by the state, or in which state law requires any review or approval by the Town of any action taken by the state licensing

authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Board.

B. Under no circumstances shall the Board of Trustees receive or act upon any application for local licensing of a retail and medical marijuana store in circumstances where the state has failed to act in accordance with Section 16 of Article XVIII of the Colorado Constitution, it being the intent of this Article that no retail and medical marijuana store may lawfully exist in the Town of Paonia absent the issuance of a state license and full regulatory oversight of the retail and medical marijuana store by the state, as well as the Town. Accordingly, the Board shall not receive or act upon any application for licensing submitted independently and in lieu of state licensing if the state fails to act within ninety (90) days on any specific application for licensing of a retail and medical marijuana store in accordance with paragraph 16(5)(g)(III) of Article XVIII of the Colorado Constitution.

C. Any decision made by the local licensing authority to grant or deny a license, to revoke or suspend a license, or to renew or not renew a license 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.

6-4-50 Relationship to Colorado Retail Marijuana Code; other laws.

Except as otherwise specifically provided herein, this Article 4 incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this Article 4 and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, the more restrictive provision shall control, except that the location requirements and restrictions set forth in Section 6-4-100 shall apply in all situations of conflict between such provisions and the provisions of state law or regulation regarding matters where the exercise of discretion by local jurisdictions is granted by the constitution or laws of the State of Colorado.

6-4-60 Unlawful acts.

A. It shall be unlawful for any person to operate any retail and medical marijuana store in the Town without a license duly issued therefor by the state licensing authority under the Colorado Retail Marijuana Code and compliance with any and all applicable state laws.

B. It shall be unlawful for any person to operate any retail and medical marijuana store in the Town without a license duly issued therefor by the Board of Trustees under this Article 4 and compliance with any and all applicable Town laws.

C. It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana other than those forms of businesses and commerce that are expressly contemplated by Sections 14 and 16 of Article XVIII of the Colorado Constitution and/or the Colorado Retail Marijuana Code.

D. It shall be unlawful for any licensed retail and medical marijuana store to sell, serve, distribute, or initiate the transport of retail and medical marijuana or retail and medical marijuana products at any time other than between the hours of 8:00 a.m. and 12:00 a.m. daily.

6-4-70 Classes of licensing authorized.

For the purpose of regulating the cultivation, manufacturing, testing, distribution, offering for sale, and sale of retail and medical marijuana, the Board of Trustees, at the Board's discretion, upon application in the prescribed form made to the Board, may issue and grant to the applicant a local license from any of the following classes, and the Town hereby authorizes the issuance of the licenses of the following classes by the state licensing authority within the Town, subject to the provisions, limitations and restrictions set forth in this Article 4:

A. Retail marijuana store.

B. Medical marijuana store.

(Note: A Retail Marijuana Store may be located on the same licensed premises as a Medical Marijuana Store and may be operated by the same licensee, subject to compliance with all state requirements and the requirements of this Town Marijuana Code, and the issuance of a state license allowing for such co-location.)

6-4-80 Screening and response to state license applications.

A. Upon receipt of notice from the state licensing authority of any application for a license under the Colorado Retail Marijuana Code, the Town Clerk shall:

1. Determine, in consultation with the Town Administrator, or his/her designee, whether the location proposed for licensing complies with any and all applicable zoning and land use laws of the Town, and any and all restrictions on location of retail or medical marijuana stores set forth in this Article 4. If the Town makes an initial determination that the proposed license would be in violation of any zoning law or other restriction on location set forth in the Town's laws, the Town shall, no later than forty-five (45) days from the date the application was originally received by the state licensing authority, notify the state licensing authority and the applicant for state licensing in writing that the application is disapproved by the Town. The failure of the Town to make such a determination upon the initial review of a state license application shall not preclude the Town from later determining that proposed license is in violation of Town's zoning laws or any other restriction on location set forth in Town laws, and disapprove the issuance of a state or Town license on this basis.

2. For any application that is not disapproved as provided in paragraph 1 of this Subsection A, the Town shall notify the state licensing authority and the applicant for state licensing in writing that the Town's further consideration of the application is subject to a local licensing process, and that the Town's ultimate decision to approve or disapprove the issuance of the state license for a retail or medical marijuana store proposed to be located in the Town of Paonia will be subject to the completion of the local licensing process, as set forth in this Article 4, after which the Town will notify the state licensing authority in writing of whether or not the

retail or medical marijuana store proposed in the application has or has not been approved by the Town.

6-4-90 Licensing requirements—provisions applicable to all licenses.

A. Criteria for licensing. The Board of Trustees shall consider and act upon all local license applications in accordance with the standards and procedures set forth in this Article 4. The Board may deny any application for a license that is not in full compliance with the Colorado Retail Marijuana Code, this Article 4, and any other applicable state or Town law or regulation. The Board also shall deny any application that contains any false or incomplete information.

B. Application forms and supplemental materials. All applications for local licensing shall be made upon forms provided by the Town and shall include such supplemental materials as required by the Colorado Retail Marijuana Code and rules adopted pursuant thereto, including by way of example: proof of possession of the licensed premises, disclosures related to ownership of the proposed business, fingerprints of the applicants, building plans, and security plans. To the extent any of the foregoing supplemental materials have been included with the applicant's state license application and forwarded to the Town by the state licensing authority, the Town Clerk may rely upon the information forwarded from the state without requiring re-submittal of the same materials in conjunction with the local license application. The Town may, at the Town's discretion, require additional documentation associated with the application as may be necessary to enforce the requirements of the Colorado Retail Marijuana Code and this Article 4.

C. Tax bond. Before the Board of Trustees issues a Town license to an applicant for a retail or medical marijuana store license, the applicant shall procure and file with the Town evidence of good and sufficient bond in the amount of twenty-five thousand dollars (\$25,000) with corporate surety thereon duly licensed to do business with the State of Colorado, approved as to form by the Town's Attorney, and conditioned that the applicant shall report and pay all Town sales and use taxes as provided by law. A corporate surety shall not be required to make payments to the Town claiming under such bond until a final determination of failure to pay taxes due to the Town has been made by the Finance Officer or a court of competent jurisdiction. All bonds required pursuant to this subsection shall be renewed at such times as the bondholder's license is renewed. The renewal may be accomplished through a continuation certificate issued by the surety. A cash bond in the amount of ten thousand dollars (\$10,000) may be deposited with the Finance Officer in lieu of a surety bond.

D. Area maps. All applications for retail or medical marijuana store licensing submitted pursuant to this Article 4 shall include an area map drawn to scale indicating land uses of other properties within five hundred (500) feet of each boundary of the lot or parcel upon which the applicant proposes a licensed premise. The map shall depict the proximity of the property to be used as the licensed premises to any school or childcare facility of the type referenced in Section 6-4-100.

E. Notice of applications to departments and agencies. Upon receipt of an application for any class of local marijuana store license, the Town Clerk shall give notice of the application to the Town Administrator, the Finance Officer, the Building Official, the Chief of the Paonia

Police Department, the Chief of the Paonia Fire Protection District #2 and appropriate county or local health officials. Any applicant for a license under this Article 4 shall obtain any and all necessary permits, licenses and other regulatory approvals from the other affected Town departments and agencies prior to the issuance of a license under this Article 4. The Town also will consider any recommendations made by the Paonia Fire Protection District #2.

F. Background checks and determination of good character and state residency. Prior to the issuance of any local license, the Board of Trustees shall make a finding as to the good moral character of the applicant and compliance with state residency requirements in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code. In so doing, the Board may incorporate into its findings any findings as to good character and residency previously made by the state licensing authority and rely upon such findings in making its determination. The Board shall not be required to perform a criminal background check if the state licensing authority has already performed a criminal background check on the applicant.

H. A license pursuant to this ordinance does not eliminate the need for the licensee to obtain other Town licenses and permits, including, but not limited to:

1. Any land use approval, if applicable;
2. State sales tax license; or
3. Building, mechanical, plumbing, electrical or fire permit(s).

6-4-100 Location restrictions

A. Permitted locations for sales. All retail or medical marijuana store licenses shall be issued for a specific fixed location which shall be designated the licensed premises. Except as provided in Subsection D, all sales, deliveries and other transfers of marijuana and marijuana products by a licensee shall be made at or from the licensed premises.

B. Distance from schools. No retail or medical marijuana store license shall be granted with respect to a proposed licensed premises that would be located within five hundred (500) feet of any school that existed at the time of the filing of a complete application for a retail or medical marijuana store license with the Town Clerk.

C. Distance from certain childcare facilities. No retail or medical marijuana store license shall be granted with respect to a proposed licensed premises that would be located within five hundred (500) feet of any licensed residential child care facility, as defined in Title 26 of the Colorado Revised Statutes, that existed at the time of the filing of a complete application for a retail or medical marijuana store license with the Town.

D. No mobile facilities and restrictions regarding deliveries.

1. No retail or medical marijuana store shall be located in a movable or mobile vehicle or structure.

2. No retail or medical marijuana or marijuana product shall be delivered in the Town unless such delivery is by a retail or medical marijuana store licensed by the state to

another retail or medical marijuana store licensed by the state and the Town, and such delivery is specifically permitted by the Colorado Retail Marijuana Code.

3. All sales and distribution of marijuana and marijuana products by a licensed retail or medical marijuana store shall occur only upon the licensed premises. (Removed delivery prohibition)

E. Measurement of distance. Any distance specified in Subsection B or C of this section shall be computed by direct measurement from the nearest property line of the lot or parcel upon which a school or child care facility referenced in Subsection B or C is situated to the nearest property line of the land used or proposed for use as a licensed retail or medical marijuana store, using a route of direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulations and lights.

F. Places where retail or medical marijuana stores are prohibited. No licensed retail or medical marijuana store shall be operated within the boundaries of any residential zone district of the Town as those boundaries exist at the time any complete application for any class of retail or medical marijuana store license is filed with the Town Clerk. Retail or medical marijuana stores shall only be operated within the boundaries of a C-1 or C-2 commercial zone district of the as those boundaries exist at the time any complete application is filed with the Town Clerk.

6-4-110 Signs and advertising.

A. Any person or premises licensed as a retail or medical marijuana store shall comply with all Town ordinances regulating signs and advertising. In addition, no licensed retail or medical marijuana store shall use any advertising material that is misleading, deceptive, or false, or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.

B. For purposes of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a retail or medical marijuana store or retail or medical marijuana products manufacturer in order to promote the sale of retail or medical marijuana by the store or the manufacturer.

C. Except as otherwise provided in this Subsection C, it shall be unlawful for any person licensed under this Title or any other person to advertise any retail or medical marijuana or retail or medical marijuana product anywhere in the Town where the advertisement is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this paragraph shall not apply to:

1. Any sign located on the same zone lot as a retail or medical marijuana store which exists solely for the purpose of identifying the location of the retail or medical marijuana store

and which otherwise complies with the Town’s sign code, Chapter 18, Article 6 of the Town Municipal Code, and any other applicable Town laws and regulations; or

2. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the Town;

3. Advertising which is purely incidental to sponsorship of a charitable event by a retail or medical marijuana store or a retail or medical marijuana products manufacturer; or

6-4-120 Denial for good cause.

A. The Board of Trustees shall have authority to refuse to issue or renew any retail or medical marijuana store license for good cause, subject to judicial review. For purposes of this section, the term “good cause” means:

1. The applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Colorado Retail Marijuana Code or any rules and regulations promulgated pursuant thereto, or this Title 4 or any rules and regulations promulgated pursuant to this Title;

2. Evidence that the issuance or renewal of the license will adversely impact the health, welfare or public safety of the immediate neighborhood in which the retail or medical marijuana store is located or is proposed to be located; or

3. Evidence that the licensee or applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or an order of the Local Licensing Authority.

B. Any decision of the Board of Trustees to approve or deny any license application shall be in writing, stating the reasons therefor.

6-4-130 Transfer of ownership. Transfer of ownership of any local license issued pursuant to this Article 4 shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses.

6-4-140 Change of location; modification of premises. Change of location of any license or any modification of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer applications to change location or modify premises in the same manner as the state licensing authority administers changes of location and modification of premises for state licenses. Any proposed modification and any new location to which an existing licensed business is transferred shall fully comply with the location requirements and the requirements for conformance with current zoning as set forth this Title 4.

6-4-150 Term of licenses; renewals. Any local license issued pursuant to this Title shall be valid for a period of one (1) year from the date of issuance. Any renewal of the license shall

be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the Board of Trustees shall administer license renewals in the same manner as the state licensing authority administers renewals of state licenses. An application for renewal shall be made to Staff not less than sixty (60) days prior to the date of expiration and concurrent with the application for renewal filed with the state licensing authority, as required.

6-4-160 Suspension or revocation of license.

A. A license may be suspended or revoked by the Board of Trustees for any of the following reasons:

1. Fraud, misrepresentation, or a false statement of material fact contained in the license application;
2. A violation of any Town, State or Federal law or regulation, other than federal law or regulation concerning the production, transportation, possession, sale or distribution of marijuana that conflicts with Amendment 64;
3. A violation of any of the terms and conditions of the license, including any special conditions of approval imposed upon the license;
4. A violation of any of the provisions set forth in this ordinance; or
5. Cessations of operation at the center for more than thirty (30) days.

B. The Town shall notify the licensee of the issuance of a show cause order to suspend or revoke the license. Notice shall be given by mailing a copy, or served by the Paonia Police Department of the order to the licensee by registered mail to the address shown on the license. Notice is deemed to have been properly given upon mailing.

C. A hearing shall then be scheduled before the Board of Trustees within forty-five (45) days of the notice of the show cause order. Such hearing may be continued for good cause.

The burden of proof at the hearing shall be on the Town.

D. If the Board of Trustees finds a preponderance of the evidence that the allegations in the show cause order are sustained, the Board of Trustees shall issue such order in writing to the licensee within ten (10) days.

E. Upon such findings, the Board of Trustees shall have the power to revoke, suspend, and/or place additional reasonable conditions on the license.

6-4-170 Operating Fees and License Term.

A. When the application is filed, the applicant shall pay to the Town the applicable application and other fees, as set forth by resolution.

B. Any renewal application filed late will be subject to a late fee and Staff has no authority to waive such late fee.

C. If an application is approved, the applicant shall pay an annual operating fee, if applicable, in such amount as may established from time to time by the Board of Trustees as adopted from time to time by Resolution.

D. Each license issued pursuant to Article 6 shall be valid for a period of one (1) year from the date of issuance and may be renewed as provided in this Section.

E. All other fees shall be set by and may be subject to amendment via resolution.

F. All fees shall be non-refundable.

6-4-180 Public nuisance.

A. The unlawful cultivation, manufacturing, sale, offer for sale, or distribution of retail or medical marijuana without a license is hereby declared to be a nuisance which may be abated or otherwise dealt with in accordance with the provisions of the Paonia Municipal Code.

Section 2. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 3. Repeal of Prior Ordinances.

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Ordinance Effect.

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed; provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded, and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 5. Effective Date.

This Ordinance shall take effect thirty (30) days after passage and publication.

INTRODUCED, READ AND REFERRED before the Board of Trustees for the Town of Paonia, Colorado, on the 23rd day of June 2020.

HEARD AND FINALLY ADOPTED by the Town of Paonia Board of Trustees for the Town of Paonia, Colorado, on the ____ day of _____ 2021.

TOWN OF PAONIA

By: _____

Mary Bachran, Mayor

ATTEST:

Corinne Ferguson, Town/Administrator Clerk

DRAFT