

ORDINANCE NO. 1 SERIES OF 2017

**AN ORDINANCE TO REGULATE THE CULTIVATION OF MARIJUANA
ON RESIDENTIAL PROPERTIES; IN RESIDENTIAL STRUCTURES;
IN ACCESSORY STRUCTURES ON RESIDENTIAL PROPERTY;
ON VACANT OR UNOCCUPIED LAND; AND ON NON-RESIDENTIAL PROPERTY
AND REQUIRING REGISTRATION OF CAREGIVERS**

REPEALING AND REPLACING ORDINANCES 2016- 1 & 2016-2

WHEREAS, Fremont County, Colorado has the authority pursuant to C.R.S. §30-11-101(2) to adopt and enforce ordinances and resolutions regarding health, safety and welfare issues; and

WHEREAS, the Colorado Constitution Article XVIII, Section 14 and the Colorado Medical Marijuana Code, C.R.S. §§12-43.3-101, *et seq.*, recognize that local governments retain authority to regulate the cultivation of medical marijuana; and

WHEREAS, the Colorado Constitution, Article XVIII, Section 16 and the Colorado Retail Marijuana Code, C.R.S. §§12-43.4-101, *et seq.*, recognize that local governments may regulate the personal use of marijuana to serve the purpose and intent of the constitutional and statutory provisions regarding such use; and

WHEREAS, no person is allowed to possess, cultivate, grow, use or distribute marijuana in any manner or for any purpose other than that allowed by the Colorado Constitution and Colorado State Statutes, and local laws and regulations; and

WHEREAS, the Board of County Commissioners for the County of Fremont has determined that the adoption of regulations governing the residential cultivation of medical and personal-use marijuana is necessary and desirable for the health, safety and welfare of the citizens of Fremont County; and

WHEREAS, Fremont County currently has in effect Ordinance 2016-1 and 2016-2 to govern and regulate residential cultivation of medical and personal use marijuana in the unincorporated areas of Fremont County; and

WHEREAS, Colorado House Bill 17-1220, effective January 1, 2018, requires the amendment of Fremont County Ordinances 2016-1 and 2016-2, regulating cultivation of marijuana on residential properties; and

WHEREAS, the Board of County Commissioners has determined that a single ordinance regulating the residential cultivation of marijuana, whether for medical or personal use, is necessary to avoid confusion in the interpretation of three separate ordinances; and

WHEREAS, pursuant to the provisions of this Ordinance, 2017-1, it shall repeal in the entirety and replace Ordinance 2016-1 and Ordinance 2016-2.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, COLORADO:

Section 1. Purpose. This Ordinance is intended to apply to the growing of medical and personal-use marijuana on residential properties, in residential structures, and in residential accessory structures.

Section 2. No Non-conforming Use Status. No person, business, activity or use involved the cultivation of marijuana in the unincorporated areas of County prior to the enactment of this Chapter shall be deemed to have been legally established under this Ordinance, and no such person, business, activity or use shall be entitled to claim legal nonconforming status under any provision of this Ordinance or applicable law.

Section 3. Definitions.

A. “Cultivation” means the planting, growing and/or harvesting of marijuana, including but not limited to hydroponic cultivation and cloning.

B. “Enclosed Space” means a permanent or semi-permanent area, surrounded on all sides, including the roof. The temporary opening of windows or doors does not convert the area into an unenclosed space.

C. “Extended Plant Count Permit” (“EPCP”) is a Fremont County-issued permit addressing and allowing cultivation of marijuana for patients and/or caregivers, cultivating alone, or in a cooperative, collective, joint or combined setting, where the number of plants exceeds the maximum marijuana plant count established in this Ordinance.

D. “Immature Plant” means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom.

E. “Marijuana” means all parts of the plant of the genus cannabis, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Marijuana includes both Medical Marijuana and Personal Use Marijuana. Marijuana does not include “immature plant” as defined herein; industrial hemp; fiber produced from the stalks, oil, or cake made from the seeds of the plant; sterilized seed of the plant incapable of germination; or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

F. “Medical Marijuana Facility” means a medical marijuana center, optional cultivation premises or medical marijuana infused product manufacturing operation which are licensed by the State of Colorado and the County of Fremont.

G. “Multi-family Dwelling” means a duplex, triplex, fourplex units, apartments, attached condominium units and attached residential developments.

H. “Parcel or Property” means a plot of land typically considered a unit for the purpose of development and conveyed lawfully be deed to one or more owners.

I. “Patient” means a person who possesses a valid and current Colorado registry identification card for medical marijuana.

J. “Primary Caregiver” under Colorado Constitution, Article XVIII, Section 14(1)(f) of the Colorado Constitution means a natural person, other than the patient and the patient's physician, who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

K. “Primary Residence” means the place where a person or family member, by custom and practice makes his or her principal domicile and address, and to which the person or family member intends to return following any temporary absence, such as a 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 eating of meals, regular mail delivery, vehicle and voter registration, and credit, and water and utility billing, A person or family member shall have only one primary residence. A primary residence includes both single and multi-family residences.

L. “Residential Marijuana Cultivation” means the use of a residential property, on which a person resides as their primary residence, for the cultivation and growing of medical and/or personal use marijuana for that person's personal use only. All residential marijuana cultivation shall comply with all provisions of this Ordinance.

M. “Residential Property” means a single unit or structure providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. It also includes the real property surrounding a structure owned in common with the structure and may include one or more single units providing complete independent facilities

N. “Residential Structure” means a detached, one-family residence; attached accessory structure to a detached, one-family residence; or a detached accessory structure.

O. “Secure Area” means an area within a residential structure accessible only to the person possessing, cultivating or processing marijuana for personal or medical use.

Section 4. Medical Marijuana Facilities. All medical marijuana facilities are subject to the requirements of the Fremont County Medical Marijuana Business Licensing Regulations (Resolution No. 22, Series of 2014).

Section 5. Caregiver Cultivation Registration.

A. In accordance with C.R.S. §25-1.5-106, C.R.S., a primary caregiver who cultivates medical marijuana for one or more patients is required to register the location of his or her cultivation operation with the state medical marijuana licensing authority. A cultivating or transporting primary caregiver may serve no more than five patients at any given time, unless the state health agency allows a primary caregiver to serve more than five patients due to exceptional circumstances.

B. A primary caregiver who cultivates medical marijuana for one or more patients in the unincorporated area of Fremont County shall register the location and plant count of the cultivation operation with the Fremont County Department of Planning and Zoning. Such information shall be confidential and shall not be released to the general public, but may be used by code and law enforcement in the enforcement of state or local marijuana laws or regulations.

Section 6. General Provisions for Indoor or Outdoor Cultivation of Medical and Personal Use Marijuana on Property in Unincorporated Fremont County.

A. Such cultivation, production, or possession of marijuana plants must be in full compliance with all applicable constitutional, statutory, and regulatory requirements of the State of Colorado and ordinances and regulations of the County of Fremont.

B. Any space used for grow operations pursuant to this Ordinance must not be accessible to the public or any person under the age of twenty-one (21) years unless such person possesses a medical marijuana registration card, or is a registered caregiver 18 years of age or older.

C. Cultivation of marijuana is only permitted by adults over twenty-one (21) years of age.

D. Cultivation of medical marijuana on residential property by a person under twenty-one (21) years of age is allowed if such person possesses a valid medical marijuana registration card, resides at, and uses the property as their primary residence

E. Medical marijuana caregivers may cultivate on residential property for up to five (5) persons who do not reside at the property, if the property is the caregiver's primary residence and the caregiver has been designated as caregiver by the medical marijuana patient. In no event, shall a caregiver be allowed to cultivate for more than five (5) patients without obtaining a valid medical marijuana business license from the County.

F. Neither the cultivation nor processing of medical or personal use marijuana plants shall be perceptible from the exterior of the structure or property on which any such activities occur, by any of the following means, or as a result of any of the following impacts or effects:

- (1) Common visual observation (e.g., through a window) by a person of normal vision without visual enhancements (e.g. binoculars);
- (2) Light pollution, glare, or brightness that reasonably could be expected to unreasonably disturb the repose of another person of normal visual sensitivities;
- (3) Smell or odor of marijuana, or unusual smells or odors generated by or in connection with such growing or processing and not generally found in the surrounding area or environment, as detectable by a person with a normal sense of smell;
- (4) Undue or unusually high volumes of vehicular or pedestrian traffic, including unusually heavy or frequent parking in front of or in the immediate vicinity of the property; or
- (5) Noise from exhaust fans, other equipment, or other sources associated with or connected to such cultivation or processing that can be heard on surrounding properties on a steady, continuous basis lasting longer than two hours in a 24-hour period or occurring for any length of time between the hours of 9:00 p.m. and 6:00 a.m.

G. Medical or personal use marijuana cultivation is prohibited within a Travel Trailer Park, Campground, or on any property allowing or containing temporary residential uses by non-owners.

H. Plant Count Limit.

- (1) No more than twelve (12) marijuana plants may be grown on any single-family dwelling residential property at any given time.
- (2) No more than six (6) marijuana plants may be grown on the property of any unit of a multi-family dwelling, including the unit itself and any accessory building, at any given time.
- (3) No more than twenty-four (24) medical marijuana plants may be grown by a patient, primary caregiver, or combination of patients and/or caregivers on any single-family dwelling residential property at any given time, except under the authority of a valid, Extended Plant Count Permit.
- (4) No more than twenty-four (24) medical marijuana plants may be grown by a patient, primary caregiver, or combination of patients and/or caregivers on any vacant, unoccupied, or non-residential property at any given time, except under the authority of a valid, Extended Plant Count Permit.

I. Residential cultivation of marijuana conducted by a non-owner of a residential property such as a tenant, lessee, guest, or other similar occupancies, shall be prohibited unless such non-owner has written permission from the owner of the residential property specifically allowing cultivation of marijuana on the property.

J. Cultivation of marijuana plants on behalf of other marijuana plant owners is permissible, subject to the provisions of this Ordinance.

K. Waste product from the marijuana cultivation and processing shall be disposed of properly so as not to be at risk for consumption by others and so as not to attract rodents, pests, or public curiosity.

L. Marijuana cultivation under this Ordinance shall not be for the use of any licensed Marijuana Establishment, as that term is defined in the Colorado Medical and Retail Marijuana Codes.

M. It shall be unlawful for any person who is not licensed under Article 43.3 or Article 43.4 of Title 12, C.R.S. to sell marijuana. A caregiver may be reimbursed for the costs involved in marijuana production pursuant to C.R.S. 25-105-106.

N. Extraction shall be permitted only as follows:

(1) Extraction shall comply with the C.R.S. 18-18-406.6 and any other applicable State law or regulation.

(2) Extraction using alcohol or ethanol outside of a licensed medical marijuana infused products manufacturing facility or a licensed personal use marijuana products manufacturing facility in compliance with all applicable state and local laws, and all rules and regulations promulgated thereunder is permitted only if:

(a) such production is approved by the appropriate Fire Official, if such approval is required by the Official; and

(b) the production of marijuana concentrate is done without the application of any heat from a fuel fired or electrified source and uses no more than sixteen (16) ounces of alcohol or ethanol during each extraction process and no hazardous chemicals, gases, explosives, flammable materials or similarly dangerous substances are used in any pipes, tanks or other equipment on the property.

(3) Water Based Extraction, Food Based Extraction, and Alcohol Based Extraction are the only methods of Extraction permitted for marijuana processing. These methods shall comply with requirements of the Fire Official having jurisdiction over the property.

O. No property may be used for cultivation of marijuana plants unless the parcel is created in accordance with county subdivision and other legal requirements and is used in full compliance with the Fremont County Zoning Resolution.

P. Documentation verifying plant counts, patient information, and caregiver registration for each cultivation operation shall be readily available on site and provided to code enforcement and law enforcement officials upon request.

Q. Cultivation of personal use or recreational marijuana on non-residential, unoccupied or vacant property is specifically prohibited.

Section 7. Provisions for Indoor Cultivation of Medical and Personal Use Marijuana on Residential Property. Cultivation of marijuana, whether medical or personal use, by a person in any residential structure or in a detached residential accessory structure shall be permitted, subject to the following restrictions:

A. Any structure used for cultivation shall comply with all applicable building and zoning codes, including but not limited to the health, building, electrical, plumbing, mechanical, sign, fire, and other codes, statutes, and ordinances.

B. Cultivation of marijuana in a multi-family dwelling must comply with all provisions of this Ordinance and shall not be perceptible from any other unit or dwelling in the multi-family structure, development or complex. Marijuana plants shall not be grown or processed in the common areas of the multi-family or attached residential development.

C. The person(s) cultivating marijuana must reside in the same dwelling or dwelling unit. For cultivation of marijuana in a greenhouse and/or accessory building, a single-family dwelling or unit of a multi-family dwelling shall be on the same property as the greenhouse and/or accessory building and such dwelling shall be occupied by the person(s) cultivating marijuana.

D. Any residential property or structure, or portion thereof, used for cultivation, processing, or possession shall be a secure area, inaccessible and not visible to persons under the age of 21, visitors, casual passers-by, vandals, or anyone not authorized to possess or access medical or personal use marijuana. Secure areas shall be portioned space-constructed and locked.

Section 8. Provisions for Outdoor Cultivation of Medical and Personal Use Marijuana on Residential Property. Outdoor Home or Residential Cultivation may occur on residential properties subject to the following restrictions:

A. Outdoor marijuana shall be contained entirely in an area that is completely fenced and screened with a locked gate and not perceptible from any right-of-way, any other residence, or other public area.

B. The person(s) cultivating marijuana must reside in the single-family dwelling or the unit of a multi-family dwelling located on the parcel.

C. The use of temporary dwelling accommodations, including travel trailers, recreational vehicles, tents and similar accommodations, shall strictly comply with zoning, health, sanitation, and other regulatory requirements for such use.

D. Cooperative, joint, collective, or other combined grows on a single parcel by more than one primary caregiver or patient are allowed, subject to the plant count restrictions in this Ordinance, and provided at least one of the caregivers and/or patients engaged in the cultivation operation has a 50% or more fee-simple ownership interest in and resides on the parcel used for cultivation.

Section 9. Cultivation of Medical Marijuana on Vacant, Unoccupied Property or Non-Residential Property. Cultivation of medical marijuana by one or more primary caregivers or patients on vacant, unoccupied, or non-residential property is allowed, subject to the provisions of this Ordinance and the following requirements and restrictions:

A. Outdoor marijuana shall be contained entirely in an area that is completely fenced and screened with a locked gate and not perceptible from any right-of-way, any other residence, occupied structure, or other public area.

B. Any structure used for cultivation shall comply with all applicable laws, regulations and codes, including but not limited to health, building, electrical, plumbing, mechanical, sign, fire, and other codes, statutes, and ordinances.

C. Any property or structure, or portion thereof, used for cultivation, processing, or possession shall be a secure area, inaccessible and not visible to persons under the age of 21, visitors, casual passers-by, vandals, or anyone not authorized to possess or access medical marijuana. Indoor cultivation areas shall be secure and locked.

D. A patient may exceed the plant count and cultivate the number of plants authorized by the patient's Medical Marijuana Card, and/or current, valid, written authorization from the patient's licensed Colorado physician, only upon approval and issuance of a Fremont County Extended Plant Count Permit.

E. A primary caregiver for one or more patients with extended plant counts may exceed the 24 plant count only upon approval and issuance of a Fremont County Extended Plant Count Permit.

F. Cooperative, joint, collective, or other combined grows on a single parcel by more than one primary caregiver or patient are allowed if at least one of the caregivers and/or patients engaged in the cultivation operation has a 50% or more fee-simple ownership interest in the parcel used for cultivation.

G. Cultivation on vacant, unoccupied, or non-residential property for which an Extended Plant Count Permit is issued, is limited to a total plant count of ninety-nine (99) plants, and may occur only on parcels where neighboring residences are not located within one-thousand (1000) feet of the proposed site.

Section 10. Extended Plant Count Permit (EPCP) for Medical Marijuana Only.

A. An Extended Plant Count Permit allows cultivation of more than the maximum twenty-four medical marijuana plants and enables the County to address impacts and issues associated with larger private grows. The EPCP shall be processed and if the Application is complete and compliant with all requirements, issued by the Fremont County Department of Planning and Zoning (“Department”).

B. General Provisions:

- (1) Extended Plant Count Permits are allowed on parcels 5 acres or larger, with no residences located within 1000 feet of the proposed site, except that of the person cultivating.
- (2) The placement of the grow area must comply with Fremont County Zoning Resolution setback requirements for the Zone District.
- (3) The plant count shall be a minimum of 25 plants and a maximum of 99 plants.
- (4) Sites shall have an approved sanitation plan or Onsite Waste Water Treatment System (OWTS).
- (5) Only one EPCP may be issued for any single lot or parcel.
- (6) If a dwelling is located on the property than at least one individual cultivating must reside in the dwelling.
- (7) EPCP properties shall have an established and verified address.
- (8) EPCP Applicants shall have a 50% or more fee simple ownership in the parcel or provide written documentation, including a lease agreement, from the Owner allowing marijuana to be cultivated on the property.
- (9) Leasing of a portion or percentage of a large parcel for cultivation is prohibited.
- (10) Cooperative, collective, or combined caregiver or patient cultivation is permitted, subject to the combined maximum plant count of 99. Each cultivator’s plants shall be separated, with ownership readily identifiable.
- (11) Lighting of the property shall be pursuant to a lighting plan designed to prevent the beams and rays of any lighting source, including indoor greenhouse lighting, from being directed toward or onto adjacent properties.

(12) Applicants shall specify the method for control of odor and the means to prevent odor from detection on adjacent properties, public property and rights-of-ways.

(13) EPCP properties, except for vacant land, shall have utility services (water, sanitation, electric, gas), unless waived under the EPCP based on the site-specific circumstances. The Applicant shall provide written documentation demonstrating that utility services are adequate and legally available for all uses on the property.

(14) EPCP Applications shall be reviewed and approved or disapproved within thirty (30) days after the Application is deemed complete.

C. Application Requirements:

(1) A completed County-issued Application form with the required application fee.

(2) A copy of the current deed for the property and a copy of the lease agreement (if applicable).

(3) Written proof from the appropriate entity or service provider that water, sanitary sewer/septic service and other utilities are adequate for all uses on the property.

(4) A plot plan (need not be professionally drawn) showing:

a. All structures proposed or existing with dimensions to property lines;

b. All utilities for the structures, including electric, gas, water, and sanitary sewer/septic;

c. The location of the cultivation operation and security measures for the cultivation operation.

d. All exterior access points.

(5) Other documentation as requested by the County to demonstrate compliance with the requirements of Section 10(B) above.

D. Permit Revocation Process. An EPCP may be revoked for non-compliance with the terms and conditions of the Permit, in accordance with the following process:

(1) The Department shall issue a Notice of Non-Compliance to the Permittee specifically setting forth the factual basis indicating non-compliance with the terms and conditions of the EPCP. Said Notice shall be mailed by first-class and certified mail (with delivery tracking or return-receipt request) to the most current address for the Permittee, as indicated in the EPCP file of the Department. Said Notice shall require the Permittee to respond within 10 days to the allegations of non-compliance. Notice may be sent by e-mail and shall be deemed received only upon acknowledgement of receipt of such e-mail and Notice. If the Permittee

refuses the certified mailing, the Notice shall be deemed received as of the date of refusal or return to the Department by the Postal Service. Alternate methods of delivery may be used, provided actual receipt by Permittee can be demonstrated.

(2) Upon receipt of a response from the Permittee, the Department shall review the response and, within 10 days from receipt of the response, determine whether the Permittee is in compliance with the EPCP terms and conditions.

(3) The Department shall issue a written determination of EPCP compliance or non-compliance to Permittee, setting forth the factual basis for the determination. Said written determination shall be sent to Permittee in the same manner as set forth in Section 10 D (1), above.

(4) Permittee shall have five business days following receipt of a written determination of non-compliance to request an informal face-to-face meeting with the Department Director to reconsider the written determination. Said meeting, if requested, shall occur within five business days following the date of the request.

(5) Following the face-to-face meeting, the Department Director may affirm, modify, or reverse the written determination of non-compliance, set forth the decision in writing, and specify the factual basis and conclusions for any modification or reversal of the written determination.

(6) Upon revocation of an EPCP, Permittee shall immediately take appropriate measures to bring the cultivation operation into full compliance with this Ordinance, or the matter shall be referred for prosecution under the provisions of this Ordinance.

E. Appeals.

Any Applicant or Permittee shall have rights of administrative appeal as follows:

(1) A denial of an EPCP Application by the Department, or any final decision of EPCP non-compliance by the Department Director, issued after a face-to-face meeting, may be appealed to the Board of County Commissioners by submittal of a letter to the Board, requesting an appeal hearing before the Board. Permittee shall submit the letter requesting an appeal no later than 15 days after denial of the EPCP or after receipt of the final decision of EPCP non-compliance.

(2) Upon receipt of the letter, the Board shall schedule the matter on a regular meeting agenda of the Board, on a date no later than 30 days following receipt of the request. The Applicant or Permittee shall be provided written notice of the date of the hearing as soon as practicable, but in no event shall such notice be given less than 10 days prior to the hearing date.

(3) At the Board hearing, the Department shall first state the allegations and factual basis for the denial or non-compliance decision, and shall submit any additional evidence of non-compliance. The Applicant or Permittee may present evidence and/or witnesses in response to the Department's statements. The hearing shall be electronically recorded or preserved in case of a further appeal. The Board Chairman shall be the presiding officer at all hearings. The Colorado Rules of Evidence may be used as a guide, but shall not be strictly applied. The Board will consider the evidence in support of, and contrary, to the allegations. The hearing shall be informal, and the Board may require that witnesses be sworn upon their oath before offering factual testimony.

(4) The Board shall make a final decision in writing and shall provide a copy to the Applicant or Permittee in the same manner as set forth in Section 10 D (1), above. The Board's decision shall constitute final agency action for purposes of judicial review.

Section 11. Administration.

A. Upon receipt of a written complaint or at the request of an agent or employee of Fremont County, the Code Enforcement or Law Enforcement Officer(s) may request verbal permission from the property owner or occupant to access the property and any structure(s) on the property during reasonable hours for the purpose of conducting a physical inspection of the property to determine compliance with the requirements of this Ordinance. However, the Officers shall not enter upon any property to conduct such an inspection without either the permission of the property owner or occupant.

B. If permission is denied to the Code Enforcement Officer(s) to inspect the property and the Officer(s) has reasonable belief there is imminent danger to public health, safety, or welfare or non-compliance with this Ordinance, the Officer(s) shall have the authority to request the Fremont County Sheriff's Office, and/or Fremont County Building Department, and/or Fremont Health Department conduct an inspection of the property within their authoritative powers.

Section 12. Enforcement. This Ordinance shall be enforced by the Fremont County Sheriff and Fremont County Code Enforcement.

A. Violation. It shall be unlawful for any person to violate any provision of this Ordinance. Any person who violates this Ordinance commits a class 2 petty offense. The fine for a first offense and for any subsequent offense shall be no less than two-hundred fifty and not more than one thousand dollars (\$1,000.00) per violation and each day shall be deemed a separate violation. In addition to the fines and penalties, any person convicted of a violation of this Ordinance shall be subject to the statutory surcharge of ten dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund. This surcharge shall be paid to the clerk of the court by each person convicted of violating this Ordinance. The clerk shall transmit the moneys to the respective funds in accordance with Colorado law.

B. Penalty Assessment. In accordance with §30-15-402, and §16-2-201 C.R.S., a penalty assessment procedure is hereby authorized for use by any law or code enforcement officer who is vested with authority to issue a Summons and Complaint for violations of this Ordinance.

(1) The penalty assessment notice shall be a summons and complaint containing identification of the alleged offender, specification of the offense and applicable fine, a requirement that the alleged offender pay the fine or appear to answer the charge at a specified time and place, and any other matter reasonably adapted to effectuating the purposes of this section. A duplicate copy shall be sent to the clerk of the county court in the county in which the alleged offense occurred. The provisions herein shall not apply to penalties assessed pursuant to authority of law outside this Ordinance unless this Ordinance is specifically referred to in such other law.

(2) If the person given a penalty assessment notice chooses to acknowledge his guilt, he may pay the specified fine in person or by mail at the place and within the time specified in the notice. If he chooses not to acknowledge his guilt, he shall appear as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that specified in the notice for the offense of which he was found guilty, but customary court costs and surcharges may be assessed against him in addition to the fine.

C. Graduated Fine Schedule and Procedure for Payment

(1) Any person who violates Section 6 (A – F), Section 7 or Section 8 of this Ordinance, shall be punished, upon conviction, in accordance with the following schedule:

a. For the first offense, the sum of two hundred-fifty dollars;

b. For the second offense within 12 months from the date of the first offense, the sum of five hundred dollars;

c. For the third and each subsequent offense within twelve months of the date of a prior offense, regardless of whether the prior offense was a first or subsequent offense, the sum of one thousand dollars.

(2) Any person who violates Section 6 (G – Q), or Section 9 of this Ordinance, shall be punished, upon conviction, in accordance with the following schedule:

a. For the first offense, the sum of five hundred dollars;

b. For the second and each subsequent offense within twelve months of the date of a prior offense, regardless of whether the prior offense was a first or subsequent offense, the sum of one thousand dollars.

D. Whenever a penalty assessment notice is issued pursuant to this Ordinance, the penalty assessment notice which shall be served upon the defendant by a code or law enforcement officer shall contain the name and address of the defendant; a citation of the Ordinance section alleged to have been violated; a brief description of the offense; the date and approximate location of the commission of the offense; the amount of the penalty prescribed for such offense, including any surcharge and collection costs; and the date the penalty assessment notice is served on the defendant. The penalty assessment shall inform the defendant of the opportunity to pay the fine and a \$5.00 collection fee, within 20 days to the office of the Fremont County Treasurer, Fremont County Administration Building, 615 Macon Ave., Cañon City, Colorado, 81212, thereby avoiding imposition of court costs and surcharges at a later date.

E. The penalty assessment notice shall direct the defendant to appear in a specified county court at a specified time and place in the event such penalty is not paid; shall be signed by the code or law enforcement officer; and shall contain a place for such defendant to elect to execute a signed acknowledgment of guilt and an agreement to pay the penalty prescribed within twenty days, as well as such other information as may be required by law, to enable such penalty assessment notice to become a summons and complaint, should the prescribed penalty not be paid within the time allowed in this Ordinance.

(1) One copy of said penalty assessment notice shall be served upon the defendant by the code or law enforcement officer and one copy sent to the Fremont County Treasurer. In the event that the penalty assessment is not paid to the Fremont County Treasurer within the required 20 day period, the Fremont County Treasurer shall forward all unpaid penalty assessments to the Fremont County Court for docketing on the date of first appearance indicated on the summons and complaint/penalty assessment notice.

(2) The time specified in the summons portion of said summons and complaint must be at least twenty days after the date such summons and complaint is served, unless the defendant shall demand an earlier court appearance date.

(3) The time specified in the summons portion of said penalty assessment notice shall be at least thirty days but not more than ninety days after the date such penalty assessment notice is served, unless the defendant shall demand an earlier court appearance date.

(4) The place specified in the summons portion of said summons and complaint or of the penalty assessment notice must be a county court within the county in which the offense is alleged to have been committed.

(5) If the defendant is otherwise eligible to be issued a summons and complaint or a penalty assessment notice for a violation of this Ordinance and if the defendant is not a resident of Fremont County, in order to secure release, as provided in this section, must either consent to be taken by the officer to the nearest mailbox and to mail the amount of the penalty and surcharge thereon to the Fremont County Treasurer or must execute a promise to appear in court on the penalty assessment notice or on the summons and complaint.

(6) Unless a person who has been cited for an Ordinance violation pays in a timely manner with adequate and sufficient funds, the penalty assessment as provided in this Ordinance, the person shall appear at a hearing on the date and time specified in the summons portion of the penalty assessment and answer the complaint against him.

(7) If judgment is entered against a violator, he shall be assessed an appropriate penalty, a surcharge, a docket fee, and other applicable costs.

F. Disposition of Fines and Surcharges. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this Ordinance shall be paid into the treasury of Fremont County.

Section 13. General Provisions.

A. Retail/Recreational Marijuana for Commercial Purposes. The adopting of this Ordinance 1-2017, shall have no effect upon Fremont County Ordinance No. 2013-1, Prohibiting the Operation of Retail/Recreational Marijuana Cultivation Facilities, Retail/Recreational Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities and Retail Marijuana Stores Pursuant to Article XVIII, §16 of the Colorado Constitution.

B. Repealer. Any prior Fremont County Ordinances, Regulations, Resolutions, or Enactments regarding Residential Property Cultivation, Vacant or Unoccupied Property Cultivation and/or Caregiver Cultivation of medical or personal use marijuana that are inconsistent with the provisions of this Ordinance, specifically including Ordinance 1-2016 and Ordinance 2-2016, are hereby repealed in the entirety and shall have no further relevance, validity or effect after the effective date of this Ordinance 1-2017.

C. Severability Clause. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 14. Publication and Effective Date.

The foregoing text is the authentic text of Fremont County Ordinance No. 1-2017. The first reading of the Ordinance took place on November 27, 2017. It was published in full in the Cañon City Daily Record on November 30, 2017.

Second Reading is December 12, 2017 at 9:30 a.m. at the Fremont County Administration Building, Room LL-3, 615 Macon Ave., Cañon City, CO 81212.

It was adopted with/without amendments on _____. It is to be republished by title in Cañon City Daily Record on _____ and shall take effect _____, 2017.

Done and signed this ____ day of _____, at Cañon City, Colorado.

Debbie Bell, Chairman
Board of County Commissioners of
Fremont County, Colorado

I hereby testify and attest that the provisions of Ordinance 2017-1 as set forth hereinabove are true and correct to the best of my knowledge, information and belief.

Fremont County Clerk and Recorder