To: Gunnison County Planning Commission

From: Russell Forrest

Date: June 6, 2014

Subject: Amendment 64 – Draft Regulations for Marijuana Cultivation, Manufacturing, and Testing Facilities in unincorporated Gunnison County including:

1) Proposed Text Amendment for the Land Use Resolution: and
2) Proposed Text Amendment for the Gold Basin Industrial Park Special Area Regulations.

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1. PURPOSE:

The Planning Commission is requested to provide recommendations for amendments to both the Land Use Resolution and the Gold Basin Industrial Park Special Area Regulations to facilitate the creation of marijuana regulations in Gunnison County for cultivation, manufacturing and testing facilities. Attachment A includes draft regulations for creating a licensing process for the Commission's reference. Attachment B includes proposed amendments for the Land Use Resolution to address marijuana cultivation, manufacturing, and testing facilities in unincorporated Gunnison County. Attachment C includes a proposed amendment to allow marijuana facilities to be permitted uses in the Gold Basin Industrial Park. These three bodies of regulations are proposed to work in concert with each other and also with the State's licensing process. There is also some redundancy between the LUR amendments and the licensing requirements to ensure ongoing operation of facilities occurs in a way that is consistent with the expectations created at the initial approval of a license. On February 14th, the Board of County Commissioners provided input to staff on several key questions. With that input the attached draft regulations were created. The purpose of this discussion is to review the draft regulations with the Planning Commission and to request a recommendation from the Planning Commission on the proposed Land Use Resolution and Gold Basin Industrial Park amendments. A public hearing is scheduled on July 1st with the Board of County commissioners to consider these regulations and there is the opportunity for another meeting in June to complete a recommendation if that is necessary.

It should also be noted that "vertical integration" and facility licensing is still in effect until September 30, 2014 of this year based on the State's licensing regulations. This means that a new retail cultivation facility could only be licensed by the state until September 30th, if it already had a licensed retail facility to sell retail marijuana to consumers. A Marijuana cultivator can only provide product to their own retail sales establishment at this point. Also,

State regulations are continuing to evolve quickly and new regulations just came out at the end of March of this year.

2. POLICY CONSIDERATIONS AND DISCUSIONS TO DATE:

On May 13th the BOCC reviewed the attached regulations and indicated their support for moving forward with a public discussion on the proposed regulations.

To provide the Planning Commission additional context on the discussions to date on these regulations the following summary is provided on the major policy questions discussed with the BOCC. On February 14th the Board responded 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.

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

It should be noted that a majority of counties have banned marijuana facilities. However, many are considering ballot measures to refer this question to voters. For those jurisdictions that have allowed marijuana facilities, many jurisdictions have regulated medicinal and retail marijuana facilities through land use regulations. However, a number of jurisdictions are approaching the regulation of retail facilities in a variety of ways. 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.

BOCC Input: The Board directed staff to develop both licensing and new land use regulations.

B. Scope of Regulations

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 facility types (cultivation, manufacturing, and testing) in proposed regulations?**

BOCC Input: Yes

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

BOCC Input: Yes

C. 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?

BOCC Input: The Board agreed that manufacturing and testing facilities should occur in the County's three Industrial Parks.

D. Specific Standards and Consideration

Staff also reviewed a variety of potential standards such as licensing and permitting requirements, placing conditions on permits, sequencing of permits, enclosure of facilities, compliance to other County regulations, fees, final decision making authority, sequence of permitting, change in ownership, hemp (not included in regulations based on direction from BOCC).

BOCC Input: The BOCC reviewed and considered these more specific considerations and generally agreed with the direction recommended in the staff memo. Based on the input received the following issues were addressed in the regulations:

- The Licensing process and the proposed LUR framework should have the effect of making Marijuana facilities unnoticeable in either an Industrial Park or in unincorporated areas of Gunnison County.
- The licensing process allows the County be more nimble if change is needed or if we find unintended consequences as the result of these Regulations.
- The three regulatory processes (1. County LUC Application, 2. County License Process, and 3. State License process) complement each other. Three approvals have to occur to open a Marijuana Facility as proposed. Although these three applications can be submitted concurrently, the approval sequence in order from first to last needs to occur as such: 1) LUC approval; 2) County Marijuana License approval; and then 3) State License approval. We believe we can utilize State Forms for most of the application process so that we can streamline the process to the extent possible.
- The proposed fees are similar to Boulder County. Our costs should be reviewed for regulating marijuana facilities in 1-2 years and potentially adjusted to ensure our costs are covered.

E. 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. Staff has forwarded this memo and the attached regulations to both Fire Districts and the Sherif's office for their review. On February 19th the BOCC was asked to determine whether *cultivation* facilities should occur in areas with both industrial and agricultural land uses.

BOCC Input & Highlights of Proposed Draft: This questions generated the most debate on February 14th and in subsequent discussions. In addition, this topic has generated the most enquires from perspective marijuana business owners. At this time staff has received interest in creating cultivation facilities in Marble, Somerset Area, all three Industrial Parks, and other locations in unincorporated Gunnison County. The input staff received from the BOCC was to allow cultivation in our three industrial areas and to also look at a regulatory framework for considering cultivation in other locations of Gunnison County. Given that input, the attached draft regulations propose the following:

- Attachment A includes a draft resolution providing a framework for licensing marijuana facilities. The Board of County Commissioners would be the "Authority" for a license.
- Attachment B includes proposed Land Use Resolution (LUR) amendments which would be an addition to Article 9: Special Uses.
- The draft amendment would propose making marijuana facilities a permitted use in the Gold Basin Industrial Park (Attachment C). The Gold Peak Basin Industrial Park Special Area Regulations already has a specific land use review process.

- The proposed LUR amendments propose an administrative process for a Marijuana Facility proposing to locate in an existing building in Riverland and Signal Peak Industrial Parks.
- The proposed LUR amendment includes additional review standards in addition to the other existing standards in the LUR to review all Marijuana Facilities.
- A Minor Impact Process is proposed to allow consideration of a Marijuana Cultivation Facility in locations other than the County's three industrial parks utilizing the new standards.
- A Minor Impact Process is also proposed for a new Marijuana Facility to be constructed or a major expansion (over 5000 sq. feet) of a Facility in Riverland or Signal Peak Industrial Areas. The reason for this is that Riverland requires a Minor Impact review for new facilities. Also staff believes a Minor Impact Process would be appropriate in Signal Peak with presence of residential uses in the Industrial Park.

3. CRITERIA FOR TEXT AMENDMENTS TO THE LAND USE RESOLUTION

The process and criteria for considering a text amendment to the Land Use Resolution is included in Section 1-113 of the Land Use Resolution. The following includes the Review Standards for a Text amendment and staff comments regarding each standards are provided in italic.

REVIEW STANDARDS. The decision to amend the text of this *Resolution* is at the legislative discretion of the Board and is not controlled by any one factor. The Board shall consider the following in determining whether to adopt a proposed amendment, adopt a proposed amendment with modifications, table it for further study or deny it:

A. CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY. Consistency of the proposed amendment with any applicable comprehensive plan adopted by Gunnison County;

Staff Response: This industry was not a specific consideration in the 2009 Comprehensive Plan. However, specific references in the Comprehensive Plan that may pertain to the three uses contemplated in these regulations (cultivation, manufacturing, and testing) include:

Pg 34: Section 1 on Agriculture and Open Space has the following objective: "Encourage Development to occur close to existing services, protect the viability of agriculture and reduce conflict between development and ongoing agricultural operations."

Pg. 48: Section III on Environmental Issues has a variety goals related to ensuring clean air, water quality, and open space. Specific standards are provided to ensure that all three marijuana uses have no significant degradation or impact to the natural environment.

Pg. 81: Section V on Three Mile Planning Areas has a finding which states that "The County and municipalities should work together to preserve characteristics of the County that are important to community members". To that end the County is not proposing the retail sale of marijuana in unincorporated areas of Gunnison County. It is providing a regulatory framework for the other marijuana uses (cultivation, manufacturing, and testing) to be considered in the County's three industrial areas. Cultivation could be considered in other areas if an application and its proposed location is found to be consistent with its proposed location and have no significant degradation.

B. **CHANGED CONDITIONS**. Changed conditions, including the economy of Gunnison County;

Staff Response: Amendment 64 was approved in the State of Colorado in November of 2012 creating a framework for legalizing the use of marijuana for individuals over the age of 21. Since that time local jurisdiction and counties have had the option to: 1) do nothing and allow the use to be regulated by the State, 2) ban the use of marijuana facilities, or 3) create regulations more stringent than the state. There is market demand for all marijuana uses in Gunnison County based on calls received by the Community Development Department over the last 6 months. Retail sales of marijuana started in January within Crested Butte. The Board of County Commissioners in Gunnison County have directed staff to prepare a regulatory frame work to accommodate cultivation, manufacturing, and testing in unincorporated Gunnison County. The State of Colorado has arguably taken the lead in the United States around this issue and by doing so have created a new industry and thus changed conditions requiring each local jurisdiction to decide between the three above mentioned options.

C. **EFFECT ON THE NATURAL ENVIRONMENT**. Effect of the proposed amendment on the natural environment;

Staff Response: With the proposed licensing and land use regulations, staff believes that there should will be significant degradation to the natural environment. In fact, applicants will be required to demonstrate that there is no significant environmental or human health impacts associated with the construction of operation of proposed facilities.

D. **COMMUNITY NEEDS**. Community needs;

Staff Response: In November of 2012, Gunnison County overwhelmingly voted for Amendment 64. The final totals were 5,811 for Amendment 64 and 2,722 votes against. Although one could argue whether a public

vote constitutes a need versus a want, this is certainly a strong statement of support for this use in Gunnison County.

E. **DEVELOPMENT PATTERN**. Development pattern;

Staff Response: Staff has proposed that manufacturing and testing uses be limited to existing industrial areas. Cultivation could be considered in other unincorporated areas of the County. However, based on the proposed standards they would need to be "invisible" and harmonious within the proposed location of a facility. Given these standards, staff believes the proposed text amendments would manage and regulate Marijuana uses so that they are appropriate and consistent with their approved location.

F. **CHANGES IN APPLICABLE LAW**. Changes in applicable law;

Staff Response: As already discussed, Amendment 64 was a major change in State Law. These amendments and new regulations are in direct response to the change in law with Amendment 64.

G. **PUBLIC HEALTH, SAFETY AND WELFARE**. Public health, safety and welfare;

Staff Response: The primary purpose of these regulations is to both control and manage marijuana uses to protect the health, safety, and welfare of Gunnison County's residents and guests. Specific standards are proposed to prevent land use conflicts and provide input from emergency services to minimize fire and public safety risks.

H. **COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY.** Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

Staff Response: Industrial uses exist and are encouraged in Gold Basin Industrial Area which is in the three mile plan for the City of Gunnison and in Riverland Industrial Park which is in the Three Mile Plan for Crested Butte. Staff cannot find any conflicts with any existing intergovernmental agreements.

4. CRITERIA FOR TEXT AMENDMENTS TO THE GOLD BASIN INDUSTRIAL PARK SPECIAL AREA REGULATIONS

The process and criteria for a text change are found in Section 12 of the Gold Basin Industrial Park Special Area Regulations. These criteria are essentially the same as the Land Use Resolution standards for a text change. The following includes the Review Standards for a Text amendment and staff comments regarding each standards are provided in italic.

A. CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY. Consistency of the proposed amendment with any applicable comprehensive plan adopted by Gunnison County;

Staff Response: This industry was not a specific consideration in the 2009 Comprehensive Plan. However, specific references in the Comprehensive Plan that may pertain to the three uses contemplated in these regulations (cultivation, manufacturing, and testing) include:

Pg 34: Section 1 on Agriculture and Open Space has the following objective: "Encourage Development to occur close to existing services, protect the viability of agriculture and reduce conflict between development and ongoing agricultural operations." Locating marijuana manufacturing and testing facilities in Gold Basin Industrial Park is consistent with the uses in that location and prevents negative impacts to agricultural and open space from

Pg. 48: Section III on Environmental Issues has a variety goals related to ensuring clean air, water quality, and open space. Specific standards are provided to ensure that all three marijuana uses have no significant degradation or impact to the natural environment.

Pg. 81: Section V on Three Mile Planning Areas has a finding which states that "The County and municipalities should work together to preserve characteristics of the County that are important to community members". To that end the County is not proposing the retail sale of marijuana in unincorporated areas of Gunnison County. It is providing a regulatory framework for the other marijuana uses (cultivation, manufacturing, and testing) to be considered in the County's three industrial areas including Gold Basin.

B. **CHANGED CONDITIONS**. Changed conditions, including the economy of Gunnison County;

Staff Response: Amendment 64 was approved in the State of Colorado in November of 2012 creating a framework for legalizing the use of marijuana for individuals over the age of 21. Since that time local jurisdiction and counties have had the option to: 1) do nothing and allow the use to be regulated by the State, 2) ban the use of marijuana facilities, or 3) create regulations more stringent than the state. There is market demand for all marijuana uses in Gunnison County based on calls received by the Community Development Department over the last 6 months. Retail sales of marijuana started in January within Crested Butte. The Board of County Commissioners in Gunnison County have directed staff to prepare a regulatory frame work to accommodate cultivation, manufacturing, and testing in unincorporated Gunnison County. The State of Colorado has arguably taken the lead in the United States around this issue and by doing so have created a new industry and thus changed conditions requiring each local jurisdiction to decide between the three above mentioned options.

C. **EFFECT ON THE NATURAL ENVIRONMENT**. Effect of the proposed amendment on the natural environment;

Staff Response: With the proposed licensing and land use regulations, staff believes that there should will be no measurable impact on the natural environment. Section 5 of the Gold Basin Industrial Park Special Area Regulations should help ensure that there is not a undesirable impact on the natural environment. Again Gold Basin, has historically been an industrial site and the potential for environmental impacts from marijuana uses is very low in this location. It is also owned by the County and the County has significant flexibility in also creating lease provisions to ensure there are not adverse impacts of a proposed use.

D. **COMMUNITY NEEDS**. Community needs;

Staff Response: In November of 2012, Gunnison County overwhelmingly voted for Amendment 64. The final totals were 5,811 for Amendment 64 and 2,722 votes against. Although one could argue whether a public vote constitutes a need versus a want, this is certainly a strong statement of support for this use in Gunnison County.

E. **DEVELOPMENT PATTERN**. Development pattern;

Staff Response: Staff has proposed that manufacturing and testing uses be limited to existing industrial areas including Gold Basin Industrial Park. Marijuana facilities in Gold Basin would be consistent with other adjacent uses in the Park.

F. **CHANGES IN APPLICABLE LAW**. Changes in applicable law;

Staff Response: As already discussed, Amendment 64 was a major change in State Law. These amendments and new regulations are in direct response to the change in law with Amendment 64.

G. **PUBLIC HEALTH, SAFETY AND WELFARE**. Public health, safety and welfare;

The primary purpose of these regulations is to both control and manage marijuana uses to protect the health, safety, and welfare of Gunnison County's residents and guests. Specific standards are proposed to prevent land use conflicts and provide input from emergency services to minimize fire and public safety risks.

H. **COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY.** Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

Industrial uses exist and are encouraged in Gold Basin Industrial Area which is in the three mile plan for the City of Gunnison. Staff cannot find any conflicts with any existing intergovernmental agreements.

5. RECOMMENDATIONS AND NEXT STEPS

Staff recommends approval of:

1) The proposed Land Use Resolution Amendments in Attachment B, and

2) The proposed amendments to the Gold Basins Industrial Park in Attachment C.

Staff finds that the amendments are consistent with the criteria for amendment to the Land Use Resolution as described in Section 3 above and that the amendments to the Gold Basin Industrial Park Special Area Regulations are consistent with the criteria for a text amendment for this special area which is outlined in Section 4 above.

Staff would request two separate motions on this matter to include:

1) A recommendation to the Board of County Commissioners for the proposed Land Use Resolution amendments in Attachment B and that the Planning Commission finds the proposed text amendments are consistent with the criteria outlined in Section 3 of this memorandum.

2) A recommendation to the Board of County Commissioners for the proposed Gold Basin Industrial Park Special Area Regulations in Attachment C and that the Planning Commission finds the proposed text amendments are consistent with the criteria outlined in Section 4 of this memorandum.

No action is required from the Planning Commission related to the licensing regulations in Attachment A. However, staff would appreciate any comments related to these proposed regulations.

The Planning Commission can elect to recommend approval, denial, or propose changes to the amendment in Attachments B and C. They may also request additional time to review and provide recommendations on the proposed regulations.

ATTACHMENTS:

Attachment A: Licensing Regulations for Marijuana Cultivation, Manufacturing, and Testing Facilities.

Attachment B: Proposed Land Use Resolution Amendments.

Attachment C: Proposed Amendment to the Gold Basin Industrial Park Special Area Regulations

Attachment A:

LICENSING REGULATIONS FOR MARIJUNA CULTIVATION, MANUFACTURING AND TESTING FACILITIES

GUNNISON COUNTY, COLORADO

LICENSING REGULATIONS FOR MARIJUANA CULTIVATION, MANUFACTURING AND TESTING FACILITIES

DRAFT

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ARTICLE 1: GENERAL REQUIREMENTS

SECTION 1-101: TITLE AND SHORT TITLE

This Resolution shall be known as the 'Licensing Regulations for Marijuana Cultivation, Manufacturing, and Testing Facilities," "the Marijuana Facility Resolution," or "This Resolution."

SECTION 1-102: AUTHORITY

A. **COLORADO AUTHORITY:** 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. Gunnison County Authority:

B. **BOARD LICENSING AUTHORITY:** The Gunnison County Board of County Commissioners (the "Board") designates itself as the Gunnison County Marijuana Licensing Authority.

C. **COMMUNITY DEVELOPMENT IS ADMINISTRATOR**: The Board also designates the Gunnison County Community Development Department to administer this license.

D. **LICENSES**: The Board is authorized to issue local licenses for Medical Marijuana Facilities and Retail Marijuana Facilities. 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.

E. **CRIMINAL LIABILITY**: 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.

SECTION 1-103: PURPOSES

A. GENERAL PURPOSES. The purposes of this Resolution is:

1. To authorize licensing of marijuana cultivation, manufacturing, and testing in unincorporated Gunnison 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;
2. To establish specific standards and procedures for local licensing of marijuana-related business and establishments; and
3. To protect the health, safety, and welfare of the residents, consumers and patients in Gunnison County by prescribing the manner in which marijuana businesses can be conducted in the County.

B. RELATIONSHIP TO OTHER GUNNISON COUNTY REQUIREMENTS. All allowed marijuana uses shall require compliance with all applicable Gunnison County Regulations including but not limited to the Section 9-104 and all other applicable sections of the Land Use Resolution, Gold Basin Industrial Park Special Area Regulations, applicable building regulations, and On Site Waste Water Treatment regulations.

SECTION 1-104: NO INTENT TO PROMOTE

By enacting this Resolution, Gunnison County does not intend to encourage or promote the establishment of any marijuana related 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 this Resolution, 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.

SECTION 1-105: GUNNSION COUNTY LICENSE REQUIRED

A. GUNNISON COUNTY LICENSE REQUIRED: A Gunnison County License duly issued pursuant to this Resolution shall be required for a: 1 Marijuana Cultivation Facility; 2) Marijuana Manufacturing Facility, and/or or 3 Marijuana Testing Facility.

B. GUNNISON COUNTY LICENSE HAS NO EFFECT WITHOUT STATE LICENSE: It shall be unlawful to operate any Medical Marijuana Facility or Retail Marijuana Facility in unincorporated Gunnison County for which a license is required under the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S. (the "CMMC") or the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. (the "CRMC") without first having obtained both a local license under these regulations and a state license under state code.

C. **GUNNISON COUNTY LICENSE HAS NO EFFECT WITHOUT VALLID GUNNISON COUNTY LAND USE AND BUILDING CODE APPROVAL:** A Gunnison County License has no effect without the requisite County Land Use and Building application approvals.

D. **APPLICATIONS FOR LOCAL LICENSES.** The Board shall receive and process all applications for a Marijuana Facility License. The Community Development Department on behalf of the Board shall accept and process applications for a Medical Marijuana Facility or Retail Marijuana Facility.

E. **DUAL LICENSES**. Dual operation of a licensed Medical Marijuana Facility and a Retail Marijuana Facility is permitted so long as appropriate State and local licenses have been issued and remain valid and active for both operations.

SECTION 1-106: ACTIVITY PROHIBITED

A. **RETAIL MARIJUANA STORE PROHIBITED**: Retail Marijuana Stores are prohibited in unincorporated Gunnison County.

B. **MEDICAL MARIJUANA CENTERS PROHIBITED**: Medical Marijuana Centers are prohibited in unincorporated Gunnison County.

SECTION 1-107: RELATIONSHIP TO GUNNISON COUNTY LAND USE RESOLUTION

A. **LAND USE APPROVAL REQUIRED**: A land use approval is required prior to receiving a Marijuana Facility License for all marijuana facilities as specified in Section **9-104** of the Gunnison County Land Use Resolution.

B. **CONFLICTS BETWEEN THE LAND USE RESOLUTION AND MARIJUANA FACILITY LICENSING REQUIREMENTS:** If there is a conflict between the requirements of the Land Use Resolution and the requirements of this Resolution, the more stringent of two regulations shall apply.

SECTION 1-108: NO ENTITLEMENT OF VESTED RIGHT.

No person shall have any entitlement or vested right to land use, licensing, or otherwise under this resolution, the CMMC, the CRMC, Gunnison County land use approval, or Gunnison County building permits. To lawfully engage in the business of cultivating, manufacturing, and or testing marijuana in unincorporated Gunnison 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 2: DEFINITIONS

SECTION 2-101 PURPOSE

The purpose of this article is to define words, terms and phrases used in this Resolution, or that are otherwise used by the County on its review and actions concerning licensing of marijuana operations. If a word, term, or phrase is not defined herein, the definition in the Gunnison County Land Use Resolution shall apply.

SECTION 2-102: DEFINITIONS

Where a term used of this Resolution is not defined, the definitions in Article 2 of the *Gunnison County Land Use Resolution* shall apply.

A. **"Amendment 64":** The voter-initiated amendment to the Colorado Constitution adopted November 6, 2012. Amendment 64 added Section 16 of Article XVIII to the Colorado Constitution.

B. **"Good Moral Character"** means an individual who has a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law.

C. **"Edible Retail Marijuana Product"** means any Retail Marijuana Product which is intended to be consumed orally, including but not limited to, any type of food, drink, or pill.

D. **"Licensee"** means any Person licensed pursuant to the Retail Code or, in the case of manufacturing license; retail marijuana cultivation facilities license; retail marijuana manufacturing facilities license; marijuana testing facilities license; and an off-premises storage license

E. **"Licensed Premises"** means the premises specified in an application for a license pursuant to the Retail Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test Retail Marijuana in accordance with the provisions of the Retail Code and these rules.

F. **"Local Safety Inspections"**: Licensees may be subject to inspection of the cultivation area by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection may result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana (add? Health safety and welfare. An annual fire safety inspection

may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

G. **"Marijuana Cultivation Facility**" is either a retail or medicinal facility licensed to cultivate, prepare, and package Marijuana and sell Marijuana to Marijuana Retail establishments and or Medical Marijuana Centers, but not to consumers.

H. **"Marijuana Facility License"** is a license for either a Medical Marijuana Facility or a Retail Marijuana Facility-excluding the sale of marijuana to consumers.

I. "**Marijuana Manufacturing Facility**" is either a retail or medicinal facility licensed to purchase Marijuana; manufacture, prepare, and package Marijuana Product; and sell Marijuana and Marijuana Product only to other Retail and Medicinal Marijuana Manufacturing Facilities and Retail Marijuana Stores and/or Medical Marijuana Centers, but not to consumers

J. **"Marijuana Testing Facility"** means a public or private laboratory licensed and certified, or approved, to conduct research and analyze Retail and/or Medicinal Marijuana, Retail and/or Medicinal Marijuana Products and Retail and/or Medicinal Marijuana Concentrate for contaminants and potency.

K. **"Medical Marijuana"** means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

L. **"Medical Marijuana Facility(ies)"** means an medical marijuana-infused products manufacturing licenses, marijuana testing facilities licenses, and off-premises storage licenses regulated under 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules. Medicinal sales of marijuana are prohibited in unincorporated areas of Gunnison County.

M. **"Medical Marijuana Center**" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402, C.R.S., and sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

N. **"Owner"** means the Person or Persons whose beneficial interest in the license is such that they bear risk of loss other than as an insurer, have an opportunity to gain profit from the operation or sale of the establishment, and have a controlling interest in a Retail Marijuana Establishment license, and includes any other Person that qualifies as an Owner pursuant to Rule R 204.

O. **"Retail Marijuana"** means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient

combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

P. **"Retail Marijuana Facility(ies)"** means any facility licensed under the local authority for cultivation facilities, retail marijuana manufacturing facilities licenses, and retail marijuana testing facilities and regulated under Colorado Retail Marijuana Code found at sections 12-43.4-101 *et. seq.*, C.R.S. Retail sales of marijuana are prohibited in unincorporated areas of Gunnison County.

Q. **"Retail Marijuana Cultivation Facility"** means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers.

R. **"Retail Marijuana Product"** means a product that is comprised of Retail Marijuana and other ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

S. **"Retail Marijuana Products Manufacturing Facility"** means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and sell Retail Marijuana and Retail Marijuana Product only to other Retail Marijuana Products Manufacturing Facilities and Retail Marijuana Stores.

T. **"Retail Marijuana Store"** means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

U. **"Retail Marijuana Testing Facility"** means a public or private laboratory licensed and certified, or approved by the Colorado Marijuana Control Division, to conduct research and analyze Retail Marijuana, Retail Marijuana Products and Retail Marijuana Concentrate for contaminants and potency.

V. **Samples Provided for Testing**. A Retail Marijuana Cultivation Facility may provide samples of its Retail Marijuana to a Person holding a Retail Marijuana Testing Facility license for testing and research purposes. The Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records.

W. **"State Licensing Authority"** means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana and Retail Marijuana in Colorado, pursuant to section 12-43.3-201, C.R.S.

X. **The Colorado Retail Marijuana Code** (Article 43.4 of Title 12, C.R.S.) establishes a new procedure that allows for the dual licensing by the State Licensing Authority and the Local Licensing Authority of the retail cultivation, manufacture, distribution, and sale of retail marijuana and retail marijuana products.

Y. **"THC"** means tetrahydrocannabinol.

ARTICLE 3: INITIAL LICENSE

SECTION 3-101: PURPOSE.

The purpose of Article 3 is to delineate a process for applying for a Marijuana Facility License.

SECTION 3-102: SEQUENCE OF REVIEW AND APPROVALS.

Applications for both a Land Use Application and a License for a Marijuana Facility shall be concurrently reviewed. However, final approval of a Land Use application for a Marijuana Facility must occur prior to the public hearing for a Marijuana Facility License. A County License for a Marijuana Facility shall not become effective until a State of Colorado License for a Marijuana Facility has been approved.

SECTION 3-103: PRE-APPLICATION MEETING AND PREAPPLICATION SUBMITTAL.

Before submitting an license application to the County, any person applying for a Marijuana Facility License shall request a pre-application meeting with the Gunnison County Community Development Department.

SECTION 3-104: APPLICATION SUBMITTAL.

Following a pre-application meeting for a Marijuana License with the Gunnison County Community Development Department, an applicant seeking a License shall submit a complete application to the Community Development Department.

SECTION 3-105: REVIEW BY REFERRAL AGENCIES.

Upon determination that the application is complete, the Community Development Department may submit the application for review and recommendation to referral agencies and organizations, including other County offices and departments, and municipal, or state offices having an interest in or authority over all or part of the proposal.

SECTION 3-106: APPLICATION REQUIREMENTS.

A. **MEDICINAL MARIJUANA FACILITIES**: All applications for Medical Marijuana Facilities shall be made upon forms provided by the County and shall include the following supplemental materials:

1. Identity of the owner of the property on which the premises is located;
2. Provide consent for a criminal background check on a form provided by the County.
3. 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;
4. A description of the operational plan for the facility including hours of operation, number of employees, anticipated loading and delivery traffic and frequency, and hazardous or flammable material storage and usage.
5. A detailed narrative description of how the application complies with the standards for a license in Article 5 of this Resolution.
6. A list of all other uses on the property;
7. A list of alcohol or drug treatment facilities, licensed child care facilities, parks, public buildings, public trails, places of worship, and educational facilities (below college grade level) within 1000 feet as measured from the closest point of the subject property lines;
8. A mailing list for all property owners within 1000 feet as measured from each boundary of the subject parcel;
9. A copy of the state sales tax license for the business if applicable; medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business;
10. A description with dimensions of all exterior signage proposed on the property;
11. Description of security measures to prevent theft and to minimize fire danger; and
12. A description of measures to eliminate or mitigate odors from the facility.

B. **RETAIL MARIJUANA FACILITIES**: All applications for Retail Marijuana Facilities shall be made upon forms provided by the state and shall include:

1. Identity of the owner of the property on which the premises is located;
2. Provide consent for a criminal background check on a form provided by the County.
3. 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;
4. A description of the operational plan for the facility including hours of operation, number of employees, anticipated loading and delivery traffic and frequency, and hazardous or flammable material storage and usage.
5. A detailed narrative description of how the application complies with the standards for a license in Article 5 of this Resolution.
6. A list of all other uses on the property;
7. A list of alcohol or drug treatment facilities, licensed child care facilities, parks, public buildings, public trails, places of worship, and educational facilities (below college grade level) within 1000 feet as measured from the closest point of the subject property lines;

8. A mailing list for all property owners within 1000 feet as measured from each boundary of the subject parcel;
9. A copy of the state sales tax license for the business if applicable; for
10. A description with dimensions of all exterior signage proposed on the property;
11. Description of security measures to prevent theft and to minimize fire danger; and
12. A description of measures to eliminate or mitigate odors from the facility.

C. **WAIVER OF SUBMITTAL REQUIREMENTS**: The Board may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under this Resolution.

SECTION 3-107: PUBLIC HEARING:

The license application for a Marijuana Facility License shall be considered by the Board following a properly noticed public hearing and after receiving all applicable land use approvals.

A. **COMMUNITY DEVELOPMENT DEPARTMENT REPORT.** The Community Development Department shall prepare a staff report for the Authority that identifies whether the applicant based on review of the application and input from referral agencies, complies with the licenses requirement set forth in **Article 5** of this *Resolution*. The staff report may also recommend additional mitigation or conditions that might be necessary.

B. **SITE VISIT.** The Authority may schedule a site visit to view the site.

C. **NOTICE OF HEARING.** Public notice shall be given in compliance with Section 3-112 of the Land Use Resolution with the following exemptions and additions:

1. **PUBLICATION OF NOTICE.** The publication of notice in the newspaper and posting of sign on property shall occur no less than fifteen (15) days prior to the date of the hearing.
2. **NOTICE TO AFFECTED REAL PROPERTY OWNERS.** No less than fifteen (15) days prior to the date of the public hearing by the Board, the applicant shall provide written notice of the public hearing, via certified mail, to all real property owners within 1000 feet of the subject property.
3. **BOARD DECISION.** Following the public hearing, the Board shall approve, approve with conditions, or deny the application based upon the Marijuana Licensing Standards set forth in **Article 5** of this Resolution.

SECTION 3-108: BOARD TO IMPOSE CONDITIONS ON LICENSE. The Board may impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety, and welfare, and obtain compliance with the requirements of this regulation and applicable State regulations.

SECTION 3-109: TERM OF LICENSE.

A marijuana facility license shall be valid for 3 years from the date of approval of such licenses.

ARTICLE 4:
ACTIVITY AFTER INITIAL LICENSE

SECTION 4-101: RENEWAL OF LICENSES.

A. **LICENSES VALID FOR THREE YEARS:** A Marijuana Facility License shall be valid for a period of three years or upon the expiration and non-renewal of the associated license, whichever occurs first. 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.

B. **TIMING OF RENEWAL APPLICATION**: A licensee shall submit a renewal application, along with all renewal and operation fees, at least 45 days before the expiration of the license

C. **APPLICATION REQURIED FOR RENEWAL:** Annually license holders will be required to renew their licenses by submitting a renewal application to the Community Development Department.

D. **FEES PAID**: The Fee for Renewal is set forth in **Article 6** of this Resolution and must be paid in full upon the submittal of an application.

E. If a renewal application is denied, the applicant, may appeal that renewal to the Board.

F. In the event of an appeal, a public hearing shall be scheduled with the Board in conformance with Section **3-107.**

G. Upon denial or revocation of a state license, any license issued under these regulations shall be null and void.

H. If a court of competent jurisdiction determines that the issuance of Colorado local licenses and permits violates federal law, the Board reserves the authority to suspend or revoke all licenses issued by this Resolution, with no ground for appeal or other redress on behalf of the licensee.

SECTION 4-102: CHANGE IN OWNERSHIP

A. **NOTIFICATION OF CHANGE IN OWNERSHIP**: A Licensee must notify in writing the Gunnison County Community Development Department of any change in ownership prior to a change in ownership.

B. **TRANSFER OF OWNERSHIP.** Any license issued under this Resolution is not transferable or assignable. Any change of ownership shall require a new license.

C. **CHANGE OF LOCATION.** Any license granted under this Resolution is limited to the location(s) specified on the license application. Operation of a Medical Marijuana Facility or a Retail Marijuana Facility at a new location requires a new license.

D. **MODIFICATION OF PREMISES**. Modification of any building structure where a Medicinal Marijuana Facility or Retail Marijuana Facility is located is subject to all

applicable provisions of the Land Use Resolution and County Building Code. In addition, upon the application for a building permit to modify a licensed premises the licensee shall notify the Gunnison County Community Development Department in writing regarding the nature of the modification and pay the modification fee. A modification of premises will be reviewed by the Community Development to determine ongoing compliance to this Resolution and any conditions imposed on a license. If there is a proposed change to a premise that may result in a material change to the operation of a marijuana facility, the Community Development Director may require a renewal application of the licensee of a Marijuana Facility.

ARTICLE 5: STANDARDS

SECTION 5-101: STANDARDS:

The Board must find the following to approve a license:

A. **LACK OF CRIMINAL HISTORY**: The applicant and principal employees of a marijuana facility have no history of criminal activity indicating moral turpitude. Applicants shall provide suitable evidence of a Persons' proof of lawful presence, residence, and good character and reputation that the Board may request. The applicant must also consent to a criminal background check of the applicant and its principal employees.

B. **HARMONIOUS LAND USE**: The use and any associated signage is not identifiable as a Marijuana Facility from adjacent property, nor any arterial road, public trail, or public park. The applicant must demonstrate to the Board's satisfaction that there is no measurable detrimental impact to adjacent property which cannot be mitigated, and the applicant has demonstrated to the Board that the facility will be harmonious with its surrounding uses.

C. **APPLICABLE PROPERTY OWNERS ASSOCIATION APPROVAL:** The applicant must provide written consent for the use from the Property Owners Association if an active association exists for the subject property.

D. **ODOR:** Odors from any marijuana facility shall not be detectable and noticeable 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.

E. **FIRE AND SECURITY EMERGENCY SERVICES:** 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 to the Authority's satisfaction.

F. **PUBLIC SERVICES**: The Applicant shall demonstrate that there are adequate public services to support the proposed use.

SECTION 5-102: FINAL DECISION:

The Board may approve or approve with conditions a license that meets all of the standards in Article 5. The Board shall deny an application that does not comply with the licensing requirement in Article 5.

ARTICLE 6
FEES

SECTION 6-101: FEES FOR AN INITIAL LICENSE

The fees for a new or initial license and the operating fees which shall be collected prior to processing an application for an initial license are the following:

A. Fees for a Medical Marijuana Facility:

Application fee $3500
Operating fee $1000

B. Fees for a Retail Marijuana Facility

Application fee $3500
Operating fee $1000

Only one application fee shall be required per business, except that a business in multiple locations in unincorporated Gunnison County must pay licensing and renewal fees for each location. The operating fee will be refunded if the Board denies the application. The Application fee may be refunded if the land use application for a marijuana facility is denied. The Board of County Commissioners has authority to set and amend fees.

SECTION 6-102: FEES FOR ACTIVITY AFTER AN INITIAL LICENSE

A. Fees for a Medical Marijuana Facility:

Renewal fee $1500
Operating fee $1000
License modification fee $1000
Pending application modification fee . . $ 125

B. For a Retail Marijuana Facility

Renewal fee $1500
Operating fee $1000
License modification fee $1000
Pending application modification fee . . $ 125

Only one application or renewal fee shall be required per business, except that a business in multiple locations in unincorporated Gunnison County must pay licensing and renewal fees for each location. The License modification fee is applicable to applications where there is request to change ownership or a desire to modify the physical design/lay out of

licensed facility. The operating fee will be refunded if the Renewal Application is denied.. All other fees are nonrefundable. The Board of County Commissioners has authority to set and amend fees.

ARTICLE 7: OPERATIONAL REQUIRMENTS

SECTION 7-101: OPERATIONAL REQUIREMENTS.

A. **BUSINESS CONDUCTED WITHIN BUILDING**: All activities associated with Medical Marijuana Facilities and Retail Marijuana Facilities must be conducted inside the facility and must not be visible from the exterior of the business.

B. **BUSINESS CONDUCTED CONSISTENT WITH THESE STANDARDS AND LICENSE CONDITIONS:** All Medical Marijuana Facilities and Retail Marijuana Facilities must continue to maintain and operate the businesses consistent County and State regulations related to marijuana facilities.

C. **COMPLIANCE WITH STATE AND COUNTY REGULATIONS:** All licensed Medical Marijuana Facilities and Retail Marijuana Facilities must continue to maintain and operate the businesses consistent County and State regulations related to marijuana facilities and any conditions applied to a State and County licenses. In addition, reasonable inspections as specified in Section 7-102 shall not be prevented by the owner to determine compliance with state and county regulations.

SECTION 7-102: INSPECTIONS

By signing and submitting a license application, the applicant gives Gunnison County the permission to access the property to conduct inspections as may be required under state or local licensing law. In addition, the owner of the premises authorizes the Board, its designee, and the Gunnison 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 Board with records related to the business. This Section shall not limit any inspection authority permitted under any other provision of law or regulation.

ARTICLE 8: ENFORCEMENT

SECTION 8-101: GENERAL

This *Resolution* shall be enforced in accordance with the requirements of Colorado law and as provided in this Article. Each enforcement remedy can be invoked by Gunnison County independently or in conjunction with any or all of the other enforcement remedies.

SECTION 8-102: AUTHORIZATION TO ENFORCE.

The Board, County Manager, County Community Development Director, the Community Development Director's designees, County Attorney, County Building Inspector, County Environmental Health Official, County Public Works Director and such other persons as the Board may designate, are charged with and authorized to enforce all the requirements of this *Resolution*.

SECTION 8-103: RIGHT OF ENTRY AND INSPECTION

When a person charged with enforcement of this *Resolution* has reasonable cause to believe that any activity is being conducted or any condition exists on a licensed premise which is contrary to or in violation of this *Resolution* or any permit issued pursuant to this *Resolution*, any person charged with enforcement of this *Resolution* may enter and inspect a licenses marijuana facility as per Section 7-102 to determine compliance with this *Resolution*. If entry is refused, or the owner or person having charge or control cannot be located after reasonable effort, the Board or its designee shall apply to the District Court, Gunnison County, for an order to permit entry. Nothing in this Section precludes or constrains any entry upon or into, or inspection of, any land or into a building otherwise permitted by law.

SECTION 8-104: NOTIFICATION TO CORRECT VIOLATION

When a person charged with enforcement of this *Resolution* has reasonable cause to believe that any activity is being conducted or any condition exists on a licensed premise which is contrary to or in violation of this *Resolution* or any permit issued pursuant to this *Resolution*, the Community Development Director shall give written notice to the owner or other person having charge or control of such premise, by certified mail, return receipt requested at the last known address. The notification shall state which requirements of this *Resolution*, or of a permit are being violated, shall state the conditions that are to be satisfied for compliance, and shall state that the violator shall correct the violation within 30 days of receipt of the notification. Such written notification is cumulative to, and not a prerequisite to, any other enforcement remedies available to Gunnison County. The Community Development Director shall issue a written compliance letter only if the activity or condition that is the basis of the notice has been remedied.

SECTION 8-105: ORDER TO CORRECT VIOLATION

A. **COMMUNITY DEVELOPMENT DIRECTOR MAY ISSUE ORDER.** When a person charged with enforcement of this *Resolution* has reasonable cause to believe that any activity is being conducted or any condition exists on any licensed premise which is contrary to or in violation of this *Resolution* or any permit issued pursuant to this *Resolution*, the Community Development Director may, by written notice ("stop order"), order the activity or use stopped immediately or by a time certain. The stop order shall state the conditions that shall be satisfied for compliance. The stop order shall be served by delivering it to any person engaged in that activity or use, or to any person owning, leasing, or controlling the licensed premise, or by posting the order in a conspicuous location on the land, building or other structure

B. **IMMEDIATE COMPLIANCE REQUIRED.** All persons shall comply immediately with the stop order upon its service or posting, as set forth above.

C. **STOP ORDER LIFTED ONLY BY COMPLIANCE ORDER**. The stop order shall remain in effect until the Community Development Director determines that the activity or condition that is the basis for the stop order has been remedied, and the Planning Director issues a written compliance order that is served by Gunnison County.

D. **DISCRETIONARY BOARD REVIEW**. At its discretion, the Board may review and amend the stop order.

E. **STOP ORDER NOT A PREREQUISITE TO OTHER REMEDIES**. The issuance of a stop order is cumulative to, and not a prerequisite to any other enforcement remedies available to Gunnison County

SECTION 8-106: SUSPENSION OR REVOCATION OF PERMIT

A. **HEARING SCHEDULED.** When the Community Development Director determines that reasonable cause exists to believe that a license was issued under this *Resolution*, in substantial reliance on erroneous or misleading information or representation from the applicant or his/her representative, or that any activity is being conducted on a licensed premise which is contrary to or in violation of this *Resolution*, the Board shall schedule a hearing to determine whether that permit shall be suspended or revoked.

B. **NOTICE OF HEARING**. The Board shall give written notice of the hearing to the owner of the subject land by mailing notice, certified, return receipt requested at the last known address, postmarked at least 15 days before the hearing. The notice shall contain a summary of the grounds for the potential suspension or revocation.

C. **HEARING DATE MAY BE ADVANCED**. The owner of the subject land may request in writing that the hearing be scheduled sooner than the scheduled hearing date. If the Board receives the request more than two working days before a regularly scheduled Board meeting, the hearing must be advanced to that Board meeting or the next regularly scheduled Board meeting.

D. **DEMONSTRATION BY CREDIBLE EVIDENCE**. At the hearing, the Community Development Director shall have the burden to demonstrate, by credible evidence, that the license should be suspended or revoked.

E. **GENERAL STANDARDS.** The license shall be suspended or revoked if, after the close of the hearing, and based on credible evidence, any one of the following findings is made by the Board:

1. **BASED ON MISLEADING INFORMATION OR MISREPRESENTATION.** The license was issued in reliance on materially erroneous or misleading information from the applicant or his/her representative; or

2. **VIOLATION OF CONDITIONS OF LICENSE OR RESOLUTION.** Activity is being conducted on a licensed premise is a violation of this *Resolution, a land use approval,* or any permit issued pursuant to this *Resolution.*

F. **DECISION OF BOARD.** Within five days after the close of the hearing, the Board shall render its decision on the suspension or revocation of the license.

G. **NOTIFICATION.** Notification of the Board's decision shall be provided by the Community Development Director to the landowner, by certified mail postmarked within seven days of the Board's decision.

H. **REVOCATION OF LICENSE BY COUNTY.** If a licensed is revoked, all operations and uses allowed under the license shall be terminated effective immediately upon the revocation order. A new license application must be applied for and granted to reopen a Marijuana Facility that has received a revocation order.

I. **REVOIOCATION OF LICENSE BY STATE.** If the State revokes or suspends a license for a Marijuana Facility, the County license for the facility shall be suspended until such time as a valid State license is presented to the Community Development Department. The County may also investigate a licensed facility based on a State revocation and may take other enforcement action as allowed in this Resolution.

J. **CUMULATIVE REMEDY.** The Board's right to suspend or revoke a license as provided in this Section shall be cumulative to, and not a prerequisite to, any other enforcement remedies available to the Board.

SECTION 8-107: NO ACTION FOR PERSONS SUBJECT TO ENFORCEMENT ORDERS

No application shall be processed or approved pursuant to this *Resolution*, and no Building Permit shall be issued by Gunnison County, for or to any person who is responsible for a violation that is the subject of an existing Stop Order, Suspension, or Revocation Order. The enforcement remedy provided by this Section shall be cumulative to, and not a prerequisite to, any other enforcement remedy provided by this *Resolution*.

SECTION 8-108: OTHER REMEDIES

A. **CIVIL REMEDIES**. Any person violating any provision of this *Resolution* shall be subject to all civil sanctions and penalties authorized by law, including C.R.S. 30-28-124 and 124.5 as they may be amended. A civil sanction and penalty may be assessed for each day the violation exists.

B. **CRIMINAL REMEDIES.** Any person violating any provision of this *Resolution* shall be subject to all criminal sanctions and penalties authorized by law, including but not limited to C.R.S. 30-28-124 and 124.5 and C.R.S. 16-13-301 et seq: as they may be amended.. A sanction and penalty may be assessed for each day the violation exists.

C. **CUMULATIVE REMEDY**. The Board's right to seek civil and/or criminal remedies shall be exercised only by the Board and shall be cumulative to, and not a prerequisite to, any other enforcement remedies provided by this *Resolution*.

D. **FEES.**The Board shall be entitled to recover from any person violating any provision of this *Resolution* all reasonable attorneys' fees as well as all reasonable costs incurred in enforcing requirements of this *Resolution*.

SECTION 8-109: NO PERSONAL LIABILITY

Any County official, employee or agent charged with the enforcement of this *Resolution* who acts in good faith in the discharge of the duties required by this *Resolution* or other pertinent law, ordinance, regulation or resolution shall not thereby be rendered personally liable for any damages that may accrue to any person or property as a result of an act or omission to act in the discharge of those duties.

SECTION 8-110: NO COUNTY LIABILITY

This *Resolution* does not make, and shall not be construed to make, Gunnison County, or any of its officials, employees or agents responsible or liable for any injury to persons or property resulting from any action pursuant to this *Resolution*.

SECTION 8-111: NO WAIVER BY GUNNISON COUNTY OF GOVERNMENTAL IMMUNITY

Nothing in this *Resolution*, and no act performed pursuant to this *Resolution*, is or shall be construed to be a waiver by the Board of governmental immunity.

ARTICLE 9: SEVERABILITY

If any provision of this Resolution 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.

Attachment B:

LAND USE RESOLUTION – PROPOSED AMENDMENT AND ADDITION OF 9-104: MARIJUANA CULTIVATION, MANUFACTURING OR TESTING FACILITY.

Land Use Resolution – Proposed Amendment

SECTION 9-104: MARIJUANA CULTIVATION, MANUFACTURING OR TESTING FACILITY.

A. **GENERAL.** The purpose of this Section to protect the health, safety, and welfare of the residents of Gunnison County by regulating marijuana cultivation, manufacturing and/or testing facilities in unincorporated Gunnison County.

B. **NO INTENT TO PROMOTE**. Gunnison 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.

C. **PROHIBITED USE.** The following are prohibited in unincorporated Gunnison County.

1. **Retail Marijuana Store Prohibited**: Retail marijuana stores that sell marijuana shall be prohibited in unincorporated Gunnison County.

2. **Medical Marijuana Centers Prohibited**: Medical Marijuana Centers that sell marijuana shall be prohibited in unincorporated Gunnison County.

D. **MARIJUANA MANUFACTURING AND TESTING FACILITIES ARE ALLOWED ONLY IN GOLD BASIN, RIVERLAND, OR SIGNAL PEAK INDUSTRIAL PARKS.** Medical and Retail Manufacturing and Testing Facilities Prohibited are only allowed in the Gold Basin, Riverland, or Signal Peak Industrial Parks. Medical and Retail Manufacturing and Testing Facilities shall not be located anywhere in Gunnison County other than the Gold Basin, Riverland, or Signal Peak Industrial Areas.

E. **LAND USE CHANGE PERMIT AND LICENSE REQUIRED**. To lawfully engage in the business of cultivating, manufacturing, and/or testing marijuana in unincorporated Gunnison County, all persons must obtain a land use change permit, all applicable licenses, and in addition to being required to comply with all other applicable standards and requirements of this *Resolution*, shall comply with the standards identified in 9-104. H. **Additional** Standards for Marijuana Cultivation, Manufacturing and/or Testing Facility.

F. **GOLD BASIN INDUSTRIAL PARK.** A marijuana cultivation, manufacturing or testing facility is a permitted use in the Gold Basin Industrial Park and shall be reviewed pursuant to the *Gold Basin Industrial Park Special Area Regulations* and shall be in compliance with Section **9-104.H** of the Land Use Resolution.

G. **REQUIRE A LAND USE CHANGE PERMIT**. The following uses require a land use change permit and shall be reviewed pursuant to Section 5-105*:* Administrative Review Project Review Process and in all circumstances must comply with **Section 9-104.H**.

1. **MARIJUANA CULTIVATION, MANUFACTURING OR TESTING FACILITY CLASSIFIED AS ADMINISTRATIVE REVIEW PROJECTS.** The following are classified as Administrative Review Projects pursuant to Article 5: Administrative Review Projects That Require Land Use Change Permits*:*

a. **MARIJUANA CULTIVATION, MANUFACTURING OR TESTING FACILITY.** Located within an existing, permitted structure, in the Signal Peak Industrial Park or Riverland Industrial Park.

b. **EXPANSION OF MARIJUANA CULTIVATION, MANUFACTURING OR TESTING FACILITY.** Expansion of a permitted marijuana cultivation, manufacturing or testing facility, where the total square footage of the expansion is less than 5,000 square feet.

2. **MARIJUANA CULTIVATION, MANUFACTURING OR TESTING FACILITY CLASSIFIED AS MINOR IMPACT REVIEW PROJECTS.** A Marijuana Facility which is not subject to an administrative review under 9-104 G.1 shall be reviewed pursuant to Section 6-106*: Minor Impact Review Project Review Process.* Marijuana Cultivation Facilities may be considered through a Minor Impact Review process in locations other than Signal Peak, Riverland, and Gold Basin Industrial Parks. All Marijuana Cultivation, Manufacturing and Testing Facilities shall comply with Section 10-104. C2: Compatible With Existing Uses Established In Impact Area and 10-104.C3: No Significant Net Adverse Impact.

H. **ADDITIONAL STANDARDS FOR MARIJUANA CULTIVATION, MANUFACTURING AND/OR TESTING FACILITY.** The establishment or operation of a marijuana cultivation, manufacturing or testing facility is required to comply with the following:

1. **LICENSE REQUIRED.** An applicant shall obtain a local and state license pursuant to and in compliance with the *Gunnison County Licensing Regulations for Marijuana Cultivation, Manufacturing and Testing.*

2. **NO RESIDENTIAL USE WITHIN THE STRUCTURE.** Marijuana Facilities and residential facilities cannot be collocated in the same structure.

3. **NO SIGNIFICANT DEGRADATION:** A Marijuana Facility shall not cause significant degradation to either the natural or man-made environment of the site or the adjacent properties. The applicant shall demonstrate that there will not be a significant degradation or impact in the following areas:

   i. **ODOR.** Noticeable odors shall 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.

   ii. **ADEQUATE WATER SUPPLY.** The applicant shall demonstrate that the premise is legally and physically served by a water supply pursuant to Section 12-105: *Water Supply* and.

   iii. **ADEQUATE WASTEWATER TREATMENT SYSTEM.** The applicant shall demonstrate compliance to State and County regulations for waste water treatment including Section 12-106: *Sewage Disposal/Wastewater Treatment.*

   iv. **ADEQUATE PARKING**. The applicant shall demonstrate that there will be adequate parking to serve the facility, pursuant to Section 13-110: *Off- Road Parking and Loading.*

   v. **ADEQUATE PUBLIC INFRASTRUCTURE**: The applicant shall demonstrate that there is adequate road and utility infrastructure to support the use and its proposed operation.

   vi. **SECURITY:** The applicant shall demonstrate that there is adequate premises, product, personnel and consumer security.

   vii. **FIRE SAFETY**. The applicant shall demonstrated that based on its proposed use and operation that there is not a significant fire or criminal safety risk created by the use.

viii. **WASTE DISPOSAL.** The applicant shall demonstrate that waste can be securely and safely disposed

ix. **ENVIRONMENTAL IMPACTS:** The applicant shall demonstrate that there are no significant environmental or human health impacts associated with the construction and operation of proposed facilities.

x. **VISUAL RESOURCES:** The applicant shall demonstrate that the proposed operation will not be identifiable as a marijuana facility and shall be designed so that it is harmonious and compliments the surrounding natural and built environment.

4. **OPERATION CONDUCTED WITHIN BUILDING.** All activities associated with the operation of the facility must conducted within the building and not be visible from the exterior of the business.

5. **COMPLIANCE WITH STATE AND COUNTY REGULATIONS.** The facility must operate in compliance with County and State regulations related to marijuana facilities.

6. **COMPLIES WITH DEED RESTRICTIONS OR PROTECTIVE COVENANTS.** The facility shall comply with deed restrictions and/or declarations of protective covenants applicable to the parcel on which the facility is located.

7. **COMPLIES WITH APPLICABLE CODES**. The facility shall comply with the applicable building codes, adopted and amended by Gunnison County, State of Colorado Licensing requirements, and Colorado Department of Public Health & Environment codes, and the requirements of the applicable fire protection district.

Attachment C

Proposed Amendment to Gold Basin Industrial Park Special Area Regulations

Section 5: Operations and Use

Proposed Amendment to Gold Basin Industrial Park Special Area Regulations

Section 5: Operations and Use

B. PERMITTED USES ON LEASEHOLD AREAS. Any Leasehold Area within the Gold Basin Industrial Park Special Area shall be used only for the following uses:

20. Marijuana cultivation, manufacturing and testing