

**TOWN OF FREDERICK, COLORADO
ORDINANCE NO. 1204**

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING
ARTICLES 1 AND 3 OF THE FREDERICK LAND USE CODE, 2004;
AMENDING CERTAIN SECTIONS OF THE FREDERICK LAND USE CODE IN
CONNECTION WITH THE ADOPTION OF AMENDED LANGUAGE
PERTAINING TO MARIJUANA REGULATIONS; AND REPEALING ALL
ORDINANCES IN CONFLICT THEREWITH.**

WHEREAS, the Board of Trustees of the Town of Frederick finds it necessary to amend the Town of Frederick Land Use Code, 2004, to improve and expedite the procedure to regulate land use and development within the Town and to clarify the community design standards, zoning and subdivision regulations, and specific use tables in the present land use codes, as previously adopted; and

WHEREAS, on July 21, 2015 the Frederick Planning Commission held a public meeting to review the subject revisions to the Land Use Code, and approved those revisions pursuant to Resolution PCR-14-06A.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FREDERICK, COLORADO, AS FOLLOWS:**

Section 1. Section 3.4 of the Frederick Land Use Code, 2004, is hereby amended to include the following uses in the Table 3.1, the Table of Permitted Uses, to read as set forth on Exhibit A, attached hereto and incorporated herein by this reference:

- *Medical Marijuana: Primary Caregiver*
 - *Up to 6 plants*
 - *More than 6 plants, effective only through December 31, 2016*
 - *More than 6 plants, but no more than 99 plants effective January 1, 2017*
- *Medical Marijuana: Patient*
 - *Up to 6 plants*
 - *More than 6 plants, effective only through December 31, 2016*
 - *More than 6 plants, but no more than 99 plants effective January 1, 2017*
- *Marijuana: Recreational – Up to 6 plants*

Section 2. Within Table 3.1, the Table of Permitted Uses, to read as set forth on Exhibit A, attached hereto and incorporated herein by this reference, the following uses are to be repealed in their entirety:

- *Medical marijuana operations*
- *Medical marijuana primary caregiver (5 or fewer patients)*

- *5 or fewer patients*
- *More than 5 patients*

Section 3. Section 3.4.2.b.(8)(c), Residential Protection Standards, is hereby amended by the addition of the language as set forth in Exhibit A.

Section 4. Section 3.4.2.b.(20), is hereby amended to read as set forth on Exhibit A hereto.

Section 5. Section 3.4.2.b.(21), is hereby repealed in its entirety.

Section 6. Section 3.4.2.b.(22) is hereby repealed in its entirety.

Section 7. Section 3.4.2.b.(23) is hereby repealed in its entirety.

Section 8. The remaining regulations of Section 3.4.2.b., currently numbered (24) through (29) shall be renumbered appropriately and all references in Table 3.1 will be updated to acknowledge the renumbering.

Section 9. Section 1.15 of the Frederick Land Use Code, 2004 is amended with the addition of the following terms as set forth on Exhibit A hereto:

- *Colorado Medical Marijuana Code*
- *Colorado Medical Marijuana Program*
- *Contiguous*
- *Cultivation or cultivate*
- *Distribute or distribution*
- *Medical marijuana*
- *Medical marijuana plant*
- *Medical use*
- *Medical marijuana patient*
- *Medical marijuana physician*
- *Primary residence*

Section 10. Section 1.15 of the Frederick Land Use Code, 2004 is amended with the deletion of the following terms as set forth on Exhibit A hereto:

- *Medical marijuana center*
- *Medical use of marijuana*

Section 11. Section 1.15 of the Frederick Land Use Code, 2004 is amended to reflect changes to the following definitions as set forth on Exhibit A hereto:

- o *Primary caregiver*

Section 12. Effective date. This ordinance shall be published and become effective as provided by law.

Section 13. Severability. If any part, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more part, sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 14. Repealer. All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof in conflict with this ordinance are, to the extent of such conflict, hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution, or motion thereby.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED
THIS 25th DAY of AUGUST, 2015.**

ATTEST:

By 
Meghan C. Martinez, Town Clerk

TOWN OF FREDERICK


Tony Carey, Mayor



EXHIBIT A

2015 LAND USE CODE REVISIONS,
as approved by the Frederick Planning Commission on July 21, 2015

Numbering System:

There are 25 amendments to the LUC identified below. In an attempt to keep them organized and easily identifiable, staff has employed an indexing system in which the article number is followed by the amendment number, separated by a decimal point/period. For example, the third amendment for Article 3 would be shown as Amendment 3.3.

ARTICLE 3 –AMENDMENTS

Amendment 3.1

Table 3.1, Table of Permitted Uses, Medical marijuana operations is removed from the table.

Amendment 3.2

Table 3.1, Table of Permitted Uses, Medical marijuana primary caregiver (5 or fewer patients) and the following sub-lines as shown below are removed from the table.

PERMITTED USES	A	RE	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Medical marijuana primary caregiver (5 or fewer patients).																	
1. 5 or fewer patients.		P	P	P	P	P						P					(21), C-H52: (22)
2. More than 5 patients.										C							(23)

Amendment 3.3

Table 3.1, Table of Permitted Uses, is amended with the addition of the following:

PERMITTED USES	A	RE	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Medical Marijuana: Primary Caregiver																	
1. Up to 6 plants	P	P	P	P	P	P	P	P	P								
2. More than 6 plants (effective through															C		

xv. Cultivation of medical marijuana by a primary caregiver or a patient with legal authorization from the State to cultivate, produce, possess or process more than six medical marijuana plants, which is limited to the Industrial (I) zoning district - No closer than five hundred (500) feet.

Amendment 3.7

Section 3.4.2.b.(20) is removed in its entirety and replaced with the following:

(20) Each residential dwelling unit within the Downtown A and Downtown B zones are permitted to grow up to six (6) medical marijuana plants and six (6) recreational marijuana plants.

Amendment 3.8

Section 3.4.2.b.(21) is removed in its entirety.

Amendment 3.9

Section 3.4.2.b.(22) is removed in its entirety.

Amendment 3.10

Section 3.4.2.b.(23) is removed in its entirety.

Amendment 3.11

With the removal of items 21, 22, and 23, the remaining Specific Use Standards are to be renumbered and the references in Table 3.1 updated to reflect the new numbers.

ARTICLE 1 –AMENDMENTS

Amendment 1.1

Section 1.15, is amended with the addition of the following:

Colorado Medical Marijuana Code means Sections 12-43.3-101, et seq., of the Colorado Revised Statutes, as may be amended.

Amendment 1.2

Section 1.15, is amended with the addition of the following:

Colorado Medical Marijuana Program means that program defined by Section 25-1.5-106(2)(d), Colorado Revised Statutes, as may be amended.

Amendment 1.3

Section 1.15, is amended with the addition of the following:

Contiguous, in terms of determining the area devoted to the cultivating, producing, possessing or processing of medical marijuana and medical marijuana plants, means an uninterrupted expanse of space on the same floor or the level of the primary residence that can be measured by framing the area with four or more continuous and connected straight lines. The space within a single

room which is defined by permanent perimeter walls is contiguous; the space within adjoining rooms divided by a permanent wall or permanent structure but accessible via a common doorway or connected by a common hallway is contiguous; however, nonadjacent spaces separated by two (2) or more permanent walls or separated by floors or levels of the building are not contiguous.

Amendment 1.4

Section 1.15, is amended with the addition of the following:

Cultivation or cultivate means (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging or repackaging, labeling or relabeling of a usable form of marijuana.

Amendment 1.5

Section 1.15, is amended with the addition of the following:

Distribute or distribution means the actual, constructive or attempted transfer, deliver, sale or dispensing to another, with or without remuneration.

Amendment 1.6

Section 1.15, is amended to read as follows:

Medical marijuana means any marijuana that is intended for medical use and is grown for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

Amendment 1.7

Section 1.15, is amended to read as follows:

Medical marijuana plant means marijuana plants, seedlings or any part thereof in a living condition that are lawfully cultivated, produced, possessed, or processed pursuant to the provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, the Colorado Medical Marijuana Program, and other applicable laws or regulations governing the cultivation, production, possession or processing of medical marijuana.

Amendment 1.8

Section 1.15, is amended with the addition of the following:

Medical use means that use described and defined in Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and the Colorado Medical Marijuana Program.

Amendment 1.9

Section 1.15, is amended with the deletion of the following:

Medical marijuana center is defined as a person licensed to operate a business that sells medical marijuana to registered patients or primary caregivers, but is not a primary caregiver.

Amendment 1.10

Section 1.15, is amended with the deletion of the following:

Medical use of marijuana means the acquisition, possession, production, use, or transportation of marijuana or paraphernalia related to the administration of such marijuana to address the symptoms or effects of a patient's debilitating medical condition, which may be authorized only after a diagnosis of the patient's debilitating medical condition by a physician or physicians, as defined in Colorado Constitution Art. XVIII, Sec. 14.

Amendment 1.11

Section 1.15, is amended with the addition of the following:

Medical marijuana patient means a person who meets the definition of patient under Article XVIII, Section 14(1)(d) of the Colorado Constitution and applicable law.

Amendment 1.12

Section 1.15, is amended with the addition of the following:

Medical marijuana physician means a doctor of medicine as defined in Article XVIII, Section 14(1)(e) of the Colorado Constitution and meeting all requirements of Section 25-1.5-106, Colorado Revised Statutes, as may be amended.

Amendment 1.13

Section 1.15, is amended as follows:

Primary caregiver means a person who meets the definition of primary caregiver under Article XVIII, Section 14(1)(f) of the Colorado Constitution and applicable law.

Amendment 1.14

Section 1.15, is amended as follows:

Primary residence means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and consumption of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one primary residence. A primary residence shall not include accessory buildings.