AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Amendment 64; Recommendations and Considerations for Marijuana Cultivation, Testing and Manufacturing

Action Requested: Discussion

Parties to the Agreement: Not Applicable

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
Discusion of policy options for creating regulations for marijuana cultivation, manufacturing, and test facilities.

Fiscal Impact:

Submitted by: Russell Forrest **Submitter's Email Address:** rforrest@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:

I will participate with Russ in the presentation and discussion. db 2/6/14

Reviewed by: GUNCOUNTY1\DBAUMGARTEN Discharge Date: 2/6/2014 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\MBIRNIE Discharge Date: 2/7/2014

○ Consent Agenda ○ Regular Agenda ◉ Worksession Time Allotted: 1 hour

Agenda Date: 2/11/2014 Follow Up Agenda Date:

Revised April 2013

To: Gunnison County Board of County Commissioners

From: Russell Forrest

Date: February 14, 2014

Subject: Amendment 64 -Recommendations and Considerations for Marijuana Cultivation, Testing, and Manufacturing

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1. PURPOSE:

On September 24, 2013 the County Commissioners approved on 2nd reading Ordinance No. 17 banning marijuana facilities and directed staff to develop regulations in the new -year for cultivation, testing, and manufacturing of marijuana (See Attachment A). Since that time January 1st has come and the legalization of recreational marijuana use has occurred in many communities. The State regulations related to marijuana have also continued to evolve. Staff has also had the opportunity collect additional information on cultivation and manufacturing facilities along with collaborating with other jurisdictions that either have or will be implementing regulations related to Amendment 64. The purpose of this discussion to frame a variety of policy related questions for the Board of County Commissioners to consider and provide direction to staff as it relates to moving forward with the development of regulations.

2. INTRODUCTION TO MARIJUANA FACILITIES ALLOWED UNDER AMENDMENT 64

The passage of Amendment 64 by Colorado voters in 2012 legalizes the personal possession, cultivation, and use of recreational marijuana in Colorado and allows for retail sales, cultivation, infused produce manufacturing, and testing facilities. The County Commissioners have indicated that retail sales should remain within municipal boundaries and directed staff to focus regulation development on the following facilities which are described below:

A. Retail Marijuana Cultivation Facility: Traditionally this type of use has involved indoor grow operations requiring significant grow lights and potted plants. From seed to full grown plant, the state requires specific identification of plants so that it's traceable to the point of sale. Waste materials from plants have to be disposed of in a manner that prevents it from being consumed/used. The latest trend in cultivation appears to be the desire to move towards traditional green houses where energy costs are lower. Although not explicitly forbidden in the regulations, outdoor cultivation is essentially not practical since the regulations require facilities to be enclosed and to have security. In addition, there is an interest in growing more organically by using natural fertilizer (versus chemical fertilizers which can have a more significant impact on water quality). The operation of a cultivation facility is very similar to any other cultivation facility that might occur in a greenhouse with several exceptions:

- Marijuana cultivators typically don't want to be seen, heard, or smelled from a security standpoint. Cultivators appear to want to have low visibility in terms of the

physical location of their facilities. Many cultivation facilities have no signage and go out of their way to filter the air coming out of the facility.

- The growth cycle for plants is roughly 4 months and requires year round operation to be profitable in most situations.
- All marijuana facilities are regulated by the state and local jurisdictions can apply additional regulations owners must comply with.
- The majority of cultivators are small business. However, this may change quickly as large corporations (like what is occurring in large monoculture agriculture) invest in this industry, particularly if the banking industry begins to allow growers to use their services.

B. Manufacturing of Retail Marijuana Products: This type of facility could include packaging, labeling, and processing of edible marijuana products. This facility is somewhat similar to a food processing facility. In visiting a manufacturing facility that distributes products around the state, the facility for all practical purposes appears to be a large commercial kitchen. These facilities include baked goods, candies, tablets, and cosmetic products (soaps, skin moisturizers, etc.). These facilities also have similar security concerns as cultivators and typically have no signage. They must also track individual products which must be shipped to retail facilities through specially licensed delivery operations. Manufacturing facilities, as staff understands, are not required to have a food service license from the Colorado Department of Public Health and Environment. Facilities are required to have employees receive food safety training and receive "ServSafe" certification and the sanitary regulations are very similar to restaurants. Manufacturing facilities are most appropriate in light industrial/heavy commercial areas given they need good circulation and utilities.

C. Testing Facilities: These are facilities that involve testing and research of marijuana products. The purpose of a testing facility is to test the purity, quality, and potential potency of a marijuana product. It appears that with new regulations related to recreational marijuana that testing will be needed for both cultivation and manufacturing facilities. From a land use standpoint these facilities are laboratories and consistent with light industrial and heavy commercial land uses.

3. AMENDMENT 64 REGULATORY OVERVIEW:

In November of 2000, Colorado voters approved Amendment 20 to the Colorado Constitution to allow for the use of small amounts of medical marijuana for patients and their primary caregivers.

In 2010, the Colorado General Assembly established the Colorado Medical Marijuana Code. This Code established the Department of Revenue as the regulating authority for medicinal marijuana. Local jurisdictions then had a time frame for allowing or denying medicinal marijuana facilities within their jurisdictions.

On November 6, 2012, Colorado voters approved Amendment 64 to the Colorado Constitution which directed the Colorado Department of Revenue to promulgate rules governing businesses that cultivate and sell retail marijuana. A Task Force was then created by the Governor to develop policy for implementing Amendment 64. Recognizing that a paced transition was needed between

medicinal and recreational marijuana facilities the regulations state that Medical marijuana businesses will comprise the potential applicant pool for retail marijuana establishment licenses between October 1, 2013 and July 1, 2014. Most owners now hold both medicinal and recreational licenses (in jurisdictions that allow both).

The State Licensing Authority has also considered direction from the United States Department of Justice through an August 29, 2013 letter from the United States Attorney General Eric Holder to Governors Hickenlooper and Jay Inslee of Washington. Through this correspondence, the United States Department of Justice clarified that it will continue to enforce the Controlled Substances Act in Colorado, but that it will not challenge Colorado's ability to regulate the marijuana industry in accordance with state law, based upon the expectation that the state will implement strong and effective regulatory and enforcement systems that address public safety, public health and other law enforcement interests.

October 1, 2014 was also a major milestone for Amendment 64. The amendment and subsequent rules for implementing this constitutional amendment allows for counties and municipalities to do one of the following:

1) Impose by ordinance regulations for marijuana facilities which must be duly adopted prior to October 1, 2013;
2) Prohibit all or some of the marijuana related facilities articulated in Amendment 64 through an ordinance that must be duly adopted prior to October 1, 2013;
3) Take no action and the implementing regulations of Amendment 64 would become law within a jurisdiction; or
4) Craft a hybrid solution (in the nature of a moratorium to provide more time to develop specific regulations for all or some of the marijuana facilities)

Gunnison County opted to implement a hybrid solution, where on September 24th the Board approved an ordinance to ban marijuana facilities until specific regulations were developed to both allow and regulate those facilities. On January 1st retail marijuana facilities became legal in the State of Colorado. Implementing regulations, the industry, and local jurisdiction approaches to regulating the industry have continued to evolve since January 1st.

Marijuana facilities are controlled by the Colorado Department of Revenue, Marijuana Enforcement Division as stipulated in 1 CCR 202-2. These regulations provide definitions, application processes, and specific standards for this industry.

Also for reference, several distinctions between medicinal and recreational marijuana uses are:

- Medicinal marijuana use requires a prescription (technically a recommendation due to conflicts with federal law) from a physician.
- Medicinal marijuana patients may be in position of 2 ounces of marijuana or potentially more if prescribed/recommended by a physician but may be subject to criminal prosecution.
- There is not an additional sales tax as prescribed with Amendment 64 applicable to medicinal marijuana.
- Currently medicinal cultivators must designate plants for medicinal patients. Medical Marijuana Facilities can have six plants per patient. This limitation will be eliminated in October of 2014.
- Recreational marijuana users (with a valid Colorado I.D. and over the age of 21) may be in position of no more than 1 ounce of marijuana.
- Out of state visitors over the age of 21 may purchase no more than .25 ounces and they can possess up to 1 ounce.
- After October 2014 new recreational marijuana businesses can be considered for licensing – without a previous medicinal license.

For more information on the State of Colorado's regulations of marijuana you can refer to the states website at: http://www.colorado.gov/cs/Satellite/Rev-MMJ/CBON/1251592984795

4. POLICY CONSIDERATIONS:

The Board is requested to respond to the following policy questions related to Amendment 64 and marijuana facilities. It is recognized that public input will be received in this policy development and that the Board, at this time, is providing direction only on an initial point of departure for drafting regulations. This is obviously a new area of policy development and the regulatory nuances of legalized marijuana facilities are still being refined at the state level. Although the facilities described in the memorandum are banned by the Federal Government, their policy on enforcement continues to evolve as more states either legalize or examine legalization of marijuana. Monitoring Federal banking policy on marijuana will be particularly interesting as this is still a major obstacle in the growth of this industry.

A. Type of Regulatory Framework-License or Land Use Regulations

It should be noted that a majority of counties have banned marijuana facilities. For those jurisdictions that have allowed marijuana facilities, many jurisdictions have regulated medicinal marijuana facilities through land use regulations. However, a number of jurisdictions are approaching the regulation of retail facilities in a variety of ways. Staff believes there are three basic options on how to approach the regulation of marijuana facilities:

1) Apply land use regulations to control marijuana facilities
2) Use a licensing process (like a liquor license) to control marijuana facilities
3) Develop a hybrid of 1 and 2.

Option 1: Most municipalities and counties have developed land use regulations to control medicinal and retail marijuana facilities. The one down side of utilizing land use regulations is that an applicant relies on the land use regulations at the time they are permitted and then receives vesting (essentially protection from changes in regulation) after their approval and construction of their facility.

Option 2: Since both the industry and the state regulations are evolving rapidly several jurisdictions have elected to regulate this type of use through licensing requirements much like liquor permits. Pitkin County along with several other counties has taken this approach and staff has included their regulations and several other examples in attachment B. Pueblo and Boulder Counties have also used a licensing approach. Boulder County uses a licensing process and created a licensing authority which is designated now as the planning director with decisions appealable to the Board of County Commissioners. Pueblo has designated the County Commissioners as their licensing authority. Pitkin County uses the County Managers office as the licensing authority.

Licensing requirement can have the same impact as land use regulations but have the advantage that a business owner must renew a license (typically yearly) and may be required to comply with new regulations regardless of how long the business has been in existence. Staff believes that a licensing approach will allow flexibility to evolve regulations as both the state and local jurisdictions adapt to regulating this new industry. In addition, a licensing process is advantageous with the performance based planning process the County has adopted in that if a new facility is proposed in a location that is currently not an industrial/heavy commercial site there a two pronged process which can work concurrently to review proposed facility locations and operations.

Option 3: Staff would recommend that marijuana facilities comply with the Land Use Resolution and licensing requirements so a hybrid approach (Option 3) is recommended. The down side of licensing approach is that a business owner may incur more cost and/or greater uncertainty as regulations evolve and change over time. In Pitkin, Pueblo, and Boulder Counties for example, marijuana facilities must demonstrate compliance with both their marijuana licensing requirements and land use/zoning, building code regulations. Eagle County created business licensing procedure for marijuana facilities and created new land use regulations.

Staff is requesting feedback from the Board on which of the above mentioned options or approaches to regulating marijuana facilities is be desired (Options 1-3) ?

B. <u>Scope of Regulations</u>

The Board of County Commissioners directed staff to begin developing regulation for cultivation, manufacturing, and testing starting with cultivation. Other jurisdictions have found that these are interrelated businesses and most have adopted regulations for all marijuana facilities. Staff believes that regulations can be considered at the same time for cultivation, manufacturing, and testing. Proposed regulations for manufacturing and testing will be identical and very similar to cultivation with the exception that cultivation could be considered in both agricultural and

industrial/commercial areas. It should be noted that Crested Butte has moved forward with legalizing and regulating recreational retail facilities. **Would the BOCC like to include all three facilities (cultivation, manufacturing, and testing) in proposed regulations?**

Another specific question related to the scope of these regulations which was not specifically discussed with the BOCC is whether we should include both medicinal and recreational cultivation, manufacturing, and testing facilities. Staff cannot find any reason to not accommodate both medicinal and recreational facilities. As mentioned above existing medicinal marijuana facilities may only be considered for retail sales until October. After October 2014, new retail marijuana facilities can apply for licenses. This sounds complicated but essentially the intent of the regulations is to allow a paced transition from medicinal marijuana facilities to retail.

Does the Board want to accommodate both medicinal and recreational facilities in future regulations?

C. Cultivation-Compatible Uses

To date, year round marijuana cultivation has occurred typically in buildings requiring grow lights. The industry appears to be evolving towards more traditional green house facilities. Gunnison County is an expensive location (because of its climate) for any type of year round cultivation practice. Green houses may save on money in the day but will be expensive to heat in the evening. However, staff believes that a cultivation practice for marijuana is very similar to any other types of cultivation operations-particularly greenhouse operations. Specific consideration with cultivation facilities include:

- Compatibility with adjacent land uses
- Waste Disposal
- Use of Nutrient/Chemical fertilizers
- Heating and maintaining relatively consistent warm temperatures
- Water availability and quality
- Waste water disposal (effluent can have high nutrient levels)
- Security and fire safety risks

Staff believes that with proper notification to adjacent property owners, setback requirement, and Fire District review that cultivation operations could occur with either agricultural or industrial land uses. **The Board is requested to determine whether cultivation facilities should occur in areas with both industrial and agricultural land use at least as a point of departure in the first draft of regulations.**

D. Manufacturing and Testing-Compatible Land Uses

Manufacturing and testing are most compatible in industrial areas. These facilities need good access to utilities, major arterial roads and are not, in most cases, compatible with residential

land uses. Staff would recommend that these type of facilities be located in existing industrial or heavy commercial sites in the County.

What land uses do the Board feel are compatible with Manufacturing and Testing Facilities?

E. Licensing/Permitting Requirements.

Staff has reviewed a variety of regulations that have been approved in the state to address marijuana facilities. It should be noted that Gunnison County does not have traditional Euclidian land use controls so some examples are not applicable. Staff attempted to synthesize the various regulations and would propose the following topics and language be integrated into future regulations. The following performance standards are written as if they would be incorporated into a licensing process but could be integrated into land use regulations as well.

The BOCC is requested to comment on these potential regulations.

1) Compatible Land Uses:

a. Cultivation facilities can be considered (unless the BOCC from the above mentioned discussion limits what it considers compatible uses) in either agricultural and/or industrial lands in the County. However, cultivation facilities should not be considered agricultural facilities when considering compliance to the LUR. The reason for this, is that agricultural facilities, depending on size, may be exempt from land use review.
b. Testing and Manufacturing facilities shall only be considered in areas with industrial or heavy commercial land uses.
c. All marijuana facilities are expressly prohibited as a home occupation or home business. Staff would craft regulations, if desired, in a way to still allow cultivation facilities on agricultural land uses.
d. Any facility within a subdivision with covenants that has an active property owners association shall be required to have consent by the Association Board.

2) **Land Use Buffers**:

It is recommended that no marijuana facility is located within 1000 feet of a school, preschool, parks, places of worship, half way houses, public buildings or residential dwelling unit. Furthermore, it is recommended that a cultivation facility, if allowed in an agricultural land use, not be allowed within 300 feet from a property line to adjacent private lands or a State Highway or County Road. All marijuana facilities in an established industrial/heavy commercial area must be at least 40 feet from State Highways and County Roads.

3) Demonstrate that Impacts are Avoided or Mitigated

The applicant must demonstrate that impacts in following areas are avoided or mitigated

Odor: Noticeable odors from any marijuana facility should not occur at the boundary to adjacent properties. Facilities shall be equipped with proper ventilation systems so that odors are filtered and do not materially interfere with adjoining land uses

Visual Impacts: Marijuana facilities shall be designed so as to compliment surrounding land uses. It is recommended that scaled site plans, floor plans, and building elevations will be required as part of the application submittal. Visual screening may be required to avoid conflict with major pedestrian, trail, or major arterial roads.

Signage: All signage must comply with Gunnison County sign regulations.

Adequate Services: Applicant must demonstrate that adequate public services (water, sewer/water treatment, electricity, road infrastructure) are available to support the specific proposed facility(s) without causing a degradation of any applicable public services. Written approval from applicable service providers stating that service can be provided to the facility will be required.

Water quality and quantity. The applicant must demonstrate that there is adequate water and the legal authority to utilize available water. In addition, the applicant must demonstrate that there is not an impairment by the facility to either the quality of surface or underground water.

Fire and Security: Applicable Fire Districts and the Sherif's Department will receive applications for their review and comment. Concerns related to public safety received from emergency services must be avoided or mitigated.

Lighting: The applicant must demonstrate that the facility complies with Gunnison County lighting requirements. Cultivation facilities must demonstrate that they do not create an unreasonable impact to adjacent properties from illumination or lighting.

Signs & Advertising: All signs must comply with the County's sign regulations. Signage shall not be visible to major arterial roads or public paths.

Parking: County parking standards will apply as applicable to marijuana facilities.

Wildlife: The facility must demonstrate compliance to Gunnison County's wildlife regulations in the LUR.

Waste Management: The facility must demonstrate that all waste material are disposed of in a way that does not create an impact to the environment.

4) Conditions

It is recommended that the licensing authority, Planning Commission as proposed, could place conditions to ensure mitigation and require inspections and/or monitoring to ensure compliance to review standards.

5) State Licensing

Any marijuana facility shall demonstrate compliance to state licensing requirements by providing proof of all appropriate licenses.

6) Enclosure of Facility

All products and accessories shall be located within a completely enclosed, alarmed, and secure building at all times. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk, path, or right of way.

7) Compliance to other County Regulations

The premises shall satisfy all applicable Land Use Resolution requirements, Building Codes, ISDS, and Fire Codes.

8) Fees:

State *License application fees* are capped in the state constitution at $5,000 for new businesses and $500 for medical marijuana facilities wishing to convert to recreational sales/cultivation. These application fees are to be shared 50/50 between the state and the local jurisdiction, assuming a local jurisdiction is planning to issues local licenses. Amendment 64 does allow the Department of Revenue (but not local governments) to increase this license application fee if it can show that it is insufficient to cover the cost of carrying out this regulatory program. HB 1317 requires the state to consult with local governments when considering whether to raise the license application fees to reflect the actual costs of reviewing applications.

Amendment 64 states that local governments can adopt a schedule of "*operating fees*" for recreational marijuana establishments. The constitution did not define what an operating fee is, however. Accordingly, the task force issued a recommendation that implementing legislation should define operating fees as "fees that may be charged by a local government for costs including but not limited to inspection, administration and enforcement of businesses authorized pursuant to this section." This operating fee definition is now housed in state statute (through HB 1317) and should allow local governments to recoup their administrative and enforcement costs – especially given the relatively low licensing application fees that are now set in the constitution.

In considering the costs of administrating these types of regulations, the cost most likely will initially will be more than liquor licenses but it is difficult to anticipate the cost for administrating the permitting/licensing of marijuana facilities. Therefore, staff would refer to what other jurisdictions have done for licensing as a point of departure.

	Pitkin County	Boulder County	Pueblo (non-retail uses)
New License	$1000	$3500	$5,000 +$.5 per square foot for cultivation-not to exceed $15,000 $6,000 for manufacturing $1500 for testing facility
Renewal	$500-$2000 (with public hearing)	$2500	$2500

Given Boulder has had some experience administrating medicinal uses, staff would suggest that their fees may be a good point of departure. It is suggested that if new regulations are adopted for marijuana facilities that the actual costs be monitored and fees adjusted accordingly over time. Based on the response to the policy questions framed in this memorandum, staff would like to evaluate fees further and make specific recommendations at the time specific regulations are developed.

9) Change in Ownership

It is recommended that any change of financial ownership interest or the ownership interest would require a new local license. The State will send notification to the appropriate local jurisdiction when a change in ownership application is received by the State.

10) New Licenses and Proposed Notice Requirements and Hearing

It is recommended that a 30 day notice be required for a public hearing to consider the approval of a new marijuana use license. The Notice would include newspaper public notice and a notification to all property owners within 1000 feet of the proposed facility. The Board of County Commissioners could choose to be the licensing authority. However, it could stream line the process if the Planning Commission was the licensing authority, particularly if a land use application is required. In addition, the review, given the standards mentioned above, are general focused on land use standards, and the Planning Commission would be well suited to review new applications. It should also be noted that the State has a requirement to approve or deny applications within 90 days of an application. It would be recommended that a State license be received before the local authority approves a license.

The Board should consider who they would like to designate as the licensing authority assuming the Board would like to have a licensing process.

11) Renewal of License

It is recommended that licensees be renewed every year and that they could be renewed and approved administratively by the Community Development Director. In the event there are complaints regarding a use then the Community Development Director can refer the renewal application to the Planning Commission and require the applicant to pay all costs associated with a public hearing. It should also be noted as per R203 of the State Regulations, the State will notify the appropriate local jurisdictions when a state license renewal is requested. Approval of the State license renewal should be required prior to local license renewal.

12) Ownership

The ownership of a proposed new facility should demonstrate that they do not have any prior felonies, or a reoccurring history of local criminal or civil violations, and don't have any existing or previous history of non-payment of federal, state, or local taxes. Other specific standards for ownership are provided in the State licensing process (R 205).

13) **Annual Inspections:**

The State allows for local jurisdictions to inspect licensed marijuana facilities for compliance to local regulations. An annual inspection is recommended to ensure compliance to the above mentioned regulations. Specific standards are also provided in the State Regulations (R 504) for maintaining sanitary facilities.

F. **Hemp:**

The Colorado Department of Agriculture has adopted the first industrial hemp rules in the state's history; the rule became effective December 30, 2013. "Industrial hemp" means a plant of the genus cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry weight basis. Producers can begin to register with CDA's industrial hemp program on March 1, 2014. These rules are the first step to allow Colorado producers to legally grow industrial hemp. Producers must register with Colorado Department of Agriculture by May 1, 2014, if they would like to grow industrial hemp during the 2014 growing season. All registrations will be valid for one year. Staff recommends that we first implement regulations for marijuana facilities and then evaluate the interest in developing hemp regulations.

Attachment A: Ordinance 17, Series of 2013

Attachment B: Examples from other counties

Pitkin County Regulations

Boulder County Regulations

Pueblo County Regulations

Eagle County Regulations

Attachment A: Ordinance 17, Series of 2013

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ORDINANCE NO. 17

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO

AN ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES OR RETAIL MARIJUANA STORES WITHIN THE UNINCORPORATED BOUNDARIES OF GUNNISON COUNTY, STATE OF COLORADO

WHEREAS, the Board of County Commissioners of the County of Gunnison ("Board") has the authority to exercise all County powers for the unincorporated areas of Gunnison County pursuant to Section 30-11-103, C.R.S.; and

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, *Personal Use and Regulation of Marijuana*; and

WHEREAS, said Amendment 64 became effective upon official declaration of the vote thereon by proclamation of the Governor, pursuant to Section 1(4) of Article V, of the Colo. Constitution; and

WHEREAS, Amendment 64 added a new Section 16 to Article XVIII of the Colo. Constitution; and

WHEREAS, Amendment 64 defines a "Locality" in part in section 2(e) of Section 16 to include a county; and

WHEREAS, part 5(f) of Section 16 provides the following:

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL

TO CONSUMERS.

(4) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(5) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(6) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(7) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(8) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(9) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

Board Shall Continue To Consider Affirmatively All Activities. The Board expressly states its intent to consider affirmative future policy and regulations regarding the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and/or retail marijuana stores within the unincorporated areas of Gunnison County, Colorado.

Activities Prohibited. Unless and until the Board formally amends or repeals this Ordinance, the operation of marijuana cultivation facilities, marijuana manufacturing facilities, marijuana testing facilities and/or retail marijuana stores is prohibited within the unincorporated areas of Gunnison County, Colorado.

Enforcement. This ordinance shall be enforced by the Gunnison County Sheriff.

Violation. It shall be unlawful for any person to violate any provision of this ordinance.

Disposition of Fines and Forfeitures. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this ordinance shall be paid into

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Paula Swenson, Chair

ATTEST:
_____
Deputy Clerk to the Board

GUNNISON COUNTY SEAL COLORADO

AMENDED AND ADOPTED ON SECOND AND FINAL READING ON September 24, 2013, and ordered published in the Gunnison Country Times and the Crested Butte News.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Paula Swenson, Chair

ATTEST:
_____
Deputy Clerk to the Board

GUNNISON COUNTY SEAL COLORADO

Attachment B: Examples from other counties

PITKIN COUNTY MEDICAL MARIJUANA LICENSING REGULATIONS

Article 1: Purpose and Intent

Section 14 of article XVII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. To enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S. (the "CMMC"). The CMMC authorizes counties and municipalities to determine whether to permit, as a matter of state law, certain medical marijuana businesses within their jurisdictions.

The purpose of these regulations is to authorize licensing in unincorporated Pitkin County as provided in § 12-43.3-301(2)(a) C.R.S., as amended by establishing specific standards and procedures for local licensing of medical marijuana centers, medical marijuana infused products manufacturers, and optional premises medical marijuana cultivation operations as provided by state law; and to protect the health, safety, and welfare of the residents of Pitkin County by prescribing the manner in which medical marijuana businesses can be conducted in the county. Enacting these regulations, Pitkin County 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 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 and civil penalties.

Article 2: Defined terms

The definitions in the CMMC, § 12-43.3-104, C.R.S. as amended, shall apply to these regulations. The term "Licensing Authority" means the Pitkin County Medical Marijuana Licensing Authority.

Article 3: Effective date and applicability

(a) Effective date. Except as provided in section (c) after the Board of County Commissioners designates the Licensing Authority as set forth in Article 5 below, it shall be unlawful to operate any business in unincorporated Pitkin County for which a license is required under the CMMC without first having obtained a local license under these regulations and a state license under state law.

(b) Applications for local licenses. After the Board of County Commissioners designates the Licensing Authority as set forth in Article 5 below; the Licensing Authority shall begin receiving and processing applications for licensing under the CMMC and these regulations.

(c) Pre-existing businesses. Any person who is lawfully engaged in the business of selling, cultivating, or manufacturing medical marijuana as permitted by the CMMC and the Pitkin County Land Use Code prior to the effective date in section (a) may continue business if, on or before July 1, 2012 an application is submitted for local licensing approval under these regulations. If an application is submitted according to this subsection, the business may continue until such time the state or local licensing application is denied or the state or local license is revoked.

(d) No entitlement of vested right. No person shall have any entitlement or vested right to licensing under these regulations, the CMMC, Pitkin County zoning approvals, or Pitkin County building permits. To lawfully engage in the business of selling, cultivating, or manufacturing medical marijuana in unincorporated Pitkin County, all persons must obtain a license under these regulations.

Article 4: Relationship to Other Laws
Pitkin County intends to follow and incorporate the requirements and procedures in the CMMC.

Article 5: Licensing Authority
The Pitkin County Board of County Commissioners (the "'Board") designates, the Pitkin County Manager, to act as the Pitkin County Medical Marijuana Licensing Authority.

Article 6: Licenses
The Licensing Authority is authorized to issue the following local licenses should the applicant fulfill the requirements for such license: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing 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 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. A valid license shall be required from the State of Colorado as provided by the CMMC before operation beings as except provided in Article 3 (c).

Article 7: Licensing Procedure and Requirements
(a) General Procedure. The Licensing Authority shall consider and act upon all complete local license applications as authorized by these regulations. The Licensing Authority shall defer to the state to enforce compliance with the requirements in the CMMC and any other state regulations not covered by these regulations. The Licensing Authority shall grant or deny a license based solely upon the Licensing Authority's investigation and findings, and no public hearing shall be required for initial license. The Licensing Authority shall deny any application that is not in full compliance with these regulations.
(b) Application forms. All applications for local licensing shall be made upon forms provided by Pitkin County and shall include the following supplemental materials:
(1) property owner authorization;
(2) indemnification agreement;
(3) lawful presence affidavit if applicable;
(4) a site plan of all buildings on the property where the premises is located, including 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;
(5) a list of all other uses on the property;
(6) the number of vehicle trips per day expected to be generated by the business;
(7) the expected source and level of water use for the premises;

(8) permits or other applicable documentation related to well use, septic system use, and water sanitation;
(9) evidence that the premises is not within 1000 feet of a alcohol or drug treatment facility, licensed child care facilities, and educational facilities (below college grade level) as measured from the closest point of the subject property lines;
(10) evidence that the property is not within a multi-residential structure;
(11) a license will not be issued for a medical marijuana center, for optional premises cultivation or for medical marijuana-infused products manufacturing in the Frying Pan caucus area;
(12) a license will not be issued for an optional premises cultivation in the Snowmass/Capitol caucus area;
(13) a license will not be issued for a medical marijuana center in the Village Commercial zone district (Town of Redstone);
(14) if the application is for a pre-existing business, any proof of operation prior to July 1, 2010, such as leases or sales tax receipts;
(15) the Licensing Authority has determined that the use is permitted under the Pitkin County Land Use Code and zoning regulations;
(16) the Licensing Authority may, at its discretion, require the submission of additional materials as may be useful in making a determination under these regulations.
(c) Concurrent application. As provided for under the CMMC, upon receipt of a local licensing application under these regulations, the Licensing Authority shall request that the state licensing authority conduct a concurrent review of a new license application and that the state advise the Licensing Authority of any items it finds that could result in the denial of the license. If the Licensing Authority receives such a notice from the state, the Licensing Authority shall suspend its review of the local license until it receives a notice from the state licensing authority that the noted items of concern have been satisfactorily remedied by the state licensing authority. The applicant shall be responsible for submitting any required fees and materials directly to the Licensing Authority.

Article 8: Licensing Procedure for Renewal of Existing Licenses
All procedures contained in Article 7 shall apply to this article.
Before issuing a local license or renewal for a medical marijuana center, optional premises cultivation, and/or medical marijuana-infused products manufacturing, the Licensing Authority shall determine that all of the following requirements have been met by the applicant:
(a) The appropriate application is complete and the full application and renewal fee has been paid;
(b) No criminal activity related to drug use or illegal drug sales have taken place at the location within the last five years, as reported by the Sheriff's office;
(c) No report of offensive odors has been reported to the Licensing Authority or any reported odor problem has been rectified;
(d) The Licensing Authority will hold a public hearing on the application for renewal only if the licensee has complaints filed against it, has history of violations or there are allegations against the licensee that would constitute good cause. Public hearing shall be in conformance with requirements of CMMC.

Article 9: Inspection
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 local licensing law. In addition the owner of the premises authorizes the Licensing Authority, its designee, and the Pitkin County Building Official or the official's designee, to enter upon and inspect the premises. Such inspections, if necessary shall take place at a reasonable time with prior notice to the operator and property owner, and prior to a determination on the application. This section shall not limit any inspection Licensing Authority authorized under any other provision of law or regulation.

Article 10: Decision and Appeal
(a) A denial by the local Licensing Authority shall constitute a final decision appealable to the Board of County Commissioner of Pitkin County.
All appeals before the Board of County Commissioners shall be conducted as public hearings in accordance with the Title 12 Article 43.3 C.R.S.

Article 11: Changes in License
(a) Transfer of Ownership. Any license issued under these regulations or renewal of such license is not transferable or assignable.
(b) Change of Location. Any license granted under these regulations is limited to the location(s) specified on the license application. Operation of a medical marijuana center, Optional premises cultivation, and/or medical marijuana-infused products manufacturing at a new location requires a new license.

Article 12: Term of license; renewal
Any local license issued under these regulations shall be valid for a period of one year from the date of issuance. A licensee shall submit a renewal application at least 45 days before the expiration of the license. Upon denial or revocation of a state license, any license issued under these regulations shall be revoked.

Article 13: Violations
Violations will subject any license to revocation by the Licensing Authority and the State of Colorado shall be notified of such violations.

Article 14: Public Hearing New Licenses
There shall be no public hearing on new license application.

Article 15: Fees
Application Fees

Medical Marijuana Center (Type 1*)	$ 1000.00
Medical Marijuana Center (Type 2*)	$ 1000.00
Medical Marijuana Center (Type 3*)	$ 1000.00
Optional Premises Cultivation License	$ 1000.00
Medical Marijuana-Infused Products Manufacturer	$ 1000.00

(*type 1=300 or fewer patients, all Colorado residents; *type 2=301-500 patients; type 3=501 or more patients)

Annual License fees:

New License any type	$ 1000.00
License Renewal	$ 500.00
License Renewal with public hearing	$ 2000.00

Make check payable to: Pitkin County Treasurer

All fees are nonrefundable and must be paid at time of submission of application. The Board of County Commissioners has authority to set and amend fees.

BOULDER COUNTY MARIJUANA LICENSING REGULATIONS

Article 1: Purpose and Intent.

Section 14 of article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. Section 16, article XVIII of the Colorado Constitution 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 Medical Marijuana Code, article 43.3 of title 12, C.R.S. (the "CMMC"). In addition, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules ("the MMR").The CMMC and MMR authorize counties and municipalities to determine whether to permit, as a matter of state law, certain medical marijuana businesses within their jurisdictions. Further, 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 1400, 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 businesses within their jurisdictions.

The purpose of these regulations is to authorize licensing in unincorporated Boulder County 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 Boulder County by prescribing the manner in which marijuana businesses can be conducted in the county. By enacting these regulations, Boulder County 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.

Article 2: Defined terms.

The definitions in the CMMC, § 12-43.3-104, C.R.S., as amended, and the CRMC, § 12-43.4-103, C.R.S. shall apply to these regulations.

The term "Authority" means the Boulder County Marijuana Licensing Authority.

"Medical Marijuana Center" as the term is used in the Boulder County Land Use Code, refers to any business that grows, sells, tests, researches, and/or distributes marijuana as authorized under section 14 or section 16 of article XVIII of the Colorado Constitution. For purposes of the Boulder County Land Use Code, all optional premises medical marijuana cultivation operations, medical marijuana-infused products manufacturing facilities, medical marijuana centers (as defined by the CMMC); retail marijuana stores; retail marijuana cultivation facilities; retail marijuana manufacturing facilities; and marijuana testing research/testing

facilities fall within the Boulder County Land Use Code's definition of "Medical Marijuana Center." An off-premises marijuana storage facility is a Warehouse and Distribution Center use under the Boulder County Land Use Code.

Article 3: Effective date and applicability.

(a) *Effective date.* Except as provided in section (c), as of July 1, 2012, it shall be unlawful to operate any business in unincorporated Boulder County for which a license is required under the CMMC without first having obtained a local license under these regulations and a state license under state code. As of October 23, 2013, it shall be unlawful to operate any business in unincorporated Boulder County for which a license is required under the CRMC without first having obtained a local license under these regulations and a state license under state code.

(b) *Applications for local licenses.* The Authority shall receive and process all applications for optional premises medical marijuana cultivation operations, medical marijuana-infused products manufacturing operations, and medical marijuana centers. The Authority shall accept and process applications for marijuana testing/research facilities, off-premises storage, retail marijuana stores, retail marijuana cultivation facilities, and retail marijuana manufacturing facilities license beginning on December 9, 2013.

(c) *Pre-existing businesses.* Any person who is lawfully engaged in the business of selling, cultivating, or manufacturing medical marijuana as permitted by the CMMC and the Boulder County Land Use Code prior to the effective date in section (a) may continue in business if, on or before September 4, 2012, the person submitted an application for local licensing under these regulations. If an application is submitted according to this subsection, the business may continue until such time as the state or local licensing application is denied or the state or local license is revoked.

(d) *Dual Licenses.* Dual operation of a licensed medical marijuana center, optional premises cultivation facility, or medical marijuana-infused products manufacturing facility and any retail marijuana 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.

(e) *No entitlement of vested right.* No person shall have any entitlement or vested right to licensing under these regulations, the CMMC, the CRMC, Boulder County zoning approvals, or Boulder County building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in unincorporated Boulder County, 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.

Article 4: Relationship to Other Laws.

Boulder County intends to follow and incorporate the requirements and procedures in the CMMC, the CRMC, the MMR, and the RMR. 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.

Article 5: Authority.

The Boulder County Board of County Commissioners (the "Board") may designate, in its discretion, a person or persons to act as the Boulder County Marijuana Licensing Authority. The Authority shall serve at the pleasure of the Board and be compensated on terms mutually agreeable to the Board and the Authority.

Article 6: Licenses.

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; retail marijuana cultivation facilities license; retail marijuana manufacturing facilities license; marijuana testing facilities license; and an off-premises storage 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. 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 CMMC and the CRMC.

Article 7: Licensing Procedure.

(a) *General 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 CMMC and the CRMC 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 no public hearing shall be required. The Authority shall deny any application that is not in full compliance with these regulations.

(b) *Application forms.*

1. All applications for medical marijuana center licenses; optional premises cultivation licenses; medical marijuana-infused products manufacturing licenses, marijuana testing facilities licenses, and off-premises storage licenses shall be made upon forms provided by the state and shall include the following supplemental materials: (1) identity of the owner of the property on which the premises is located; (2) a site plan of all buildings on the property where the premises is located, including 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; (3) a list of all other uses on the property; (4) the number of vehicle trips per day expected to be generated by the business; (5) the expected source and level of water use for the premises; (6) permits or other applicable documentation related to well use, septic system use, and water sanitation; (7) for medical marijuana centers, a list of alcohol or drug treatment facilities, licensed child care facilities, and educational facilities (below college grade level) within 1000 feet as measured from the closest point of the subject property lines; (8) if the premises is in a zone district other than Light Industrial or General Industrial, a list of all medical marijuana centers as defined by the Boulder County Land Use Code, specifically including all optional premises medical marijuana cultivation operations, within 500 feet; (9) a copy of the state sales tax license for the business; (10) for optional premises cultivation and medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business; (11) for optional premises cultivation facilities, a sustainability plan approved by the Boulder County Chief Building Official that includes all necessary information on meeting the energy offset requirements and lamp recycling requirements of these regulations.

2. All applications for retail marijuana store licenses, retail marijuana cultivation facilities licenses, and retail marijuana manufacturing facilities licenses shall be made upon forms provided by the state and shall include: (1) a site plan showing how the floor space for the associated medical marijuana center, optional premises cultivation facility, or medical marijuana-infused products manufacturing facility is used and the nature and location of any existing exterior lighting and signage; (2) a list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of State licensing requirements; (3) for applications for dual medical marijuana center and retail marijuana store, specific information on the nature and location of required signage and a sample of the required receipt labeling; and (4) for retail marijuana cultivation facilities, a sustainability plan approved by the Boulder County Chief Building Official that includes all necessary information on meeting the energy offset requirements and lamp recycling requirements of these regulations.

(c) 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.

(d) *Other County Departments.* Upon receipt of an application under 7(b) above, the Authority shall circulate the application to the Land Use Department, the Transportation Department, the Sheriff's Office, Public Health, the Boulder County Treasurer, and the applicable fire district. These departments should employ their best efforts to respond within thirty days to the Authority with any concerns they have regarding the application. Failure of a referral agency to timely respond to a referral shall not constitute approval of the license.

Article 8: Licensing Requirements.

(a) Before issuing a local license for a medical marijuana center, optional premises cultivation facility, medical marijuana-infused products manufacturing, marijuana testing

facility, or off-premises storage, the Authority shall determine that all of the following requirements have been met by the applicant:

1. The appropriate application is complete; the full application, renewal, or modification fee has been paid; and the operating fee has been paid;

2. The Land Use Director or his or her designee has determined:

a. the use is permitted and that the owner or operator has obtained any required approvals under the Boulder County Land Use Code;

b. No zoning violations exist on the property or any property in the County owned by the applicant;

c. All existing or proposed signage meets the requirements of the County's Land Use Code;

d. All existing or proposed lighting meets the Land Use Code's lighting requirements;

3. All structures in which the use is located have been inspected by the Boulder County Chief Building Official or the official's designee, the Chief Building Official has determined the structure complies with all applicable building code provisions, and all necessary building permits have been obtained;

4. The Director of Public Health or his or her designee has determined:

a. The property has all required well and septic permits or is adequately served by public water and sewer;

b. No offensive odors have been reported to Public Health, or any reported odor problem has been rectified;

5. The Boulder County Treasurer or his or her designee has determined all property taxes have been paid and no tax liens exist on the property or any property in the County owned by the applicant;

6. The County Engineer or his or her designee has determined the medical marijuana center has satisfactory vehicular access and parking facilities under the County's Multimodal Transportation Standards and the Land Use Code, has provided for reasonably required offsite transportation improvements to serve the proposed site, and has suitability mitigated any traffic hazards associated with the use;

7. No violations of these regulations have occurred.

(b) Before issuing a local license for a retail marijuana store, retail marijuana cultivation facility, or a retail marijuana manufacturing facility, the Authority shall determine that all of the following requirements have been met by the applicant:

1. The appropriate application is complete and the applicable application fee, modification fee, and operating fee has been paid;

2. The Authority has issued a current and valid medical marijuana center license, optional premises cultivation license, or medical marijuana-infused products manufacturing license to the applicant for the premises (the "associated license") and the proposed retail (non-medical) marijuana activity on the premises is the same or substantially similar to the use permitted under the associated license;

3. The applicant applied for the associated license prior to October 1, 2013 (this requirement #3 shall be in effect until January 1, 2015);

4. The area where the activity under the associated license takes place is the same as shown on the application for such a license or the applicant has followed the modification process as provided for under 11(c) below;

5. The area where the proposed activity will take place is no greater than that approved under the associated license.

6. For dual medical marijuana center and retail marijuana stores, the establishment has provided for the required signage and receipt labeling.

7. No additional signage, lighting (indoor or outdoor), or building construction is proposed except for signage, lighting (indoor or outdoor), or building construction necessary to comply with these Regulations and State licensing requirements;

8. No outstanding violations of County regulations or licensing requirements exist on the property where the proposed establishment is located.

Article 8.5: Operation Requirements

(a) *Age limitation.* No dual medical marijuana center and retail marijuana store 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."

(b) *Receipts.* For dual medical marijuana center and retail marijuana stores, all retail marijuana receipts must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21."

(c) *Scanner proof of age.* 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 reliability confirming the validity of an identification using computer processes.

(d) *Hours of Operation.* Medical marijuana centers and dual medical marijuana centers and retail marijuana stores must be closed to the public, and no sale or other distribution of marijuana may occur upon the premises or via delivery, between the hours of 7:00 pm and 8:00am.

(e) *Business Conducted Within Building.* All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.

(f) *Direct Sales.* All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be made by telephone, internet, or other means of remote purchase.

(g) *Sustainability.* Unless the Authority in consultation with the Chief Building Official grants an extension of time for good cause shown, optional premises marijuana cultivation facilities and dual optional premises marijuana cultivation facilities /retail marijuana cultivation facilities must meet the following requirements:

1. By October 22, 2014, directly offset 50% of electricity, propane, and natural gas consumption through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Boulder County Chief Building Official. The offset must be demonstrated by a sustainability plan approved by the Boulder County Chief Building Official.

2. By October 22, 2015, directly offset 100% of electricity, propane, and natural consumption through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Boulder County Chief Building Official. The offset must be demonstrated by a sustainability plan approved by the Boulder County Chief Building Official.

3. For any expansion of the cultivation area, 100% the energy consumed in the expanded area must directly offset through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Boulder County Chief Building Official

4. All 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.

5. Energy offset and lamp recycling must be demonstrated by a sustainability plan approved by the Boulder County Chief Building Official.

(h) *Giveaways*. Medical marijuana centers and dual medical marijuana centers and retail marijuana stores may not distribute to a consumer marijuana or marijuana-infused products free of charge.

(i) *Advertising*. All marijuana businesses are subject to the requirements of the Boulder County Sign Code and the restrictions on advertising and marketing under the CRMC. 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 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 County or on the internet; (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth.

(j) *Sponsorship*. 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.

Article 9: Inspection.

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 Authority, its designee, and the Boulder County Building Official or the official's designee, to enter upon and inspect the premises. Such inspections, if necessary, shall take place at a reasonable time with prior notice to the property owner, and prior to a determination on the application. Upon request, the owner of the premises shall timely provide the Authority with records related to the business, including, but not limited to, utility bills from the commercial energy provider for the premises. This section shall not limit any inspection authority authorized under any other provision of law or regulation.

Article 10: Decision and Appeal

(a) The Authority, in its sole discretion, may delay issuing a decision on a license application while the applicant is working toward bringing a noncompliant property into compliance. Applicants receiving the benefit of such a delay must proceed to correct the noncompliance diligently and in good faith or be subject to denial.

(b) A determination by the Land Use Director, under Section 8(a)(2) above, that the use is not permitted or that the owner or operator has not obtained the required approvals under the Land Use Code, shall constitute a final decision of the Director appealable to the County Board of Adjustment under the applicable provisions of Article 4 of the Land Use Code. When the Authority receives such a determination, the Authority shall not issue a decision on the licensing application for thirty days.

(c) If the applicant files an appeal to the Board of Adjustment, the Authority shall not issue a decision on the licensing application until such appeal is finally resolved. Once the Authority has completed its review of the application, it shall either issue a local license or a denial letter that specifies the reasons for denial. Within ten days of a denial letter, the applicant may request that the Authority reconsider its decision by submitting a letter to the Authority clearly stating the grounds for the request. In response, the Authority may deny the request, issue a revised denial letter, or issue a local license. A denial letter, revised denial letter, or local license is subject to judicial review as specified under Colorado Rule of Civil Procedure 106(a)(4), but issues that were or could have been decided by the Board of Adjustment may not be raised in such a proceeding.

(d) Pre-existing business operating under Article 3(c) must cease operation within 45 days after the issuance of a denial letter or revised denial letter, as applicable.

Article 11: Changes in License.

(a) *Transfer of Ownership*. Any license issued under these regulations is not transferable or assignable. Any change of ownership shall require a new license.

(b) *Change of Location*. Any license granted under these regulations is limited to the location(s) specified on the license application. Operation of a medical marijuana center, optional premises cultivation facility, medical marijuana-infused products manufacturing, retail marijuana store, retail marijuana cultivation facility, retail marijuana manufacturing facility, marijuana testing facility, or an off-premises storage facility at a new location requires a new license.

(c) *Modification of premises*. Modification of any building structure where a medical marijuana center, optional premises cultivation facility, medical marijuana-infused products manufacturing, retail marijuana store, retail marijuana cultivation facility, retail marijuana manufacturing facility, marijuana testing facility, or an off-premises storage facility is located is subject to all applicable provisions of the Land Use Code and County Building Code. In addition, upon the application for a building permit to modify a licensed premises, or upon the addition of grow lights to an optional premises cultivation facility or a dual operational premises cultivation facility/ retail marijuana cultivation facility, the licensee shall notify the Authority in writing regarding the nature of the modification and pay the modification fee.

Article 12: Term of license; renewal.

A retail marijuana store license, retail marijuana cultivation facility license, or retail marijuana manufacturing facility license shall be valid for a period of one year or upon the expiration and non-renewal of the associated license, whichever occurs first. Any other local license issued under these regulations shall be valid for a period of two years from the date of issuance. 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. Applications for renewals shall be processed in the same manner as new licenses under these regulations. A licensee shall submit a renewal application, along with all renewal and operation

fees, at least 45 days before the expiration of the license. 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.

Article 13: Violations

The Authority shall revoke a license upon a final decision by the Authority that the licensee violated these Regulations. If the Authority determines that a violation of these regulations has occurred, the Authority shall document the violation and notify the violator in writing. Within ten days of such notice, the applicant may provide a written response by submitting a letter to the Authority clearly stating its position. In response, the Authority may make a final decision, request additional information or conduct additional investigation prior to issuing a final decision, or withdraw the violation determination. A final decision is appealable under Colorado Rule of Civil Procedure 106(a)(4). A licensee may continue to operate during the pendency of an appeal. The Authority may grant extensions of deadlines under this Article for good cause shown.

Article 14: Application Fees.

A. Fees for a medical marijuana center license, optional premises cultivation license, medical marijuana-infused products manufacturing license, or off-premises storage license:
Application fee $3500
Renewal fee $2500
Operating fee . . . . . .$ 500
License modification fee $1000
Pending application modification fee . . $ 125

B. For a retail marijuana store license, retail marijuana cultivation facility license, retail marijuana manufacturing facility license, or marijuana testing facility license:
Application Fee* . . . . . $ 250
*to be received from the state before the application is deemed complete
Operating fee $4000
License modification fee $1000

Only one application or renewal fee shall be required per business, except that (1) a business in multiple locations in unincorporated Boulder County must pay licensing and renewal fees for each location, and (2) separate application and renewal fees are required for all retail marijuana licenses. The operating fee may be refunded if the Authority denies the application. All other fees are nonrefundable. The Board of County Commissioners has authority to set and amend fees.

Article 15: 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.

Chapter 5.12 MARIJUANA LICENSING

5.12.010 Establishment.

The provisions of these regulations have been adopted and established pursuant to an official resolution of the Pueblo County Board of County Commissioners No. 11-139, dated June 21, 2011. Thereafter these Regulations have been amended and restated in their entirety by official resolutions of the Pueblo County Board of County Commissioners, No. 11-240, dated November 15, 2011, and No. 13-216, dated October 9, 2013. (Res. 11-139, 11-240 and 13-216, 14-03)

5.12.020 Authority and Jurisdiction.

The provisions of this Chapter 5.12 of the Pueblo County Code shall be known and may be cited as the Pueblo County Marijuana Licensing Regulations. The Board of County Commissioners hereby declares that this Chapter shall be deemed an exercise of the police powers of the Board of County Commissioners of the County of Pueblo, Colorado, for the furtherance and protection of the health, safety and welfare of the citizens of unincorporated Pueblo County. This Chapter is further adopted and established pursuant to the specific authority granted to Pueblo County in the provisions of the Colorado Marijuana Code, Article 43.3 of Title 12, C.R.S., Section 16 of Article XVIII of the Colorado Constitution, and the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S. The jurisdiction in which these regulations shall be applicable consists of the entire area of unincorporated Pueblo County. These regulations shall govern the cultivation, manufacture, distribution, testing, and sale of medical marijuana, retail marijuana, medical marijuana-infused products, and/or retail marijuana-infused products in unincorporated Pueblo County and shall further govern all persons who attempt to establish and/or who, in fact, establish a business or operation engaged in the cultivation, manufacture, sale, testing or distribution of medical or retail marijuana or medical or retail marijuana-infused products in unincorporated Pueblo County. (Res. 11-139, 11-240 and 13-216)

5.12.030 Local Licensing Authority.

A. The Board of County Commissioners shall serve as the licensing authority for medical marijuana and retail marijuana for the purpose of regulating and controlling

the licensing of the cultivation, manufacture, distribution, testing and/or sale of medical marijuana, retail marijuana, medical marijuana-infused products, and/or retail marijuana-infused products in unincorporated Pueblo County and is hereby designated to act as the local licensing authority for the County within the meaning of the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., and the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.

B. In addition, Board of County Commissioners shall have the power and authority to suspend, fine, restrict or revoke such licenses upon a violation of this Chapter, or any rules subsequently promulgated pursuant to this Chapter and/or upon a violation of the provisions of Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., and the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.

C. Nothing in this Chapter shall be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a license issued pursuant to this Chapter. (Res. 11-139, 11-240 and 13-216)

Section 5.12.040 Definitions.

Unless otherwise defined herein, the terms in this Chapter shall have the same meaning as set forth in Sections 14 and 16 of Article XVIII of the Colorado Constitution, Article 43.3 and Article 43.4 of Title 12, C.R.S. and any rules promulgated pursuant thereto. The following words and phrases, when used in this Chapter, shall have the meanings respectively assigned to them:

1. "Advertise, advertising or advertisement" means the act of drawing the public's attention to a Medical or Retail Marijuana Establishment's premise or name in order to promote the sale of marijuana or marijuana products.
2. "Colorado Marijuana Code" means both the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code as defined herein.
3. "Colorado Medical Marijuana Code" means Section 14 of Article XVIII of the Colorado Constitution and Article 43.3 of Title 12 of the Colorado Revised Statutes, as amended and any rules promulgated pursuant thereto.
4. "Colorado Retail Marijuana Code" means Section 16 of Article XVIII of the Colorado Constitution and Article 43.4 of Title 12 of the Colorado Revised Statutes, as amended and any rules promulgated pursuant thereto.
5. "Good Cause", for purposes of refusing or denying an initial license issuance, or for refusing or denying a license renewal or reinstatement, means:
    a. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Chapter, of State law, of any regulations and rules promulgated pursuant to State law, or any supplemental local rules and regulations;
    b. 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 Licensing Authority or of the Board of County Commissioners as the Local Licensing Authority;
    c. The licensed premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood

in which the establishment is located.

6. "License" means to grant a license or registration pursuant to this Chapter.
7. "Licensed Premises" means the premises specified in an application for a license under this Chapter, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, test, or sell marijuana in accordance with the provisions of this Chapter and in accordance with the provisions of the Colorado Marijuana Code and any rules adopted pursuant thereto.
8. "Licensee" means a person licensed or registered pursuant to this Chapter.
9. "Limited Access Areas" means and shall be a building, room or other contiguous area upon the licensed premises where marijuana is grown, cultivated, stored, weighed, displayed, packaged, sold or possessed for sale, under control of the licensee, with limited access to only those persons licensed by both the State Licensing Authority and the local Licensing Authority.
10. "Local Licensing Authority" means the Board of County Commissioners of the County of Pueblo, Colorado, or its designee.
11. "Location" means a particular parcel of land that may be identified by an address or other descriptive means.
12. "Marijuana" means both Medical Marijuana and Retail Marijuana as those terms are defined herein.
13. "Marijuana Establishment" means both a Medical Marijuana Establishment and a Retail Marijuana Establishment as those terms are defined herein.
14. "Medical Marijuana" means marijuana that is grown and sold pursuant to the provisions of these regulations, the Colorado Medical Marijuana Code and Section 14 of Article XVIII of the Colorado Constitution.
15. "Medical Marijuana Center" means a person licensed pursuant to this Chapter and pursuant to C.R.S. § 12-43.3-101, et seq., to operate a business as described in these regulations and as is further described in C.R.S. § 12-43.3-402 that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Constitution of the State of Colorado, but is not a primary caregiver.
16. "Medical Marijuana Establishment" means a medical marijuana center, medical marijuana-infused products manufacturing operation, optional premise cultivation operation, or a storage warehouse.
17. "Medical Marijuana-Infused Product" means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including, but not limited to edible products, ointments, and tinctures.
18. "Medical Marijuana-Infused Products Manufacturer" means a person licensed pursuant to this Chapter and to C.R.S. § 12-43.3-101, et seq. to operate a business as described in these regulations and as is also described in C.R.S. § 12-43.3-404.
19. "Openly and Publicly" for the purpose of consuming marijuana means on public property or a place of business open to the public without restrictions such as a restriction on age or a membership requirement.
20. "Operating fees" means fees that must be paid by a Retail Marijuana Establishment licensee for the costs of administering and enforcing this Chapter.
21. "Optional Premises" means the premises specified in an application for a medical marijuana center license with related growing facilities in Pueblo County, Colorado for which the licensee is authorized to grow and cultivate marijuana for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

22. "Optional Premises Cultivation Operation" means a person licensed pursuant to this Chapter and the Colorado Medical Marijuana Code as defined therein.
23. "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, or officer thereof; except that "Person" does not include any governmental organization.
24. "Premises" means a distinct and definite location, which may include a building, a part of a building, a room or any other definite contiguous area.
25. "Retail Marijuana" means marijuana that is grown, tested, manufactured, and/or sold pursuant to the provisions of these regulations, the Colorado Retail Marijuana Code and Section 16 of Article XVIII of the Colorado Constitution.
26. "Retail Marijuana Cultivation Facility" means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code as defined therein.
27. "Retail Marijuana Establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana product manufacturing facility, storage warehouse, or a retail marijuana testing facility as set forth in Section 16 of Article XVIII of the Colorado Constitution and as may be more fully defined in the Colorado Retail Marijuana Code.
28. "Retail Marijuana-Infused Products Manufacturer" means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code as defined therein.
29. "Retail Marijuana Store" means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code as defined therein.
30. "Retail Marijuana Testing Facility" means a person licensed pursuant to this Chapter and the Colorado Retail Marijuana Code as defined therein.
31. "School" means a public or private elementary, middle, junior high or high school.
32. "State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of marijuana in this State pursuant to the Colorado Marijuana Code.
33. "Storage Warehouse" shall mean a premise permitted to store marijuana pursuant to this Chapter and the Colorado Marijuana Code as defined therein. (Res. 11-139, 11-240 and 13-216)

5.12.050 General Provisions.

A. All persons who are engaged in or who are attempting to engage in the cultivation, manufacture, distribution, testing and/or sale of marijuana in any form shall do so only in strict compliance with the terms, conditions, limitations and restrictions in Section 14 and Section 16 of Article XVIII of the Colorado Constitution, the Colorado Marijuana Code, this Chapter, the provisions of the Pueblo County Code Title 17, and all other State and local laws and regulations.
B. The Local Licensing Authority is authorized to make rules consistent with the intent and spirit of this Chapter concerning the applications, the application process, the information required of applicants, the application procedures and the administration and procedures to be used and followed in the application and hearing process. (Res. 11-139, 11-240 and 13-216)

5.12.060 Types of Licenses.

A. The Board of County Commissioners as the medical and retail marijuana Local Licensing Authority is authorized to issue the following types or classes of licenses for the purpose of regulating Marijuana Establishments. The Board of County Commissioners, in its discretion, and upon application in the prescribed form made to it, may issue and grant to an applicant a Marijuana Establishment license subject to the provisions and restrictions provided in this Chapter 5.12, from any of the following classes:
    1. Medical Marijuana Center License;
    2. Medical Marijuana Optional Premises Cultivation License;
    3. Medical Marijuana-Infused Products Manufacturing License;
    4. Retail Marijuana Store License;
    5. Retail Marijuana Cultivation Facility License;
    6. Retail Marijuana-Infused Products Manufacturing License;
    7. Retail Marijuana Testing Facility License;
    8. Storage Warehouse License.
B. Notwithstanding anything herein to the contrary, prior to December 31, 2014, only a person who has applied for a medical marijuana center license; a medical marijuana optional premises cultivation license; or a medical marijuana-infused products manufacturing license located in Pueblo County on or before December 31, 2013 may apply for a Retail Marijuana Store license.
C. Until December 31, 2014, the number of Retail Marijuana Store licenses issued by Pueblo County shall be limited to no more than ten.
D. It shall be unlawful for any person to hold a medical marijuana center or retail marijuana store license in Pueblo County, unless the person also holds a respective medical marijuana optional premises cultivation license or retail marijuana cultivation facility license in Pueblo County. This provision shall not limit a medical marijuana center or retail marijuana store's ability to purchase or sell marijuana outside of Pueblo County. (Res. 11-139, 11-240 and 13-216)

5.12.070 Standards.

A. A license provided by this Chapter shall not be issued to or held by any person or entity prohibited as licensees under the provisions of this Chapter and the Colorado Marijuana Code.
B. The Local Licensing Authority shall not receive or act upon an application for the issuance of a local license pursuant to these regulations:
    1. Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement or other arrangement for possession of the premises, or by virtue of ownership of the premises;
    2. For a location in an area where the cultivation, manufacture, distribution, storage, testing, and/or sale of marijuana as contemplated herein is not

expressly permitted under the provisions of the Pueblo County Code, Title 17, Division 1, Zoning. Further, the Licensing Authority shall not receive or act upon an application for the issuance of a local license pursuant to these regulations for a location in an area where the cultivation, manufacture, distribution, storage, testing, and/or sale of marijuana as contemplated herein where such location does not meet and comport with the distance, isolation and/or separation distances required for such uses under the provisions of the Pueblo County Code, Title 17, Division 1, Zoning.

C. The Local Licensing Authority may, in its discretion, deny the grant of a license provided by this Chapter to any person or entity who has prior to or on the date of the application made misrepresentations concerning the business for which the license is being sought on the application or on any of the submittals made with an application.

D. In deciding whether to approve or deny the application for a license pursuant to this Chapter, the Local Licensing Authority may consider the facts and evidence adduced as a result of any investigation which has been made into the character and background of the proposed licensee, its owners, officers, directors, agents, servants and/or employees and the sources of its financial investment, as well as any other fact appurtenant to the type of license for which the application has been made and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

E. The Local Licensing Authority may deny a license if the evidence presented does not establish that the premises upon which the license is to be located can be operated by the licensee in a manner that will not adversely affect the public health or welfare or the safety of the immediate neighborhood in which the establishment is to be located or for good cause. The Local Licensing Authority may place conditions upon the approval of any license which are reasonably related to the furtherance, in the opinion of the Local Licensing Authority, and protection of the health, safety and welfare of the neighborhood in which the establishment is to be located and of the general public.

F. Prior to granting a license, the Local Licensing Authority may further consider all of the requirements of this Chapter, the Colorado Marijuana Code, any applicable state or local law or regulation, and all other reasonable restrictions that are or may be placed upon the licensee by the Licensing Authority.

G. An approved license, and the licensee approved pursuant to this Chapter shall, at all times, meet and comply with the following operating conditions and standards:

1. A Medical Marijuana Establishment shall not acquire, possess, cultivate, deliver, transfer, transport, supply, or dispense marijuana for any purpose except to assist the patients as defined by Section 14(1) of Article XVIII of the Colorado Constitution or other applicable state law.
2. A Retail Marijuana Establishment shall not acquire, possess, cultivate, deliver, store, test, transfer, transport, supply, or dispense marijuana for any purpose except as permitted by the Colorado Retail Marijuana Code.
3. No license otherwise approved pursuant to this Chapter shall issue until the license, application fees and any licensing or operating fees due to the State of Colorado and/or the County of Pueblo have been fully paid and received. Licenses granted pursuant to this Chapter shall be valid for a period not to exceed one year from the date of issuance unless revoked or suspended pursuant to this Chapter and/or pursuant to the provisions of State law and regulation.

4. At all times subsequent to the issuance of a license under this Chapter, a licensee shall possess and maintain possession of the premises or optional premises for which the license is issued by ownership, lease, rental or other arrangement for possession and use of the premises.
5. A licensee of a license issued pursuant to this Chapter shall report each transfer or change of financial interest in the license and/or the licensee to the Local Licensing Authority prior to any such transfer or change pursuant to and in accordance with the provisions of the Colorado Marijuana Code. A report shall be required for transfers of capital stock of any corporation regardless of size, for transfers of member interests of any limited liability company regardless of size and for any transfer of an interest in a partnership or other entity or association regardless of size.
6. The Local Licensing Authority in its discretion may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for a period of at least one year.
7. The licensed premises, including but not limited to any places where medical marijuana is grown, stored, cultivated, sold, tested or dispensed, shall be subject to inspection by the Local Licensing Authority or its designee, and any other state or local law enforcement personnel during all business hours and other times of apparent activity, for the purpose of inspection or investigation. The Local Licensing Authority and its designee may conduct unannounced or covert compliance inspections. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay and, upon request by authorized representatives of the Local Licensing Authority, the licensee shall open the area for inspection. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.(Res. 11-139, 11-240 and 13-216)

5.12.080 Applications: Procedures, Hearings and Determinations.

A. The Local Licensing Authority or its designee shall be the administrative agent for the purposes of disseminating applications for licenses pursuant to this Chapter and related materials, for the purpose of receiving applications and fees and for the purpose of making determinations of completeness. Upon receipt of a Marijuana Establishment application, the Local Licensing Authority or its designee shall review the application for completeness.
B. An application for a license identified in Section 5.12.060 of these regulations shall be filed with the State Licensing Authority and shall contain such information as the State Licensing Authority may require, and with the Local Licensing Authority on any additional forms as the Local Licensing Authority may require. Each application and any supporting documentation or submittals shall be verified by the oath or affirmation of the persons submitting the application and any other person as may be

prescribed by the State or Local Licensing Authority.

C. An applicant shall file at the time of application for a license pursuant to this Chapter plans and specifications for the interior of the building if the building to be occupied is in existence at the time of the application. If the building is not in existence at the time of the application, the applicant shall file a plot plan and a detailed sketch for the interior and shall further submit an architect's drawing of the building to be constructed. The local or State licensing authority may impose additional requirements necessary for making a determination of completeness and further submission of the application to the Local Licensing Authority for consideration of approval.

D. An applicant shall file with the Local Licensing Authority the following at the time of application for a license pursuant to this Chapter.
   1. An operating plan for the proposed Marijuana Establishment including the following information:
      a. A description of the products and services to be provided by the facility.
      b. A floor plan showing all interior dimensions of the licensed premises and the layout of the Marijuana Establishment, including all limited access areas, areas of ingress and egress, and all security cameras. Such floor plan shall also show the principal uses of the floor area depicted therein; For cultivation facilities, such floor plan shall distinguish all dimensions of areas in which plants are located;
      c. A description of the design of the establishment evidencing that the design conforms to applicable Pueblo County laws;
      d. A security plan indicating how the applicant intends to comply with the requirements of the Colorado Marijuana Code.
   2. A statement of whether or not any person holding any ownership interest has:
      a. Been denied an application for a Marijuana Establishment license by the state in this or any other jurisdiction or had such a license suspended or revoked; and
      b. Been convicted of a felony or has completed any portion of a sentence due to a felony charge within the preceding five (5) years.
   3. Proof that the applicant has completed and satisfied the Zoning Compliance Review as required by Title 17, Division I, Zoning of the Pueblo County Code.
   4. All licensing, operating, and other fees due and payable to operate a Marijuana Establishment as determined by the Local Licensing Authority.
   5. Any additional document(s) or information reasonably requested by the Local Licensing Authority.

E. The Local Licensing Authority or its designee shall inform the applicant in writing of its determination on the question of whether or not the application is complete within twenty (20) days of its receipt of the application. Such determination shall be expressed in writing and shall identify those matters which prevent the determination of completeness or which shall inform that the application has been accepted as being complete. An applicant who has been denied a determination of completeness may resubmit the application to correct any deficiencies in completeness.

F. Upon receipt of an application for a license and upon a determination by the Local Licensing Authority that the same is complete in accordance with these regulations, the Local Licensing Authority shall schedule a public hearing upon the application to be held not less than thirty (30) days after the date of the determination of completeness. The Local Licensing Authority shall post and publish public notice of

such hearing not less than ten days prior to the hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and, further, by publication in a newspaper of general circulation in Pueblo County. Notice given by posting shall include a sign, not less than 22" wide and 26" high, composed of letters not less than one inch in height and stating the type of license applied for, the date that the application has been determined to be complete, the date of the hearing, the name and address of the applicant and such other information as may be required to apprise the public of the nature of the application. The sign shall also contain the names and addresses of the officers, directors, or managers of the facility to be licensed. The notice given by publication shall contain the same information. If the building in which the marijuana is to be manufactured, cultivated, or sold is in existence at the time of the application, a sign shall be posted in such place so as to be conspicuous and plainly visible to the general public. If the building is not yet constructed at the time of application, the applicant shall post a sign at 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.

G. No less than ten days prior to the date of a scheduled public hearing on a license application, the Local Licensing Authority shall make known, based upon its investigation to date, its findings concerning the initial requirements of an application and its preliminary findings concerning whether or not the same appears to meet the standards and requirements set forth in this Chapter. The writing shall be directed to the applicant and copies of the same shall be made available to other parties of interest. Nothing in the initial findings issued prior to the hearing shall conclusively bind the Local Licensing Authority who after the hearing has the authority to refuse to issue a license for good cause in accordance with the terms and provisions and conditions and standards of these regulations and those set forth in State law and regulation.

H. Prior to making its final decision approving or denying the application, the Local Licensing Authority may consider the facts and evidence adduced as a result of its preliminary investigation as well as the facts and evidence adduced and presented at the hearing as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of Marijuana Establishments located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed and whether the applicant will comply with this Chapter and the Colorado Marijuana Code.

I. Within 30 days after the public hearing, the Local Licensing Authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and shall state the reasons for the decision. The Local Licensing Authority shall send a copy of the decision by certified mail to the State and to the applicant at the address shown on the application. Any decision approving a license application may include certain conditions imposed by the Local Licensing Authority in addition to compliance with all of the terms and conditions of this Chapter and compliance with State law and regulation.

J. The Local Licensing Authority may deny any application for a license that is not in compliance with this Chapter, the Colorado Marijuana Code, any other applicable state or local law or regulation, or for good cause. Notwithstanding, the Local License Authority may issue a conditional or stipulated license.

K. In the event that the Local Licensing Authority approves an application, the license shall not issue until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the applicable provisions of State law and regulations promulgated pursuant thereto and then only after the Local Licensing Authority has inspected the premises to determine that the applicant has complied with the architect's drawing and the plot plan and the detailed sketch for the interior of the building submitted with the application.
L. A license provided and issued pursuant to this Chapter shall specify the date of issuance, the period of licensure (1 year from the date of issuance) the name of the licensee and the premises licensed. The licensee shall conspicuously place the license at all times on the licensed premises or upon an optional premises license pursuant hereto.
M. Subsequent to the issuance of a license, a licensee shall report each transfer or change of financial interest in the license to the Local Licensing Authority prior to any transfer or change.
N. The Local Licensing Authority shall issue a license under this article when, after thorough consideration of the application, and from review of such other information as required by this Chapter or the Marijuana Code, the Authority determines that the applicant complies with all of the requirements of this Chapter and the Colorado Marijuana Code.
O. A Marijuana Establishment shall notify the Local Licensing Authority in writing within 10 days after an owner, officer, or employee ceases to work at, manage, own or otherwise be associated with the operation. The owner, officer or employee shall surrender his or her identification card to the State Licensing Authority on or before the date of notification. A licensed operation shall also notify the Local Licensing Authority in writing of the name, address, and date of birth of an owner, officer, manager or employee within ten days of the new owner, officer or employee begins working at, managing, owning or being associated with the operation. (Res. 11-139, 11-240 and 13-216)

5.12.090 Transfer of Ownership.

A. A license granted under the provisions of this Chapter shall not be transferrable to any other person except as provided in this Chapter.
B. For a transfer of ownership, a license holder shall apply to the State and local licensing authorities on forms specifically prepared and furnished for this purpose by the State Licensing Authority. In determining whether to permit a transfer of ownership, the Local Licensing Authority shall consider the requirements of the Colorado Marijuana Code. In addition, no application for a transfer of ownership will be considered by the Local Licensing Authority if, at the time of such application, the licensee is under a notice of violation or other unlawful acts issued by either the Local Licensing Authority or the State Licensing Authority.
C. The Local Licensing Authority may hold a hearing on a request for transfer of ownership, but not prior to the posting of a notice of said hearing on the licensed

premises for a period of at least 10 days prior to the hearing and, further, a notice of the hearing has been issued to the applicant at least ten days prior to the hearing. Notice of such hearing and, further, the hearing itself, shall comply with the requirements for a hearing upon an application for a local license as are more particularly set forth in section 5.12.080 of this Chapter. (Res. 11-139, 11-240 and 13-216)

5.12.100 License Renewals.

A. A licensee shall apply for the renewal of an existing license to the Local Licensing Authority not less than 45 days prior to the date of the expiration of the license. Except as hereinafter provided, the Local Licensing Authority shall not accept an application for renewal of a license after the date of expiration.
B. The Local Licensing Authority may, in its discretion, schedule a hearing on the application for renewal if the licensee has had complaints filed against it, or if the licensee has a history of violation(s), if the licensee has committed any unlawful acts as specified herein and/or if there are allegations against the licensee that would constitute good cause as that term is defined herein. In the event that a hearing is scheduled, notice of such hearing shall be posted on the licensed premises for a period of 10 days prior to the hearing and the applicant shall be notified of such hearing at least 10 days prior to the hearing. The hearing and the more specific requirements of notice shall comport with the other provisions of this Chapter concerning public hearings. All renewal applications shall be approved by the Local Licensing Authority if no hearing is scheduled. The Local Licensing Authority may refuse to renew any license for good cause as that term is defined in these regulations.
C. Notwithstanding the provisions of the previous subsections of this Section, a licensee whose license has expired for not more than 90 days may file a late renewal application upon the payment of a nonrefundable late license fee of five hundred dollars ($500.00) to the Local Licensing Authority. A licensee who files a late renewal application and pays the requisite fee may continue to operate until the Local Licensing Authority has taken final action to approve or deny the licensee's late renewal application.
D. The Local Licensing Authority shall not accept a late renewal application more than 90 days after the expiration of the licensee's permanent annual license. A licensee whose license has been expired for more than 90 days shall not, under any circumstances, cultivate, manufacture, distribute, test or sell any marijuana until a new required license has been obtained. (Res. 11-139, 11-240 and 13-216)

5.12.110 Change of Licensed Location.

A. A licensee may apply to the Local Licensing Authority to change the location

previously approved for such license to any other place in unincorporated Pueblo County, but it shall be unlawful to cultivate, manufacture, distribute, test, store or sell medical or retail marijuana at any such place or location until express permission to do so is granted by the State and the Local Licensing Authority.

B. A Retail Marijuana Establishment licensee in any Colorado jurisdiction may transfer its license to Pueblo County so long as the State approves the transfer and the applicant completes the application and hearing process set forth in section 5.12.080 herein and otherwise complies with all the requirements of this Chapter and the Colorado Marijuana Code. It shall be unlawful to cultivate, manufacture, distribute, test, store or sell medical or retail marijuana at any such place or location until express permission to do so is granted by the State and the Local Licensing Authority.

C. In permitting a change of location, the Local Licensing Authority shall consider all reasonable restrictions that are placed upon the current license and/or which may be placed upon the new location by the Local Licensing Authority pursuant to the hearing process set forth in section 5.12.080 and provided the new location complies with the provisions of Pueblo County Code Title 17. (Res. 11-139, 11-240 and 13-216)

5.12.120 Dual Operation.

A. A person who holds both a license to operate a Medical Marijuana Establishment and a license to operate a Retail Marijuana Establishment may operate both licenses in the same premises ("dual operation") provided the licensee meets the requirements of the Colorado Marijuana Code and this Chapter.

B. A medical marijuana center licensee may also hold a retail marijuana store license and operate a retail business operation on the same licensed premises provided that the licensee does not authorize patients under the age of 21 years to be on the premises. The licensee must post signage that clearly states "You must be 21 years of age or older to enter this premises." The licensee may display both medical marijuana and retail marijuana on the same sale floor, provided the licensee maintains virtual separation of its inventory. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises cannot share its premises with a retail marijuana establishment and the two shall maintain distinctly separate licensed premises.

C. A medical marijuana optional premise cultivation operation licensee may also hold a retail marijuana cultivation license on the same premises. Persons operating dual medical and retail cultivation operations shall maintain virtual separation of the facilities, marijuana plants, and marijuana inventory.

D. A medical marijuana-infused product manufacturer licensee may also hold a retail marijuana-infused product manufacturer license on the same premises. Persons operating a medical marijuana-infused products manufacturing business and a retail marijuana products manufacturing facility shall maintain virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory.

E. On and after January 1st, 2016 no dual premises shall be permitted for a retail marijuana store or medical marijuana center and each premise licensed hereto shall

designate either a retail marijuana store or a medical marijuana center. (Res. 13-216)

5.12.130 Fees.

A. Operating fees and all other fees necessary for the administration, regulation, and implementation of this Chapter are as follows:
   1. Initial Operating Fees
      a. Medical Marijuana Center: $5000.00
      b. Medical Marijuana Optional Premise Cultivation Facility: $5000.00
      c. Medical Marijuana Infused Product Manufacturing Facility: $5000.00
      d. Retail Marijuana Store: $6000.00
      e. Retail Marijuana Cultivation Facility: $5000.00 plus:
         i. $.50 per square foot of the portion of the licensed premise in which plants are located for indoor cultivation facilities, including greenhouses, but not to exceed a total of $15,000.00;
         ii. $.25 per square foot of the portion of the licensed premise in which plants are located for outdoor cultivation facilities, but not to exceed a total of $15,000.00.
      f. Retail Marijuana Infused Product Manufacturing Facility: $6000.00
      g. Retail Marijuana Testing Facility: $1500.00
      h. Storage Warehouse: $1500.00
   2. Administrative Operating Fees
      a. Change of Location Fee: $250.00
      b. Modification of Premises Fee: $50.00
      c. Change of Ownership Fee: $250.00
   3. Annual Renewal Fees
      a. Medical Marijuana Center: $2500.00
      b. Medical Marijuana Optional Premise Cultivation Facility: $2500.00
      c. Medical Marijuana Infused Product Manufacturing Facility: $2500.00
      d. Retail Marijuana Store: $6000.00
      e. Retail Marijuana Cultivation Facility: $2500.00 plus:
         1. $.50 per square foot of the portion of the licensed premise in which plants are located for indoor cultivation facilities, including greenhouses;
         2. $.25 per square foot of the portion of the licensed premise in which plants are located for outdoor cultivation facilities.
      f. Retail Marijuana Infused Product Manufacturing Facility: $6000.00
      g. Retail Marijuana Testing Facility: $1500.00
      h. Storage Warehouse: $1500.00
B. At least annually, the amount of fees charged pursuant to this section shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs incurred by the County in connection with the administration and enforcement of this chapter. The Local Licensing Authority by rule or regulation shall set the due dates for any fee due pursuant to this section. (Res. 11-139, 11-240 and 13-216, 14-03)

5.12.140 Unlawful Acts: License Violations and Enforcement.

A. It is unlawful and a violation of the terms and conditions of every license issued under this Chapter to cultivate, manufacture, distribute, store, test or sell marijuana, except in compliance with the terms, conditions, limitations and restrictions in Sections 14 and 16 of Article XVIII of the State Constitution, the Colorado Marijuana Code, the provisions of this Chapter, and any conditions imposed on a license pursuant to this Chapter, and the provisions of the Pueblo County Code, Title 17, Division 1, Zoning.

B. It shall be unlawful for any person to engage in any form of business or commerce directly involving the cultivation, processing, manufacturing, sale, or testing of marijuana other than those forms of businesses and commerce that are expressly contemplated by this Chapter and the Colorado Marijuana Code

C. It shall be unlawful for any person to permit the consumption of marijuana on any premise open to the public unless
   1. The premise is limited to only those who are twenty-one years of age or older;
   2. The premise is clearly marked as place where marijuana is being consumed;
   3. The premise complies with the Colorado Clean Indoor Air Act and the Pueblo County Smoke Free Air Act;
   4. No alcohol is served on the premise unless the premise is licensed as any of the following:
      a. Art License;
      b. Beer and Wine License;
      c. Bed and Breakfast Permit;
      d. Brew Pub License;
      e. Club License;
      f. Hotel and Restaurant;
      g. Race Track;
      h. Retail Gaming Tavern License;
      i. Special Event Permits; or
      j. Vintner's Restaurant License;
   5. The consumption of marijuana is not done openly and publicly; and
   6. The premise otherwise complies with the provisions of Pueblo County Code Title 17, Division 1, Zoning.

D. It is unlawful and a violation of this Chapter for a Marijuana Establishment to operate until it has been licensed under this Chapter by the Local Licensing Authority and also licensed by the State Licensing Authority pursuant to the Colorado Marijuana Code.

E. It is unlawful and a violation of this Chapter and, further, a violation of each license issued pursuant to this Chapter for a person or licensee to commit any act or omission which is unlawful pursuant to the Colorado Marijuana Code. In addition to the criminal penalties specified therein, any licensee who commits any acts that are unlawful pursuant to this Chapter and/or pursuant to the Colorado Marijuana Code shall be subject to a summary suspension, a suspension, fines, and/or a revocation of its license.

F. In addition to any other civil or criminal sanction prescribed by Colorado law or rules promulgated pursuant thereto, the Local Licensing Authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee shall be afforded an opportunity to be heard, to fine, restrict,

suspend or revoke a license issued by the Local Licensing Authority for a violation by the licensee or by any of the agents or employees of the licensee of the provisions of this Chapter, the Colorado Marijuana Code and/or of any of the other terms, conditions or provisions of the license issued by the Local Licensing Authority. Summary suspension, suspension, revocation and/or fines may be imposed by the Local Licensing Authority and in commencing and concluding such actions, the Local Licensing Authority shall comport with the provisions of the Colorado Marijuana Code.

G. Each person licensed pursuant to this Chapter shall keep and maintain all records specified in the Colorado Marijuana Code and shall make the same open, at all times, during business hours for the inspection and examination of the Local Licensing Authority or its duly authorized representatives. A failure to maintain such records and to allow for inspection of the same as well as a failure to allow the inspection of the licensed premises by the Local Licensing Authority shall constitute a violation of this Chapter and such violation may, in the discretion of the Local Licensing Authority, form or constitute the basis for a summary suspension, a suspension, fines and/or revocation of the licensee's license.

H. No medical marijuana center or retail marijuana store approved pursuant to this Chapter may sell marijuana at any time except between the hours of 8:00am to 7:00pm for a medical marijuana center and between the hours of 8:00am to 11:00pm for a retail store, unless a more restrictive time is set by the Colorado Marijuana Code.

I. All sales receipts at retail marijuana stores shall contain the Statement, "It is illegal to transfer or sell marijuana or marijuana products to anyone under the age of 21."

J. All Retail Marijuana Establishments shall post a sign in a conspicuous location stating:

IT IS ILLEGAL TO SELL OR TRANSFER MARIJUANA TO ANYONE UNDER THE AGE OF TWENTY-ONE.

IT IS ILLEGAL TO SEND OR TRANSPORT MARIJUANA TO ANOTHER STATE.

THE POSSESSION OF MARIJUANA REMAINS A CRIME UNDER FEDERAL LAW.

K. A Marijuana Establishment shall be equipped with a proper ventilation system that filters the odor of marijuana.

L. In deciding whether a license should be fined, suspended or revoked in accordance with this section, and in deciding what conditions to impose in the event of a suspension, if any, the Local Licensing Authority shall consider:

1. The nature and seriousness of the violation;
2. Corrective action, if any, taken by the licensee;
3. Prior violation(s), if any, at the licensed premises by the licensee and the effectiveness of prior corrective action, if any;
4. The likelihood of recurrence;
5. All circumstances surrounding the violation;
6. Whether the violation was willful;
7. The length of time the license has been held by the licensee;
8. The number of violations by the licensee within the applicable twelve (12)

month period;
9. Previous sanctions, if any, imposed against the licensee;
10. Whether the licensee has a responsible vendor designation;
11. Whether the licensee supports other local businesses including without limitation the display of local art or use of local ancillary businesses;
12. Whether the licensee has contributed to or been involved in a charitable giving program; and
13. Any other factor making the situation with respect to the licensee or the licensed premises unique.

M. Notice of suspension or revocation shall be given by mailing the same in writing to the licensee at the licensee's last address of record with the Local Licensing Authority.

N. Any recommended stipulations or agreements between the licensee and the Local Licensing Authority shall be presented to the Local Licensing Authority at the hearing. The Local Licensing Authority in its discretion may:
1. Accept such stipulation or agreement and dispense with the hearing;
2. Allow limited testimony and evidence and, based thereon, accept such stipulation or agreement without a full hearing, or
3. Reject the stipulation and require a full hearing.

O. Requests to pay a fine in lieu of serving a suspension period shall be heard by the Local Licensing Authority before the suspension period is set to begin.

P. The remedies provided in this section are in addition to any other remedy provided by applicable law.

Q. Any party aggrieved by a final decision of the Local Licensing Authority may be appealed to a district court within twenty eight (28) days following the date of such decision pursuant to the provisions of Rule 106(a)(4), Colorado Rules of Civil Procedure. (Res. 11-139, 11-240 and 13-216, 14-03)

5.12.150 Reserved.

5.12.160 Compliance with State Law.

A. To the extent the State has adopted or adopts in the future any additional or stricter laws or regulations governing the sale or distribution of marijuana, the additional or stricter regulations shall control the establishment or operation of any Marijuana Establishment in Pueblo County. Compliance with any applicable State law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Chapter, and noncompliance with any applicable State law or regulation shall be grounds for fines, administrative action, revocation, or suspension of any license issued hereunder.

B. Any Marijuana Establishment licensed pursuant to this Chapter may be required to demonstrate, upon demand by the Local Licensing Authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises is in full compliance with any applicable State law or regulation. (Res.

13-216)

5.12.170 Storage Warehouses. Any person licensed pursuant to this Chapter may operate a storage warehouse for medical and/or retail marijuana provided they meet all the requirements of the Colorado Marijuana Code and the storage warehouse is proposed to be located in place where warehouses are permitted pursuant to Title 17, Division 1, Zoning. (Res. 13-216)

5.12.180 Marijuana Accessories. Any person twenty-one years of age or older is hereby authorized to manufacture, possess, distribute, sell or purchase marijuana accessories in conformance with Section 16 of Article XVIII of the Colorado Constitution, provided they meet all applicable state or local laws. (Res. 13-216)

5.12.190 Severability. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable. (Res. 13-216)

Source URL: http://county.pueblo.org/government/county/code/title5/chapter5-12

EXHIBIT 'A'

EAGLE COUNTY LAND USE REGULATIONS

ARTICLE 2

DEFINITIONS

SECTION 2-100. PURPOSE

The purpose of this Article is to define words, terms and phrases contained within these Land Use Regulations.

SECTION 2-110. DEFINITIONS

The following words shall have the following meanings when used in these Regulations.

RETAIL MARIJUANA BUSINESS means any Retail Marijuana Establishment as that term is defined in C.R.S. 12-43.4-103(17) and includes, but is not limited to, any business relating to retail marijuana cultivation, storage, manufacturing, sales, or testing.

SECTION 3-320. COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE

Table 3-320, "Commercial and Industrial Zone Districts Use Schedule", categorizes the uses that are applicable to the County's commercial and industrial zone districts.

A. **Symbols.** Table 3-320 utilizes the same symbols as are described in Section 3-300, Residential, Agricultural and Resource Zone Districts Use Schedule.

B. **Uses Not Listed.** Uses that are not listed in Table 3-320 shall be considered to be uses that are not allowed, unless one of the following occurs:

1. **Regulations Amended.** An amendment to these Land Use Regulations is adopted, pursuant to Section 5-230, Amendments to the Text of These Land Use Regulations or the Official Zone District Map, that lists the use in the table and indicates in which zone districts the use is a use by right, allowed by limited review, or allowed by special review and in which zone districts it is not allowed.

2. **Determination of Similar Use.** The Planning Director determines, pursuant to Section 5-220, Interpretations, that the proposed use is sufficiently similar to a use listed in Table 3-320, "Commercial and Industrial Zone Districts Use Schedule". A use that is determined to be similar to a listed use shall be subject to the same standards as the use to which it was determined to be similar.

TABLE 3-320 COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE					
Uses: R= Use By Right; L= Allowed by Limited Review; S = Allowed by Special Review; N = Not Allowed	**C/L[1]**	**C/G[1]**	**I[1]**	**RC[2]**	**Standards**
Retail Uses, Restaurants, Personal Services and Offices					
Adult Entertainment Uses	N	S	S	S	Sec. 3-330 H
Agricultural Equipment, Supplies and Materials Store	L	R	R	L	
Appliance Sales	R	R	N	R	
Appliance Service or Repair	L	R	N	S	
Art Gallery	R	R	N	R	
Auto Service Station and Repair Garage[3]	S	S	R	S	
Auto and Vehicle Parts Store	R	R	N	R	
Bank	R	R	N	R	
Barber or Beauty Shop	R	R	N	R	
Book, Music or Video Store	R	R	N	R	
Car Wash	R	R	R	L	
Clothing or Dry Goods Store	R	R	N	R	
Computer Sales Store	R	R	N	R	
Computer Service	R	R	R	R	
Drive-Through Facility	S	S	N	S	Sec. 3-330 A
Farmers Market	R	R	S	R	
Feed Store	R	R	N	R	
Food or Beverage Store or Bakery	R	R	N	R	

TABLE 3-320 COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE					
Uses: R= Use By Right; L= Allowed by Limited Review; S = Allowed by Special Review; N = Not Allowed	**C/L[1]**	**C/G[1]**	**I[1]**	**RC[2]**	**Standards**
Furniture Store	R	R	N	R	
Garden Supply and Plant Materials Store/Greenhouse/Nursery	R	R	R	R	Sec. 3-330 B
Tree Storage	R	R	R	R	Sec. 3-310 Aa
Hardware Store	R	R	N	R	
Indoor Amusement, Recreation or Theater	R	R	N	R	
Kennel	S	S	S	S	
Laundromat	R	R	N	R	
Laundry or Dry Cleaning Pick-Up Station	R	R	N	R	

TABLE 3-320 COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE					
Uses: R= Use By Right; L= Allowed by Limited Review; S = Allowed by Special Review; N = Not Allowed	**C/L[1]**	**C/G[1]**	**I[1]**	**RC[2]**	**Standards**

Medical or Dental Clinic, including acupuncture	R	R	N	R	
Medical Marijuana ***and Retail Marijuana*** Businesses	R	R	N	N	Sec. 3-330 I
Mortuary	R	R	N	R	
Nightclub, Bar or Tavern	L	L	R	L	
Office, Business or Professional	R	R	N	R	
Personal Adornment/Tattoo Parlor	R	R	N	R	
Pharmacy	R	R	N	R	
Photography Studio	R	R	N	R	
Print Shop or Publishing	R	R	N	R	
Private Club	R	R	N	R	

TABLE 3-320 COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE					
Uses: R= Use By Right; L= Allowed by Limited Review; S = Allowed by Special Review; N = Not Allowed	**C/L[1]**	**C/G[1]**	**I[1]**	**RC[2]**	**Standards**
Reading Room	R	R	N	R	
Resort Recreational Facility	N	N	N	S	
Restaurant	R	R	N	R	
Shoe Repair	R	R	N	R	
Studio for Conduct of Arts and Crafts	R	R	S	R	Sec. 3-330 C
Tailor Shop	R	R	N	R	
Vehicle, Aircraft and Pleasure Boat Rental	S	S	R	S	Sec. 3-330 D
Vehicle, Aircraft and Pleasure Boat Sales, Storage, Service or Repair	N	S	R	N	
Veterinary Hospital	S	S	S	S	
Industrial, Service-Commercial and Wholesale Uses[4]					
Assembly, which does not include any fabrication of parts	R	R	R	R	
Auto Wrecking	N	N	S	N	
Commercial Laundry or Dry Cleaning Plant	S	R	R	N	
Compost Facility	N	N	S	N	
Construction and Demolition Debris Facility	N	S	S	S	
Contractor Storage Yard	N	S	R	S	
Distribution Center	S	S	R	S	
Extraction and Processing of gravel, minerals, rocks, sand or other earth products	N	N	S	N	

TABLE 3-320 COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE					
Uses: R= Use By Right; L= Allowed by Limited Review; S = Allowed by Special Review; N = Not Allowed	**CL[1]**	**CG[1]**	**I[1]**	**RC[2]**	
Junkyard	S	S	S	S	

TABLE 3-320
COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE

Uses: R= Use By Right; L= Allowed by Limited Review; S = Allowed by Special Review; N = Not Allowed	**CL[1]**	**CG[1]**	**I[1]**	**RC[2]**	
Lumber Mill	N	N	S	N	
Lumber Yard	N	S	R	N	
Manufacture, Assembly or Preparation of Articles or Merchandise From Previously Prepared Materials	N	S	R	N	Sec. 3-330 E
Manufacture, Compounding, Processing, Packaging or Treatment of Products	N	N	L	N	Sec. 3-330 F
Manufacture, use or storage of explosives	N	N	S	N	
Motor Freight Depot	N	S	R	N	
Planer Mill	N	N	S	N	
Plant for Processing Natural Resources and Agricultural Materials	N	S[5]	S	N	
Recycling Collection or Drop Off Center	R	R	R	R	
Recyclable Materials Processing	S	S	S	S	
Recycling Operation	S	S	R	S	
Reduction or Disposal by Sanitary Landfill Method of waste materials, garbage, offal or dead animals; or refuse disposal area conducted under a landfill or sanitary landfill method	N	N	S	N	
Saw Mill	N	N	S	N	
Shop for Blacksmith, Cabinet Maker, Electrician Glazing, Machining, Plumbing, or Sheet Metal	N	S	R	N	
Telecommunication Facilities	S	S	S	S	
Transfer Station	S	S	R	S	
Truck Stop	N	S	R	S	
Warehouse or Storage Building, including mini-storage	S	L	R	N	
Wholesale Establishments, including sale of appliances, automotive and vehicular equipment, beverages, building materials, clothing, dry goods, feed, food, fuel, furniture, garden supply and plant materials, hardware and mobile homes	S	S	R	S	

TABLE 3-320
COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE

Uses: R= Use By Right; L= Allowed by Limited Review; S = Allowed by Special Review; N = Not Allowed	**CL[1]**	**CG[1]**	**I[1]**	**RC[2]**	
Residential Uses, Home Uses and Accommodations					
Day Care Center	L	S	S	L	Sec. 3-310 D
Day Care Home	L	L	N	L	Sec. 3-310 D
Dwelling Units	S	S	N	S	Sec. 3-330 G
Hotel or Motel	S	S	N	S	
Mobile Home Park	S	S	N	S	Sec. 3-310 Y
Nursing or Convalescent Home	S	S	N	S	
Recreational Vehicle Park	S	N	N	S	Sec. 3-310 Y
Public Facilities, Utilities and Institutional Uses					
Ambulance Facility	R	R	R	R	
Auditorium	S	N	N	S	
Church	S	S	N	S	
Community or Public Administration Building	S	S	N	S	
Educational Facility	S	S	N	S	
Fraternal Lodge	R	R	N	R	
Heliport	S	S	S	S	
Helistop	L	R	R	L	
Hospital	S	S	N	S	
Impound Lot	N	S	S	N	
Library	R	R	N	R	
Museum	R	R	N	R	
Open space or Greenbelt	R	R	R	R	

TABLE 3-320
COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS USE SCHEDULE

Uses: R= Use By Right; L= Allowed by Limited Review; S = Allowed by Special Review; N = Not Allowed	**CL[1]**	**CG[1]**	**I[1]**	**RC[2]**	
Park and Outdoor Recreation/Recreation Facilities	R	R	S	R	
Parking Lot or Garage (as the principal use of the parcel)	S	S	S	S	
Recycling Collection Center	R	R	R	R	
Post Office/Private Postal Facility	R	R	S	R	
Transportation Services	S	S	S	S	
Utilities, including water storage and treatment and wastewater treatment facilities	S	S	S	S	
Utility Distribution Facilities	R	R	R	R	
Utility Substation	S	S	S	S	

Water Impoundments	S	S	S	S	
Temporary Uses					
Temporary Building or Use	S	S	S	S	Sec. 3-310 W
General/Other Uses					
Solar Energy Device	R	R	R	R	Sec. 3-310 Bb
Small Hydro Electric Energy	S	S	S	S	Sec. 3-310 Cc
Small Scale Wind Energy Systems	S	S	R	S	Sec. 3-310 Dd
Large Scale Wind Energy Systems	N	N	S	N	

Notes:

1. Each allowed use shall not exceed 22,000 s.f. of floor area and shall only occur on a lot greater than one (1) acre in size. Any use by right that meets these standards may only be developed on a lot that was part of a subdivision approved by Eagle County for which site specific information was provided regarding lot layout, street pattern, drainage, landscaping and utilities; otherwise, the use shall be considered a use allowed by special review.

2. Any use listed in Table 3-300 as a use by right in the Residential Suburban Medium Density (RSM) zone district shall be considered a use by right in the Rural Center (RC) zone district. Any use listed in Table 3-300 as a use allowed by special review in the Residential Suburban Medium Density (RSM) zone district shall be considered a use allowed by special review in the Rural Center (RC) zone district.

3. Auto service station may also include a car wash.

4. In addition to the standards listed for particular uses, see also Article 4, Division 5, Commercial/Industrial Performance Standards.

5. Limited to processing of natural resources and agricultural materials for food and beverages or clothing.

(am 12/17/02) (am 09/11/07) (am 07/01/2011)

SECTION 3-330. REVIEW STANDARDS APPLICABLE TO PARTICULAR COMMERCIAL AND INDUSTRIAL USES

Certain uses are important to the County's character and functions, but may not be appropriate in all circumstances within a particular zone district. Such uses cannot be judged solely by standards common to all uses in the zone district or by the standards applicable to all uses that are allowed by review. They also require individualized standards to review their location, site plan, operating characteristics, intensity and similar factors.

Those uses in the County's commercial or industrial zone districts that require such additional standards are identified in the "Standards" column of Table 3-320, "Commercial and Industrial Zone Districts Use Schedule". The standards for each of these uses are established herein. The definitions of these uses are found in Section 2-110, Definitions. The following uses are addressed in this section:

A. Drive-in Facility

B. Garden and Plant Materials Store
C. Studio for Arts and Crafts
D. Vehicle, Aircraft and Pleasure Boat Rental
E. Manufacture, Assembly or Preparation of Articles or Merchandise from Previously Prepared Materials
F. Manufacture, Compounding, Processing , Packaging or Treatment of Products
G. Dwelling Units
H. Adult Entertainment Use
I. Medical Marijuana ~~Dispensary~~ ***and Retail Marijuana Businesses***

A. through H. – ***No Change***

I. Medical Marijuana ***and Retail Marijuana*** **Businesses.** *(orig. 2/23/2010) (am 07/01/2011)*

1. **Location.** Medical Marijuana ***and Retail Marijuana*** Businesses shall meet the following location requirements at time of their establishment:

   a. Medical Marijuana ***and Retail Marijuana*** Businesses are prohibited from locating within 200 feet of:

      (1) Any residence; excluding residential units that are located within mixed-use commercial/residential developments and free-standing residences located within the Commercial General or Commercial Limited zone districts,
      (2) Any drug or alcohol rehabilitation facility;
      (3) Any public community center or publicly owned or maintained building open for use to the general public;
      (4) Any public school or private school;
      (5) Any public park or playground; or
      (6) Any licensed child care facility.

   b. The 200 foot separation is measured in a direct line between the closest point of the building or unit, in the case of multi-tenant commercial or industrial buildings, within which the Medical Marijuana ***and/or Retail Marijuana*** Business establishment is located, and the closest point on the lot or parcel of land upon which any of the above itemized uses are located.

      In the instance where 50% or more of a freestanding commercial building is located outside of the 200 foot separation area then the entire building shall be deemed compliant with the 200 foot separation requirement.

   c. Medical Marijuana ***and Retail Marijuana*** Businesses shall not be allowed as a home occupation or home business as defined within Chapter 2, Article 2, Definitions of these Land Use Regulations.

2. **Requirements.** All Medical Marijuana ***and Retail Marijuana*** Businesses shall meet the following requirements at all times:

   a) Have an active, up to date State of Colorado sales tax number which shall be provided to the County.

b) All products and accessories shall be stored within a completely enclosed, alarmed, and secure building at all times. Products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right-of-way.

c) The consumption or inhalation of marijuana on or within the premises of a Medical Marijuana ***and/or Retail Marijuana*** Business is prohibited.

d) The sale or consumption of alcohol on the Medical Marijuana ***and/or Retail Marijuana*** Business premises is prohibited.

e) The premises satisfy all applicable Building Codes and Fire Codes and are equipped with a proper ventilation system so that odors are filtered and do not materially interfere with adjoining businesses.

f) All transactions, including the growing, processing and/or manufacture of Medical Marijuana ***and/or Retail Marijuana*** products, shall occur indoors and out of view from the outside of the building in which the medical marijuana products are grown, processed and sold.

g) Exterior signage on a Medical Marijuana ***and/or Retail Marijuana*** Business may indicate that marijuana may be in the store; however, all exterior signage shall be approved through the Sign Permit process and must comply with Chapter 2, Article 4, Division 4-3., Sign Regulations of these land use regulations.

h) A Medical Marijuana ***and/or Retail Marijuana*** Business lawfully operating is not rendered in violation of these Land Use Regulations by the subsequent location of any sensitive use as delineated in Section 3-330.I.1.a, above.

i) Each Medical Marijuana ***and/or Retail Marijuana*** Business shall be operated from a fixed location. No Medical Marijuana ***and/or Retail Marijuana*** Business shall be permitted to operate from a moveable, mobile or transitory location. Deliveries of medical marijuana products may be delivered only by properly registered Primary Care-givers to homebound patients as that term is defined by the State of Colorado and subject to all local and State licensing requirements for such home deliveries.

j) A Medical Marijuana ***and/or Retail Marijuana*** Business shall not open earlier than 9:00 a.m. and shall close no later than 7:00 p.m. the same day. A Medical Marijuana Business ***and/or Retail Marijuana Business*** may be open seven days a week.

k) There shall be posted in a conspicuous location in each Medical Marijuana ***and/or Retail Marijuana*** Business a legible sign containing the following warnings:

~~(1) A warning that the diversion of marijuana for non-medical purposes is a violation of state law;~~

~~(2)~~ *(1)* A warning that the use of ~~medical~~ marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence or impaired by marijuana;

~~(3)~~ *(2)* A warning that loitering in or around the Medical Marijuana ***and/or Retail Marijuana*** Business is prohibited by state law; and

~~(4)~~ *(3)* A warning that possession and distribution of marijuana is a violation of federal law.

l) Prior to operating, each Medical Marijuana ***and/or Retail Marijuana*** Business shall obtain and comply with terms of all applicable local and State licensing.

m) Commercial cultivation and production of ~~m~~*M*edical ~~m~~*M*arijuana ***and/or Retail Marijuana*** is expressly prohibited as a home occupation or home business as defined within Chapter 2, Article 2, Definitions of these Land Use Regulations.

n) The maximum amount of medical marijuana that may be cultivated and produced in any residence, at any point in time, is twelve (12) ounces of a usable form of marijuana, and no more than thirty-six (36) marijuana plants, with eighteen (18) or fewer being mature, flowering plants that are producing a usable form of marijuana regardless of the number of patients or primary care-givers that may reside in such residence. Such collective limits shall in no way authorize or entitle a patient or primary care-giver to grow, maintain, or possess more than what they are legally allowed to do per Title 12, Article 43.3 of the Colorado Revised Statutes, as may be amended from time to time. All other residential growing is prohibited.

o) ***The maximum amount of recreational marijuana that may be cultivated and produced in any residence, at any point in time, is three (3) ounces of a usable form of marijuana, and no more than eighteen (18) marijuana plants, with nine (9) or fewer being mature, flowering plants that are producing a usable form of marijuana regardless of the number of persons of twenty-one (21) years of age residing in such residence. Such collective limits shall in no way authorize or entitle a person to grow, maintain, or possess more than what they are legally allowed to do per Title 12, Article 43.4 of the Colorado Revised Statutes, as may be amended from time to time.***

~~o)~~*p)* For the purposes of this section of the land use regulations, residence shall be defined as the entire parcel of land or lot inclusive of any accessory dwelling units, accessory buildings, agricultural buildings, and garages as defined within Chapter 2, Article 2, Definitions of these Land Use Regulations, which are held in single ownership with the primary residence.

~~p)~~*q)* Medical Marijuana Businesses ***and/or Retail Marijuana Businesses*** are prohibited from locating inside any Planned Unit Development unless expressly allowed within the Planned Unit Development.

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