

**MARIJUANA COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**
September 24, 2015, 6:00 PM.
Municipal Building - Assembly Chambers

Marijuana Committee meeting 09/24/2015

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

- A. **August 27, 2015 DRAFT Minutes Marijuana Committee**

IV. PUBLIC PARTICIPATION

V. AGENDA TOPICS

- A. **Memo re Technical Support for Startup of the Marijuana Industry, Deputy City Manager Rob Steedle to Marijuana Committee Chair Jesse Kiehl**
- B. **September 24, 2015 Memo Special Use Provisions for Title 49, presented by Beth McKibben, Planning Manager, CDD**
- C. **Planning Commission Testimony from September 22, 2015**

VI. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

VII. SUPPLEMENTAL MATERIALS

- A. **September 22, 2015 Attorney Memo w Attachments re Land Use Regulations and Follow Up to February 23, 2015 Memo**
- B. **September 24, 2015 PowerPoint on Special Use Provisions for Marijuana Establishments, CDD presentation**

VIII. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

**MARIJUANA COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
MINUTES**

August 27, 2015, 6:00 PM.
Municipal Building - Assembly Chambers

I. ROLL CALL

The meeting was called to order by Chair Jesse Kiehl at 6:00 p.m.

Committee Members Present: Mary Becker, Maria Gladziszewski, Jesse Kiehl, Bill Peters.

Committee Members Absent: Mike Satre, Dennis Watson.

Staff Present: Amy Mead, Municipal Attorney; Rob Steedle, Deputy Manager; Laurie Sica, Municipal Clerk; Teresa Wynther, Deputy Treasurer; Clinton Singletary, Sales Tax Administrator; Chrissy McNally, Planner.

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. August 13, 2015 DRAFT Marijuana Committee Minutes

Hearing no objection, the minutes of the August 13, 2015 Marijuana Committee meeting were approved.

IV. PUBLIC PARTICIPATION

Ben Wilcox said regarding limiting licenses, he read from the Juneau Economic Development Plan about the importance of attracting new businesses to Juneau and spoke in favor of marijuana businesses. He referred to the brewery, which is an example of light manufacturing, with higher wages and which keeps people in the community. Any further restriction of licenses than what will be imposed by the State of Alaska would go against the intent of the economic development plan. There were plenty of barriers to the marijuana business already.

Adam Burke spoke against restricting the number of marijuana retail licenses. The retail stores in Colorado and Washington are very difficult to find because they don't stand out. When there are a limited number of licenses, there is more opportunity for corruption regarding who is able to obtain a license. The market would decide how many establishments could prosper. He spoke about his concern about plastic pollution from individually wrapped edible products.

V. AGENDA TOPICS

A. Effects on Treasury of Marijuana Businesses, CBJ Finance Department Memorandum

Theresa Winther, Deputy Treasurer spoke about her memo regarding how the CBJ Treasury division would handle an all cash business. CBJ could accept cash, and could deposit the cash no matter the source into the bank. There would need to be additional controls regarding the handling of additional cash. Until Federal Banking regulations changed, the Treasury department preferred

to take cash from marijuana based businesses, and not accept checks from those businesses as a form of payment.

Mr. Kiehl asked about the additional staff work to handle cash and in terms of managing workflow, did the treasury have sufficient staff. Ms. Winther said the staff was adequate currently, and the information she provided about additional controls was from Colorado and was based upon dispute resolution, in that two people were required to count the cash. There are currently two staff up front in the cash office. The process was to ensure the control of funds.

Mr. Kiehl said the state regulations required growers remitting the wholesale excise tax to remit monthly, and asked if there were concerns about quarterly payments from sales tax being too large? Ms. Winther said it would require coordination of several divisions of finance to ensure the funds were secure.

Ms. Becker asked if the license and sale tax funds went in the same "pot" and how those payments would be separated. Ms. Winther said that CBJ had a central treasury and accounting allocated the revenue to the various funds. She said there was no reason for the bank to prohibit CBJ from depositing cash regardless of the source, and she could ask the bank if there was any risk that they would ask us to segregate any payments. We have a good working relationship with the bank and they know we want to minimize risk.

Ms. Gladziszewski said that perhaps the question was that the money from marijuana should be segregated into a separate account and then separately deposited.

Mr. Kiehl asked for information back from the appropriate staff person about segregating funds.

B. Local Licensing of Marijuana Businesses, CBJ Finance Department

Mr. Singletary said there had been discussion about licensing marijuana establishments specifically and/or licensing all CBJ businesses. Business licenses provided a tool for additional compliance and the intake of license fees. If used as a compliance tool, you would need to look at how many of the CBJ departments and their associated fees could be leveraged in the enforcement of a license. The broader the scope can increase compliance, and can complicate it. Anchorage has a limited license program ranging in cost for \$100 to 300. Skagway requires all merchants to get a \$10 license annually. They have about 800 merchants. Another consideration is what the state would do in requiring licenses, similar to the liquor licenses, which had turned out to be a good enforcement tool for the municipalities.

Mr. Kiehl said the state contemplated an inventory tracking system. He asked Mr. Singletary if CBJ would need something in addition to that or just have access to those records in regards to recordkeeping. Mr. Singletary said if the CBJ could access the state records, it would not need anything else. When CBJ audits businesses, we don't generally get to the inventory level, there were other checks and balances. When we do an audit, we have code authority to request records that would document sales.

Ms. Mead said the code was broad enough to look at anything related to sales and revenue, but it would behoove CBJ to request access to the state's records, because access to those records was fairly limited now. Mr. Kiehl asked if the records were confidential and not public, Mr. Singletary said yes.

Ms. Gladziszewski said that recordkeeping was an item to monitor and include in any future ordinance.

C. Set 3 of Proposed State of Alaska Marijuana Regulations with Summary

Mr. Kiehl asked the committee and Ms. Mead if there were any items within the regulations which raised questions or comments.

Ms. Mead said CBJ may wish to request access to the inventory tracking system, and to ask that violation of local laws be part of a state license review. She said that the marijuana club prohibition was included in this set of regulations.

Mr. Kiehl said that in the "Notices of Violation" section it appeared to allow the state to give an advisory notice but regarding a suspension or revocation of a license, he did not see the authority to suspend or revoke if the business was breaking a local law. Ms. Mead agreed. Mr. Kiehl said he thought that was something CBJ would want added to the regulations.

Ms. Gladziszewski asked for the deadline for comments. Mr. Kiehl said it was September 10. Mr. Peters noted that was the next schedule committee meeting date.

Mr. Kiehl said the testing requirements for marijuana and its products was not extremely well spelled out and at the AML conference, there were presentations from the State Marijuana Control Board and they spoke about testing for THC and potency. The question came up about whether they were writing regulations for the "rail belt" and the location and access to testing laboratories. There appears to be more testing required than just for THC, and a concern was access to testing labs so that products did not have to be moved illegally to be tested. There was also a concern about the efficacy of moving testing labs due to testing equipment becoming uncalibrated. It seemed like the testing requirements may limit the ability of the local laboratory businesses to test for more than THC, such as salmonella, or other chemical additives. He suggested that CBJ should propose a comment to ask the board to not ask for so much testing as it was not economically viable in Juneau.

Ms. Becker asked how Mr. Kiehl knew it was not economically viable. Mr. Kiehl said he had spoken with potential business owners who had made the comment that the testing equipment was very expensive, and he was concerned about a comment that it would only require a gas chromatograph that could be put on a plane or ferry.

Ms. Gladziszewski said the threshold should be product safety vs. economic viability, but she did not think testing should be reduced just because it was expensive. Ms. Becker said it would seem that growers would want to sell a safe product so as not to cause other issues with their business.

Mr. Kiehl asked the committee if it wanted to ask that the regulations require that the municipality have access to the records gathered by the state, including the marijuana inventory tracking system proposed. There was no objection to making that request.

There was no objection to asking that the regulations include that a license revocation or suspension include a review of compliance with local laws, not just state laws.

Mr. Kiehl said the board had shut off the possibility of marijuana clubs and CBJ recommended in the last set of regulations that the decision to allow or disallow marijuana clubs be left to the local municipalities.

Ms. Becker opposed that, and was concerned that this would open up the no smoking ordinance for reconsideration.

Ms. Gladziszewski supported the local control and not having the decision imposed by the State of Alaska.

Mr. Peters concurred and said it was a city issue, not a state issue, and CBJ would need to have this conversation given that we have a tobacco ordinance.

Ms. White supported this being a matter for local control.

Roll call regarding forwarding a comment that stated that allowing marijuana clubs should be a decision by the municipality, not the State of Alaska:

Aye: Gladziszewski, Kiehl, Peters, White

Nay: Becker

Motion passed, 4 ayes, 1 nay.

Ms. Gladziszewski said it was hard to know how to comment about the testing regulations and whether or not the regulations could only be complied with if in Anchorage. Ms. Mead said the only way to comment would be to ask the board to weigh implementation of the testing program so that the product was safe but not so stringent as to leave the community without a testing facility. There was no objection to making such a comment.

VI. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

Ms. Gladziszewski asked about local licensing and said she continued to believe that the local government needed a way to control our own destiny and not leave it up to a state board - especially after reading the regulations.

Ms. White said she agreed and advocated for local control on many of the issues.

Ms. Becker said once the law was passed, the program would be built around the law. She said that it was difficult to vote on the issues brought up at the meeting and felt the issues were pushed. She would like more explanation about the issues Mr. Kiehl brought up at the meeting before the meeting.

Ms. White said she doesn't want Ms. Becker to feel railroaded but these regulations are put out by 5 people looking at them from a statewide perspective and the more eyes the better, especially regarding local comments. This was about a public process of making these laws.

Ms. Mead said the beauty of a license was telling people that they couldn't operate without one. We have other methods to enforce compliance with anything we want to require. Some communities build in injunctive relief to be able to shut down businesses. When the committee decided what it wanted to require, she could provide ideas on enforcement.

Mr. Kiehl spoke about the timing of the regulations, the local law establishments and said he planned to meet with the Law Department to pull together a local licensing ordinance based on the committee's work to date. If there were issues to include, he encouraged the committee to get those thoughts to him, so that there could be full consideration of the issues through the public ordinance process. He wants to respect the interest on the part of local businesses that want to move forward so they understand how the local laws would work. It would take time to create the ordinance and the time was getting short.

VII. SUPPLEMENTAL MATERIALS

A. City and Borough of Juneau 500 Foot Buffer Maps

There were no questions about the maps distributed.

B. Finance Department Memo - regarding Business Licensing Program

Discussion on the matter was reflected above.

VIII. ADJOURNMENT

There being no further business to come before the committee, the meeting adjourned at 7:30 p.m.

Submitted by Laurie Sica, Municipal Clerk

MEMORANDUM

CITY/BOROUGH OF JUNEAU

City & Borough Manager's Office
155 S. Seward St., Juneau, Alaska 99801
rob.steedle@juneau.org

(907) 586-5240

DATE: September 21, 2015

TO: Jesse Kiehl
Marijuana Committee Chair

FROM: Rob Steedle 
Deputy City Manager

SUBJECT: Technical Support for Startup of the Marijuana Industry

The CBJ should take steps to assure that the new marijuana industry begins operations uneventfully. To help usher in these new businesses, this committee could consider recommending to the Assembly that a new position be created within the Community Development Department. Although we cannot predict how many marijuana-related businesses will be seeking permits next Spring, it is important that each complies with CBJ code and State law. The major duties of this position would be to educate members of the public on the legal requirements for the industry, provide technical assistance throughout the permitting process, and conduct inspections to ensure that these businesses are operating in compliance with their permits.

After the first couple of years, I expect that the permitting of businesses in this industry will become routine. As that happens, the duties of this position could transition to more general land use and building code compliance. The capacity for code enforcement within the Community Development Department has been greatly diminished over the last four years, as the only two code compliance positions were eliminated to help address CBJ's budget issues.

I anticipate that if this position were created, it would be classified at range 17. The initial annual cost of salary and benefits would be approximately \$94,000. Licensing fees for the marijuana businesses could partially offset this budget increase.





Community Development

City & Borough of Juneau • Community Development

155 S. Seward Street • Juneau, AK 99801

TO: Marijuana Committee

FROM: Chrissy McNally, Planner II *Chrissy McNally*
Beth McKibben, AICP, Planning Manager
Community Development Department *BMc*

DATE: September 24, 2015

SUBJECT: Identification of possible issues for Special Use Chapter

1. Limit number of operations?

From a Land Use perspective CDD's recommendation was to limit the number of establishments through zoning and buffers. CDD does not recommend a further cap on the number of licenses based on population or an arbitrary number. This recommendation was made to the Committee.

From a licensing perspective, CDD does not recommend adding that language to the licensing requirements except as specified in required buffers from specified uses.

CDD recommends screening or fencing from adjacent properties in the D-1 zoning district for cultivation facilities.

2. Sign and Advertising regulations (internal and external).

Conditional Use – signs are already regulated in Title 49 by size and location as well as materials if located within the Historic District. CDD is aware that the recent Supreme Court decision may affect the regulation of content of signs.

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Licensing – Marijuana establishments will be limited to one sign per license premises. Internal signage requirement for all marijuana establishments to include:

- *“must be 21 and over to enter”*
- *“public consumption of marijuana products is prohibited”*
- *Display state and local license*
- *Identify restricted areas*

The section on advertising should include prohibitions for signs on vehicles, portable signs, handheld signs, and leaflets/flyers. Advertising in a newspaper could be allowed.

Restriction on visibility of products from exterior of building.

3. Any additional public notice requirements?

Conditional Use - The Conditional Use Permit process satisfies the public notice requirement.

Licensing – Given that the CBJ is proceeding with licensing after determining the Conditional Use Permit process was appropriate, further public notice (in addition to state public notice requirement) may be redundant.

4. Any special considerations downtown re: parking?

Parking shall be regulated like other similar uses. For example, marijuana retail will have “retail” parking requirements. CDD staff does not recommend parking requirements specific to marijuana establishments.

5. Hours of operation

Given that the expressed intent of the Committee is to regulate Marijuana as much like alcohol as possible, CDD staff does not recommend restrictive operating hours. There is no evidence we can find to suggest that public health safety and welfare will be adversely affected by nighttime operating hours. Average operating hours, consistent with the State draft regulations would be 8a.m. to 11p.m.

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6. Maintenance standards for premises and surrounding area (Control of garbage- Garbage was an issue identified as a “complication” flowing from the legalization of marijuana in Colorado.)

Licensing – the City has an interest in regulating plant waste product. For instance plant matter that is not to be processed or consumed would have to be ground up. Waste product should be secured indoors – this is related to public safety with regard to theft and health. Staff is still looking for sample language.

7. On-site consumption?

Not until it is determined clubs are legal, in which case a retailer may have an associated club. See internal signage recommendations. Language borrowed from Steamboat Springs, Colorado Retail Marijuana Code:

“Marijuana shall not be consumed or used on the premises of a retail marijuana store and it shall be unlawful for a retail marijuana store licensee to allow marijuana to be consumed upon its licensed premises.”

8. Allow live plants in retail setting?

CDD has concerns about odor from live plants. Staff recommends either limiting the number of plants or ensuring that an odor mitigation plan is followed.

9. Odor mitigation (another issue identified by CO CLE.)

Conditional Use – could borrow language from Aurora, Colorado marijuana regulations page 33 section 503. Other language options:

City of Bellevue, Washington –see attached.

Licensing – could borrow language from Aurora, Colorado page 33 section 503.2 (Ventilation and Filtration) and 503.3 (Noxious Gas/Fumes)

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CDD staff also recommends licensing address the use of combustible methods for hash oil extraction. Looking for language that says if a manufacturer is going to extract using combustibles, they must be inspected to ensure their equipment is calibrated appropriately to the method.

10. Communal or cooperative greenhouse

Licensing – CDD staff recommends limiting non-commercial/unlicensed growing to 6 plants per adult or no more than 24 per household. Staff is unsure how to address limiting within an apartment complex; for example if a building had 10 units with 2 adults per unit 120 plants could be allowed in the building. Should we limit by square footage of grow space? Looking for language.

CDD recommends against use as a home occupation in light of the State’s draft “limited cultivation license”. Individuals could have 500 square feet of grow space in their home.

11. Enhanced security requirements (e.g., video surveillance/cash storage and protection plans?)

Licensing – CDD recommends minimum standards. See attached language from Bellevue, Washington and Steamboat Springs, Colorado. Video surveillance of entrance and exits for instance. Safe requirement for cash storage. Stores will be required to have a manifest for transporting of product and cash.

CDD recommends requirement that product transport occur only during specific hours. For example: 8a.m. to 6p.m. to ensure safety and reduce chance of robbery.

See attached language from Telluride, Colorado on security and control measures specifically with regard to access to adjacent use/premises.

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12. Prohibit personal-use manufacturing with combustible gases in general? In residential neighborhoods?

Denver:

“It shall be unlawful for any person to process or manufacture marijuana concentrate in the city by any means other than water-based or food-based extraction, except in a licensed medical marijuana-infused products manufacturing facility or in a licensed retail marijuana products manufacturing facility “

CDD supports this provision. Also recommend including provision for inspection of equipment used in combustible extraction methods by licensed facilities. Still looking for language.

13. Require locked growing facility?

Part of security plan.

14. Should we allow “Marijuana Collectives”?

See communal or cooperative greenhouse section.

15. Ensuring edibles are sufficiently regulated in light of the Cole Memo (if not addressed by State. For example, prohibiting confusing or misleading packaging of edibles.)

CDD supports this provision for licensing; ensure packages are childproof, does not look like other trademark candy, limit size of THC infused beverages.

16. Establish buffers between marijuana establishments (like Denver)?

CDD did recommend buffers between establishments. If the Committee’s will is to further limit the amount of retail locations this is one option.

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17. Application submittal requirements?

See attached language from Pagosa Springs, Colorado.

Attachments

- A. Aurora, Colorado regulations
- B. City of Bellevue, Washington Ordinance
- C. Steamboat Springs, Colorado security regulations
- D. Telluride, Colorado security regulations
- E. Pagosa Springs, Colorado regulations

CITY OF AURORA

RETAIL MARIJUANA ESTABLISHMENT RULES AND REGULATIONS

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Rule 100 Series – General Applicability

Rule 101: Purpose and Intent.

Section 16, article XVIII of the Colorado Constitution (the “Recreational Marijuana Amendment” also known as Amendment 64) permits personal use of marijuana by persons aged 21 years and older under Colorado law. To enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. (“the CRMC”). In addition, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1500, Retail Marijuana Rules (“the RMR”). The CRMC and the RMR authorize counties and municipalities to determine whether to permit, as a matter of state law, certain retail (i.e. non-medical) marijuana establishments within their jurisdictions.

As permitted under Amendment 64, the Aurora City Council has determined to allow retail marijuana establishments in the city on the condition that the establishments are operated in compliance with all applicable state and local laws. The City Council has adopted Ordinance 2014-14 (“the ordinance”) amending Chapters 6, 22, and 146 of the Aurora City Code related to the regulation of retail marijuana establishments. The ordinance created the local licensing authority and vested it with authority to promulgate regulations as necessary for proper administration and enforcement.

The purpose of these regulations is to establish specific standards and procedures for local licensing of retail marijuana-related establishments and to protect the health, safety, and welfare of the residents and consumers of the City of Aurora (“the city”) by prescribing the manner in which retail marijuana establishments can be conducted in the city. Retail marijuana establishments are a heavily regulated industry in the state and city. The city has a zero-tolerance policy for violations of this ordinance or the regulations contained herein.

By enacting these regulations, the city does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of state or federal law. As of the date of the enactment of these regulations, the use, possession, distribution, and sale of marijuana is illegal under federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Rule 102: Defined Terms.

The definitions contained in Section 12-43.4-103 of the CRMC and Rule 103 of the RMR shall apply equally to these regulations except where specifically defined below.

“Applicant” means a person that has submitted an application pursuant to these rules that was accepted by the local licensing authority for review but has not yet been approved or denied by the

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local licensing authority. A person submitting multiple applications for retail marijuana establishments in the city is considered to be a separate applicant for each of the applications submitted.

"Business manager" means an individual designated in the application for licensure or renewal thereof as the person responsible for all operations of the business in the absence of the owner from the licensed premises, and shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to lock or unlock the business, or set or disarm the alarm.

"Local licensing authority" means the manager of the Aurora Marijuana Enforcement Division for the city.

"Liquid assets" are assets in the form of money or cash in hand, assets that will be placed directly into the retail marijuana establishment or other assets that can be quickly converted into cash. Liquid assets include, but are not limited to the following: funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, United States savings bonds, furniture and equipment, and packaged marijuana, and related products and inventory to be transferred to the retail marijuana establishment. For purposes of these regulations, household items, vehicles, marijuana plants, and real property and improvements thereto are not considered to be liquid assets.

"Person" means a natural person, partnership, association, company, corporation, or organization, or a director, officer, shareholder, partner, manager, agent, servant, or employee thereof.

Rule 103: Effective Date and Applicability.

These regulations shall be effective on June 14, 2014 and shall govern all applications submitted to the city on and after that date for licensing of any retail marijuana establishment in the city under the CRMC and the ordinance

Rule 104: Relationship to Other Laws.

The city intends to follow and incorporate all requirements and procedures set forth in the CRMC and the RMR. The provisions in these regulations that are different from the applicable state law are consistent with the city's responsibility to protect the public health, safety, and welfare as authorized by applicable law, and by the home rule authority granted to the city by Article XX of the Colorado Constitution and the charter of the city. Where these regulations conflict with the state regulations, the city regulations shall apply.

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Whenever possible, these regulations and any licenses issued under these regulations shall be construed to comply with federal law, specifically including the Controlled Substances Act (21 U.S.C. 801 et seq.).

Rule 105: Severability.

If any provision of these regulations is found to be invalid by a court of competent jurisdiction, only the provision subject to the court decision shall be repealed or amended. All other provisions shall remain in full force and effect.

Rule 106: Local Licensing Authority.

106.1 Creation and Purpose. Section 6-304 of the ordinance establishes the local licensing authority for the purpose of regulating and controlling the licensing and sale of retail marijuana in the city pursuant to the local licensing provisions of the CRMC. The local licensing authority shall serve as the primary point of contact and shall have the final authority of review and approval on all such matters.

106.2 Duties. The local licensing authority, along with the state licensing authority, shall enforce compliance with the requirements established in these regulations and the CRMC. Any other state regulations will be enforced by the state licensing authority.

Rule 200 Series – Licensure

Rule 201: Licenses.

201.1 Licensure Required. It is unlawful for any person to operate a retail marijuana establishment in the city without obtaining a local license to operate. A valid license from the State of Colorado is also required as provided by the CRMC.

201.2 Relationship to Other Laws. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law. The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. Upon denial or revocation of a state license, any license issued under these regulations shall be null and void. If a court of competent jurisdiction determines that the issuance of local licenses violates federal law, all licenses issued under these regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

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201.3 No entitlement or vested right. No person shall have any entitlement or vested right to licensing under these regulations. Operation of a retail marijuana establishment is a revocable privilege and not a right in the city. The applicant bears the burden of proving that all qualifications for licensure have been satisfied.

201.4 Classes of Licensure. The local licensing authority may issue the following types of local licenses authorized under the CRMC:

- 1) Retail marijuana store license;
- 2) Retail marijuana cultivation facility license;
- 3) Retail marijuana product manufacturing facility license; and
- 4) Retail marijuana testing facility license.

Medical marijuana businesses – including medical marijuana centers or dispensaries, medical marijuana-infused product manufacturers, and medical marijuana cultivation facilities – are not permitted to conduct operations within the City. Retail marijuana testing facilities are not allowed to test medical marijuana within the city, and shall not apply for registration to test and research medical marijuana as authorized under Rule 701 of the Colorado Medical Marijuana Rules. However, bona fide medical marijuana research facilities may be permitted at the Anschutz Medical Campus and the Fitzsimons Life Science District.

201.5 Separate and Distinct Licenses. Each license issued under this article is separate and distinct. It is unlawful for a person to exercise any of the privileges granted under a license other than the license that the person holds or for a licensee to allow any other person to exercise the privileges granted under the licensee's license. A separate license shall be required for each specific establishment or business entity and each geographical location.

Rule 202: Application Procedure.

202.1 Start Date. The local licensing authority shall receive and process all applications for retail marijuana establishment licenses beginning on July 1, 2014.

202.2 State Application Required. Filing a local application for a retail marijuana establishment with the city does not constitute an application with the State of Colorado. A separate state application process must be followed through the Colorado Department of Revenue Marijuana Enforcement Division.

202.3 Pre-Licensing Process. Prior to submitting a formal application for a retail marijuana establishment license, an applicant is encouraged to submit a letter of intent to the local licensing authority. All prospective applicants must attend a pre-licensing meeting prior to submitting an application for a retail marijuana establishment.

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- (a) Letter of Intent. The purpose of the letter is to notify the city that an application may be forthcoming. The letter shall set forth: the name of the individual(s) or entity applying for licensure; contact information for the applicant or primary contact person; the address of the proposed retail marijuana establishment, if known; the type of license(s) sought by the applicant, a statement, not to exceed 100 words, defining the applicant's intent to submit an application for a retail marijuana establishment; and the dated signature of the prospective applicant.
- (b) Pre-Licensing Meeting. The purpose of this meeting is for the applicant to inform the city of the size, scope and feasibility of the proposed retail marijuana establishment and for the city to provide the applicant a more complete understanding of the licensing process. Pre-licensing meetings are mandatory for all applicants, and may be scheduled online at the following link:

<https://apps2.auroragov.org/MJPreLicenseMeeting/MarijuanaPreLicenseApplication.cshtml>

202.4 Application Materials. All applications for retail marijuana establishment licenses shall be made upon forms provided by the city and shall include the following supplemental materials:

- (a) If an owner is not a natural person, the organizational documents for all entities identified in the application;
- (b) A copy of the lease or deed for the property;
- (c) If the property is leased, written consent from the owner allowing operation of a retail marijuana establishment on the leased premises;
- (d) A site plan of all buildings on the property where the premises is located, including but not limited to: a floor plan showing how the floor space is or will be used, parking for the premises, total floor area of the building(s), and the nature and location of any existing or proposed exterior lighting and signage;
- (e) A list of all other uses on the property;
- (f) A list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of state licensing requirements;
- (g) A security plan indicating how the applicant will comply with the requirements of this ordinance and any other applicable law, rule, or regulation; and
- (h) Fingerprints and personal histories as may be specified on forms provided by the local licensing authority.

202.5 Specialized Requirements. In addition to completing the city application form and submitting the above documents, applicants must satisfy the following requirements when applying for certain license types.

- (a) Retail marijuana store applicants must provide documentation to demonstrate a minimum of \$400,000 in liquid assets available under the applicant's control.

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- (b) Retail marijuana cultivation facilities and retail marijuana product manufacturing facilities must provide, either prior to or at the time of building plan submittal to the building division, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city.
- (c) For retail marijuana cultivation facilities, applicants must provide a ventilation and filtration plan at the time of plan submittal to the building division, describing the systems that will be used to prevent the detection of any odor of marijuana from the licensed premises.
- (d) Applicants for retail marijuana product manufacturing facility or retail marijuana testing facility licenses must specify all means to be used for extraction, heating, washing, or otherwise changing the form of the marijuana plant, along with proposed ventilation and safety measures to be implemented for each process. Such documentation shall be submitted prior to or at the time of building plan submittal to the building division.

202.6 Waiver or Additional Requirements. The local licensing authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations. To the extent any of the foregoing supplemental materials have been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely upon the information forwarded from the state without requiring resubmittal of the same materials in conjunction with the local license application.

202.7 Complete Application. The city will not accept an incomplete application. An application shall not be considered complete until the local licensing authority has: (i) determined that all requirements of the application have been provided to the city, (ii) fingerprints and photographs of each person required, (iii) received the local share of the application fee from the State of Colorado, (iv) received the operating fee and any applicable additional fees from the applicant, and (v) obtained all other information the local licensing authority determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions.

Rule 203: Licensing Procedure – General.

The local licensing authority shall consider and act upon all complete local license applications as authorized by these regulations. The local licensing authority shall grant or deny a license based solely upon the local licensing authority's investigation and findings, and no public hearing shall be required.

203.1 Approval. The local licensing authority may issue a retail marijuana establishment license if the inspection, background checks, and all other information available to the city verify

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that the applicant has submitted a full and complete application, has made improvements to the establishment location consistent with the application, is prepared to operate the business with other owners and managers as set forth in the application, and has submitted the annual operating fee, all in compliance with this code and any other applicable law, rule, or regulation. The conditions of an approval of a retail marijuana establishment license shall include, at a minimum, operation of the establishment in compliance with all of the plans and information made part of the application.

- 203.2 Denial. The local licensing authority will deny any application that does not meet the requirements of these regulations or any other applicable law, rule, or regulation or that contains any false or incomplete information. In the event an application for licensure is denied, the local licensing authority will notify the applicant in writing, explaining the reasons for the denial.
- 203.3 Appeal. Persons whose applications have been denied have a right to appeal the denial via the procedures set forth in Rule 802 below. Within 20 calendar days from the date of the notification of denial, an aggrieved applicant may petition in writing to the finance director to request a hearing regarding the denial of licensure.
- 203.4 Good Moral Character. The local licensing authority shall make a finding and determination as to the good moral character of the applicant. A determination that the applicant is not of good moral character constitutes sufficient grounds for denial of the application, regardless of other qualifications. Good moral character means an individual who has a personal history demonstrating honesty, fairness and respect for the rights of others, and conformance to law. It also includes the propensities of the applicant and the applicant's employees toward criminal conduct, in addition to their criminal record. In making the evaluation of the good moral character of an individual identified on an application or, the local licensing authority shall consider the following:
- (a) The criminal history of the applicant and the applicant's employees;
 - (b) Denial, suspension, or revocation of business and professional licenses held by the applicant and the applicant's officers, owners, executives, and key employees;
 - (c) The types and dates of criminal or licensure violations, including whether the violations are related to moral turpitude, substance abuse, or;
 - (d) Evidence regarding abuse of intoxicating or controlled substances by the applicant and the applicant's officers, owners, executives, and key employees;
 - (e) The evidence of rehabilitation, if any, submitted by the applicant; and
 - (f) Any additional information that may otherwise directly affect the applicant's ability to operate a retail marijuana establishment in conformity with applicable laws and regulations.

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Rule 204: Licensing Procedure – Retail Marijuana Stores.

The city will issue no more than 24 retail marijuana store licenses, with a limit of four such licenses to be issued in each of the six council wards. The retail marijuana store licenses will be awarded via a competitive process involving a two-stage review of the applications received.

204.1 Initial Review. The initial criteria considered for review by the local licensing authority for an application for a retail marijuana store license must be satisfied in full before the applicant will be entered into the point system review. The initial review standards are defined as follows:

- (a) The State of Colorado has accepted the applicant's application for a retail marijuana store license;
- (b) The applicant can demonstrate at least \$400,000 of liquid assets in control and available, as evidenced by bank statements, lines of credit, or the equivalent to show that the applicant has sufficient resources to operate;
- (c) The applicant has no felony convictions for ten years, no drug-related misdemeanor convictions for five years, and no drug-related felony convictions;
- (d) The applicant must have at least two years of experience, as defined below in Rule 204.3, operating a licensed marijuana establishment in Colorado as an owner or manager;
- (d) The applicant's proposed store location satisfies the minimum distance requirements of at least 1,000 feet from a school serving pre-school through twelfth grade students and 500 feet from a hospital or substance abuse treatment center, as measured from the nearest property boundary of these uses to the address point of the retail marijuana store; and
- (e) The business must certify that it has satisfied or will meet the minimum security requirements of the CRMC and Rule 305 of these regulations prior to opening.

204.2 Liquid Asset Requirement. All applicants for retail marijuana store licenses must demonstrate a minimum of \$400,000 in liquid assets under control and available at the time of application. This threshold must be separately met for each of the retail marijuana stores for which the applicant is seeking licensure.

Only assets held or titled in the name of the actual applicant will qualify toward meeting this requirement – for example, in the case of a corporate applicant, the personal assets of owners or assets of related business entities would not be considered. For jointly held assets, only the applicant's portion of ownership will be considered toward the minimum requirement.

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The applicant must provide satisfactory documentation of asset ownership such as bank statements, lines of credit, stock certificates, and invoices or receipts. The local licensing authority has discretion to make final determinations as to whether assets qualify as liquid assets and whether sufficient proof of ownership in the name of the applicant has been demonstrated.

204.3 Point System Review. The local licensing authority shall review each application that satisfies the minimum requirements set forth in Rule 204.1 and award points to each applicant as follows:

Differentiator	Qualifier	Points
Experience operating a licensed marijuana establishment in Colorado (Cumulative)	3 Years	+1
	4 Years	+1
	5 Years	+1
Experience operating a licensed marijuana establishment in Colorado without administrative penalties or license revocation (Cumulative)	3 Years	+1
	4 Years	+1
	5 Years	+1
The applicant, and the applicant's principal officers and executives were in compliance with all tax laws	Demonstrated history of timely payment (1 year) and no criminal, civil, or administrative actions in the past 3 years	+2
Applicant criminal background history	No felony convictions	+2
	No pending charges	+2
	No drug-related misdemeanor convictions	+2
Manager and employee criminal background history	No felony convictions	+2
	No drug-related misdemeanor convictions	+2
Building contains a filtration or air scrubbing system	Minimize odors and public nuisance complaints	+3

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Demonstrates enhanced security in excess of minimum requirements	Deter criminal activity and minimize police supervision of premises	+2
Operating Plan	Ensure adequate staffing, security, employee training, consumer education, and compliance with state and local laws.	+1 to +10
Business Plan	Define scope of planning and capital improvements, estimate revenue and expenses, and demonstrate ability to operate in highly regulated industry.	+1 to +10
Total Score		43

- (a) Burden of Proof. The applicant is responsible for identifying the bonus point criteria for which they are applying. The local licensing authority will not presume proposed qualifications without supporting documentation.
- (b) Experience Requirement. At least one member of the ownership group applying for licensure must have two years or more of experience operating a licensed marijuana establishment in Colorado, and bonus points will be awarded for additional experience beyond this minimum requirement. In evaluating an applicant's experience level and history as an operator of a licensed marijuana establishment, the local licensing authority will apply the following standards:
- (1) Operating experience is defined as an individual with an active ownership or managerial role who made administrative decisions for the establishment.
 - (2) The applicant's experience must demonstrate knowledge of the business practices and protocols of a retail marijuana store, such as security requirements, awareness of limited access areas, administration of the marijuana inventory tracking system, and understanding of applicable laws and regulations for the industry.
 - (3) Only the industry experience of those members of the ownership group with at least a twenty percent (20%) ownership interest in the business entity applying for licensure will be considered.

The provisions above apply to both the minimum experience requirement of two years set forth in Section 6-309(a)(4) of the Aurora Municipal Code and to any bonus points awarded under Section 6-309(b) of the Aurora Municipal Code, as described in the chart above.

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- (c) Administrative Penalties. In evaluating an applicant's history of operating a licensed marijuana establishment without administrative penalties, the local licensing authority will review property histories, police reports, and other relevant documentation to determine whether the applicant, or an establishment the applicant has operated or managed, has previously been:
 - (1) Subject to a license suspension or revocation;
 - (2) Fined or charged with an administrative penalty; or
 - (3) Received a court summons related to the operation of the licensed establishment.
- (d) Tax Compliance. In evaluating an applicant's history of tax compliance, the local licensing will review the federal, state, and local tax returns of the applicant and any of the owners of the applicant, to determine whether a timely history of payment has been established. The local licensing authority will also review available public records to determine whether the applicant and any of the owners of the applicant, have in the past three years been subject to any tax-related liens, seizures, or fines, or have been convicted of a tax-related criminal offense.
- (e) Security Plan. All applicants must include a security plan as part of their application package, which will be reviewed by the local licensing authority in conjunction with members of the Aurora Police Department. If the applicant's plan is able to sufficiently demonstrate security measures in excess of the minimum requirements set forth in state regulations, the applicant shall be awarded two points. Such enhanced security measures shall include, but are not limited to, steel security doors, improved video surveillance system capabilities, and advanced alarm systems.
- (f) Business Plan. The business plan is to demonstrate the applicant's ability to successfully operate in a highly regulated industry over an extended period of time. The local licensing authority will review all business plans submitted, and shall assign a score of between one and ten points. The content by which the local licensing authority will evaluate business plans may include, but is not limited to the following: scope of work for the planning and development; scope of work for capital improvements; an estimate of first-year revenues; an estimate of first-year operating expenses and evidence that the applicant will have the resources necessary to pay for those expenses; and a description of the applicant's history of compliance in a highly regulated industry. The business plan will be reviewed and scored by an independent three-person panel, with the final score being the average of the scores from each of the three panel members, rounded to the nearest whole number.
- (g) Operating Plan. The operating plan is to enumerate the specific means through which the applicant intends to achieve the business goals and comply with the city and state regulatory requirements. The local licensing authority will review all operating plans submitted, and shall assign a score of between one and ten points. The content by

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which the local licensing authority will evaluate the operating plans may include, but is not limited to the following: staffing schedules to ensure adequate coverage and experience during all business hours; employee training programs for security, product knowledge and safety; proactive consumer education and community outreach practices; and an operations manual demonstrating compliance with state and city retail marijuana laws. The operating plan will be reviewed and scored by an independent three-person panel, with the final score being the average of the scores from each of the three panel members, rounded to the nearest whole number.

- (h) Protection from Disclosure. The security plan will be protected from public disclosure as provided under the Colorado Open Records Act, § 24-72-204(2)(a)(VIII), C.R.S. If the applicant believes that portions of the business plan or operating plan would cause a competitive disadvantage to the applicant if disclosed pursuant to an open records request, the applicant should identify the specific sections of the plan that would cause the competitive disadvantage and request that those portions be protected from disclosure. The general policies for disclosure of application materials are described in Rule 702.3 below.
- (i) Permanency of Bonus Points. With the exception of the business plan and operating plan, retail marijuana store applicants will be held accountable for any information submitted which may result in bonus points being awarded in the point system review process. Such criteria are subject to reevaluation during the inspection and license renewal processes, and any failure of the applicant to adhere in a timely manner to the criteria by which bonus points were awarded may result in penalties including, but not limited to, revocation of the store license.

204.4 Award of Store Licenses. The local licensing authority shall issue a retail marijuana store license to the four applicants in each ward that earn the highest point totals pursuant to Rule 204.3. In the event that two or more applicants applying for licensure in the same ward receive the same total score, and the applicants cannot all be issued a license, the local licensing authority shall randomly select the applicants that will be awarded a retail marijuana store license.

204.5 Limitation on Number of Licenses per Person. No person may hold an ownership interest in more than six retail marijuana stores located throughout the city. While a person may submit an unlimited number of applications for retail marijuana store licensure, a maximum of six licenses may be awarded to any particular owner.

In evaluating the applications submitted by a person with ownership interest in multiple prospective retail marijuana stores, the top-scoring applications in each of the wards in which the applicant submitted applications will be considered first. For example, if a person submitted three retail marijuana store applications in each of four separate wards,

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the top-scoring application submitted by that person in each of the four wards must be considered for licensure before their second-ranked application in any of the four wards will be evaluated. Similarly, the second-ranked applications by the person in each of the wards must be considered for licensure prior to evaluating their third-ranked application in each ward. In the event that six licenses are awarded to any person, any additional applications in which that person has an ownership interest will be disregarded.

Rule 205: Licensing Procedure – Retail Cultivation, Retail Manufacturing and Retail Testing Facilities.

- 205.1 Distance from Residential Areas. No retail marijuana cultivation, product manufacturing or testing facility shall be permitted within 300 feet of an existing residential use, excluding any nonconforming residential use, or any residential or open zoning district. This distance shall be measured from the nearest property boundary of such use or district to the nearest property boundary of the marijuana cultivation, product manufacturing or testing facility.
- 205.2 Prohibited Materials and Processes. Retail marijuana product manufacturers are prohibited from using metals, butane, propane, or other solvents or flammable products that produce flammable vapors to process or test marijuana unless a certified industrial hygienist has verified that the method used and the premises are safe and in compliance with all applicable rules and regulations. Any retail marijuana establishment proposing to process or test retail marijuana through the use of such chemicals or processes must present documentation from a certified industrial hygienist confirming that the method used for producing, extracting, or testing marijuana or marijuana products does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the establishments.
- 205.3 Testing Facility Ownership. Pursuant to Rule 702(A) of the RMR, any person who is an owner of a retail marijuana store, retail marijuana cultivation facility, retail marijuana product manufacturing facility, or any medical marijuana business shall not be permitted to have an ownership interest in a retail marijuana testing facility.

Rule 206: Licensing Requirements.

Before issuing a local license for a retail marijuana establishment, the local licensing authority shall determine that the applicant has satisfied all of the following requirements:

- (a) The applicant has satisfied all requirements in Rules 203, 204 and 205;
- (b) The application is complete, including all required and requested supplemental documentation;
- (c) The city's portion of the application fee has been received from the state, and the applicant has paid the operating fee and any applicable additional fees.

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- (d) The area where the proposed activity will take place on the licensed premises is the same as shown on the application documents and construction plans for the associated license;
- (e) No additional signage, lighting (indoor or outdoor), or building construction is proposed except as necessary to comply with these regulations and state licensing requirements;
- (f) No outstanding violations of city regulations or licensing requirements exist on the property where the proposed establishment is located; and
- (g) For a retail marijuana store, the applicant must provide proof of a surety bond in the amount of twenty thousand dollars (\$20,000.00) for sales and use taxes due.

Rule 207: Transfer of Ownership and Changes in Business Structure.

- 207.1 General Requirements. A transfer of ownership or change in business structure shall be governed by the standards and procedures set forth in the CRMC and any rules adopted pursuant thereto, and the local licensing authority shall administer transfers of licenses or changes in business structure in the same manner as the state licensing authority administers transfers of state licenses and changes in business structures. A license holder for a retail marijuana establishment must apply to the local licensing authority prior to initiating a transfer of ownership or changing the business structure of the licensed entity. Such application shall be made upon forms prescribed by the local licensing authority
- 207.2 Obligations Must Be Current. No application for transfer of ownership or change in business structure shall be approved by the local licensing authority until all occupational taxes, sales and excise taxes, any fines, penalties, and interest assessed against or imposed upon such licensee in relation to the licensed business are paid in full.
- 207.3 One-Year Prohibition Following Licensure. For one year after the date any license is issued by the city pursuant to the ordinance, the licensee is prohibited from transferring ownership of the license or making changes to the business structure of the licensed entity, unless the licensee can demonstrate that a transfer of ownership or change in structure is made necessary by death or disability of the licensee or a similarly substantial financial hardship.
- 207.4 Transfer of Ownership. A retail marijuana license issued by the city is not transferable except as provided in these rules. No transfer of ownership shall be permitted until after the local licensing authority considers the application, and such additional information as it may require, and issues a license to the transferee. Upon issuance of the new license in the transferee's name, the prior license becomes invalid and the transferor must immediately cease operations. The transferee may not commence operations until all inspections and approvals have been completed and the new license has been issued.

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Rule 208: Change of Location.

- 208.1 Application Requirements. Any license granted under these regulations is limited to the location(s) specified on the license application. If a retail marijuana establishment desires to move to another location within the city, an owner or other authorized representative must apply to the local licensing authority for permission to change the location of its licensed premises. Such application shall be made upon forms prescribed by the local licensing authority and is in addition to, and not in lieu of the state application for changing locations.
- 208.2 Licensure Required. No change of location shall be permitted until after the local licensing authority considers the application, and such additional information as it may require, and issues to the applicant a license for the new location. Upon issuance of the license for the new location, the prior license becomes invalid and the licensee must cease operations at the former location. At no time may a licensee operate a retail marijuana establishment at both locations at the same time.
- 208.4 Retail Marijuana Stores. No change of location for a licensed retail marijuana store shall be approved if the new proposed location does not comply with the zoning requirements set forth in Chapter 146, the spacing requirements set forth in Section 146-1253, and the limitation on the number of retail marijuana store licenses per ward set forth in Section 6-310.
- 208.5 Cultivation, Manufacturing, and Testing Facilities. No change of location for a licensed retail marijuana establishment other than a retail marijuana store shall be approved if the new proposed location does not comply with the zoning requirements set forth in Chapter 146 and the spacing requirements and best management practices set forth in Section 146-1253.
- 208.6 Redistricting. In the event that the City Council ward boundaries are reconfigured such that the location of a retail marijuana store operation is changed from one ward to another, the retail marijuana store operation is considered to be “grandfathered” into the original ward where it was located. Accordingly, the retail marijuana store may continue operating under the current license until such time as there is a change in ownership, the store relocates to a different site, or the store ceases operations. The fact that the location of a retail marijuana store is reclassified from one ward to another does not, in itself, create an opening for an additional retail marijuana store to be licensed in the previous ward.

For example, assume that 23 of the 24 total retail marijuana store licenses have been issued with four stores operating in Ward I and four in Ward III. If a retail marijuana store is operating in Ward I and, due to redistricting of City Council wards, its location is reclassified as being in Ward III, the store may continue operating in the same location

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under its existing license. Although the change in ward boundaries creates an apparent imbalance in the number of licenses in the two wards, with five stores now located in Ward III and three in Ward I, this does not create a vacancy for an additional retail marijuana store license in Ward I. This is true even though not all licenses have been issued for the city as a whole, as the store that shifted to Ward III due to the redistricting is still considered to be “grandfathered” into the prior ward, and Ward I would still have issued its full allotment of four retail marijuana store licenses. Similarly, if only three of the four possible retail marijuana store licenses had been issued in Ward I prior to the redistricting scenario described above, Ward I would still be eligible to add an additional store via a fourth license.

Rule 209: Term of License - Renewals and Expirations.

- 209.1 Term of License. A retail marijuana establishment business license shall be valid for a period of one year from the date of issuance or upon the expiration and non-renewal of the associated license, whichever occurs first.
- 209.2 Renewal of License. Renewal of any local license is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place. Renewal of a retail marijuana establishment license is not automatic, and it is the licensee’s responsibility to ensure that the renewal application and all supplemental materials are submitted in a timely manner. Applications for license renewals shall be processed in the same manner as new licenses under these regulations, with the exception of the retail marijuana store license award process described in Rule 204 above, which shall not apply to renewals. Such application is made in addition to, and not in lieu of the state application for license renewal.
- 209.3 The local licensing authority may refuse or deny a license renewal if renewal of the license will have a harmful or damaging impact on the public health, safety or the general welfare of the city or the neighborhood where the establishment is located. Nothing in these regulations limits the local licensing authority’s consideration of behavior occurring on or about the licensed premises. It may consider behavior that occurs in other jurisdictions in which the licensee conducts business in determining the potential impact on the city and the surrounding neighborhood.
- 209.4 Notice of Renewal. 90 days prior to the expiration of an existing license, the local licensing authority will send a renewal notification to the licensee’s mailing address of record via first class mail. Failure to receive a renewal notification does not relieve a licensee of the obligation to renew all licenses in a timely manner.

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- 209.5 **Renewal Timeline.** The licensee shall apply for renewal of the retail marijuana establishment license at least 30 days, but no earlier than 90 days prior to the expiration of the license.
- (a) If the applicant fails to apply for renewal at least 30 days before the expiration of the license, but does apply for renewal prior to expiration of the license, the city may process the renewal application if the applicant provides a written explanation of the reasons for the late renewal and submits a late filing fee at the time of submittal of the renewal application.
 - (b) If the local licensing authority accepts a late application as described above, it may elect to administratively continue the license beyond the expiration date while the renewal process is pending.
- 209.6 **Expiration of License.** A retail marijuana establishment license is immediately invalid upon expiration of the license unless the licensee has filed a late renewal application and the local licensing authority has granted an administrative continuance of the license as described above. Expiration of a retail marijuana establishment license for any reason, including, without limitation, failure to file a renewal application in a timely manner, shall be considered an inactive local license as described in § 12-43.4-311, C.R.S. A licensee whose license has expired shall not cultivate, manufacture, distribute, or sell any retail marijuana until all required licenses have been obtained.
- (a) If the holder of an expired license files a late application and pays the requisite operating and late fees within 90 days of expiration of the license, the local licensing authority may administratively continue the license from the date the late application is received until it can complete its renewal application process and investigate the extent to which the licensee may have operated with an expired license.
 - (b) If the holder of an expired license files a renewal application after 90 days from date of expiration, the application will be treated as a new license application.
- 209.7 **Renewal Application Procedure.** The licensee shall apply for renewal using forms provided by the city. The application for renewal must include the supplemental information set forth below before the application will be considered complete and processed by the city.
- (a) The yearly operating fee, and late fee if applicable, shall accompany the renewal application.
 - (b) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.

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- (c) In the event any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any business manager, financier, agent as defined herein, or employee, has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed, and the disposition of the violation with the renewal application.
 - (d) In the event the retail marijuana establishment license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.
 - (e) The renewal application shall include verification that the retail marijuana establishment has a valid state license and the state license is in good standing.
 - (f) The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased; the amount of marijuana sold, the forms in which marijuana was sold; the police report numbers or case numbers of all police calls to the retail marijuana establishment; and, for calls resulting in a charge of a violation of any law, the charge, case number, and disposition of any of the charges.
- 209.8 Procedure for Expired or Revoked Store Licenses. In the event that a license for a retail marijuana store has been expired for 90 days and the local licensing authority has not granted an administrative continuance for late application, the application process shall be reopened and applicants will have thirty (30) days to submit new applications for the license. In instances where a retail marijuana store license has been revoked, the license shall be reissued as follows:
- (a) If the license was initially awarded within the previous six months, the license shall be issued to the next highest-scoring application in that ward, if any, which was not awarded a license during the previous point system review process.
 - (b) If more than six months have passed since the initial licensure award date, or there is not another applicant that was not awarded a license in the ward, the application process shall be reopened and applicants will have thirty (30) days to submit new applications for the license. The original licensee from whom the license was revoked is ineligible to reapply for licensure.
- 209.9 Hearing Upon Denial. A licensee shall be entitled to a hearing before the finance director via the procedures set forth in Rule 802 below if the local licensing authority seeks to deny the renewal of a retail marijuana establishment license.

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Rule 210: Fees.

- 210.1 Authority and Process. The city is authorized to impose fees relating to the administration and implementation of the ordinance and these regulations. Such fees shall be established by the city manager and subject to review by the City Council. At least annually, the amount of fees charged pursuant to this rule shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs incurred by the city in connection with the administration, regulation, and enforcement of the ordinance.
- 210.2 Types of Fees. An applicant for a new retail marijuana establishment license shall pay to the city a non-refundable operating fee when the application is filed. The city shall also collect fees for license renewals, change of location, transfer of ownership, and modification of the licensed premises. Other fees may be imposed in the future as necessary for the city to recover the costs of the retail marijuana establishment licensing and inspection programs.
- 210.3 Fee Schedule. The following fees shall apply to all retail marijuana establishment licenses:

Application fee*	\$2,500.00
Operating fee	\$15,000.00
Late renewal fee	\$7,500.00
Change of location fee	\$2,500.00
Transfer of ownership fee	\$2,500.00
Modification of premises fee	\$2,500.00

* Must be received from the state before the application for initial licensure is deemed to be complete. Application fees are subject to change at the state's discretion.

The fees above apply to each license issued, and a business with multiple locations in the city must pay separate fees for each location. The appropriate fees must be paid in conjunction with any application or request before the city will process or act upon the forms submitted. A portion of the operating fee, not to exceed 50%, may be refunded if the application for initial licensure or renewal is denied. All other fees are nonrefundable in the entirety. No fee previously paid by a licensee in connection with a license shall be refunded if the licensee's license is subsequently suspended or revoked.

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Rule 300 Series – The Licensed Premises

Rule 301: Limited Access Areas.

Retail marijuana shall only be grown, cultivated, processed, stored, weighed, displayed, packaged, sold, or possessed for sale in a limited access area under the licensee's control. Licensees shall restrict entrance to limited access areas only to owners and employees in possession of an occupational license from the state Marijuana Enforcement Division, along with visitors registered as described below.

- 301.1 Visitors in Limited Access Areas. Visitors must be escorted at all times by a person holding a valid owner or occupational license. Management personnel of the licensee must take the following actions prior to allowing any visitor to enter a limited access area:
- (a) Enter the visitor's name, address and the purpose of the visit into a log, which shall be made available for inspection upon request;
 - (b) Check the identification for all visitors to verify that the name on the identification matches the name in the visitor log and that the visitor is at least 21 years of age; and
 - (c) Provide a visitor identification badge that shall remain visible at all times while in the limited access area.
- 301.2 Required Signage. All areas of ingress and egress to limited access areas on the licensed premises shall be clearly identified by the posting of a sign at least 12 inches wide and 12 inches long, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors" in letters at least one-half inch in height.
- 301.3 Violations. A retail marijuana establishment's failure to comply with the limited access area restrictions and procedures described in this rule may be considered a license violation affecting the public safety.
- 301.4 Enforcement Personnel Authorized. Notwithstanding the other requirements of this rule, nothing shall prohibit investigators and employees of the local licensing authority, the state Marijuana Enforcement Division, or state or local law enforcement personnel from entering a limited access area for an authorized inspection or enforcement purpose upon presentation of official credentials.

Rule 302: Possession of Licensed Premises.

- 302.1. Evidence of Lawful Possession. All applicants for retail marijuana establishment licensure must demonstrate proof of lawful possession of the premises to be licensed at the time of application. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documentation the local licensing authority may consider satisfactory. Lease agreements contingent upon the applicant being approved for licensure

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are acceptable to show the applicant's lawful possession of the intended premises.

- 302.2. Relocation Prohibited. The licensed premises are limited to the physical areas and dimensions that are specifically and accurately described in the documents verifying lawful possession. Licensees may not relocate in any manner – either to a different address or to other areas or units within the current building structure – without first filing a change of location application and obtaining approval from the local licensing authority and the Colorado Marijuana Enforcement Division. Licensees are likewise prohibited from adding additional contiguous units or areas, thereby altering the initially approved premises, without filing an application and receiving approval to modify the licensed premises on current forms local licensing authority, including any applicable processing fee.

Rule 303: Modification of Premises.

- 303.1 Application Required. Following issuance of a license for a retail marijuana establishment, the licensee must secure prior approval from the local licensing authority and the Colorado Marijuana Enforcement Division prior to making any physical change or modification to the licensed premises that materially or substantially alters the licensed premises, or use thereof, from the plans originally approved during the licensure process. The licensee seeking the material alteration is responsible for filing an application for approval on current forms provided by the local licensing authority and the Colorado Marijuana Enforcement Division and must pay the fee set forth in Rule 210 above.
- 303.2 Material Change Defined. Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to the following:
- (1) Any increase or decrease in the total physical size or capacity of the licensed premises;
 - (2) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the limited access areas;
 - (3) The permanent addition of a separate sales counter or display case in a retail marijuana store; or
 - (4) The installation or replacement of electric fixtures or equipment for purposes of increasing production, the lowering of a ceiling, or electrical modifications made for the purpose of increasing power usage to enhance cultivation activities.
- 303.3 General Provisions. The procedures for material changes listed above are in addition to, and not in lieu of, other general building requirements that may apply to building structures and land parcels in the city. Modification of any building structure where a retail marijuana store, retail marijuana cultivation facility, retail marijuana manufacturing facility, or marijuana testing facility is located is subject to all applicable provisions of the city's Building and Zoning Code.

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Rule 304: Security Requirements.

304.1 Security Plan. All applicants for retail marijuana establishment licensure shall file a written security plan with the local licensing authority. The security plan will be protected from public disclosure as provided under the Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. The written security plan shall address, at a minimum, the following elements:

- (a) Evidence that the space will comply with all security and video surveillance requirements set forth in these rules and Rules 305 through 307 of the RMR;
- (b) A site plan showing the entire vicinity in which the retail marijuana establishment is located, including the street(s), parking lot(s), other tenants within the facility, and any other entities that physically border the establishment;
- (c) A floor plan of the retail marijuana establishment detailing the locations of the following:
 - (1) All entrances and exits to the establishment;
 - (2) The location of any windows, skylights, and roof hatches;
 - (3) The location of all cameras, and their field of view;
 - (4) The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;
 - (5) The location of the digital video recorder and alarm control panel; and
 - (6) Restricted and public areas;
- (d) The type of security training provided for, and completed by, establishment personnel, including conflict resolution training and procedures for handling violent incidents;
- (e) How the applicant intends to use and maintain an incident log;
- (f) The establishment's procedures for preventing the use of marijuana on the licensed premises;
- (g) Security measures taken by the applicant to prevent individuals from entering the limited access area portion of the registered premises;
- (h) The applicant's closing procedures after the cessation of business each day;
- (i) The applicant's plan to prevent theft or the diversion of marijuana, including maintaining all marijuana in a secure, locked room that is accessible only to authorized persons;
- (j) The type of alarm system and outdoor lighting to be used by the applicant; and
- (k) The applicant's procedures for accepting delivery of retail marijuana products at the facility, including procedures for how it is received, where it is stored, and how the transaction is recorded.

304.2 Minimum Standards. The applicant must demonstrate that the following security measures are in place or will be implemented prior to opening:

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- (a) Installation of a safe or vault for storage of any processed marijuana or marijuana product and cash on the premises when the business is closed to the public. The safe or vault must be incorporated into the building structure or secured to the structure to prevent removal. For marijuana-infused products that must be kept refrigerated or frozen, the establishment may lock the refrigerated container or freezer so long as the appliance is affixed to the building structure.
- (b) Any dumpster or similar trash receptacle on the premises used to discard retail marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended.
- (c) Cultivation and manufacturing facilities are required to have audible and visual notification systems to alert employees of the presence of persons ringing the doorbell to gain access to the facility.

304.3 Security Alarm System. All retail marijuana establishments shall install, maintain, and use a professionally monitored security alarm system meeting the following requirements:

- (a) The system shall provide coverage of all facility entrances and exits, rooms with exterior windows, rooms with exterior walls or walls shared with other building tenants, roof hatches, skylights, and storage rooms containing safes or vaults;
- (b) The system shall include at least one silent holdup or duress alarm that can be manually triggered in case of emergency;
- (c) The alarm system must be equipped with a failure notification and a battery backup system sufficient to support a minimum of four hours in the event of a power outage;
- (d) The alarm system must be monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and shall be updated within seventy-two hours in the event the monitoring company is changed; and
- (e) The licensee shall maintain for a period of three years, reports of any incidents triggering an alarm, and such reports shall be made available to the local licensing authority and the Aurora Police Department during any inspection of the facility.

304.4 Greenhouse Cultivation. Any greenhouse cultivation facility is a limited access area and must meet all of the security requirements, including alarm and video surveillance systems, described in these regulations. Greenhouse cultivation facilities must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. The licensee is responsible for maintaining physical security in a manner similar to a retail marijuana cultivation facility located in an indoor licensed premises.

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Rule 305: Video Surveillance.

Prior to receiving a license to operate, all retail marijuana establishments are required to install a video surveillance system satisfying the minimum standards described below, in addition to the state requirements set forth in Rule 306 of the RMR.

305.1 Operation. Retail marijuana establishments are responsible for ensuring that all video surveillance equipment is properly functioning and maintained, such that the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas with a recording quality suitable for viewing. The surveillance systems must be continuously operational at all times, 24 hours per day. The retail marijuana establishment or agent overseeing the functioning of the video surveillance system must immediately report to the Aurora Police Department any malfunctions or technical problems with the system.

305.2 Equipment. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos. The surveillance equipment must meet the following specifications:

- (a) The video cameras employed in the system must have a minimum resolution of 1.3 megapixels (1280 x 1024 pixels) and record at a minimum rate of 12 frames per second;
- (b) All video cameras employed in the system must have infrared capabilities to capture images in low lighting conditions;
- (c) The use of motion detection is authorized when a licensee can demonstrate that monitored activities are adequately recorded;
- (d) All video surveillance systems must be equipped with a failure notification system and a battery backup system sufficient to support a minimum of four hours of recording in the event of a power outage; and
- (e) The Licensee's surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the licensed premises.

305.3 Camera Placement and Coverage. The retail marijuana establishment shall install and use security cameras to monitor and record all interior areas of the premises, except in restrooms, along with outdoor trash receptacles and all points of ingress and egress to the exterior of the licensed premises. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, with camera placement capable of identifying activity occurring within 20 feet of all such points of ingress and egress. Camera placement in all areas shall allow for the clear and certain identification – with

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sufficient detail to identify facial features and clothing – of any individual and activities present on the licensed premises.

305.4 Location and Maintenance of Surveillance Equipment.

- (a) Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, service personnel or contractors, state or local law enforcement agencies, and agents of the local licensing authority and the Colorado Marijuana Enforcement Division.
- (b) Licensees must maintain a current list of all authorized employees and service personnel who have access to the surveillance system and shall keep a surveillance equipment maintenance activity log on the licensed premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.
- (c) Each licensed retail establishment must have a separate surveillance room or area that is dedicated to those specific licensed premises, regardless of any shared or adjoining location in a common building, except as provided in subpart (d) below.
- (d) Commonly-owned retail marijuana establishments located in the city may have one central surveillance room located at one of the commonly-owned licensed premises which simultaneously serves all of the commonly-owned retail facilities. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in this section apply to the review station.

305.5 Video Recording and Retention Requirements.

- (a) All surveillance recordings are required to be retained for a minimum of 60 days and shall be in a digital format that can be easily accessed for viewing and that ensures authentication of the recording as being legitimately captured without alterations.
- (b) In addition to maintaining surveillance recordings in a locked area on the licensed premises, a copy of the surveillance recordings must be stored at a secure off-site location in the city or through a network “cloud” service that provides on-demand access to the recordings. The off-site location or network service provider shall be included in the security plan submitted to the city and provided to the Aurora Police Department upon request, and updated within seventy-two hours of any change to the location or provider.
- (c) All surveillance recordings shall be embedded with the date and time without significantly obscuring the picture.
- (d) Regardless of the expiration of the 60-day limit for retention of surveillance video recordings, such recordings may not be destroyed if the licensee knows or should have known of a pending criminal, civil or administrative investigation, or any other proceeding for which the recording may contain relevant information.

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Rule 400 Series – General Operational Requirements

Unless otherwise specified, the following requirements apply to all retail marijuana establishments licensed within the city.

Rule 401: Age Requirements.

- 401.1 Age limitation. Retail marijuana establishments may not allow persons less than 21 years of age to enter limited access areas under any circumstances. No retail marijuana store is permitted to sell marijuana to persons younger than 21 years of age, and stores must conspicuously post signage in the entrance area that clearly states: “You must be at least 21 years old to enter.”
- 401.2 Identification Scanners. For retail marijuana stores, the business shall verify the proof of age of every person entering the business with an electronic identification scanner. An electronic identification scanner is a device that is capable of quickly and reliability confirming the validity of an identification using computer processes.
- 401.3 Receipts. All receipts for the sale of retail marijuana to consumers must contain the statement: “It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21.”

Rule 402: Hours of Operation and Access.

- 402.1 Store Hours. Retail marijuana stores may only be open to the public between the hours of 8:00 a.m. and 10:00 p.m. daily, and no sale or other distribution of marijuana may occur upon the premises outside of those hours. A registered cultivation facility or its contracted agent may deliver marijuana or marijuana product to retail marijuana stores on any day and at any time except between the hours of 9:00 p.m. and 7:00 a.m.
- 402.2 Other Hours. Retail marijuana cultivation facilities, retail marijuana product manufacturing facilities and retail marijuana testing facilities, may conduct business operations on the licensed premises at any time.
- 402.3 Posting Required. Retail marijuana establishments must post their hours of operation at the main entry of the store or facility.
- 402.4 Public Access Restricted. Retail marijuana cultivation facilities, retail marijuana product manufacturing facilities and retail marijuana testing facilities, shall not be open to the public, and any visitors must be tracked in an entry log identifying the visitor’s name, entry and departure times, and the purpose of the visit. Visitors to such establishments must be escorted by a manager or owner at all times, while within the facility and required to wear

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a badge identifying them as a visitor. In the event that a licensed retail marijuana store is located in the same building as a retail marijuana cultivation facility, retail marijuana product manufacturing or retail marijuana testing facility, only the portion of the building occupied by the retail marijuana store shall be open to the public.

Rule 403: Documents To Be Displayed.

- 403.1 Display of Licenses Required. The general business license, along with the retail marijuana establishment license, shall be conspicuously posted inside the retail marijuana establishment near the main entrance.
- 403.2 Emergency Contact Information. The name and contact information for the owner or owners and any business manager of the retail marijuana establishment shall be conspicuously posted inside the licensed premises near the main entrance.

Rule 404: Owner or Manager Present.

- 404.1 Owner or Business Manager Required on Premises. No retail marijuana establishment shall be managed by any person other than the licensee or the business manager listed on the application for the license or a renewal thereof. Such licensee or business manager shall be on the premises and responsible for all activities within the licensed business during all hours of operation.
- 404.2 Business Manager Changes. In the event the licensee intends to employ a business manager that was not identified on the license or renewal application, the licensee shall report the name of such business manager to the city, and such business manager shall submit to the city, at least thirty days prior to commencing employment, the requested contact and background information for the business manager on a form specified by the local licensing authority. Licensees shall report to the city the release or removal of a business manager from employment no later than five days after such an occurrence.

Rule 405: Sales Limitations.

- 405.1 Direct Sales. All retail sales of marijuana must be in person, directly to the purchaser. No sales may be made through a drive up window, by telephone, internet, or other means of remote purchase.
- 405.2 Giveaways. Retail marijuana stores may not distribute marijuana or marijuana-infused products to a consumer free of charge.

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Rule 406: Advertising.

- 406.1 General Requirements. All retail marijuana establishments are subject to the signage requirements contained in Article 16, Chapter 146 of the Aurora Building and Zoning Code and the restrictions on advertising and marketing under the CRMC.
- 406.2 No Public Advertising. No advertisement for marijuana or marijuana products is permitted on signs mounted on vehicles, temporary signs, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the city or on the Internet; and (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth.

Rule 407: Reporting and Response.

- 407.1 Reporting Requirements. A retail marijuana establishment shall report to the local licensing authority each of the following within the time specified. If no time is specified, the report shall be provided within 72 hours of the event.
- (a) A violation of any law by any licensee or applicant of a retail marijuana establishment;
 - (b) A notice of potential violation of any law related to the licensee;
 - (c) Any report that the retail marijuana establishment is required to provide to the State of Colorado; or
 - (d) Reports of all criminal activities or attempts of violation of any law at the retail marijuana establishment or related thereto shall immediately be reported to the Aurora Police Department.
- 407.2 Response to City Officials. The owner or a business manager of a retail marijuana establishment is required to respond by phone or email within 24 hours of contact by a city official concerning its retail marijuana establishment at the phone number or e-mail address provided to the city as the contact for the establishment. Each twenty-four-hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.

Rule 408: Separation of Marijuana Establishments.

Retail marijuana stores, retail marijuana cultivation facilities, retail marijuana product manufacturing facilities and retail marijuana testing facilities, are all separate establishments requiring separate licenses and separate premises, regardless of any shared ownership or location. In addition to all other application requirements for separate premises, each establishment shall:

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- (a) Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area;
- (b) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a retail marijuana establishment and any adjacent business; and
- (c) Obtain delivery documents and manifests for movement of any marijuana and/or marijuana product between any of the licensed retail marijuana establishments.

Rule 409: Visibility of Operations.

Under no circumstances shall activities related to the cultivation, production, processing, distribution, storage, display, or sales of marijuana and marijuana-infused products be visible from the exterior of the business.

Rule 410: Organization of Cultivation Facilities.

All cultivation facilities shall be organized in orderly rows with aisles at least 42 inches wide, and clear access to all exits, unless the local licensing authority determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and to exits.

Rule 500 Series – Building and Structural Requirements

Rule 501: General Requirements.

- 501.1 General Building Requirements. The Building Division has published a summarized list of requirements, entitled “General Building Requirements,” pertaining to the plan review, approval and inspection of marijuana-related occupancies. A copy of the General Building Requirements will be provided to prospective applicants. This list is not intended to be an all-inclusive record of city building standards, but merely to inform prospective applicants of the significant requirements. Applicants are responsible for researching and following all building codes adopted in the city.
- 501.2 Licensed Contractors. All construction, remodeling, electrical, mechanical and plumbing work must be performed by an appropriately licensed contractor. Once an applicant has selected a contractor to perform a project, it is recommended that the applicant contact the Building Division to schedule a meeting to discuss the scope of the project and specific requirements that may apply.

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- 501.3 Compliance with Plans. All construction, remodeling, electrical, mechanical and plumbing work must be completed in compliance with the building plans, site plan or redevelopment plan. A copy of the building plans, site or redevelopment plan must be retained on the licensed premises at all times for verification during inspections.

Rule 502 – Exterior Requirements.

If no site or redevelopment plan exists, one will be required before the license is issued.

- 502.1 Address Identification. All retail marijuana establishments shall display address or unit numbers in such a position as to be plainly visible and legible from a location nearest to the street or road fronting the property. The numbers used shall consist of Arabic numerals made of a durable material sharply contrasted in color with the background material on which they are placed, and shall be of a uniform height not less than four inches.
- 502.2 Signage. Prior to installation of any permanent sign, a sign permit must be obtained from the city through a licensed sign contractor. All signs must be maintained in a state of good repair, including structural supports and any paint or lighting. Retail marijuana establishments must comply with Article 16, Chapter 146 of the Aurora Building and Zoning Code and related regulations regarding signage, such as limitations on the number and area of signs allowed. No advertisement for marijuana or marijuana products is permitted on signs mounted on vehicles, temporary signs, or hand-held or other portable signs.
- 502.3 Exterior Maintenance. Every wall, window, roof, and door must be weatherproof and watertight and must be kept free of holes, loose or rotting boards or timbers. Faded or deteriorating walls, trim, siding and doors must be painted or replaced as appropriate. Sidewalks, driveways and parking surfaces must be maintained free of weeds, potholes, dirt, snow, ice, trash and debris. Businesses must stripe parking spaces and maintain the pavement. Any graffiti located on licensed premises shall be removed promptly.
- 502.4 Trash. Each business is responsible for removing trash, litter and garbage from its property. An active trash contract service contract must be maintained on file, and trash must be removed from the property on a weekly basis, or more often if necessary. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. Per the security regulations of Rule 305, all trash receptacles on the premises used to discard retail marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.

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- 502.5 Roof Access. All retail marijuana establishments must provide access to the roof via stairs, ladders, or other appropriate means to permit inspection and enforcement activities. Roof access hatches or similar portals must remain locked when unattended and must be covered by video surveillance and security alarm systems.

Rule 503: Odor Management.

- 503.1 General Standard. For all retail marijuana establishments, the odor of marijuana must not be perceptible at the exterior of the building at the licensed premises or at any adjoining use of the property.
- 503.2 Ventilation and Filtration Systems. Retail marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor nuisance standard described above in Rule 503.1. Retail marijuana stores, retail marijuana product manufacturing facilities, and retail marijuana testing facilities are not required to install filtration equipment on the licensed premises – except where a store licensee is awarded bonus points under Rule 204.3 for committing to such equipment – but must satisfy the same odor threshold. While the city does not mandate any particular equipment specifications with regard to filtration, all retail marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.
- 503.3 Noxious Gases and Fumes. Retail marijuana product manufacturing facilities and retail marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
- 503.4 Sealed Walls. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation in accordance with International Building Code (IBC) section 707 between a retail marijuana establishment and any adjacent occupancy regardless of occupancy classification. Per IBC section 707.5, fire barriers shall extend from the top of the floor/ceiling assembly below to the underside of the floor or roof sheathing, slab or deck above and shall be securely attached thereto. Such fire barriers shall be continuous through concealed spaces, such as the space above a suspended ceiling.
- 503.5 Enforcement. The odor standard described above in Rule 503.1 will be strictly enforced, and violation thereof shall be grounds for imposition of penalties. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense, and a continuing violation may be grounds for license suspension or revocation.

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Rule 504: Mechanical and Electrical Equipment.

- 504.1 Exterior Requirements. All mechanical equipment, whether mounted on the rooftop or at ground level, must be fully screened from public view. Electrical panels on the outside of the building must be painted to match the building or screened from public view.
- 504.2 Rated Equipment. All appliances shall be listed and labeled, via United Laboratories (UL) or an equivalent organization, for the application in which they are installed and used.
- 504.3 Cultivation Grow Room Lighting. Areas in which marijuana is grown in cultivation facilities shall be equipped with green lights, or an equivalent means of illumination, to enable access and inspections during dark cycles.

Rule 600 Series – Land Use and Zoning

If no site or redevelopment plan exists, one will be required before the license is issued. Please see Building and Zoning Code, Chapter 146 for requirements.

Rule 601: Zoning Limitations.

- 601.1 Retail Marijuana Stores. The operation of a retail marijuana store is only permitted within designated zoning districts in accordance with section 146-600 of the Aurora Building and Zoning Code.
- 601.2 Retail Marijuana Cultivation, Retail Marijuana Product Manufacturing and Retail Marijuana Testing. The operation of a retail marijuana cultivation, retail marijuana product manufacturing or retail marijuana testing facility is only permitted within designated zoning districts in accordance with section 146-600 of the Aurora Building and Zoning Code.
- 601.3 Land Use Verification. At the time of application for a retail marijuana establishment license, the local licensing authority will verify that the operations of the retail marijuana establishment are a permitted use within the area where the licensed premises is located.

Rule 602: Buffering Requirements.

Retail marijuana establishments must satisfy the following minimum distance requirements from sensitive uses. Prior to issuing a retail marijuana establishment license, the local licensing authority will confirm that the address or property boundaries of the proposed licensed premises, meets the buffering requirements.

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- 602.1 Retail Marijuana Stores. No retail marijuana store may be located within 1,000 feet of a school serving pre-school through twelfth grade students, nor within 500 feet of a hospital or substance abuse treatment center, as measured from the nearest property boundary of these uses to the address point of the retail marijuana store.
- (a) Daycare facilities and institutions of postsecondary education are not considered sensitive uses and the 1,000 foot minimum distance does not apply.
 - (b) The local licensing authority will only verify distance of the proposed licensed premises from existing sensitive uses; once the retail marijuana store license is issued, the city will not preclude a school, hospital, or substance abuse treatment center from opening at a location within the applicable buffer zones.
 - (c) A retail marijuana store may continue to operate in its present location as a preexisting use if a sensitive use later locates within the applicable buffer zone; however, the licensee does so at its own risk, and the issued license provides no protection or indemnification against enforcement of federal or other applicable laws prohibiting operation of a retail marijuana store near a school, hospital, or substance abuse treatment center.
- 602.2 Retail Marijuana Cultivation, Manufacturing and Testing. No retail marijuana cultivation, product manufacturing or testing facility shall be permitted within 300 feet of an existing residential use, excluding any nonconforming residential use, or any residential or open zoning district. This distance shall be measured from the nearest property boundary of such use or district to the nearest property boundary of the marijuana cultivation, product manufacturing or testing facility.

Rule 603: Fixed Location Required.

It shall be unlawful to operate any retail marijuana establishment, including the cultivation of retail marijuana, outside of locked, enclosed space within a building.

Rule 604: Prohibited Uses.

The following activities are prohibited anywhere within the city:

- (a) Storage of marijuana or marijuana-related products off the site of the licensed premises;
- (b) Marijuana membership clubs;
- (c) Vapor lounges; and
- (d) Outdoor cultivation, preparation, or packaging of marijuana or marijuana products.

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Rule 700 Series – Inspections

Rule 701: Inspection.

- 701.1 Grant of Authorization. By signing and submitting a license application, the owner of the premises certifies that the applicant has received permission from the property owner to allow inspections as may be required under state or local licensing law. In addition, the owner of the premises authorizes the local licensing authority, its designee, and the city's building official or the official's designee, to enter upon and inspect the premises upon presentation of official credentials. These inspections are part of the routine policy of inspection and enforcement of these regulations for the purpose of protecting the public safety, individuals operating and using the services of the retail marijuana establishment, and the adjoining properties and neighborhood. This rule shall not limit any inspection authority authorized under any other provision of law or regulation, including those of police, fire, building and code enforcement officials.
- 701.2 Initial Inspection. The local licensing authority will inspect all retail marijuana establishments prior to issuance of a license, to verify that the facilities are constructed and can be operated in accordance with the application submitted and the requirements of these regulations and the ordinance. The initial inspection shall occur after the retail marijuana establishment is ready for operation, but no marijuana or marijuana products will be allowed on the premises until the inspection is complete and a license is issued.
- 701.3 Regular Inspections. At a minimum, the local licensing authority shall perform regular inspections on a quarterly basis during the first year following licensure, and on a yearly basis prior to license renewal following the first year of operation.
- 701.4 Random Inspections. The regular licensing inspection procedures described shall not prevent the local licensing authority from inspecting retail marijuana establishments at random intervals and without advance notice.
- 701.5 Building Plans. A copy of the building plans must be retained on the licensed premises at all times. The licensee must also maintain a floor plan, including depictions of limited access areas and security camera placement.
- 701.6 Inspection of Records. Upon request, the licensee or business manager on duty shall retrieve and provide any relevant business records pertaining to the inspection, including but not limited to, security camera recordings, marijuana inventory manifests, and copies of invoices and receipts. The city may require any licensee to furnish such information as it considers necessary for the proper administration of these regulations.

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- 701.7 Food Production Inspections. Any food related portion of a retail marijuana product manufacturing facility must be inspected by a third party contracted by the city. The licensee is responsible for any related inspection costs.

Rule 702: Business Records.

- 702.1 Records to Be Maintained. Each licensee shall maintain a complete set of accounting books, invoices, receipts, shipping instructions, bills of lading, bank statements, cancelled checks and deposit slips, and all other records necessary to fully document the licensee's business transactions. Receipts must be issued for each sale of retail marijuana and shall be maintained in a computer system or by pre-numbered paper documents. The licensee shall record all retail marijuana product inventory received or purchased, and sales and disposal thereof, to clearly track revenue from the sales of retail marijuana and related products offered by the business. All such business records shall be open for inspection and examination by the city or its duly authorized representatives at all times during operating hours.
- 702.2 Reporting of Source, Quantity, and Sales. The records to be maintained by each retail marijuana establishment shall include the source and quantity of any marijuana and or marijuana product distributed, produced, or possessed within the premises. Such reports shall include the following information, at a minimum, for both acquisitions from wholesalers and retail sales transactions:
- (a) Date, weight, type of marijuana, and dollar amount or other consideration of transaction;
 - (b) For wholesale transactions, the sales and use tax license number of the seller from the State of Colorado and city, if any; and
 - (c) The amount of marijuana within the limited access areas.
- 702.3 Disclosure of Records. By applying for a retail marijuana establishment license, the licensee is providing consent to disclose any information required under these regulations. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated. If the city finds that such documents are subject to inspection as public records of the city, it will attempt to provide appropriate notice to the applicant prior to such disclosure.
- 702.4 Separate Bank Accounts. The revenues and expenses of a retail marijuana establishment shall not be commingled in a checking account or any other bank account with the deposits or disbursements of any other business or individual person.

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702.5 Audits. The local licensing authority may require an audit to be made of the books of account and business records of a retail marijuana establishment according to Aurora Municipal Code Section 130-67 or on such occasions it may consider necessary.

Rule 800 Series - Violations and Penalties

Rule 801: Authority.

801.1 Basis. A violation of any of the provisions of the ordinance, regulations, or any terms and conditions of a license issued by the local licensing authority may be grounds for imposition of penalties.

801.2 Enforcement Powers. The finance director has the authority to suspend or revoke a license following notice and hearing, or to summarily suspend a license pending a hearing.

801.3 Investigatory Powers. If the local licensing authority or its designee, based on information ascertained in the normal course of carrying out its enforcement responsibilities or via a public complaint, has reasonable cause to believe that a licensee has violated the ordinance or these regulations, or any terms or conditions of licensure, the local licensing authority shall forthwith certify to the finance director a written statement particularizing such violation, upon which the finance director may take action to suspend or revoke the license. The local licensing authority also has the authority to impose civil penalties against a licensee as described in Rule 806 below.

Rule 802: Administrative Hearing Procedures.

802.1 Scope and Applicability. An applicant or licensee shall be entitled to a hearing, and the procedures in this rule shall apply, in the following circumstances:

- (a) The local licensing authority denies the issuance of a retail marijuana license, and the applicant has timely submitted an appeal request to the finance director; or
- (b) The local licensing authority or other complainant seeks to suspend or revoke, or deny the renewal of a retail marijuana license.

802.2 Hearing Officer. In the event of such proceedings, the finance director may, in his or her discretion, designate such other officer, agent, or employee (designee) to sit as hearing officer for the purpose of conducting the hearing. The hearing officer shall make the ultimate disposition of the matter.

802.3 Initiation of Hearing. An administrative hearing may be initiated by an order to show cause from the finance director or, where permitted, via a written appeal from an applicant.

- (a) Petition for Appeal. Any applicant whose application for a retail marijuana license has been denied may appeal the decision of the local licensing authority by submitting an

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appeal request in writing to the finance director within 20 days following the date of such decision. Such petition shall set forth the legal and factual support for the appeal, and the finance director shall only consider those issues specifically addressed therein. The finance director shall conduct an appeal hearing no later than 20 days following the receipt of such request.

- (b) Order to Show Cause. Where there is probable cause to believe that grounds exist for the denial of a renewal, or the suspension or revocation of a license, the finance director shall notify the licensee in writing of the proposed action and the basis for such action. The finance director shall further order the licensee to appear for a hearing on a specified date to show cause as to why such suspension, revocation, or denial of renewal should not occur. The hearing shall take place no later than 20 days following the issuance of such order.
- 802.4 Summary Suspension. If the finance director has probable cause to believe that a licensee has deliberately and willfully violated any applicable law, rule, or regulation, or engaged in conduct which imposes an undue risk to the public health, safety, or welfare, the finance director may enter an order for the immediate suspension of such license, pending further investigation and hearing, for a period not exceeding 15 days.
 - (a) Contents of Order. Such order shall be in writing, citing the reasons for the suspension, and shall be served upon the licensee forthwith upon its execution, together with a notice to appear before the finance director or designee for a hearing to show cause why the license should not be suspended or revoked.
 - (b) Hearing Date. Hearings following a summary suspension shall take place no later than 15 days following the date upon which such order is issued.
- 802.5 Notice of Hearing. The finance director shall notify the applicant or licensee of the date, time, place, and nature of the hearing. This notice shall be sent in writing by first-class mail to the last mailing address of record for the applicant or licensee. Hearings shall be scheduled and held as soon as is practicable. Continuances must be requested in writing and may only be granted for good cause shown.
- 802.6 Right to Legal Counsel. Any applicant or licensee has a right to legal counsel throughout all processes described in rules associated with the denial of an application or disciplinary action. Such counsel shall be provided solely at the applicant's or licensee's expense.
- 802.7 Subpoena Power. The finance director shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing the finance director is authorized to conduct. It is unlawful for any person to fail to comply with any such subpoena issued in the proper conduct of administrative hearings. The municipal court shall enforce the subpoenas of the finance director and, where appropriate, shall enter its orders compelling witnesses to attend and testify or produce books, records or other evidence and may impose penalties or punishment for contempt for failure to comply with such orders.

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- 802.8 Presentation of Evidence. At any hearing, the finance director or designee shall hear such statements and consider such evidence as the local licensing authority and the applicant or licensee shall offer which is relevant to the grounds alleged in the appeal petition or order to show cause. The finance director or designee shall make findings of fact from the statements and evidence offered as to whether substantial evidence exists to support denial, suspension, or revocation of the retail marijuana establishment license.
- 802.9 Decision of Finance Director. If the finance director or designee concludes that the license should be suspended or revoked, or the license should not be renewed, the finance director or designee shall provide the licensee with written notice of such suspension, revocation, or denial, and the reasons therefore, within 20 days following the date of the hearing.
- 802.10 Terms of Suspension. No suspension under this rule shall be for a period of time longer than 180 days. The finance director or designee may impose reasonable conditions upon the licensee in conjunction with the suspension of a license.
- 802.11 Review by district court. An aggrieved licensee or applicant shall have 30 days after the date of the final decision of the finance director or designee to file a complaint seeking review of such decision by the district court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The district courts of the 17th and 18th Judicial Districts of the state shall have original jurisdiction to hear all such complaints. Failure to timely appeal the decision is a waiver of the licensee's or applicant's right to contest the suspension, revocation, or denial of the license. A licensee may continue to operate during the pendency of an appeal by the finance director or designee.

Rule 803 – Basis for Suspension, Revocation, or Denial.

The finance director or designee may suspend or revoke a retail marijuana establishment license, or may deny an application for license renewal if, after notice and hearing thereon, the finance director or designee finds that any of the following occurred:

- (a) The licensee has failed to pay all required fees;
- (b) The licensee is overdue on payments to the city of taxes, fines, or penalties assessed against or imposed upon the licensed business;
- (c) The licensee has made any false statement as to any of the facts in the license or renewal application;
- (d) The licensee has failed to comply with his or her duty to supplement the license application;
- (e) The licensee has failed to file any reports or furnish any information as required relating to the operation of the retail marijuana establishment;
- (f) The licensee has refused to allow or has unreasonably interfered with an authorized inspection of the licensed premises;

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- (g) The licensee has failed to operate the retail marijuana establishment in accordance with any applicable building, fire, health or zoning statute, code, ordinance, or regulation;
- (h) The licensee has knowingly permitted or encouraged, or has knowingly and unreasonably failed to prevent a public nuisance from occurring in or about the licensed premises; or
- (i) The licensee has failed to appear upon a municipal court summons in violation of section 50-33 of the Aurora Municipal Code.

Rule 804 – Mitigating and Aggravating Factors.

In deciding whether a license should be suspended, revoked, or denied renewal, and in deciding what conditions to impose in the event of a suspension, if any, the finance director shall consider:

- (a) The nature and seriousness of the violation;
- (b) Corrective action, if any, taken by the licensee;
- (c) Prior violation(s), if any, at the licensed premises by the licensee and the effectiveness of prior corrective action, if any;
- (d) The likelihood of recurrence;
- (e) All circumstances surrounding the violation;
- (f) Whether the violation was willful;
- (g) The length of time the license has been held by the licensee;
- (h) The number of violations by the licensee within the applicable 12 month period;
- (i) Previous sanctions, if any, imposed against the licensee; and
- (j) Any other factor making the situation with respect to the licensee or the licensed premises unique or the violation of greater concern.

Rule 805: Prohibited Activity During Suspension.

During the term of any license suspension, whether summary in nature or following a hearing, a retail marijuana establishment may not conduct any operations on the licensed premises except as described below.

805.1 Retail Store Licensee. Unless otherwise ordered, during any period of active license suspension the licensee shall not engage in the selling, serving, giving away, distribution, transfer, or transport of any product – including retail marijuana, retail marijuana product, or paraphernalia and accessories – on the licensed premises, nor allow customers to enter the licensed premises.

805.2 Retail Cultivation Facility Licensee. Unless otherwise ordered, during any period of active license suspension the licensee shall not sell, distribute, transfer, transport, or otherwise remove any retail marijuana or retail marijuana product from the licensed premises.

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However, the licensee may maintain on hand inventory and otherwise care for its retail marijuana product and plant inventories during the period of suspension.

- 805.3 Retail Product Manufacturing Facility Licensee. Unless otherwise ordered, during any period of active license suspension the licensee shall not manufacture any retail marijuana product or concentrates, nor permit the selling, distribution, transfer, or transport of retail marijuana or retail marijuana product on or from the licensed premises.
- 805.4 Retail Testing Facility Licensee. Unless otherwise ordered, during any period of active license suspension the licensee shall not receive any marijuana for testing, perform any testing on marijuana, or otherwise transfer or transport any retail marijuana or retail marijuana product on or from the licensed premises.
- 805.5 Removal or Destruction Prohibited. During any period of active license suspension, retail marijuana and retail marijuana product shall not be removed from the licensed premises or destroyed except under the supervision of the Aurora Police Department as ordered by the local licensing authority.

Rule 806 – Civil Penalties.

For violations of the ordinance or these regulations, the local licensing authority may impose civil penalties against the business or any licensee of up to \$5,000.00 per licensee for each day during which such violation occurs or continues. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

1357-ORD
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Option B-1**CITY OF BELLEVUE, WASHINGTON****ORDINANCE NO. 6133 B-1**

AN ORDINANCE of the City of Bellevue, Washington, adopting interim official zoning controls regarding recreational marijuana producers, processors and retailers for a period of six months, to be in effect while the City drafts, considers, holds hearings and adopts permanent zoning regulations, to be effective immediately upon adoption, scheduling a hearing on the maintenance of the interim zoning ordinance and declaring an emergency.

WHEREAS, Washington votes approved Initiative 502 (I-502) on November 6, 2012. In relevant part, I-502 legalized the possession of small amounts of marijuana and marijuana-related products for persons age 21 and older, and directed the Washington State Liquor Control Board (LCB) to develop and implement rules to regulate and tax recreational marijuana producers, processors, and retailers by December 31, 2013; and

WHEREAS, the LCB re-filed its proposed rules regulating recreational marijuana uses on September 4, 2013, and accepted the proposed rules on October 16; and

WHEREAS, the LCB rules become effective on November 16, 2013, and the LCB will begin accepting license applications for recreational marijuana beginning November 18, 2013. Applicants will be required to identify a business location with their application submittals; and

WHEREAS, the LCB allocated four recreational marijuana retail licenses for the City of Bellevue, and there are no limits on the number of recreational marijuana producer and processor licenses to be issued; and

WHEREAS, the City of Bellevue Land Use Code (LUC) prohibits all recreational marijuana producers, processors, and retailers as uses in the City of Bellevue;

WHEREAS, the City Council deems it to be in the public interest to establish interim regulations advising the public where recreational marijuana producers, processors, and retail uses may be located in the City of Bellevue before the application deadline established by the LCB for state licensing for such uses; and

WHEREAS, the establishment or licensing of recreational marijuana uses may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony; and

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WHEREAS, marijuana is still classified as a schedule I controlled substance under federal law and crimes related to marijuana remain subject to prosecution under federal law; and

WHEREAS, On August 29, 2013, the United States Department of Justice, Office of the Attorney General, ("DOJ") released updated guidance regarding marijuana enforcement. The guidance reiterates that DOJ is committed to using its limited investigative and prosecutorial resources to address the most significant threats to public safety related to marijuana crimes in "the most effective, consistent, and rational way." The guidance directs federal prosecutors to review potential marijuana-related charges on a case-by-case basis and weigh all information and evidence, including whether the operation is demonstrably in compliance with a strong and effective state regulatory system and if the conduct at issue implicates one or more of the eight stated federal enforcement priorities. The DOJ appears to not differentiate application of the guidance between medical cannabis and recreational marijuana; and

WHEREAS, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance; and

WHEREAS, establishment of interim regulations of six months in duration for establishment of recreational marijuana producers, processors, and retailers will prevent substantial change until the land areas and the text of development standards applicable to recreational marijuana uses is reviewed, and any needed revisions are made to city codes; and

WHEREAS, the potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; now therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
ORDAIN AS FOLLOWS:

Section 1. Interim Regulation Adopted. Recreational marijuana producers, processors, and retailers shall comply with the following provisions:

- A. Definitions. For the purposes of this interim regulation only, the definitions provided below and the definitions codified at WAC 314-55-010, now provided or as hereafter amended, shall apply to the provisions of this ordinance.
 1. "Director" means the Director of the City of Bellevue's Development Services Department or his designee.
 2. "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; 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 resin. The term does not include the mature stalks of

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the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

3. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.
4. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.
5. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" do not include useable marijuana.
6. "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.
7. "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.
8. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

B. Chapter 314-55 WAC, now or as hereafter amended, shall apply in addition to the provisions of this ordinance.

C. Limitations on Uses. The following limitations shall apply to all marijuana producers, processors, and retailers, unless stated otherwise:

1. A marijuana producer, retailer, or processor, shall not be located within 1,000 feet of the following uses or any use included in Chapter 314-55 WAC now or as hereafter amended:
 - a. Elementary or secondary school;
 - b. Playgrounds;
 - c. Recreation center or facility;
 - d. Child care centers;
 - e. Public parks;
 - f. Public transit centers;

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- g. Libraries;
 - h. Any game arcade or
 - i. Any medical cannabis collective garden.
 - 2. No marijuana producer, processor, or retailer shall be allowed in single family and multi-family land use districts (R-1 – R-30).
 - 3. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.
 - 4. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.
- D. Marijuana Retail Outlets. For the purposes of this interim ordinance, marijuana retail outlets are considered within the land use classification of "Miscellaneous Retail Trade," and shall comply with all corresponding notes in the use charts for the underlying land use district where the retail outlet is located. Retail outlets shall also comply with the applicable requirements of Chapter 20.25 LUC, Special and Overlay Districts. Marijuana odor shall be contained within the retail outlet so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the marijuana retailer shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor. Retail outlets may only be located in following land use districts:
- 1. General Commercial (GC);
 - 2. Community Business (CB);
 - 3. Factory Land Use District 1 (F1);
 - 4. Downtown Office District (DNTN O-1);
 - 5. Downtown Office District (DNTN O-2)
 - 6. Downtown Mixed Use District (DNTN-MU);
 - 7. Downtown Old Bellevue Business District (DNTN-OB);
 - 8. Downtown Office and Limited Business District (DNTN-OLB)
 - 9. Bel-Red Office Residential and Nodes (BR-OR/OR1/OR2)
 - 10. Bel-Red Residential Commercial and Nodes (BR-RC-1, RC-2, RC-3);
 - 11. Bel-Red General Commercial (BR-GC);
 - 12. Bel-Red Commercial Residential (BR-CR);
 - 13. Bel-Red Office Residential Transition (BR-ORT).
- E. Signage for Marijuana Retail Outlets. Retail outlets shall comply with WAC 314-55-155(1), now or as hereafter amended. Additionally, signage for retail outlets must undergo design review in those land use districts requiring such review in City of Bellevue Sign Code, Chapter 22B BCC.
- F. Marijuana Producers and Processors. For the purposes of this interim ordinance, marijuana producers are considered within the land use

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classification "Agricultural Production of Food and Fiber Crops," and marijuana processors are considered within the land use classification "Agricultural production." Marijuana processors and producers shall comply with all corresponding notes in the use charts for the Light Industrial land use district. Marijuana producers and processors shall also comply with the applicable requirements of Chapter 20.25 LUC, Special and Overlay Districts. Marijuana production and processing facilities are allowed only in the Light Industrial land use district and shall comply with the following provisions:

1. Marijuana production and processing facilities shall be ventilated so that the odor from the marijuana cannot be detected by a person with a normal sense of smell from any adjoining use or property;
 2. Signage for marijuana producers and processors shall comply with the City of Bellevue Sign Code, Chapter 22B of the Bellevue City Code.
 3. A screened and secured loading dock, approved by the director shall be required. The objective of this requirement is to provide a secure, visual screen from the public right of way and adjoining properties, and prevent the escape of orders when delivering or transferring marijuana, useable marijuana, and marijuana-infused products.
- G. Security. In addition to the security requirements in Chapter 315-55 WAC, during non-business hours, all recreational marijuana producers, processors, and retailers shall store all useable marijuana, marijuana-infused product, and cash in a safe or in a substantially constructed and locked cabinet. The safe or cabinet shall be incorporated into the building structure or securely attached thereto. For useable marijuana products that must be kept refrigerated or frozen, these products may be stored in a locked refrigerator or freezer container in a manner approved by the Director, provided the container is affixed to the building structure.

Section 3. Duration and Scope of Interim Regulations. The interim regulations imposed by this ordinance shall become effective on the date herein, and shall continue in effect for an initial period of sixty (60) days, unless repealed, extended, or modified by the City Council after subsequent public hearings and the entry of additional findings of fact pursuant to RCW 35A.63.220.

Section 4. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this ordinance within sixty (60) days of its adoption, or no later than December 20, 2013, so as to hear and consider public comment and testimony regarding this ordinance. Following such hearing, the City Council may adopt additional findings of fact, and may extend the interim regulations for a period of up to six (6) months. If a period of more than six months is required to complete consideration of any changes to city codes, the Council may adopt additional extensions after any required public hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

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Section 5. Permanent Regulations. The City Council hereby directs the staff to develop for its review and adoption permanent regulations to adopt the interim regulations adopted herein, and to transmit this ordinance to the Washington State Department of Commerce as required by law.

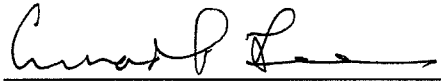
Section 6. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 7. Public Emergency. The City Council hereby finds and declares that a public emergency exists and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should, therefore, take effect upon adoption. The facts upon which this public emergency is based include all recitals set out in this ordinance as well as those facts contained in the legislative record.

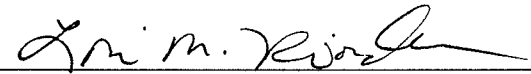
Section 8. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption by a majority plus one of the City Council.

Passed by the City Council this 21st day of October, 2013
and signed in authentication of its passage this 21st day of October,
2013.

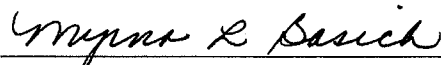
(SEAL)


Conrad Lee, Mayor

Approved as to form: --


Lori M. Riordan, City Attorney

Attest:


Myrna L. Basich, City Clerk

Published October 24, 2013,

- (1) A licensee may move his or her permanent location to another location in the City, but is shall be unlawful to cultivate, manufacture, distribute, or sell retail marijuana at any such place until permission to do so is granted by the City and the state licensing authority.
- (2) In permitting a change of location, the local licensing authority shall consider all reasonable restrictions that are or may be placed on the new location and any such new location shall comply with all requirements of this article, the Community Development Code, the Colorado Retail Marijuana Code, and rules promulgated by the state licensing authority.
- (3) The local licensing authority shall not authorize a change of location until the applicant produces a license issued and granted by the state licensing authority covering the period for which the change of location is sought.

Division 3. General requirements.

Section 12-511. Operational requirements. Retail marijuana establishments shall comply with the following operational requirements:

- (1) Retail marijuana establishments shall provide customers with contact information for local drug abuse treatment centers as well as educational materials regarding the hazards of substance abuse.
- (3) Retail marijuana stores shall operate only during the hours of 8:00 a.m. to 7:00 p.m.
- (4) Retail marijuana establishments shall provide adequate security on the business premises, which shall include the following:
 - (a) Twenty-four hour security surveillance cameras to facilitate the investigation of crimes and to include video and audio capabilities, with a redundant power supply and circuitry to monitor entrances/exits and parking lot along with the interior and exterior of the premises. Fifteen days of security video and audio shall be preserved for 30 days. The dispensary owner may, but shall not be required to, provide segments of surveillance footage upon request to law enforcement officers investigating crimes committed against the dispensary or its patients. The dispensary owner shall not be required to produce surveillance footage disclosing the identity of dispensary patients and may edit surveillance footage to protect patient privacy. The resolution of these color cameras will be of sufficient quality to allow for the identification of the subject's facial features, in all lighting conditions, in the event of a crime.
 - (b) A burglar alarm system that is professionally monitored and maintained in good working order;

- (c) A locking safe permanently affixed to the premises suitable for storage of inventory and cash; all to be stored during non-business hours; live plants being cultivated shall not be deemed inventory requiring storage in a locked safe.
 - (d) Exterior lighting that illuminates the exterior walls of the dispensary and that complies with the lighting code set forth in this Community Development Code.
- (5) No firearms, knives, or other weapons shall be permitted in a retail marijuana store except those carried by sworn peace officers.
- (6) Marijuana shall not be consumed or used on the premises of a retail marijuana store and it shall be unlawful for a retail marijuana store licensee to allow marijuana to be consumed upon its licensed premises. In the case of a retail marijuana store located in a structure with a legal secondary unit or other legal dwelling unit, the dwelling unit shall not be considered part of the retail marijuana store premises if access to the dwelling unit is prohibited to the retail marijuana store customers.
- (7) Retail marijuana establishments shall comply with the provisions of the Colorado Retail Marijuana Code, rules promulgated by the state licensing authority, and with any other relevant Colorado statute or administrative regulation.
- (8) Retail marijuana stores shall produce no less than 70% of the product sold. Compliance shall be determined on a calendar month basis. The local licensing authority shall grant waivers to this requirement in the event a retail marijuana store suffers a catastrophic loss of inventory due to fire, flood, or other cause beyond the licensee's control."

SECTION 2. The Use Table codified at Section 26-92 of the Steamboat Springs Community Development Code shall be amended by the addition of the following uses:

Use Classification and Specific Principal Uses	Zoning Districts													
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	C
COMMERCIAL USES														
Retail Marijuana Store													C	C
Retail Marijuana Cultivation														

Business Licenses & Regulations**§6-6 Retail Marijuana**

1. A nutritional fact panel; and
 m. A universal symbol indicating the package contains Marijuana or a Marijuana Product;

(f) Security and Control Measures

i. The Applicant has sole legal control of the proposed Licensed Premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed Licensed Premises.

ii. The proposed Licensed Premises have a suitable Limited Access Area where the cultivation, display, storage, processing, weighing, handling, and packaging of Retail Marijuana occurs, which is posted "Employees Only," and is separated from the areas accessible to the public by a wall, counter, or some other substantial barrier designed to keep the public from entering the area.

iii. The Applicant has submitted a security plan for the proposed Licensed Premises, which has been inspected and approved by the Marshal's Department, showing at least the following security measures:

a. All doors, windows and other points of entry have secure, functioning commercial grade locks;

b. A locking safe or enclosed metallic storage vault located inside the proposed Licensed Premises in which any Retail Marijuana and Retail Marijuana Products will be secured when the Licensed Premises are not open to the public;

c. If the Licensed Premises are connected by any passage or entryway to any other Premises, there is a door between the two Premises that can be locked from the Licensee side and cannot be opened from the other side;

d. A professionally installed and continuously monitored burglar alarm system that detects unauthorized entry at all doors, windows, and other points of entry to the Licensed Premises; and

e. Windows facing Adjacent Grounds and lighting of the Adjacent Grounds sufficient to ensure that customers entering and leaving the Licensed Premises, entering and exiting parked cars on the adjacent grounds, and walking across the Adjacent Grounds can be

observed by Employees from inside the Licensed Premises.

(g) Books and Records

i. Every Licensee shall maintain on the Licensed Premises, accurate and up to date books and records of the business operations, or an authentic copy of the same, including but not limited to the following:

a. Lists, manifests, orders, invoices, and receipts for all Marijuana, Marijuana plants, and Marijuana Products cultivated, harvested, processed, produced, delivered, purchased, stored, sold, and exchanged during the preceding two (2) years, by each transaction or event, including the date and time of each transaction, source, strain, type quantity, weight, that account for, reconcile and evidence all inventory activity for Retail Marijuana from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to a customer and any additional relevant information for proper recordkeeping for tax purposes;

b. An inventory of all Marijuana Products presently on the Licensed Premises;

c. Sales and use taxes collected and remitted;

d. Excise tax collected and remitted if approved by voters in the 2013 general election; and

e. The name, address, and copy of the Retail Marijuana License of any other Retail Marijuana Establishment Licensee with whom the Licensee has transacted any business, including but not limited to, any purchase, sale, or exchange of Marijuana plants, harvested Marijuana, or Retail Marijuana Products.

ii. Inspection of books and records; audits.

The Authority may require a Retail Marijuana Store Licensee to undergo an audit by an accountant that is independent of the Licensee, when it deems an audit necessary. The audit scope may include, but not be limited to financial transactions, inventory control measures, or other agreed upon procedures. The Licensee will be responsible for all direct costs associated with the independent audit.

iii. Requests for Information

a. The Authority and any Town Employee enforcing any Town ordinance, State law, or regulation may submit a written request for

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 825
(SERIES 2015)**

**AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS
AMENDING CHAPTER 6 OF THE PAGOSA SPRINGS
MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW
ARTICLE 5 FOR THE REGULATION AND LICENSING OF
MARIJUANA BUSINESS ESTABLISHMENTS**

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended on April 3, 2012; and

WHEREAS, on November 7, 2000, the voters of the state of Colorado approved Amendment 20 enacted as Article XVIII, Section 14 of the Colorado Constitution (“Amendment 20”), which authorizes, subject to certain limitations, the medical use of marijuana by patients who have been advised by their physician, in a bona fide physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with the patient’s debilitating medical condition; and

WHEREAS, Amendment 20 further provides such patients and their primary caregivers an affirmative defense, subject to certain limitations, to a state law charge regarding the use and possession of marijuana; and

WHEREAS, the General Assembly enacted the Colorado Medical Marijuana Code (C.R.S. §12-43.3-101, et seq., hereafter, “Colorado Medical Marijuana Code”) to implement Amendment 20 to the Colorado Constitution authorizing the use of marijuana for medical purposes; and

WHEREAS, subsequent to the adoption of the Colorado Medical Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules; and

WHEREAS, subsequent to the enactment of the Medical Marijuana Code, Colorado voters enacted Amendment 64 to the Colorado Constitution (Article XVIII, §16 to the Constitution) authorizing specified non-medical marijuana establishments and non-medical marijuana use, now known as “retail” marijuana establishments and use; and

WHEREAS, pursuant to Amendment 64, the General Assembly enacted the Colorado Retail Marijuana Code (CRS §12-43.4-101, et seq., hereafter, “Colorado Retail

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Town of Pagosa Springs
Ordinance No. 825 (Series 2015)
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Marijuana Code”) governing retail marijuana establishments and use as more particularly described in the Colorado Retail Marijuana Code; and

WHEREAS, subsequent to the adoption of the Colorado Retail Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules; and

WHEREAS, pursuant to Amendment 64, and the Colorado Retail Marijuana Code, including specifically, §§12-43.4-104(3) and 309(1), municipalities may adopt regulations governing the time, place, manner and number of retail marijuana establishments, which may include a local licensing requirement, that are at least as restrictive as the provisions of the Retail Marijuana Code; and

WHEREAS, the Town Council is authorized to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law, and provide for the enforcement thereof; and

WHEREAS, the Town Council has considered the testimony and opinions of persons interested in marijuana regulation at public work sessions and at public hearings; and

WHEREAS, the Town Council has determined that adopting regulations governing the time, place and manner for operating retail marijuana establishments within the Town will serve the health, safety and welfare of the community; and

WHEREAS, the Town Council has determined that the efficient administration of medical marijuana and retail marijuana laws and regulations encourages that it adopt a single set of regulations applicable to both medical marijuana and retail marijuana to the extent that doing so conforms to the requirements of the Medical Marijuana Code and the Retail Marijuana Code; and

WHEREAS, the Town Council finds it is in the interest of public health, safety and welfare that the Council adopt regulations concerning the licensing of certain medical and retail marijuana businesses; and

WHEREAS, to permit Town staff and the Town time to prepare for this new licensing process, applications for licenses permitted by such regulations will not be accepted until September 1, 2015.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

Town of Pagosa Springs
Ordinance No. 825 (Series 2015)
Page 3

I. **Adoption of new Article 5 in Chapter 6.** Chapter 6 of the Pagosa Springs Municipal Code is amended by the adoption of a new Article 5 to read as provided in Exhibit 1 attached hereto and incorporated herein.

II. **Public Inspection.** The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

III. **Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

IV. **Effective date.** This Ordinance shall become effective and be in force on June 1, 2015.

INTRODUCED, READ, AND ORDERED PUBLISHED BY TITLE ONLY
PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE
CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS,
COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS
REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 5TH
DAY OF MAY, 2015.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED BY
TITLE ONLY PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME
RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA
SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND
PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA
SPRINGS, ON THE ____ DAY OF ____, 2015.

TOWN OF PAGOSA SPRINGS,
COLORADO

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Town of Pagosa Springs
Ordinance No. 825 (Series 2015)
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By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

CERTIFICATE OF PUBLICATION

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 825 (Series 2015) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 5th day of May, 2015, and was published by title only, along with a statement indicating that a violation of the Ordinance is subject to enforcement and punishment pursuant to Article 3, Chapter 1 of the Pagosa Springs Municipal Code (P.S.M.C.), and specifically Section 1.3.3, which provides for a fine not exceeding \$2,650 or incarceration not to exceed one year, or both, that violation of the ordinance constitutes a public nuisance that may be abated pursuant to Article 2, Chapter 11 of the P.S.M.C., that the Town may seek injunction, abatement, or restitution in case of violation, and any other remedies provided by law or equity, and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2015, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ___ day of _____, 2015.

April Hessman, Town Clerk

(S E A L)

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 825 (Series 2015) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the ___ day of May, 2015, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the

Town of Pagosa Springs
Ordinance No. 825 (Series 2015)
Page 5

Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ____ day of _____, 2015.

April Hessman, Town Clerk

(S E A L)

**CHAPTER 6
BUSINESS REGULATIONS**

**ARTICLE 5
PAGOSA SPRINGS MARIJUANA LICENSING REGULATIONS**

Part 1. GENERAL

Sec. 6.5.1.1 Title

These regulations shall be known and referred to as the “Pagosa Springs Marijuana Licensing Regulations” (referred to herein as the “Regulations”).

Sec. 6.5.1.2 Authority

- (1) Section 14 of Article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law.
- (2) Section 16, Article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law.
- (3) The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S. and the Colorado Department of Revenue’s Medical Marijuana Rules adopted at 1 CCR 212-1, Series 100 through 1400 (the Colorado Medical Marijuana Code and the Colorado Medical Marijuana Rules are collectively referred to as the “Colorado Medical Marijuana Code”).
- (4) The Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. and the Colorado Department of Revenue’s Retail Marijuana Rules adopted at 1 CCR 212-2, Series 100 through 1400 (the Colorado Retail Marijuana Code and the Retail Marijuana Rules are collectively referred to as the “Colorado Retail Marijuana Code”).

Sec. 6.5.1.3 Purpose. The purpose of the Regulations is to:

- (1) Authorize licensing in the Town of Pagosa Springs as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of marijuana-related business and establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Pagosa Springs by

prescribing the time, place and manner in which marijuana businesses can be conducted in the Town.

(2) Comply with the Town's obligations under the Colorado Medical Marijuana Code;

(3) Comply with the Town's obligations under Colorado Constitution Art. XVIII, §16(5)(e);

(4) Require that medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturing facilities, collectively referred to as "Medical Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Medical Marijuana Code;

(5) Require that retail marijuana stores and retail marijuana cultivation facilities, collectively referred to as "Retail Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Colorado Retail Marijuana Code;

(6) Mitigate potential negative impacts that the Medical Marijuana Establishments and Retail Marijuana Establishments (collectively "Marijuana Establishments") may cause on surrounding properties and persons;

(7) Regulate the conduct of persons owning, operating, and using Marijuana Establishments to protect the public health, safety and welfare;

(8) Establish a nondiscriminatory mechanism by which the Town appropriately regulates the Location and operation of Marijuana Establishments within the Town.

(9) Ban marijuana businesses that are not specifically licensed by the Town including retail marijuana infused products manufacturers and retail marijuana testing facilities.

Sec. 6.5.1.4 Applicability of Regulations

(1) *Applications for local licenses.* The Authority shall receive and process all applications for Marijuana Establishments beginning on September 1, 2015.

(2) *Dual Licenses.* Operation of a licensed medical marijuana center and a retail marijuana store and/or an optional premises cultivation facility and

a retail marijuana cultivation facility is permitted so long as appropriate State and local licenses have been issued and remain valid and active for both operations. No dual medical marijuana center and retail marijuana store is permitted to sell marijuana to persons younger than twenty-one years of age, except that medical marijuana products may be sold to a person at least eighteen years of age, as allowed by State law.

(3) *No entitlement of vested right.* No person shall have any entitlement or vested right to licensing under these regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, Pagosa Springs zoning approvals, or Pagosa Springs building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in the Town, all persons must obtain a license under these Regulations. Such a license is a revocable privilege subject to the will and scrutiny of local and state authorities.

(4) These Regulations apply only within the Town of Pagosa Springs, Colorado.

Sec. 6.5.1.5 Definitions

(1) Unless otherwise expressly provided, the definitions in the Colorado Medical Marijuana Code, including the definitions in C.R.S. §12-43.3-104, shall apply in these Regulations with respect to Medical Marijuana Establishments.

(2) Unless otherwise expressly provided, the definitions in the Colorado Retail Marijuana Code, including the definitions in C.R.S. §12-43.4-103 and §12-43.4-305(1), shall apply in these Regulations with respect to Retail Marijuana Establishments.

(3) The following words, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) “*Applicant*” means any person making an application for a license under this Article.
- (b) “*Authority*,” “*Pagosa Springs Local Licensing Authority*” and “*Local Licensing Authority*” have the same meaning for the purposes of these Regulations.

- (c) *"Good Cause"*, for purposes of refusing or denying a license issuance, renewal or transfer, means:
 - (i). The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of these Regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, as applicable;
 - (ii). The Licensee or Applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State or Local Licensing Authority;
 - (iii). The Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located; or
 - (iv). The Licensed Premises have been inactive without justification for at least one year.
- (d) *"Licensed Premises"* means the premises specified in a license under these Regulations, which are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell or test medical marijuana and/or retail marijuana in accordance with the provisions of the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code, as applicable, and these Regulations. Licensed Premises includes an off-premises storage facility owned, operated or used by the Licensee.
- (e) *"Licensee"* means a person licensed pursuant to these Regulations.
- (f) *"Location"* means a particular parcel of land that may be identified by an address or other descriptive means.
- (g) *"Marijuana"* means all parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound,

manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or its resin, including marijuana concentrate but shall not include industrial hemp, the fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

- (h) “*Marijuana club*” means an entity or place of assembly that allows members and their guests, or any other persons, to consume marijuana or marijuana products whether for-profit or not-for-profit. Marijuana clubs shall not include social gatherings within a residential zoning district of adults twenty-one (21) years of age and older as guests of a resident at the Location, where a fee is not charged, goods are not sold, and no profit is made by the individual hosting the gathering.
- (i) “*Marijuana Establishment*” means a Medical Marijuana Establishment or a Retail Marijuana Establishment
- (j) “*Medical Marijuana Establishment*” means a medical marijuana center, medical marijuana-infused products manufacturer, and/or optional premises cultivation operation, each as defined in the Colorado Medical Marijuana Code.
- (k) “*Owner*” means any person having a beneficial interest, as defined by the State Licensing Authority, in a Medical Marijuana Establishment or a Retail Marijuana Establishment.
- (l) “*Patient*” shall have the same meaning as set forth in Article XVIII, Section 14(1) of the Colorado Constitution.
- (m) “*Premises*” means a distinctly identified, as required by the State Licensing Authority, and definite Location, which may include a building, a room, or any other definite contiguous area.
- (n) “*Primary Care-giver*” or “*Primary Caregiver*” shall have the same meaning as set forth in Article XVIII, Section 14(1) of the Colorado Constitution and Section 25-1.5-106, C.R.S.

- (o) “*Retail Marijuana Establishment*” means a retail marijuana store, and/or retail marijuana cultivation facility, each as defined in the Colorado Retail Marijuana Code.
- (p) “*Retail Marijuana products manufacturer*” shall have the same meaning as set forth in Section 12-43.4-103, C.R.S.
- (q) “*Retail Marijuana testing facility*” shall have the same meaning as set forth in Section 12-43.4-103, C.R.S.
- (r) “*School*” means and includes elementary school, junior high school, high school, charter school, the principal campus of a college, university, or seminary.
- (s) “*Sale*” or “*Sell*” includes to exchange, barter, or traffic in, to solicit or receive and order except through a Licensee licensed under these Regulations, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any in for any consideration promised or obtained directly or indirectly.

Sec. 6.5.1.6 Adoption of Colorado Medical Marijuana Code, Colorado Retail Marijuana Code

- (1) Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Medical Marijuana Code, all of the provisions of the Colorado Medical Marijuana Code, as amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Medical Marijuana Establishments.
- (2) Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Retail Marijuana Code, all of the provisions of the Colorado Retail Marijuana Code, as amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Retail Marijuana Establishments.
- (3) If there is a conflict between the provisions of these Regulations and the Colorado Medical Marijuana Code or the Colorado Retail Marijuana Code, the provisions of these Regulations control to the fullest extent permitted by applicable law.

Sec. 6.5.1.7 Licenses and Grant of Authority for Dual Licenses

(1) The Authority is authorized to issue the following local licenses should the Applicant fulfill the requirements: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing license; retail marijuana store license; and retail marijuana cultivation facilities license. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

(2) A person may operate a licensed medical marijuana center, optional cultivation facility or medical marijuana-infused products manufacturing facility and any licensed Retail Marijuana Establishment at the same Location if the Local Licensing Authority determines that the operations will meet the requirements of these Regulations.

(3) The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

Sec. 6.5.1.8 Town Reservations

(1) Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Constitution Art. XVIII, §16(5)(f), C.R.S. §12-43.3-106, or C.R.S. 12-43.3-104.

(2) Adoption of these Regulations is not intended to waive or otherwise impair the Town's authority to adopt specific or different standards or other regulations for the issuance and administration of local licenses from time-to-time.

Sec. 6.5.1.9 Operation Limitations

(1) Licensees shall be subject to the following additional operation limitations:

- (a) All product storage shall be indoors. Marijuana products and accessories or paraphernalia used or intended to be used to consume them shall not be visible from a public sidewalk or right-of-way or an adjacent property.

- (b) Each Marijuana Establishment shall be operated from a permanent Location. No Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory Location. Notwithstanding anything to the contrary herein, delivery of medical marijuana is permissible if it complies with state law provided it originates from a non-moveable, fixed, licensed Location and such delivery sales account for less than ten (10%) percent of the Medical Marijuana Establishments total sales.
- (c) A Medical Marijuana Center and Retail Marijuana Store may be open for the sale of medical or retail marijuana only between the hours of 8 a.m. to 7 p.m.
- (d) No Marijuana Establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes. The Authority in its sole and unfettered discretion may, at any time, require an Applicant or Licensee to engage an industrial hygienist, at the Applicant's or Licensee's cost, to review the manner in which butane, propane or other solvents or flammable products are stored, used or controlled on the licensed premises for the purpose of opining on the safety precautions in place. Such industrial hygienist may make recommendations which the Town may require the Applicant or Licensee to implement.
- (e) No Retail Marijuana Establishment is permitted to sell marijuana to persons younger than twenty-one years of age and must post signage that clearly states: "You must be at least 21 years old to enter." No Medical Marijuana Establishment is permitted to sell marijuana to persons younger than eighteen years of age and must post signage that clearly states: "You must be at least 18 years old to enter" where any marijuana products are visible.
- (f) All retail marijuana labels must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21." All medical marijuana labels must contain the statement: "It is illegal to

transfer or sell medical marijuana or medical marijuana products to anyone under the age of 18.”

- (g) For dual medical marijuana center and retail marijuana stores, the business shall verify the proof of age of every person entering the business with an electronic ID scanner. An “electronic ID scanner” is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes.
- (h) All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.
- (i) All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be finalized by telephone, internet, or other means of remote purchase.
- (j) All grow lamps must be recycled and not deposited in a trash receptacle or landfill. The time, date, and Location of all lamps recycled must be documented and available for inspection.
- (k) Marijuana Establishments may not distribute to a consumer, marijuana or marijuana-infused products free of charge.
- (l) Marijuana Establishments are subject to the requirements of the Land Use and Development Code including the Pagosa Springs Sign Code and the restrictions on advertising and marketing under the Colorado Retail Marijuana Code. In addition, no advertisement for marijuana or marijuana products are permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the Town or on the internet; or (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth. Provided, further, no exterior signage shall use the word “marijuana,” “cannabis” or any other word, phrase, symbol, acronym or combination of letters or numbers commonly understood to refer to marijuana.

- (m) A marijuana business may sponsor a charitable, sports, or similar event, but a marijuana business must not engage in advertising at, or in connection with, such an event unless the marijuana business has reliable evidence that no more than 30 percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21.
- (n) All Marijuana Establishments shall collect and remit all applicable sales taxes in a timely manner. The state and Town license to engage in a Medical Marijuana Establishment or Retail Marijuana Establishment shall be posted along with the State sales tax license.
- (o) Any Marijuana Establishments within the Town shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video surveillance coverage of the premises at all times and shall have redundant power supplies and circuitry to prevent deactivation, either intentional or unintentional. If an alarm system is deactivated, the company monitoring the systems must immediately notify the Pagosa Springs Police Department.
- (p) Marijuana Establishments shall be equipped with a steel door or a solid wood core door with dead bolts in place and engaged for purposes of securing the space or Location where marijuana or marijuana-infused products are stored, or where any marijuana transaction is to take place. In addition thereto, each marijuana business shall be equipped with at least one silent alarm for every 500 square feet of interior business space.
- (q) It shall be unlawful for any marijuana business to employ any person who is not at least 21 years of age.
- (r) No Marijuana Establishment shall be managed by any person other than the Licensee or the business manager listed on the application for the license, renewal application, or change of manager application. One such Licensee or business manager shall be responsible for all activities within the licensed premises during all times when the business is open and in the case of an emergency, as determined by the Chairperson of the Authority available to be on the premises within thirty minutes

of a demand for such person to be present being made at the establishment.

(s) There shall be posted in a conspicuous Location in each Medical Marijuana Center and Retail Marijuana Store a legible sign containing the following warnings:

(i). A warning that the use of marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;

(ii). A warning that possession and distribution of marijuana is a violation of federal law; and

(iii). That smoking of marijuana in public is illegal.

(t) Any and all such records required to be maintained under the Medical Marijuana Code or the Retail Marijuana Code shall be open at all times during business hours for inspection and examination by the Town Manager or his or her duly authorized representative(s). Provided, further, the Town may require the Licensee to furnish such information as it considers necessary for the proper administration of these Regulations.

(u) That a medical marijuana center shall obtain at least 70% of its medical marijuana inventory from an optional premises cultivation operation located within Archuleta County.

(v) That a retail marijuana store shall obtain at least 70% of its retail marijuana inventory from a retail cultivation facility located within Archuleta County.

(2) By accepting a Medical Marijuana Establishment license or a Retail Marijuana Establishment license, the Licensee is providing consent to disclose any information received by the Town. Any records provided by the Licensee that include patient or Primary Caregiver confidential information may be submitted in a manner that maintains the confidentiality of the document(s) under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.*] or other applicable law. Any document that the Applicant considers eligible for protection under the Colorado Open Records Act shall

be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document including but not limited to reference to the statutory authority under which confidentiality is claimed. The Town will not disclose documents appropriately submitted under the Colorado Open Records Act as confidential documents to any party other than law enforcement agencies.

(3) The Town may require an audit to be made of such books of account and records as it may deem necessary. Such audit may be made by an auditor selected by the Town, who shall likewise have access to all books and records of such Licensee. The expense of any audit determined to be necessary by the Town, shall be paid by the Town; provided, however, should the audit reflect a failure of the Licensee, in whole or in part, to timely remit all sales taxes due to the Town, the expense of the audit shall be paid by the Licensee.

(4) Acceptance of a Medical Marijuana Establishment license of any type, a Retail Marijuana Establishment license of any type constitutes consent by the Licensee, owners, managers and employees of such business to permit the Town Manager or his authorized representatives, to conduct routine inspections of the licensed Medical marijuana business or any records related thereto to assure compliance with this Ordinance or any other applicable law, rule or regulation.

Sec. 6.5.1.10 Location Restrictions

(1) Marijuana Establishments are allowed in the Mixed-Use Corridor, Mixed-Use Town Center, Commercial and Light Industrial zone districts.

(2) No Marijuana Establishment shall be licensed to operate at a Location that is within 1000 feet from any school, alcohol or drug treatment facility or licensed day care facility whether located within or outside the corporate limits of the Town. The suitability of a Location for the Marijuana Establishment shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a Marijuana Establishment under this section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect. Nothing within this section shall preclude the establishment of a school or licensed day care facility within 1000 feet of a pre-existing Marijuana Establishment.

(3) No Marijuana Establishment shall be licensed to operate at a Location that is within 250 feet of a church or residential zone district, as such zone districts are described in the Land Use and Development Code and as defined in the Archuleta County zoning definitions, unless such Location is approved under a conditional use permit by the Town Council at a public hearing with required public notification as described in Section 2.3.6 of the Land Use and Development Code.

(4) The distances referred to in this Section are to be computed by direct measurement from the nearest property line of the land used for the school or licensed day-care facility or land which comprises residential or planned unit development zoned area to the nearest portion of the building in which Medical Marijuana Establishment or Retail Marijuana Establishment products are to be sold.

Part 2. LOCAL LICENSING AUTHORITY

Sec. 6.5.2.1 Establishment of Local Licensing Authority

- i. The Local Licensing Authority shall be the Town Council for the Town of Pagosa Springs.

Sec. 6.5.2.2 Powers

- ii. The Local Licensing Authority shall have the powers described in the Medical Marijuana Code and Retail Marijuana Code to issue licenses and the power to hear and determine at a public hearing any contested local license denial, any complaints against a Licensee, and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held.

Sec. 6.5.2.3 Administrative Action

- iii. Except as otherwise provided in these Regulations, the Local Licensing Authority may take action administratively, without hearing, by its Chairperson. Such administrative action is permitted on renewal applications as described herein.

Part 3. LICENSES

Sec. 6.5.3.1 Medical Marijuana Licenses

The Local Licensing Authority shall issue local licenses to Applicants only for the purpose of operating a Medical Marijuana Establishment pursuant to the Medical Marijuana Code who fulfill the requirements for one of the following:

- (a) medical marijuana center;
- (b) medical marijuana-infused products manufacturer;
- (c) optional premises cultivation operation.

Sec. 6.5.3.2 Retail Marijuana Licenses

The Local Licensing Authority shall issue local licenses to Applicants only for the purpose of operating a Retail Marijuana Establishment pursuant to the Retail Marijuana Code who fulfill the requirements for one the following:

- (a) retail marijuana store; and
- (b) retail marijuana cultivation facility.

Sec. 6.5.3.3 Nature of Local License

A license pursuant to these Regulations shall apply to a specific person, a particular Marijuana Establishment, and a specific Premises, and will not be transferrable to another person, a different Marijuana Establishment, or different Premises except as provided by these Regulations. An application to “convert” a state license for a Medical Marijuana Establishment to a Retail Marijuana Establishment license requires an application for a new license for purposes of these Regulations and, if the Medical Marijuana Establishment license being converted was issued by the Town, the surrender of that license to the Town.

Sec. 6.5.3.4 Condition of Local License for Release of Town

It shall be a condition of all local licenses that the Applicant/Licensee releases the Town from liability to the Applicant/Licensee and also agrees to indemnify, defend and hold harmless the Town from liability arising from injuries and damages.

Part 4. LICENSES REQUIRED

Sec. 6.5.4.1 Unlawful Acts

(1) For any business, establishment, facility or activity which is required by the Medical Marijuana Code to have a state license, it is unlawful and a violation of these Regulations to operate without both a current state license and a current license issued by the Local Licensing Authority pursuant to these Regulations of the same type and for the same activity at the same Location.

(2) For any business, establishment, facility or activity which is required by the Retail Marijuana Code to have a license, it is unlawful and a violation of these Regulations to operate without both a state license and a license issued by the Local Licensing Authority pursuant to these Regulations of the same type and for the same activity at the same Location.

(3) A person shall not have a financial interest in a license issued pursuant to these Regulations that has not been reported to the Local Licensing Authority and State Licensing Authority. This subsection shall not apply to banks, savings and loan associations or industrial banks supervised and regulated by an agency of the state or federal government.

(4) It is unlawful for any person to operate, cause to be operated, or permit to be operated, any retail marijuana infused products manufacturing business, a retail marijuana products testing facility or a marijuana club within the Town whether as a primary land use, an incidental use or as a home occupation, and all such uses are hereby prohibited in any Location within the Town.

(5) The conduct of any activity or business in violation of this Article is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the enforcement of nuisances as provided in Article 2 of Chapter 11 of this Code. All violations of this Article shall be considered an emergency violation as provided in Section 11.2.2 of this Code.

(6) The Town is specifically authorized to seek an injunction, abatement, restitution, or any other remedy necessary to prevent, enjoin, abate, or remove the violation.

(7) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity.

Sec. 6.5.4.2 Coordination of Local and State Licenses

- (1) If a Medical Marijuana Establishment or a Retail Marijuana Establishment has been authorized by the State of Colorado to operate by virtue of the State having not acted on their license application within forty-five (45) days then the establishment may operate pending the issuance of a state license.
- (2) Upon denial of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be revoked.
- (3) If a license is suspended or revoked by the State Licensing Authority, the Licensee shall immediately cease operation of the Marijuana Establishment in this County until the state license is re-instated during the term of a valid local license. The Local Licensing Authority may suspend or revoke the local license upon the suspension or revocation of the State license.
- (4) Upon the surrender of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect. Existing marijuana products and/or inventory shall be disposed of as provided in any order of suspension or revocation.

Sec. 6.5.4.3 Duration of Local Licenses

- (1) Except as provided herein, any local license issued under these Regulations shall be valid for a period of one year from the date of issuance unless sooner revoked, surrendered by the Licensee, or otherwise terminated. Notwithstanding the foregoing, the Local Licensing Authority may change the duration to no fewer than ten months and no more than fourteen months if deemed appropriate to synchronize the license periods of the license and the corresponding license of the same type for the same activity at the same Location issued by the State Licensing Authority pursuant to the Medical Marijuana Code or Retail Marijuana Code, as applicable.
- (2) A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment license will assume the balance of

the license term previously held by the surrendered Medical Marijuana Establishment license.

(3) If a court of competent jurisdiction having jurisdictional effect in Colorado determines that the issuance of local licenses, or some of them, violates federal law, and such decision becomes final and un-appealable, all such licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Licensee.

Sec. 6.5.4.4 License Contents

The licenses issued pursuant to these Regulations must specify the date of issuance, the period the license is effective, the name of the Licensee, and the Premises licensed.

Part 5. LICENSE APPLICATIONS

Sec. 6.5.5.1 Licensing Procedure.

The Authority shall consider and act upon all complete local license applications as authorized by these regulations. The Authority shall defer to the State to enforce compliance with the requirements in the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code and any other State regulations not covered by these Regulations. The Authority shall grant or deny a license based solely upon the Authority's investigation and findings, and a public hearing shall be required. The Authority shall deny any application that is not in full compliance with these regulations.

Sec. 6.5.5.2 Application forms.

(1) All applications for medical marijuana center licenses; optional premises cultivation licenses; and medical marijuana-infused products manufacturing licenses, shall be made upon forms provided by the state and Local Licensing Authority and shall include the following supplemental materials:

- (a) identity of the owner of the property on which the premises is located;
- (b) a site plan of the Premises;
- (c) a list of all other uses on the property;

- (d) the number of vehicle trips per day expected to be generated by the business;
- (e) the expected source and level of water use for the premises;
- (f) permits or other applicable documentation related to well use, septic system use, and water sanitation;
- (g) a copy of the State sales tax license for the business;
- (h) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises;
- (i) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the Applicant during the previous 12 months;
- (j) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the Location of use and storage of each shall be identified on the site plans;
- (k) a plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Establishments that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems mitigating odor leaving the premises. For Marijuana Establishments that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process;
- (l) an inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector,

master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes;

- (m) for optional premises cultivation and medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business;
- (n) for medical marijuana centers, confirmation that the Location of the optional premises cultivation facility associated with the center is located within Archuleta County and that the center will be obtaining at least 70% of its medical marijuana from that facility; and
- (o) a detailed drawing, with scale of the floor plan.

(2) All applications for retail marijuana store licenses, and retail marijuana cultivation facilities licenses shall be made upon forms provided by the state or Local Licensing Authority and shall include:

- (a) a site plan of the premises;
- (b) a list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of State licensing requirements;
- (c) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises;
- (d) for applications for dual medical marijuana center and retail marijuana store, specific information on the nature and Location of required signage;
- (e) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the Applicant during the previous 12 months;

- (f) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the Location of use and storage of each shall be identified on the site plans;
 - (g) a copy of the State sales tax license for the business;
 - (h) A plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Establishments that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises;
 - (i) an inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes;
 - (j) for retail marijuana stores, confirmation that the Location of the retail marijuana cultivation facility associated with the center is located within Archuleta County and that the store will be obtaining at least 70% of its retail marijuana from that facility; and
 - (k) a detailed drawing, with scale of the floor plan.
- (3) A site plan of the Premises will be scaled and show the following:
- (a) The scale used;
 - (b) North arrow designating true north;
 - (c) Property boundaries of the Premises, indicating front, rear and side lines;

- (d) Location of all proposed buildings/structures and existing buildings/structures that will remain;
 - (e) Locations and dimensions of all existing and proposed roads, on and adjacent to the Premises, driveways, easements, rights-of-way, existing and proposed utilities;
 - (f) Setbacks from buildings and structures, measured in feet (measured from the nearest lot line, road right-of-way or platted right-of-way, whichever is closest, to the eaves or projections from the building or from decks, for all sides of a structure);
 - (g) Platted building envelope(s), if applicable;
 - (h) Parking areas and spaces;
 - (i) Location of signs/advertising, outdoor lighting, landscaping and/or fencing, structural screening elements;
 - (j) Total acreage or square footage of the Premises; and
 - (k) Total square footage of all buildings and total square footage of building footprints.
- (4) All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO₂ gas will be used in the cultivation and the Location of the generation, use and storage shall be identified on the site plans.
- (5) The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations.
- (6) An Applicant must have filed a complete application for a license of the same type for the same activity at the same Location to the State Licensing Authority before it may apply to the Local Licensing Authority.
- (7) The Applicant must update any of the information required of an application by this Section in the event of any material change between the time the application is first submitted and the issuance or denial of the license.

(8) By submitting a license application, the Applicant and, if the Applicant is not the owner, the owner of the Premises to be licensed, certify that the Applicant has received permission from the Premises owner to allow inspections as may be required under the Medical Marijuana Code, Retail Marijuana Code or these Regulations for purposes of local licensing. In addition, the owner of the Premises and the Applicant authorize the Authority and its designee, departments and agencies of the Town, the Pagosa Fire Protection District or its designee, and the San Juan Basin Health Department or its designee to enter upon and inspect the Premises for the purposes of implementing these Regulations. Such inspections shall take place at reasonable times and before issuance of a local license. This section shall not in any way limit any inspection authority of any of these departments and agencies authorized under any other provision of law.

Sec. 6.5.5.3 Processing Applications

(1) No application for a license for any type of Marijuana Establishment may be submitted to the Local Licensing Authority before September 1, 2015.

(2) Applications shall be submitted to the Town Clerk in care of the Authority.

(3) Applications will be deemed submitted only when complete and when accompanied by the applicable fees. Notwithstanding having deemed an application complete, the Authority may, at its discretion, require the submission of additional information and materials as may be useful in investigating the application and making a determination under these Regulations.

(4) Upon a determination that a complete application, including all required forms and fees, for a license has been received, the Authority will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes. These agencies and departments must submit their written findings and conclusions to the Town Manager no later than thirty days after the referral.

- (a) Building Department: For determination of compliance with Town building code provisions. The Building Department also shall conduct the post-approval inspections required by these Regulations as a condition of license approval.

- (b) Planning Department: For determination of compliance with the Land Use and Development Code.
- (c) San Juan Basin Health Department: For determination of compliance with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the Premises.
- (d) Any other Town department deemed relevant in the circumstances: For determination of compliance with its regulations.
- (e) Pagosa Springs Police Department: For investigation as requested by the Local Licensing Authority.
- (f) Pagosa Fire Protection District for its determination of compliance with any fire code provisions.
- (g) Town departments shall inspect the Premises as deemed appropriate or requested by the Local Licensing Authority to confirm compliance with building and equipment standards imposed by the Medical Marijuana Code, Retail Marijuana Code and these Regulations.

(5) The Local Licensing Authority may request that the State Licensing Authority advise the Local Licensing Authority of any items the State Licensing Authority finds in its investigation that could result in the denial of the state license. If the Local Licensing Authority receives such a notice from the state, it shall suspend its review of the local license until it receives a notice from the State Licensing Authority that the issues have been corrected and the Applicant is eligible for a state license.

(6) The Local Licensing Authority shall endeavor to take final action on a license application within ninety days after a complete application, together with all applicable fees, has been submitted. If Colorado Constitution Article XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the state, a final decision on the application will be taken within ninety days of receipt of a complete application and all fees therefor.

(7) The Applicant shall be responsible for submitting any required application, fees and materials directly to the State Licensing Authority under the Medical Marijuana Code and the Retail Marijuana Code.

Part 6. APPROVAL CRITERIA

Sec. 6.5.6.1 Basic Criteria

Before approving a local license, the Authority shall determine that all of the following requirements have been met by the Applicant:

- (1) The appropriate application is complete and the full application fee, license fee and operating fee have been paid;
- (2) The Town has determined that the use is permitted at the Location of the Premises and the owner or operator has obtained any required approvals under the Land Use and Development Code;
- (3) No zoning violations exist on the Premises;
- (4) All proposed signs meet the requirements of the Pagosa Springs Sign Code and these Regulations;
- (5) All proposed lighting meets the Land Use and Development Code;
- (6) Any structure in which the use is located has been inspected by the Town Building Official or his or her designee, the structure complies with all applicable Code provisions, and all necessary building permits have been obtained from the Town;
- (7) The Premises complies with any site specific development requirements and all provisions of the applicable building code and fire code;
- (8) The Premises is not subject to unresolved enforcement action by the San Juan Basin Health Department;
- (9) All property taxes have been paid and no tax liens exist on the Premises;
- (10) The Applicant and Premises are in compliance with all other applicable Town regulations;
- (11) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and

(12) The proposed Licensed Premises are located in a Location permitted by these Regulations.

Sec. 6.5.6.2 Applicant Burden of Proof

The Applicant bears the burden of proving it meets all licensing requirements.

Sec. 6.5.6.3 State License Must Be Issued First

Before a local license may be issued, the Applicant must have applied for a State license of the same type for the same activity at the same Location as provided in the Medical Marijuana Code or Retail Marijuana Code, as applicable. If the Local Licensing Authority determines it is impracticable to withhold action on an application which it would otherwise approve until a State license is issued, a local license may be issued – conditioned on the issuance of the State license – if it is demonstrated to the satisfaction of the Local Licensing Authority that the Applicant is eligible to receive its state license of the same type for the same activity at the same Location based on information provided by the State Licensing Authority.

Sec. 6.5.6.5 Buildings Must be Ready for Occupancy

No license shall be issued after approval of an application until the building in which the business is to be conducted is ready for occupancy (and, a building permit certificate of occupancy issued, if applicable) with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of these Regulations, and then only after inspection of the Premises has been made by the Local Licensing Authority or State Licensing Authority to determine that the Applicant has complied.

Part 7. ACTION ON APPLICATION; HEARINGS

Sec. 6.5.7.1 Action on Applications

The Local Licensing Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority shall deny any application that is not in full compliance with these Regulations.

Sec. 6.5.7.2 Public Hearings and Public Notice

(1) A public hearing shall be held to consider every application for a license subject to the limitations with respect to applications to renew licenses as provided in Part IX hereof.

(2) A public hearing shall be held not less than thirty days after the date the completed application is submitted. The Authority shall cause to prepare and the Applicant shall post and publish public notice thereof not less than ten days before the hearing. The Applicant shall give public notice by posting a sign in a conspicuous place on the Premises for which a local license application has been made and by publication in a newspaper of general circulation in the Town.

(3) Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and phone number of the Applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the Applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the Applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

(4) Notice given by publication shall contain the same information as that required for signs.

(5) If the building in which the marijuana is to be sold, cultivated, processed or tested is in existence at the time of the application, any sign posted as required in this Section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the Applicant shall post the sign upon the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

Sec. 6.5.7.3 Preliminary Findings

Not less than five days before the date of hearing, if one has been set, or before taking action on the application, the Local Licensing Authority shall make known its findings based on its investigation in writing to the Applicant. If a public hearing has not already been set, the Applicant may

request a public hearing which request shall be granted unless the recommendation is for approval.

Sec. 6.5.7.4 License Findings

(1) Before entering any decision approving, conditionally approving or denying the application, the Local Licensing Authority shall consider, except where these Regulations specifically provide otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the Applicant for operating the type of Medical or Retail Marijuana Establishment proposed.

(2) Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a finding as to the good moral character of the Applicant in accordance with the standards and procedures set forth in the Medical Marijuana Code and the Retail Marijuana Code. In so doing, the Authority may incorporate any findings as to good moral character previously made by the State Licensing Authority. The Authority shall not be required to perform a criminal background check:

- (a) if the State Licensing Authority has performed a background check on the Applicant to the satisfaction of the Authority; or
- (b) if the Authority approves a license conditioned on the completion and successful review of the background check by the State Licensing Authority.

(3) Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a specific finding of fact as to whether the proposed Licensed Premises is located within any distance restrictions established pursuant to Section 1.8 of these Regulations.

Sec. 6.5.7.5 Decision on Application

(1) The Local Licensing Authority has authority to refuse to issue, renew or transfer any license for Good Cause.

(2) The Local Licensing Authority may approve an application subject to conditions related to these Regulations, the Medical Marijuana Code, the Retail Marijuana Code and the state regulations promulgated pursuant thereto, as applicable.

(3) Within thirty days after the public hearing or completion of the application investigation, the Local Licensing Authority shall issue its decision approving, approving with conditions or denying an application. The decision shall be in writing and shall state the reasons for the decision.

Sec. 6.5.7.6 Notice of Decision

The Local Licensing Authority promptly shall notify the Applicant and the State Licensing Authority of its decision. Notice to the Applicant will be deemed given upon personal delivery or three calendar days after deposit in a depository of the US Postal Service, first class postage paid.

Sec. 6.5.7.7 Review of Local Licensing Authority Decision

If a license is conditionally approved or denied following the public hearing by the Local Licensing Authority, that decision shall be deemed final action and the Applicant's sole remedy is review of the decision pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Part 8. DUTIES OF LICENSEE

Sec. 6.5.8.1 Notice of Changes

(1) A Licensee shall notify the Local Licensing Authority in writing of the name, address, and date of birth of a proposed owner, officer or manager before the new owner, officer or manager begins owning, managing or associating with the operation. The proposed owner, officer, manager and employees must pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification before owning, managing, or associating with the operation. For a complete change of ownership, see Part X.

(2) A Licensee shall report each transfer or change of financial interest in the license to the State and Local Licensing Authorities and receive approval prior to any transfer or change. A report is required for transfers of capital stock of any corporation regardless of numbers or values of shares or size of the corporation.

(3) A Licensee shall report any change of trade name to the Local Licensing Authority before using it.

Sec. 6.5.8.2 Possession of Licensed Premises

At all times, a Licensee shall possess and maintain possession of the Licensed Premises for which the License is issued by ownership, lease, or other arrangement suited for possession of the Premises for the duration of the License.

Sec. 6.5.8.3 Publicly Display Licenses

The Licensee shall conspicuously display the local and the state-issued licenses at all times on the Licensed Premises.

Sec. 6.5.8.4 On-site Access to Occupational Licenses and Registrations

(1) All persons owning, managing, operating, employed by, working in or having access to restricted areas of a Licensed Premises of, any Licensee who are required by the Medical Marijuana Code, Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable, to have occupational licenses and registrations must at all times have a valid license and/or registration from the State Licensing Authority. At all times when on the Licensed Premises, all such persons shall have on their person, and conspicuously display, their occupational licenses and registrations required by the State Licensing Authority. Copies of all such licenses issued by the State Licensing Authority shall be provided to the Authority. Provided, however, if (i) a State application for the required occupation license or registration is pending; and (ii) the Town has performed a background check and determined the preferred manager or employee to be temporarily acceptable then compliance with this Section 6.5.8.4 is extend for up to ninety (90) days from the start of their employment.

Sec. 6.5.8.5 Compliance with Laws

A Licensee shall at all times comply with and maintain the Licensed Premises in compliance with all of the terms and conditions of the license; the requirements of these Regulations and all applicable state and local laws.

Sec. 6.5.8.6 Notices of Changes in State License Status

A Licensee shall notify the Local Licensing Authority in writing if its state license of the same type for the same type of activity at the same Location

as that issued by the Local Licensing Authority has been denied, expired, renewed, revoked or transferred. Notice must be in writing, and given to the Town Manager within four business days of the action by the State Licensing Authority. The Licensee shall give a copy of a new or renewed state license to the Local Licensing Authority within four business days of its receipt from the state.

Sec. 6.5.8.7 Notices to Public Safety Agencies

Before commencing operation, a Licensee shall notify the Pagosa Fire Protection District and the local Office of Emergency Management of the identity of all toxic, flammable, hazardous, or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Licensed Premises, the Location of such materials, how such materials will be stored, and shall provide Material Safety Data Sheets where applicable. Before commencing operation, a Licensee also shall notify the local firefighting agency and Archuleta County Office of Emergency Management whether CO2 or CO2-generating is used on the Licensed Premises, the method and the Location. A Licensee shall promptly, within no more than one week, notify its local firefighting agency and Archuleta County Office of Emergency Management of any changes in this information. All notices shall be in writing, with a copy sent to the Local Licensing Authority.

PART 9. RENEWALS

Sec. 6.5.9.1 Time to Apply for Renewal License

(1) A License is immediately invalid upon its expiration unless a late renewal application is allowed and filed as provided in this Section. Unless otherwise expressly provided in these Regulations, if a license is not renewed by the Local Licensing Authority before its expiration, the Licensee may not operate.

(2) A Licensee desiring a renewal of an existing license must apply for the renewal to the Local Licensing Authority not less than sixty (60) days before the date of expiration of the current license. The Local Licensing Authority, in its discretion, based upon reasonable grounds, may waive the sixty (60) day time requirement but the Local Licensing Authority shall not accept an application for renewal of a license after the date of expiration except as provided in this Section. Reasonable grounds include that the

Licensee has pending a timely-filed application for renewal of its state license. A Licensee who files a renewal application and pays the requisite fees may continue to operate until the Local Licensing Authority takes final action to approve or deny the renewal application.

(3) Notwithstanding the provisions of this Section, a Licensee whose license has been expired for not more than ninety days may file a late renewal application if an application for renewal of the corresponding state license has been accepted by the State Licensing Authority, is pending, and the required fees have been paid. In those circumstances, the Licensee may continue to operate until both the State and Local Licensing Authorities have taken final action on the Licensee's late renewal application unless the State Licensing Authority summarily suspends or denies the license, in which case the Licensee must cease operation immediately.

(4) The application for any renewal shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority. The provisions of Part V shall govern the application form and processing as applicable.

Sec. 6.5.9.2 Action on Application for Renewal

Applications to renew a license shall be approved administratively by the Chairman of the Local Licensing Authority without public hearing unless the Licensee has had complaints filed against it, has a history of violations, or there are allegations against the Licensee that would constitute Good Cause, in which case a public hearing on the renewal application may be set. For purposes of this section, complaints include a recommendation by any referral department or agency to deny renewal.

Sec. 6.5.9.3 Procedures; Action on Application

To the extent applicable, the provisions of Part VII shall govern processing and action on the application for renewal.

Sec. 6.5.9.4 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a renewal.

Part 10. TRANSFERS

Sec. 6.5.10.1 No Transfers or Assignment of Licenses

A license issued under these Regulations is not transferable or assignable, including, without limitation, not transferable or assignable to different Premises, or to a different Owner or Licensee, except in accordance with these Regulations. A license is valid only for the person specifically identified on the license and for the specific Location for which the license is issued. Any attempt to transfer or assign a license in violation of these provisions voids the license.

Sec. 6.5.10.2 License Transfers Allowed

A Licensee may transfer or assign all ownership, rights and interests in a local license issued pursuant to these Regulations, or transfer that license to a different Premises within the Town, subject to prior application to, and approval by, the Local Licensing Authority and in compliance with the Medical Marijuana Code, Retail Marijuana Code, and the state regulations promulgated pursuant thereto, as applicable to such transfer or assignment.

Sec. 6.5.10.3 License Transfer Application

The application for any transfer shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority.

Sec. 6.5.10.4 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a transfer.

Sec. 6.5.10.5 Procedures; Action on Application

The Local Licensing Authority may hold a public hearing on the application. To the extent applicable, the provisions of Parts V and VII shall govern processing and action on the application for transfer.

Sec. 6.5.10.6 Period of Transferred License

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Approval of the transfer of a license has the same effect as approval of a new license and the transferred license shall be valid for a period of one year from the date of approval.

Part 11. ENFORCEMENT

Sec. 6.5.11.1 Inspection

(1) The Local Licensing Authority shall have the rights of entry upon and into and inspection of the Premises and records of a Licensee to the fullest extent authorized by the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

(2) The Local Licensing Authority shall at all times during the Licensee's business hours, upon request, be admitted to the Licensed Premises, including any limited access or other secured areas within them, to inspect for compliance with these Regulations. The Local Licensing Authority may request to inspect during non-business hours if the Licensee's normal business hours are inconsistent with typical business hours.

Sec. 6.5.11.2 Hearing; Suspension, Revocation of License

(1) A license issued pursuant to these Regulations may be suspended or revoked by the Local Licensing Authority after a hearing for any of the following reasons:

- (a) Fraud, misrepresentation or a false statement of material fact contained in the license application;
- (b) A violation of any Town, county, state or federal law or regulation with respect to the ownership or operation of the Marijuana Establishment or with respect to the Licensed Premises – other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20 or Amendment 64;
- (c) A violation of any of the terms and conditions of the license;
- (d) A violation of any of the provisions of these Regulations;

- (e) The corresponding state license has been suspended or revoked by the State Licensing Authority; or
 - (f) The Licensed Premises have been inactive without good cause for at least one year.
- (2) A Licensee shall be given notice in writing of the allegations and of a hearing to consider suspending or revoking its license at least ten days before the hearing. The notice shall be sent by regular mail, postage prepaid. Notice will be deemed given upon mailing.
- (3) Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The Licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation.
- (4) If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the Licensee, but standing alone establishes that the Licensee has engaged in a different violation of these Regulations, the Medical Marijuana Code or the Retail Marijuana Code, as applicable, or an order of the state or Local Licensing Authority, the Licensee shall be permitted to give evidence and statement in defense if then prepared to do so. If such evidence is not then available, but can be obtained by the Licensee, the Licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than fourteen days, and shall then continue under the same procedure as through no recess had occurred.
- (5) The burden of proof shall be on the Town to show that grounds exist for suspension or revocation of the license.
- (6) Any decision made by the Local Licensing Authority pursuant to this Section shall constitute the final decision of the Town, is effective immediately, and may be appealed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (7) No fee previously paid by a Licensee in connection with the application or license shall be refunded if the license is suspended or revoked.

Sec. 6.5.11.3 These Enforcement Provisions are not Exclusive

In addition to all other remedies available to the Town under these Regulations or by other law, including the Medical Marijuana Code and the Retail Marijuana Code, the operation of a Medical Marijuana Establishment or a Retail Marijuana Establishment without a valid license issued pursuant to these Regulations may be enjoined by the Town in an action brought in a court of competent jurisdiction.

Sec. 6.5.11.4 Deference to State Licensing Authority

The Authority may defer to the state to enforce compliance with the requirements in the Medical Marijuana Code and the Retail Marijuana Code.

Part XII. FEES

Sec. 6.5.12.1 Fees Set by Resolution

The Town Council may revise application, license and operating fees by resolution.

Sec. 6.5.12.2 Medical Marijuana Establishments

The fees and charges shall be pursuant to the Town Fee Schedule.

Sec. 6.5.12.3 Retail Marijuana Establishments – Application Fees

Application fees for Retail Marijuana Establishment licenses are determined by the Retail Marijuana Code and collected by the State Licensing Authority.

Sec. 6.5.12.4 Retail Marijuana Establishments – Operating Fees

(1) Operating fees shall be set with the objective of offsetting the cost to the Town of administering these Regulations.

(2) Operating fees for any license (including any renewal or transfer of a license) shall be pursuant to the Town's Fee Schedule, in addition to the application fee received by the Local Licensing Authority for the license (but not reduced below zero). Operating fees must be paid in full before a license, including a renewal or transfer of a license, is issued. The full operating fee is due in advance for any Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment

license. No operating fee will be refunded even if the license is transferred, revoked, surrendered, suspended or otherwise is not valid for a full year, or if the operation ceases or never commences before expiration or revocation of the license.

(3) If it is deemed reasonably necessary to engage the services of an outside consultant to review an application for a retail marijuana license, including a transfer or renewal, the cost of the consultant shall be charged to the Applicant as an additional operating fee. Once the estimate is established, the Local Licensing Authority shall notify the Applicant in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed. The amount of the fee may be increased at any time if it is determined by the Authority that the fee is not sufficient to cover all consulting costs associated with the application. If the Authority so determines, it shall notify the Applicant in writing of the amount of the increase. Not later than ten days following the notice, the Applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the Applicant.

Sec. 6.5.12.5 Retail Marijuana Establishments – Late Filing Penalty

If a complete application for a renewal license is not submitted until after the expiration of a license, and the Licensee qualifies for consideration of that late renewal pursuant to Section 9.6.5, the renewal application must be accompanied by a late renewal penalty, if any, as stated on the Town Fee Schedule.

Sec. 6.5.12.6 Payment of Fees

All fees are due and must be paid before a license of any type will be issued or effective. All funds must be remitted in the form of a business check or certified funds.

Part XIII. PATIENTS AND PRIMARY CAREGIVERS

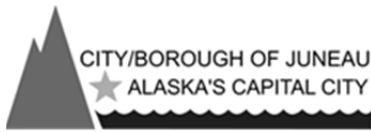
Sec. 6.5.13 Patients and Primary Caregivers.

(1) Nothing in this Article shall be construed to prohibit or otherwise impair the use of medical marijuana by patients, in accordance with the Colorado Constitution and consistent with Section 25-1.5-106, C.R.S. and rules promulgated thereunder, as may be amended from time to time.

Town of Pagosa Springs
Ordinance No. 825 (Series 2015)
Page 37

(2) Primary care-givers within the Town are authorized to engage only in those activities regarding medical marijuana that are set forth in Section 14 of Article XVIII of the Colorado Constitution, as defined and limited by Section 25-1.5-106, C.R.S. Primary care-givers who engage in the sale of medical marijuana and/or who charge for care-giver services, shall be deemed to be operating a business within the Town and shall obtain a business license pursuant to Section 6.1.3 of the Town Code.

(3) Primary care-givers and patients who engage in the cultivation of medical marijuana or the provision of care-giver services within the Town, whether for compensation or not, shall comply with all regulations of general applicability within the Town, including zoning regulations and uniform codes.



**Law Department
City & Borough of Juneau**

MEMORANDUM

TO: Marijuana Committee
FROM: Amy Gurton Mead, Municipal Attorney *AGM*
DATE: September 22, 2015
SUBJECT: Land Use Regulations and Follow Up to February 23rd Memo

Attached is a copy of the February 23, 2015 memorandum outlining those items completed (at least tentatively) and those still left to be decided. Relevant to the next stage of legislation, please see paragraph 5 on page 3, "Miscellaneous Zoning Issues."

My understanding is that the Committee's intention is to recommend a new special use chapter providing for specific regulatory standards for the marijuana establishments and that creates a marijuana establishment business license.

The working concept for that draft regulation is attached. The purpose of this draft is to provide a framework for you to work from, not to suggest policy direction. None of the sections are complete – for example, there may be other specific issues from the list of "Miscellaneous Zoning Issues" you would like to see addressed in the regulation, and the list of definitions will be completed as the ordinance is closer to finalizing.

Once I have direction from the Committee about the specific regulatory standards to incorporate into the ordinance, I will complete a draft for the Committee's review.

Attachments

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-____

An Ordinance Amending the Land Use Code to Provide for the Regulation of Marijuana Establishments and Providing for a Penalty.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Chapter. CBJ 49.65 Specified Use Provisions is amended by adding a new article to read:

ARTICLE X. MARIJUANA ESTABLISHMENTS

49.65.1100 Purpose.

It is the purpose of this article to establish reasonable regulations that allow for the operation of marijuana establishments within the City and Borough in a manner that promotes public health, safety and general welfare.

49.65.1110 Licensed required.

(a) No person may operate a marijuana establishment within the City and Borough without a conditional use permit, a valid license issued by the City and Borough, and a valid license issued by the State of Alaska. The following types of licenses may be issued under this article:

- (1) Marijuana retail store license;
- (2) Marijuana cultivation facility license;
- (3) Marijuana product manufacturing facility license; and
- (4) Marijuana testing facility license.

(b) A separate license shall be required for each specific business or business entity or for each geographic location.

(c) Upon denial or revocation of a marijuana establishment license issued by the State of Alaska, any license issued by the City and Borough under this article shall be null and void. If a court of competent jurisdiction determines that the issuance of local licenses violates State or federal law, all licenses issued under this article shall be deemed immediately revoked by operation of law, with no ground for appeal or redress on behalf of the licensee.

(d) The annual business license fee must be paid either on or before January 1 of each year.

49.65.1120 General requirements.

Concepts: Comply with all terms and conditions of license and any permit issued by CBJ

Comply with requirements of this chapter

Comply with all applicable state laws and regulations pertaining to marijuana establishments.

49.65.1130 Application for license.

(a) An applicant for a Marijuana Establishment License shall submit an application on a form provided by the department accompanied by the appropriate fee. Applications must

include the following documentation: [Will CBJ establish a local regulatory authority or position to process these applications and will that person/entity serve as the LRA for State purposes as well?]

- (1) If the applicant is not a natural person, the organizational documents for all entities identified in the application;
- (2) A copy of the lease or deed for the property upon which the marijuana establishment will be located [Consent from property owner?];
- (3) A site plan of all buildings on the property where the premises is located, including, but not limited to: a floor plan showing how the floor space is or will be used; parking for the premises; total floor area of the building(s); and the nature and location of any existing or proposed exterior lighting and signage;
- (4) A list of all other uses on the property;
- (5) A list of all proposed changes or modifications to the premises;
- (6) A security plan indicating how the applicant will comply with the requirements of this article and any other applicable law; [PRA issue?]
- (7) A copy of the Notice of Decision approving the Conditional Use Permit by the City and Borough of Juneau Planning Commission;
- (8) A certificate of financial good standing with the City and Borough that the applicant is not delinquent in the payment of property taxes, utility bills or delinquent in the reporting or remittance of sales tax to the municipality; and
- (9) Any additional documentation determined by the department to be necessary to make a decision whether to approve or deny the license application, or approve with conditions.

(b) Special requirements. In addition to the above, applicants must satisfy the following requirements when applying for certain types of licenses:

(1) Marijuana retail store license applicants [_____]

(2) Marijuana cultivation facility license applicants must provide a ventilation and filtration plan, describing the systems that will be used to prevent the detection of any odor of marijuana from the licensed premises. [Should ventilation plans be required of all types of facilities?]

(3) Marijuana product manufacturing facility license applicants and marijuana testing facility license applicants must specify all means to be used for extraction, heating, washing or otherwise changing the form of the marijuana plant, along with proposed ventilation and safety measures to be implemented for each process.

(4) Marijuana cultivation facility license applicants and marijuana product manufacturing facility license applicants must specify the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system.

49.65._____ Inspection of premises.

49.65._____ Term of license; renewal.

Concepts: Licenses are issued to the applicant and do not run with the land.

If applicant desires to modify the subject facility by changes to equipment or any approved plan, an amendment to the original application shall be submitted for review and approval. The director shall determine whether the modification has substantial impacts or is

considered a minor amendment. The director may approve minor amendments. A substantial impact = PC.

Licenses are valid only as long as the applicant holds a current license from the state and is in compliance with conditional use permit.

Duration: Business licenses are effective for a calendar year with all licenses expiring on December 31st.

49.65._____ Transfer of ownership.

No license granted or issued under any of the provisions of this title shall be in any manner assignable or transferable.

49.65._____ Change of location; modification.

49.65._____ Suspension or revocation of license.

49.65._____ Appeal

49.65._____ Hours of operation.

A licensed premises may open no earlier than ____ and shall close no later than ____ the same day, Monday through Sunday. No marijuana shall be sold or dispensed at a licensed premises when the licensed premises is required to be closed pursuant to this section.

49.65._____ Documents to be displayed.

Marijuana retail store facilities must post the following in a conspicuous location inside the establishment near the main entrance:

- (1) A copy of the Marijuana Retail Store License; and

(2) A sign [size? color?] that contains the following text

49.65._____ Ventilation/odor

Concept: require a particular ventilation standard to be met (exchange x amount of air per x amount of time? Use of particular filter?) or tie to subjective? Install tech to prohibit odors from emanating beyond the subject property lines to prevent impacts on adjacent properties? Require of all establishments or just cultivation?

49.65._____ Waste.

49.65._____ Security.

49.65._____ Age requirements.

Section ____. **Amendment of Section.** CBJ 49.80.120 Definitions, is amended by the addition of the following definitions to be incorporated in alphabetical order:

Marijuana has the same meaning as in Alaska Statute 17.38.900.

Marijuana establishment means

Section ____. **Amendment of Section.** CBJ 49.85.100 Generally, is amended to read:

49.85.100 Generally.

1
2 Processing fees are established for each development, platting and other land use action in
3 accordance with the following schedule: [NOTE: CDD decide processing fee for license and
4 where to add marijuana establishments to subsection (3)...amend which class?]
5
6
7

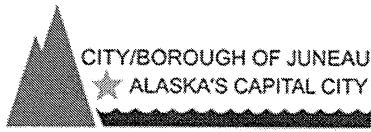
8 **Section __. Effective Date.** This ordinance shall be effective 30 days after its
9 adoption.

10 Adopted this _____ day of _____, 2015.

11 _____
12 Merrill Sanford, Mayor

13 Attest:

14 _____
15 Laurie J. Sica, Municipal Clerk
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**Law Department
City & Borough of Juneau**

MEMORANDUM

TO: Marijuana Committee

FROM: Amy Gurton Mead, Municipal Attorney

DATE: February 23, 2015

SUBJECT: Regulatory Issues

The purpose of this document is to provide the committee with a starting point for discussion. It is a preliminary list and not intended, or claimed, to be all-inclusive. Additionally, I note that all issues are subject to legislative enactments and ABC/MCB rulemaking.

As indicated in the memoranda provided to you at the first meeting, there are five general areas of municipal law implicated by marijuana usage¹:

1. Land use
2. Taxation – sales and excise
3. Licensing
4. Regulation at the airport and ports
5. Criminal

As you consider these issues, it is important to keep in mind that the Federal Controlled Substances Act prohibits the production, distribution and use of marijuana. As to the interplay between federal and state law, the Attorney General has provided some guidance. Enclosed in your packet materials is an August 29, 2013, memorandum known as the “Cole Memo.” The Cole Memo provides guidance to federal prosecutors concerning federal enforcement efforts in those states that have legalized marijuana. According to the memo, federal enforcement efforts will be focused on the following priorities:

1. Preventing the distribution of marijuana to minors;
2. Preventing revenue from the sale of marijuana from going to criminal entities, gangs or cartels;

¹ As you all know, there are a number of bills being discussed by the Legislature that are designed to clarify or supplement the initiative. Some of the issues being discussed at the State level will likely touch upon (by either narrowing or expanding local authority) municipal regulatory efforts.

3. Preventing the diversion of marijuana from states where it is legal under state law to other states;
4. Preventing state-authorized marijuana activity from being used as a pretext for illegal activity (trafficking, etc.);
5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
6. Preventing the exacerbation of adverse public health consequences and crimes (e.g., drugged driving);
7. Preventing the growing of marijuana on public lands (public safety and environmental dangers); and
8. Preventing marijuana use or possession on federal property.

As to state (and municipal) regulatory efforts, the memo specifically provides the following guidance:

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. . . . In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

Accordingly, this committee should consider the issues and questions relevant to the following regulatory areas in light of the guidance provided by the Cole Memo.²

A. Land use/Zoning. (The initiative specifically leaves time, place, and manner regulations to the discretion of the municipal authorities. This issue will likely be the most time-consuming.)

- Completed* 1. Should marijuana establishments be regulated as a distinct category of land use (for example, as marijuana cultivation facilities/greenhouses or simply as “greenhouses”)?
- Completed* 2. Should the CBJ permit all types of marijuana establishments or limit the types of commercial activities allowed in the CBJ?

² Additionally, the CBJ will need to consider federal law implications with respect to its operations at the airport, hospital, harbors and school district. For example, whether regulatory action will impact federal grant requirements?

3. Should the CBJ limit the number of marijuana establishments allowed in the CBJ (and if so, in general or by type. If the decision is to limit, by lottery or merit?)

4. What approval process will be required?

CUP plus special use chapter. Director approval or conditional use process?
Enforcement by citation, Specific criteria for CUP process?
injunction and license Suspension/revocation same as current code?
action. Additional or specific public notice requirements? *Not yet decided.*

5. Miscellaneous zoning issues:

With CUP

Partially addressed by state

- a. Site plan requirements
- b. Buffers? (Schools, day care facilities, alcohol/drug treatment facilities, *state proposed* etc.? Buffers between other marijuana establishments (Denver does this)). *Not decided*
- c. Sign regulations
- d. Any special considerations downtown (for example, parking? Limitations on what is viewable by the public?)
- e. Hours of operation
- f. Maintenance standards for premises and surrounding area
- g. Live plants in retail setting?
- h. Odor mitigation
- i. Require enhanced security requirements? (Other communities have looked at requiring video surveillance/cash storage and protection plans to be submitted in an effort to address issues created by this being a cash-only enterprise.)
- j. Should the CBJ prohibit personal-use manufacturing with combustible gases in general? In residential zones? (Denver prohibits any person from processing or manufacturing marijuana concentrate by any means other than water-based or food-based extraction, except in licensed facilities.)
- k. Ensure edibles are sufficiently regulated by the State in light of the Cole Memo. (For example, if not addressed by State regulation, prohibiting packaging of edibles that are misleading or confusing.)
- l. Garbage requirements

B. Taxation

1. Sales
2. Excise

C. Licensing

1. Should the CBJ have a Local Regulatory Authority? (Note that the current iteration of HB 75 requires municipalities to have an LRA – it's not optional.)
2. If authorized by State law, should the CBJ implement a local licensing process (dual-licensing with the State).

Tentative yes

- State reg proposed re: club.* 3. If not addressed by the State, should the CBJ license establishments not contemplated under State regulations such as smoking clubs? Communal greenhouses?
- State proposes no* 4. If not addressed by the State, should collocation of licenses be allowed?
- State proposes no* 5. If not addressed by the State, should the CBJ limit, prohibit, or otherwise regulate on-site consumption

D. Regulation at the airport and harbors

1. How to address transportation issue at the airport?
 - a. Ban?
 - b. Amnesty boxes?
 - c. Signage
2. Implement harbor rules in light of Cole Memo.

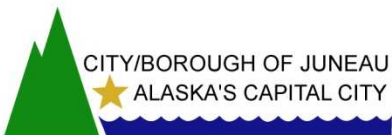
E. Criminal

1. Consider whether the CBJ needs to increase the number of DRE (Drug Recognition Experts) officers. Currently JPD has three DRE officers.
2. Should the CBJ implement regulations addressing minor use?

Special Use Provisions for Marijuana Establishments

CBJ Marijuana Committee

September 24, 2015



1. Limit number of operations?

- CDD recommends limiting number of locations through zoning and buffers
- CDD recommends screening from adjacent properties in the D-1 zoning district for cultivation facilities.

2. Signs & Advertising regulations?

- Signs in general are regulated in Title 49 for size and location. May not be able to regulate content.
- CDD recommends one sign per establishment
- CDD recommends internal signage requirements include:
 - “must be 21 and over to enter”
 - “public consumption of marijuana products is prohibited”
 - State and local license must be displayed
 - Restricted areas must be identified
- CDD recommends prohibitions of signs on vehicles, portable signs, handheld signs, and leaflets/flyers.

3. Public notice requirements?

- The Conditional Use Permit process satisfies the public notice requirement.

4. Parking?

- CDD recommends marijuana establishment parking be regulated like other similar uses.

5. Hours of operation?

- The Marijuana Committee expressed intent to regulate marijuana like alcohol as much as possible. Given this and the state draft regulations CDD recommends operating hours of **8a.m. to 11p.m.**

6. Maintenance of premises?

- CDD recommends language regulating plant waste product.

7. On-site consumption?

- CDD recommends language prohibiting on-site consumption. This may be readdressed if it is determined marijuana clubs are permissible.

8. Live plants in retail store?

- CDD has concerns related to odor. This issue may be addressed under odor control plans.

9. Odor mitigation?

- CDD recommends language to encourage best available practices/technology to reduce odor impacts. Odor should not be detectable from outside the establishments.
- CDD recommends language addressing the use of combustible extraction methods – equipment inspection standard.

10. Communal/Cooperative Greenhouses?

- CDD recommends limiting non-commercial/licensed growing to 6 plants per adult or no more than 24 per household.
- CDD recommends restricting licensed marijuana establishments as a home occupation.

11. Security requirements?

- CDD recommends minimum standards.
- CDD recommends product only be transported during specific hours (ex. 8a.m. to 6p.m.)

12. Prohibit personal-use manufacturing with combustible methods?

- CDD recommends a provision against the use of combustible gases to extract hash oil for personal use.

13. Require locked growing facility?

- Addressed in security plan.

14. Marijuana collectives?

- Grow collectives have presented regulatory challenges in Washington and Colorado. They are an unintended consequence of medical marijuana regulations.
- Given the state is proposing limited cultivation licenses for up to 500 sf, CDD recommends buffer between cultivation facilities.

15. Regulation of potency and packaging?

- CDD recommends language that requires potency and likely effects be labeled in a clear manner.
- CDD recommends language that ensures packaging is childproof and not misleading.

16. Establish buffers between marijuana establishments?

- CDD recommends buffers between marijuana cultivation facilities, specifically “limited cultivation” facilities to prevent conglomerating small operations.
- CDD recommends language prohibiting personal growing outside of residence. Ex. Rent boat condo for growing.

17. Application submittal requirements for license?

- CDD recommends language from Attachment E